



El Salvador

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**Submission by CIVICUS: World Alliance for Citizen Participation,  
NGO in General Consultative Status with ECOSOC**

**And**

**Red Latinoamericana y del Caribe para la Democracia**

**And**

**Red Salvadoreña de Defensoras de Derechos Humanos**

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## 1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2 The Latin American and Caribbean Network for Democracy (Red Latinoamericana y del Caribe para la Democracia, REDLAD) is a civil society platform with over 200 members and allies in Latin America and the Caribbean. REDLAD promotes democracy, human rights, sustainable development and integration in the Americas.
- 1.3 The Salvadoran Network of Women Human Rights Defenders (Red Salvadoreña de Defensoras de DDHH) is a coordination body that articulates efforts to protect women defenders and promote women's rights in El Salvador.
- 1.4 In this submission, the three organisations examine the Government of El Salvador's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse El Salvador's fulfilment of the rights to freedoms of association, expression and peaceful assembly and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in November 2019. To this end, we assess El Salvador's implementation of recommendations received during the 3<sup>rd</sup> UPR cycle relating to these issues and provide follow-up recommendations.
- 1.5 During the 3<sup>rd</sup> UPR cycle, the Government of El Salvador received 12 recommendations relating to the space for civil society (civic space). It accepted nine recommendations and noted three. However, an evaluation of a range of legal sources and human rights documentation addressed in this submission demonstrates that the Government of El Salvador has not implemented any of the recommendations relating to civic space. The government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination. Acute implementation gaps were found with regard to the rights to freedoms of association and expression.
- 1.6 We are deeply concerned by the state of emergency declared on 27 March 2022,<sup>1</sup> which is still in force at the time of writing,<sup>2</sup> and which has restricted fundamental civic freedoms and created an increasingly hostile environment for civil society organisations (CSOs). This state of exception was initially implemented in response to a surge in gang violence.

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<sup>11</sup> 'Legislative Plenary approves state of emergency to curb wave of violence', Legislative Assembly of El Salvador, 27 March 2022, <https://www.asamblea.gob.sv/node/12062>.

<sup>2</sup> 'State of emergency will continue to protect the lives of Salvadorans', Legislative Assembly of El Salvador, 10 July 2024, <https://www.asamblea.gob.sv/node/13229>.

**1.7** We are further alarmed by the ongoing violence and stigmatisation faced by HRDs, particularly environmental defenders and people advocating for LGBTQI+ and women's rights. We are also concerned by the widespread use of intimidation, smear campaigns and denial of access to information by state agents against journalists, which diminishes the space for a free and independent press.

**1.8** As a result of these issues, civic space in El Salvador is currently classified as 'obstructed' by the CIVICUS Monitor, indicating the existence of significant civic space restrictions.<sup>3</sup>

- Section 2 of this submission examines El Salvador's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- Section 3 examines El Salvador's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines El Salvador's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of expression, media freedom and access to information.
- Section 5 examines El Salvador's implementation of UPR recommendations and compliance with international human rights standards related to freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3<sup>rd</sup> cycle.
- Section 7 is an annex on the implementation of 3<sup>rd</sup> cycle UPR recommendations related to civic space.

## **2. Freedom of association**

**2.1** During El Salvador's examination under the 3<sup>rd</sup> UPR cycle, the government received four recommendations on the right to freedom of association and creating an enabling environment for CSOs. Among other recommendations, the government committed to 'continue to strengthen its legal and institutional frameworks for the promotion and protection of human rights'. The government accepted all four recommendations. However, as evidenced below, the government has failed to take adequate measures to realise these recommendations. Significant obstacles persist in achieving meaningful civil society participation in El Salvador's political, economic and social life.

**2.2** Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which El Salvador is a state party, guarantees freedom of association. Article 7 of the Constitution of El Salvador also recognises freedom of association, providing that 'a person shall not be limited or impeded from the exercise of any licit activity because

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<sup>3</sup> CIVICUS Monitor: El Salvador, <https://monitor.civicus.org/country/el-salvador>.

he does not belong to an association'.<sup>4</sup> This freedom has been suspended under Article 4 of Decree No. 33 on the state of emergency since 27 March 2022.<sup>5</sup>

- 2.3** The legal framework governing CSOs is primarily established by the Non-Profit Associations and Foundations Act of 1996.<sup>6</sup> Additional regulatory instruments such as anti-money laundering and counter-terrorism financing regulations complement this framework.<sup>7</sup> Nonetheless, in practice, the enjoyment of this freedom has been arbitrarily restricted by disproportionate controls on the registration, operation and supervision of CSOs and acts of stigmatisation or intimidation.
- 2.4** CSOs have reported that the process of registration and renewal for obtaining legal personality can take longer than a year.<sup>8</sup> Additionally, CSOs are subject to abusive administrative controls as a tactic to silence criticism. For instance, in December 2022, the Ministry of Finance revoked the tax exemption of the human rights organisation Cristosal, allegedly for engaging in activities beyond its statutes. However, this claim was not examined in the administrative procedure. The revocation followed a multi-month fiscal audit involving 13 specific evaluations of Cristosal's operations. As a result, Cristosal incurred significant costs and internal restructuring, affecting its operations.<sup>9</sup>
- 2.5** The government has enacted restrictive legal reforms that can hinder freedom of association. On 7 July 2023,<sup>10</sup> the Directive for the Prevention, Detection, and Control of Money Laundering and Terrorism Financing and the Proliferation of Weapons of Mass Destruction came into force.<sup>11</sup> Among other provisions, it requires obligated entities, including CSOs, to adopt preventive policies, along with an institutional ethical code, due diligence measures for staff selection, an asset-freeze mechanism, procedures for identifying suspicious transactions and measures to identify unusual operations.<sup>12</sup>

