

El Salvador’s State of Exception: A Piece in Nayib Bukele’s Political Project

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Introduction

On March 27, 2022, after 87 people had lost their lives in a three-day murder spike (OUDH 2022b, 13), El Salvador’s Legislative Assembly decreed a one-month state of exception. The measure, which has since been extended, suspends constitutional guarantees of defense and due process. It forms part of President Nayib Bukele’s broader approach to the gangs that have long terrorized low-income neighborhoods and small businesses. As part of their publicity offensive, the authorities shared striking images of hundreds of tattooed detainees crouched together, their heads shaved and dressed in nothing more than white boxers. The new Terrorism Confinement Center (CECOT), where much of this material was produced, was inaugurated in January 2023 with a reported capacity of 40,000 individuals. This would make it the largest prison in the continent, although an independent journalistic investigation found that the facility is designed to house fewer than 21,000 inmates (Urbina and Segura 2023).

The registered homicide rate dropped from 18 per 100,000 inhabitants in 2021 to just 8 the following year (Human Rights Watch and Cristosal 2022, 7), prompting President Bukele to declare that El Salvador is now the safest country in the Americas. In communities that had endured threats, extortion, and mobility restrictions, there was a palpable sense of respite. Opinion on the state of exception has, however, been sharply divided. While human rights NGOs and investigative media have exposed systematic abuses associated with it, Salvadorans have largely applauded the measure. Elsewhere in the region, many citizens and politicians

look favorably on the “Bukele model.” As one prominent journalist put it: Bukele’s crackdown is effective, popular, and brutal (Grillo 2023).

The state of exception looks set to remain in place until at least the 2024 general elections. In this article, I argue that the measure is less of a security strategy than a piece in Bukele’s political project that aims to cement his rule. Structured into four sections, the article discusses the security and political context prior to the state of exception; examines this legal condition; looks at Bukele’s undemocratic practices; and situates Bukele in the far right in Latin America. I conclude with some reflections on El Salvador’s outlook for 2024.

No War, No Peace

To understand the state of exception’s appeal and apparent success, it is worth reviewing what the 1992 Peace Accords did and did not accomplish. The agreements were designed to help El Salvador transition from war and authoritarianism to peace and democracy. Although they stipulated reforms in various areas, they were mostly political accords that ended 12 years of fighting and allowed the Farabundo Martí National Liberation Front (FMLN) guerrilla movement to become a political party. The organization participated in competitive elections, but the conservative Nationalist Republican Alliance (ARENA) successfully held the presidency until 2009. The security sector reforms remain unfinished. The Armed Forces were withdrawn from public security tasks but resumed this role in 1993 amid a postwar crime surge. The National Civilian Police (PNC) was created with a quota system that brought in not only civilians but also members of the guerrilla

and the disbanded security forces. Over the years the PNC turned into one of the institutions with the highest number of human rights complaints. Since much-needed socioeconomic reforms were never seriously attempted, the structural problems that contributed to the outbreak of the armed conflict persisted and facilitated the development of gangs. Building a democratic and human rights culture would prove even harder.

The Mara Salvatrucha (MS-13) and the Barrio 18, which split into two rival factions in the mid-2000s, are El Salvador's main street gangs. These groups emerged in impoverished immigrant neighborhoods of Los Angeles where Central American refugees sought shelter in the 1980s. When El Salvador's civil war started to fizzle out, the United States stepped up its deportations of non-citizen gang members. Continued marginalization, the allure of a foreign gang culture, and the lack of gang policies meant that MS-13 and Barrio 18 could grow in both size and criminal involvement.

In 2003 President Francisco Flores (1999-2004) launched a *mano dura* policy, ostensibly designed to stamp out the gangs, but with the actual aim of positioning ARENA favorably in the next presidential elections. The strategy relied heavily on joint police-military patrols and neighborhood sweeps. The accompanying narrative painted gang members as irredeemable monsters, rather than human beings rooted in a social context, and legitimized violence against them. The *mano dura* strategy not only saw a sustained rise in homicides but had other, unintended, effects on what would eventually be some 60,000 gang members. Mass incarceration, rather than separating offenders from society, led the gangs to reinforce their leadership and organizational structure and to make extortion systematic.

