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Bukele and El Salvador's Justice System

El Salvador has long been considered one of the most violent countries outside of active war zones. In 2015, the nation recorded a staggering 103 homicides per 100,000 people, largely driven by the activities of gangs such as MS-13 and Barrio 18. This violence not only terrorized communities but also crippled economic opportunities and forced many to flee the country in search of safety. The pressing need for change set the stage for an unprecedented political shift. In 2019, Nayib Bukele rose to power, promising to transform El Salvador's justice system and eliminate gang violence. His administration's approach culminated in the state of emergency declared in March 2022 after 87 homicides were recorded in a single weekend. This move allowed for mass incarcerations, suspension of constitutional rights, and increased military involvement in security operations. Bukele's bold and aggressive strategies have been widely praised by Salvadorans for drastically reducing crime rates, but they have also drawn criticism for their potential to undermine human rights and democracy. Bukele's policies have redefined justice in El Salvador, delivering unprecedented crime reductions while raising concerns about human rights, democratic norms, and the rule of law. As these policies gain attention across Latin America, highlighting a complex balance between security and justice. This essay examines the historical context, judicial reforms, anti-gang measures, and public opinion to explore how Bukele's administration has reshaped justice in El Salvador and its implications for the future of the region.

I. Historical Context

El Salvador Civil War

The Salvadoran Civil War (1979–1992) altered the nation's socio-political environment, resulting in over 70,000 deaths and mass displacement. The conflict originated from long standing economic disparities, particularly the monopolization of land by elites, which marginalized the rural poor. As David Mason explains in *The Civil War in El Salvador*: the expansion of agro export agriculture displaced many peasants, creating a large class of landless laborers (*Mason, p. 182*). This, coupled with repressive state policies, created a breeding ground for rebellion. The state's efforts to address these injustices through agrarian reforms were overshadowed by brutal military counterinsurgency campaigns. (*Mason, p. 191*). Events such as the El Mozote massacre in 1981, where hundreds of civilians were killed by government forces, epitomize the extreme violence that fueled the insurgency rather than quelling it.

Post War Challenges

The war officially ended in 1992 with the Peace Accords, which aimed to create a fairer system and reduce the military's power. These agreements also introduced new police forces and democratic reforms. However, as Mason points out, the country didn't solve its biggest problems, like poverty and inequality. Because of this, gangs like MS-13 and Barrio 18 started to grow, filling the gap left by the war (*Mason, p. 193*). These gangs took control of neighborhoods, causing fear and violence to continue even after the war ended. The inequality that started the war was never really fixed, and this failure allowed new problems, like gang violence, to take over.

II. Judicial Independence

Judicial Reforms

On the other hand El Salvador's judiciary has historically been one of the weakest institutions, known for corruption, political interference, and poor resources. According to Jackson, in *Protecting Human Rights*, the judiciary played a passive role during the civil war, often enabling human rights violations rather than preventing them (Jackson, p. 404). The 1992 Peace Accords aimed to address this by restructuring the judiciary, establishing the Procurator for the Defense of Human Rights, and rebuilding public trust. Although these reforms had potential, they faced challenges. Jackson noted that the judiciary heavily relied on international support for funding and expertise, which made its progress feel externally driven rather than truly transformative (p. 405). This dependence created a disconnect between the judiciary and Salvadorans themselves. People continued to perceive the courts as inefficient and corrupt, suggesting that reforms need to feel homegrown to foster real change.

Impact of Bukele's Administration

Under Nayib Bukele's administration, the judiciary has undergone significant changes. One of the most controversial actions was the removal of Constitutional Court judges in 2021, which Bukele defended as necessary to fight corruption and ensure the judiciary worked efficiently. However, critics argue that such actions threaten judicial independence and allow political interference to grow unchecked. As Jackson et al. emphasize, judicial independence is key to maintaining public trust and protecting human rights, making any interference a risk to democracy (p. 406). This creates a challenging balance that forces society to weigh security against human rights. Should safety take precedence over individual freedoms, or is it the other way around? On one hand, Bukele's swift actions on crime related policies have provided tangible results, resonating with Salvadorans who have grown tired of years of inaction. On the

other hand, concentrating power in the executive branch risks undermining the long term credibility and independence of judicial institutions.