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<sup>4</sup> Constitution of the Republic of El Salvador, 1983 (last amended in 2012),

<https://www.asamblea.gob.sv/leyes-y-decretos/acuerdos-de-reforma-a-la-constitucion>.

<sup>5</sup> Decree No. 33 on the State of Emergency, Legislative Assembly of El Salvador, 27 March 2022,

<https://www.asamblea.gob.sv/sites/default/files/documents/decretos/4214B3CA-A3AA-4435-8229-49C097CAB14D.pdf>.

<sup>6</sup> Non-Profit Associations and Foundations Law, Legislative Decree No. 894, 1996,

<https://www.transparencia.gob.sv/institutions/mined/documents/558642/download>.

<sup>7</sup> Law Against Money Laundering and Asset Forfeiture, Legislative Decree No. 489, 1998, <https://ssf.gob.sv/wp-content/uploads/2022/07/Ley-contr-el-lavado-de-dinero-y-de-Activos-D498.pdf>.

<sup>8</sup> 'Civil Society on Alert: Investigation into Impacts on the Right to Association', Cristosal, November 2023, p. 9, <https://cristosal.org/ES/sociedad-civil-en-alerta-investigacion-sobre-afectaciones-al-derecho-de-organizacion>.

<sup>9</sup> 'El Salvador: Behind the Veil of Popularity: Repression and Regression in Human Rights', Amnesty International, 4 December 2023, pp. 66-69, <https://www.amnesty.org/es/documents/amr29/7423/2023/es>.

<sup>10</sup> Agreement of the Attorney General's Office No. 433, 29 November 2021, <https://www.uif.gob.sv/wp-content/uploads/instructivos/ProrrogaInstructivoUif.pdf>.

<sup>11</sup> Agreement of the Attorney General's Office No. 380, 22 October 2021, <https://www.uif.gob.sv/instructivoif2021>.

<sup>12</sup> Articles 5, 6, 8, 10, 27-30 and 36.

- 2.6** In contradiction of recommendations from the Financial Action Task Force,<sup>13</sup> the supervision requirements established in the Directive to comply with the prevention, detection and control of money laundering and terrorist financing are not based on a risk assessment of terrorism financing in CSOs, rendering these measures neither specific nor justified. These obligations impose excessive administrative burdens on organisations, typically falling within the Attorney General’s jurisdiction to combat money laundering and terrorism financing.<sup>14</sup>
- 2.7** In December 2023, a draft Special Law for the Prevention, Control, and Sanction of Money Laundering, Terrorism Financing, and the Proliferation of Weapons of Mass Destruction was presented.<sup>15</sup> Many articles in the law are vaguely worded, allowing for broad interpretation by the authorities, which could be used against CSOs critical of the government.<sup>16</sup>
- 2.8** A draft ‘foreign agents law’ could negatively affect funding for civil society work. On 9 November 2021, President Nayib Bukele’s government presented a draft law that would limit the legitimate activities of organisations and individuals receiving foreign funding or support to the Legislative Assembly.<sup>17</sup> It would require them to register as ‘foreign agents’ with the Ministry of the Interior, impose a 40 per cent tax on some international transfers, provide for fines of up to US\$10,000, and cancel the legal personality of non-compliant organisations.<sup>18</sup>
- 2.9** The draft law contains ambiguous language that could prohibit organisations from engaging in activities ‘for political or other purposes, with the aim of altering public order, or that pose a threat or risk to national security, social and political stability of the country’.<sup>19</sup> The draft is part way through the approval process and is pending final approval by the Legislative Assembly plenary.<sup>20</sup>

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<sup>13</sup> Financial Action Task Force, <https://www.fatf-gafi.org>.

<sup>14</sup> ‘Organisations Dissatisfied with Reforms to the Financial Investigation Unit’s Instructions’, La Prensa Gráfica, 8 November 2024, <https://www.laprensagrafica.com/elsalvador/Organizaciones-inconformes-con-reformas-al-instructivo-de-Unidad-de-Investigacion-Financiera-20231107-0084.html>.

