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# The Price of Peace: Balancing Security and Liberty Under El Salvador ' s Territorial Control Plan and State of Exception


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**Abstract**

El Salvador, the smallest country in Central America, is currently drawing major global attention with its new security policies. Indeed, after its twelve-year civil war (1980 – 1992), the country struggled to rebuild its economy, institutions and political and social system. The decades that followed were marked by severe insecurity and violence, driven by criminal gangs. Known as "*Maras*", governments successively failed to fight them and restore public order and peace. Salvadorans, desperate for change and without trust in past governments, elected Nayib Bukele in 2019. The President presented **The Territorial Control Plan** *(Plan de Control Territorial,* TCP), a different and new strategy to dismantle *Maras* and to end once and for all with their "mandate of fear". With a **state of exception** (*régimen de excepción*) introduced in 2022, ongoing now for more than three years, its measures have demonstrated a clear reduction of violence and homicide rates. Nevertheless, El Salvador's security strategy illustrates a *trade-off*: reductions in violence have come at the expense of fundamental legal safeguards, civil liberties and rights. The search for peace can generate long-term risks for democracy and the rule of law in El Salvador.

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## 1. Introduction

*"You have arrived in hell. Welcome to the graveyard of living men. The only way out is death."* – director of CECOT. (Human Rights Watch and Cristosal, 2025)

El Salvador's Territorial Control Plan is not only a matter of securitization, but of how the state governs, what it asks its citizens to accept, and what it normalizes. The strategy implemented by President Nayib Bukele since 2019 has presented a necessary rupture with a past defined by fear and governmental failure. Yet, its exceptionality cannot be understood without examining what made gang power so important, and what made such drastic response seem so necessary. (Buzan, Wæver and de Wilde, 1998; Ignatieff, 2004; Waldron, 2003)

*Maras* in El Salvador did not function as criminal groups operating in the shadows. On the contrary, they acted as territorial authorities setting informal rules and punishing their "transgression". Their control extended into the daily life of all citizens: they regulated mobility, defining even which streets were allowed to be crossed, imposed curfews, and demanded "rent" from houses and small businesses. For Salvadorans, insecurity was not an occasional risk or possibility but a permanent condition that shaped their routines, lifestyle, and family decisions. The result was not only fear and violence, but an erosion of the boundary between life and survival. (Bonello et al., n.d.; Frühling, 2008; Boraz and Bruneau, 2006)

In 1992, the end of the civil war left profound institutional damage, social and political fragmentation. Post-war reconstruction struggled to deliver security, opportunity and trust in the country. In such conditions, Salvadorans massively immigrated towards the United States. Feeling marginalized, looking for protection and a sense of belonging, they started to join or form gangs. As they were deported, such networks took over El Salvador. In a country where the state was often absent, weak, or even complicit, gangs offered a violent and coercive form of order. (World Bank, 2020; ReliefWeb, 2023; Boraz and Bruneau, 2006)

El Salvador became one of the world's most dangerous countries. Episodes of mass violence, as the public killing of 62 Salvadorans in a single day in 2019, reinforced the perception once again that the government had failed. (TIME, 2017; World Bank, 2020)

It is within this atmosphere, where fear became not only a shared sentiment but also a political resource, that Bukele gained popularity. His new security agenda not only promised reformation but also immediate control, leaving no place for negotiation but only for domination. Such shift involved a reliance on militarized policing, mass detentions, and the expansion of executive power. (Mudde, 2004; Pratt, 2007; Inglehart and Norris, 2016)

President Nayib Bukele, who has identified himself as the "world's coolest dictator," has drawn both admiration for his achievements in safety and criticism for undermining democratic rule. The TCP has in fact gathered public support, but it raises serious concerns about democratic backsliding and human rights respect. (Human Rights Watch, 2024; Amnesty International, 2023; RSF, 2020)

The country faces the challenge of establishing a sustainable approach that tackles the root factors contributing to insecurity while upholding fundamental rights. Although the current initiative might provide temporary relief in terms of peace, its lasting effect will rely on the country's capacity to restore institutions, safeguard civil liberties, but also create economic opportunities. The existing empirical literature has, in fact, documented immediate and ongoing violations. Nevertheless, the longer-term aftereffects of the prolonged state of exception, have received less attention.

This thesis takes this debate as its starting point. Rather than asking only whether the strategy works, it examines how emergency governance reshapes the relationship between citizens and the state, and what becomes easier to ignore when security is framed as the supreme public good. The chapters that follow present the conditions that set this turn, the mechanisms through which exceptional measures are implemented and normalized, and the ethical stakes of trading legal safeguards for the promise of peace. It asks: **To what extent has El Salvador's TCP prioritized public security over civil liberties? What ethical and political dilemmas emerge from this *trade-off* strategy?** But also, *is there a price that Salvadorans are paying for their peace? What will be the aftermath of the TCP, and what happens when the exception is no longer exceptional?*

## 2. Literature Review and Theoretical Framework

A large and growing number of academic scholars, researchers, and organizations have examined El Salvador's security transformation. They have argued that the current TCP and its state of exception have, indeed, produced significant security gains. Nevertheless, they have also stated that, simultaneously, they have weakened democratic oversight and civil liberties.

Human rights reports have detailed the costs of emergency rule, including mass detention, prison abuses, and the weakening of due process guarantees. These concerns are frequently attributed to the consolidation of power in the executive, the weakening of judicial independence, growing control over the media, and the erosion of checks and balances (Inglehart and Norris, 2016; Boulianne et al., 2022).

The existing empirical literature has, therefore, documented immediate and ongoing violations. While procedural concerns, arbitrary arrests, and detention conditions have been widely analyzed, the longer-term aftereffects of prolonged emergency governance have received less attention. This leaves room for a study of the long-term aftermath of the TCP. Indeed, this gap matters because the central political risk may not only lie in short-term abuses, but in permanent institutional reconfiguration. Over time, reduced democratic capacity, and the acceptance of authoritarian tendencies as the price to pay for peace, may make a "return to normal" extremely difficult, or even impossible.

### 2.1 Historical context: origins of insecurity and criminal gangs

*From Civil War to Gang Violence: The Legacy of the Salvadoran Civil War*

El Salvador has become one of the most frequently cited contemporary examples of a security turnaround, largely associated with the presidency of Nayib Bukele. This security shift is often framed domestically as a national "rebirth", and internationally as an experiment in hardline governance. Yet the Salvadoran case also raises a classic dilemma at the heart of security studies

and democratic theory: the extent to which improvements in public order can be achieved through the restriction of civil liberties.

Before we analyze today's security shift, it helps to look back at where these challenges began: The Salvadoran Civil War. Fought over twelve years during the Cold War, the conflict turned El Salvador into a proxy battleground between left-wing guerrillas backed by Cuba and the Soviet Union and a government supported by the U.S. For our purposes, the most important part is what happened after the war ended. In the years that followed, many Salvadorans migrated to the U.S., where they often faced exclusion and limited opportunities. For some, life on the margins, shaped by insecurity and poverty, made gangs an appealing source of protection, identity, and income. Violence became a tool for survival rather than a choice. (World Bank, 2020; Montgomery, 1995; Boraz and Bruneau, 2006)

The economic, social, and political unrest of El Salvador has deeper historical roots, extending over several centuries. Before the Spanish colonization in the 16th century, the country was inhabited by diverse indigenous ethnic groups. However, after the decolonization period, only around 10% of the indigenous population remained, the other having died from diseases brought on by the Spaniards. These imposed their colonial rule, exploiting the land and its resources while suppressing native cultures and systems. This marked the beginning of the unjust suffering and mistreatment of Salvadorans. In fact, at this time, coffee represented around 90% of the country's total export, but its income benefits were concentrated into a very small part of the elite. (Lindo-Fuentes, Ching and Lara Martínez, 2007; World Bank, 2020)

In the context of the Global Great Depression, this led to the first peasant uprising in 1932. A wave of protests and rebellions emerged against the unequal land tenure system. It was fiercely repressed, with the military President General Maximiliano Hernández Martínez ordering the murder of indigenous populations. It was one of the largest ethnocides recorded in the contemporary history of the country, with around 32,000 indigenous murdered. Known as "The Massacre", it demonstrated not only the beginning of the conflict, but also of the segregation of the "Pipiles" (indigenous) who had to abandon their language, traditions, and even identity. In addition, during the post-independence period, the first large landholding families began to

emerge with governmental support. The communal lands owned by the Pipiles were expropriated through fraud and legal manipulation, taking advantage of widespread illiteracy. This was the creation of a system where the state exploited its citizens to benefit a small elite, while forcing the majority into chronic poverty. (Lindo-Fuentes, Ching and Lara Martínez, 2007; Montgomery, 1995)

The violence that ensued from inequality and exploitation paved the way for the rise of military rule. El Salvador experienced almost fifty years of military authoritarianism, from 1931 until 1979. Successive regimes favored the oligarchy, maintaining entrenched poverty, with labor unions and political opposition met with repression. In 1977, the Popular Liberation Forces emerged as a splinter group from the Salvadoran Communist Party. The main combatants later became the official Armed Forces of El Salvador (FAES), backed by the U.S., Taiwan, and Israel, against the Farabundo Martí National Liberation Front (FMLN). The FMLN was formed in 1980 as an alliance of five left-wing guerrilla groups supported by Cuba, Nicaragua, and Eastern Bloc countries. El Salvador became a Cold War proxy battleground shaped by international intervention. (Montgomery, 1995; American Archive of Public Broadcasting, n.d.)

The Salvadoran Civil War was one of the bloodiest conflicts in the region. It ended in 1992 with the Chapultepec Peace Accords. It was not only a political or ideological contest, but also a profound moral and social conflict in which the Church played an important role by denouncing state violence. Massacres continued throughout the war, including the 1981 El Mozote massacre, where the Atlacatl Battalion killed nearly 1,000 civilians accused of supporting guerrilla forces. Children were recruited as fighters, and death squads deliberately targeted civilians in both rural villages and urban centers. (World Bank, 2020; American Archive of Public Broadcasting, n.d.; ICRC, n.d.)

As El Salvador attempted to rebuild itself, two major political parties emerged: the Farabundo Martí National Liberation Front (FMLN), transitioning from a guerrilla movement to a political party, and the Nationalist Republican Alliance (ARENA), founded in 1981. Both were accused of corruption, mismanagement of public funds, and engaging in informal negotiations with gangs. By offering financial incentives and reduced enforcement in exchange for lower homicide rates,

these strategies further empowered criminal organizations. Disillusionment, loss of public trust, and ineffective governance pushed Salvadorans to seek political alternatives. (Montgomery, 1995; Council on Hemispheric Affairs, 2023)

Additionally, migration became a recurring response to insecurity and economic exclusion. Weak education systems, heavy dependence on remittances, labor informality, and the constant presence of organized crime discouraged investment and limited opportunity. These dynamics produced a self-reinforcing cycle in which leaving became the only viable option for many families. (World Bank, 2020; ReliefWeb, 2023)

Contemporary gang violence in El Salvador cannot be understood solely through the lens of criminality; it is also rooted in long-term political and social disruption. The civil war and its aftermath contributed to fragmented institutions, deep inequality, and persistent social exclusion, which created conditions for the emergence and consolidation of violent group structures over time (Dunkerley, 1982). Research on maras highlights that gangs developed forms of authority and survival strategies within marginalized environments, gradually building social and territorial control in ways that were difficult for the state to reverse (Martínez d'Aubuisson, 2018).

This historical layering matters because it complicates simplified narratives of gangs as an isolated "enemy": insecurity reflects structural factors and state capacity. Understanding this context is essential for evaluating the logic of repression policies, which often prioritize short-term incapacitation over addressing the underlying drivers of violence and recruitment (Savenije, 2006; Martínez-Reyes & Navarro-Pérez, 2019).

*The Emergence and Consolidation of Salvadoran Gangs*

In the post-war period, as gangs consolidated, successive governments experimented with different strategies to contain violence. In 2012, the FMLN pursued negotiations with gangs, followed by community-based initiatives and social programs for at-risk youth after 2014. Despite these efforts, chronic underfunding, corruption, and weak institutions limited their impact. These inconsistent and often counterproductive policies created the political conditions

for Bukele's rise and his promise of decisive action. (Boraz and Bruneau, 2006; Council on Hemispheric Affairs, 2023)

Salvadorans in the U.S. often settled in marginalized neighborhoods already influenced by criminal organizations. Some joined the 18th Street Gang (Barrio 18), while others formed MS-13 as a response to rivalry and identity-based exclusion. Over time, these gangs became embedded in U.S. criminal networks and involved in extortion, robbery, and drug trafficking, leading to repeated arrests. (Boraz and Bruneau, 2006; Sageman, 2004)

Following stricter deportation policies, many undocumented migrants were returned to El Salvador. Rather than disengaging from gang life, they returned with established organizational structures and transnational connections shaped in the U.S. Their reintegration occurred amid political instability and institutional weakness, facilitating rapid gang expansion. (Hiskey et al., n.d.; CNN en Español, 2023)

Over time, gang influence expanded into governance itself. Gangs imposed curfews, restricted movement, intimidated officials, and communicated publicly with media outlets. Imprisonment did not, neither, weaken gangs in the long term. Corruption and intimidation inside prisons allowed Maras to consolidate control, transforming detention facilities into operational hubs. Authorities separated rival gangs into different prisons to reduce violence, but this concentration only strengthened internal cohesion and coordination. (Frühling, 2008; Paoli, 2003)

*Structure and Operations of Gangs*

Salvadoran gangs, especially MS-13 and Barrio 18, are often described as highly organized structures with hierarchical features. Their organization helps them maintain territorial control and enforce discipline within their ranks. Rather than operating as loose street gangs, they function as coordinated networks, with leadership structures, internal roles, and codes of conduct that regulate behavior and operations. (Boraz and Bruneau, 2006; Paoli, 2003)

At the top of the hierarchy lay the “ranfleros”, often referred to as the principal leaders or “shot callers.” They play a strategic role, overseeing the gang’s broader direction, including revenue streams, alliances, and coordination with external criminal actors. These include cartels, as well as relationships with corrupt officials. Nevertheless, gangs do not necessarily depend on a single centralized leader. Instead, they operate through territorial subdivisions known as “clicas” (cliques), each headed by a local leader who manages day-to-day control and ensures that activities such as extortion, trafficking, and enforcement remain stable within a given area. (Paoli, 2003; Boraz and Bruneau, 2006)

Below this upper level, mid-ranking figures act as intermediaries between leadership and street-level operatives. Their responsibilities often include coordinating recruitment, ensuring logistical support, and facilitating the movement of drugs, weapons, or cash. Enforcement on the ground is carried out by “soldados” (soldiers), who secure territory through intimidation and violence, including extortion, kidnapping, and targeted killings. Women also play important operational roles within these structures. Known as “jainas”, they may contribute to financing, communications, intelligence gathering, logistics, and in some cases direct participation in violence. (Cruz, n.d.; Boraz and Bruneau, 2006)

*Illicit Economies and Practices*

Financially, the Maras rely on a range of illicit economies, including drug trafficking, weapons trading, human smuggling, and extortion. Among their most profitable mechanisms is la “renta” (rent), a system of coercive “taxation” imposed on businesses, transport operators, and residents in gang-controlled areas. Those who refuse to comply face serious consequences, including assault, destruction of property, or death. (Bonello et al., n.d.; Frühling, 2008)

One of the most destabilizing effects of gang power is the normalization of extortion across society. Small businesses, large companies, transport providers, and informal vendors are compelled to pay “protection fees” under threat of violence. Rivalries between gangs often result in armed clashes in urban and rural areas, with civilians frequently caught in the crossfire.

