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Columbia University's
Center for Mexico and Central America

CeMeCA's REGIONAL EXPERT PAPER SERIES | No. 4

The Democracy Crisis in El Salvador: An Overview (2019-2022)

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September 2022



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The Center for Mexico and Central America is a hub of scholarly activities on Mexico and Central America located at Columbia University.

The author wishes to thank colleagues in and from El Salvador for input on this content, Amelia Frank-Vitale and Lauren Heidbrink for the opportunity to contribute to this series, two anonymous reviewers for helpful feedback, Annika Falconer for editing assistance, and Ana Cardenas of CeMeCA.

Key Words: El Salvador, democracy, crisis, backsliding, violence.

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1. ABSTRACT

This paper examines the current democratic breakdown in El Salvador, identifying factors and events in the country from 2019 to 2022 that have led to democratic backsliding, the process by which democracy as a political system loses traction. Indicators of backsliding show that El Salvador's shared characteristics of liberal democracy — free and fair electoral procedures accessible to all; freedoms of the press, to assembly, and to express political opinions; the rule of law; and basic human rights protections — are in peril. Given the events of the last several years under President Nayib Bukele, El Salvador's regime more closely resembles democratic failure facilitated by populist authoritarianism rather than one of democratizing momentum that it embodied in the first part of the twenty-first century.

2. INTRODUCTION: EL SALVADOR'S DEMOCRATIC IMPLOSION

This short paper examines El Salvador's dramatic decline in democratic regime quality. It is based on my nearly twenty years of research in and on El Salvador. Democracy is a multifaceted institutional system and may look different across countries in comparative perspective. Political scientists broadly concur that to hold the democratic regime label, there are some required universal components regardless of cultural context, such as free and fair elections and basic political freedoms and civil rights protections (Dahl 1971, Page and Gilens 2020, Schmitter and Karl 1991, Weber 1957). While the brief absence of any one indicator of democratic behavior (such as freedom of speech, freedom of the press, or freedom of assembly) would not necessarily undermine El Salvador's entitlement to its democratic label, when taken together, the growing number and potency of indicators of democratic backsliding jeopardize the country's democratic status. In El Salvador, over the past two years, there has been a rapid democratic backsliding process leading to a political regime no longer sustained in liberal democratic principles.

Liberal democratic systems are those that include basic rights to individual and collective freedoms such as the freedom to assembly, press, political organization, and checks and balances in government, among other things. Liberal democracies, as a baseline, are characterized by respect for the rule of law and the protection of the human rights of all citizens, majorities and minorities alike (Conte 2001). Regimes that are liberal democracies are understood to protect categories of people in certain ways and have long-term institutional capacity to maintain democratic rights over time (Canterbury 2005, Kymlicka 1995, Mahoney 2001).

Long-time observers of El Salvador may rightfully argue that El Salvador has no claim to the democratic label to begin with, given that the country went from authoritarianism to civil war to a post-war governance arrangement characterized by elite capture and then to gang capture, with high levels of violence characterizing each of these stages. However, since 2009, the international community has generally recognized that El Salvador meets the minimum definition for a consolidated democracy, which requires a peaceful change of government through free and fair elections. The international community has generally recognized that this process occurred sufficiently enough in El Salvador in 2009 and 2014 to merit the democratic label. To be clear, this does not mean that all Salvadorans have qualitatively experienced daily life in their country as democratic. Rather, El Salvador has demonstrated certain bureaucratic and political procedures that allowed for political scientists to code it as democratic.

In recent times, even El Salvador's admittedly tenuous hold on the democracy label has broken down, as evidenced in the current political crisis. This includes executive- and legislature-mandated arbitrary arrests (Al Jazeera 2022); targeting of civil society actors, including journalists, judges, academics, and human rights defenders (Amnesty International 2022, Labrador and Gavarrete 2022, Monge 2022); state collusion with gangs (Martínez 2022); and manipulation of presidential term limits and reelection rules. In sum, by 2022, El Salvador's political regime no longer meets the minimum qualifications of a liberal democracy.