<sup>15</sup> ‘Approval of the Special Law for the Prevention, Control, and Sanction of ML/FT and the Proliferation of Weapons of Mass Destruction’, Financial Investigation Unit of the Attorney General’s Office, 22 December 2023, <https://www.uif.gob.sv/aprobacion-de-la-ley-especial-para-la-prevencion-control-y-sancion-del-la-ft-y-de-la-proliferacion-de-armas-de-destruccion-masiva>.

<sup>16</sup> ‘Legal Analysis of the Special Bill for the Prevention, Control, and Sanction of Money Laundering, Terrorism Financing, and the Proliferation of Weapons of Mass Destruction’, Cristosal, February 2024, <https://cristosal.org/ES/wp-content/uploads/2024/02/Analisis-Proyecto-Ley-de-Lavado.pdf>.

<sup>17</sup> ‘IACHR and RELE Urge the State of El Salvador Not to Approve the Foreign Agents Bill’, Inter-American Commission on Human Rights, 17 November 2021, <https://www.oas.org/es/cidh/jsForm/?File=/es/cidh/prensa/comunicados/2021/308.asp>.

<sup>18</sup> Proposal containing the Legislative Decree for the Foreign Agents Law, Minister of Governance and Territorial Development, 9 November 2021, <https://recursos.elsalvador.com/documentos/2021/11/11/asamblea-legislativa.pdf>.

<sup>19</sup> Articles 1, 3, 6, 10, and 11.

<sup>20</sup> ‘Civic Freedom Monitor: El Salvador’, International Centre for Not-for-Profit Law, <https://www.icnl.org/resources/civic-freedom-monitor/el-salvador>.

**2.10** CSOs face harassment, intimidation and attacks amid increasing stigmatisation and repression of their work. Some CSOs have identified a new risk of being targeted, linked to institutional identification (e.g., of their organisation's logo). This risk has emerged following statements by public officials discrediting civil society's work. As a result, these organisations are now concerned that their visibility and recognisable branding could lead to increased scrutiny or adverse actions against them.<sup>21</sup>

### **3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

- 3.1** Under El Salvador's previous UPR examination, the government received nine recommendations on the protection of civil society representatives, HRDs and journalists. The government committed to several recommendations including to 'Ensure effective protection of all human rights defenders, including LGBTI defenders and women human rights defenders, and ensure that crimes against them are promptly, thoroughly and impartially investigated'. The government accepted six recommendations and noted three. However, it has implemented none of them and attacks against HRDs and journalists continue.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees freedoms of association, expression and peaceful assembly. El Salvador has however not ratified the Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).<sup>22</sup> In El Salvador, the right to defend human rights is not recognised and the protection of HRDs is currently not guaranteed. There is no national protection mechanism for HRDs and journalists.
- 3.3** The past four years have been the most challenging environment for human rights since the Peace Accords were signed in 1992. Human rights organisations have documented at least 16,000 human rights violations during the two years of the state of emergency.<sup>23</sup> In this context of heightened militarisation of public security, HRDs and journalists have been subject to various forms of violence.
- 3.4** The most extreme cases of violence against HRDs were the killing of two women's rights HRDs in 2022 and 2023.<sup>24</sup> So far, there has been no progress in investigation

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<sup>21</sup> Cristosal, November 2023, op. cit., p. 9.

<sup>22</sup> Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean, <https://observatoriop10.cepal.org/en/treaty/regional-agreement-access-information-public-participation-and-justice-environmental-matters>.

<sup>23</sup> 'Organisations recorded 6,305 human rights violations over two years of the state of emergency', Cristosal et al., 4 April 2024, <https://cristosal.org/ES/organizaciones-registran-6305-denuncias-de-violaciones-a-derechos-humanos-en-dos-anos-del-regimen-de-excepcion>.

<sup>24</sup> 'Global Analysis 2023-2024', Front Line Defenders, 22 May 2024, [https://www.frontlinedefenders.org/sites/default/files/1578\\_fld\\_ga23\\_online\\_u02.pdf#page=8](https://www.frontlinedefenders.org/sites/default/files/1578_fld_ga23_online_u02.pdf#page=8); 'Global



of any of the cases. Government inaction in the investigation of these killings has allowed perpetrators to escalate violence with impunity.

**3.5** Criminalisation of HRDs and journalists under the state of emergency has involved the inappropriate application of anti-gang legislation.<sup>25</sup> For instance, authorities frequently invoke the crime of illicit association under Article 345 of the Penal Code to detain and criminalise HRDs. Article 345 establishes sentences of 20 to 30 years imprisonment merely for belonging to associations, groups or organisations mentioned in Article 1 of the Law on the Prohibition of Gangs, Associations, and Criminal Organisations.<sup>26</sup>

**3.6** One emblematic case is the detention and prosecution of five environmental defenders from the Asociación de Desarrollo Económico Social Santa Marta (ADES Santa Association). In January 2023, the Attorney General's Office accused the five people of involvement in a homicide committed 30 years previously during the Salvadoran armed conflict. They were also charged with illicit association<sup>27</sup> and as of June 2024,<sup>28</sup> remain under house arrest. CSOs highlighted that the five had criticised the Bukele government in the context of the authorities' alleged efforts to reverse the country's landmark ban on metal mining.<sup>29</sup>