Combined with weak policing and low institutional trust, this produces a persistent climate of fear and insecurity. (Bonello et al., n.d.; Boraz and Bruneau, 2006)

Corruption plays a central role in sustaining gang influence. Through intimidation and bribery, gangs compromise police, judicial systems, and political institutions, allowing members to avoid prosecution and reinforcing perceptions of state failure. This dynamic affects development itself, as public funds intended for infrastructure and social services are diverted or captured through corrupt networks, contributing to long-term institutional fragility. (Frühling, 2008; World Bank, 2020)

Furthermore, Maras maintain sophisticated communication systems relying on informants, lookouts, and increasingly secure messaging methods to monitor rivals, coordinate discipline, and anticipate government action. Their capacity to penetrate state institutions distinguishes them from conventional criminal threats. By targeting or infiltrating law enforcement, judicial actors, and political spaces, they undermine governance and weaken public trust in state authority. (Frühling, 2008; Paoli, 2003)

Salvadorans were constantly threatened, beaten, or forced to leave their homes. Reprisals often extended to relatives, with gangs murdering family members to pressure those who owed money or to set examples. Paying extortion was often impossible for families already living day-to-day with unstable jobs and very low incomes. Mothers feared sending children to school, where they could be recruited. For decades, daily life for many Salvadorans became a matter of survival. (World Bank, 2020; ICRC, n.d.)

### 2.2 Security strategies: key concepts and theoretical approaches

Existing research on emergency powers suggests that framing gangs as an existential threat legitimizes extraordinary state action and popular support, even when it undermines democratic safeguards. Overall, the literature highlights a central tension: while punitive strategies may generate short-term security gains, they risk embedding long-term institutional and rights-based costs that reshape governance beyond the crisis itself. (Human Rights Watch, 2022; Amnesty

International, 2023; Buzan, Wæver and de Wilde, 1998; Waldron, 2003; Ignatieff, 2004; Hennette-Vauchez, 2022)

*International Relations Perspectives on Security*

To begin with, to understand how states perceive threats, justify measures, and balance interests and power, International Relations theories are useful. For the realist school, states seek above all to guarantee their security and protect their power. The principle "*Si vis pacem, para bellum*" illustrates the logic that peace requires preparation for conflict. Although originally developed for international politics, this logic helps explain strong state responses to internal threats when governments believe their authority is being challenged. In El Salvador, gangs gained coercive power and territorial control that rivaled the state in certain areas. (Waltz, 1979; Mearsheimer, 2001)

**Realism**, therefore, explains why states prioritize security and may override civil liberties when facing threats. Furthermore, Neorealism adds the idea that state behavior is shaped by the security environment. In the absence of an effective authority capable of imposing order, survival becomes the priority, and actors rely on deterrence and coercive capacity. From this perspective, the Salvadoran government's emphasis on rapid territorial domination and capture of suspected gang members can be understood as a security-first response aimed at reasserting control. (Waltz, 1979; Mearsheimer, 2001)

*Monopoly of Violence and Security Dilemmas*

States also maintain security by claiming a monopoly on the legitimate use of physical force. As we know, through institutions such as the police and military, they enforce laws and protect against chaos. Nevertheless, security dilemmas can emerge when actions taken to increase security generate counter-reactions that escalate conflict. In El Salvador, the dilemma is societal rather than interstate: intensified coercion may reduce violence in the short term but also generate grievances, deepen mistrust, and contribute to long-term cycles of repression. (Weber, 1919; Jervis, 1978; Glaser, 1997)

Constructivism, finally, analyzes how states securitize certain groups and construct them as dangers. It focuses on how threats are shaped by ideas, narratives, and shared beliefs rather than only by material power. Security threats are not purely objective but are socially constructed through political discourse. This process of securitization explains why certain issues or actors are treated as existential threats, allowing extraordinary measures to be justified once the audience accepts the framing. This framework is essential for understanding how Salvadoran gangs were constructed as threats requiring emergency governance. (Wendt, 1992; Wæver, 1995; Buzan, Wæver and de Wilde, 1998)

Realist theories help explain why states may resort to force, override civil liberties, or expand executive power in the name of national security. From this perspective, Salvadoran policies can be interpreted as responses to asymmetric threats, aimed at restoring state control through power rather than negotiation. At the same time, constructivist approaches capture how threat narratives are constructed, and what is lost legally and ethically when security becomes the supreme public good. (Waldron, 2003; Ignatieff, 2004; Posner and Vermeule, 2006). El Salvador's prolonged state of emergency and its suspension of due process can be interpreted as "pre-emptive power" (Mearsheimer, 2001), driven by the objective of reasserting state control over territory and the monopoly of force.

*Security First Logic and Asymmetric Threats*

Security strategies against violence generally oscillate between prevention-oriented approaches and coercive approaches, with "mano dura" policies representing the most punitive end of the spectrum. In the Salvadoran context, public security has historically been shaped by political pressure for rapid results, and the recurring temptation to treat gangs primarily as a military threat rather than a social phenomenon (Martínez-Reyes & Navarro-Pérez, 2019).

Finally, another dimension absent from a purely realist or securitization analysis is the concept of lawfare. **Lawfare** refers to the strategic use of legal systems and norms as instruments of conflict or political control rather than neutral mechanisms of justice (Kittrie, 2016). Under this lens, emergency decrees and expansive anti-terrorism legislation may function not only as security

tools but also as mechanisms to consolidate executive authority and weaken institutional constraints. Broad definitions of association or collaboration can allow detention based on suspicion rather than proven conduct, while reduced judicial oversight limits avenues for contestation. In this sense, legality is not suspended but reconfigured to facilitate coercive governance under a harsher constitutional order.

Beyond institutional issues, emergency governance also raises fundamental ethical questions. The expansion of executive power under security justifications reflects a deeper tension between ethical approaches. The Salvadoran case therefore also reflects a normative dilemma to be studied, but also how states redefine the boundary between control and national security. (Meraz Medrano, 2023; Wolf, 2024).

### 2.3 Framing insecurity: securitization and gangs as "terrorist" / hybrid threats

*The Security–Liberty Trade-Off*

To understand how the TCP and its accompanying policies are framed under a ***security–liberty trade-off*****,** it is first necessary to define this concept. The **trade-off** refers to the idea that in times of crisis or when facing violent threats, efforts to increase state security often come at the expense of civil liberties. There is a point at which neither security nor liberty can be increased without decreasing the other, meaning that greater collective security implies reduced individual freedom (Waldron, 2003). This creates tension in democratic systems, where rights become negotiable whenever security is framed as being under threat. Posner and Vermeule argue that this trade-off is not exceptional but structural, as democratic institutions systematically defer power to the executive during crises (Posner and Vermeule, 2006).

*Securitization as a Political Process*

Before governments prioritize security over liberty, they must define what constitutes a "security threat." According to the Copenhagen School of security studies, **threats** are not objective conditions but are constructed through political discourse. Through securitization, political actors frame an issue as an existential threat to a referent object such as the state, society, or public

order. Once the audience accepts this framing, extraordinary measures become legitimate. Securitization therefore depends on audience acceptance and political authority, rather than only the inherent nature of the threat (Wæver, 1995; Buzan et al., 1998).

**Securitization** shifts issues from the realm of normal politics into that of emergency governance, allowing governments to bypass ordinary legal constraints. This framework is particularly useful for analyzing El Salvador's *régimen de excepción*, as it explains how exceptional measures were presented as necessary and unavoidable. Once insecurity was framed as an existential threat, legal safeguards and civil liberties were portrayed as secondary or even obstructive, culminating in a disbalance in the trade-off (Critical Legal Thinking, 2025).

*Defining the Threat Actor*

Beyond defining the threat, itself, governments must also define the actor responsible for that threat. In El Salvador, President Nayib Bukele has explicitly referred to gangs as "terrorists," arguing that their systematic violence against civilians and the state justifies this classification. The term "terrorism," however, is not merely descriptive but deeply political, as its application carries legal and moral consequences (Hoffman, 2017). The ambiguity surrounding terrorism definitions allows states to strategically label actors in ways that legitimize exceptional responses (Kruiper, 2019).

*Terrorism: Conceptual Definitions*

Hoffman defines terrorism as violence driven by political motives, aimed at creating psychological impact beyond immediate victims, and involving symbolic acts intended to communicate a message (Hoffman, 2017). More specifically, he (page 31-41) argues that terrorism is characterized by five core elements:

1. **Political motives**: Terrorism is not merely criminal, it's violence used to achieve political ends (p. 43).

2. **Violence or threat of violence**: Terrorists deliberately use or threaten to use of violence to provoke fear and compliance.
3. **Psychological impact**: The primary target is not the direct victim but the wider audience (p. 40).
4. **Conducted by non-state actors:** While states may engage in terror, terrorism in its modern definition refers to non-state actors (p. 41).
5. **Symbolic targets and acts**: All attacks have a symbolic value and a message to send.

Similarly, the Global Terrorism Database defines terrorism through criteria such as intentional violence by subnational actors pursuing different goals, combined with efforts to intimidate populations or influence governments (GTD Codebook, 2021). The Database (GTD Codebook, August 2021, pp. 9–11) empirically codifies three criteria to categorize an act as terrorist:

1. **Intentionality**: The attack must be a deliberate act of violence.
2. **Perpetrated by subnational actor**: Reinforces Hoffman's non-state actor requirement.
3. **Political, economic, religious, or social goal**: Not personal gain alone.

Finally, it requires at least two of the following conditions met:

- The act must aim to intimidate or coerce a civilian population.
- It must aim to influence a government or international policy.
- It must aim to affect the conduct of a government by violence.

These definitions highlight how classification determines which legal frameworks apply and which measures are considered legitimate.

Consequently, Salvadoran gangs can partially fall within the mentioned classification of terrorist actors, even if they do not correspond to all criteria. Their violence is clearly intentional and systematic, and it is carried out by non-state actors, satisfying two central elements of both Hoffman's definition and the GTD criteria. Their violence is designed to a psychological impact: murders, public displays of bodies, and threats are aimed at intimidating entire communities and

demonstrating power to the state. These acts are symbolic. While they are primarily driven by economic interests, their resistance to state authority, territorial control, and efforts to influence government behavior suggest a political dimension. By coercing populations, enforcing rules, and framing their actions as "community protection" in areas of state absence, they frame their violence as legitimate.

Furthermore, international law distinguishes between terrorist actors and criminal organizations. Terrorism triggers global counterterrorism obligations under UN Security Council resolutions, while organized crime falls under law enforcement frameworks such as the UN Convention against Transnational Organized Crime (UNSC, 2001; UNSC, 2004; UN, 2000). Labeling gangs as terrorists, therefore, expands the scope of legitimate coercion and weakens procedural safeguards, as targeted sanctions and detention based on association become easier to justify (Kruiper, 2019).

Actors labeled as "terrorist" fall under UN Security Council Resolutions (1373 and 1566), establishing global obligations for states to freeze assets, impose travel bans and prevent any type of support. On the other hand, criminals are seen as part of transnational crime, regulated under the Convention against Transnational Organized Crime (UNTOC). They prioritize law enforcement, but don't necessarily trigger the same level of global urgency or military response as terrorists. Terrorism allows for targeted sanctions based on association, while criminal actors requires further criminal investigations to prove guilt.

The main difference between terrorism and organized crime is in the aims. As mentioned, terrorist groups act for ideological, political, religious, or social objectives (CODEXTER, 2013; UNSC Res. 1566, 2004), while organized crime groups are normally motivated by financial or material profit (UN Convention against TOC, 2000). Maras are ambiguous: their motivations are often economic instead of political. Yet, if they threaten elections, kill politicians, or control territory, they cross into the political sphere (Kruiper, p. 253).

Nevertheless, the politicization of security regimes and the partiality of international law can be called into question with this classification. Nayib Bukele demonstrates how definitions can be

instruments of state authority by using the term "terrorist" to defend mass detention without trial. Others might avoid being classified as terrorists (and thus worst penalties) due to the geopolitical objectives. Lastly, certain armed groups may have their political claims delegitimized by being called "terrorists".

Hoffman also warns against the overuse of the terrorist label, which can diminish its meaning or importance (pp. 50–55). Kruiper shows that labels are not neutral but strategic, states and international institutions use them to target their enemies while ignoring allies who use similar tactics (pp. 247–248). Finally, the GTD codebook admits difficulty in applying a uniform label, and that context always matters. Consequently, the classification and distinction between the two concepts is of crucial importance.

Defining terrorism is crucial because states and scholars vary in their adoption. Ambiguity leave space for states to strategically label or not actors as terrorists, justifying exceptional measures. The definition chosen affects who is included and excluded from their counter-policies, and therefore the responses that are legitimate.

*Hybrid Threats and Emergency Governance*

These tensions become more complex once we move beyond traditional notions of conflict. In today's security environment, states do not only respond to conventional threats; they confront actors that blur the boundaries between war and peace, legality and exception, civilian and military spheres. It is precisely within this context that the concept of **Hybrid Warfare** emerges as a crucial analytical framework, reshaping how threats are constructed, perceived, and acted upon. "*Hybrid Wars incorporate a range of different modes of warfare, including conventional capabilities, irregular tactics and formations, terrorist acts including indiscriminate violence and coercion, and criminal disorder.*"

In fact, since the end of the Cold War, the "Revolution in Military Affairs" (Hoffman, 2017) has blurred the barriers between conventional and unconventional conflict, state and non-state actors,

war and peace. This challenges the traditional inter-state Clausewitzian war model, defining war simply as "*an act of force to compel our enemy to do our will*". (Carl von Clausewitz, 1832).

