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**ECONOMIC &
SOCIAL RIGHTS
REPORT
EL SALVADOR**



ECONOMIC & SOCIAL RIGHTS REPORT EL SALVADOR

Summary

How can the European Union (EU) better contribute to developing an enabling space for Civil Society Organisations (CSOs) in El Salvador? How can the EU support the progressive realisation of Economic and Social Rights, namely Decent Work and Social Protection for All, in line with the implementation of the 2030 Agenda for Sustainable Development?

Led by Asamblea de Cooperación por la Paz (ACPP), the present Economic and Social Rights Monitor (ESRM) brings together the views of SOLIDAR Network in EL Salvador on how this can be done.

FOCUS ON SUSTAINABLE DEVELOPMENT GOALS



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1. ABOUT THE SOLIDAR ECONOMIC AND SOCIAL RIGHTS MONITOR

The Economic and Social Rights Monitor is a tool developed by SOLIDAR members and partners in the framework of the EU funded programme “Organising International Solidarity”¹ (OIS). The tool aims at collecting information from SOLIDAR Members and partners in the field on how far national and EU policies and programmes are contributing or shall contribute:

- to Promoting an Enabling Environment for CSOs; and
- to Achieving Decent Work and Social Protection for all and hence to the achievement of the Sustainable Development Goals (SDGs) namely SDG 3 (Good health and well-being), SDG 4 (Quality education), SDG 8 (Decent work for all), SDG 10 (Reduce inequality), and SDG 16 (Promote peaceful and inclusive societies for sustainable development).

¹ A presentation of the OIS programme can be found at the following link: <https://prezi.com/view/9zuxuivoqUSD3w1pGJSz>.

The tool rests on two main benchmarks (1. An Enabling Environment for CSOs; 2. Decent Work and Social Protection for All) and six indicators (1.1 Access to the Policy-making Process; 1.2 Support for Human Rights Defenders; 1.3 Freedom of Association; 2.1 Fundamental Labour Rights, 2.2 Universal Access to Health, 2.3 Universal Access to Education).

The current Country Report on Economic and Social Rights is the result of consultations among SOLIDAR Members and partners in El Salvador and it has been led by lead by SOLIDAR Member Asamblea de Cooperación por la Paz (ACPP).

2. INTRODUCTION

The Multiannual Indicative Programme (MIP) 2014-2020 sets out the following objectives for the EU's cooperation with El Salvador⁸:

i) to strengthen the process of democracy and sustainable development in the country, with a special focus on social inclusion, good governance and human rights, environmental protection and

climate resilience; ii) to consolidate past progress on transformation, democratisation and development, and ensure that essential reforms remain high on the national political agenda; iii) to assist El Salvador's integration into the global economy, by reinforcing bilateral trade relations and supporting its transition to a green economy.

TABLE 1. EL SALVADOR AT A GLANCE

Population ²	6.420,744 million (2018)
Gross Domestic Product (GDP) ³	USD 26.057 billion
Human Development Index (HDI) and ranking ⁴	0,667 (124 out of 189 countries)
Total social protection expenditure including health (percentage of GDP) ⁵	11.6% of GDP (2015)
Total envelope of National Indicative Programme (NIP) ⁶	EUR 149 million (2015-2018)
Sustainable Development Dashboard Global Index Score ⁷	66.7 (89 th out of 162 countries)

² <https://data.worldbank.org/country/el-salvador>

³ *Ibidem*

⁴ <http://hdr.undp.org/en/countries/profiles/SLV>

⁵ The expenditure on social protection and health refers only to the central government sector. <https://www.social-protection.org/gimi/gess/ShowWiki.action?id=594#tabs-3>

⁶ https://ec.europa.eu/international-partnerships/system/files/mip-el-salvador-2014-2020_en.pdf

⁷ <https://dashboards.sdgindex.org/#/SLV>. The regional average score is 67.1.

⁸ https://ec.europa.eu/international-partnerships/system/files/mip-el-salvador-2014-2020_en.pdf.



In line with the previous framework of EU support to El Salvador⁹, the two chosen areas of intervention for 2014-2020 are 1) youth and social inclusion; 2) development of the private sector, featuring ‘opportunity and job creation’ as a transversal theme. The MIP also highlights the need for stronger public finance management and anti-corruption measures, implicitly addressing SDG 16 – Peace, Justice and Strong Institutions.

El Salvador’s Five-Year Plan for Development (Plan Quinquenal de Desarrollo) 2014-2019 introduced a long-term national vision for the country, named Vision 2034. The document lays out the government’s main priorities: productive employment through sustainable growth, inclusive and fair education, and effective civil security, with a strong emphasis on social inclusion, planning and civic participation. As the country has a new President, Nayib Bukele, since June 2019, the plan is bound to be replaced in the upcoming months and chances are that there will be a shift in priorities with the transition from a Marxist government to a liberal one.