**1.1** On 11 March 2024, Verónica Delgado was detained on charges of alleged illicit association. Delgado is a defender of the right to truth, justice and reparation and a member of Bloque de Búsqueda (Search Block), an organisation of people searching for their loved ones who have been forcibly disappeared. Delgado was detained two days after participating in the International Women's Day march in San Salvador, where she displayed photographs of her missing relatives.<sup>30</sup>

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Analysis 2022', Front Line Defenders, 4 April 2023,

[https://www.frontlinedefenders.org/sites/default/files/1535\\_fld\\_ga23\\_web.pdf#page=4](https://www.frontlinedefenders.org/sites/default/files/1535_fld_ga23_web.pdf#page=4).

<sup>25</sup> 'Substantive Criminal Law Reforms: (In)Due Process. Analysis of Reforms Accompanying the State of Emergency in El Salvador', Due Process Foundation, 22 August 2023,

[https://dplf.org/sites/default/files/indebido\\_proceso\\_-\\_reformas\\_penales\\_sustantivas\\_en\\_el\\_regimen\\_de\\_excepcion\\_en\\_el\\_salvador.pdf](https://dplf.org/sites/default/files/indebido_proceso_-_reformas_penales_sustantivas_en_el_regimen_de_excepcion_en_el_salvador.pdf).

<sup>26</sup> Legislative Decree No. 337, Legislative Assembly of El Salvador, 30 March 2022,

<https://www.asamblea.gob.sv/sites/default/files/documents/decretos/BC86F420-8646-4F56-B9BC-EC48F0D20D38.pdf>.

<sup>27</sup> '2023 Report on aggression against human rights defenders and journalists: case analysis', Mesa por el Derecho a Defender Derechos, 29 May 2024, p. 14, <https://www.fespad.org.sv/informe-agresiones-contra-personas-defensoras-y-periodistas-2023>.

<sup>28</sup> 'Santa Marta leaders could reach a point of depression due to the stress of the case, according to their relatives', La Prensa Gráfica, 11 June 2024, <https://www.laprensagrafica.com/elsalvador/Lideres-de-Santa-Marta-pueden-llegar-a-un-punto-de-depresion-debido-al-estres-del-caso-segun-sus-familiares-20240611-0054.html>.

<sup>29</sup> 'El Salvador: five environmental defenders arrested on trumped-up charges', CIVICUS Monitor, 23 March 2023, <https://monitor.civicus.org/explore/el-salvador-five-environmental-defenders-arrested-on-trumped-up-charges>.

<sup>30</sup> 'Criminalisation and Imprisonment of human rights Defender Verónica Delgado under the state of emergency', Mesoamerican Initiative of Women Human Rights Defenders, 25 March 2024, <https://im->

- 3.7** Journalists have faced arbitrary detentions, stigmatising statements, threats and digital and physical harassment. According to the Salvadoran Association of Journalists (APES), in 2023, 351 acts of violence were committed, mainly by state agents, against journalists representing a 66 per cent increase compared to 2022.<sup>31</sup>
- 3.8** On 7 June 2022, the police arbitrarily detained journalist Víctor Barahona and held him for 11 months for allegedly associating with criminal gangs.<sup>32</sup> During his detention, Barahona was subjected to degrading treatment, held in overcrowded conditions and denied adequate access to medical care.<sup>33</sup> On 19 May 2023, he was released on parole and was barred from leaving the country.<sup>34</sup> While the accusations against the journalist allege his involvement with gangs, APES stated that these may be retaliatory actions in response to his journalistic work, which frequently criticised the government and the state of emergency.<sup>35</sup>
- 3.9** Women journalists have been subjected to a range of digital and physical threats and intimidation. For instance, on 25 September 2022, journalist Wendy Monterrosa received threats and misogynistic messages on social media from public officials and unknown users due to a comment she made about Archbishop José Luis Escobar's endorsement of Bukele's candidacy in 2024.<sup>36</sup> An APES study pointed out that most women journalists have been targeted with online violence, and Monterrosa has been among the journalists who have received the most attacks on social media since October 2023.<sup>37</sup>
- 3.10** Intimidation continues to be frequently used against independent media journalists. In October 2022, at least 12 people from Radio Suchitlán, a community radio station, reported intimidation and surveillance by local political figures.

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[defensoras.org/2024/03/alerta-defensoras-el-salvador-detienen-y-criminalizan-a-la-defensora-buscadora-veronica-delgado-en-el-marco-del-regimen-de-excepcion](https://defensoras.org/2024/03/alerta-defensoras-el-salvador-detienen-y-criminalizan-a-la-defensora-buscadora-veronica-delgado-en-el-marco-del-regimen-de-excepcion).

<sup>31</sup> 'Press Freedom Report in El Salvador 2023', Salvadoran Association of Journalists, 8 May 2024, <https://apes.org.sv/wp-content/uploads/2024/05/Informe-LE-2023.pdf#page10>.