Hoffman argues beyond Clausewitz's idea that war is necessarily a political instrument, between states, symmetrical and organized, with a beginning and end. According to him, new actors, technologies and strategies have created a new type of conflict, one characterized as hybrid. These new hybrid threats blend regular and irregular tactics, cyber and criminal capabilities, and are conducted by both state and non-state actors.

According to this logic, Salvadoran criminal gangs can be classified as "non-state and non-traditional hybrid actors". They undermine societal, political and national stability and make counter-responses harder to legitimize. As we saw, once an issue is "securitized", it shifts from the political into the emergency realm of national survival. Consequently, criminal gangs (classified as hybrid threats) are moved into the emergency sphere, allowing for extraordinary legal and military measures.

Some call this phenomenon the rise of the Fourth Generation Warfare (4GW) (Lind et al., 1989). This Generation is characterized by a loss of state's dominance along the rise of non-state actors. Terrorists, insurgents or criminal groups seek to replace or delegitimize the existent governance structures. They blend in or recruit civilians, creating legal and moral dilemmas regarding the attribution of responsibility. As Salvadoran gangs, they destabilize society from within, radicalizing individuals and inciting them into joining their organization. Civilian radicalization is another interesting concept that will be explored.

To conclude with this idea, Salvadoran criminal gangs can be considered as hybrid threats because they blend conventional and unconventional tactics, combining military-style operations (armed assaults) with asymmetric violence (kidnapping, extortion). They operate in the physical and digital sphere (propaganda, online recruitment), and rely on both ideology and criminal economy (drug trafficking, community taxation). They exemplify hybrid warfare as defined by Hoffman: non-linear actors fusing terrorism, insurgency, and organized crime within fluid networks to challenge state sovereignty and legitimacy.

Rooted in the country's post–civil war context and long-standing state absence in marginalized areas, these groups combine armed confrontations with security forces or rival gangs with everyday practices of coercion such as extortion and targeted killings. Through the control of territory, the imposition of "rent," and the regulation of daily life, they exercise forms of local governance that directly compete with the state. Their use of social media and digital communication for intimidation and recruitment further expands their reach. While their primary objective remains economic, their collective identity and persistent challenge to state authority align with Hoffman's notion of hybrid actors that blur the traditional lines.

*Long-Term Institutional Effects*

A key feature of contemporary security politics is the transformation of insecurity into an existential threat that justifies extraordinary measures. The securitization framework helps explain how political actors mobilize fear and urgency to shift policy from "normal politics" toward exceptional governance, often limiting rights in the name of collective protection (Entman, 1993). Since gangs are not considered as simple criminals but as a threat comparable to terrorism, militarized policing and mass detention appear necessary and even inevitable.

As a consequence, the **security dilemma theory** suggests that measures intended to increase safety can provoke adaptive responses or grievances that instead sustain cycles of conflict (Jervis, 1978; Glaser, 1997). In a domestic context, large-scale repression may reduce violence in the short term while deepening mistrust between citizens and the state, particularly in marginalized communities. Over time, this dynamic can entrench emergency governance as a normalized mode of rule. Thus, while immediate security indicators may improve, institutional costs may persist beyond the crisis itself.

### 2.4 Drivers of gang adhesion and membership in El Salvador

*Radicalization Beyond Ideology*

Radicalization theories help explain how individuals become drawn into violent organizations, even when ideology is not the primary driver. **Radicalization** is commonly defined as a process

through which individuals adopt increasingly extreme positions that reject the existing social or political order (McCauley and Moskalenko, 2008). A radical is, therefore, not defined only by its belief, but by a willingness to pursue fundamental change through confrontational or violent means.

Moghaddam's "**staircase to terrorism**" illustrates how structural conditions such as poverty and inequality can create a pathway toward violence. At the "ground floor," perceived injustice generates frustration, which can escalate into aggression and the adoption of worldviews that legitimize violence as moral or necessary. As individuals move upward, social polarization intensifies, empathy declines, and violence becomes justified as a response to marginalization or the feeling of humiliation (Moghaddam, 2005).

Nevertheless, radicalization is often a collective rather than individual process. The "**bunch of guys**" theory emphasizes the role of peer networks, where close social ties reinforce shared grievances and normalize violence (McCauley and Moskalenko, 2011). Small-group dynamics foster loyalty, allowing individuals to move from personal frustration to collective action without requiring deep ideological indoctrination. Violent organizations, thus, sustain themselves through internal socialization processes. Members are embedded in closed networks that reinforce commitment and normalize violence as legitimate behavior (Donatella, 2013).

In El Salvador, radicalization is primarily rooted in marginalization rather than ideology. Youth growing up in poverty, with limited access to education, employment, or state protection, are drawn into gangs through personal relationships rather than belief systems (Sageman, 2004). Gangs offers them protection, identity, and recognition, in a country where formal institutions fail to do so. Gang membership normalizes violence as both survival strategy and social capital. Loyalty, honor, and reputation become central values, reinforced through initiation rituals. Entry into gangs is often triggered by personal crises such as family loss, abuse, or neglect, which create vulnerability and openness to gang identity (McCauley and Moskalenko, 2008). Joining gangs reflect rational adaptation to constrained choices.

Gangs provide income and a local status to the economically excluded (Varese, 2011; Loewenstein et al., 2001). Rather than irrational violence, adhesion often represents a response to limited alternatives. Moreover, repressive policies have not eliminated gangs but transformed them. Under pressure, gangs become more centralized, adapting to survive (Paoli, 2003). Their hierarchical and compartmentalized structures also allows them to continue operations even when leadership is targeted or imprisoned.

Gang membership in El Salvador has often been linked to exclusion, lack of opportunities, and the search for belonging and protection within violence. Scholarship on transnational and local gang dynamics shows that recruitment is rarely reducible to "criminal preference": it is shaped by social marginalization, limited economic mobility, and community-level vulnerabilities that make gangs appear as viable structures of identity and survival (Savenije, 2006; Martínez d'Aubuisson, 2018).

This perspective matters for the *security–liberty* debate because it highlights a core limitation of purely punitive models: repression may temporarily weaken gang structures, but it does not automatically resolve the social conditions that sustain them. It also raises the question of whether mass incarceration and expanded police discretion risk producing new forms of grievance, stigmatization, and long-term instability, even when short-term security indicators improve.

By 2024, as 600,000 Salvadorans lived in extreme poverty, the social conditions that sustain gang recruitment persisted (World Bank, 2020). Disillusionment with traditional parties and ineffective anti-gang strategies created political opportunity for Nayib Bukele, whose security agenda promised order and decisive action through the Territorial Control Plan. Earlier punitive strategies such as "Mano Dura" and "Super Mano Dura" relied heavily on mass incarceration but failed to address underlying causes. Overcrowded prisons strengthened gang cohesion rather than weakening it (Frühling, 2008).

El Salvador's contemporary security landscape cannot be separated from its historical trajectory of inequality, civil war, weak post-conflict institutions, and social exclusion. Gangs emerged

within this context as structured actors that challenged the state's monopoly of violence and blurred the boundaries between organized crime, insurgency, and terrorism.

The theoretical frameworks discussed show that security policies are not only practical responses to violence but also political constructions shaped by threat narratives and power dynamics. Framing gangs as existential threats has justified exceptional measures and reshaped the balance between security and civil liberties.

Against this background, the following methodology outlines how this study will follow. The next section moves from theory to practice. It examines how these dynamics concretely materialized under President Nayib Bukele, analyzing the implementation and consequences of the TCP, the state of exception and its broader democratic implications.

# 3. Methodology

The methodological approach of this thesis is designed to assess measurable outcomes while also examining the broader consequences of the policies under study.

## 3.1 Case Selection and Research Design

El Salvador was selected as a case study because it represents one of the most striking contemporary examples of a security strategy. Few recent cases illustrate as clearly the tension between effective crime control and democratic rule-of-law constraints. This makes the Salvadoran case relevant for examining the *security–liberty trade-off* and the normalization of emergency measures.

El Salvador is a highly visible and contested case internationally. The country has attracted both admiration and criticism from governments, international organizations, and civil society groups, making it possible to analyze not only domestic political effects but also the international framing of such policies.

*Qualitative Case Study Approach*

The thesis adopts a qualitative case study. Rather than testing hypotheses through statistical analysis, it seeks to explain how security policies were justified, implemented, and normalized, and what ethical and political consequences followed. This approach is well suited to analyze processes that cannot be fully understood through quantitative indicators alone.

A qualitative design is particularly appropriate because the research focuses on:

- the framing of criminal gangs as existential security threats,
- the institutional mechanisms enabling emergency governance,
- the transformation of democratic and legal safeguards,
- and the ethical dilemmas emerging from the prioritization of security.

*Limits of Quantitative Indicators*

Quantitative indicators, such as homicide rates and arrest numbers, provide important evidence of security outcomes. However, they are insufficient to capture transformations in legality, accountability, and governance. These dimensions, rather, require a deeper contextual interpretation.

### 3.2 Data and Sources

*Primary Sources*

This research relies on both primary and secondary sources. Primary sources include legal and institutional texts such as constitutional provisions, emergency decrees, and public security legislation governing the state of exception. Official government communications, including speeches, public statements, and policy documents, are used to analyze how the TCP and emergency measures were justified and framed politically.

Survey data and official statistics are also examined, including public opinion polling on support for the régimen de excepción and government reporting on arrests and security outcomes. These sources help assess political legitimacy and public consent.

*Secondary Sources*

Secondary sources include reports by international and national human rights organizations documenting patterns of abuse, detention conditions, and due process violations *(Human Rights Watch; Amnesty International; Cristosal)*. Academic literature on securitization, emergency governance, democratic backsliding, and punitive populism provides the theoretical framework for analysis.

Investigative journalism and reputable media reporting are also used, particularly in relation to detention practices, institutional reform, and press freedom. Using multiple categories of sources allows triangulation between official narratives, external monitoring, and academic interpretation.

### 3.3 Operationalization: Security Outcomes and Civil Liberties

*Defining Security Outcomes*

Security outcomes are operationalized as the state's capacity to reduce violence and reassert territorial control. Indicators include homicide rates before and after implementation of the TCP, the scale of arrests and detentions as measures of enforcement intensity, and visible state presence through militarized policing operations.

*Defining Civil Liberties and Rule-of-Law Safeguards*

Civil liberties are operationalized through protections associated with constitutional rights, due process, and democratic accountability. The analysis focuses on guarantees such as access to legal counsel, timely judicial review, habeas corpus protections, freedom of association and assembly, privacy of communications, and judicial independence.

Rather than treating violations as isolated incidents, the thesis examines how restrictions became structurally embedded through repeated renewals of the state of exception and institutional reforms.

*Linking Security and Liberty: The Trade-Off Framework*

The relationship between security outcomes and civil liberties is analyzed through a trade-off framework. This relationship is not treated as automatic or inevitable, but as a political and institutional process shaped by securitization narratives and public consent.

*Analytical Framework*

The analysis is guided by three complementary frameworks:

- securitization theory, to examine threat framing and legitimation;
- emergency governance and democratic backsliding, to assess institutional change;
- punitive populism, to explain sustained political support for harsh security policies.

### 3.4 Limitations and Ethical Considerations

*Research Limitations*

Crime statistics and detention figures may be politicized, requiring careful triangulation from different sources. In addition, security improvements may result from multiple factors beyond the TCP, such as regional dynamics or informal negotiations, which prevents single-factor causal claims.

This study does not include original interviews or ethnographic fieldwork, limiting direct access to testimonies and experiences.

*Ethical Considerations*

Given the sensitivity of the topic, the thesis follows ethical principles. It avoids identifying individuals beyond what is already publicly documented, treats testimonies and reports of abuse with caution, and maintains analytical distance from political narratives. While discussing a security–liberty trade-off risks implying acceptability of rights restrictions, the analysis emphasizes proportionality, legality, and democratic accountability as core evaluative criteria.

El Salvador under Bukele is an analytically strategic case because it combines three elements rarely observed at such intensity in such a short period: rapid security improvement claims, the use of emergency legal frameworks, and a strong communication apparatus that publicly performs state power. A qualitative case study design is therefore appropriate because it allows the research to trace mechanisms: how policies are justified, implemented, and normalized, rather than only measuring visible outcomes.

Nevertheless, researching authoritarian tendencies and human rights allegations raises ethical and methodological challenges. First, emergency governance environments create fear and self-censorship. Second, the circulation of state narratives complicates the distinction between documented facts and persuasive framing.

This thesis concludes by translating its findings into concrete policy recommendations. Building on the evidence gathered, the final section identifies feasible reforms aimed at strengthening due process, accountability, and institutional transparency. These recommendations are designed not as abstract proposals, but as actionable measures aligned with the legal framework and the practical constraints identified throughout the study.

## 4. Empirical Chapters: El Salvador's Security Model under Bukele

### 4.1 The Territorial Control Plan (TCP): objectives, phases, and implementation

In 2019, Salvadorans turned to Nayib Bukele, a charismatic leader who departed from traditional party structures with its newly formed political party, "Nuevas Ideas" (New Ideas). Unlike his predecessors, who oscillated between inefficient punitive measures and informal negotiations, his approach represented a completely new departure.

*From Negotiation to Total Control: The Logic of the TCP*

The Territorial Control Plan, launched in 2019, aims to dismantle gang networks through a phased security strategy of territorial control and prevention initiatives.

The first phase focused on **preparing** the Terrorism Containment Center (*Centro de Confinamiento del Terrorismo,* **CECOT**), one of the largest high-security prisons in the region. Designed to isolate detainees completely from the outside world, CECOT prohibits visits and communication, even from family members. The goal is to prevent gang leaders from coordinating operations from inside prison, addressing a key weakness of previous prisons.

A second phase emphasized **prevention** through the creation of Urban Centers for Well-Being and Opportunities (*Centros Urbanos de Bienestar y Oportunidades*, CUBOS). These centers are designed to limit gang recruitment by offering educational resources, vocational training, cultural activities, and community spaces for youth in vulnerable neighborhoods. While presented as a social complement to repression, these initiatives remained secondary to enforcement in terms of funding and political emphasis.

The **modernization** phase focused on upgrading security forces through new equipment, including drones, surveillance technologies, night-vision devices, and vehicles. These investments aimed to increase operational capacity and enhance state presence in gang-controlled areas. **Militarization** intensified during the incursion phase, which involved deploying armed forces alongside or in place of police to reassert territorial control.

The **extraction** phase sought to identify and arrest remaining gang members through large-scale operations targeting communities suspected of harboring criminal networks. Detention became the central tool of this phase, reflecting a shift from selective targeting toward mass arrests based on suspicion or association (Human Rights Watch, 2024).