3. DEMOCRACY AND DEMOCRATIC FAILURE

El Salvador's path to democracy has not been easy, which makes the current political crisis all the more troubling. From the civil war (1980 to 1992), El Salvador inherited rampant impunity that characterizes contemporary approaches to addressing, or not addressing, violence and corruption. Such characteristics are not solely Salvadoran, but rather are part of the complicated legacy of U.S. military intervention in the civil war on the side of the Nationalist Republican Alliance (Alianza Republicana Nacionalista, ARENA) party. U.S. intervention in the Salvadoran civil war was deterministic in tipping the war in favor of ARENA and led to widespread human rights abuses, including sexual violence, assassinations, and massacres (Gellman 2017b, Gómez 2003: 123-156, Wood 2003). The steadfast support of the United States for ARENA, both before and after the Peace Accords, gave the party cover for impunity. Immediately following the release of the Truth Commission findings in 1993, the Salvadoran Congress passed the General Amnesty Law for the Consolidation of Peace (Ley de Amnistía General para la Consolidación de la Paz), which prevented holding perpetrators accountable for any human rights violations during the civil war. In 2016,

the Supreme Court of El Salvador struck down the law, but, as discussed below, in 2021, legislation forcing the retirement of senior judges essentially reinstated impunity for war crimes (Bonner and Rauda 2021).

I have written elsewhere about the dynamics of the civil war and its impact on Salvadorans, especially women and girls (Gellman 2014), Indigenous peoples (Gellman 2019), and contemporary Salvadoran social movement tactics (Gellman 2017a). In all of these examples, it is clear that state responsibility for citizen wellbeing did not pick up after the civil war in ways that created a strong social contract, particularly for marginalized citizens. Salvadorans who identify as working class, Indigenous, or female, for example, did not experience the same mutual reciprocity of the rights and responsibilities—the basic framework of the democratic social contract—that their more upper class, whiter, or male counterparts did.

Unequal social stratification operates in the context of El Salvador's weak rule of law, a legacy of the civil war and its aftermath. The rule of law is imperiled in the country for both internal and external reasons. Internally, impunity for both past state violence, and current gang violence are both left virtually unchecked (Lemus 2022). There are some laws on the books that, in theory, protect people from insecurity. In practice, however, laws such as those that criminalize violence against women, for example, are not enforced in a majority of cases. Corruption of police and the judiciary by gangs and other actors is a leading factor in lack of enforcement, which is rooted in both a lack of state capacity and a lack of political will. Year after year, U.S. State Department reports on human rights in El Salvador describe acts of corruption in multiple sectors of Salvadoran institutions that jeopardize basic democratic protections (US Department of State 2021: 21-3, 2019: 15-7).

As my research on state accommodation notes, capacity challenges for state institutions can theoretically be addressed with increased resources, such as additional training and technical assistance, but such recipes for fixing entrenched problems often fall flat in implementation. For example, police officers may not understand how to interact with female abuse survivors in ways that do not retraumatize or revictimize. Frequently police officers do not even believe female abuse survivors who report abuse, or police believe that victims provoked or merited the abuse, and as a result, officers often refuse even to register complaints, to intervene, or to pass case information up the chain to be investigated. Police officers can be provided with training and information about power-based violence and how to better support victims of abuse. Yet having the information does not necessarily mean police change their quotidian practices in ways that actually reduce trauma or lead to effective investigations of crimes.

In the course of my own research, I have seen how patriarchal gender norms designate a lower place in the social hierarchy for women and girls than for men and boys, and how such hierarchies may also inform state-citizen interfaces such as police treatment of female survivors. A lack of political will to uphold laws that should protect

women and girls may be visible in police behavior that ascribes gender-based violence as normal and something that women and girls “deserve” based on how they dress or behave. There are echoes of this “blame the victim” approach in the Salvadoran government’s claiming that the increase in disappearances in 2021 resulted from teenagers running away from home on their own volition (Paarlberg 2022). In fact, between 2014 to 2019, the Attorney General’s Office (Fiscalía General de La República, FGR) received more than 22,000 reports of disappearances, or roughly 3,600 annual disappearances per year over six years (FESPAD 2021: 19). This trend has been quite constant, with the numbers of disappearance cases similar in 2020, 2021 and 2022. Even these high numbers are very likely an underestimation of the total numbers of disappearances. A 2017 national survey on violence showed that due to a lack of trust in the authorities, only six percent of women say they would report violence to the police (FESPAD 2021: 30).

