



Joint Submission to the Universal Periodic Review (UPR) of El Salvador

For consideration at the 48th session of the UPR Working Group
(January-February 2025)

Submission by:

The **Observatory of Religious Freedom in Latin America (OLIRE)** (<https://olire.org/es/>) founded in 2017, is a program of the *Platform Foundation for Social Transformation (FPST)*. *FPST* was established in 2010 as a non-profit organization focused on implementing programs that contribute to democracy, human rights (in particular religious freedom), the fight against corruption, protection of the rule of law, etc. **OLIRE** monitors the state of religious freedom in the region by documenting incidents of religious freedom violations and investigating the structural conditions that undermine religious freedom. Trains individuals and organizations, especially religious minorities. Conducts advocacy efforts through the development of public policy recommendations for the effective protection of religious freedom, especially for religious minorities in different spheres and at all levels. **Email:** tflores@olire.org

The **International Institute for Religious Freedom (IIRF)** (<https://iirf.global/>) is one of the oldest think tanks specializing in religious freedom. It was founded in 2007 with a mission to promote religious freedom for all religions from an academic perspective. We provide reliable and unbiased data on religious freedom to strengthen academic research on the topic and inform public policy at all levels. Our research findings are disseminated through the *International Journal for Religious Freedom* and other publications. **Email:** dpetri@iirf.global

The **World Evangelical Alliance (WEA)** (<https://un.worldeaa.org>) is a network of churches from more than 140 nations that have each formed an evangelical alliance and more than 100 international organizations that come together to give an identity, a voice and a global platform to more than 600 million evangelical Christians worldwide. **Email:** geneva@worldeaa.org

9 July 2024

Introduction

1. As a result of the third cycle of the Universal Periodic Review (UPR) of El Salvador in 2019, the country received 207 recommendations. Of the total number of recommendations, the State accepted 152 and 55 were noted.
2. In the third cycle of the UPR, no direct recommendations were made regarding the advancement or promotion of the right to religious freedom in the country.
3. Several countries did provide recommendations related to the need for the government to adopt measures to prevent the recruitment of minors by gangs and to promote programs to improve social integration, strengthen families and provide education (Republic of Korea, 103.57; Holy See, 103.122; Ukraine, 103.194 - A/HRC/43/5/Add.1 - Para.4). In this regard, it is essential to consider the role of religious communities.
4. Below, we will provide information on the right to religious freedom in El Salvador, and some situations that describe the challenges that still persist for its full enjoyment and exercise.

International commitments

5. Among some of the international commitments, we can point out:
 - i. The government of El Salvador has ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). It has also accepted the individual communications procedure through the Optional Protocol to the ICCPR and the Optional Protocol to the ICESCR.
 - ii. El Salvador has signed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Constitutional and domestic legislative framework

6. The legal system of El Salvador that recognizes religious freedom and related rights includes:

- i. Constitution of the Republic of El Salvador (1983): Aspects such as the church-state relationship, limits to religious freedom, political participation of ministers of worship, and others are recognized in articles 25, 26, 55, 82, 215 and 231. Additionally, article 144 indicates that the International Treaties celebrated by El Salvador with other States or International Organizations, constitute Laws of the Republic when they enter into force, according to the provisions of the same Treaty and the Constitution.
- ii. Decree 1030 (1997): Approves the Penal Code and punishes discrimination based on religious or political ideas, considers special aggravating circumstances for crimes such as the criminal use of persons in vulnerable situations or threats motivated by religious hatred, among others. It punishes the vandalism of graves. Likewise, it establishes that whoever in any way impedes, interrupts or disturbs the free exercise of a religion or publicly offends the feelings or beliefs of the same, mocking in fact any of the dogmas of any religion, making an apology contrary to religious traditions and customs, or destroying or causing damage to objects destined to a cult, will be punished with deprivation of liberty.
- iii. Civil Code (1860): Regulates the juridical personality of churches.