The final **integration** phase was presented as a long-term strategy aimed at reducing poverty, increasing employment, and rebuilding social cohesion. The creation of the Directorate of National Integration, and the expansion of CUBOS, were intended to institutionalize prevention efforts.

The security strategy, as mentioned, has relied on substantial investments in the modernization of security forces. New surveillance technologies upgraded communication systems, and intelligence tools have expanded operational capacity. These measures were complemented by the intelligence-sharing agreements with regional partners aimed at addressing the transnational character of gangs, which operate across Central and North America through drug trafficking routes, arms smuggling corridors, and human trafficking networks. Access to cross-border intelligence on financial flows, logistical chains, and leadership movements enabled authorities to intercept shipments and disrupt coordination beyond national territory.

*Detention and International Cooperation*

Regional cooperation has, therefore, been particularly important in this regard. Joint operations, real-time intelligence exchanges, and coordinated surveillance efforts have targeted criminal nodes that function across borders. The U.S. has played a central role through technical assistance, funding, and training initiatives under frameworks such as the Central America Regional Security Initiative (CARSI). Guatemala and Honduras have likewise participated in multilateral coordination efforts. These partnerships contributed to weakening the operational capacity of gangs, especially their ability to control trafficking routes and maintain cross-border mobility.

Overall, the TCP combines repression, militarization, control, prevention, and even international cooperation. While the plan is frequently described through the language of “order” and “recovery,” its militarization, reinforced through carefully staged media content, seeks to portray

a public performance of control. This suggests that the TCP operates not only as a policing security framework, but also as a symbolic project: it communicates state capacity and power (Maes, 2022).

Under the régimen de excepción declared on 27 March 2022, the Salvadoran government has operationalized enforcement intensity through large-scale joint deployments of the National Civil Police (PNC) and the Armed Forces, conducting neighborhood-wide raids and mass detentions. These operations have included highly publicized "security encirclements" (*cercos de seguridad*) of entire municipalities. As a matter of fact, thousands of soldiers established military cordons, set up checkpoints controlling entry and exit, carried outdoor-to-door searches, verified identification documents, and arrested individuals suspected of gang affiliation, often based on intelligence lists, anonymous tips, or territorial profiling rather than individualized warrants.

Indeed, several reports indicate that individuals have been detained on the basis of appearance, residence, or suspicion rather than individualized evidence. Tattoos, clothing, or perceived "suspicious" behavior have reportedly functioned as triggers for arrest. Women, minors, and residents of marginalized communities appear disproportionately affected. Such practices risk reinforcing existing social inequalities and deepening mistrust between communities and state institutions.

### 4.2 The State of Exception: legal basis, instruments, and institutionalism

Emergency rule as a response to crisis is not new in history. From Roman dictatorship to early modern democracy, extraordinary powers have long been justified as necessary tools when ordinary law seemed insufficient. Machiavelli argued that a well-designed state must possess legal mechanisms to confront unforeseen dangers, while Locke emphasized urgency and survival as grounds for exceptional authority.

During major crises, governments often argue that ordinary procedures are too slow and restrictive to deal with urgent threats. Civil liberties, judicial guarantees, and the separation of powers can be portrayed as obstacles to efficiency, which is why many states have created constitutional mechanisms such as the states of emergency. They make it legally possible to concentrate executive power and temporarily limit certain rights in the name of public protection.

Zuckerman captures the logic behind this by describing emergencies as situations that are sudden and unpredictable, require immediate response, and pose a serious threat to public welfare (Zuckerman, 2006). Locke places particular weight on this last dimension: for him, the executive has a duty to recognize when the survival of the political community is at stake and to act accordingly (Locke, 1689). This idea is echoed in Jefferson's claim that, in exceptional circumstances, a public official may need to go beyond the strict line of the law if public preservation demands it (Jefferson, 1810).

In modern democracies, in order to uphold rule of law and the respect of the separation of powers, special provisions have been created to respond to crisis. Special legal and constitutional frameworks seek to reconcile the tensions between state security and the protection of fundamental rights. Constitutional emergency regimes and international human rights instruments allow for derogations, such as Article 15 of the European Convention on Human Rights, which defines the scope and limits of exceptional measures. While it allows governments to respond to threats, it reminds that measures must remain temporary, proportionate, and subject to oversight.

Courts oversight bodies assess proportionality, necessity and accountability, and international law provides legal basis for state response to non-state violence. Provisions detail the circumstances to declare a state of emergency, its duration and the conditions in which specific rights can be suspended. These legal constraints evolve and interact with multilateral structures such as NATO, the EU's Common Security and Defence policy and UN Conventions and norms.

Emergency regimes rely on executive decrees specifying the suspension of enumerated constitutional rights, legislative ratifications extending the duration of emergency measures, and amendments to criminal procedure that modify standards of detention, evidentiary thresholds, and judicial review. In many systems, constitutional courts retain formal competence to review such measures, although their effectiveness depends on institutional independence.

Internationally, states are required to formally notify derogations under instruments such as Article 4 of the International Covenant on Civil and Political Rights (ICCPR), detailing which rights are suspended and providing justification grounded in public emergency. These procedural requirements are designed to prevent indefinite or undefined exceptionalism by anchoring

emergency powers within a defined legal architecture rather than leaving them to executive discretion alone.

*Emergency Powers and Popular Consent*

El Salvador's Constitution explicitly frames the *régimen de excepción* as temporary and conditional: it specifies which guarantees and suspension may be suspended by each decree, limits administrative detention to 15 days and limits each suspension period to 30 days. It requires a new decree for renewal, and mandates restoration when circumstances disappear.

The original emergency decree **Decreto 333** suspended rights tied to association and core criminal procedure guarantees consistent with the constitutional mechanism. What changed is not the constitutional text, but the policy: routine renewals, combined with mass detention and procedural reforms.

In El Salvador, nevertheless, public resistance to the *régimen de excepción* has remained impressively low. Survey data from a university study conducted by the Universidad Centroamericana "José Simeón Cañas" indicated that around **82**% of respondents expressed satisfaction with the emergency measures (IUDOP–UCA). Given that daily life in El Salvador has been shaped for years by persistent insecurity, this level of support suggests that many citizens view the restriction of certain individual rights as secondary to the restoration of public safety.

In this sense, the choice to prioritize collective security can be understood as a forward-looking calculation: people accept short-term constraints in the expectation that security improvements will make it possible to fully enjoy basic rights in the future, including the right to life. Citizens can perceive that collective cooperation and shared constraints are necessary to rebuild a stable and secure social order.

*Legal Architecture of the Régimen de Excepción*

It is important to note that emergencies are not purely objective conditions. As Ignatieff notes, defining what constitutes an emergency is itself a political decision, leaving the door open for

instrumentalization (Ignatieff, 2004). In El Salvador, the political groundwork for emergency governance preceded the formal declaration of the state of exception. A key turning point occurred in May 2021, when judges of the Constitutional Chamber were removed and replaced by figures aligned with the executive, weakening judicial oversight before emergency powers were invoked (OHCHR, 2021).

Therefore, the state of exception introduced in 2022 marked a turning point by expanding executive powers under the justification of emergency. While presented as a temporary necessity to defeat gangs, it has increasingly taken the form of an enduring governance tool, raising questions about institutional balance and constitutional normality (Meraz Medrano, 2023; WOLA, 2024).

From a legal perspective, international human rights law allows temporary derogations during emergencies, but only under principles of necessity, proportionality, and temporality. Instruments such as constitutional emergency regimes and international conventions define which rights may be suspended and under what conditions (UN, 2000; UNSC, 2001).

Nevertheless, since the introduction of the state of exception in 2022, several constitutional protections have been suspended or weakened. These include limitations on freedom of assembly and association, the right to privacy of communications, the right to be informed of the reasons for arrest, and constraints on detention without charge. Authorities have detained individuals for extended periods without judicial review, often without informing the families of detainees and raising concerns about enforced disappearance (Human Rights Watch, 2024; Amnesty International, 2023).

El Salvador's prolonged state of emergency, extended more than 45 times, has resulted in the detention of over 90,000 people, including more than 3,000 children. As a consequence, the prison population rose to approximately 118,000 detainees, more than double the system's official capacity, placing an estimated 2% of the national population behind bars.

Of those detained, human rights monitors report that over 85,000 remained in pre-trial detention, and around 90% had not received an individualized trial hearing, often processed in mass

hearings involving hundreds of defendants simultaneously (Human Rights Watch 2025; Amnesty International 2024).

The Legislative Assembly has suspended constitutional guarantees under Articles 12, 13, and 24 of the Salvadoran Constitution, including the right to be informed of reasons for arrest, the 72-hour limit for judicial presentation, and the inviolability of private communications. This has meant prolonged detention without prompt judicial review (ICCPR Art. 9; ACHR Art. 7), systematic obstacles to access to legal counsel and fair trial guarantees (ICCPR Art. 14; ACHR Art. 8), and the near ineffectiveness of habeas corpus (amparo and exhibición personal) remedies (ICCPR Art. 9(4); ACHR Art. 7(6)).

Civil society organizations report that habeas corpus petitions have been admitted in only a small fraction of cases, with favorable rulings statistically negligible (Amnesty International 2024; DPLF 2024). The broad application of the offense of "illicit association" has also restricted freedom of association and assembly (ICCPR Arts. 21–22; ACHR Arts. 15–16), while emergency provisions have permitted warrantless interception of communications, limiting privacy guarantees (ICCPR Art. 17; ACHR Art. 11).

As a matter of fact, *exhibición personal* (habeas corpus) is expressly recognized in Article 247 of the Salvadoran Constitution as the judicial mechanism to protect personal liberty against illegal or arbitrary detention, obliging the competent court, ultimately overseen by the Constitutional Chamber of the Supreme Court, to order authorities to justify the legal basis of the deprivation of liberty. If the detention lacks constitutional or legal foundation, the court must order immediate release.

By contrast, *amparo* (writ of protection), also grounded in Article 247 and developed through the Constitutional Procedures Law, provides a broader remedy against acts or omissions of public authorities that violate constitutional rights other than physical liberty, including due process, privacy, equality, and freedom of association.

In light of El Salvador's presidential system, where executive authority is concentrated in the presidency but formally limited by legislative control and constitutional review, the prolonged

state of exception has raised structural concerns about the capacity and willingness of the judiciary to exercise robust constitutional control over executive emergency powers.

Human Rights Watch, further, reports that at least 460 detainees have died in custody during the emergency regime, with no meaningful investigations into accountability. In parallel, restrictions on public space intensified: in 2024, the Association of Journalists of El Salvador documented 789 violations of press freedom, representing a 154% increase compared to 2023. By 2025, at least 140 journalists and human rights defenders had fled the country due to intimidation and fear of reprisals (Human Rights Watch, 2025).

The repeated renewal of emergency measures indeed blurs the boundary between exceptional and ordinary law. This institutionalization is central to the *security–liberty trade-off*: emergency powers may enable rapid coercive capacity, but they also risk embedding a permanent legal architecture of reduced rights and limited oversight.

### 4.3 Civil liberties and human rights concerns: patterns and documented allegations

Several human rights organizations argue that an overwhelmingly punitive model does little to address the structural conditions that facilitated gang influence in the first place. Poverty, unemployment, and social exclusion remain persistent challenges. Without sustained economic and social investment, critics warn that gang structures could re-emerge if the coercive intensity of the current model diminishes. From this perspective, the long-term stability of the security gains depends not only on repression, but on whether broader social vulnerabilities are effectively addressed.

*Security Success and the Hidden Costs of Emergency Rule*

El Salvador's security model is frequently promoted through quantitative indicators such as homicide rates and arrests. While these figures reflect significant changes in public safety, they hide the human rights consequences.

By mid-2024, civil society organizations reported more than **6,400** alleged victims of human rights violations associated with the state of exception. The majority of complaints concerned arbitrary detention and due process violations, followed by home invasions, ill-treatment, threats,

enforced disappearance, and harassment. Young adults between 19 and 30 years old constituted the largest share of complainants, with cases also involving children (Deutsche Welle, 2024).

Mass arrests have relied heavily on suspicion, profiling, and association rather than individualized evidence. Detainees are frequently held without warrants, informed charges, or timely judicial review, undermining basic due process guarantees (Waldron, 2003; Human Rights Watch, 2024).

In addition, detention conditions are harsh and degrading. Overcrowding, lack of medical care, restricted access to legal counsel, and prolonged incommunicado detention have been documented. Deaths in custody have been reported, raising serious concerns about state responsibility and accountability (Cristosal; Human Rights Watch, 2025).

*The Venezuelan Detainee Case and the Expansion of Securitization*

The transfer of Venezuelan migrants from the United States to El Salvador's CECOT prison illustrates how the country's security model extends beyond its own country and population. In 2025, at least 252 Venezuelans were transferred under the allegation that they were members of *Tren de Aragua*, which U.S. authorities had designated a terrorist organization. Once framed as "terrorists," they were no longer treated primarily as asylum seekers or migrants entitled to procedural safeguards, but as security threats. In practice, this categorization functioned to lower the threshold of rights protection, despite the absence of confirmed criminal convictions (Human Rights Watch and Cristosal, 2025). Reviews of criminal records reportedly found no convictions and, in many cases, no charges in the United States, Venezuela, or elsewhere in the region.

From the moment of arrival in El Salvador, detainees described treatment that departed from ordinary standards of lawful detention. They were immediately transferred to CECOT and subjected to practices intended to assert control and intimidation. Inside the prison, former detainees reported repeated beatings, humiliation, and psychological pressure.

After their release, detainees described prolonged incommunicado detention, denial of access to lawyers and relatives, and severe material deprivation. For months, families were unable to confirm their whereabouts. Names reportedly disappeared from official U.S. immigration

tracking systems, and authorities on both sides provided little or no information. Relatives were left searching through unofficial lists or media reports. Such practices correspond to elements associated with ***enforced disappearance*** under international law, which involves deprivation of liberty combined with refusal to acknowledge detention or disclose a person's fate or location (UN, 2000). Human Rights Watch and Cristosal argue that the detention lacked a clear legal basis and therefore amounted to ***arbitrary detention*** (Human Rights Watch and Cristosal, 2025).

Individuals reported beatings for minor rule violations, intimidation, and psychological abuse. These included torture and sexual violence, alongside harsh living conditions that violated the UN Standard Minimum Rules for the Treatment of Prisoners (the **Nelson Mandela Rules**). Detainees described inadequate food, lack of medical care, unsanitary facilities, permanent artificial lighting, and extreme overcrowding. Most of those interviewed reported becoming ill during detention and facing delays or dismissive responses when seeking medical assistance (Human Rights Watch and Cristosal, 2025).