<sup>32</sup> 'The journalist who spend 11 months in Salvadoran prisons under state of emergency', Voice of America, 24 July 2023, <https://www.vozdeamerica.com/a/elsalvador-relato-periodista-encarcelado-11-meses-en-el-contexto-del-estado-de-excepcion-7190070.html>.

<sup>33</sup> 'El Salvador: the journalist Víctor Barahona imprisoned for nearly a year under state of emergency', International Federation of Journalists, 12 July 2023, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/el-salvador-el-periodista-victor-barahonda-estuvo-encarcelado-durante-casi-un-ano-por-el-regimen-de-excepcion>.

<sup>34</sup> 'Salvadoran journalist Victor Barahona detained overnight', Committee to Protect Journalists, 28 July 2023, <https://cpj.org/2023/07/salvadoran-journalist-victor-barahona-detained-overnight>.

<sup>35</sup> 'El Salvador: The journalist Victor Barahona imprisoned for nearly a year under the state of emergency regime', International Federation of Journalists, 12 July 2023, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/el-salvador-el-periodista-victor-barahonda-estuvo-encarcelado-durante-casi-un-ano-por-el-regimen-de-excepcion>.

<sup>36</sup> 'Report on Press Freedom in El Salvador 2022', Salvadoran Association of Journalists, 5 May 2023, <https://apes.org.sv/wp-content/uploads/2023/05/APES-Informe-libertad-de-prensa-2022.pdf#page=25>.

<sup>37</sup> 'Report on Gender-Based Digital Violence Against Women Journalists', Salvadoran Association of Journalists, 2024, p. 7, <https://apes.org.sv/informe-sobre-violencia-digital-basada-en-genero-dirigida-hacia-mujeres-periodistas>.



Unidentified people inquired about the residences and working hours of staff, mostly young volunteers.<sup>38</sup>

**3.11** Journalists have been forced to leave El Salvador due to threats, intimidation, attacks and the risk of criminalisation. In 2022, APES documented that at least 11 journalists had fled El Salvador in response to the threats they received.<sup>39</sup>

#### **4. Freedom of expression, media freedom and access to information**

**4.1** Under the 3<sup>rd</sup> UPR cycle, the government received one recommendation relating to freedom of expression, media freedom and access to information. The government pledged to ‘Take necessary measures to ensure respect and protection for the work of journalists and the media’. It accepted this recommendation. However, as discussed below, the government did not take effective measures to implement it.

**4.2** Article 19 of the ICCPR guarantees the right to freedoms of expression and opinion. Article 6 of the Constitution of El Salvador ensures the right to freedom of expression on condition that it does not disturb public order or encroach upon morality, honour, or the private lives of others.<sup>40</sup> Articles 177 to 183-A of the Penal Code establish the offences of defamation, insult and slander, with fines of up to 240 days. Criminal action is permissible if the right of reply is not granted or exercised by the potentially aggrieved individuals or groups.<sup>41</sup>

**4.3** The Moral Damage Compensation Act, enacted in 2015, stipulates that ‘unfavourable judgments in journalistic criticism, or unfavourable opinions expressed or disseminated by those engaged in journalism [...], by virtue of the right to information or in the exercise of their office or function, do not cause moral damage’.<sup>42</sup> Further, the Special Law on the Right to Correction and Reply must be exhausted before resorting to criminal proceedings.<sup>43</sup> Despite this legal framework, the exercise of freedom of expression is undermined by practices such as judicial harassment, surveillance and denial of access to information.

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<sup>38</sup> ‘El Salvador: hostile environment for human rights defenders and journalists’, CIVICUS Monitor, 21 November 2022, <https://monitor.civicus.org/explore/el-salvador-hostile-environment-human-rights-defenders-and-journalists>.

<sup>39</sup> Salvadoran Association of Journalists, 5 May 2023, op. cit., p. 15.

<sup>40</sup> Constitution of the Republic of El Salvador, 1983, op. cit.

<sup>41</sup> Penal Code, Legislative Decree No. 1,030, 1997, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/F5A086EB-9DB7-4CA8-818E-D67F29AF54EC.pdf>.

<sup>42</sup> Law of Moral Damage Reparation, Decree No. 216, Legislative Assembly of El Salvador, Article 2, [https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117\\_073640365\\_archivo\\_documento\\_legislativo.pdf](https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117_073640365_archivo_documento_legislativo.pdf).

<sup>43</sup> Special Law for the Exercise of the Right to Rectification or Response, Decree No. 422, Legislative Assembly of El Salvador, 2015, [https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117\\_073354051\\_archivo\\_documento\\_legislativo.pdf](https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117_073354051_archivo_documento_legislativo.pdf).

