

Immigration and Refugee Board of Canada

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Responses to Information Requests

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El Salvador: Crime and state efforts to combat crime; state protection programs for victims and witnesses; requirements to access programs; statistics on granted and refused applications for protection; duration and effectiveness of these programs
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Background

Sources indicate that El Salvador is one of the most violent countries in Central America (AFP 27 Oct. 2011; *The New York Times* 25 Mar. 2012). The Council on Hemispheric Affairs (COHA), "an NGO specialized in monitoring Latin American and Canadian relations," indicates that El Salvador faces "a genuine threat to citizen security from both gangs and international organized crime" (16 Feb. 2012). Reuters reports that, according to the National Civil Police (Policía Nacional Civil, PNC), violence increased 9.2 percent during 2011 when compared to 2010 (1 Jan. 2012). The Mara Salvatrucha (MS-13) and Mara18, (M-18) the two "most powerful gangs" in El Salvador (*The Guardian* 2 May 2012) are responsible for half of the homicides committed in that country (Reuters 1 Jan. 2012). Sources indicate that drug trafficking organizations are also contributing to the rise of violence in the country (UN 28 Feb. 2012, para. 380; US 13 Jan. 2012, 1). According to the US Congressional Research Service (CRS), criminal organizations other than gangs or those dealing with drug trafficking also operate in Central America (ibid., 11). The CRS indicates that, despite the absence of publicly available information, organizations involved in criminal activities such as arms trafficking, human trafficking and money laundering "possess the capital, manpower, and networks required to run sophisticated enterprises and to penetrate state institutions at high levels" (ibid.).

According to the *2011 Global Study on Homicide* by the United Nations Office on Drugs and Crime (UNODC), Honduras and El Salvador have the highest homicide rates in the world with 82.1 and 66 per 100,000 people, respectively (UN 2011, 93; AP 6 Oct. 2011). Sources report that approximately 4,300 people were killed in 2011 (Reuters 1 Jan. 2012; AFP 3 May 2012) out of an estimated population of 6,090,646 (US 8 June 2012). In 2010, 4,085 were killed (UN 2011, 93). In comparison, 554 homicides occurred in Canada in 2010 (Canada 26 Oct. 2011a), representing a rate of 1.62 per 100,000 people (ibid. 26 Oct. 2011b). A 2011 report produced by the UN International Narcotics Control Board indicates that the presence of Mexican drug cartels in Central America has represented an increase in violent crimes such as kidnapping, bribery, and torture (UN 28 Feb. 2012, para. 380). Amnesty International (AI) indicates in its *Annual Report 2011* for El Salvador that the number of women killed rose from 253 in 2008 to 477 between January and October 2011 (AI 2011). The AI report also indicates that "[m]any" of them were raped and mutilated (ibid.).

2. Gang Activity

The CRS indicates that according to the UNODC, membership in gangs in El Salvador was estimated at 10,500 people in 2007 (US 13 Jan. 2012, 10). However, Freedom House indicates that 20,000 people were gang members as of 2009, including 9,000 in prison (Freedom House 2011). AFP reports that membership of both MS 13 and M-18 is estimated at 32,000 persons; including 10,000 in prison (AFP 3 May 2012).

Sources indicate that gangs in El Salvador are actively involved in extortion and drug trafficking (ibid.; AP 23 Mar. 2012). Sources also indicate that gangs target bus drivers for extortion (*Los Angeles Times* 22 June 2010; *Toronto Star* 10 Mar. 2012). The *Toronto Star* reports that bus drivers are "typically obliged to make protection payments to gang members amounting to [US] \$1,000 a month or more" (ibid.). The Human Rights Institute of the José Simeón Cañas Central American University (Instituto de Derechos Humanos de la Universidad Centroamericana "José Simeón Cañas," IDHUCA), indicates in its 2010 report that [translation] "at least seventeen people died incinerated" when a criminal group sprayed a bus with gasoline and set it on fire (2010, 5). *Los Angeles Times* also reports this and another incident where attackers "strafed passengers with automatic rifle fire" killing two people (22 June 2010). In both cases "several" children were killed (ibid.).

The Research Directorate could not obtain additional information on these incidents among the sources consulted within the time constraints of this Response.