The broader context is significant. Prior to these transfers, credible reporting had already documented widespread abuses in Salvadoran prisons under the state of emergency. Overcrowding, poor sanitation, lack of medical services, and physical abuse had been publicly noted, including by the U.S. State Department. Since 2022, local organizations have reported hundreds of deaths in custody and a dramatic increase in the prison population, placing El Salvador among the countries with the highest incarceration rates globally (Human Rights Watch and Cristosal, 2025).

From an international law perspective, the transfers raise concerns regarding the ***principle of non-refoulement***, which prohibits sending individuals to a country where there is a foreseeable risk of torture or ill-treatment. Human Rights Watch and Cristosal argue that the U.S. authorities were aware of documented prison conditions in El Salvador and nonetheless proceeded with the transfers. The situation also revealed a dispute over responsibility: Salvadoran authorities suggested the United States retained jurisdiction over the detainees, while U.S. officials denied any arrangement implying continued custody. This ambiguity created a gap in accountability, illustrating how securitized cooperation between states can diffuse legal responsibility while rights violations occur (Human Rights Watch and Cristosal, 2025).

The personal histories of several detainees complicate the security narrative. Some had fled Venezuela due to economic collapse, repression, or political violence and had sought protection abroad. Rather than being processed through asylum or migration systems, they were absorbed into a counterterrorism framework. When, in July 2025, the detainees were released and returned to Venezuela as part of a political exchange between governments, their detention appeared less like a criminal justice measure and more like an instrument of interstate negotiation.

Taken together, the case demonstrates how securitization operates in practice. By redefining migrants as potential terrorists, states can justify extraordinary measures that would otherwise be legally and politically untenable. What begins as a security response to organized crime becomes a broader governance model in which legal protections are conditional and easily suspended.

Rodrigo A., a 34-year-old from Lara State, left Venezuela in 2017 after being unable to secure enough food for his children amid severe shortages. His family described conditions of extreme deprivation and untreated illness, including his mother's cancer, which he hoped to help finance abroad. Pedro P., a 26-year-old from Miranda State, reported fleeing after participating in peaceful protests in 2018 and witnessing violent repression by security forces, including the torture and killing of a fellow protester. Fearing persecution, he sought asylum in the United States. These illustrate that several of the men later labeled as members of a terrorist organization had originally left Venezuela due to economic collapse, political repression, or fear of violence, not to evade criminal prosecution.

Their experiences challenge the simplicity of the "security threat" classification and highlight how securitization can override the individualized assessment that migration and asylum systems are designed to provide. In this sense, the Venezuelan detainee case represents not an isolated incident but a clear example of how the *security–liberty balance* can shift decisively toward control, particularly for non-citizens who occupy the most precarious legal and political positions.

*Accountability Gaps and International Responsibility*

The Venezuelan case exposed significant accountability gaps between states. El Salvador denied legal responsibility, claiming it merely provided detention infrastructure, while U.S. authorities

denied retaining jurisdiction. This diffusion of responsibility illustrates how emergency governance enables violations to occur without clear mechanisms for redress (Kruiper, 2019).

More broadly, the case demonstrates how securitization can transform civilians and marginalized populations into threats, making extraordinary treatment acceptable. Once security becomes the priority and overriding principle, legal protections can become conditional rather than universal (Buzan, Wæver and de Wilde, 1998; Hennette-Vauchez, 2022).

Amnesty International similarly argues that the security model has been pursued "at the expense of human rights," framing the emergency not as a short-term policy response but as a long-lasting governance strategy with direct consequences for liberties (Amnesty International, 2024). These patterns point to a structural shift: when rights guarantees are suspended for security, the legal threshold for state coercion changes.

### 4.4 Ethical and democratic trade-offs

In El Salvador, the securitization of gang violence illustrates how framing an issue as an existential threat can generate risks of political repression and democratic backsliding. Under the pretext of protecting citizens, the state can restrict political participation and weaken procedural guarantees, particularly during prolonged states of emergency (Nissenbaum, 2020; Floyd, 2019).

This dynamic enables both overt rights violations, such as mass arrests and excessive use of force, and more covert practices, including surveillance and intimidation (Kenny & Holmes, 2020; Buyse, 2018). In the absence of strong institutional checks, parliamentary oversight, independent review mechanisms, and civil society monitoring, democratic accountability becomes especially fragile in times of crisis.

*Securitization and Democratic Backsliding*

El Salvador's security improvements under the TCP and the state of exception are difficult to deny. Homicide rates have fallen sharply, public spaces have reopened, and the state has reasserted territorial control in areas previously dominated by gangs. However, the scale of mass

arrests and the erosion of procedural safeguards challenge core principles of rule-of-law governance and democratic accountability.

Legislative reforms adopted in 2023 enabled mass trials involving hundreds of defendants at once. International observers criticized these proceedings for undermining individualized justice and increasing the risk of wrongful convictions, as defense lawyers were often given only minutes to represent hundreds of detainees at the same time (Amnesty International, 2023). Such practices illustrate how efficiency and speed were prioritized over legal guarantees.

The Salvadoran case departs from classical liberal understandings of emergency power as a temporary prerogative exercised solely to restore order. Instead, the prolonged state of exception has strengthened executive authority in ways that resemble more instrumental views of crisis governance, where emergency becomes an opportunity to consolidate power (Ignatieff, 2004; Hennette-Vauchez, 2022).

This dynamic echoes previously mentioned Machiavellian logic, in which necessity justifies exceptional authority, but diverges from Locke's conception of emergency prerogative as limited and accountable.

*Ethical Tensions: Utilitarianism versus Rights-Based Limits*

Beyond institutional issues, emergency governance also raises fundamental ethical questions. The expansion of executive power under security justifications reflects a deeper tension between utilitarian and deontological approaches to political morality. A **utilitarian logic**, associated to thinkers such as Jeremy Bentham and John Stuart Mill, evaluates emergency measures according to their outcomes: if mass detention or suspension of procedural safeguards reduces violence and increases collective safety, such restrictions may be justified in terms of overall welfare. As a form of consequentialism, it holds that the moral value of a policy depends on the benefits it produces, making rights restrictions legitimate insofar as they maximize overall welfare. From this perspective, rights become contingent upon their contribution to the greater good.

In contrast, **deontological ethics**, most strongly associated with Immanuel Kant, holds that individuals possess inviolable rights that cannot be suspended or overridden by calculations of

collective benefit. Protections against arbitrary detention, violations of due process, and inhumane treatment rest on moral principles rather than outcomes. As Waldron (2010) argues, democratic systems rely on these limits precisely to prevent the abuse of power, even under conditions of fear and crisis. Democratic constitutional orders rely on this latter principle precisely because it constrains state power even during crises. The Salvadoran case therefore reflects not only a strategic choice but a normative dilemma: whether security gains can morally justify the suspension of foundational rights.

Such framing is reinforced by political communication practices that emphasize emotional blame attribution and simplified narratives of moral conflict" (Hameleers, Bos & de Vreese, 2017; Aalberg et al., 2017). Visual propaganda and highly stylized media content further strengthen this process by making security appear tangible and spectacular: soldiers, prisons, surveillance, and discipline become symbols of national restoration rather than indicators of authoritarian drift (Rodriguez & Dimitrova, 2011; Maes, 2022).

Restrictions on civil liberties under the state of exception expose a core ethical tension between utilitarian and deontological approaches. From a utilitarian perspective, policies are judged by their consequences: if restricting certain rights produces greater overall safety, such measures may be justified. This logic underpins arguments that mass detention is acceptable if it protects the majority.

The *security-liberty trade-off* is not only legal but moral and political: when citizens experience insecurity as existential, they may prioritize protection over procedural fairness, especially when the government presents coercion as the only effective solution. Yet, democratic theory suggests that rights are most meaningful precisely when they protect vulnerable groups and constrain state power under pressure (Wolf, 2024; Meléndez-Sánchez, 2022).

### 4.5 Punitive populism, the media, and fear-based politics

"*What did the IACHR do in the last 30 years when the gangs were massacring the Salvadoran people? Why did they never speak out in favor of the Salvadoran people? It seems that now that we are managing to defend the human rights of the honest Salvadoran people, of the people,*

*whose rights should not be restricted, they are saying that we are violating human rights.*" (Bukele, 2022)

*Populism and the Construction of "the People"*

Punitive security policies in El Salvador are closely linked to populist political dynamics. Populism constructs society as divided between "*the pure people*" and "*the corrupt elite*," claiming that politics should directly express the "*will of the people"* (Mudde, 2004). In this framework, institutions that constrain executive power are portrayed as obstacles to effective governance (Perrineau, 2021).

Bukele's leadership combines ideological and strategic elements of populism. He presents himself as a charismatic leader acting on behalf of "*the people*", centralizing power and bypassing intermediaries (Landeros, 2021). Traditional political parties, members of the judiciary, journalists, but also international organizations are framed as enemies of *the people*.

*Securitization as a Populist Strategy*

Perceptions of crisis and insecurity provide fertile ground for populism. Populist leaders often intensify fear and present themselves as the only capable of restoring order (Kurylo, 2020). Bukele's discourse consistently emphasizes protection, while portraying all sort of critics as defenders of criminals. This narrative simplifies complex security and social problems and reinforces public acceptance of exceptional measures.

The President concentrates power by portraying governing as a direct closed-tight relationship between him and *the people*. He presents his leadership as decisive, efficient, and himself personally as responsible for delivering results. Proximity to *the people* serves him not only to cultivate support but also to sidestep institutional constraints. Parliamentary debate, judicial review, and independent oversight are defined less as safeguards of democracy than as unnecessary delays, vested interests, or even acts of obstruction.

*Media Control and Narrative Dominance*

Bukele's communication strategy relies heavily on social media, particularly X and Instagram, allowing him to bypass traditional media and communicate directly and closely with citizens (Montaño, 2023). Through constant updates on arrests and homicide rates, security outcomes become the primary indicators of success. This strategy has played a central role in legitimizing exceptional measures and consolidating support. (Maes, 2022; Ávalos Rivera, 2025).

Bukele personalizes power through this constant communication on social media by speaking directly to citizens in real time. He uses social media to announce policies and shape the narrative before other institutional actors do. Their role in setting the public agenda is diminished, while his online communication becomes the main source of political legitimacy and authority.

The invitation of influencers such as the popular Mexican YouTuber "Luisito Comunica" to visit CECOT illustrates how media is used to amplify the government's narrative globally. Such strategies blur the line between information and propaganda, as audiences may not perceive content as politically mediated (Rodríguez, 2024; El País). This also diminishes the role of the press, as independent journalists and media outlets face attacks. According to Reporters Without Borders, press freedom in El Salvador has deteriorated due to harassment, surveillance, and rhetorical attacks against critical journalists (RSF, 2020).

Security, therefore, becomes not only a policy goal but a narrative: the leader presents himself as the protector who acts decisively where others failed. This explains why coercive governance can remain popular even amid evidence of rights violations: punishment is framed as justice, and critique is framed as betrayal of *the people*. Political leaders may then rely on populist "us versus them" narratives to legitimize emergency powers, militarized policing, and centralized control (Inglehart & Norris, 2016; Boulianne et al., 2022).

*Punitive Populism and Political Competition*

"**Punitive Darwinism**" describes a political "race to the bottom" in which leaders compete to appear "*the toughest*" in responding to crime (Bergmann and Flom, 2022). It borrows the concept from Darwin's theory of evolution by natural selection, where individuals better adapted to their environment tend to reproduce more, but applies it to society to justify punitive approaches. It is rather controversial because, in Darwinian biology, "best adapted" can mean better camouflage,

tolerance to cold, or resistance to disease (sometimes even being smaller and needing less food) rather than simply being the “strongest” or “toughest”.

Punitive populism is, therefore, the framing of political competition as a contest over who can be **toughest on crime**. Fear of insecurity drives support for harsh policies, while appearing “soft on crime” becomes electorally costly. Under this logic, incarceration and repression are presented as immediate solutions, sidelining structural reforms. Rosen, Cutrona and Lindquist argue that fear of crime, combined with social and political context, helps drive support for tough-on-crime policies.

Over time, this dynamic can, nevertheless, produce a feedback loop. Strong public support encourages hardline policy, as the concentration of power makes it more difficult for institutions to question or reverse such measures. In this sense, punitive Darwinism helps explain not only why harsh security strategies gain electoral support, but also why they tend to persist once implemented (Garland, 2001; Pratt, 2007).

The literature also suggests that the effects of punitive Darwinism extend beyond justice. By normalizing a *trade-off* between security and democracy, it reduces resistance to authoritarian practices and reshapes what citizens accept or see as acceptable governance. The erosion of rights is then not seen as a threat, but as a necessary condition for peace (Mudde, 2004; Levitsky and Ziblatt, 2018).

Furthermore, media coverage amplifies fear. Fear and victims’ experiences are often instrumentalized to justify progressively harsher responses. Those responses, in turn, sustain public anxiety, making alternative approaches seem unrealistic or naïve. As a result, less punitive policy options lose political credibility.

In the Salvadoran context, this pattern helps explain why hardline security measures continue to receive strong popular support despite documented abuses and democratic backsliding. Public demand for authoritarian policing is not simply a direct reaction to crime levels. It is also shaped by a discursive environment in which punitive responses are normalized and alternative approaches are marginalized. When punishment is presented as the fastest and most visible way

to restore order, social policies or rights-based frameworks struggle to gain political legitimacy, even if long-term stability may depend on them (Sales Campos, 2023; Garland, 2022).

Punitive populism remains deeply embedded in El Salvador, as CECOT and mass detention are presented as only solution to gang insecurity. Structural reforms aimed at reducing poverty, expanding employment opportunities, improving education, addressing migration pressures, or creating environments in which citizens both are and feel safe, are ignored. Social policies, community-based solidarity, and a culture of care instead of a culture of control is not yet taught to be implemented.

When insecurity dominates public life and trust in institutions remains low, citizens may accept a greater concentration of executive power and weaker accountability mechanisms, as long as the government delivers security. Rosen, Cutrona and Lindquist therefore link punitive politics to democratic vulnerability. In this environment, being the "toughest" against gangs becomes a political competition in itself.

This dynamic helps explain why punitive policies in El Salvador retain legitimacy even as democratic safeguards weaken. Under sustained insecurity, punitive Darwinism reshapes the standards by which political authority is evaluated. Effectiveness in punishment begins to outweigh adherence to constitutional or legal norms. Democratic procedures, such as judicial oversight, due process, and legislative checks, can come to be perceived not as protections, but as obstacles.

