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DESAPARECIDOS Y DESAPARECIDAS

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Evaluating State Capacity to Protect and Promote Human Rights

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TABLE OF CONTENTS

INTRODUCTION	4
KEY FINDINGS	6
GAPS IN HUMAN RIGHTS PROTECTIONS IN EL SALVADOR: EVALUATING STATE CAPACITY TO PROTECT AND PROMOTE HUMAN RIGHTS	8
Overview of Human Rights Conditions in El Salvador	8
VIOLATIONS OF AN INDIVIDUAL'S FUNDAMENTAL RIGHTS AND GUARANTEES	11
Deprivation of Liberty by Public Officials or Employees, Law Enforcement Officers, or Public Authorities	11
Undue Limitations on an Individual's Liberty	14
Crimes Related to the Right to Equality	14
Crimes Related to the Freedom of Expression	16
Crimes Related to the Right to Defense	18
Unlawful Searches and Investigations	19
Unlawful Entry	21
Prosecutor Effectiveness against Violations to Fundamental Rights and Guarantees	23
HUMAN RIGHTS VIOLATIONS RELATED TO CRIMES AGAINST HUMANITY	24
Forced Disappearance of Persons	25
Torture	27
Extrajudicial Executions	31
Timeline of an Emblematic Case: Massacre of El Mozote	34
VIOLATIONS OF THE RIGHTS OF DEFENDERS	39
ACRONYMS AND ABBREVIATIONS	44
ANNEXES	45
BIBLIOGRAPHY	49
NOTES	53

INTRODUCTION

In the last decade, the problem of insecurity and impunity has deeply affected the people of Guatemala, El Salvador and Honduras, making this region (known as the Northern Triangle of Central America) one of the most violent in the world. High levels of violence, corruption, and impunity have eroded the capacity of the states to develop accessible and efficient institutions, and address the needs of their populations.

The absence of effective responses has weakened citizens' confidence in state institutions, leading to an alarming number of people who have been internally displaced or forced to migrate to other countries to escape the violence and lack of economic opportunities.

Against this backdrop, the Washington Office on Latin America (WOLA), the University Institute for Public Opinion (Iudop) of the José Simeón Cañas Central American University (UCA) of El Salvador, the University Institute on Democracy, Peace and Security (IUDPAS) of Honduras, and the Myrna Mack Foundation (FMM) of Guatemala have developed a tool for monitoring and evaluating the policies and strategies currently being implemented in Guatemala, Honduras, and El Salvador to reduce insecurity and violence, strengthen the rule of law, improve transparency and accountability, protect human rights, and fight corruption. This initiative has been made possible thanks to the support of the Latin America Division of the Swiss Agency for Development and Cooperation, the Tinker Foundation, the Seattle International Foundation (SIF), and the Moriah Fund.

THE CENTRAL AMERICA MONITOR

The Central America Monitor is based on the premise that accurate, objective, and complete data and information are necessary to reduce the high levels of violence and insecurity, and establish rule of law and governance in a democratic state. This will allow efforts to move beyond abstract discussions of reform to specific measures of change.

The Monitor is based on a series of more than 100 quantitative and qualitative indicators that allow a more profound level of analysis of the successes or setbacks made in eight key areas in each of the three countries.¹ More than a comprehensive list, the indicators seek to identify a way to examine and assess the level of progress of the three countries in strengthening the rule of law and democratic institutions. The indicators seek to identify the main challenges in each of the selected areas and examine how institutions are (or are not) being strengthened over time. The Monitor uses information from different sources, including official documents and statistics, surveys, interviews, information from emblematic cases, and analysis of existing laws and regulations.

The indicators were developed over several months in a process that included an extensive review of international standards and consultation with experts. The eight areas analyzed by the Monitor include:

1. Strengthening the capacity of the justice system;
2. Cooperation with anti-impunity commissions;
3. Combatting corruption;
4. Tackling violence and organized crime;

5. Strengthening civilian police forces;
6. Limiting the role of the armed forces in public security activities;
- 7. Protecting human rights;**
8. Improving transparency.

The Monitor reports are published by area and by country. The first series of reports will serve as the baseline for subsequent analysis, which will be updated annually. Each annual series of reports will be analyzed in comparison with reports from the previous year. This allows researchers, civil society organizations, and other actors to assess the level of progress in strengthening the rule of law and reducing insecurity.

The first round of Monitor reports will primarily focus on data sets from an approximate 4-year time period, 2014 to 2017, in order to provide a snapshot of Central America's institutions.

The Monitor will serve as a tool for searchable, easy-to-comprehend data, delineating trends, progress, patterns, and gaps within and between the three countries of the Northern Triangle. The data, graphics, charts, and reports will be available on the Monitor's website.

This report of the Central America Monitor produced by the Iudop aims to define a baseline for the indicators related to human rights protections and violations in El Salvador.

ABOUT THE RESEARCH FOR THIS REPORT

The quantitative data in this report was obtained via the bibliographic review of official reports, institutional annals, and relevant information available on the official transparency web pages of the government bodies analyzed. In addition, requests for statistical information were made via the Public Information Access Law (*Ley de Acceso a la Información Pública*, LAIP) of El Salvador, which establishes a specific process by which government agencies must receive information requests and respond within a set timeframe.

This report draws from statistical data provided by the Office of the Prosecutor General of the Republic (*Fiscalía General de la República*, FGR) concerning crimes related to human rights violations.

This report also draws from quantitative research on human rights violations conducted by the University Observatory on Human Rights (*Observatorio Universitario de Derechos Humanos*, OUDH) at the Human Rights Institute of the José Simeón Cañas Central American University (*Instituto de Derechos Humanos de la Universidad Centroamericana José Simeón Cañas*, Idhuca). This research includes qualitative analysis on the Idhuca's national report on human rights defenders for 2017, which it published in 2019.

KEY FINDINGS

- Data provided by the Office of the Prosecutor General of the Republic (*Fiscalía General de la República*, FGR) showed that, between 2014 and 2017, prosecutors opened far more cases involving violations of fundamental rights and guarantees—including but not limited to illegal detentions and unlawful searches—than cases involving alleged crimes against humanity. Across all categories of human rights violations, the prevailing trend is the low proportion of cases that are prosecuted, and the even smaller proportion of cases that end in convictions. Indeed, data provided by the FGR shows that the vast majority of human violations registered between 2014 and 2017 go unpunished. This further confirms an observation made frequently by the University Institute for Public Opinion (*Instituto Universitario de Opinión Pública*) at José Simeón Cañas Central American University regarding the FGR's weak performance in carrying out criminal investigations.
- FGR statistics show that, across all categories of human rights crimes, cases resulted in convictions for just two types of crimes between 2014 and 2017: deprivation of liberty by public officials and torture. No other category of human rights crimes saw convictions obtained during this same time period.
- Salvadoran law defines several types of crimes as violations of an individual's fundamental rights and guarantees. Of these crimes, between 2014 and 2017, the FGR most frequently initiated cases involving unlawful entry, deprivation of liberty, and unlawful searches and investigations. Of these three crimes, only 8.5 percent of the cases were taken to court.
- Regarding FGR cases involving crimes against humanity, 2014–2017 saw nearly twice the number of cases initiated for torture than those initiated for forced disappearance. Only a fifth of the crimes involving torture or forced disappearance were ever prosecuted.
- This report compiles data regarding the number of extrajudicial executions that occurred from 2014 to 2017. One sign of a pattern of illegal killings is the high number of confrontations between the National Civilian Police (*Policía Nacional Civil*, PNC) and alleged gang members. These confrontations—which have resulted in the deaths of hundreds of people—possess an undeniable asymmetry in terms of the number of injured or dead civilians, versus the number of injured or dead law enforcement officers. Additionally, the Office of the Public Defender for Human Rights (*Procuraduría para la Defensa de los Derechos Humanos*, PDDH) has asserted that complaints against police officers for arbitrary deprivation of life have shown a clear increase in recent years. Elsewhere, the Human Rights Institute of the José Simeón Cañas Central American University (*Instituto de Derechos Humanos de la Universidad Centroamericana José Simeón Cañas*, Idhuca) has reported that at the end of 2017 the PDDH was investigating 40 cases of alleged executions by state officials.

- A recent report by Idhuca documents the harassment faced by environmental defenders, who are often targeted by national and international economic groups (and, at times, by public officials) seeking to exploit natural resources. This is best exemplified by cases of defenders advocating for water rights, according to the report. Idhuca also describes how rights defenders in El Salvador's LGBTI community have faced violence by state agents, criminal groups, and society in general, while also confronting high levels of prejudice. Another problem identified by the report is the harassment and stigmatization of youth defenders by state security forces. At times, the work of youth defenders is discredited, as authorities label them as "defenders of criminals." The Idhuca report also documented how Salvadoran journalists have faced risks as a result of their investigative work on human rights violations. Lastly the report documents how defenders of the rights of indigenous communities face intimidation and harassment by sectors involved in the exploitation of natural resources, whenever the defenders are perceived as opposing the interests of these sectors.
- Institutions like the FGR and PDDH lack special units charged with handling violations of the rights of human rights defenders. These institutions also lack specific protocols or a roadmap for responding to these types of violations. Likewise, since there is no specific protection mechanism for defenders, when violations against defenders occur, these incidents are registered and treated like common crimes. Consequently, the level of effectiveness in responding to complaints filed by defenders is extremely low.

GAPS IN HUMAN RIGHTS PROTECTIONS IN EL SALVADOR

Evaluating State Capacity to Protect and Promote Human Rights

The first two sections of this report address a series of human rights violations recorded between 2014 and 2017, whose main similarity is that state officials or authorities appear to have participated. The third section of this report seeks to observe the situation of human

rights defenders in the country, shedding light on several of the rights violations that defenders have suffered as a result of their work. Among these violations are the criminalization of their work, intimidation, harassment, and stigmatization².

OVERVIEW OF HUMAN RIGHTS CONDITIONS IN EL SALVADOR

In general, several nationally representative surveys conducted by the University Institute of Public Opinion of the UCA reveal that, in recent years, approximately one third of Salvadorans have held negative perceptions of the human rights situation in the country. Of those surveyed, 35.8% in 2015, 33.9% in 2016, and 37.5% in 2016 argued that respect for human rights had worsened.³

The Human Rights Institute of the UCA (Instituto de Derechos Humanos de la UCA, Idhuca) states that, in El Salvador, the problem of violence has clearly influenced the human rights situation; likewise, the violation of economic, social, and cultural rights is linked to the situation of violence and threats of the right to life.⁴

According to the Idhuca, despite some improvements in 2015 and 2016, 2017 had fallen in the human rights field because it was characterized by the combination of poverty and inequality with a culture of violence, and by the weakness of the justice sector institutions.⁵

To place the Salvadoran situation within a regional context, in recent decades, Latin America has experienced a high rate of lethal violence.⁶ In 2015, 9 of the 10 countries with the highest homicide rates in the world were in Latin America and the Caribbean. El Salvador stood out for having the highest homicide rate in the world, reporting 108.6 homicides per 100,000 inhabitants, followed by Honduras, with 63.7, and Venezuela, with 57.1.

Between 2005 and 2015, Central America was the subregion with the highest growth in homicides in the world (on average, 48.2%), and that the level of homicides in the Northern Triangle of Central America can be described as an epidemic, with explosive increases in homicides in short periods and with high inter-annual instability.⁷

Along the same lines, El Salvador has been among the most violent countries in the world for more than two decades; homicidal violence claimed the lives of nearly 90,000 Salvadorans since the end of the civil war.⁸

Toward the beginning of 2014, El Salvador saw a surge in lethal violence that marked a growth cycle in rates of violent deaths, reaching its highest point in 2015 (with more than 100 violent deaths per 100,000 inhabitants; later a decreasing in 2016 and 2017 with averages of 70 violent deaths per 100,000 inhabitants), El Salvador continued at a rate that was double the Central American average of violent deaths.⁹

Additionally, according to data revealed in a recent report by the Passionate Social Service (*Servicio Social Pasionista, Sspas*) on human rights violations in El Salvador, the Office of the

Prosecutor General of the Republic (*Fiscalía General de la República, FGR*) recorded a total of 19,819 homicides, 1,231 femicides, 15,638 detentions, and 11,153 extortions between 2014 and 2017.

Likewise, according to the data in that report, the Office of the Public Defender for Human Rights (*Procuraduría para la Defensa de los Derechos Humanos, PDDH*) handled more than 10,000 complaints of human rights violations between 2014 and 2017, with a high proportion of cases (approximately six out of ten) attributed to members of the police¹⁰.