7. The legal system of El Salvador that recognizes the cosmovision and spirituality of the indigenous communities includes:

- i. Constitution of the Republic of El Salvador (1983): Through Art. 63, the government recognizes indigenous peoples and commits to adopt policies to maintain and develop their ethnic and cultural identity, worldview, values and spirituality.
- ii. Decree No. 442 (2016): Through the Culture Law, it states that the State will seek to facilitate the spiritual or religious manifestations proper to indigenous peoples, especially with regard to spiritual ancestral practices, which implies the protection of sacred places, the organization and celebrations of spiritual cults, whether syncretic or autochthonous.

Religious freedom of indigenous communities

8. Recently, the Committee on Economic, Social and Cultural Rights recommended that the State guarantee that communities and indigenous peoples affected by activities related to economic development and the exploitation of natural resources in their territories be consulted, receive compensation for damages and losses, and obtain tangible benefits from such activities. It regretted the lack of information on the implementation and results of the National Action Plan for Indigenous Peoples, as well as

the lack of a legal mechanism to recognize the right of indigenous peoples to obtain collective land titles and a mechanism for free, prior and informed consultation. It also recommended that the State adopt effective measures to guarantee indigenous peoples' access to intercultural education in their own languages, ensuring that such education integrates the traditions and cultural knowledge of indigenous peoples.¹

9. The Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA) of the Inter-American Commission on Human Rights (IACHR) has drawn attention to the lack of access to land, both individual and collective, and the impact of this on the enjoyment of economic, social and cultural rights and on the cultural reproduction of these peoples in the country. According to REDESCA, organizations denounce that the Institute for Agrarian Transformation does not recognize Indigenous Peoples' cooperatives. They have also expressed concern about the lack of guarantees for free, prior and informed consultation with respect to productive or legislative projects that impact the territories of indigenous peoples. On the other hand, as a consequence of the "Territorial Control" Plan, it has observed the migration of organized crime to rural areas. In response to this, the increase in violence and the recruitment of young people from these regions by gangs and organized criminal groups has been denounced.²

10. Even though El Salvador approved the Culture Law and designed the National Action Plan for Indigenous Peoples (PLANPIES 2018-2023), which proposed to promote access, protection, maintenance and respect for sacred sites in accordance with the knowledge and wisdom of Indigenous Peoples, there is no regulation for its application in practice.

11. The importance of regulating and enforcing any regulation regarding the protection of the territories and resources of indigenous peoples lies in the fact that they have a deep spiritual connection with their territories, especially with the sacred sites located in those territories. As the IACHR understands it, ancestral territories have a profound spiritual value for indigenous and tribal peoples. Intrinsic elements of their cultural identity are "ancestral burial grounds, places of religious significance and importance, and ceremonial or ritual sites linked to the occupation and use of their physical territories. In this sense, the land, the territory and its natural resources are not conceived by indigenous peoples as merchandise, but rather as a source of life in themselves. They are the basis of their economic subsistence, cultural identity and spiritual well-being, and in this sense, the loss of their ancestral lands and territories can threaten their survival as a collective."³

¹ Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of El Salvador, November 2022. Available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2550&Lang=en

² Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights & Inter-American Commission on Human Rights, March 2023. Available at:

https://www.oas.org/es/cidh/informes/pdfs/2023/NorteCentroamerica_DESCA_ES.pdf

³ IWGIA & Inter-American Commission on Human Rights, December 2021. Available at: <http://ojs.uc.cl/index.php/bjur/article/view/49825/39479>

Security policy and the criminalization of pastoral activities

12. For almost three decades, two major gang groups operated in the country, the Mara Salvatrucha or MS-13 and Barrio 18. These criminal groups came to control almost 90% of Salvadoran territory. For many years, El Salvador was ranked as one of the most violent and unsafe countries in the world. These gangs gained territorial control over the areas where they operated, acting as de facto authorities. In 2012, the US Treasury Department designated MS-13 as a Transnational Criminal Organization (TCO). In 2014, following the collapse of a 2012 government-backed truce, homicides perpetrated by gangs increased, peaking in 2015 at a rate of 107 per 100,000 people, the highest in the world.⁴

13. Various governments in the country have applied a hardline policy to combat violence and gangs, although without concrete results. In 2019, the victory of Nayib Bukele, leader of the Nuevas Ideas party brought with it a radical mano dura policy called "Plan Control Territorial" (Territorial Control Plan), to which the ruling party attributes the current drop in homicides. In March 2022, after a sustained period of low homicide rates, 87 murders were recorded in three days, one of the most violent periods recorded since the end of the civil conflict in 1992. In response, President Bukele asked the Legislative Assembly to approve a 30-day state of emergency.