- 4.4** In June 2023, Beltrán Luna and the media outlet El Diario de Hoy were sued by business leader Yacov Fauster Goldstein, stepfather of the Director of the State Intelligence Agency, for US\$10 million in the First Civil and Commercial Court of San Salvador. This lawsuit was based on a story published by El Diario de Hoy, using information from the Mexican magazine Proceso, alleging a link between Fauster and an Israeli company selling cyber espionage programs used to monitor activists, journalists and opposition figures in Mexico. Fauster requested the right of reply, which El Diario de Hoy granted. Nonetheless, he filed a civil lawsuit under the Moral Damage Compensation Act. On 4 March 2024, the court dismissed the lawsuit, recognising that the Act excludes unfavourable judgments in journalistic criticism from its scope. However, the court ordered the removal of the article and the publication of a public apology, which might constitute a violation of press freedom. This sent an intimidating message to independent media.<sup>44</sup>
- 4.5** On 6 June 2023, during a radio interview, Police Director Mauricio Arraiza Chicas threatened judicial actions against journalists who had investigated and reported on negotiations between the former government of President Mauricio Funes and criminal gangs.<sup>45</sup>
- 4.6** In 2021, the Supreme Court of Justice granted an injunction in favour of El Faro newspaper against excessive information requests by the Ministry of Finance during four fiscal audits, which led to multiple accusations of tax evasion based on erroneous assumptions about the newspaper's income. In April 2023, El Faro announced its relocation to Costa Rica due to harassment and a lack of institutional guarantees. Other organisations have considered similar measures as a protection strategy.<sup>46</sup>
- 4.7** Other concerning cases involve surveillance tactics against journalists. On 12 January 2022, an investigation by Access Now and Citizen Lab discovered Pegasus spyware from the NSO Group on the mobile phones of at least 30 Salvadoran journalists, 23 of whom worked for El Faro. The spyware was also found on devices belonging to journalists from five other media outlets and four CSO members. According to the investigation, the devices were infected between July 2020 and November 2021. While the investigators could not conclusively link the hacks to the Salvadoran state, the report suggested that the high concentration of infections in El Salvador made it very likely. The NSO Group has repeatedly stated that it only sells the Pegasus program to governments.<sup>47</sup>

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<sup>44</sup> Salvadoran Association of Journalists, 8 May 2024, op. cit.

<sup>45</sup> 'Journalists raised concerns over the critical situation for press freedom', CIVICUS Monitor, 3 July 2023, <https://monitor.civicus.org/explore/journalists-raised-concerns-over-the-critical-situation-for-press-freedom>.

<sup>46</sup> Amnesty International, 4 December 2023, op. cit., pp. 66-69.

<sup>47</sup> 'Exposed: civil society condemns use of Pegasus in El Salvador to spy on journalists and activists', Access Now, 13 January 2022, <https://www.accessnow.org/press-release/pegasus-el-salvador-spyware-targets-journalists-statement>.

- 4.8** Although authorities denied responsibility for the hacking, in February 2022, pro-government legislators swiftly approved several ambiguously drafted Penal Code amendments to legalise and permit the use of digital surveillance tools by law enforcement agencies.<sup>48</sup> In November 2022, the Special Telecommunications Intervention Law was amended to expedite the authorisation of wiretaps and expand the range of crimes that could be investigated.<sup>49</sup>
- 4.9** These amendments endanger journalists' and their sources' privacy rights and those of the public as a whole by permitting phone interceptions without judicial authorisation, relying solely on the Public Prosecutor's Office's approval. The Penal Code amendment allows for the use of undercover operations in investigating offences under the Special Law against Cybercrime and other special criminal laws, with operations being conducted by the police, subject to the written authorisation of the Attorney General.<sup>50</sup>
- 4.10** The Public Information Access Law regulates the right to access public information.<sup>51</sup> On 4 June 2021, the Legislative Assembly passed Legislative Decree No. 48, amending the Public Information Access Law, to grant the president greater control over the Institute for Access to Public Information, including to allow for the dismissal of commissioners based on subjective criteria such as 'conduct contrary to morality'.<sup>52</sup>
- 4.11** Restrictions on access to public information are alarming. According to a study by Cristosal, more than 73 per cent of information requests made between June 2019 and December 2023 were unfavourably responded to by the authorities, implying that access to public information is limited.<sup>53</sup>
- 4.12** Cases of denial of access to information about the functioning of the government are prevalent.<sup>54</sup> Most recently, the Presidential Press Office and the Presidential Security Office denied authorisation to seven journalists to cover the official presidential inauguration on 1 June 2024. According to the APES, the accreditation process for journalists to attend this event is slow and opaque. Also, public officials

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<sup>48</sup> 'Normalising the exception: the state of freedom of expression in Cuba, Guatemala, Nicaragua, El Salvador, and Honduras', Article 19, 22 April 2024, p. 123, <https://articulo19.org/normalizar-la-excepcion-el-estado-de-la-libertad-de-expresion-en-cuba-guatemala-nicaragua-el-salvador-y-honduras/>.

<sup>49</sup> 'Reforms to the Law on Organized Crime and the Law on Telecommunications Interception aim to weaken criminal structures', Legislative Assembly of El Salvador, 21 October 2022, <https://www.asamblea.gob.sv/node/12488>.

<sup>50</sup> Article 19, 22 April 2024, op. cit.