TABLE 1 HUMAN RIGHTS COMPLAINTS HANDLED BY THE PDDH, DISAGGREGATED BY COMPLAINTS AGAINST THE POLICE, 2014-2017			
Year	Total complaints	Complaints against the police	Percentage of complaints against the police
2013-2014	2,549	1,431	56%
2014-2015	2,202	1,382	62.8%
2015-2016	1,883	1,123	59.6%
2016-2017	1,833	1,236	67.4%
2017-2018	1,590	1,110	70%

Source: *Sspas* (2018) based on FGR data

Between 2014 and 2017, the PDDH recorded more than 2,000 violations of the right to integrity, the most common violation being ill-treatment, and in smaller percentages the violations of disproportionate use of force, cruel and inhuman treatment, and torture.

Moreover, administrative records do not fully capture the complexity of the forms of violent crime that have afflicted El Salvador over the last decade and a half.¹¹ Because criminal structures seem to increasingly resort to the practices of dismemberment, decapitation, setting on fire, and concealment of bodies, it is difficult to quantify the incidence of violent death in the

country. Also, forced disappearances by criminal organizations may be masking additional murders.¹²

The situation of human rights defenders adds to the alarming environment of violence. In concluding remarks of the seventh periodic report of El Salvador, the United Nations Committee for Human Rights expressed concern about acts of violence and intimidation against human rights defenders and journalists. They also pointed to a lack of protection measures, especially for those who work to defend women's rights, the LGBTI community, indigenous peoples, reproductive and sexual rights, and those who document extrajudicial executions or investigate past crimes.¹³

Given this complex scenario, the state entities whose mandate is most closely linked to addressing cases of human rights violations in El Salvador are the Office of the Prosecutor General of the Republic and the Office of the Public Defender for Human Rights.

The Office of the Prosecutor General of the Republic has among its functions: to promote the justice system's operation in the defense of the rule of law, conduct criminal investigations in collaboration with the National Civilian Police, and promote criminal proceedings by right of office or request of the party.¹⁴ The PDDH has among its functions to ensure the respect and guarantee of human rights, investigate, by right of office or by complaints received cases of human rights violations, assist victims of human rights violations, and promote judicial or administrative remedies for the protection of human rights.¹⁵ It is important to note that the mandate of the PDDH is not to carry out criminal investigations, although it may collect evidence that could be used by the FGR, or file appeals in cases where the FGR has not realized a conviction.

The FGR contains a specialized prosecutor for human rights. According to the Organization and Functions Manual of the FGR, the Human Rights Prosecutor is responsible for ensuring the effective application of international and national human rights laws, and responds to requests made by national, international, and non-governmental organizations.¹⁶

The Organic Law of the Public Prosecutor's Office of 1952 clearly detailed the functions of the Human Rights Prosecutor while the current regulations referring to the Office of the Prosecutor General of the Republic¹⁷ do not specifically define the functions of this prosecutor.

In fact, there is a clear discrepancy between the role currently stipulated for the Human Rights Deputy Prosecutor (according to the FGR positions and functions manual), and the functions that had been established for said position in the Organic Law of the Public Prosecutor's Office of 1952, and its reform in 1989. These previous regulations specified that the Human Rights Deputy Prosecutor was third in the FGR hierarchy and that they should have an active role in the prosecution of crimes that constituted human rights violations. In other words, it was their responsibility to prosecute the human rights violations presented via complaints. The law also stipulated that if a member of the army had committed the human rights violation, the Human Rights Prosecutor should request the provisional detention of the accused person(s) starting at the beginning of the criminal proceedings.¹⁸ In contrast, at present, the role of the Human Rights Prosecutor seems to be oriented towards providing technical aid, without having the responsibility of directly promoting criminal action against a human rights violation. This new role overlooks the decisive work that this figure could have carried out in the human rights field, and relegates the

prosecution of such crimes to the standard procedure of the Office of the Prosecutor General of the Republic.

VIOLATIONS OF AN INDIVIDUAL'S FUNDAMENTAL RIGHTS AND GUARANTEES

With regard to human rights violations committed by state actors, the exercise of public office has limits derived from the fact that human rights are inherent to human dignity and, therefore, superior to the power of the State.¹⁹ The Inter-American Court of Human Rights states that the protection of human rights, particularly the civil and political rights contained in the American Convention on Human Rights, assumes the existence of certain inviolable attributes of the human person that cannot be legitimately impaired by the exercise of public power. Consequently, the protection of human rights restricts the exercise of state power.²⁰

Along these same lines, any person who causes harm to another through their actions is, in principle, responsible for said conduct and must repair the damage. In turn, the State, as a subject of law, is also liable, with certain particularities: the responsibility of the State for violation of human rights is linked to its dual protective role, since the State must not promote norms that may restrict or destroy fundamental rights, nor should it act in clear violation of constitutional parameters.²¹

The violations examined in this section all involve transgressions by officials, public employees, and public law enforcement officers that disrespect a fundamental right of citizens, such as the right to life, the right to dignity and equality, the right to defense and inviolability of the home, and the right to freedom – in particular, freedom of movement and freedom of expression. The crimes examined in this section are found in

Title XIV of the Criminal Code of El Salvador.

Of the human rights violations analyzed in this section, the crimes that reported the highest number of cases initiated in the FGR between 2014 and 2017 were Unlawful Entry (316 cases initiated in this period), Deprivation of Liberty by Public Officials or Employees (26 cases), and Unlawful Searches and Investigations (37 cases). Considering these three crimes together, the data show that, of the total cases initiated for these crimes between 2014 and 2017, only 8.5% were prosecuted.

One of the limitations of the FGR data is that the Prosecutor General does not identify which victims are human rights defenders so that they may be classified as a separate group. Although the FGR records take into account the profession or trade of the victims based on what is reflected in their individual identity document, this information does not reveal whether or not the victim is dedicated to defending human rights.

DEPRIVATION OF LIBERTY BY PUBLIC OFFICIALS OR EMPLOYEES, LAW ENFORCEMENT OFFICERS, OR PUBLIC AUTHORITIES

Article 290 of the Criminal Code describes this crime.

FIGURE 1

ARTICLE 290: DEPRIVATION OF LIBERTY BY PUBLIC OFFICIALS OR EMPLOYEES, LAW ENFORCEMENT OFFICERS, OR PUBLIC AUTHORITIES



The public official or employee, law enforcement official, or public authority that, outside of circumstances specified by law, performs, agrees, orders, or allows any deprivation of liberty of a person.

3 to 6 years imprisonment

Ban on holding the position for the same amount of time

This article protects the right to freedom, enshrined in Articles 2 and 11 of the Constitution of the Republic, and specifically the right of free movement, in Article 13 thereof.²²

In the period from 2014 to 2017, the FGR registered 45 cases corresponding to the Deprivation of Liberty by Public Officials or Employees, Law Enforcement Officers or Public Authorities. The number of cases initiated annually nearly tripled over this period, from seven cases initiated in 2014 to 20 in 2017.


In relation to the number of cases closed in prosecutor's offices, data shows that between 2014 and 2017, 26 closed cases were registered, of which 22 were closed definitively by the assistant prosecutor (meaning the prosecutor

has no possibility of incorporating more evidence to support or strengthen the accusation or that it is impossible to identify the alleged person). Four were closed on a provisional basis (meaning the assistant prosecutor has the possibility of reopening the case if new evidence becomes available to formalize the criminal charge).²³


Of the cases initiated in 2014, the data indicates that 85.7% were closed (six cases). Of the cases initiated in 2015, 57.1% (four cases) were closed. Additionally, 63.6% of the cases initiated in 2016 were closed (seven cases), while in 2017, 45% of the cases initiated that year were closed (nine cases), according to information provided by the FGR.

TABLE 2

CASES INVOLVING DEPRIVATION OF LIBERTY BY PUBLIC OFFICIALS, 2014-2017



	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	7	0	6	0
2015	7	1	3	3
2016	11	1	6	3
2017	20	2	7	11



	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	6	0	1	1	0
2015	2	0	1	0	2
2016	2	1	0	1	0
2017	2	0	0	1	0

Source: FGR, 2019

In terms of how crimes of Deprivation of Liberty by Public Officials or Employees, Law Enforcement Officers or Public Authorities were prosecuted, of the 45 total cases initiated in the 2014-2017 period, only 12 (26.7%) were subject to judicial examination to determine criminal responsibility. Regarding the rulings in which the FGR failed to prove criminal responsibility (definitive dismissal and acquittal), the data reflect that, of the total number of prosecutions recorded during the period under study, the Prosecutor's Office obtained an unfavorable ruling in 33.3% (four cases).

Finally, concerning convictions, or rulings in which the FGR was able to prove criminal responsibility for Deprivation of Liberty by Public Officials or Employees, Law Enforcement Officers or Public

Authorities, the FGR reported 3 convictions during the 2014-2017 time period. In other words, only 25% of cases prosecuted during the period studied ended in a conviction.

Also in regards to this crime, the University Observatory on Human Rights (Observatorio Universitario de Derechos Humanos, OUDH) of the Idhuca reports that, according to statistics of the Office of the Inspector General for Public Security (Inspección General de Seguridad Pública, IGSP), 21 police officers were being investigated for deprivation of liberty in 2015. Likewise, the number of police officers investigated for this crime was also 21 in 2016, while this figure decreased to 14 police officers investigated in 2017 for deprivation of liberty.²⁴

UNDUE LIMITATIONS ON INDIVIDUAL LIBERTY

The crime of Undue Limitation on Individual

Liberty is described in Article 291 of the Criminal Code; said article protects the right to freedom, enshrined in Articles 2 and 11 of the Constitution of the Republic, and specifically the freedom of movement, in Article 13 thereof.²⁵

FIGURE 2

ARTICLE 291: UNDUE LIMITATIONS ON AN INDIVIDUAL'S LIBERTY

The public official or employee who, in their role, is responsible for an institution charged with administering a sentence, security measure, or provisional detention, and admits a person as a detainee without a written order from the competent authority, or does not obey the order of freedom issued of the same, or who prolongs the execution of a penalty or security measure.

1 to 3 years imprisonment

Ban on holding the position for the same amount of time

Data provided by the FGR shows that between 2014 and 2017, 15 cases were initiated due to accusations of Undue Limitations on an Individual's Liberty; however, in 2014 and 2015 there were no cases initiated related to this crime. The number of cases initiated annually increased by 50% in the last year of the study period, from six cases initiated in 2016, to nine cases in 2017.

Data show that between 2014 and 2017, 12 cases were closed, of which 11 were closed definitively by the assistant prosecutors and one was closed on a provisional basis. The first year the FGR reported cases linked to this crime during the study period was 2016. In that year, 100% of the cases initiated were closed (six cases). On the other hand, of the cases initiated in 2017, 66.7% of them were closed (six cases).

Regarding how the crime of Undue Limitations on an Individual's was prosecuted during the 2014-2017 period, of the 15 cases initiated, only one case (6.7%) was submitted for judicial examination in order to determine criminal responsibility. The FGR statistics do not reveal the ruling of the 2016 case. Notably, in the 2014-2017 time period there were no provisional or definitive dismissals, nor acquittals, nor convictions for this crime.

CRIMES RELATED TO THE RIGHT TO EQUALITY

This crime is defined in Article 292 of the Criminal Code, which protects the dignity of the person, the same for all human beings, whose first by-product is the right to non-discrimination between people. The right to equality is established in Article 3 of the Constitution of the Republic.²⁶

FIGURE 3

ARTICLE 292: CRIMES RELATED TO THE RIGHT TO EQUALITY

The public official or employee, law enforcement officer, or public authority, who by reason of nationality, race, sex, religion, or any other condition of a person, denies any of the individual rights recognized by the Constitution of the Republic.

1 to 3 years imprisonment
Ban on holding the position for the same amount of time

TABLE 3

CASES INVOLVING VIOLATIONS OF THE RIGHT TO EQUALITY, 2014-2017

Year	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	0	0	0	0
2015	0	0	0	0
2016	6	1	5	0
2017	9	0	6	3

Year	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	0	0	0	0	0
2015	0	0	0	0	0
2016	1	0	0	0	0
2017	0	0	0	0	0

Source: FGR, 2019

FGR statistics show that, in the 2014-2017 time period, 28 cases involving Crimes Relating to the Right to Equality were opened.

The number of cases initiated annually increased

fivefold during the study period, from two cases initiated in 2014, to 11 cases initiated in 2017.

According to statistical data, the FGR closed 10 cases between 2014 and 2017, of which assistant

prosecutors definitively closed nine and one was closed provisionally.

Data shows that one of the two cases opened in 2014 were closed (50%).

Similarly, of the cases opened in 2015, 50% of them were closed (one case). On the other hand, 38.5% of the cases initiated in 2016 were closed (five cases); finally, of those cases initiated in 2017, 27.3% were closed (three cases), according to information provided by the FGR.