While El Salvador’s homicide rate has appeared to drop in recent years, a corresponding increase in disappearances has caused speculation that directives from the highest levels have been given to gangs to hide bodies of victims better, in exchange for perks for incarcerated gang leaders, including access to cell phones and sex workers (Bernal and Segura 2021, Lemus 2022). There is roughly a one percent resolution rate for disappearance cases investigated by the Prosecutor’s Office (US Department of State 2021: 4). High rates of femicide also have continued even with a drop in homicides, routinely keeping El Salvador at the top of the list in this category of violence. Statistical manipulation, alongside failing to investigate gender-based crimes, or to provide survivors with immediate protection from abusers, are evidence of lack of political will. This lack of political will is intertwined with capacity challenges. Taken together, such issues operate as additional variables that inhibit liberal democratic practices.

4. GANGS AND GANG VIOLENCE

Upholding the rule of law in El Salvador is especially challenging in the context of gang violence, state violence, and impunity of both. The story of El Salvador’s gangs originating in the United States is well-documented (Zilberg 2011). Briefly, more than one quarter of the Salvadoran population, roughly five million in 1990, migrated or fled during the civil war (1980-1992). Large numbers of Salvadorans came to urban spaces like Los Angeles, where children turned to gang membership for social survival in high conflict environments that already had established gang cultures. For protection and identity affirmation, Salvadoran youth joined one of the two Salvadoran-identified gangs at the time: Barrio 18, also known as the 18th Street Gang or M-18, or Mara Salvatrucha (MS-13).

In the 1990s, as part of several tough on crime measures by successive U.S. administrations, Salvadorans who had criminal records or were otherwise identified as probable gang members in Los Angeles were deported to El Salvador. There, they found little support from estranged family or community networks, and very limited employment opportunities. Some deportees sought out other gang members they had known in Los Angeles, or formed their own cliques of gangs. Eventually, for economic and social survival, these cliques integrated into the Barrio 18 or MS-13 structures.

As Salvadoran gangs grew and evolved, they dramatically consolidated their physical and political strength in El Salvador. My ethnographic research in the country attests that unequal access to insufficient resources (e.g. clean water, sufficient food, education, health care, jobs) continues to be an underlying driver of conflict. The reality of resource deprivation combined with lack of opportunity for upward mobility through legitimate employment continues to funnel Salvadoran youth into gangs, which have transformed from small groups into systematic organizations with institutional memory and high capacity for running businesses and maintaining spatial and social control.

Contemporary gangs in El Salvador are powerful political actors that exert subnational control through terrorization of and violence towards Salvadoran citizens. For example, from years of interviews with Salvadorans and analysis of local news and country reports, I have traced how torture and public display of murdered victims is a routine tactic that gangs use to exercise power over communities as well as state actors such as police and military personnel. The prevalence of violence in El Salvador is accompanied by a culture of fear and distrust of both gangs and of the state (Córdova and Layton 2015), both lead actors in human rights abuses historically and in the present day.

Many neighborhoods in El Salvador are controlled by one gang or another even though most of the people living there are not themselves gang members, and in these spaces a high degree of non-resistance to the gang's control is part of daily survival. Freedom of movement is curtailed by gangs. People living in one gang territory cannot freely travel to an area controlled by another gang, even in public transportation (US Department of State 2021: 17). It is both well-known and documented that citizens, including everyday residents as well as police and other state employees, from garbage collectors to judges, will be killed if they do not follow gang directives to pay money to gang extorters, hide gang members when requested, and keep silent about witnessed crimes (Córdova 2019). Journalists have documented the high prevalence of graffiti in gang-controlled neighborhoods that translates to “see, hear, be silent,” a gang maxim that makes clear the expected complacency from everyone, gang members and non-gang members alike (Ahmed 2017, Martínez D'aubuisson 2019).