14. The Emergency Regime or state of emergency, in force since March 2022, meant the suspension of certain constitutional guarantees, such as the right to freedom of assembly and association, in addition to allowing the interception of private communications without the need for a court order, for a period of 30 days. Until April 2024, this regime has been extended for the twenty-fifth time⁵.

15. In the context of the Security Policy "Plan Control Territorial", 2023 has been the safest year in the country's history, with 154 homicides per year and 405 days without homicides since the implementation of the Emergency Regime.⁶ However, analysts and civil society organizations point out that this lower level of murders does not reflect the violent deaths of alleged criminals, deaths in state custody or unsolved disappearances carried out by the national police.⁷

⁴ Congressional Research Service, January 2024. Available at:

<https://crsreports.congress.gov/product/pdf/R/R47083>

⁵ Asamblea Legislativa, "Régimen de excepción garantizará seguridad a los salvadoreños por 30 días más", April 2024. Available at: <https://asamblea.gob.sv/node/13148>

⁶ National Civil Police, "2023 was the safest year in the history of El Salvador," 2023. Available:

<https://www.pnc.gob.sv/el-2023-fue-el-ano-mas-seguro-en-la-historia-del-el-salvador/>

⁷ Observatorio Universitario de Derechos Humano, Informe Anual 2023 sobre el estado de los derechos humanos en El Salvador, Available at:

<https://drive.google.com/file/d/1PQcEjq0NA9J9v3XmqNyYSb5ovg2h95Mx/view>.

16. International organizations have denounced serious human rights violations as a result of the implementation of this measure. These include interference in the justice system and violations of due process; mass hearings and trials (some held virtually) have undermined the exercise of the right to defense and the presumption of innocence of detainees. In addition to the excessive use of pretrial detention, the prohibition of alternative measures, trials in absentia and the possibility of using practices such as "faceless judges" and reference witnesses⁸. In addition to all this, there are abuses committed inside detention centers. According to the organization Cristosal, the conditions to which the persons deprived of liberty are subjected by the emergency regime are characteristic of cruel, inhuman and degrading treatment, due to the fact that they suffer extreme overcrowding, lack of food, assistance and health services and medicines; to which are added practices of torture, beatings, punishments, permanent confinement without access to sunlight; as well as the lack of water for consumption, personal hygiene, use of sanitary services and cleaning of cells, among others.⁹

17. In this context, while religious leaders and members of religious communities, especially Christians, have supported some government actions, such as the president's decision not to reform the articles of the Constitution that guarantee the protection of life, members of the Catholic and evangelical churches have expressed concern about the authoritarian tone adopted by the government. In this regard, Catholic leaders have urged the government to respect institutions and democracy and have called attention to the number of disappearances and murders. Regarding the regime of exception, the Archbishop of El Salvador warned the government to think of those unjustly affected or whose rights are being violated. However, these comments have given rise to criticisms and accusations against religious leaders by authorities close to the New Ideas party.