TABLE 4

CRIMES RELATING TO THE RIGHT TO EQUALITY HEARD IN PROSECUTOR'S OFFICES 2014-2017

Year	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	2	0	1	1
2015	2	1	0	1
2016	13	0	5	7
2017	11	0	3	8

Year	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	0	0	0	0	0
2015	0	0	0	0	0
2016	0	0	0	0	0
2017	1	0	0	0	0

Source: FGR, 2019

Regarding how Crimes Relating to the Right to Equality were prosecuted, it is striking to find that, of the 28 total cases initiated in the 2014-2017 period, prosecutors only filed charges for one of them (that is to say, only 3.6% of cases initiated were brought to court). The FGR statistics do not reveal the ruling of this 2017 case. During the 2014-2017 time period, data shows that no provisional or definitive dismissals, nor acquittals or convictions for this crime were registered.

CRIMES RELATED TO THE FREEDOM OF EXPRESSION

This crime is defined in Article 293 of the Criminal Code. Article 293 protects the right to freedom of expression, enshrined in Article 6 of the Constitution of the Republic, which includes free speech and dissemination of ideas.²⁷

FIGURE 4

ARTICLE 293: CRIMES RELATED TO THE FREEDOM OF EXPRESSION




The public official or authority that, outside of circumstances permitted under the Constitution of the Republic, establishes prior restraint, censorship, or security to a social media platform intended for the dissemination of thought, whether through a written, radio, or television medium


2 to 4 years imprisonment
Ban on holding the position for the same amount of time

TABLE 5

CASES INVOLVING VIOLATIONS OF THE FREEDOM OF EXPRESSION, 2014-2017



	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	0	0	0	0
2015	0	0	0	0
2016	2	0	1	1
2017	0	0	0	0



	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	0	0	0	0	0
2015	0	0	0	0	0
2016	0	0	0	0	0
2017	0	0	0	0	0

Source: FGR, 2019

Official statistics show that during the 2014-2017 time period, two cases involving Crimes Related to the Freedom of Expression were

opened, both initiated in 2016. No other cases involving this crime were reported for the other years included in the study.

Data shows that, between 2014 and 2017, one case was closed definitively, while no cases were closed on a provisional basis. Because only two cases were initiated in the period, the percentage of cases closed was 50%.


The FGR statistics reveal that between 2014 and 2017 none of the cases initiated for Crimes Related to the Freedom of Expression were submitted for judicial review in order to determine criminal responsibility.

CRIMES RELATED TO THE RIGHT TO DEFENSE


This crime is defined in Article 298 of the Criminal Code. Article 298 protects the right to an attorney, and the right to be informed of one's rights when detained as well as the reason for detention, in accordance with the provisions of Articles 12 and 13 of the Constitution of the Republic.²⁸

TABLE 6

CASES INVOLVING VIOLATIONS OF THE RIGHT TO DEFENSE, 2014-2017



	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	0	0	0	0
2015	0	0	0	0
2016	6	0	3	3
2017	3	0	2	1



	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	0	0	0	0	0
2015	0	0	0	0	0
2016	0	0	0	0	0
2017	0	0	0	0	0

Source: FGR, 2019

FIGURE 5

ARTICLE 298: CRIMES RELATED TO THE RIGHT TO DEFENSE



The public official or employee, law enforcement officer, or public authority who prevents or hinders the right to defense or presence of counsel for those detained or prosecuted, seeks or favors the waiver of such rights, or does not immediately and comprehensively inform the detainee about their rights and the reasons for their detention.

1 to 3 years imprisonment

Ban on holding the position for the same amount of time

Data from the Office of the Prosecutor General of the Republic indicates that, in the 2014-2017 time period, nine cases initiated corresponding to Crimes Related to the Right to Defense. There were no cases initiated in the years 2014 or 2015; in 2016, six cases were initiated, and in 2017 there were only three cases initiated, reflecting a 50% decrease compared to the previous year.

Furthermore, in terms of the number of cases closed in prosecutor's offices, the data show that between 2014 and 2017 there were five cases closed; all closed definitively by assistant prosecutors, according to FGR data. Within the analyzed period, 2016 is the first year with reports of cases initiated for Crimes Related to the Right to Defense. Of the total cases initiated that year, 50% were closed (three cases) while, of the cases initiated in 2017, 66.7% of them were closed (two cases).

According to statistics provided by the FGR, none of the cases initiated in the 2014-2017 time period were prosecuted.

UNLAWFUL SEARCHES AND INVESTIGATIONS

The crime of unlawful searches and investigation defined in Article 299 of the Criminal Code protects the right to freedom enshrined in Article 4 of the Constitution. One of the powers of the State is to investigate the facts constituting a criminal offense. The law bestows certain officials with acting capacities that involve interference in the lives of citizens; however, the correct execution of these demands are not to interfere in the personal domain of those not involved in punishable acts.²⁹

FIGURE 6

ARTICLE 299: UNLAWFUL SEARCHES AND INVESTIGATIONS

The public official or employee, law enforcement officer, or public authority, who carries out a search, investigation, act, or inquiry outside the purpose of preventing or investigating crimes or offenses, or ordering or permitting them.

6 months to 2 years imprisonment

Ban on holding the position for the same amount of time

Within the 2014-2017 period, 37 cases involving Unlawful Searches and Investigations were opened. The number of cases initiated each year, throughout this period, had no significant fluctuations; along these lines, eight cases were initiated in 2014, 10 in 2015, nine in 2016, and 10 cases in 2017.

Data referring to the number of cases closed at prosecutor's offices show that, between 2014 and 2017, 31 cases related to Unlawful Searches and Investigations were closed. Notably, the assistant prosecutors closed all cases definitively.

Of the total cases initiated in 2014, the data indicates 100% were closed (eight cases); Similarly, 100% of the cases initiated in 2015 were closed (10 cases).

On the other hand, 88.9% of the cases initiated in 2016 were closed (eight cases), while in 2017, 50% of the cases initiated that year (five cases) were closed, according to information provided by the FGR.

Regarding how crimes of Unlawful Searches and Investigations were prosecuted, of the 37 cases initiated in the 2014-2017 period, only eight cases (21.6%) were submitted for judicial examination in order to establish criminal responsibility.

Regarding the rulings in which the FGR failed to prove criminal responsibility of the actors (definitive dismissal and acquittal), of the total number of prosecutions recorded between 2014 and 2017, the Prosecutor's Office obtained an unfavorable ruling in 75% of them (six cases).

TABLE 7**CASES INVOLVING UNLAWFUL SEARCHES AND INVESTIGATIONS, 2014-2017**

Year	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	8	0	8	0
2015	10	0	10	0
2016	9	0	8	0
2017	10	0	5	4

Year	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	3	0	3	0	0
2015	2	0	0	0	0
2016	2	0	1	0	1
2017	1	0	1	0	0

Source: FGR, 2019

Finally, concerning convictions, or rulings in which the FGR was able to prove commission of the Unlawful Searches and Investigations crime, statistics indicate that, between 2014 and 2017, there were no reported cases that ended in a conviction.

UNLAWFUL ENTRY

This crime is defined in Article 300 of the Criminal Code.

FIGURE 7**ARTICLE 300: UNLAWFUL ENTRY**

The public official or employee, law enforcement officer, or public authority that enters the residence of another without legal authorization and without the consent of the resident or whoever acts as such.

1 to 3 years imprisonment

Ban on holding the position for the same amount of time

Article 300 of the Criminal Code protects the right to inviolability of a residence, enshrined in Article 20 of the Constitution.³⁰

From 2014 to 2017, the statistical information provided by the FGR indicates that a total of 316 cases were opened involving the crime of unlawful entry. The number of cases initiated annually saw an upward trend during the period analyzed. The number of cases initiated in 2017

(130 cases) was triple the amount of cases initiated in 2014 (42 cases).

Regarding the number of cases of this nature closed in prosecutor's offices, the data show that between 2014 and 2017, 244 cases were closed; of these, assistant prosecutors closed 227 cases definitively, while 17 cases were closed provisionally.

TABLE 8

CASES INVOLVING UNLAWFUL ENTRY, 2014-2017

Year	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	42	0	40	1
2015	60	4	52	4
2016	84	9	52	18
2017	130	4	83	31

Year	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	3	1	2	0	0
2015	3	0	1	0	0
2016	1	0	0	0	0
2017	7	1	1	0	0

Source: FGR, 2019

Of the total cases opened in 2014, the data indicates that 95.2% were closed (40 cases). Of the cases initiated in 2015, 93.3% (56 cases) were closed. In contrast, of the cases that started in 2016, 72.6% (61 cases) were closed, and in 2017, 87 cases were closed, equating to 66.9% of the cases initiated that year, according to information provided by the FGR.

Regarding how the crime of Unlawful Entry was prosecuted during this period, of the 316 total cases initiated, only 14 cases (equivalent to 4.4%) were submitted for judicial review in order to determine criminal responsibility.

Regarding the rulings in which the FGR failed to prove criminal responsibility (definitive dismissal and acquittal), of the total number of prosecutions recorded during the period analyzed, the Prosecutor's Office obtained an unfavorable ruling in 28.6% of them (four cases).

Statistics indicate that between 2014 and 2017 no conviction of this crime was recorded.

Of the total cases taken to court, it is not possible to determine the ruling of eight of the cases from FGR data since they do not appear among provisional or definitive dismissals,

nor among the convictions or sentences corresponding to the years 2014-2017.

Related to this topic, the OUDH of Idhuca reports that in 2015, according to statistics from the IGSP, 13 police officers were under investigation for the crime of unlawful entry into a residence.

The number of police officers investigated for this crime increased to 23 in 2016, and then reduced slightly in 2017, when 19 police officers were investigated for this crime.³¹

TABLE 9

POLICE OFFICERS INVESTIGATED FOR UNLAWFUL ENTRY BY THE OFFICE OF THE INSPECTOR GENERAL FOR PUBLIC SECURITY, 2015-2017

Year	Number of police officers investigated
2015	13
2016	23
2017	19

Source: IGSP, 2018

PROSECUTOR
EFFECTIVENESS
AGAINST VIOLATIONS TO
FUNDAMENTAL RIGHTS AND
GUARANTEES

One characteristic that prevails in all human rights violations examined based on FGR data is the small proportion of cases that went to court, with an even smaller percentage ending in convictions. From what the statistics show,

the vast majority of human rights violations examined between 2014 and 2017 remain unpunished by the law.

Although there is not enough information available to fully explain the low effectiveness observed in these cases, it is necessary to take into account several factors that have been previously addressed by the University Institute of Public Opinion regarding the weaknesses of the Office of the Prosecutor General of the Republic in conducting criminal investigations. The Iudop has argued that a large number

of cases initiated in the FGR do not advance to the pre-trial phase, due in large part to weak arguments and lack of evidence from prosecutors and police, which has historically been characterized by the justice sector's weak technical investigative capacity. This manifests in the excessive use of testimonial evidence, in particular, of witnesses testifying under a plea-bargain agreement, to substantiate the accusation; as well as the heavy workload of trial attorneys, which hinders their performance.³²

In a report on security and justice, the World Bank³³ warned of this situation by pointing out that, from the point of view of members of the PNC, failures in investigations were a result of many variables, such as ineffective leadership capacity of prosecutors as technical directors of the investigation, lack of technical means, lack of scientific and material resources to

carry out an effective investigation, and weak competence and professionalism of the staff of the Prosecutor's Office.

Likewise, in a recent investigation into the Salvadoran justice system, the Iudop highlighted that, according to FGR records, a total of 373,991 cases were initiated in prosecutor's offices between 2014 and 2017, in addition to 160,763 charges reported for that same period. These indicators imply that each prosecutor takes on more than 200 proceedings. Regarding the workload for the prosecution and judicialization of a crime, a single case may demand a significant investment of institutional resources, depending on the complexity of the circumstances, the number of defendants related to the crime, and the amount of different criminal acts in the same case.³⁴

HUMAN RIGHTS VIOLATIONS RELATED TO CRIMES AGAINST HUMANITY

The International Criminal Court establishes that a crime against humanity is any inhuman act that causes serious suffering or threatens the mental or physical health of a victim, and is committed as part of a widespread or systematic attack against a civilian population.³⁵

The Passionate Social Service has argued that, when discussing violence, state violence is rarely mentioned or defined, underlying the importance of monitoring such acts.³⁶ The organization argues that the implementation of public security policies that blend actions to prosecute crime with state obligations to respect, protect, and guarantee human rights continues to be a social debt in El Salvador.