<sup>51</sup> Public Information Access Law, Legislative Decree No. 534, 2 October 2020, <https://www.asamblea.gob.sv/leyes-y-decretos/view/493>.

<sup>52</sup> Article 19, 22 April 2024, op. cit.

<sup>53</sup> 'Report on the state of transparency: the establishment of opacity', Cristosal, February 2024, <https://cristosal.org/ES/reporte-sobre-el-estado-de-la-transparencia-la-instauracion-de-la-opacidad>.

<sup>54</sup> 'Serious decline in press freedom in El Salvador: RSF and its partners call on national authorities to safeguard right to information', Reporters Without Borders et. al., 9 February 2024, <https://rsf.org/en/serious-decline-press-freedom-el-salvador-rsf-and-its-partners-call-national-authorities-safeguard>.

have often deliberately prevented journalists registering to cover the event and previously approved accreditations have been revoked.<sup>55</sup>

## 5. Freedom of peaceful assembly

- 5.1** During El Salvador's examination under the 3<sup>rd</sup> UPR cycle, the government did not receive any recommendations on the right to freedom of peaceful assembly. However, several violations of freedom of peaceful assembly have been observed, as detailed below.
- 5.2** Article 21 of the ICCPR guarantees freedom of peaceful assembly. Article 7 of El Salvador's Constitution also guarantees this right, establishing that it must be peaceful, without weapons and for a lawful object. Beyond the constitutional provision, there is no law in El Salvador that regulates freedom of peaceful assembly. Since 27 March 2022, this freedom has been suspended under Article 4 of Decree No. 33 on the state of emergency.<sup>56</sup> As a consequence, there has been a significant decrease in the number of demonstrations since 2022, according to the Armed Conflict Location and Event Data Project.<sup>57</sup>
- 5.3** Recent protests are associated with people demanding justice and the release of those arbitrarily detained during the state of emergency. However, these demonstrations are frequently disrupted by roadblocks by state security forces. For instance, on 18 November 2023, around 300 people took to the streets to denounce arbitrary detentions and other human rights violations committed under the current state of emergency. This protest was organised by the Movement of Victims of the Regime in El Salvador and the Salvadoran Left Movement (Movimiento Izquierda Salvadoreña). Anti-riot police and military officials prevented them moving forward by blocking the roads on the protest itinerary.<sup>58</sup>
- 5.4** Unions and community leaders have been harassed and arbitrarily detained in the context of protests. On 30 August 2023, Indigenous rights organisations denounced the persecution of Nahua community leaders. The day after a protest against a construction project on ancestral lands, state security forces visited the home of a

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<sup>55</sup> 'APES urges the government to ensure journalists are able to cover events on 1st June', Salvadoran Association of Journalists, 30 May 2024, <https://x.com/apeselsalvador/status/1796292630713614356>.

<sup>56</sup> Decree No. 33 on the State of Emergency, 27 March 2022, op. cit.

<sup>57</sup> 'El Salvador: President Bukele is re-elected as human rights concerns remain', Armed Conflict Location and Event Data Project, February 2024, <https://acleddata.com/2024/03/07/regional-overview-latin-america-the-caribbean-february-2024/#keytrend3>.

<sup>58</sup> 'Civic space conditions continue to worsen under the state of emergency in El Salvador', CIVICUS Monitor, 2 February 2024, <https://monitor.civicus.org/explore/civic-space-conditions-continue-to-worsen-under-the-state-of-emergency-in-el-salvador>.

community leader, requesting identification documents and indicating that a criminal investigation against him was underway.<sup>59</sup>

- 5.5** According to Amnesty International, there is a pattern of arbitrary detentions of trade unionists during peaceful gatherings, with at least 16 trade unionists charged with public disorder and resisting arrest during peaceful protests in 2023.<sup>60</sup>

## **6. Recommendations to the Government of El Salvador**

CIVICUS, REDLAD and the Salvadoran Network of Women Human Rights Defenders call on the Government of El Salvador to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the state of emergency must be repealed and the following conditions should be guaranteed: freedoms of association, expression and peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. The following specific recommendations are made.

### **6.1 Freedom of association**

- Take measures to foster a safe, respectful and enabling environment for civil society by removing legal and policy measures that unwarrantedly limit freedom of association.
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, and instead promote a meaningful political dialogue that allows and embraces diverging views, including those of CSOs, HRDs, journalists and others.
- Amend the legal framework for anti-money laundering and counter-terrorism financing to guarantee fully the right to freedom of association.
- Repeal the draft 'foreign agents' law and remove all undue restrictions on the ability of CSOs to receive international and domestic funding in line with best practices articulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.

### **6.2 Protection of human rights defenders and journalists**

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<sup>59</sup> 'El Salvador's state of emergency regime is cracking down on human rights defenders and the media', CIVICUS Monitor, 22 September 2023, <https://monitor.civicus.org/explore/el-salvadors-state-of-emergency-regime-is-cracking-down-on-human-rights-defenders-and-the-media>.