This complacency allows gangs to operate as “shadow states” that perform many of the functions of states in terms of controlling territory, institutions, and social meaning from their location in the criminal margins (Reno 2000). Gangs mimic state behaviors

of taxation, redlining, and fostering civic loyalty in numerous ways. Throughout the years of doing research in and on El Salvador, I have analyzed repeated descriptions of how gangs conduct institutionalized practices of extortive rent-collecting, movement control, and social loyalty management that contribute to the erosion of civic and political culture (Boerman and Golob 2020, Córdova 2019, Paarlberg 2021, Wolf 2017). Even without specialized technology, gangs monitor neighborhoods in many places heavily, simply by posting members on streets to account for people's coming and goings, so any new arrival can be noted in a territory and communicated to local or regional gang leaders.

When an individual acts against a gang in any way, the gang commonly harasses, threatens, tortures or even kills the individual or their family members in order to punish them and maintain their control in the community. As a recent report documents, of the deportees killed or tortured upon their return, many of them were attacked by the same people they fled in their initial migration (Human Rights Watch 2020). Many researchers and journalists have documented how gangs have become an everyday reality of Salvadoran life (Ahmed 2017, Kinosian, Albaladejo and Haugaard 2016, Wolf 2020). Beyond direct physical violence from gangs, which can include assassination, rape, torture, and a range of other physical attacks, violence also occurs through psychological terrorization and economic extortion. Taken together, these cumulative harms create a context of human insecurity in which Salvadoran politics play out.