In a recent Forum on Security Policies for the

guarantee of Human Rights, the idea that in order to guarantee the safety of the population, the rights and guarantees of citizens must first be violated is a perspective common among governments in power, decision makers, and security officials.³⁷ In addition, there is a notion that defending human rights is antagonistic to security. This is perceived as synonymous with defending an aggressor and, therefore, as an obstacle to guaranteeing security.

The Office of the Public Defender for Human Rights has expressed concern over the negative impacts that security policies adopted by the Executive since 2015 have had on human rights. Some of these policies include large-scale police force and military deployments in urban and rural areas of the country and the creation of military battalions and various

elite police groups within the framework of Extraordinary Security Measures. Moreover, the Executive has engaged in institutional discourse that explicitly or implicitly lends impunity to constituents that violated the law and also lead to an increase in police and armed forces abuse towards the population.³⁸

In 2016, the year in which new anti-gang units were launched, the Office of the Public Defender for Human Rights received more than 1,000 complaints for human rights violations perpetrated by members of the PNC, and almost 200 complaints tied to members of the army; most of these complaints were related to extralegal executions, threats, ill-treatment, torture, illegal detention, and intimidation.³⁹

Along the same lines, deaths by extrajudicial execution, forced disappearances by unknown groups, and forced displacement due to violence, seem to indicate that the country is not exempt from returning to violent dynamics of the past, particularly if the State employs authoritarian and extremely repressive measures to face social problems that require integral solutions.⁴⁰ Among the most immediate and verifiable effects of extremely punitive measures in the prosecution of crime and the disproportionate use of police and military forces to combat gangs, are abuses and acts of brutality committed by law enforcement. When the State resorts to violent and radical criminal prosecution strategies, violating citizen rights becomes a formal social control mechanism.⁴¹

The PDDH also noted that, in parallel to the adoption of the Extraordinary Security Measures, the resurgence of extermination structures – some of which were made up of members of the PNC, military, and civilians – have generated fear and anxiety in communities within the country. The increase in paralegal violence by clandestine structures and the greater participation of police in arbitrary deaths have played a role in the violent deaths, citizen insecurity, and the weakening of the country's democratic institutions.⁴²

The next section of the report analyzes a series of human rights violations that are defined within Title XIX of the Criminal Code of El Salvador, which all entail a transgression by officials, public employees, and public law enforcement officers categorized as a crime against humanity. Regarding the crimes examined in this section, the number of cases initiated in the FGR between 2014 and 2017 for the crime of Torture is double that of Forced Disappearance of Persons. In addition, of the total cases initiated for these crimes in the period analyzed, only one fifth of them were prosecuted.

FORCED DISAPPEARANCE OF PERSONS

This crime is defined in Article 364 of the Criminal Code. Through state organs, the article seeks to protect fundamental rights of citizens and, in the event that the detention has been legally carried out, of the right to life.⁴³

FIGURE 8

ARTICLE 364: FORCED DISAPPEARANCE OF PERSONS



The public official or employee, law enforcement officer, or public authority who legally or illegally detains a person and does not give reasons about his whereabouts.

4 to 8 years imprisonment

Ban on holding the position for the same amount of time

Regarding the crime of Forced Disappearance of Persons, FGR statistics indicate that, in the 2014-2017 time period, nine cases corresponding to said crime were initiated. The number of cases initiated annually had no

variations during most of the period (three cases initiated each year between 2014 and 2016), with a decrease in 2017, when there were no cases opened.

TABLE 10

CASES INVOLVING FORCED DISAPPEARANCES, 2014-2017



	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	3	0	0	1
2015	3	0	1	1
2016	3	0	1	2
2017	0	0	0	0



	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	1	0	0	0	0
2015	0	0	0	0	1
2016	0	0	0	0	0
2017	0	0	0	0	0

Source: FGR, 2019

Data shows that, between 2014 and 2017, prosecutors closed two cases; both were closed definitively by the assistant prosecutors (that is to say, there is no possibility of incorporating more evidence to support or strengthen the accusation or that it is impossible to identify the alleged person).⁴⁴

Of the cases initiated in 2014 (three cases), the FGR information indicates that none were closed. Of the cases initiated in 2015, 33.3% were closed (one case), and similarly, 33.3% of the cases initiated in 2016 were closed (one case). In 2017, no cases were initiated or closed.

Regarding how the crime of Forced Disappearance was prosecuted, of the nine total cases initiated in the 2014-2017 period, only one case (11.1%) was submitted for judicial review in order to determine criminal responsibility.

Of the total number of prosecutions recorded during the period under study, the Prosecutor's Office obtained an unfavorable ruling in 100% of them (this corresponds to one case, whose acquittal is registered in 2015).

Finally, concerning convictions, or rulings in which the FGR was able to prove commission of the crime, statistics show that in the 2014-2017 time period no conviction was recorded for the crime of Forced Disappearance.

TORTURE

This crime is defined in Article 366-A of the Criminal Code. This article protects the dignity of an individual, enshrined in Article 4 of the Constitution of the Republic.⁴⁵

FIGURE 9
ARTICLE 366-A: TORTURE

The official, public employee, public authority, or law enforcement officer who, on the occasion of the duties of his office, intentionally inflicts a person with serious pain or suffering, whether physical or mental, in order to obtain from them or from a third party information or a confession, to punish them for an act that they have committed, or is suspected to have committed, or to intimidate or coerce that person or another, or for any reason based on any type of discrimination, instigates, induces, or consents to such acts or does not prevent its execution.	6 to 12 years imprisonment Ban on holding the position for the same amount of time
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------

According to FGR statistics, 19 cases corresponding to the crime of Torture were opened during the four year period. The number of cases of this nature initiated annually quadrupled during the analyzed period, from one case initiated in 2014, to four cases initiated in 2017. It is worth highlighting the significant increase registered in 2016, when 10 cases were initiated for the crime of Torture.

Regarding the number of cases closed in prosecutor's offices, the data show that between 2014 and 2017, 11 cases were closed definitively, that is to say, the trial attorney has no possibility of incorporating more evidence to support or strengthen the accusation or that it is impossible to identify the alleged person.⁴⁶

Of the total cases initiated in 2014, statistics show that no case was closed that year. Of the cases initiated in 2015, 75% were closed (three cases). On the other hand, 60% of the cases

initiated in 2016 were closed (six cases), while in 2017, 50% of the cases initiated that year were closed (two cases), according to FGR statistics.

Additionally, of the 19 cases initiated in the 2014-2017 period for the alleged crime of Torture, only five cases were prosecuted (26.3%). Regarding the rulings in which the FGR failed to prove criminal responsibility (definitive dismissal and acquittal), of the total number of prosecutions recorded in the 2014-2017 period, the Prosecutor's Office obtained an unfavorable ruling in 20% of them (one case).

Finally, concerning convictions, or rulings in which the FGR was able to prove commission of the crime, the data showed that in the 2014-2017 period only one conviction for Torture was reported. In other words, only 20% of cases prosecuted during the period studied ended in a conviction.

TABLE 11
CASES INVOLVING TORTURE, 2014-2017

Year	Cases Initiated	Provisional Closure	Definitive Closure	Under Investigation
2014	1	0	0	1
2015	4	0	3	0
2016	10	0	6	5
2017	4	0	2	2

Year	Charges Filed	Provisional Dismissals	Definitive Dismissals	Convictions	Acquittals
2014	0	0	0	0	0
2015	0	0	0	0	0
2016	2	0	0	0	0
2017	3	0	1	1	0

Source: FGR, 2019

Statistics from the OUDH of the Idhuca serve as an additional source for records on Torture, particularly for statistics that track crimes of Torture when members of the Police are involved. According to data from the IGSP, the

ODUH reported that in 2015 there were no police officers investigated for Torture, while four police officers were investigated for torture in 2016, and the same amount in 2017.⁴⁷

TABLE 12

POLICE INVESTIGATED FOR TORTURE BY THE OFFICE OF THE INSPECTOR GENERAL FOR PUBLIC SECURITY, 2015-2017

Year	Number of police officers investigated
2015	0
2016	4
2017	4

Source: IGSP, 2018

The OUDH has also systematized information on complaints for the crime of Torture before the Office of the Public Defender for Human Rights. The Observatory recorded 42 complaints for the crime of Torture between

2014 and 2017. The OUDH attributed 73.8% of these cases to members of the police and the remaining 26.2% to members of the Armed Forces of El Salvador.⁴⁸

TABLE 13

COMPLAINTS OF TORTURE BROUGHT BEFORE THE PUBLIC DEFENDER'S OFFICE FOR HUMAN RIGHTS, 2014-2017

Year	Number of PNC members accused	Number of FAES members accused	Total complaints
2014	6	6	12
2015	10	5	15
2016	7	0	7
2017	8	0	8

Source: PDDH, 2019

In its 2016 annual human rights report, the Idhuca reported that police were allegedly using a technique that violated Article 5 of the Universal Declaration of Human Rights (“No one will be subjected to torture or cruel, inhuman or degrading treatment or punishment”). Police reportedly performed practices such as: severe beatings of detainees, death threats, placing the barrel of a gun inside the mouth or on the head of the detainee, physical abuse, and insults.⁴⁹ Subsequently, in its 2017 human rights report, the Idhuca warned to have knowledge of members of the PNC who, after being accused of cruel treatment and serious injuries, were allowed to continue their functions while investigations were being carried out.⁵⁰

Furthermore, upon providing technical aid to detainees in criminal proceedings, data collected in human rights audits carried out by the PDDH showed evidence of other violations of individual dignity.

Between 2014 and 2017, the PDDH examined 284 cases of minors who claimed they were beaten or mistreated by the authorities at the time of their detention. It is also striking to find that in the examinations that the PDDH carried out of adults detained between 2014 and 2017, a total of more than 3,000 people reported being beaten or abused while in detention.

TABLE 14

AUDITS OF RESPECT FOR HUMAN RIGHTS BY THE THE PUBLIC DEFENDER’S OFFICE FOR HUMAN RIGHTS, 2014-2017

Year	Minors		Adults	
	Total Audits	Cases in which abuse was reported	Total Audits	Cases of abuse
2014	5,354	79 (1.5%)	35,838	1,016 (2.8%)
2015	2,748	56 (2%)	18,035	274 (1.5%)
2016	3,412	80 (2.3%)	29,588	1,440 (4.9%)
2017	3,039	69 (2.3%)	28,177	606 (2.1%)

Source: PDDH, 2019

Statistics also revealed that, in the case of minors, the Auxiliary Public Defender's Offices (*Procuradurías Auxiliares*) that most frequently reported unnecessary punishment or abuse

during detention or custody were in Apopa in 2014 and 2015 and San Miguel in 2016 and 2017 (see Annex 1).

For adults, the Auxiliary Public Defender's Office in which unnecessary punishment or abuse were most frequently reported were: Ahuachapán and Sonsonate in 2014, Sonsonate and Usulután in 2015, San Miguel and Ahuachapán in 2016, and San Miguel and Sonsonate in 2017 (see Annex 2).

EXTRAJUDICIAL EXECUTIONS

Extrajudicial execution is a violation that a state agent carries out in isolation, with or without political motivation, or as an action derived from a pattern of institutional nature. The execution is usually understood as a result of an intentional action to arbitrarily deprive the life of one or more individuals by State agents or by individuals under the State's order, complicity, or consent.⁵¹

In the case of El Salvador, extrajudicial execution has not been defined in the Criminal Code, making it impossible to distinguish from the crime of Aggravated Homicide. Consequently, FGR statistics do not provide specific data on the alleged commission of extrajudicial executions.

Regarding this problem in El Salvador, in recent years, an issue that has generated a lot of concern among human rights organizations is the increase in deaths at the hands of police officers, with signs that these were a result of extrajudicial executions.⁵²

In this regard, the University Institute of Public Opinion (Iudop) carried out a monitoring and analysis of journalistic articles published by *La Prensa Gráfica* during 2016, examining evidence to identify extrajudicial executions in the country.⁵³ From this journalistic review, Iudop identified 111 events in 2016 that

displayed characteristics of alleged extrajudicial executions, in which 278 fatalities were reported. Of these, half of the events (50.4%) corresponded to deaths in alleged armed confrontations between gang members and police and members of the army, a quarter of them (26.1%) to confrontations between combined forces and gang members, and 21.6% to deaths caused by alleged death squads.⁵⁴

In the same vein, the Human Rights Institute of UCA claimed that the issue of extrajudicial executions in recent years has been exemplified by the 40 cases of alleged executions attributed to State agents that, as of 2017, were open and under investigation by the Office of the Public Defender for Human Rights.⁵⁵

The Idhuca also asserts that the high number of confrontations in recent years between police officers and members of gangs, with a high fatality rate, and where the number of injured and dead is totally disproportionate between the two groups, leads one to believe that there is a tactic of abusive use of force and possible extrajudicial executions.⁵⁶

On this same issue, the Passionate Social Service (Sspas) has indicated that during Salvador Sánchez Cerén's presidential term, there was an increase in the number of armed confrontations between the State security forces and groups of alleged gang members. The official discourse blamed unlawful attacks on police and military by gangs, who responded by citing that more gang members were victims of these confrontations.⁵⁷

A recent report on extra-legal executions published by the Office of the Public Defender for Human Rights also argued that in recent years, complaints against police officers for arbitrary deprivation of life have increased significantly, and that the so-called armed

confrontations between the PNC and gang members have resulted in hundreds of civilian deaths, most of which have not been explained.⁵⁸ The investigations reveal strong indications that, in several of these cases, the deaths of alleged gang members did not take place in the context of an armed confrontation, but rather were a result of abuse of force and lethal violence by members of the PNC.⁵⁹

The OUDH provides data on “unlawful aggressions” recorded by the National Civilian Police between 2014 and 2017. The data shows that the PNC categorizes confrontations between people in which gunfire was exchanged as assaults.