18. Representatives of the Jesuit community, especially the rector of the Universidad Centroamericana, José Simeón Cañas (a Jesuit educational center), have been accused of promoting a coup d'état for their support of potential opposition candidacies for the upcoming electoral elections. Catholic and evangelical church leaders who have criticized the government's security policies, especially the lack of re-education and/or reinsertion components or electoral reforms have been "invited" not to get involved in matters that "do not correspond to them". On previous occasions, church leaders have spoken out rejecting the use of the armed forces and national police inside the Legislative Assembly building in February 2021. They have expressed disapproval for the manner in which the Supreme Court justices and the Attorney General were dismissed. In September 2021 the

⁸ OHCHR, "El Salvador: Prolonged state of emergency undermines right to fair trial, say UN experts," May 2023. Available at: <https://www.ohchr.org/es/press-releases/2023/05/el-salvador-extended-state-emergency-undermines-right-fair-trial-un-experts>

⁹ Cristosal, "Informe: Un año bajo el régimen de excepción, una medida permanente de represión y de violaciones a los derechos humanos", May 2023. Available at: <https://cristosal.org/ES/informe-un-ano-bajo-el-regimen-de-excepcion-una-medida-permanente-de-represion-y-de-violaciones-a-los-derechos-humanos/>

Church criticized reforms related to presidential reelection, enabled by a ruling of the Supreme Court of El Salvador.

19. Cardinal Gregorio Rosa has also pointed out that the relationship between the Catholic Church and the government has cooled and that since Bukele came to power there has been no real dialogue. Some sectors of civil society consider that this is just another sign of the closing of civic spaces and the concentration of governmental power.

Stigmatization of rehabilitation activities in the evangelical sector

20. With respect to evangelical sector groups, during the most violent times in the country, their activity was tolerated and permitted in different territories as long as it did not represent a threat or risk to the stability or criminal activities of the gangs. For many years a large part of their activities focused on working at the grassroots level in communities to help young people avoid gang recruitment and to help anyone wishing to abandon a criminal way of life, assuming the consequences that this could represent for religious leaders.

21. In contrast, historically the state's response to the gang problem has been an iron fist policy, with President Bukele's security policy being one of the most severe and least protective of human rights. As a consequence of the government's iron fist policy against crime, the reinsertion activities of evangelical churches, especially those carried out with former gang members, have been viewed with suspicion. The actions of members of the police or armed forces are based on the assumption that they will find suspects in an evangelical church or in places where there are projects related to an evangelical ministry.

22. Especially in the first years of the implementation of the security policy, expandilleros have been arbitrarily detained, despite the fact that many of them were included in official government programs and had already served prison sentences for past crimes. The work of evangelical ministries among the expandilleros faced increasing hostility from the state. In 2022, the vice president claimed that 80% of evangelical pastors involved in this work are part of gangs and that some are even leaders of gang networks.¹⁰ Evangelical church leaders have rejected such claims as defamatory.

23. In May 2022, 27 expandilleros were arrested while meeting at the Huellas de Esperanza ministry.¹¹ The media outlet El Pais documented at least 14 cases of former MS13 members converted to Christianity who were arrested and charged for their

¹⁰ El Mundo, "Vicepresidente Ulloa: 80% de los pastores tienen nexos con pandillas", August 2022. Available at: <https://diario.elmundo.sv/politica/vicepresidente-ulloa-80-de-los-pastores-tienen-nexo-con-pandillas#:~:text=El%20vicepresidente%20de%20la%20Rep%C3%ABlica,las%20pandillas%20en%20El%20Salvador.>

¹¹ El Mundo, "Policía captura a 27 expandilleros en una iglesia cristiana de San Salvador", May 2022. Available at: <https://diario.elmundo.sv/nacionales/policia-captura-a-27-expandilleros-en-una-iglesia-cristiana-de-san-salvador.>

tattooed appearance.¹² During the state of emergency, a 44-year-old pastor and school principal was arrested during a Mother's Day celebration dinner with members of his church for allegedly belonging to an illegal group. He died a few days later while in pre-trial detention after guards refused to allow him medication for his diabetes. He was a pastor of the Peniel network of churches and had a ministry called Venceremos, focused on providing care for young people.¹³ No evidence was found of any connection to illegal gang activity. And so there were other cases, involving raids on churches or arrests of former gang members who ran churches. In this context, Christian programs that acted as social reinsertion centers were seen as hiding places for gang members.