By presenting himself as the only actor willing and able to confront gangs without limits, Bukele converts public anxiety into political capital. His communication strategy simplifies complex social problems into clear moral oppositions: "order versus chaos", "the state versus criminals", thereby narrowing the space for debate. Within this framework, opposing actors, including journalists, judges, and human rights organizations, risk being portrayed not as legitimate democratic participants, but as obstacles to collective security and the "*will of the people"*.

### 4.6 The aftermath: normalization and institutionalization of emergency measures

*From Temporary Exception to Permanent Governance*

Much of the existing literature on El Salvador has focused on documenting violations occurring under the state of exception. Less attention has been paid to what happens when emergency governance ceases to be temporary. The central risk may not only rely in short-term and current abuses, but in the institutional consequences of normalizing exceptional rule.

When emergency measures are renewed repeatedly, they no longer function as extraordinary responses to crisis but as a durable mode of governance. One long-term consequence of prolonged emergency rule is therefore institutional path dependency. Once courts, prosecutors, and security forces adapt to processing tens of thousands of detainees through exceptional procedures, reversing these adaptations becomes politically and administratively costly (Fortuna, 2024).

Judicial independence plays a crucial role in determining whether normalization can be reversed. In El Salvador, the removal and replacement of senior judges in 2021 weakened institutional capacity to resist executive pressure even before the state of exception was declared. UN experts criticized these actions as lacking transparency and due process, warning that they undermined the judiciary's ability to act as a check on power (OHCHR, 2021).

Mass trials, of up to 900 defendants, do not represent a one-off reform but a structural adaptation: the judiciary is effectively redesigned to prioritize throughput over individualized adjudication (El País, 2023; Fortuna, 2024). According to the DPLF report (Transitional Justice and Fight Against Impunity, International Crimes, Truth, Justice and Reparations, Search for disappeared persons) there is a narrowed access to alternatives to pretrial detention, limiting judges' ability to apply proportionality and individualized precautionary measures. Once this becomes routine, ordinary justice has to be rebuild, including the professional norms of judging, defense, evidentiary practices, and review.

*Carceral Governance as Political Messaging*

As incarceration becomes the centerpiece of governance, prisons evolve into instruments not only of punishment but of political messaging. Arrest numbers, detention rates, and prison construction are presented as indicators of success, substituting rehabilitation, reintegration, and prevention as policy goals (Garland, 2022).

CECOT exemplifies this transformation. Beyond its functional role, the prison operates as a symbol of state power and deterrence, reinforcing the narrative that security is achieved through absolute control. Over time, this shifts public expectations: safety becomes associated with repression, and rights are perceived as conditional and of second importance (Buyse, 2018).

Prisons become part of the "afterlife" of emergency governance: even if the state of exception ends formally, the state may retain the carceral apparatus because it is already built, legitimized, and popular. The prison system becomes not only a place where policy is implemented, but an infrastructure for regime durability.

When incarceration becomes the centerpiece of governance, prisons evolve into a permanent instrument of social control and state messaging. HRF's emphasis on deaths in custody and abusive conditions underscores not only humanitarian harm but also a deeper institutional issue: a prison system built for maximum incapacitation tends to be designed for secrecy, speed, and coercion, not oversight or reintegration (Fortuna, 2024). Security agencies, contractors, bureaucracies also begin to benefit from its continuation.

*Democratic Erosion and Executive Entrenchment*

Even if the state of exception were to be formally lifted, the transformations that accompanied it would likely persist. A return to ordinary legality, therefore, requires more than legal repeal; it requires rebuilding institutions, norms, oversight and even trust (Hennette-Vauchez, 2022).

Nayib Bukele has remained in office for five years and, after securing re-election with more than 80% of the vote, is expected to govern until at least 2029. The institutional changes he initiated in 2021 had immediate consequences. Judges aligned with the administration issued a ruling permitting immediate presidential re-election, despite the constitution's long-standing prohibition of consecutive terms. Since democratization in 1992, the single-term limit in El Salvador represented a safeguard against the re-emergence of authoritarian or military dictatorship (International Crisis Group, 2023).

Incarceration, alone, does not address the social and economic conditions that enable gangs to recruit and reorganize (Hagedorn, 2008). Previous "mano dura" experiences have shown that

repression without structural reform can unintentionally strengthen criminal organizations, particularly by reinforcing cohesion inside prisons while deepening marginalization outside them (Cruz, 2011; Wolf, 2017). As mentioned, without a parallel reintegration strategy, the current approach risks becoming a long-term mechanism of political control rather than a transitional response to violence (Muggah and Aguirre, 2018).

Security interventions can, of course, be necessary in contexts of severe insecurity. However, when implemented without effective transparency or institutional oversight, they may weaken the democratic foundations required for their long-term duration (Dahl, 1989). Durable peace requires not only the reduction of crime, but also institutions capable of protecting rights and limiting executive concentration of power. (Fortuna, 2024; Levitsky and Ziblatt, 2018).

Even if the state of exception is eventually lifted, the institutional transformations introduced during this period may endure (Agamben, 2005). In the long run, weakening institutions in the name of short-term order can produce new forms of instability and deepen the imbalance of the *trade-off* between security and liberty (Levitsky and Ziblatt, 2018).

These developments raise a deeper question: whether the sacrifices made during the emergency, reduced safeguards, weakened due process, and mass detention, will translate into long-term benefits once the exceptional regime ends. In this respect, the Salvadoran case departs from Locke's conception of emergency power as a temporary prerogative exercised strictly for the common good (Locke, 1689). Instead, it aligns more closely with arguments suggesting that crises may facilitate the consolidation of executive authority rather than merely restore order (Ignatieff, 2004; Machiavelli, 1532).

Contemporary states of emergency often become "unprecedentedly permanent," creating a governance model in which the exception is no longer exceptional (Hennette-Vauchez, 2022). This is why the long-term political risk is not only temporary abuse. It opens the possibility that El Salvador moves into a stable "post-exception" order where the exception has already rewritten the institutions, making a genuine return to normality extremely difficult. "A constitution that permits the permanent suspension of legality is no constitution at all." — Dyzenhaus, The Constitution of Law (2006)

## 5. Policy Recommendations

The Salvadoran Constitution allows for temporary suspension of established guarantees under specific conditions (war, catastrophe, grave public-order disturbances). It sets a 30-day limit per decree, with renewal only allowed if the circumstances persist. It limits administrative detention to 15 days, and requires the restoration of guarantees when the circumstances that justified suspension cease.

The emergency was decreed through **Decreto Legislativo 333 (27 March 2022)**, which suspended for therefore, 30 days, guarantees linked to association, defense and secrecy of communications (Articles 7, 12 (2), 13 (2), 24). By late **2025**, the Legislative Assembly declared the policy as "continually renewed", presenting the 46th extension of January 2026 as a tool to sustain "peace".

The Attorney General's Office (FGR) homicide statistics show **496 intentional homicides (2022)**, **154 (2023)**, **114 (2024)**, and **82 (2025)**. The strategic risk, however, is that the operational and legal costs of mass detention are now becoming the main vulnerability of the security strategy. According to the Inter-American Commission on Human Rights (IACHR), approximately **73,000 people were detained** under El Salvador's state of exception between **27 March 2022 and early November 2023**, with most held in pre-trial detention (IACHR, 2024). By **mid-2025**, official figures indicated that the number of detainees had risen to approximately **87,100**, following repeated extensions of the emergency regime (Diario El Mundo, 2025). The IACHR report describes that incentives and internal pressure pushed security forces toward daily arrest "quotas," up to **1,000** detentions per day.

At the same time, **Decreto 803 (26 July 2023)** created a mechanism allowing the FGR to regroup defendants "by structure". **Decreto 383 (15 August 2025)** reformed the organized crime law to give prosecutors **24 months** to file indictments (extendable by 12 months). Additionally, it introduced an open hearing (*Audiencia Única Abierta)*, and allowed closure only if no new defendants or relevant evidence appears for two consecutive years.

It also provides that, with only the fiscal request in view, the judge will impose the requested precautionary measure. This architecture risks turning pretrial detention into a de facto sentence,

even in weak-evidence cases. That is precisely the concern the IACHR raises when it warns that automatic preventive detention worsens overcrowding and inhuman conditions, and when it calls for restoring suspended rights and ending mass hearings.

The following recommendation propose a reformist package designed to be politically survivable in El Salvador's current context: retain the state's ability to target violent criminal structures, but replace mass detention as the organizing principle with (a) measurable exit benchmarks, (b) fast case triage and review, (c) evidence-driven policing and prosecution, (d) prison survival reforms, and (e) credible monitoring and accountability.

*Priority actions at a glance*

1. **Build an exit-and-normalization decree** with verifiable safeguards tied to constitutional requirements.
2. **Launch a National Case Triage & Review Surge** to reduce the stock of weak-evidence and long-pretrial cases, starting with detainees held for over 12 months. It must use the the legal deadlines already embedded in Decrees 803/383 and IACHR due process standards.
3. **Remove arrest quotas** and replace them with a "case quality" dashboard (linked to corroboration and legality), directly addressing concerns flagged by IACHR and HRW.
4. **Amend the Decreto 383** (especially the possibility of judges imposing measures with only fiscal request, and the *Audiencia Única Abierta*).
5. **Implement a prison-plan** grounded in the Mandela Rules (file management, medical access, death documentation) plus Istanbul Protocol-aligned torture investigations.

### 5.1 Prioritized and concrete recommendations

Below are ten recommendations meant to be operational (who does what, when, and under which legal level). Time horizons are: short (0–3 months), medium (3–12 months), and long (12–36 months).

**1) Exit-and-normalization decree with hard benchmarks and a "default restore" rule**

**Rationale.** The Constitution requires temporariness (30-day limits; renewal only if circumstances persist) and obliges restoration of guarantees when circumstances disappear. The IACHR argues that current security indicators reported by the State suggest no continuing emergency that would justify ongoing suspension, and recommends ending the suspension.

**Implementation steps.**

- **Short:** the Assembly adopts an "Exit & Normalization Decree" that (a) commits to a fixed end date for suspensions, (b) defines measurable benchmarks ("Exit strategy"), and (c) requires a public, evidence-based necessity report before any renewal.
- **Short:** create a joint technical secretariat producing a monthly "security–due process dashboard," echoing the IACHR call for periodic data publication and accessible registers.
- **Medium:** introduce an automatic "default restore" mechanism: if the executive does not submit the necessity report by a set date, guarantees restore automatically (mirroring the constitutional logic that absent a renewal decree, guarantees re-establish full rights (*de pleno derecho*).

**Responsible actors.** Joint Secretariat: Asamblea Legislativa (Legislative Assembly); Consejo de Ministros (Council of Ministers); Ministerio de Seguridad (Ministry of Security); FGR – Fiscalía General de la República (Office of the Attorney General); Órgano Judicial (Judicial Branch); PGR – Procuraduría General de la República (Office of the Public Defender); Procuraduría para la Defensa de los Derechos Humanos (Office of the Human Rights Ombudsperson).

**Timeline.** Short adoption (within 30–60 days); medium full rollout (6–9 months).

**Risks & mitigation.**

- **Risk:** political accusation of "weakening security." **Mitigation:** anchor benchmarks in official homicide reporting and demonstrate that normalization follows objective security performance.
- **Risk:** manipulating benchmarks. **Mitigation:** publish methodology and enable independent audit (universities and international bodies).

**Precedent.** Constitutional restore "*when circumstances disappear*" duty (Art. 31) is a domestic precedent and legal obligation.

2) **National Case Triage & Review Surge using the deadlines already embedded in Decrees 803 and 383**

**Rationale.** The system's core instability is not only how many people are arrested; it is the gap between arrest and adjudication, especially where evidence is thin. The IACHR calls for periodic review, immediate release when maximum detention time or "reasonable time" is exceeded, and an end to mass hearings.

**Implementation steps.**

- **Short:** establish "Triage Cells" in each *city*: at least 1 prosecutor, 1 public defender, 1 judicial liaison and 1 case analyst. Their output is a weekly list of: (a) "high-harm / high-evidence," (b) "unknown," (c) "weak-evidence / long-pretrial," (d) minors/vulnerable persons.
- **Short:** prioritize all detainees held over 12 months and all minors first (the IACHR documents significant numbers of minors detained and urges special protection and reintegration under juvenile justice standards).
- **Medium:** create a "fast exit lane" where weak-evidence cases are either (a) indicted with individualized evidence within 60 days, or (b) moved to supervised release with conditions (reporting, geographic restrictions), or (c) dismissed, using existing dismissal triggers under 803/383 as leverage rather than letting the deadlines.
- **Long:** institutionalize this as a permanent "Case Review Unit" inside the FGR (separate from mass trials) that also studies patterns of wrongful detention.

**Responsible actors.** FGR (lead); Órgano Judicial; PGR (public defense); DGCP (custody records); PDDH (observer).
**Timeline.** Short: triage cells in 45 days. Medium: reduce long-pretrial stock within 6–9 months. Long: permanent unit by 18–24 months.

**Risks & mitigation.**

- **Risk:** releases trigger localized retaliation or extortion spikes. **Mitigation:** prioritize high-risk victim/witness protection for "high-harm" cases plus targeted surveillance of extortion corridors; keep focus on leadership and finance.
- **Risk:** institutional sabotage. **Mitigation:** publish throughput metrics: "% cases reviewed," "% indicted with corroboration," "median time detained without indictment."

**Precedent.** The UK's Criminal Cases Review Commission illustrates a standing body dedicated to reviewing potential miscarriages of justice and referring cases for reconsideration.

3) **Replace arrest quotas with "case quality" incentives and a legality-first arrest protocol.**

**Rationale.** The IACHR reports credible allegations of incentives to meet daily detention counts, including a claimed 1,000-per-day quota. HRW's 2025 investigation similarly describes quota pressure linked to arbitrary detention and evidence fabrication. When careers rise with arrest volume, error becomes a predictable output rather than an exception.

**Implementation steps.**

- **Short:** ministerial directive banning numeric arrest goals in performance evaluations; require supervisors to certify "no quota instruction" monthly.
- **Short:** adopt an "Arrest Legality Checklist" attached to every detention file: legal basis, time/place, notice to family, evidence items, and chain-of-custody markers.
- **Medium:** create a PNC dashboard where promotions depend on case integrity (share of arrests leading to individualized indictment within 90 days; share dismissed for lack of evidence; judicial findings of illegality).
- **Long:** equip high-risk units with body-worn cameras only for specific operations (not universal overnight), paired with strict evidence handling, designed as a prosecutorial tool.