The following table shows the number of “unlawful aggressions” reported by the PNC between 2014 and 2017, broken down according to the number of deaths involved. The table was prepared based on the statistics presented by the OUDH, arising from the resolution PNC-UAIP-486-2018. First, the number of unlawful aggressions reported annually doubled during the period analyzed, from 256 in 2014, to 528 in 2017.

TABLE 15

INCIDENTS OF “UNLAWFUL AGGRESSION” RECORDED BY POLICE, DISAGGREGATED BY NUMBER OF DEATHS RESULTING FROM CONFRONTATIONS WITH THE POLICE, 2014-2017

No. of deaths	No. of incidents 2014	No. of incidents 2015	No. of incidents 2016	No. of incidents 2017
0	187	266	262	212
1	61	167	277	249
2	5	47	70	51
3	1	9	25	10
4	0	2	15	4
5	1	1	5	1
6	1	1	4	1
7	0	0	0	0
8	0	1	1	0
Total	256	494	659	528

Source: PNC, 2018

The data in the previous table show that of the 256 unlawful aggressions recorded in 2014, 61 of them (23.8%) involved the death of one person; in contrast, of the 528 unlawful aggressions recorded in 2017, 249 of them (47.1%) involved the death of one person. Additionally, of the 256 unlawful aggressions recorded in 2014, there were five (1.9%) in which two people died per event. Meanwhile, of the 528 unlawful aggressions recorded in 2017, there were two people killed in 51 of them (9.6%). The data also shows that between 2014 and 2017, there was a proportional increase in the number of aggressions that resulted in a high number of fatalities. In this sense, in 2014 there were three unlawful aggressions for each of which three or more fatalities were reported. In 2015, there were 14 unlawful aggressions with three or more victims; spiking in 2016, 50 unlawful aggressions with three or more victims were recorded. And in 2017, the data indicate that there were 16 unlawful aggressions, each of which involved three or more deaths.

The Passionate Social Service asserts that, according to international measurements, when security forces make proper use of lethal force, the data tend to show a ratio of 10 fatalities per police officer or soldier killed in a confrontation, since those groups have specialized training. However, in El Salvador the data has exceeded that ratio: the number of civilians killed by each police or military killed in armed confrontations was 15 in 2014; 12.9 in 2015; 60.8 in 2016 and 69.2 in 2017.⁶⁰

Also, with reference to the asymmetry of the number of deaths in groups that face off during unlawful aggressions, the OUDH reports information concerning the number of private individuals who died in recorded confrontations annually, in contrast to the number of police officers that died. The OUDH notes that the data was generated as a result of resolution PNC-UAIP-486-2018. Although the figures are different from those reported by the Sspas, both sources of information reveal an increase in deaths of private individuals per police officer death, particularly in 2016 and 2017.

TABLE 16
RATIO OF CIVILIANS TO POLICE OFFICERS KILLED DURING INCIDENTS OF
“UNLAWFUL AGGRESSION,” 2014-2017

Year	Ratio of civilian deaths per police officer death
2014	14.2
2015	35
2016	101.5
2017	136

Source: PNC, 2018

Sspas has systematized figures related to possible executions and attempts at extralegal executions by the PNC, the FAES, or the PNC and FAES based on data of the Office of the Public Defender for Human Rights. According to this institution, in 2014, there were 6 cases of alleged execution or attempted extrajudicial execution committed by security forces; 9 in 2015; in 2016, this figure increased fivefold, reaching 50 cases; in 2017, it remained similar, with 47 cases of alleged execution or attempted execution reported.

The 112 cases reported between 2014 and 2017 correspond to 197 victims.⁶¹

In El Salvador, the risk that extrajudicial executions remain unpunished is high. With the exception of some cases recently prosecuted, where police and army officers were determined responsible for extralegal executions, there are no state initiatives to thoroughly investigate extermination or paid assassination structures inside and outside the police and army. On the contrary, the authorities employ a rhetoric that police officers are using legal force to fend off attacks against them, which legitimizes the alleged attack and the actions of the security forces.⁶²

TIMELINE OF AN EMBLEMATIC CASE: MASSACRE OF EL MOZOTE

This section outlines a brief timeline of the events around a representative case of human rights violations in El Salvador that constitute crimes against humanity: the massacre of El Mozote and nearby areas. These events, which occurred in the early 1980s, have been categorized as war crimes and crimes against humanity.

Between December 10 and 13, 1981, more than 1,000 people from locales of El Mozote, Ranchería, Los Toriles and Jocote Amarillo, cantons La Joya and Cerro Pando, the cave in Cerro Ortiz, and municipalities of Arambala and Meanguera in the Morazán department, were deprived of liberty, tortured, and killed by members of the Atlacatl Immediate Response Infantry Battalion (BIRI). Many women were also victims of rape.⁶³

The Office of the Public Defender for Human Rights has affirmed that the massacres during the armed conflict were executed within the framework of military operations that sought to massively exterminate civilians, including women, children, and older adults. This was part of a military strategy known as "scorched earth," carried out by the Salvadoran State mainly between 1980 and 1982 with the aim of destroying the alleged "social base" of the developing guerrillas. The "scorched earth" military strategy involved perpetrating killings against people, regardless of their status as civilians. In the case of El Mozote and nearby places, of the total 281 victims identified in the anthropological-forensic recovery work, at least 74% were children; these actions have been described as signs of extreme state violence.⁶⁴

At the end of 1990, El Salvador initiated a criminal proceeding for the massacre of El Mozote and nearby places, with the support of the Legal Guardianship Office of the Archbishopric of San Salvador; that same year the initial request for this case was closed with the Inter-American Court of Human Rights.⁶⁵ A decade later, in its merits report No. 177/10, the Court established that the State of El Salvador was internationally responsible for violating of a series of fundamental rights, including the rights to life, personal integrity, private life, personal freedom, and freedom of movement

and residence. In addition, the Court found that the State violated special obligations with respect to children established in Article 19 of the American Convention, as well as Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture.⁶⁶ The public hearing of the case was held in 2012 during the 45th Special Session of the the Inter-American Court of Human Rights, during which the Salvadoran State agreed to the reparation measures recommended by the Commission in its merits report 177/10.⁶⁷

Four years later, the Second Court of First Instance of San Francisco Gotera reopened the criminal proceedings registered under Reference 238/1990 “Massacre El Mozote

and nearby places,” after the Amnesty Law was declared unconstitutional. The Court summoned the high command of the Armed Forces of that time to submit itself to judgement.⁶⁸ Subsequently, in 2017, the Second Court of First Instance of San Francisco Gotera, Morazán, initiated the criminal arraignment, in which 18 soldiers were summoned to inform the Court of crimes of which they were accused in the El Mozote massacre.⁶⁹ That same year, the State made the figures of the victims of the case available to the public through the ‘Single Registry of Victims and Family Member of Victims of Serious Human Rights Violations during the El Mozote Massacre’, which accounted for a total of 978 people killed, of which 553 were minors.⁷⁰

BOX 1

CHRONOLOGY OF EVENTS: EL MOZOTE MASSACRE INVESTIGATION⁷¹

Year	Date	Event
1980	November	This year marks the beginning of abrupt attacks against the non-combatant civilian population, together with collective executions that particularly affected the rural population. Between October and November of this year, the Farabundo Martí National Liberation Front (<i>Frente Farabundo Martí para la Liberación Nacional</i> , FMLN) is formed, combining five organizations of political and armed opposition: the People's Forces for Liberation (<i>Fuerzas Populares de Liberación</i>), the People's Revolutionary Army (<i>Ejército Revolucionario del Pueblo</i>), the Liberation Armed Forces (<i>Fuerzas Armadas de Liberación</i>), the National Resistance Armed Forces (<i>Fuerzas Armadas de Resistencia Nacional</i>), and the Revolutionary Party of Central American Workers (<i>Partido Revolucionario de los Trabajadores de Centroamérica</i>).
1981	January 10	FMLN launches a general offensive, seeking to promote a popular uprising and overthrow state authorities.
	December 6 to 16	The government deploys forces in seven locations in the northern department of Morazán as part of a military operation known as “Operation Rescue” or “Anvil and Hammer.” The operation is overseen by the Atlacatl Immediate Response Infantry Battalion in conjunction with Third Brigade Infantry units from San Miguel and the Center for Command Instruction (Centro de Instrucción de Comandos) of San Francisco Gotera, whose stated goal is to eliminate the guerrilla presence in the region. ⁷² Colonel Jaime Flórez Grijalva, Commander of the Third Brigade , led the operation. Lieutenant Colon Domingo Monterrosa Barrios, Commander of the Atlacatl BIRI , commanded participating units. Major Natividad de Jesús Cáceres Cabrera served as executive officer. Major José Armando Azmitia Melara , now deceased, served as chief of operations. ⁷³

Year	Date	Event
1981	December 8	The Atlacatl Battalion arrives at El Mozote in the course of the counter-insurgency military operation. They aimed to eliminate the guerrilla presence in areas where there was a camp and a training center called La Guacamaya. ⁷⁴
	December 9	A company of the BIRI Atlacatl entered the municipality of Arambala. They locked the women and children in a church and ordered the men to lie face down in the square. Several men were accused of being guerrilla collaborators, for which they were tied, bandaged, and tortured. Military forces spent the following days doing the same in the following hamlets: La Joya, La Ranchería, Jocote Amarillo, and Cerro Pando. State forces killed village residents—men, women, boys and girls—then set fire to the houses. ⁷⁵
1982	January 27th	The slaughter of El Mozote becomes public knowledge, when newspapers the <i>New York Times</i> and the <i>Washington Post</i> published articles by Raymond Bonner and Alma Guillermo Prieto, respectively, which provided testimony by Rufina Amaya, one of the survivors of the massacre. The Salvadoran authorities denied that the massacre had taken place. No judicial investigation was opened, nor was any investigation made known by the government or the Armed Forces. ⁷⁶
1990	October 26	A criminal proceeding is opened in the Court of First Instance of San Francisco Gotera , conducted by Pedro Chicas Romero . The complaint collected multiple official statements by witnesses of the massacre. The court eventually orders the exhumation of the bodies. The government was also requested to provide the names of the officers who participated in the military operation on several occasions. The government replied that it did not have this information. ⁷⁷
	October 30	The Legal Office of the Archbishop (<i>Oficina de Tutela Legal del Arzobispado</i> , OTLA) files an initial petition of the case before the Inter-American Commission on Human Rights. ⁷⁸
1991	July 17	Representatives from OTLA asked the Court of First Instance of San Francisco Gotera to appoint qualified foreign experts to carry out the exhumations. The court indicated that this required the approval of Dr. Mauricio Gutiérrez Castro, then-President of the Supreme Court of El Salvador. ⁷⁹
1992	January 16	The peace accords are signed.
	April 29	After nine months without response and after efforts by the United Nations Observer Mission in El Salvador, the Supreme Court President, Dr. Mauricio Gutiérrez Castro, proceeded to appoint qualified experts to perform the exhumations. ⁸⁰
	November 13 to 17	Exhumation of remains is carried out in the ruins of the "the convent" building adjacent to the church of El Mozote, which provides irrefutable evidence that the massacre took place. The elements found were analyzed by expert anthropologists and then studied in the laboratory of the Institute of Legal Medicine of Santa Tecla and in the Commission of Investigation of Criminal Acts by Dr. Clyde Snow (forensic anthropologist), Dr. Robert H. Kirshner (forensic pathologist), Dr. Douglas Scott (archaeologist and ballistics expert), and Dr. John Fitzpatrick (radiologist), in collaboration with the Argentine Forensic Anthropology Team composed of Patricia Bernardi, Mercedes Doretti, and Luis Fondebrider. ⁸¹