While I understand Bukele's urgency and vision for improving the country, I believe the administration should focus on strengthening institutions with greater transparency and accountability. Without this, there's a risk that the legislative and judicial branches potentially acting under separate agendas may unintentionally or deliberately undermine Bukele's broader goals. True progress requires a collaborative and transparent approach, where all branches of government work together toward sustainable solutions, not just quick fixes.

III. Reforms to Combat Gang Violence

Emergency Measures

The emergency regime introduced by Bukele has been a cornerstone of his anti-gang approach. Chavez Rodriguez notes that the regime led to the creation of the Terrorism Confinement Center, a maximum-security prison capable of housing 40,000 individuals. This facility, combined with mass arrests and strict prison protocols, has sent a strong message to gangs (Chavez Rodriguez, p. 76) . However, the heavy-handed nature of these measures has drawn criticism from human rights organizations, since people inside the jail are not allowed to see the sunlight, they barely have food, and some other human rights concerns. I think that while these emergency powers have restored a sense of order, they also highlight the need for a more sustainable and rights-focused approach. Addressing gang violence requires more than force; it demands investment in education, job creation, and community rebuilding to prevent future generations from joining gangs.

Incarceration Strategies

El Salvador has been deeply affected by gang violence, with groups like MS-13 and Barrio 18 controlling territories and instilling fear through extortion and murder. To combat this, Nayib Bukele's administration adopted mass incarceration strategies as part of its anti-gang policies. According to Yovani Chavez Rodriguez in *Bukele's Formula for Terrorism*, the government implemented measures such as mixing rival gang members in prisons and introducing harsher penalties, with sentences for low-ranking gang members increasing from 3–5 years to 20–30 years, and for high-ranking members from 6–9 years to 40–45 years (Chavez Rodriguez, p. 82). While these strategies have shown immediate results, such as a visible reduction in crime, they raise concerns about overcrowded prisons and the potential for wrongful arrests. From my point of view Bukele's strategy has addressed the urgency of public safety, offering relief to communities long terrorized by gangs. However, for these efforts to succeed long-term, rehabilitation programs and judicial fairness should complement mass incarceration to prevent future cycles of violence.

Constitutional Changes

While this policy has been effective in reducing crime rates and restoring a sense of security, it has raised concerns about the implications for justice and democracy. As Chavez Rodriguez highlights, the Emergency Regime passed with significant congressional backing allowed the suspension of fundamental rights, such as the right to defense and protection against unauthorized telecommunications interception. Furthermore, this measure has led to over 69,000 arrests, although many detainees were later released due to insufficient evidence (Chavez Rodriguez, p. 77) These constitutional changes highlight the complex trade-offs between immediate security and the broader implications for justice and democracy. The swift actions taken by Bukele's administration have undoubtedly brought much-needed relief to communities

that have endured decades of fear and violence. Families can now feel safer in their neighborhoods, and the visible reduction in crime offers a sense of stability that had long been missing.

Nayib Bukele's administration has made significant constitutional changes to address gang violence in El Salvador like we mentioned before. These amendments were designed to provide the government with greater power to combat organized crime, often described as a necessary response to the scale of gang control in the country. According to Yovani Chavez Rodriguez in Bukele's *Formula for Terrorism*, one of the pivotal changes was the declaration of a state of emergency in 2022, suspending constitutional rights such as the freedom of assembly, the right to legal defense, and protections against unlawful telecommunications interceptions (Chavez Rodriguez, p. 83). However, suspending rights, even temporarily, introduces significant risks. By allowing broad powers to arrest and detain without due process, there is a real concern about setting a precedent that could be misused in the future. This approach, while effective in the short term, challenges the democratic principles that El Salvador has worked hard to rebuild since its civil war. For a country still healing from past authoritarian practices, ensuring that constitutional rights are respected alongside security efforts is vital.