24. Considering the above, carrying out pastoral activities, especially rehabilitation activities, whenever they include former mareros can result in accusations of complicity, arbitrary arrests or long periods of incarceration, without guarantees of due process, and with the mistreatment and human rights violations that this implies within the detention centers.

25. On the other hand, the heavy-handedness of the government has also impacted the police force's right to conscientious objection. Police officers have claimed to have been pressured to indiscriminately arrest anyone perceived to belong to a criminal gang, regardless of due process, just to meet the arrest quota imposed by their superiors. The Salvadoran Police Workers Movement denounced that some police commanders demanded a certain number of arrests per day, which on many occasions resulted in arbitrary detentions. As a result, many people not linked to gang activity have also been deprived of their liberty. These actions have also led to the arrest of herders not linked to gangs.¹⁴

26. During the third cycle of the UPR, several countries provided recommendations related to the need for the government to adopt measures to prevent the recruitment of minors by gangs and to promote programs to improve social integration, strengthen families and provide education. While violence figures in the country have decreased, this does not necessarily imply that the presence of gangs has been completely eradicated, nor that the decrease in violence will be permanent. Additionally, if there is one component that is almost non-existent in the current security policy, it is that of prevention. In this sense, no effort to protect minors from violence will be possible as long as practices of stigmatization or criminalization of the pastoral activities of evangelical communities aimed at the rehabilitation of young people are allowed or normalized.

¹² El País, "Ser expandillero cristiano en El Salvador, un país sin lugar para los arrepentidos", May 2022. Available at: <https://elpais.com/internacional/2022-05-23/ser-expandillero-cristiano-en-el-salvador-un-pais-sin-lugar-para-los-arrepentidos.html>

¹³ El Salvador, "Muere director de colegio y pastor detenido bajo el régimen de excepción", June 2022. Available at: <https://www.elsalvador.com/noticias/nacional/profesor-colegio-santa-tecla-muerte-regimen-excepcion/964294/2022/>

¹⁴ France 24, "El Salvador: police denounce pressure to comply with arrest quotas," April 2022. Available at: <https://www.france24.com/es/am%C3%A9rica-latina/20220412-el-salvador-pandillas-detenciones-arbitraria-policias>

27. In the individual dimension, the obstacles to these activities meant a limit to the right to religious freedom of religious leaders, by preventing them from professing their beliefs or imparting teachings proper to their doctrine, and to the recipients of such teachings, by not allowing them to receive teaching or religious assistance. In the collective dimension, the stigmatization and/or criminalization of the pastoral activity of evangelical groups violated the right of churches, denominations and communities to appoint and train ministers, as well as to disseminate and propagate their beliefs. All this in contravention of the international obligations assumed by the government of El Salvador, in particular with what is stipulated in Art. 18 of the Universal Declaration of Human Rights and Art. 18 of the ICCPR.

28. It is also important to keep in mind that, although the right to religious freedom is not an absolute right and can be limited, such limitations must be prescribed by law and must be necessary to protect security, order, health, morals or the fundamental rights of others. That is, it cannot be the result of laws or public policies whose content or manner of implementation is arbitrary.

Recommendations

29. The government should ratify Convention 169 of the International Labor Organization on Indigenous and Tribal Peoples, and ensure that the legal, political and institutional framework for the rights of indigenous peoples includes the component of religious freedom.

30. The government should ratify the Escazú agreement in order to strengthen the regulatory framework related to environmental issues. This measure will be a boost for the protection of territories/natural resources of indigenous peoples and in that sense, it will be a first step for the protection of the spiritual relationships they maintain with their sacred territories.

31. The government should adjust security policies in the country, and respect the right to freedom of expression and freedom of association, in line with international human rights obligations, so as not to repeat the criminalization or stigmatization of the proselytization/rehabilitation work of religious groups in the country.

32. The government should bring security policies in the country in line with international human rights obligations and change the type of actions of the security forces related to the intervention of religious ministries that develop rehabilitation activities for ex-sailors or for young people who are part of the poorest and most vulnerable areas in the country.