Year	Date	Event
1993	March 20	The General Amnesty Law for Consolidation of Peace is approved with the objective of granting unconditional amnesty to all persons who had participated in political, common, and related crimes before January 1992. ⁸²
	September 1	Judge Federico Portillo closes the criminal investigation for the El Mozote massacre that was launched in 1990, based on the Amnesty Law passed under the government of Alfredo Cristiani. ⁸³
	September 27	The case of the massacre is dismissed based on the General Amnesty Law for Consolidation of Peace. ⁸⁴
1995	June 6	The Salvadoran state recognizes the contentious jurisdiction of the Inter-American Court of Human Rights. As of this date, the Inter-American Commission on Human Rights submits to the Inter-American Court state actions and omissions by El Salvador. ⁸⁵
2000	April 5	The OTLA accredited civil society group the Center for Justice and International Law (CEJIL) as co-petitioner for the case before the Inter-American Commission on Human Rights. ⁸⁶
2006	March 2	The Inter-American Commission on Human Rights declares the petition made by the OTLA and CEJIL admissible by means of Admissibility Report No. 24/06. ⁸⁷
2010	November 3	The Merits Report No.177/10 is approved ⁸⁶ under the terms of Article 50 of the Convention. ⁸⁹
	December 8	The Inter-American Commission on Human Rights notifies the Salvadoran state of Merits Report No. 177/10, and grants the state a period of two months to report on compliance with the recommendations made therein. ⁹⁰
2011	February 8	In light of the Salvadoran state's failure to comply with the recommendations made by the Inter-American Commission on Human Rights, the Commission submits the case to the jurisdiction of the Inter-American Court of Human Rights, designating then-Commissioner Paulo Sergio Pinheiro and Executive Secretary Santiago A. Cantón as delegates. As legal advisors, they designate Deputy Executive Secretary Elizabeth Abi-Mershed, and Isabel Madariaga and Silvia Serrano Guzmán, who are attorneys for the Executive Secretariat of the Inter-American Commission on Human Rights.
	March 8	In accordance with the provisions of Articles 51 and 61 of the Inter-American Convention on Human Rights, the Inter-American Commission on Human Rights submits to the jurisdiction of the Inter-American Court of Human Rights case No. 10.729 against the Republic of El Salvador. ⁹¹
	June 14 and 15	The Inter-American Commission on Human Rights presents the case to representatives of the victims and the state. ⁹²
	August 12	CEJIL and OTLA submit their brief containing pleadings, motions, and evidence, complying with the terms of Articles 225 and 40 of the Inter-American Convention on Human Rights. These representatives request that the Inter-American Court of Human Rights declare the Salvadoran state responsible for the violations committed during the military operation in El Mozote and nearby areas. ⁹³

Year	Date	Event
2011	December 26	The Salvadoran state presents its statement of defense of the case and the brief containing pleas, motions, and evidence. ⁹⁴
2012	January 16	On the 20th anniversary of the signing of the Peace Accords, then-President Mauricio Funes delivers a speech at El Mozote in which he says he “apologizes to the Salvadoran people” and recognizes the slaughter that took place in El Mozote, El Pinalito, Ranchería, Los Toriles, Jocote Amarillo, Cerro Pando, La Joya and Cerro Ortiz, on the days and nights of December 10, 11, 12 and 13, 1981, due to the deployment of troops of the Atlacatl Immediate Reaction Infantry Battalion, who killed about a thousand people during those dates.
	February 10	Representatives of the victims and the Inter-American Commission on Human Rights submit their observations on the recognition made by the Salvadoran state. ⁹⁵
	April 23	A public hearing of the case is held during the 45th Special Session of the Court in Guayaquil, Ecuador. During the hearing, the Salvadoran state pushed back against the reparation measures recommended by the Commission in its Merits Report 177/10. ⁹⁶
	May 4	The Inter-American Court of Human Rights receives <i>amicus curiae</i> briefs presented by Oscar Humberto Luna, then the head of the Office of the Public Defender for Human Rights. ⁹⁷
	May 23	The Salvadoran state and representatives submit their final written arguments. The Inter-American Commission presents its final written observations of the case. ⁹⁸
2016	July 13	El Salvador’s Constitutional Court declares the General Amnesty Law for Consolidation of Peace unconstitutional based on the constitutional processes pushed by citizens José Benjamín Cuéllar Martínez, Pedro Antonio Martínez González, Ima Rocío Guirola (Inc. 44-2013) and Jorge Alberto Amaya Hernández (Inc. 145-2013). ⁹⁹
	September 30	23 years after the case of the massacres of El Mozote and surrounding areas had lapsed because of the General Amnesty Law, the Judge of the Second Court of First Instance of San Francisco Gotera, Jorge Guzmán Urquilla , reopens the criminal proceedings registered with Reference 238/1990, “Massacre of El Mozote and nearby places,” based on the declaration of unconstitutionality of the Amnesty Law. He also orders that the high command of the Armed Forces of the time be put on trial, including: General José Guillermo García (former minister of defense, 1979-1983); General Rafael Flores Lima (former chairman of the joint chiefs of staff); Colonel Jaime Flores Grijalva (commander of the Third Infantry Brigade); Colonel Alejandro Cisneros ; General Juan Rafael Bustillo (former Air Force commander); Major Natividad de Jesús Cáceres Cabrera ; Captain Juan Ernesto Méndez Rodríguez ; Captain José Antonio Rodríguez Molina ; and Captain Walter Oswaldo Salazar . Citing the Criminal Code of 1973, Judge Guzmán Urquilla allows for criminal charges of alleged murder, aggravated rape, deprivation of aggravated liberty, violation of residence, theft, aggravated damages and acts of terrorism . ¹⁰⁰

Year	Date	Event
2017	March 29 to 30	The Second Court of First Instance of San Francisco Gotera, Morazán begins the criminal arraignment in which 18 soldiers have been summoned to testify. ⁹⁹ Judge Jorge Guzmán is responsible for reading the crimes. Of the nine listed in the subpoena, only seven showed up. The absentees were General Juan Rafael Bustillo (head of the Air Force at the time) and Juan Ernesto Méndez, who sent their legal representatives. In total, they are charged with nine crimes: murder, aggravated rape, aggravated deprivation of liberty, unlawful entry of residence, theft, aggravated damages, destruction of property/arson, acts of terrorism, and premeditated acts of terrorism. Both the Office of the Prosecutor General of the Republic and private prosecutors have only made an appearance to hear the allegations. ¹⁰²
2017	September 11	The state makes public the figures of the victims of the case through the Single Registry of Victims and Family Members of Victims of Grave Human Rights Violations during the El Mozote Massacre. Thanks to a December 2012 ruling by the Inter-American Court of Human Rights, the Salvadoran state was forced to consolidate the registry. The registry establishes a total of 978 people killed, of which 553 were minors (477 less than 12 years old). In the registry of victims, in addition to the 978 people executed , 604 of their family members, 47 survivors, and 29 people were displaced by the military operations that occurred in December 1981, making for a total of 1,658 massacre victims . ¹⁰³

VIOLATIONS OF THE RIGHTS OF DEFENDERS

This final section, which systematizes qualitative information, has been prepared based on data from the 2017 national report on the situation of human rights defenders produced by Idhuca.

The report defines five categories that illuminate the situation of defenders: generalized violence; criminalization of human rights work; intimidation, harassment, and stigmatization; widespread impunity; and institutional channels and legal mechanisms for protection. The following section selects and summarizes representative cases from three of these categories.

ENVIRONMENTAL DEFENDERS

The national report on the situation of human rights defenders indicates that, in El Salvador, environmental defenders are harassed, threatened, and intimidated by national and international economic groups that exploit natural resources. There is also conflict with State entities over environmental protection and with public officials who, from the perspective of environmentalists, pursue them and try to hinder their work. Two representative cases of this problem, presented by the Idhuca report, are summarized in Box 2.¹⁰⁴

BOX 2

REPRESENTATIVE CASES OF VIOLATIONS OF THE RIGHTS OF ENVIRONMENTAL DEFENDERS, 2017

Category	Year	Representative cases
Criminalization of human rights work	2017	Within the framework of the fight for water protection in the municipality of Tacuba, department of Ahuachapán, seven people came into conflict with the municipal mayor and the Office of the Prosecutor General of the Republic. The case was reported to the Office of the Public Defender for Human Rights.
Intimidation, harassment, and stigmatization	2017	Victor Ortiz, human rights defender and president of Adecelgua (an association of community development) was a victim of persecution and coercion by the mayor of Metapán and staff of the township. The PDDH issued a ruling in April 2018, determining that Mr. Ortiz had been a victim of rights violations.

Source: Idhuca, 2019

DEFENDERS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX (LGBTI) PERSONS

According to the Idhuca, a key obstacle faced by defenders of the LGBTI community is violence inflicted by state agents, criminal groups, and society at-large, linked to the prejudice that defending this group undermines Christian values or opposes the government.¹⁰⁵ Three cases that show the violations suffered by this group of defenders have been summarized in the Box 3.

CHILDREN AND YOUTH DEFENDERS

Harassment and stigmatization by state security forces constitute a primary challenge for those who defend the rights of youth.¹⁰⁶ The Idhuca states that in their fieldwork, these defenders constantly find situations of widespread abuse towards young people, and they face contempt by authorities for their work as defenders of rights, sometimes labeled as “defenders of delinquents.” Two examples of the violations suffered by this group of defenders have been summarized in Box 4.

BOX 3

REPRESENTATIVE CASES OF VIOLATIONS OF THE RIGHTS OF DEFENDERS OF THE LGBTI COMMUNITY, 2015 AND 2017

Category	Year	Representative cases
Widespread violence	2017	Karla Avelar, a well-known defender of the Trans population, people with HIV / AIDS, and LGBTI rights, was extorted by gangs and received death threats towards her and her family upon being nominated for the Martin Ennals Award in recognition of her work. She is currently applying for asylum.
Criminalization of human rights work	2015	Alexander Peña, a member of the Corps of Metropolitan Agents (Cuerpo de Agentes Metropolitanos, CAM) and director of the Association of Transgender Men of El Salvador, received a beating from 7 PNC security personnel, causing injuries that incapacitated him for more of one month.
Bullying, harassment, and stigmatization	2017	In the municipality of San Luis Talpa, department of La Paz, three transgender women were killed and others had to leave the country to protect themselves, after receiving a death threat from a local gang.

Source: Idhuca, 2019

BOX 4

REPRESENTATIVE CASES OF VIOLATIONS OF THE RIGHTS OF YOUTH AND CHILDREN DEFENDERS, 2016

Category	Year	Representative cases
Criminalization of human rights work	2016	Wendy Morales, human rights activist, was arrested and charged with extortion. She was held in dark cells for 15 days. The National Youth Institute and civil society organizations worked together to request legal aid for this defender. The case ended in a definitive dismissal.
Criminalization of human rights work	2016	Ivy Gutiérrez, an activist, was initially arrested on charges of robbery, and was subsequently informed that her detention was due to aggravated extortion. She was held in dark cells for 4 months. Subsequently, she was released, but after two years, there is still no reported ruling for her case.

Source: Idhuca, 2019

JOURNALISTS

Idhuca points out that journalistic work entails the promotion, protection, and defense of human rights, despite the fact that the majority of members of the journalist’s union do not

identify themselves as defenders. Investigative journalism raises awareness of human rights violations, which makes journalists prone to various risks.¹⁰⁷ Some recent violations suffered by journalists in El Salvador are detailed in the Box 5.

BOX 5

REPRESENTATIVE CASES OF VIOLATIONS OF THE RIGHTS OF JOURNALISTS, 2017

Category	Year	Representative cases
Widespread violence	2017	Samuel Rivas, cameraman of Channel 21, was killed by suspected gang members. Cases like this show that journalists face risky conditions when collecting information requested by communication companies, and that strategies to minimize these risks may be insufficient.
Bullying, harassment, and stigmatization	2017	Factum Magazine published an investigation into extrajudicial executions perpetrated by police and military agents; upon publication, several journalists of this magazine began to be victims of intimidation, harassment, and death threats by anonymous groups. They also received comments from public officials discrediting their work. The Inter-American Court of Human Rights requested that the Salvadoran State apply measures in order to preserve the life and personal integrity of the Factum magazine journalists.