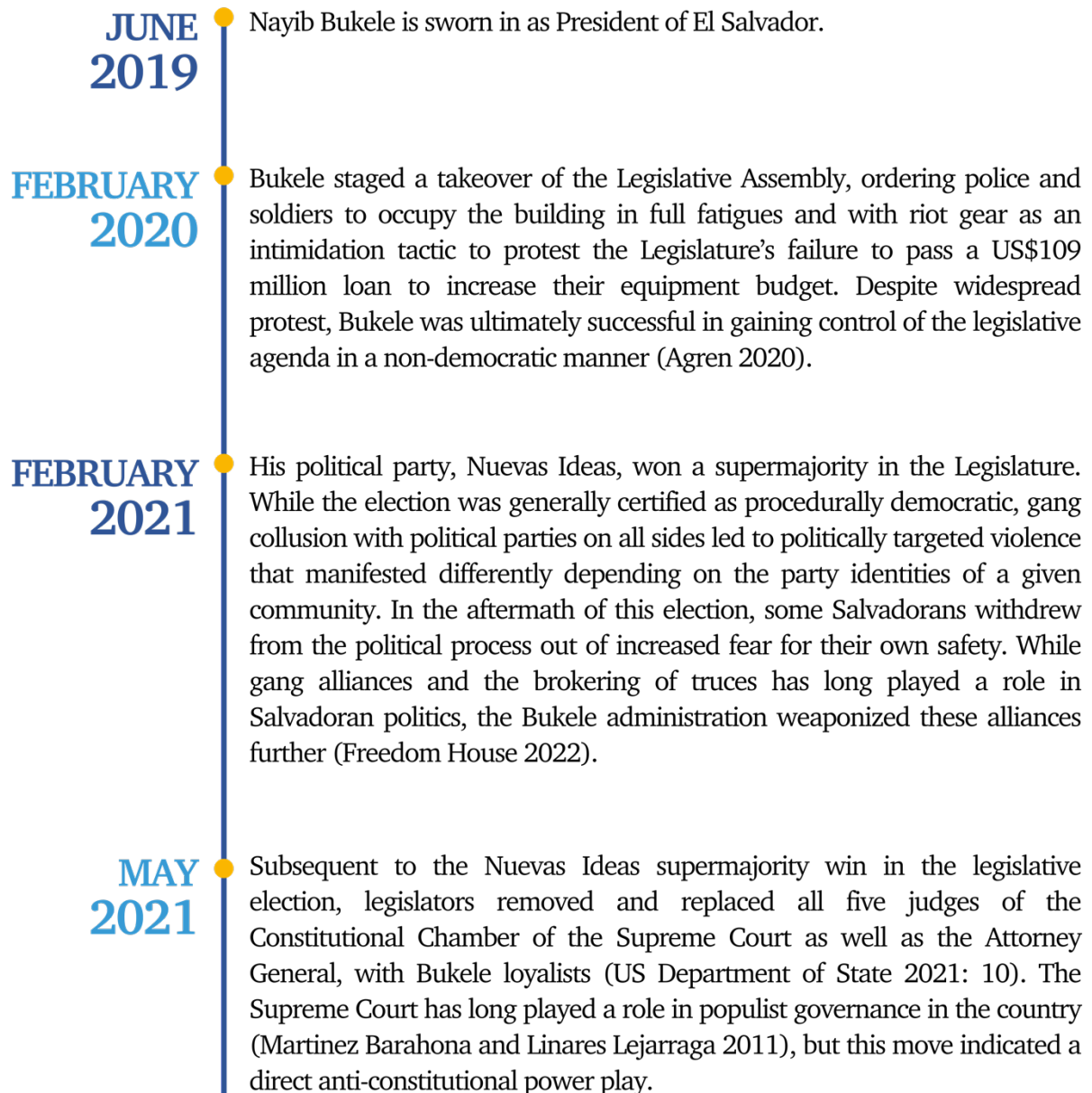
5. EL SALVADOR'S CURRENT POLITICAL CONTEXT

Current President Nayib Bukele was elected in 2019 promising change, and he has branded himself “the coolest dictator in the world,” as evidenced by his one-time Twitter profile. A Twitter-active populist who created his own political party, New Ideas (Nuevas Ideas), Bukele and his party have exhibited a range of democratic backsliding indicators that imperil even the most basic benchmarks of El Salvador's previous democratic status.

In 2019, Bukele mobilized popular support to win presidential elections considered to be procedurally democratic, upending the entrenched two-party system that alternated control of the country since the peace accords. He has since taken control of multiple branches of government, including in ways that violate the Constitution (Labrador and Gavarrete 2022, OCHA 2022, Pappier 2022). While Bukele continues to enjoy high approval ratings, at least some of his popularity is also maintained through clientelistic practices, such as sending bags of grain or other farming necessities to communities branded with his political party logos, paying people to wave flags at rallies, and promising community infrastructure in exchange for votes. In effect, like

many authoritarian populists, Bukele buys votes through resource distribution. Such strong-man tactics have been documented in a range of countries, including throughout Latin America (Fox 1994, Gibson 2012, Laclau 2005).

Numerous key events in El Salvador over the last few years show extreme democratic backsliding. Bukele has gone beyond standard populist strong-man tactics and is now gutting democratic infrastructure (El Faro 2020). Here is a brief timeline of key events:

- 
- JUNE 2019** • Nayib Bukele is sworn in as President of El Salvador.
 - FEBRUARY 2020** • Bukele staged a takeover of the Legislative Assembly, ordering police and soldiers to occupy the building in full fatigues and with riot gear as an intimidation tactic to protest the Legislature's failure to pass a US\$109 million loan to increase their equipment budget. Despite widespread protest, Bukele was ultimately successful in gaining control of the legislative agenda in a non-democratic manner (Agren 2020).
 - FEBRUARY 2021** • His political party, Nuevas Ideas, won a supermajority in the Legislature. While the election was generally certified as procedurally democratic, gang collusion with political parties on all sides led to politically targeted violence that manifested differently depending on the party identities of a given community. In the aftermath of this election, some Salvadorans withdrew from the political process out of increased fear for their own safety. While gang alliances and the brokering of truces has long played a role in Salvadoran politics, the Bukele administration weaponized these alliances further (Freedom House 2022).
 - MAY 2021** • Subsequent to the Nuevas Ideas supermajority win in the legislative election, legislators removed and replaced all five judges of the Constitutional Chamber of the Supreme Court as well as the Attorney General, with Bukele loyalists (US Department of State 2021: 10). The Supreme Court has long played a role in populist governance in the country (Martinez Barahona and Linares Lejarraga 2011), but this move indicated a direct anti-constitutional power play.