President Mauricio Funes (2009-2014), who led the first FMLN government in the postwar period, had intended to abandon gang suppression in favor of social prevention. But a brutal 2010 gang attack on a passenger bus prompted a return to the approach undertaken by his two

predecessors. When the ensuing crackdown did not produce the anticipated results, the Funes administration decided to negotiate a truce to lower the homicide rate in exchange for benefits to the gangs. During this high-profile process, initially pursued secretly to avoid a political fallout, the recorded homicide rate fell precipitously (OUDH 2022, 45). Years earlier, however, the gangs had started to dump their murder victims in clandestine graves to avoid criminal responsibility for their crimes. Between January 2010 and February 2022, 1,121 illicitly buried bodies were recovered (OUDH 2022a, 49). The truce began to unravel after a year amid unfulfilled government pledges and disagreements in Funes' cabinet. The knock-on effect was an unprecedented jump in the homicide rate to 106 per 100,000 inhabitants in 2015 (Human Rights Watch and Cristosal 2022, 7). In addition, the gangs learned that they could pressure governments to cede to their demands by driving up the body count—precisely what triggered Bukele's state of exception in March 2022.

Bukele's victory in 2019 came as a surprise in a country where two established parties had dominated the electoral landscape since the end of the civil war in 1992. His rapid political rise and swift dismantling of democratic institutions have been nothing short of astounding. A law school dropout and son of an influential businessman, Bukele managed his family's PR firm before his father's ties to the FMLN eventually propelled him to successfully run as that party's mayoral candidate in a town just outside San Salvador. Three years later, in 2015, the young Bukele's popularity and marketing savvy led him to be the elected FMLN mayor of San Salvador. During this time, he became known for redeveloping the capital's downtown area and constructing an upscale market with a public library. Early on, Bukele distanced himself from the party, and his increasingly acrimonious and publicly aired conflicts with the FMLN led to his expulsion in 2017. He quickly sought other ways of pursuing his presidential ambitions. When New Ideas, the party he formed in March 2018, did not manage to register on time for the 2019 elections, Bukele decided to run on the ticket of the Great Alliance for National Unity (GANU), an ARENA splinter

party. Voter disenchantment with ARENA and the FMLN—three Presidents were indicted or convicted of corruption—helped him to a resounding victory (IUDOP 2019a, 7).

Elected on an anti-establishment platform, and at 37 years old the youngest head of state in Latin America, Bukele established himself as an unconventional politician. Often sporting a leather jacket and a backward baseball cap, he is a prolific Twitter (now X) user who likes to publicly mock his critics and once described himself as “the world’s coolest dictator” in his social media profile. His Territorial Control Plan (TCP), to date unpublished, promised to recover territories under gang control through police and military deployments. While its results remain unclear, the plan has afforded the Armed Forces greater prominence and resources than under previous administrations.

The Horrors of the State of Exception

The state of exception decree suspended the constitutional rights to freedom of association and assembly, to legal representation, to privacy in communications, and to being informed of the reason for arrest. It also significantly expanded the use of pretrial detention. Legal reforms lowered the age of criminal responsibility for children accused of gang-related crimes from 16 to 12 and created a reward system for citizens providing tips. In a blow to press freedom, they also established a prison sentence of up to 15 years for anyone who publishes gang-related information.

The clampdown hid the fact that the Bukele government had negotiated with the leaders of the country’s largest gangs. The aim was to reduce the homicide rate and gain electoral and governance benefits in return for concessions to the gangs, including the non-extradition of MS-13 members to the United States (Martínez, Cáceres, and Martínez 2021). As mayor of San Salvador Bukele had entered a similar pact with the gangs, even though in 2015 the Constitutional Chamber had declared such agreements to be illegal. When despite this most recent pact some MS-13 members were arrested, they answered

this betrayal with the aforementioned March 2022 murder spree (Martínez 2022). Since the start of the state of exception, at least 72,600 individuals have been arrested (Urbina and Segura 2023). During the first 15 months of the state of exception, the authorities released 5,178 individuals, including—curiously—1,586 (31 percent) profiled gang members (Flores, Jordán, and Segura 2023). What drives the apprehensions is the police officers’ daily arrest quotas as well as the anonymous tip line (Quintanilla and Valencia 2022).