**Responsible actors.** Ministry of Security; PNC leadership; IGSP/internal affairs; FGR liaison.
**Timeline.** Short: directive in 30 days. Medium: dashboard and promotion reform in 6–12 months. Long: targeted tech rollout in 12–24 months.

**Risks & mitigation.**

- **Risk:** officers shift from quotas to informal pressure. **Mitigation:** anonymous internal reporting plus random audits of arrest files.
- **Risk:** reduced "visible action." **Mitigation:** publish improved conviction rates in violent/organized crime cases instead of raw arrest totals.

**Precedent.** Litigation and oversight efforts around quota policing show how quota systems distort enforcement priorities and legality.

4) **Prosecutorial screening: minimum corroboration rules and structured "grouping" limits**

In El Salvador, where individuals are often prosecuted based primarily on their presence in areas territorially associated with gangs.

**Rationale.** Decree 803 allows grouping using broad criteria at prosecutorial discretion. Decree 383 permits segmented indictments and ongoing processing. Without a minimum corroboration rule, "grouping" can become a pipeline for weak cases.

**Implementation steps.**

- **Short:** FGR issues an internal directive: no indictment for "belonging" offenses without at least two independent corroboration sources (e.g., telecom data, witness, financial trace and surveillance).
- **Short:** require prosecutors to flag the evidentiary basis for each person in a grouped file ("*what ties this individual to the structure*"), not just to the neighborhood.
- **Medium:** create a dedicated "Corroboration Support Desk" inside FGR that helps line prosecutors build admissible evidence packages (financial analysis, telecom orders, chain-of-custody templates).
- **Long:** build a conviction integrity or post-conviction justice unit to review allegations of fabricated evidence and systemic case errors.

**Responsible actors.** FGR (lead); forensic police; judiciary for warrants; financial intelligence bodies (where applicable).
**Timeline.** Short directive in 30–45 days; medium capacity build 6–12 months; long unit 18–30 months.

**Risks & mitigation.**

- **Risk:** fewer indictments short-term. **Mitigation:** prioritize high-harm crimes (extortion, homicide conspiracy, weapons trafficking) to keep deterrence high while quality improves.
- **Risk:** prosecutorial culture resists. **Mitigation:** publish "quality metrics" and protect prosecutors who dismiss weak cases.

**Precedent.** Prosecutor-led conviction review / integrity work has matured into toolkits and best practices (CIUs/CRUs), including guidance on separating review from adversarial trial incentives.

5) **Emergency habeas corpus and defense-access restoration: a 90-day "right to be found" program**

**Rationale.** The IACHR documents massive habeas corpus inflows and extreme delays: 4,012 petitions received March 2022–Jan 2023 with 78% pending at that time; additional data show 5,198 petitions March 2022–June 2023 with only 28% resolved by that point. This is not only a rights problem; it is a capacity failure that produces rumor, anger, and delegitimization.

**Implementation steps.**

- **Short:** Supreme Court creates a temporary "Habeas Surge Chamber" with strict internal deadlines (e.g., 7 days to locate detainee; 14 days to issue a reasoned ruling).
- **Short:** mandatory DGCP (General Directorate of Prisons)/PNC (National Civil Police)/FGR data response to habeas requests within 48–72 hours, tied to sanctions for noncompliance.
- **Medium:** guarantee confidential lawyer–client contact (including private communication) and remove the practical barriers to defense access highlighted by IACHR.

- **Long:** digitize habeas filing and detention location tracking using a single detainee ID (see prisoner file management below).

**Responsible actors.** Corte Suprema (Supreme Court) / Sala de lo Constitucional (Constitutional Chamber of the Supreme Court of Justice); DGCP; PGR (public defense); FGR; PDDH.
**Timeline.** Short: surge chamber in 30 days; medium: pending cases reduced in 6 months; long: digitized system in 12–24 months.

**Risks & mitigation.**

- **Risk:** flood of claims continues. **Mitigation:** fast triage and standardized information requests reduce duplication.
- **Risk:** noncompliance by custodial authorities. **Mitigation:** automatic adverse inference rules (if the state cannot locate or justify detention quickly, courts presume illegality).

**Precedent.** The IACHR's recommendations emphasize due process guarantees and effective judicial control; the Commission also calls for accessible detention registers for detainees and defenders.

6) **Amend Decree 383 to remove the "judge imposes measures with only the fiscal request" logic and the open-ended hearing model**

**Rationale.** As mentioned, **Decree 383** provides that, with the fiscal request and "with the sole view of the request", the judge will impose the requested precautionary measure. The IACHR warns that automatic preventive detention violates its purpose and worsens overcrowding and inhuman conditions. It also calls for ending mass hearings and restoring defense guarantees.

**Implementation steps.**

- **Short:** legislative amendment requiring a contradictory hearing before imposing detention, with defense access to the basis for detention.
- **Short:** impose a hard cap: *Audiencia Única Abierta* may not be used to keep individuals in pretrial detention beyond X months without individualized judicial findings and

periodic review (consistent with the IACHR call for periodic review and release when maximum/reasonable time is exceeded).

- **Medium:** require structural cases to be segmented into manageable cohorts with individualized evidence summaries per defendant.
- **Medium:** for minors, reverse the drift toward adult-logic handling: Decree 383 frames juvenile judges as guarantee-only in these cases; IACHR recommends aligning juvenile justice reforms with inter-American standards.
- **Long:** rescind emergency-era procedural exceptions and return to ordinary criminal procedure once benchmarks are achieved.

**Responsible actors.** Asamblea Legislativa; Órgano Judicial; FGR; PGR.
**Timeline.** Short: amendment within 90 days; medium: implementation 6–12 months; long: full normalization in 18–24 months.

**Risks & mitigation.**

- **Risk:** courts overwhelmed. **Mitigation:** streamline hearings and triage prioritization; reduce low-evidence detention intake so courts spend time where it matters.
- **Risk:** political backlash. **Mitigation:** pair reform with publicly reported security outcomes and improved conviction quality in high-harm cases.

**Precedent.** IACHR recommendations explicitly include removing mandatory preventive detention rules and ceasing mass hearings, useful as an inter-American standards anchor.

7) **A 100-day prison survival plan using the Mandela Rules, focused on deaths in custody and basic detention conditions**

**Rationale.** The IACHR warns that mass incarceration tripled overcrowding in some months and produced inhuman conditions, with particular concern about deaths in custody and the need for investigation and remedies. The **UN Nelson Mandela Rules** require standardized prisoner file management systems and documentation of injuries and deaths, alongside equivalent access to healthcare.

**Implementation steps.**

- **Short (0–100 days):** create a single prisoner file system (digital if possible) including: legal basis, court status, medical intake, transfers, and mandatory documentation of injuries/deaths (Mandela Rules emphasize standardized file systems and recording the circumstances of death).
- **Short:** mandatory medical screening at intake; ensure potable water, sanitation, and minimum nutrition baselines (consistent with IACHR calls to remedy minimum detention conditions).
- **Medium:** establish an independent "Deaths in Custody Review Panel" (doctors and ombudsperson participation) with anonymized public reporting.
- **Medium:** restore regular family visits with security protocols (IACHR recommends guaranteeing regular visits and ending total bans).
- **Long:** capacity management: prohibit new admissions into facilities above official capacity, consistent with IACHR recommendations to prevent further overcrowding.

**Responsible actors.** DGCP; Ministry of Security; Ministry of Health; Institute of Legal Medicine; FGR; PDDH.
**Timeline.** Short: 100-day baseline; medium: 6–12 months stabilization; long: 12–36 months capacity governance.

**Risks & mitigation.**

- **Risk:** contraband through visits. **Mitigation:** controlled scheduling, screening tech and graduated privileges.
- **Risk:** reputational impact of publishing death data. **Mitigation:** opacity is a higher long-term cost; publish with methodology and corrective actions.

**Precedent.** The UN Nelson Mandela Rules codify global minimum standards, including prisoner file systems and death documentation.

**8) Torture and ill-treatment investigations aligned with the Istanbul Protocol, not internal "closed loops"**

**Rationale.** IACHR calls for urgent, impartial investigations into deaths and torture allegations under state custody. The **Istanbul Protocol** (2022 edition) is the UN-recognized standard for investigating and documenting torture and ill-treatment.

**Implementation steps.**

- **Short:** designate specialized prosecutorial teams for custody abuse cases, require immediate medical exams by professionals trained in Istanbul Protocol documentation.
- **Medium:** establish procedures for medical evidence, photos, and injury documentation through standardize forms.
- **Medium:** protect internal reporters inside prisons and police.
- **Long:** embed Istanbul Protocol training into police, prison staff, prosecutors, judges, and forensic doctors.

**Responsible actors.** FGR; Institute of Legal Medicine; DGCP; judiciary; PDDH.
**Timeline.** Short: protocol adoption within 90 days; medium: operational training 6–12 months; long: institutionalization 18–36 months.

**Risks & mitigation.**

- **Risk:** retaliation against complainants. **Mitigation:** confidentiality, protective transfers, independent monitoring visits.
- **Risk:** politicization. **Mitigation:** publish anonymized compliance indicators and commission periodic external audits.

**Precedent.** Istanbul Protocol provides internationally accepted investigative standards and court-credible documentation templates.

9) **Build independent monitoring: detainee registry access and prevention mechanism consistent with OPCAT logic**

**Rationale.** IACHR recommends an updated, accessible register of all people deprived of liberty, including prisons and temporary holding places, accessible to authorities, defenders, and families.

Internationally, **Optional Protocol to the Convention Against Torture (OPCAT)** based systems rely on independent preventive visits via National Preventive Mechanisms (NPMs).

**Implementation steps.**

- **Short:** implement a single detainee ID, location, legal posture, health status flags, and lawyer-of-record, accessible to PGR (Office of the Public Defender), courts, and families (with privacy safeguards), in line with IACHR guidance.
- **Medium:** create a domestic independent detention monitoring body based on visiting/monitoring boards with unrestricted access to facilities and detainees.
- **Long:** move toward a full preventive mechanism aligned with OPCAT principles (independence, access, regular visits, recommendations).

**Responsible actors.** Asamblea Legislativa; PDDH; DGCP; judiciary; civil society (where safely possible).
**Timeline.** Short: registry within 3 months; medium: monitoring body 6–12 months; long: preventive mechanism 12–36 months.

**Risks & mitigation.**

- **Risk:** shrinking civic space makes participation risky (the International Federation for Human Rights (FIDH) documents harassment/detention of defenders and warns about restrictive laws). **Mitigation:** mixed monitoring (medical associations, universities) and international accompaniment where feasible.

**Precedent.** UK Independent Monitoring Boards provide a statutory model with unrestricted detention-site access to monitor conditions.

### 10) Reparations, recognition, and record-clearing for wrongful or unproven detentions

**Rationale.** IACHR explicitly recommends creating a registry of victims of human rights violations committed during detention and persecution under the emergency, and implementing an integral reparations plan incorporating gender and vulnerability perspectives. Without

recognition and record-clearing, people released from unjust detention remain socially "sentenced" through stigma and exclusion, outcomes that undermine long-term security.

**Implementation steps.**

- **Short:** establish a Victims Registry (administrative, not judicial) with three categories: (a) proven violations (court/ombudsperson finding), (b) strong indicators (medical/torture documentation), (c) wrongful detention without individualized evidence.
- **Medium:** introduce rapid remedies: reinstatement support, and emergency monetary/food support for families harmed by detention (especially where the detained was the main income).
- **Long:** build a compensation and services package (healthcare, trauma support, employment placement), and a mechanism to revisit cases where fabrication is confirmed.

**Responsible actors.** Asamblea Legislativa; PDDH; Ministry of Social Development; judiciary; FGR (investigation dimension).
**Timeline.** Short: registry in 90 days; medium: initial remedies 6–12 months; long: full reparations 18–36 months.

**Risks & mitigation.**

- **Risk:** fiscal and political resistance (idea of "paying criminals"). **Mitigation:** strict eligibility criteria + transparency; emphasize rule-of-law legitimacy and security dividends.

**Precedent.** Colombia's demobilization-era Justice and Peace framework (Law 975 of 2005) illustrates how states can combine accountability with victim-centered repair mechanisms after mass violence.

### 11) Reintegration for low-risk detainees and gang exit, paired with extortion suppression

**Rationale.** Keeping tens of thousands in *limbo* produces a long-term reintegration crisis. IACHR stresses juvenile reintegration as a central goal in youth justice and notes the harms to families

from mass incarceration. At the same time, regional analysis points to reported improvements beyond homicide (including extortion indicators), suggesting space to pivot from detention toward targeted control.

**Implementation steps.**

- **Short:** define a category for detainees with weak evidence and no violent indicators: supervised release, mandatory check-ins and job placement referral.
- **Medium:** create municipal reintegration hubs (ID replacement, mental health, basic skills, job matching).
- **Medium:** scale targeted extortion suppression teams (e.g., financial tracing, telecom warrants) so security does not rely solely on arrests.
- **Long:** formalize a gang exit pathway for non-leaders: renunciation, restorative obligations, monitoring and employment, designed to reduce recruitment.

**Responsible actors.** Ministry of Security; FGR; municipalities; Labor and Social Development Ministries; private sector.
**Timeline.** Short pilots within 3 months; medium scale 6–18 months; long institutionalization 18–36 months.

**Risks & mitigation.**

- **Risk:** public backlash if a released person re-offends. **Mitigation:** careful risk-screening, rapid response protocols.
- **Risk:** services capacity. **Mitigation:** start small, focus on high-return cohorts (youth, vulnerable groups, first-time detainees).

**Precedent.** Prosecutor and practitioner toolkits on exit/review and integrity programs offer "second look" models; community intervention approaches show why pairing enforcement with reintegration reduces re-entry and recruitment.

### 12) Protect monitoring capacity and civic oversight as a security asset

**Rationale.** The IACHR emphasizes that freedom of expression and transparency are essential during emergencies, and calls on the state to avoid hostile environments for journalists and human rights defenders. FIDH documents arbitrary detention and harassment against defenders and warns that restrictive legal frameworks threaten civil society's ability to operate.

**Implementation steps.**

- **Short:** publish a narrow "use of emergency provisions policy" and require written authorization for politically sensitive arrests.
- **Medium:** create a rapid response defender-protection mechanism (legal support and protective measures).
- **Long:** review restrictive frameworks that impede independent monitoring and reporting, and reform them to restore credibility and cooperation.

**Responsible actors.** Asamblea Legislativa; executive; judiciary; PDDH.
**Timeline.** Short policy within 60 days; medium mechanisms 6–12 months; long legal reform 12–24 months.

**Risks & mitigation.**

- **Risk:** politicization of the "defender" label. **Mitigation:** objective criteria + third-party verification.