AUGUST 2021

The legislature passed laws requiring the dismissal of low- and mid-level judges and prosecutors over 60 years of age. Described as a law meant to clean house, one of the judges dismissed included Judge Jorge Guzmán, age 61, who was conducting a full investigation into the military officers accused of ordering and carrying out a large-scale massacre in the village of El Mozote in 1981 (Rauda and Gressier 2021). Shortly after the signing of the Peace Accords in 1992, an amnesty law was passed that provided full protection for civil war crimes immediately after the release of the Truth Commission report for El Salvador in 1993 (Amaya, Danner, and Consalvi 2008, Binford 1996). The El Mozote investigation only began upon repeal of the amnesty law in 2016, after decades of protests over impunity for the massacre by a survivor, Rufina Amaya, and extended family members of those who were assassinated. Guzmán's dismissal as a judge, a direct result of the 2021 retirement law, is widely understood in El Salvador to be a sideways maneuver to shut down investigations into one of the most emblematic cases of state violence from the civil war (Bonner and Rauda 2021). This move also shows that Bukele is cultivating his relationship with the military and is willing to take dramatic action to protect them from being accountable for past violence.

SEPTEMBER 2021

The Constitutional Chamber ruled, in conflict with the Constitution, that immediate presidential re-election was permissible, and the vice president called for a redrafting of the Salvadoran Constitution. The redrafting recommendations contain more than 200 changes, including presidential term limit extensions, and Bukele has indicated he plans to seek reelection based on this constitutional revision.¹

OCTOBER 2021

Following large protests against the government, mass gatherings were quickly banned.

JANUARY 2022

Journalists were being targeted in a Pegasus spyware operation that was gaining access to their communication systems. A leading investigative

1. While in the US it is considered normal for a president to seek re-election one time, in Central America this is unusual, as constitutions in post-war and democratizing countries frequently prohibit reelection as a safeguard against a return to dictatorship.

online news site El Faro identified twenty-two of its journalists with communications equipment infected by Pegasus. Though Bukele has denied government involvement, he has also repeatedly attacked El Faro and other journalists and academics who are critical of the government (US Department of State 2021: 13). These state actions cause grave concerns about the ability for journalists and others to document and to communicate issues of corruption.

MARCH 2022

A state of emergency was officially declared at the end of March 2022, after gangs initiated a killing spree following a breakdown in government-gang agreements, with 62 people killed on March 26 alone, making it the deadliest day on record for the country in 20 years (Human Rights Watch 2022a). States of emergency are declared in exceptional moments in countries around the world, and declaring one usually increases government power ostensibly to be able to address whatever crisis a country or region is facing. In El Salvador, the state of emergency was declared following the spike in assassinations, and has since been renewed multiple times. There were 46,000 arrests made from April to July 2022 amid grave concerns over the arbitrariness of many arrests (Al Jazeera 2022, Buschschlüter 2022). Notably, the state of emergency suspends rights such as to freedom of association and assembly, privacy in communications, and due process protections.

APRIL 2022

The Legislative Assembly passed a broadly interpretable law that limits freedom of the press by penalizing anyone who “transmits” gang-related messages that “infuse fear” among the population with ten to fifteen years in prison (Labrador and Gavarrete 2022). In the context of extensive investigation and reporting by journalists on corruption and negotiations between gangs and the government (Martínez, Cáceres, and Martínez 2021), the law operates as a clear gag order to stop publishing on gang-state relations. On April 21, 2022, the Legislative Assembly president was reported telling Salvadoran journalists to leave the country—“Váyanse”—making it clear that accurate press coverage of corruption and gang collusion would not be tolerated by any branch of government (Monge 2022).