According to AI, prisons in El Salvador also experience "high levels" of gang violence (2011). The US Department of State's *2010 Country Reports on Human Rights Practices* indicates that gang activity inside prisons continues to be a "serious problem," and that gangs continue to exercise influence on the judicial system from prisons (US 8 Apr. 2011, Sec. 1c). The CRS reports that the Salvadoran police found evidence suggesting that some MS-13 leaders imprisoned in El Salvador were ordering "retaliatory assassinations" of individuals in Northern Virginia (US 13 Jan. 2012, 10). It also reports that the Federal Bureau of Investigation (FBI) has "documented increasing numbers in cases of extortion schemes carried out by gangs in El Salvador against Salvadorans in the United States" (ibid.).

Sources report that by March 2012, homicides in El Salvador had decreased (CISPES 20 Apr. 2012; *The New York Times* 25 Mar. 2012). The Committee in Solidarity with the People of El Salvador (CISPES) indicates that the homicide rate dropped by 40 percent in March 2012 (20 Apr. 2012), while other sources report that homicides dropped to 5 per day from a "typical" rate of 14 per day (*The New York Times* 25 Mar. 2012; AFP 3 May 2012). Sources also report that the aforementioned drop in homicides is due to negotiations carried out between the Salvadoran Catholic Church and gangs with the support of the Salvadoran government to bring about a truce in violence (CISPES 20 Apr. 2012; AFP 3 May 2012). AFP further reports that gangs have announced the cessation of "forceful recruitment of young people and declared schools to be 'zones of peace'" (ibid.).

However, sources report scepticism with regard to the truce (*The Guardian* 2 May 2012; *The New York Times* 25 Mar. 2012). *The New York Times* reports that 30 imprisoned gang leaders were transferred from "maximum-security" prisons to prisons with "perks" (25 Mar. 2012; see also *The Guardian* 2 May 2012). CISPES reports that, despite the drop in homicide rates, extortion levels to residents and business owners remain the same (20 Apr. 2012).

3. State Response

According to COHA, Salvadoran president Funes replaced between November 2011 and January 2012 "key public security and intelligence officials with retired high ranking military personnel" (16 Feb. 2012). Sources also indicate that president Funes deployed the armed forces to counteract gang violence in the country (AI 2011; AFP 3 May 2012). Freedom House reports that the government extended the deployment during 2010, granting additional powers to the military to "conduct patrols and searches among civilians" (2011). The CRS indicates that despite the 8,000 troops involved in border security and joint patrols with the police, crime rates have not been reduced "significantly" (US 13 Jan. 2012).

Sources report on President Funes' plan to create a program that would draft 5,000 adolescents at risk of joining gangs (*Los Angeles Times* 12 June 2011; AFP 1 June 2011). The plan, according to *Los Angeles Times*, would provide "noncombat" and "practical training in such skills as mechanics and carpentry" (12 June 2011). The purpose of the program is to offer rehabilitation alternatives, promote [translation] "a change of conduct" and facilitate their incorporation into the productive sectors of the economy (AFP 1 June 2011). Sources also report that President Funes asked the business sector to create employment alternatives to curtail violence (ibid. 2 May 2012; NOTIMEX 2 May 2012). One program consists of providing training for nine months to young people between the ages of 14 and 17 in natural disaster management (AFP 2 May 2012). Another program plans to train between 500 and 1,000 teens in trades that would aid them in obtaining employment (ibid.). Additional information on these programs could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Mexican News Agency (Agencia de Noticias del Estado Mexicano, NOTIMEX) reports that the Central American Bank for Economic Integration (Banco Centroamericano de Integración Económica, BCIE) and the Italian Anti-mafia Attorney would provide training to [translation] "at least" 50 prosecutors in Central America to fight criminality (9 Feb. 2012). Additional information on this initiative could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The CRS indicates that the US provides, through the Central America Regional Security Initiative (CARSI), assistance such as equipment, technical assistance and training to Central American nations "to improve narcotics interdiction and disrupt criminal networks that operate in the region" (US 13 Jan. 2012, 24).