Bukele frequently posts about the state of exception’s apparent successes, such as the decline in recorded homicides and extortion. The murder rate, already on a downward trend since 2016 (OUDH 2022a, 45), is now impossible to verify independently since all information related to the state of exception has been classified. Doubts certainly surround the measure’s effectiveness. For one, as recorded homicides have dropped, the number of reported disappearances has increased. Between January 2020 and June 2022, the police were informed of 4,060 disappearances (OUDH 2022a, 4). A leaked internal document showed that the PNC underreported homicides and disappearances throughout April and May 2022 (Canizalez 2023). Since then, official homicide statistics have been massaged by excluding gang members killed in clashes with the police as well as bodies recovered from clandestine graves (OUDH 2022a, 47).

By mid-March 2023, human rights NGOs had received 4,723 human rights complaints involving 5,082 victims (SSPAS 2023, 37). Testimonies refer to arbitrary detention, illegal entry of private property as well as inhumane conditions and ill-treatment in detention. Most reported abuses concern arbitrary arrests, targeting particularly low-income neighborhoods and made mostly on charges of the broadly defined crimes of illicit association or membership of a terrorist organization. The adduced evidence is questionable and includes anonymous phone calls, “nervous appearance,” or hearsay on social media. Environmental activists, union leaders, and journalists have also been caught in the dragnet, signaling that the state of exception

is being used to silence critical voices. Hearings are marred by due process violations. Presided by anonymous judges who received orders to remand people in detention regardless of any exculpatory evidence (OUDH 2022b, 55), each proceeding involves hundreds of defendants who are assisted by overworked public defenders (Human Rights Watch and Cristosal 2022, 4).

El Salvador's prisons have long been notorious for their squalid and overcrowded conditions, and the mass arrests have only aggravated this situation. With more than 105,000 detainees, the country now has the world's highest incarceration rate—almost two percent of the population (Cristosal 2023, 37). In the CECOT, apparently a model facility for abuse rather than modern prison management, up to 80 people share a single cell (Urbina and Segura 2023). The human rights violations in the penitentiary facilities are shocking in their scale and brutality: inmates have severely limited access to food, water, and healthcare, and the acute lack of hygiene is making people sick. Since the start of the state of exception, human rights NGOs have documented 181 deaths in custody as a result of beatings and torture or being denied medication or medical assistance (Sheridan 2023). Some detainees died when they could no longer ingest food because they had endured beatings so severe that their stomachs and intestines were destroyed. The authorities often fail to investigate the circumstances of the deaths or to notify the families of the deceased. Sometimes the bodies were simply buried in mass graves. The Salvadoran state has rejected allegations of widespread abuses as baseless, but the opacity surrounding the state of exception means that the true magnitude of human rights violations remains yet to be uncovered.

Notwithstanding the work of civil society organizations, reactions to the measure inside and outside of El Salvador have been generally positive—unsurprisingly perhaps, considering that citizens have long tired of the violence and politicians seek “solutions” that will deliver results in the short term. Domestic opinion polls show consistently strong support for both the TCP and the state of exception (IUDOP 2020, 5; IUDOP

2022b, 11; IUDOP 2023a, 6). The abuses, it seems, are an acceptable price to pay if they happen to others. Over time, however, views of the state of exception have become more critical, especially among individuals who have higher education or who know someone who has been arbitrarily detained (IUDOP 2022a, 9; IUDOP 2022c, 12). One survey even suggests that people have adjusted their routines and behavior for fear of being arrested (IUDOP 2022a, 8-9). In countries from Guatemala and Costa Rica to Colombia, Ecuador, and Argentina, a toxic mix of rising violence and political leaders' desire for popularity has created many admirers of the “Bukele model.” In December 2022, Honduran President Xiomara Castro adopted a similar state of exception, but relatively few arrests have been made. Bukele's strategy is not easily exportable to contexts with different political scenarios and criminal group dynamics. In El Salvador, it is the unprecedented expansion of executive authority that has enabled the current wave of repression. But if such security regimes were to become the norm, they would pose major challenges to democracy and the rule of law in Latin America.