Source: Idhuca, 2019

INDIGENOUS PEOPLE

The Idhuca emphasizes that indigenous people have been affected by violence and discrimination, and are often criminalized for

exercising their rights; in particular, they are targets of persecution by economic groups that exploit natural resources, who use members of criminal groups to carry out threats and harassment when members of the indigenous groups oppose their interests.¹⁰⁸

BOX 6

REPRESENTATIVE CASE OF VIOLATIONS OF THE RIGHTS OF DEFENDERS OF INDIGENOUS PEOPLE, 2017-2018

Category	Year	Representative cases
Intimidation, harassment, and stigmatization	2017-2018	After beginning construction of a development in the Tacuscalco archaeological site in the Nahulingo municipality of the Sonsonate Department, there were threats and harassment towards defenders of the rights of native peoples for opposing the construction of the Fénix S.A. de C.V. construction in the area. The case was taken to court and the Santa Ana environmental judge ordered the suspension of works in the archaeological site because the construction company did not renew the environmental permit to work in that area.

Source: Idhuca, 2019

The Working Group for the Right to Defend Rights (*Mesa por el Derecho a Defender Derechos*) argues that, in El Salvador, violent, abusive, threatening, and stigmatizing practices that infringe the right to defend human rights have persisted, making it urgent to study and approve a comprehensive law that recognizes and protects human rights defenders. A proposal was presented in 2018 to the Justice and Human Rights Commission of the Legislative Assembly.¹⁰⁹ The Foundation for the Study of Applied Law (*Fundación de Estudios para la Aplicación del Derecho*, Fespad) has also indicated that the Salvadoran State should aim to create an official registry between the corresponding institutions—such as the Office of the Prosecutor General of the Republic,

Public Defender's Office of the Republic, and the Office of the Public Defender for Human Rights— that makes it possible to identify violations of the rights of defenders, since to date the country lacks this type of registry.¹¹⁰ Notably, the aforementioned state entities lack specialized units to deal with violations of the rights of defenders, and do not have specific protocols or a road map to respond to these types of violations. Furthermore, because there is no specific protection mechanism for defenders, when a violation of this group's human rights occurs and national institutions are involved, it is treated as an ordinary case. Consequently, the level of effectiveness in responding to complaints of defenders is extremely low.

ACRONYMS AND ABBREVIATIONS

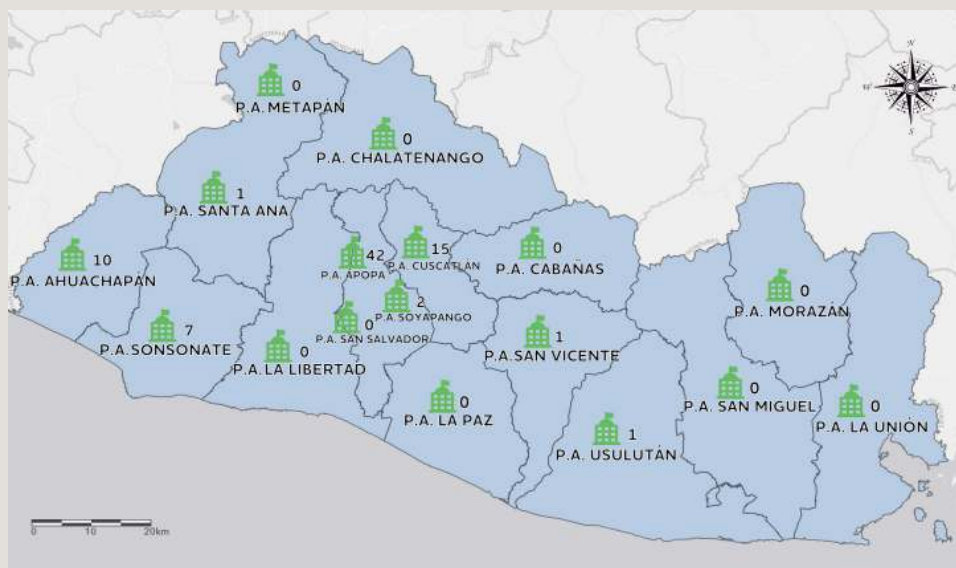
CEJIL	Center for Justice and International Law
FAES	Armed Forces of El Salvador
Fespad	Foundation for the Study of Applied Law
FGR	Office of the Prosecutor General of the Republic
IACHR	Inter-American Commission for Human Rights
Idhuca	Human Rights Institute of the José Simeón Cañas Central American University
IGSP	Office of the Inspector General for Public Security
Iudop	University Institute of Public Opinion
LAIP	Law on Access to Public Information
OTLA	Legal Office of the Archbishop
UDH	University Observatory on Human Rights of the Idhuca
PDDH	Office of the Public Defender for Human Rights
PGR	Public Defender's Office of the Republic
PNC	National Civilian Police
Sspas	Passionate Social Service
UCA	José Simeón Cañas Central American University
WOLA	Washington Office on Latin America

ANNEX 1

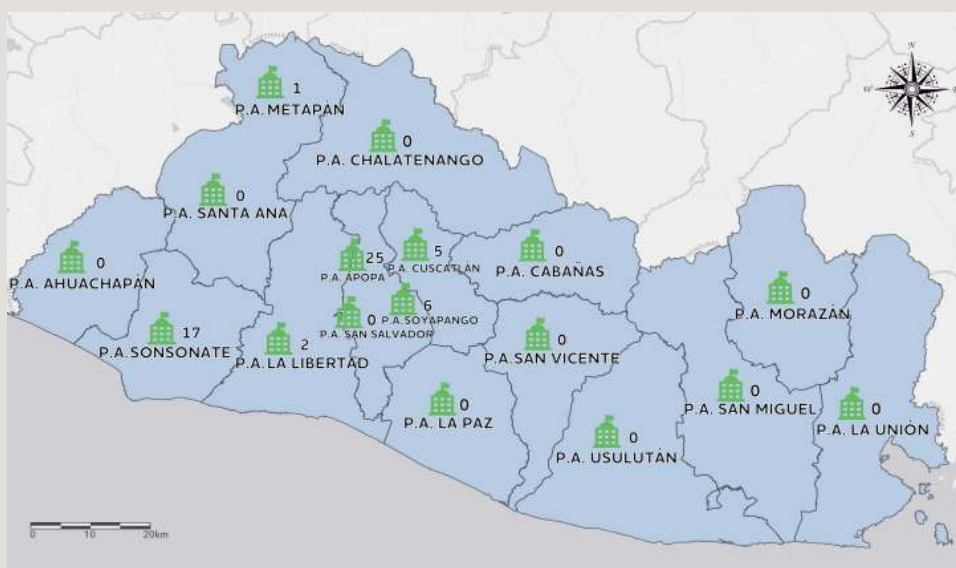
VERIFICATIONS OF RESPECT FOR HUMAN RIGHTS PERFORMED BY THE PDDH AT THE TIME OF PROVIDING TECHNICAL ASSISTANCE TO DETAINEES IN LEGAL PROCEEDINGS, 2014-2017

MINORS

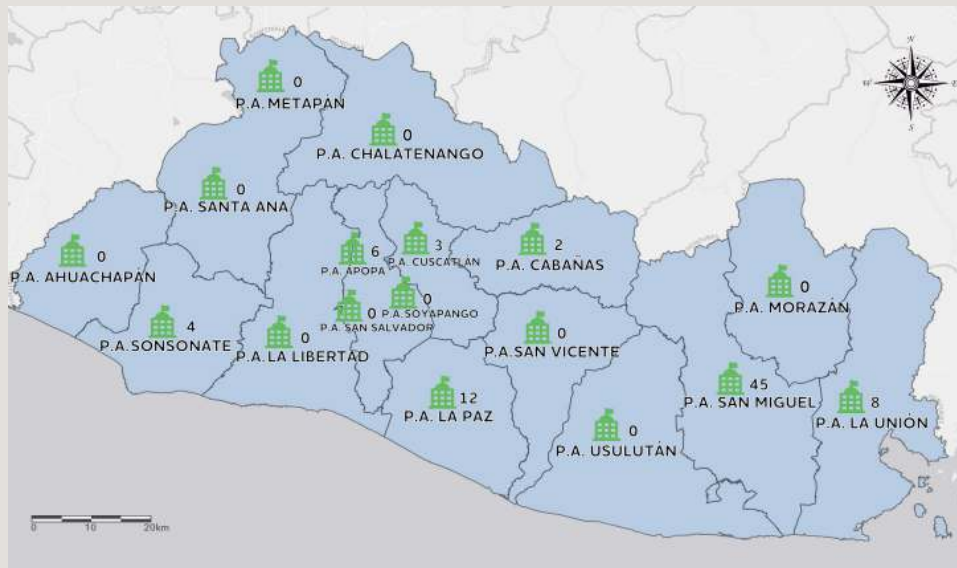
2014



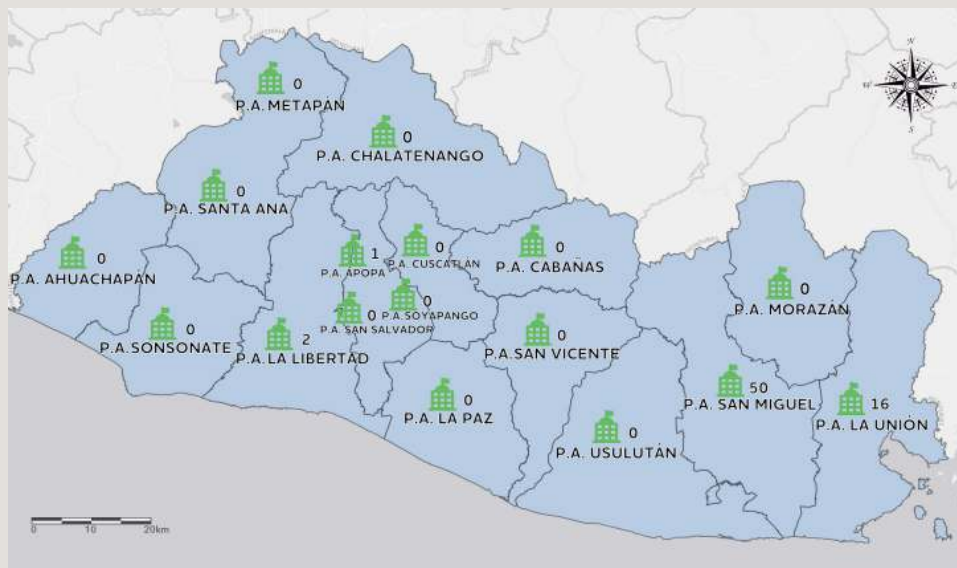
2015



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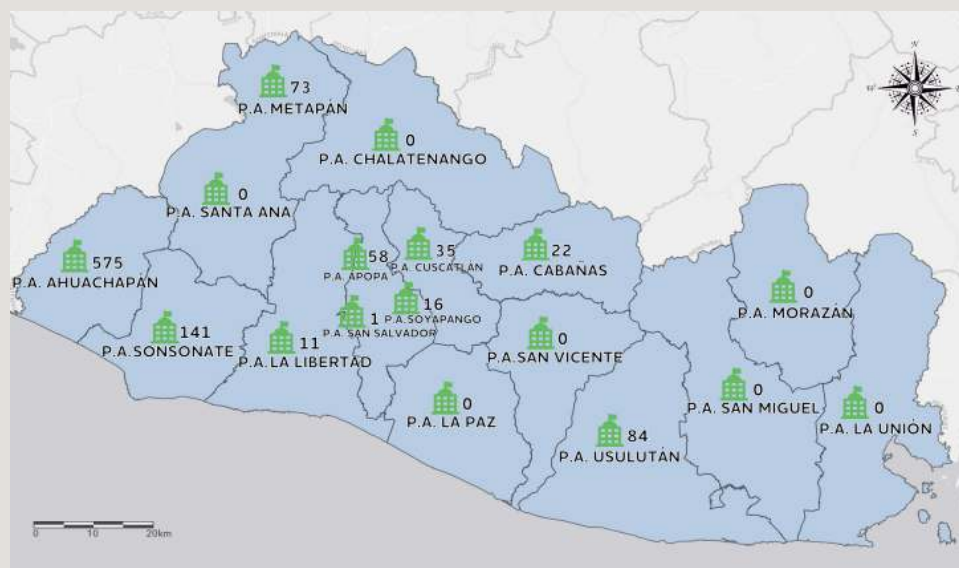
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ANNEX 2