**Precedent.** IACHR recommendations on protecting journalists and transparency in emergencies provide a clear regional normative benchmark.

### 5.2 Exit strategy benchmarks and visuals

Exit benchmarks are designed to be measurable and to protect the government from claims by tying restoration to demonstrated performance.

**Security benchmarks (maintain gains):**

- Maintain low intentional homicide totals and rate as reported by official sources (FGR annual totals; ministry rate claims).
- Sustain extortion reductions consistent with reported trends (use official methodology where available).

**Due process benchmarks (stop system debt):**

- Reduce habeas corpus backlog by ≥50% within 6 months and enforce maximum response times (IACHR shows the scale of backlog).
- Increase the share of detainees with confirmed defense access and individualized evidence summaries; end mass hearings (explicit IACHR recommendation).

**Detention condition benchmarks (reduce prison mortality risk):**

- Implement standardized prisoner file system and publish anonymized death-in-custody reporting with investigations opened for each death (Mandela Rules + Istanbul Protocol).

*Key sources used*

Primary and official Salvadoran sources included: the Constitution's emergency regime provisions (Arts. 29–31); the emergency decree's suspension clause (Decreto 333, as published by the Legislative Assembly); procedural reforms shaping mass processing (Decreto 803 and Decreto 383); official homicide statistics published by FGR; and Ministry of Security public reporting on the homicide rate and security outcomes, alongside official Assembly communications confirming repeated extensions (2022–2026).

NGO and regional human rights sources used included: the IACHR thematic report and recommendations on the state of exception; Human Rights Watch reporting on police abuses and quota-driven practices; Due Process of Law Foundation reporting on arbitrary detentions; and FIDH documentation of shrinking civic space and arbitrary detention of defenders. Academic and comparative references included *Journal of Democracy*'s analysis of the "Bukele model" and peer-reviewed research on prison visibility and rights under the emergency context.

*Comparative Policy Pathways Under the State of Exception*

To assess future trajectories, this section compares three possible policy pathways under the state of exception.

**Status quo**

| Category | Description |
|---|---|
| In practice | Monthly extensions; high-volume arrests; long pre-trial timelines under 803/383; limited transparency; continued mass processing |
| Direct fiscal cost (relative) | High and rising (custody, courts) |
| Political feasibility (near-term) | High (matches current governing narrative and incentives) |
| Expected security outcomes (12–24 months) | Homicides likely remain low if territorial control continues, but with growing "system debt" (prison overcrowding) |
| Expected rights / legitimacy outcomes | Continued erosion of due process; high risk of arbitrary detention, torture allegations, deaths and isolation |

**Reformist (recommended)**

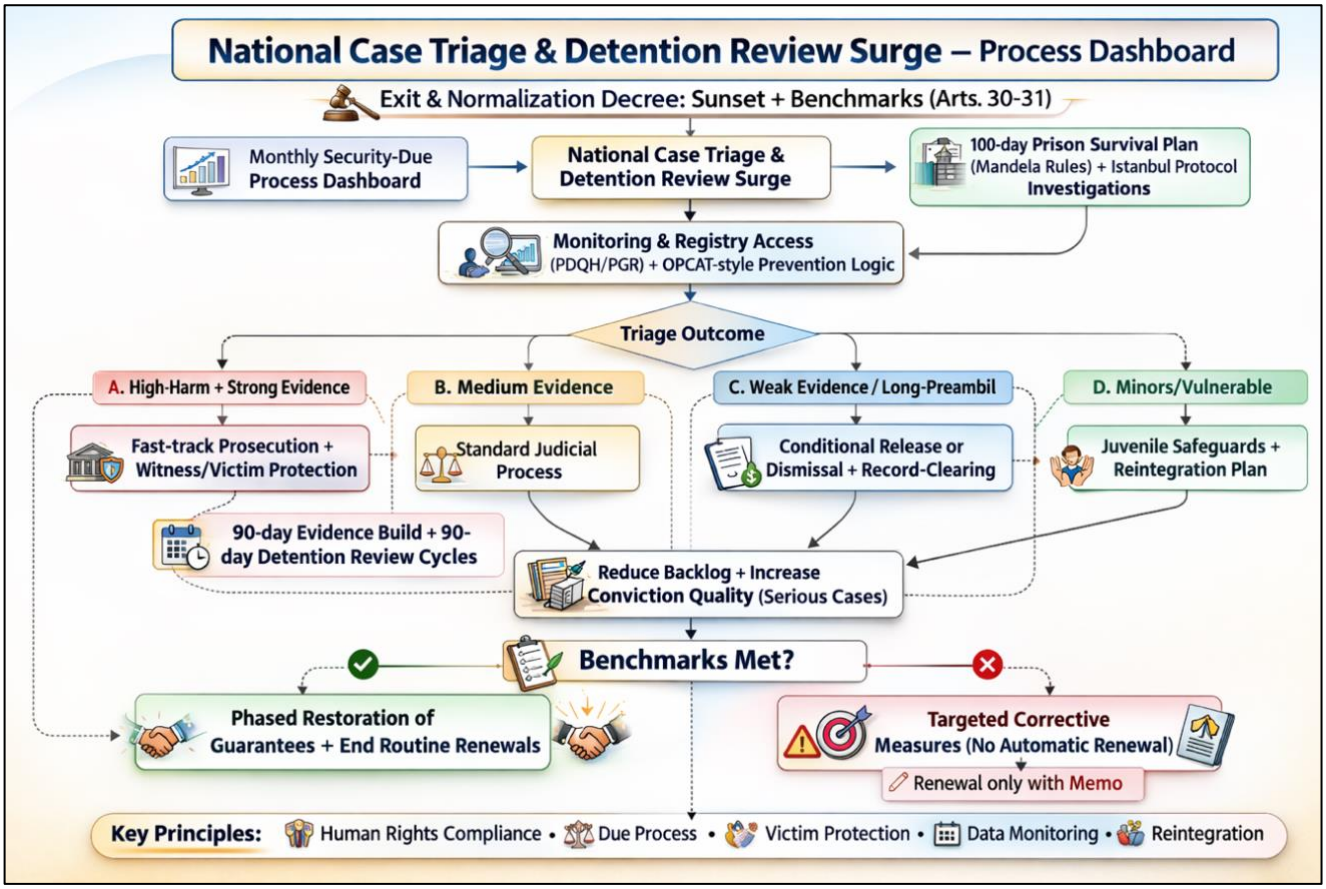
| Category | Description |
|---|---|
| In practice | Keep targeted anti-gang capacity, but add exit benchmarks; rapid case triage; end quotas; amend 383/803; prison survival plan; international monitoring |
| Direct fiscal cost (relative) | Medium (loaded on systems and reviews; savings from fewer unnecessary detentions) |
| Political feasibility (near-term) | Medium–High if framed as "security consolidation" |

| Category | Description |
|---|---|
| Expected security outcomes (12–24 months) | Maintains low homicide while improving prosecutorial success in high-harm cases; reduces prison risk |
| Expected rights / legitimacy outcomes | Meaningfully reduces arbitrary detention risk; restores judicial credibility; improves international standing |

**Rights-centered**

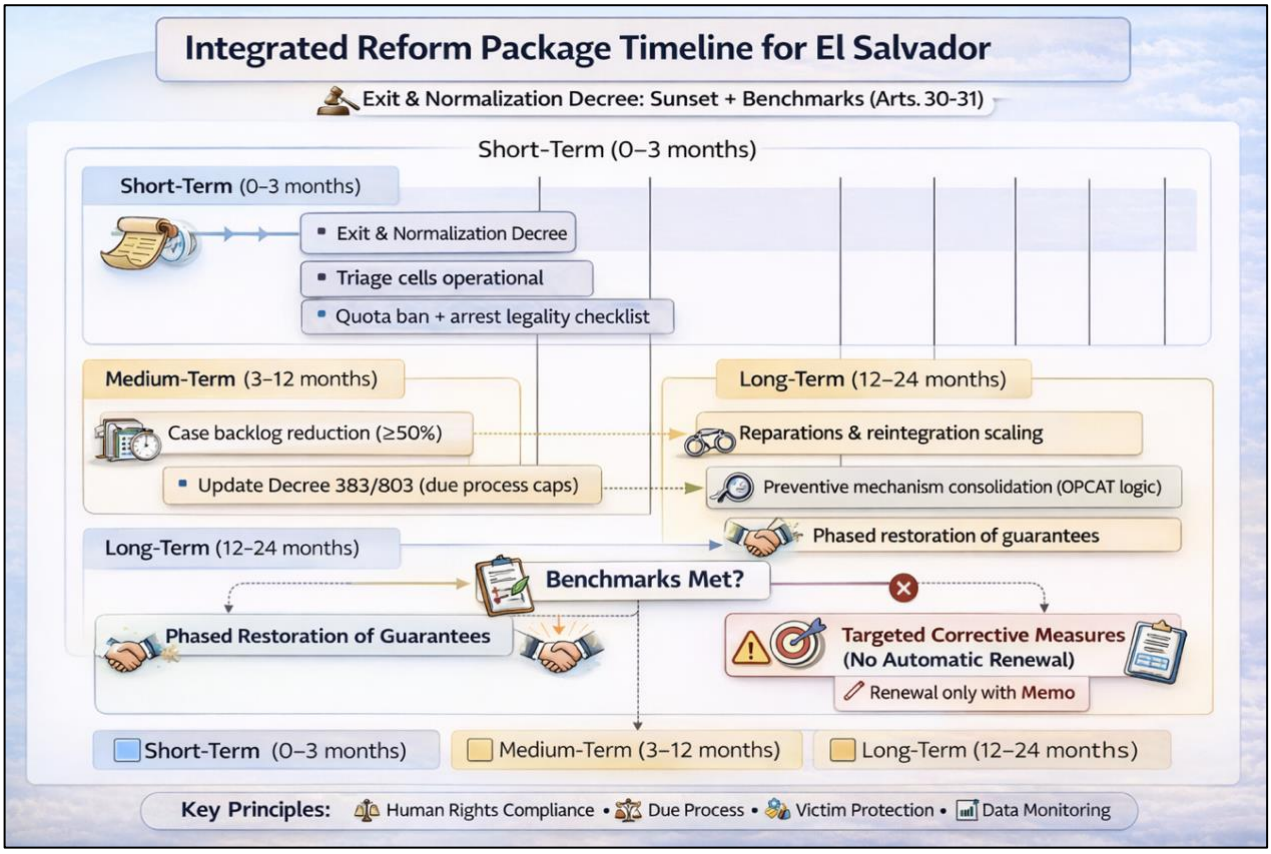
| Category | Description |
|---|---|
| What it looks like in practice | Rapid end to emergency; broad releases where evidence is weak; deep institutional reform; expanded social prevention |
| Direct fiscal cost (relative) | Medium–High (large reintegration and oversight apparatus) |
| Political feasibility (near-term) | Low–Medium (requires major political repositioning) |
| Expected security outcomes (12–24 months) | Depends on readiness of intelligence/prosecution; risk of short-term volatility if sequencing fails |
| Expected rights / legitimacy outcomes | Strong rights compliance; long-term democratic resilience if implemented with capacity |

*National Case Triage and Detention Review Surge – Process Dashboard*




This figure summarizes the case-triage and detention review system that differentiates detainees by evidentiary strength and vulnerability. It links prosecutorial pathways to due process safeguards, conditioning the restoration of constitutional guarantees on measurable benchmarks.

*Integrated Reform Package Timeline for El Salvador*




Finally, this figure summarizes the reform's timeline linking an exit and normalization decree to short, medium, and long-term benchmarks for restoring such constitutional guarantees.

# 6. Conclusion

## 6.1. Summary of findings: answering the research question

For decades, gang violence shaped ordinary life of citizens and families in El Salvador. Through intimidation and territorial domination, criminal gangs maintained control over entire neighborhoods and communities, producing a climate of constant fear. As insecurity became the defining feature of national life, Salvadorans were ready to support a leader who promised, finally, the idea of a change.

El Salvador's security transformation has become one of the most observed and debated in Latin America, and in the world. Indeed, for many Salvadorans, the Territorial Control Plan brought tangible results: freedom of movement increased, public spaces reopened, and state presence returned. However, this thesis has argued that the TCP and its prolonged state of exception did more than combat violence and crime. It has reshaped institutions and governance, prioritizing security through mass detention and weakened democratic oversight.

The governmental approach, by combining coercive instruments and a powerful communication strategy, framed exceptionality as salvation. Evidence from human rights organizations suggested significant costs in terms of human rights and civil liberties, while literature on populism and securitization theories explained how such costs were politically justified and socially normalized.

The case suggests that the *security–liberty trade-off* is not only a matter of policy design but also of narrative construction. It demonstrated that legitimacy for restrictive security governance can be maintained through emotional, visual, and identity or personal framing, particularly when the public has experienced decades of prolonged insecurity.

El Salvador's model has, indeed, increasingly been treated as an example for security policy across the region. Honduras, Ecuador, Guatemala, and other countries have adopted or considered similar hardline measures, often framing gang violence as "terrorism" or internal armed conflict as well.

While these policies promise rapid results, analysts warn that they may not translate effectively across different legal and political contexts.

*Reassessing El Salvador's Security Transformation*

Three main findings emerge from the empirical analysis. First, incarceration became the central pillar of the TCP, overshadowing prevention, rehabilitation and social policy. Second, the state of exception shifted from a temporary measure to a normalized form of governance, lowering the threshold of legality. Third, that sustained public support was maintained through populist securitization and media strategies that framed criticism as opposition to public safety and the will of *the people*.

By portraying insecurity as a permanent emergency, violence can become a standing rationale for exceptionality. Even if the President eventually lifts the state of exception, the institutional transformation that occurred before, during and after its implementation may be far more lasting. The notion that security and democracy exist in opposition is a misleading ***trade-off***: in the long run, weakening safeguards to achieve short-term security can produce instability rather than prevent it. Once institutions adapt to exceptionality, returning to ordinary rule of law becomes extremely difficult.

Furthermore, future research could explore whether temporary expansions of executive authority become further embedded in ordinary governmental practices and institutions. It would also be important to assess, clearly, whether reductions in violence and homicides are sustained once emergency powers are lifted. Finally, comparative and regional studies could examine how this security approach can navigate across borders, by assessing the application of the Salvadoran model in other high-risk countries, particularly Latin American states that are already drawing inspiration.

***The balance between peace and its cost, as well as the security–liberty trade-off, remains an unresolved question. To ensure that progress does not come at the cost of a nation's democracy and the well-being of its citizens, a balance has yet to be found.***

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***I declare the use of ChatGPT as a generative AI tool to assist with reformulation and restructuring purposes.***