Bukele's Extinction of Democracy

New Ideas has its origins in a diaspora movement that had become disillusioned with the FMLN and wanted to offer Bukele a vehicle for the presidency. Bukele and his family and close friends seized control of the party at its inception (Rodríguez and Quintanilla 2022). As President, he has surrounded himself with the same trusted circle. He garnered widespread attention when he made Bitcoin a legal tender in 2021 and announced several large infrastructure projects such as a second airport, a rail system, and a monorail, though rising liquidity problems have delayed their implementation. Troublingly, amid corruption allegations, Bukele has weakened autonomous bodies such as the Institute for Access to Public Information and ended the cooperation agreement with an international anti-corruption commission. Throughout his administration, the Armed Forces have acquired a political role they did not previously have in the postwar period. This became symbolically clear in February 2020 when Bukele entered

the Legislative Assembly with armed soldiers to intimidate the lawmakers into approving a loan request. (The approval was subsequently given.) A year later, New Ideas gained a two-thirds majority in the Legislative Assembly, which has since rubber-stamped executive initiatives such as the state of exception and appointed government loyalists in key institutions. The legislative body illegally removed and replaced the Attorney General as well as the Constitutional Court magistrates and forced lower-level judges into retirement. (The new Attorney General has shelved investigations into the Bukele administration's gang negotiations.)

The President's attitudes toward the media show that he tries to control not only the country's institutions but also the public narrative. The government has co-opted much of the mass media by using advertising revenue as a carrot-and-stick tactic and enticing journalists from opposition outlets with lucrative salaries. Investigative media have been attacked through digital and physical harassment, surveillance, and spurious criminal investigations. At least a dozen journalists have fled the country after receiving threats (Kinosian 2022). Bukele himself pointed out the importance of social media when he took a selfie the first time that he addressed the United Nations General Assembly. Official social media channels aggressively promote his administration's flagship projects and security achievements. Supportive YouTubers, who have millions of followers but spread false or misleading information, on some days churn out more than 200 pro-Bukele videos. Today these content creators get press credentials more easily than professional journalists (Rauda Zablah 2023). On the other extreme, government-sponsored bots and trolls viciously attack its critics (Kinosian 2022). The media strategy seems to pay off.

Opinion polls show that the President receives consistently high approval ratings (IUDOP 2019b, 1; IUDOP 2020, 5; IUDOP 2021, 1; IUDOP 2022c, 17) and is the most well-liked leader in Latin America (Kinosian 2022). Bukele has been helped to popularity by Salvadorans' generally favorable interpretation of the TCP and the state of exception (IUDOP 2020, 5; IUDOP 2022c, 17;

IUDOP 2023b, 3). However, it remains unclear why citizens hold these views when the TCP has never been made public and the measure is accompanied by egregious abuses. One survey revealed that 41 percent of respondents were unaware that the state of exception suspends constitutional rights (IUDOP 2022a, 5). Other polling instruments suggest that people's positive assessment of Bukele's security strategy is the result of the way they consume news: 45 percent do so through broadcast television and 44 percent through social media, especially Facebook (CEC 2023, 60, 62; IUDOP 2019b, 9; IUDOP 2023b, 10).

As the President himself has recognized, El Salvador is no longer the country it once was. In a short time, he has virtually eliminated the checks and balances that existed, and he seems hungry for more changes. Bukele has already asked for a leave of absence to run in the February 2024 general elections, despite a constitutional ban on a second term. A CID-Gallup survey in November 2023 showed that 93 percent of Salvadorans supported his re-election (Delcid 2023). Electoral reforms passed in June 2023 reduced the number of legislators from 84 to 60 and the number of municipalities from 262 to 44. The voting formula was also modified, paving the way for New Ideas to become the only party in the Legislative Assembly. Bukele encounters few obstacles to his ambitions due to continued discontent with ARENA and the FMLN as well as the appeal of his modernization narrative that gives people hope and pride in their country. A political attitude survey conducted in August 2023 showed that Bukele has become a cult figure who 40 percent of respondents ranked as more important than the Constitution (CEC 2023, 48). While opinion polls suggest that Salvadorans highly value democracy and human rights (CEC 2023, 56; IUDOP 2021, 12), these appear to be abstract ideas that people cast aside once their survival and welfare are at stake. Opponents of Bukele have made clear that they intend to put up a fight, but opposition participation in the elections looks to be largely symbolic at this point.