4. Effectiveness of State Institutions

According to the US Department of State, "inadequate training, insufficient government funding, lack of a uniform code of evidence, and isolated instances of corruption and outright criminality interfered with the PNC's effectiveness" (US 8 Apr. 2011, Sec. 1d). Sources also indicate that the judiciary is inefficient, corrupt and prone to political interference, and that impunity remained high (ibid., Sec. 1e; IDHUCA 2010, 15). The US Department of State indicates that police officers, victims and witnesses are intimidated and assassinated; judges are subject to outside influence; and that the criminal conviction rate is less than 5 percent (8 Apr. 2011, Sec. 1e). IDHUCA indicates in its 2010 report that, during judicial proceedings, oral testimony takes precedence over scientific evidence, with the latter hardly ever used (2010, 13).

5. Witness Protection Program

According to the Executive Technical Unit (Unidad Técnica Ejecutiva, UTE), the [translation] "institution responsible for providing technical, administrative and financial assistance to the Coordinating Commission of the Justice Sector" (El Salvador 18 Apr. 2012), the Victim and Witness Protection Area (Área de Protección de Víctimas y Testigos) is the agency responsible for [translation] "providing protection measures, and assistance to victims, witnesses and other persons involved in judicial processes or crime investigations" (ibid. 25 May 2012). The Area consists of six Technical Evaluation Teams (Equipos

Técnicos Evaluadores) in different regions of the country (ibid.). According to the Regulation for the Special Law for Victim and Witness Protection (Reglamento de la Ley Especial para la Protección de Víctimas y Testigos), these teams are responsible for providing social, psychological and juridical assistance; evaluating and supervising protective measures to witnesses and victims; and carrying out studies to improve the program, among others (ibid. 2007, Art. 8). The Regulation states that requests for protection that meet all the requirements must be evaluated as soon as possible; if a positive decision is made on the application, protection measures are decided in the following five days (ibid., Art. 17). The law also calls for protection measures in [translation] "urgent" cases which may take up to eight hours to inform the protection officer (ibid., Art. 23). According to the US Department of State, the program offered protection to 3,151 persons in 2010, including 149 who were protected under "extraordinary measures" (8 Apr. 2011, Sec. 1e).

La Prensa Gráfica, a San Salvador-based newspaper, reports that according to the Office of the Attorney General (Fiscalía General de la República, FGR), [translation] "at least" 10 witnesses have been obliged to provide testimony without voice distortion or balaclavas by some judges (*La Prensa Gráfica* 12 Dec. 2011). The article quotes a judge as saying that [translation] "judges have the discretion to suppress any of the [protection] measures ordered by the Executive Technical Unit of the Justice Sector (UTE)" (ibid.). The same article cites the Director of the UTE as saying that judges "must follow the resolutions sent by a technical team of the protection program"; otherwise, judges would be violating the Penal Code with regard to the prohibition to release data or images of witnesses enrolled in the protection program (ibid.). According to the UTE, six other cases have been reported for violation of protection measures (ibid.).

Another *La Prensa Gráfica* report indicates that six hours after a witness had testified without a voice distorter, two of his family members were attacked resulting in one of them being killed (ibid. 30 Nov. 2011). According to the article, the judge did not authorize the use of a voice distorter because [translation] "of difficulty taking and evaluating [witness'] testimony" (ibid.). *La Página*, a San Salvador-based newspaper, reports that, according to two prosecutors and an ex-prosecutor that were interviewed by the newspaper, [translation] "at least 100 witnesses were murdered in 2010 across the country" (9 Feb. 2011). According to the ex-prosecutor interviewed, protection measures last until the judicial process comes to an end; and those witnesses that receive protection in shelters, have to cohabit with "witnesses from all gangs [as well as] civilians" (ibid.). The newspaper also interviewed an attorney who indicated that the state does not provide assistance with relocation alternatives, finding employment, or changing identity (ibid.). According to the Director of the Anti-homicide Specialized Unit (Unidad Especializada Anti homicidios), the program does not have sufficient resources; the unit had a budget of US\$1.7 million in 2010, down from US\$2.7 million in 2008 (Comunica 7 Apr. 2010). The US Department of State indicates that "street gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution" (8 Apr. 2011, Sec. 1e).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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