Emergency Measures

Bukele's approach to emergency measures represents a significant shift from past attempts to combat organized crime in El Salvador. Unlike prior strategies that often involved negotiation or concessions to gang leaders, Bukele has adopted a zero-tolerance policy, emphasizing swift and decisive action. In contrast to the 2016 scandal where media revealed videos of gang members enjoying privileges like entertainment within prisons, Bukele's administration has implemented strict controls to eliminate such practices. This stark departure

from previous leniency has restored public confidence in the government's ability to challenge gang dominance (Chavez Rodriguez, p. 84).

Additionally, Bukele has expanded his approach to include corruption as a core focus of his governance. In 2021, he proposed reforms to the Penal Code to eliminate the statute of limitations for corruption cases, which was approved by Congress the same year. This move aligns with a broader trend under his leadership to confront systemic issues, such as white-collar crimes, which have long eroded trust in public institutions. Bukele's states, "There's enough money when no one steals," resonates deeply with the Salvadoran population, emphasizing accountability and transparency in governance (Chavez Rodriguez, p. 85).

Despite the administration's significant focus on combating organized crime, concerns remain regarding the extradition policies under Bukele's government. In 2021, El Salvador's authorities declined the U.S. request to extradite several high-ranking MS-13 leaders, including Élmér Canales Rivera, despite ongoing criminal charges and an Interpol notice. Similarly, in 2023, the Salvadoran Supreme Court refused to extradite four additional MS-13 leaders, asserting they must serve their sentences locally before any international transfer. Chavez Rodriguez notes that these decisions have raised questions about El Salvador's genuine commitment to global cooperation in fighting transnational crime (p. 89). Further, reports surfaced in 2022 accusing Bukele's government of secretly negotiating with gang leaders, allegedly offering financial incentives in exchange for reduced violence. While these claims remain under investigation, they highlight the intricate and controversial dynamics of Bukele's war on crime.

These policies, while popular domestically, risk straining El Salvador's international partnerships, particularly with the United States, which views extradition as a key component in

dismantling criminal networks. The United States has voiced significant concerns over these allegations, which include accusations of backdoor agreements with gangs and insufficient transparency in mass detentions under the emergency regime. In response, the U.S. imposed sanctions on Salvadoran officials believed to be involved in these negotiations and criticized the lack of accountability in the government's handling of organized crime. According to the 2022 Country Reports on Human Rights Practices, the reduction in homicides may have been the result of an informal truce between Bukele's administration and the Maras, which allegedly included agreements of non-extradition to the U.S. and improved prison conditions for gang leaders (p. 92). Despite these tensions, many in El Salvador view Bukele's policies as effective in curbing violence and restoring security. However, the strained relationship with the United States poses challenges to international cooperation, particularly as extradition remains a cornerstone of U.S. efforts to dismantle transnational criminal networks. This disconnect highlights the complexity of balancing domestic priorities with global expectations in the fight against organized crime.

IV. Corruption and Accountability

The establishment of the National Civil Police (PNC) under the 1992 Peace Accords was initially seen as a sign of hope for El Salvador. As Héctor Silva Ávalos explains in *Corruption in El Salvador: Politicians, Police, and Transportistas*, the PNC was created to replace three military-controlled security forces that had been responsible for extrajudicial killings and other human rights abuses during the civil war. Its purpose was to bring a civilian-led approach to law enforcement, aligned with democratic principles and human rights (Silva Ávalos, p. 5). However, this vision was compromised from the start. The PNC inherited structural weaknesses from its predecessors, including the integration of ex-military officers who perpetuated a culture of

corruption and impunity. Over time, the PNC became deeply entangled with organized crime, with drug trafficking organizations infiltrating even its highest ranks. These issues have undermined the PNC's role in consolidating peace and democracy, leaving El Salvador's justice system vulnerable to corruption and criminal exploitation.

The PNC has been the center of international criticism due to its systemic corruption and lack of accountability. Both the United Nations and the U.S authorities have repeatedly expressed concerns about the PNC's vulnerability to infiltration by criminal organizations. These concerns grew more prominent as the PNC struggled to institutionalize reforms following establishment under the Peace Accords.. U.S Senator Patrick Leahy, during a 2013 Senate plenary highlighted that corruption within the PNC had allowed transnational criminal organizations and money laundering. Leahy described El Salvador as a country with weak democratic institutions, where the independent judiciary was under attack and security institutions were plagued by impunity (Silvia Avalos p.30). The U.S tied financial aid, including the Fomilenio II program, to visible anti-corruption efforts within the PNC. Leahy even considered freezing this aid, stating that the Salvadoran government failure to clean up the police force undermined efforts to combat organized crime. A U.S federal agent echoed these concerns within the PNC, particularly those promoted early on with ties to military regimes, perpetuating a culture of impunity. (Silvia Avalos, p. 30). The agent suggested that meaningful reform would require replacing these leaders to address decades of investigative failures and lack of international controls.