<sup>60</sup> Amnesty International, 4 December 2023, op. cit., p. 57.

- Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work, conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.
- Ensure that HRDs and journalists are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment.
- Undertake all necessary actions to eliminate the stigmatisation and degrading accusations originating from state agents and provide redress to those who have suffered persecution.
- Publicly condemn at the highest levels of government instances of harassment and intimidation of CSOs and activists.
- Ratify the Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).
- Adopt a legal framework to ensure that HRDs can carry out their legitimate activities without fear, undue obstruction, or legal or administrative harassment, in accordance with Human Rights Council Resolution 27.31.

### **6.3 Freedom of expression, media freedom and access to information**

- Ensure freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive.
- Review the Special Telecommunications Intervention Law in order to bring it into line with best practices and international standards in the area of freedom of expression.
- Refrain from enacting or utilising legislation that imposes excessive control over social and traditional media content.
- Implement measures to enable access to information and establish mechanisms to facilitate public access, in line with international best practices.

### **6.4 Freedom of peaceful assembly**

- Adopt best practices on freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful



Assembly and of Association, which calls for simple processes for the notification of assemblies being held rather than permission being required, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.

- Immediately and impartially investigate all instances of harassment and arbitrary detentions committed by security forces in the context of protests.
- Review and if necessary update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to freedom of peaceful assembly by state authorities.

### **6.5 Access to UN Special Procedures mandate holders**

- Extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; 3) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; 4) Special Rapporteur on the independence of judges and lawyers; 5) Special Rapporteur on extrajudicial, summary or arbitrary executions; 6) Special Rapporteur on the right to privacy; and 7) Working Group on Arbitrary Detention.

### **6.6 State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

## 7. Annex: Assessment of implementation of civic space recommendations under the 3<sup>rd</sup> cycle

Recommendation	Position	Assessment/Comments on level of implementation
<p>103.17 Continue to strengthen its legal and institutional frameworks for the promotion and protection of human rights (Nigeria).</p> <p>A/HRC/43/5/Add.1 - Párr. 4.</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 2</p>
<p>103.75 Step up protection of human rights defenders and journalists and guarantee their right to work in a safe and enabling environment, including by conducting immediate, thorough and impartial investigations into all reported instances of threats, violence and intimidation against them (Ireland).</p> <p>A/HRC/43/5/Add.1 - Párr. 4.</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections 2 and 3</p>
<p>103.76 Adopt legislation that effectively recognizes and protects all human rights defenders, including LGBTI defenders (France).</p> <p>A/HRC/43/5/Add.1 - Párr. 6.</p>	Noted	<p>Status: Not implemented</p> <p>Source: Sections 2 and 3</p>
<p>103.77 103.77 Implement comprehensive public policies to ensure a safe and enabling environment for human rights defenders, journalists and other civil society actors, and take all necessary actions to ensure accountability for violence and attacks against them (Lithuania).</p> <p>A/HRC/43/5/Add.1 - Párr. 4.</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 3</p>
<p>103.78 Adopt a law on the recognition and protection of human rights defenders and establish a mechanism for their protection (Mexico).</p> <p>A/HRC/43/5/Add.1 - Párr. 6.</p>	Noted	<p>Status: Not implemented</p> <p>Source: Section 3</p>

<p>103.79 Take necessary measures to ensure respect and protection for the work of journalists and the media (Spain).</p> <p>A/HRC/43/5/Add.1 - Párr. 4.</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 4</p>
<p>103.80 Punish those responsible for the continuing attacks, crimes, and murders of human rights defenders, journalists, and lesbian, gay, bisexual, transgender and intersex people, and guarantee the protection of these vulnerable groups (Bolivarian Republic of Venezuela).</p> <p>A/HRC/43/5/Add.1 - Párr. 4.</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 3</p>
<p>103.81 Ensure effective protection of all human rights defenders, including LGBTI defenders and women human rights defenders, and ensure that crimes against them are promptly, thoroughly and impartially investigated (Austria).</p> <p>A/HRC/43/5/Add.1 - Párr. 4.</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 3</p>
<p>103.82 Set up government policies that create a safe and respectful environment for the work of journalists and human rights defenders, especially women human rights defenders (Belgium).</p> <p>A/HRC/43/5/Add.1 - Párr. 4.</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections 2 and 3</p>
<p>103.83 Review current criminal legislation and adopt special legislative measures to protect human rights defenders and journalists (Maldives).</p> <p>A/HRC/43/5/Add.1 - Párr. 6.</p>	Noted	<p>Status: Not implemented</p> <p>Source: Section 3</p>
<p>103.84 Continue to deepen measures aimed at preventing threats and acts of violence against human rights defenders (Argentina).</p> <p>A/HRC/43/5/Add.1 - Párr. 4.</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 3</p>

103.85 Investigate all reports of assault and harassment against human rights defenders (Burkina Faso).  A/HRC/43/5/Add.1 - Párr. 4.	Supported	Status: Not implemented  Source: Section 3
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