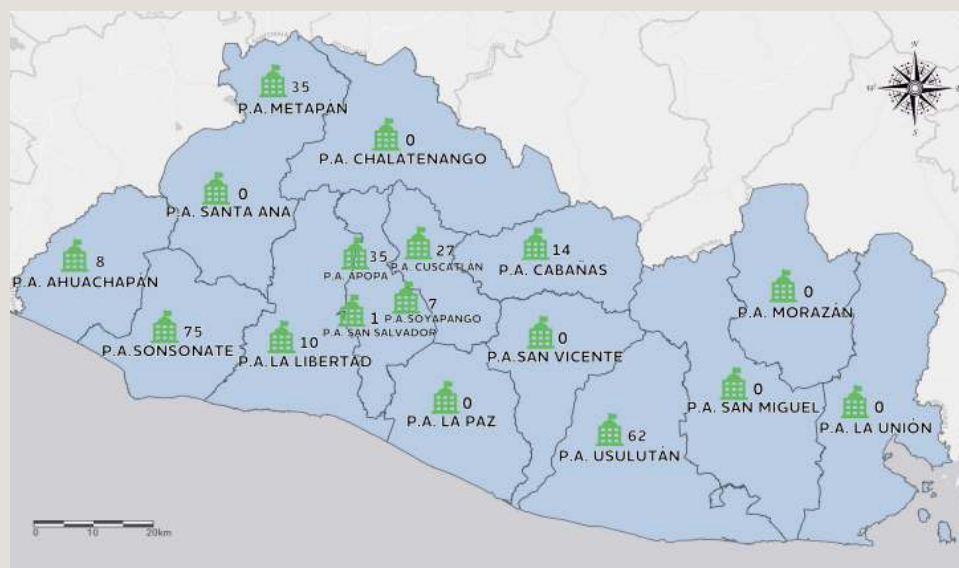
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ADULTS

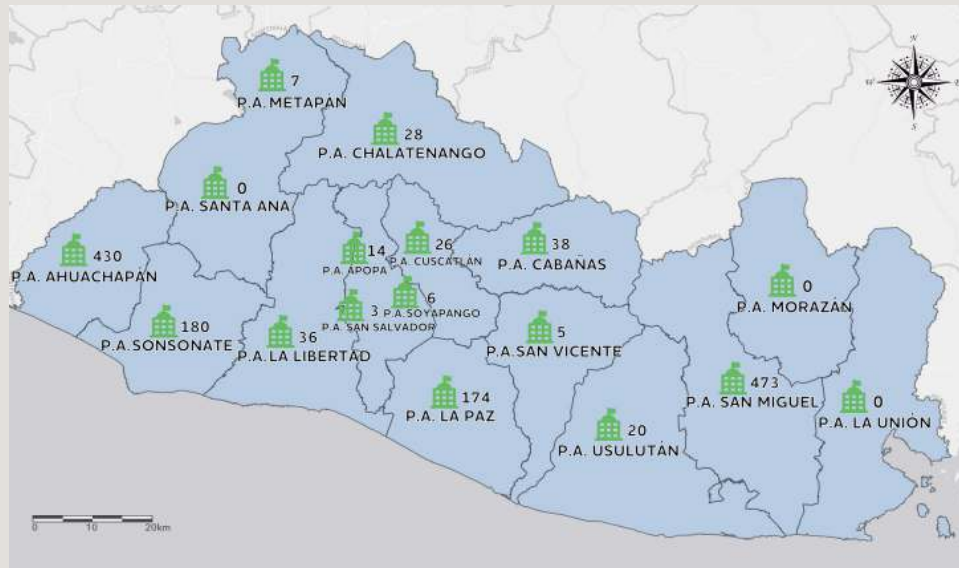
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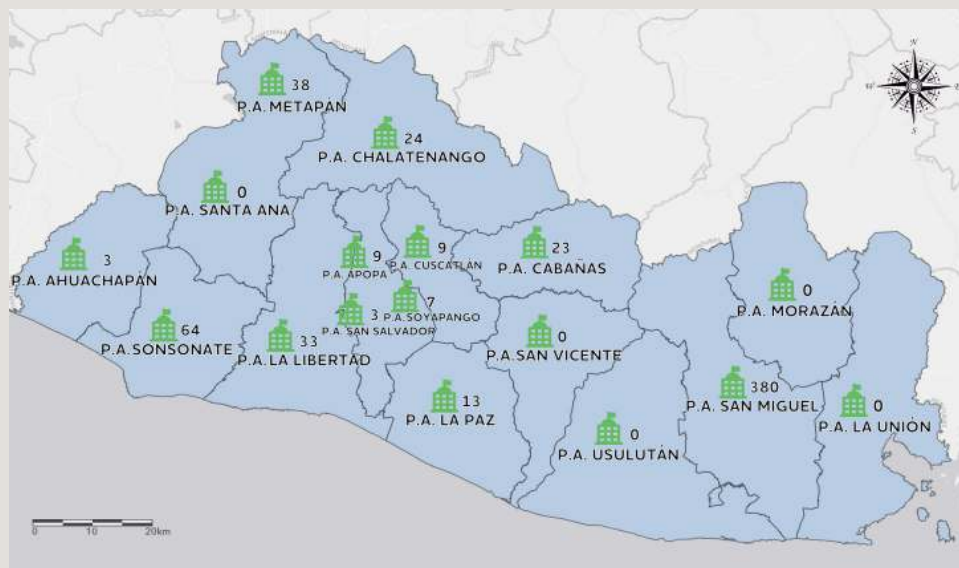
2015



2016



2017



Source: PDDH, 2019

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Statistics on the right to life:

<https://oudh.uca.edu.sv/cms/derechos/vida>

Statistics on the right to personal integrity:

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Statistics on the right to freedom:

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⁷¹Box 1 shows the chronology of the El Mozote Massacre through the end of 2017. Developments in the case will be reported on in future Central America Monitor reports.

⁷²According to the Truth Commission's report, *From Madness to Hope* (1993), a company from the Atlacatl BIRI, under the command of Captain Juan Ernesto Méndez, had participated in an anti-guerrilla operation in the same northern region of Morazán. At that time, the guerrillas waged a heavy attack, forcing a retreat amid heavy casualties without the military achieving its goals. This incident led to mocking comments and jokes by officials from other units.

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⁸⁵The omission in the reopening of investigations; the absence of continued and sustained efforts to exhume as many mortal remains as possible; the lack of judicial follow-up on the exhumations carried out and the information obtained within the framework thereof; the lack of response to requests for reopening inquiries; the effects of the massacres and their impunity in the surviving relatives; the lack of reparation in favor of them; and the situation of displacement of some alleged victims. The foregoing, notwithstanding that the State of El Salvador accepted the competence of the Court to hear the entire case, in accordance with the provisions of Article 62.2 of the American Convention. As a consequence, the Commission requested that the State be ordered to adopt certain reparation measures (Inter-American Court on Human Rights, 2012).

⁸⁶Inter-American Court on Human Rights, 2012.

⁸⁷Inter-American Court on Human Rights, 2012.

⁸⁸This report verifies that the following rights were violated:

The rights to life, personal integrity and personal freedom, enshrined in Articles 4, 5, 7 of the American Convention,

in relation to Article 1.1 of the same instrument, to the detriment of extrajudicially executed victims; of the special obligations regarding children, established in Article 19 of the American Convention, in relation to Article 1.1 of the same instrument, to the detriment of girls and boys extrajudicially executed; of the rights to personal integrity and private life enshrined in Articles 5 and 11 of the American Convention, to the detriment of women sexually violated in the El Mozote farmhouse; of the right to private property enshrined in Article 21 of the American Convention, in relation to Article 1.1 of the same instrument, to the detriment of the executed victims who were stripped of their property, as well as of the survivors whose homes were destroyed or their livelihoods taken away or removed; of the right to personal integrity enshrined in Article 5 of the American Convention, in relation to Article 1.1 of the same instrument, to the detriment of the survivors and family members of the executed victims; of the right to freedom of movement and residence enshrined in Article 22 of the American Convention, in relation to Article 1.1 of the same instrument, to the detriment of persons forcibly displaced; and of the rights to judicial guarantees and judicial protection enshrined in Articles 8 and 25 of the American Convention, in relation to the obligations established in Articles 1.1 and 2 of the same instrument; Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture; and Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication, known as the "Convention of Belém do Pará", to the detriment of the survivors and relatives of the executed victims.

⁸⁹Inter-American Court on Human Rights, 2012.

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⁹¹Inter-American Court on Human Rights, 2012.

⁹²Inter-American Court on Human Rights, 2012.

⁹³The representatives accuse the Salvadoran State of having committed the following rights violations:

The rights of the next of kin of the presumed victims and of the presumed surviving victims of the massacres to judicial protection and judicial guarantees, contained in Articles 8 and 25 of the American Convention in accordance with the breach of their obligations contained in the Articles 1.1 and 2 of the same treaty, in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, and Article 7 of the Convention of Belém do Pará, by virtue of the lack of investigation of the facts of the massacres following the application of the General Amnesty Law for the Consolidation of Peace and by having incurred an unjustified delay in the investigations; of the rights of the presumed victims of the massacres to personal integrity and life, contained in Articles 5 and 4 of the American Convention, in accordance with the breach of the obligations contained in Article 1.1 of the same

treaty, due to the lack of investigation of the serious human rights violations committed in this case; of the right to the truth of the presumed victims of this case which is jointly protected by Articles 8, 13 and 25 of the American Convention, in relation to the general obligation of Article 1.1 of the same treaty, for the situation of impunity in which the massacres of El Mozote and nearby places remain; of the right to personal integrity of the presumed surviving victims of the massacres and of the next of kin of the alleged murdered victims, protected by Article 5 of the American Convention, in accordance with the breach of the obligations contained in Article 1.1 of the same instrument, for the suffering caused by the violations committed in this case; of the right to property, contained in Article 21 of the American Convention, in accordance with the breach of the obligations contained in Article 1.1 of the same instrument, to the detriment of all the alleged surviving victims of the massacres; and of the rights contained in Articles 11 and 22 of the American Convention, in accordance with the breach of the obligations contained in Article 1.1 of the same instrument, by virtue of the displacement of the presumed victims that continued after June 6, 1995. (Inter-American Court on Human Rights, 2012).

⁹⁴Inter-American Court on Human Rights, 2012.

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⁹⁶Specifically, the Salvadoran State undertook to: a) the full identification of the victims of the massacres, both of the executed and survivors, as well as their families and of those who suffered forced displacement; b) the continuity of the exhumation work of the victims that are still pending; c) public acknowledgment of responsibility, “a measure that has [had] already been achieved”; d) the publication of the relevant parts of the judgment issued by the Court; e) the creation of spaces to recognize the dignity of the victims and remember them; f) the production and dissemination of an audiovisual; g) the designation of a national day for the victims of the massacres; h) the provision of medical health services and psychosocial care to victims; i) the generation of conditions for the return of people still displaced, and j) the promotion of a social development program for the benefit of victims in this case (Inter-American Court on Human Rights, 2012).

⁹⁷Inter-American Court on Human Rights, 2012.

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¹⁰⁰Peña, 2016.

¹⁰¹The accused are: General José Guillermo García (recently deported by US authorities for crimes against humanity), Minister of Defense and Public Security; General Rafael Flores Lima, Chairman of the Joint Chiefs of Staff of the FAES; Colonel Jaime Flores Grijalva, Commander of the Third Infantry Brigade; Colonel Alejandro Cisneros, Commander of the San Francisco Gotera Command Instruction Center; General Juan Rafael Bustillo, Commander of the Air Force; Major Natividad de Jesús Cáceres Cabrera, officer of the Atlacatl BIRI; Captain Juan Ernesto Méndez Rodríguez, officer of the Atlacatl BIRI; Captain José Antonio Rodríguez Molina, officer of the Atlacatl BIRI; Captain José Antonio Rodríguez Molina, officer of the BIRI Atlacatl; Captain Walter Oswaldo Salazar, officer of the Atlacatl BIRI; Captain José Alfredo Jiménez, officer of the Atlacatl BIRI; Lieutenant Colonel Luis Alberto Landaverde, Commander of the Artillery Brigade “Lieutenant Colonel Óscar Osorio”; Lieutenant Colonel Domingo Monterrosa Barrios, Commander of the Atlacatl BIRI; Major Armando Azmitia Melara, second in command of the Atlacatl BIRI; and Captain Roberto Alfonso Mendoza Portillo, officer of the Atlacatl BIRI.

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ABOUT THE ORGANIZATIONS

THE UNIVERSITY INSTITUTE FOR PUBLIC OPINION (*Instituto Universitario de Opinión Pública, Iudop*) is a research center based at the Universidad Centroamericana José Simeón Cañas (UCA) in El Salvador. In collaboration with other areas of the university, the Iudop seeks to systematically and scientifically monitor the social, political, economic, and cultural situation of the country.

THE WASHINGTON OFFICE ON LATIN AMERICA (WOLA) is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies protect human rights and recognize human dignity, and where justice overcomes violence.

ABOUT THE PROJECT

The Central America Monitor is a subregional project that seeks to assess the level of progress being made by the countries of Guatemala, Honduras and El Salvador in the areas of strengthening the rule of law, reducing violence, combating corruption and organized crime, and protecting human rights through the use of a series of indicators. The project also monitors and analyzes international cooperation programs in the aforementioned areas.

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For more information, visit www.wola.org/cam