Accountability Measures

Efforts to improve accountability in El Salvador have included extraordinary measures aimed at addressing the long-standing issue of gang violence and its connection to political corruption. According to *Miracle or Mirage? Gangs and Plunging Violence in El Salvador*, one notable measure involved the imposition of “extraordinary measures” in prisons starting on 1 April 2016. These included stricter confinement, blocks on communication, and the suspension of rehabilitation programs. These policies, though controversial, were designed to prevent gang leaders from maintaining control over their organizations while incarcerated. (International Crisis Group, p. 9). Data from the Crisis Group showed that homicides dropped by more than half in the six days following these measures, demonstrating their immediate impact.

Despite these efforts, the measures highlighted the complexity of gang influence in El Salvador, including their deep-rooted connections with political elites. Evidence uncovered in multiple investigations linked politicians from both major parties, ARENA and the FMLN, to alleged negotiations with gang leaders for electoral support. These accusations, supported by testimony and plea-bargain evidence from trials involving MS-13 members, suggest that gang leaders often acted as intermediaries to facilitate political projects and secure votes.^cThe focus on accountability was further reflected in Bukele’s establishment of the Unit for the Reconstruction of the Social Fabric, a program targeting the underlying social conditions that drive gang recruitment. This initiative, spearheaded by Carlos Marroquín, aims to address economic marginalization, unemployment, and lack of recreational opportunities, factors that often push young people toward gang affiliation. Marroquín explained that this part of Bukele’s security policy is meant to be permanent, offering a “way out” for communities struggling with gang violence. Since its inception, the program has expanded to over 60 municipalities, establishing state-sponsored initiatives such as football camps, scholarships, and vocational

training programs (International Crisis Group, p. 12). These combined efforts highlight the administration's multi-pronged approach to accountability. By coupling immediate security measures with long-term social programs, Bukele's policies attempt to address both the symptoms and root causes of gang violence.

V. Public Opinion and Justice

Bukele's anti-crime strategies have drawn both praise and criticism, reflecting the complexity of their impact on Salvadoran society. Public opinion polls consistently show high levels of support for his policies, with approval ratings frequently ranging between 80% and 90%. Salvadorans credit these strategies with bringing significant reductions in homicide rates and reclaiming public spaces from gang control. For many, Bukele's approach has restored a sense of safety and stability in communities previously dominated by fear and violence (Hernandez-Roy and Bledsoe, p. 3). Despite this domestic approval, international organizations and human rights advocates have raised concerns about the implications of Bukele's tactics. His administration's state of emergency, renewed over 10 times, has led to severe restrictions on civil liberties, including indefinite pretrial detention and the suppression of press freedoms. However, much of this criticism stems from opposition parties such as ARENA and FMLN, who frequently challenge the legitimacy of his approach while overlooking its tangible benefits for the Salvadoran populace.

This widespread approval from Salvadorans can be attributed to the significant decline in crime and increased public safety under Bukele's administration. By 2023, his government achieved a staggering 90% approval rating, with fear of becoming a crime victim decreasing by 15% compared to previous years (Olsson, p. 29). These figures highlight the stark contrast between Salvadorans' lived experiences and international critiques. For citizens who remain in

the country, Bukele's measures have provided a sense of normalcy and security unseen in decades. This perspective is often misunderstood by those outside El Salvador, who may lack firsthand knowledge of the insecurity that plagued the nation before his tenure. Furthermore, Bukele's adept use of social media has allowed him to engage directly with his constituents, fostering trust and creating a platform for citizens to voice their support. This dual approach of tangible security improvements paired with direct communication has solidified his popularity and reinforced his connection with Salvadoran society.