**MAY
2022**

Audio recordings of Carlos Marroquín, a negotiator on Bukele's behalf with MS-13, were leaked to the press. The recordings reveal deep state-gang collusion, including the fact that the 87 murders of Salvadoran civilians by gang members in March 2022 were done as a warning to Bukele to comply with agreements he had made with gangs over the previous two years (Martínez 2022). The number of people incarcerated by the state has swelled, especially those in pre-trial detention, meaning people who have been arrested and incarcerated but not yet charged with a crime. By the end of May 2022, 1.7% of the Salvadoran population over the age of 18 was incarcerated, leading to massive overcrowding in already crowded, unsanitary, and unsafe prisons (Amnesty International 2022). There have also been reports of abuse and death while in state custody (Human Rights Watch 2022b, OCHA 2022).

**JUNE
2022**

The State of Emergency is extended for a third time, into July 2022.

**AUGUST
2022**

Bukele convinces Congress to extend the State of Emergency once again.

Any one of these actions of the past few years constitutes an example of democratic backsliding. Taken together, the collection of indicators shows a deeper pattern of democratic breakdown, where liberal democracy is no longer the regime framework for El Salvador. What is clear is that the “state of exception” has become the state of El Salvador's regime today. The exceptional is now status quo.

6. IMPLICATIONS OF DEMOCRATIC BREAKDOWN

Though it may sound trite, labels are consequential. A label change by the international community from democratic to authoritarian regime in El Salvador may stir up a backlash by Bukele loyalists and others who benefit from his agenda. Shifting away from a democratic label also has major implications for international relations, including in US policies toward El Salvador in relationship to foreign aid, investment, and migration.

To be clear, the evidence presented above shows that El Salvador can no longer be labeled a democracy and more accurately constitutes an authoritarian regime. This is a highly concerning label change for many Salvadoranists, who have long studied El Salvador's post-war trajectory with hope for its democratization. In the early 2010s, in the balm of the gang truce, dollarization, and in the aftermath of two relatively peaceful presidential transitions in 2009 and 2014, El Salvador's democratization appeared on track.

Yet those incidents of democratic system strengthening did not facilitate an improvement in the social contract between the majority of Salvadoran citizens and the State. This is partly because the state has not remedied human insecurity, addressed impunity, nor shifted the lack of state capacity and political will that maintains a status quo of violence. The current democratic breakdown deepens and compounds the insecurity Salvadorans face. Such a situation will ultimately facilitate increased migration out of El Salvador as citizens affected by violence and ongoing economic hardship leave, as well as those who are particularly targeted by the Bukele regime, gangs, or other perpetrators of human rights abuses. In this acute moment of democratic breakdown, people may flee El Salvador because they have been or could be a target of the state for contesting some aspect of the state's agenda, including gang collusion and authoritarian actions.

The solution to El Salvador's political breakdown requires a deeply historical-political remedy. Every potential solution will have its detractors, but avoiding engagement with the current political implosion will not undo the deeply entrenched culture of impunity among police, judicial officials, and elected officials, among others, many of whom continue to do their jobs in ways that detract from, rather than support, democratic systems and culture. Ignoring the indicators of democratic backsliding and failure may only facilitate the consolidation of authoritarian control. Ultimately, a free press, the freedom of citizens to express their political values in a range of free and fair ways, and the ability to live free from violence are all necessary ingredients to a stable democratic system. Such democratic indicators are worthy goals, though not current realities, for many Salvadorans.

ABOUT THE AUTHOR

Dr. Mneesha Gellman is associate professor of political science in the Marlboro Institute for Liberal Arts and Interdisciplinary Studies at Emerson College. She is the author of *Indigenous Language Politics in the Schoolroom: Cultural Survival in Mexico and the United States* (University of Pennsylvania Press, forthcoming 2023), and *Democratization and Memories of Violence: Ethnic Minority Social Movements in Mexico, Turkey, and El Salvador* (Routledge, 2017). Gellman has published in journals such as *PS: Political Science and Politics*, the *British Journal of Sociology of Education*, *Third World Quarterly*, and *Latin American and Caribbean Ethnic Studies*. The author wishes to acknowledge her privilege in speaking out at a time when doing so may put people with direct ties to El Salvador at risk.

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