Bukele and the Far Right in Latin America

Bukele is a symptom of a broader political discontent that has favored the rise of the far right in Latin America. Countries from Costa Rica to Ecuador, Uruguay, and Peru currently have conservative governments. But it is Argentine President-elect Javier Milei who perhaps best illustrates why the populist right is able to galvanize voters across the region. Milei defeated Sergio Massa, the economy minister for the ruling Peronist coalition, in the November 2023 run-off. A libertarian economist and TV personality, 53-year-old Milei had no political experience prior to becoming a legislator in 2021. The leader of the far-right Liberty Advances coalition, he raffled off his monthly congressional salary and sported a rocker aesthetic on the presidential campaign trail. Milei presented himself as an outsider who vouched to uproot the “parasitic political caste” and described the national currency as “excrement.” A consummate political showman, at rallies he brandished a chainsaw when he vowed to slash government spending and drastically reduce the number of government ministries. With his vulgar and provocative style, Milei has dominated the national conversation in Argentina. Beyond dollarizing the economy, Milei proposes to end free public education and free public health care, reinstate the abortion ban, loosen gun laws, and deploy the army against drug gangs. He understood how to connect with citizens who had tired of decades of economic mismanagement and corruption, and who perceived politicians as privileged and out of touch with reality. The protest vote for Milei has created uncertainty about Argentina’s economic and political future. But it is unclear to what extent his proposals would find support in a Congress that is dominated by center-right and center-left parties.

Milei and his movement sought visibility in the streets while Bukele prioritized the use of digital technologies for his campaign. Milei’s bellicose rhetoric and attacks against the press resemble those of Brazil’s former far-right president Jair Bolsonaro because they had the same social media strategist. The Argentine politician gained a huge following thanks to an outpouring of

YouTube and TikTok videos, often done by unpaid, college-age Internet influencers. (TikTok was also crucial to the victory of Ecuador’s new President Daniel Noboa, the 35-year-old son of the Andean country’s richest man.) Social media can channel popular discontent and give voice to grievances. The far right, in Latin America and elsewhere, has learned how to use these platforms to present information in a compelling manner and engage citizens directly. Social media algorithms, however, favor content that maximizes user engagement and companies’ profits—content that appeals to people’s emotions and threatens democracy by spreading misinformation and hate speech, creating echo chambers, and fostering political polarization.

Aside from incendiary rhetoric and the use of digital technologies, opposition weaknesses make it easier for the populist right to gain influence. Leftist and centrist parties either do not put forward ambitious proposals to tackle problems such as underemployment, crime, corruption, climate change, or migration, or find that the political reality of governing forces them to abandon their campaign pledges. Leftist presidents from Peru’s Pedro Castillo to Chile’s Gabriel Boric and Colombia’s Gustavo Petro all found that pandemic-battered budgets, rising inflation, the effects of climate change, or the lack of congressional support made it challenging to meet voter expectations. When progressive and moderate politicians are perceived as unreliable or incompetent, they lose credibility with voters and inadvertently increase the chances of far-right parties gaining ground. The politics of right-wing populists, such as Bukele, Milei, or Bolsonaro, deepen the divides in what are fragile democracies and make dispassionate dialogue about public problems harder. Moreover, there is a risk of a broader shift to the right as more moderate parties emulate far-right contenders to court voters. Progressive parties may become credible electoral options again if, rather than talking about the dangers of the far right, they present tangible solutions to the problems that citizens care about.

Conclusion

Repressive security strategies are neither effective nor sustainable. El Salvador needs to perform professional criminal investigations and offer its young people legitimate alternatives to gangs. The longer the country avoids strengthening civilian institutions and implementing holistic, rights-respecting security policies that can be independently monitored and evaluated, the longer citizens will demand *mano dura* approaches to crime and violence. The United States has supported these strategies technologically and financially to reduce the gang threat to its own jurisdiction. Their enduring appeal speaks to the politics of security policies, to leaders' preference for solutions that research evidence has demonstrated to be unworkable but that promise a comfortable illusion of safety. It is these strategies, rather than the phenomena they claim to tackle, that fuel violence.

Nayib Bukele seduces Salvadorans with the dream of a country that confidently navigates a path to peace and development. But the dream he is selling masks a darker reality. When more people realize that the violence persists, only the perpetrators have changed, and the country's economic woes are intensifying, the bubble will burst. El Salvador has started to resemble Nicaragua, a place where blatant corruption and repression have received little international condemnation. How will the international community react when Bukele runs for the presidency again, successfully, perhaps? The situation in El Salvador is a reminder that the Peace Accords, much maligned by Bukele, were just the beginning of the arduous task of democracy building. Political and human rights education might help avoid a return to the authoritarian past, but as with any structural challenges, there are no quick fixes. In the meantime, victims' painful testimonies, journalists' candid reports, and contemporary Salvadoran writers' insistent stories demand to be told. They may help create the empathy that these times require and enable people to see Bukele for what he is: a politician driven by private gain, not the public good.

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