By 2024, Bukele's administration had further cemented its popularity, achieving a landslide victory with over 85% of the vote in the presidential and parliamentary elections. This victory also secured 58 of 60 seats in the legislative assembly, granting Bukele a supermajority and unparalleled control over El Salvador's political system. For many Salvadorans, this outcome signifies validation of his leadership and the belief that his policies reflect their priorities (Olsson, p. 31). His ability to maintain high approval ratings, despite international condemnation of his methods, underscores the disconnect between global critiques and the lived realities of Salvadoran citizens.

Moreover, this overwhelming electoral support is a testament to the public's trust in Bukele's vision for the country. While critics argue that his methods undermine liberal democracy, many Salvadorans view his consolidation of power as a necessary means to implement reforms that have long been delayed by previous administrations. Bukele's use of direct communication, particularly through social media, has further strengthened his connection with the populace, allowing him to bypass traditional political channels and foster a sense of collective progress. For Salvadorans, especially those who endured decades of insecurity,

Bukele's leadership offers hope for lasting stability and the reclamation of a nation once plagued by violence and corruption.

Nayib Bukele's administration has undeniably transformed El Salvador's justice system, redefining the country's approach to security, governance, and public trust. His bold strategies, characterized by mass incarcerations, constitutional changes, and a zero-tolerance policy toward crime, have brought tangible reductions in violence and crime rates. For many Salvadorans, these changes represent a long-awaited reprieve from decades of insecurity and fear. Bukele's ability to connect directly with his constituents through social media has further cemented his popularity, enabling him to address citizens' concerns while bypassing traditional political barriers.

However, these achievements have come at a significant cost. As highlighted in this essay, Bukele's policies have redefined justice in El Salvador, delivering unprecedented crime reductions while raising concerns about human rights, democratic norms, and the rule of law. While his measures have been effective in restoring public safety, the suspension of constitutional rights under the state of emergency raises questions about the long-term sustainability of his policies. This duality reflects the central theme of Bukele's administration: the complex trade-offs between security and democratic values.

Ultimately, Bukele's leadership has ignited a broader conversation about governance and justice in Latin America, serving as both a model of effective crime reduction and a cautionary tale of centralized power. The future of El Salvador lies in the hands of its people, who must navigate this complex landscape and decide whether Bukele's methods align with their vision for a safer and more equitable society.

Bibliography

Chavez Rodriguez, Yovani E. “Bukele’s Formula for Terrorism.” *Journal of Strategic Security*, vol. 17, no. 1, 2024, pp. 76–99. Henley-Putnam School of Strategic Security. JSTOR, <https://doi.org/10.5038/1944-0472.17.1.2186>.

Hernandez-Roy, Christopher, and Rubi Bledsoe. *Democracy Dies under Mano Dura: Anti-Crime Strategies in the Northern Triangle*. Center for Strategic and International Studies (CSIS), Apr. 2023. <https://www.jstor.org/stable/resrep48815>. Accessed 25 Nov.

International Crisis Group. *Miracle or Mirage? Gangs and Plunging Violence in El Salvador*. Crisis Group Latin America Report No. 81, 8 July 2020, <https://www.jstor.org/stable/resrep31423> Accessed 10 Dec. 2024.

Jackson, D. W., Dodson, J. M., and Nuzzi O’Shaughnessy, L. *Protecting Human Rights: The Legitimacy of Judicial System Reforms in El Salvador*. *Bulletin of Latin American Research*, vol. 18, no. 4, 1999, pp. 403–421. JSTOR, www.jstor.org/stable/3339198.

Mason, T. David. “The Civil War in El Salvador: A Retrospective Analysis.” *Latin American Research Review*, vol. 34, no. 3, 1999, pp. 179–196. JSTOR, www.jstor.org/stable/2503968.

Olsson, Ruben. *Perceived Security over Real Rights? A Qualitative Analysis of Populism in Power and Democratic Development in El Salvador*. Uppsala University, Department of Political Science, May 2024.

Silva Ávalos, Héctor. *Corruption in El Salvador: Politicians, Police, and Transportistas*. Center for Latin American and Latino Studies, American University, 2014, <https://ssrn.com/abstract=2419174>.