Based on consultations with its field members and partners led by Asamblea de Cooperación por la Paz (ACPP), SOLIDAR International Network has identified the following main concerns to be addressed:

1. Enabling Environments for Civil Society Organisations (CSOs):

- Civic space in El Salvador is withering as a result of a lack of any meaningful commitment on the government’s side to CSO participation.

⁹ http://eeas.europa.eu/archives/docs/el_salvador/csp/07_13_en.pdf

- Human rights defenders (HRDs) are exposed to harassment, defamation, intimidation and in the worst cases, assassination. Their ability to work independently is therefore gravely undermined.
- Discretion in granting legal personality is still a common practice that limits the freedom to set up associations.

2. Decent Work and Social Protection for All:

- An important step in the right direction was taken with the adoption of the Act to Combat Trafficking in Persons, but child labour remains a blind spot of the legislation.
- The commodification of the health sector is a growing trend that the State disguises under the pretence of a “specialisation of services” and it seriously jeopardises universal access to health care.
- The budget allocated to education is highly inadequate, leaving gaps in the territorial network of schools and depriving some children of the possibility to attend school, especially in rural areas.



3. ENABLING ENVIRONMENT FOR CIVIL SOCIETY ORGANISATIONS (CSOs)

The EU considers civil society to be a key actor of good governance and maintains a close dialogue with its representatives in El Salvador. The EU Roadmap for Engagement with Civil Society, a joint commitment between the EU delegation to El Salvador, four member States¹⁰, the CSOs and authorities in Salvador, lays out the main lines of the participation of CSOs in policy-making processes. The blueprint foresees, among other things, the creation of permanent public funding mechanisms for CSOs, an increase in the number of networks of CSOs and a closer dialogue between CSOs and both the population and the authorities¹¹.

The 1983 Salvadorian Constitution recognises the right of every citizen to participate in public life and guarantees the freedoms of speech, assembly and association as essential elements of democracy¹². However, the Five-Year Plan for Development 2014-2019¹³ points out that the normative fabric relating to citizens' rights is limited and archaic; it does not adequately reflect the importance that civil society has taken up in the past decades.

3.1 Access to policy-making process

Despite the commitments taken in the Roadmap, the Salvadorian government did not deliver on a long-term public funding system for CSOs, whether associations or trade unions.

CSOs have observed that numerous spaces for consultation between civil society and the Salvadorian government have become empty shells, because the representatives sent by the authorities to these spaces are either not familiar with the issue in question or not mandated to take any actual decision. This results in the paralysis of many dialogue processes on the topics of public safety, community water management, or violence against women and girls, to name but a few.

It is also worth noting that, within the first days of his mandate, President Nayib Bukele announced the suppression of five government bodies including the Secretariats of Social Inclusion, Governance and Transparency, greatly weakening the opportunity for civil society to access information and effectively exercise its monitoring role. It also raises concerns about the rights of vulnerable or marginalised groups, such as LGBTI people.

In pointing out the obsolescence of the legislation on civic involvement in public policy, the Five-Year Plan for Development 2014-2019¹⁴ calls for a proposal for a Citizen's Participation Act. This act would acknowledge the importance civil society has taken up, especially in monitoring and evaluating the government's activities.

¹⁰ Namely France, Spain, the United Kingdom and Italy.

¹¹ https://eeas.europa.eu/sites/eeas/files/20141016_roadmap_0.pdf.

¹² https://www.oas.org/dil/esp/Constitucion_de_la_Republica_del_Salvador_1983.pdf.

¹³ <https://observatorioplanificacion.cepal.org/sites/default/files/plan/files/ELSAL.pdf>.

¹⁴ <https://observatorioplanificacion.cepal.org/sites/default/files/plan/files/ELSAL.pdf>.

However, such a law was not passed in the time period covered by the plan.

So far, most of the priorities set in the EU Roadmap for Engagement with Civil Society 2014-2017, which is currently being revised, have not been followed through. The European Union continues to be a fortifying agent for CSOs in El Salvador, both for associations and trade unions, and has been instrumental in strengthening the networks and platforms. However, some CSOs face difficulties when it comes to complying with the EU's standards in project management.

Based on these observations, SOLIDAR network in El Salvador, led by the ACPP considers that:

- The EU should maintain its support for CSOs and strengthen the networks so they have greater weight in policy dialogue with the government.
- The EU should convey civil society's recommendations on human rights when engaging in high-level dialogue with the Salvadorian State.
- The EU should closely monitor human rights benchmarks/ indicators in both the public and private sectors, especially in areas of cooperation with El Salvador, and pay special attention to foreign investment made by European multinational enterprises.



3.2 Support for Human Right Defenders

In 2011, El Salvador passed a reform of its Criminal Code which made it an aggravating circumstance to commit a crime motivated by the Human Rights activism of the victim¹⁵. But despite this promising step forward, the safety of Human Rights Activists is still not guaranteed in the country. Environmental activists (such as Dina Yeseni Puente, leader of the Network of Community Environmentalists of El Salvador, killed in 2018), LGBTQI activists, sexual and reproductive rights defenders, etc. have all been victims of violence. Several activists have been subject to defamation campaigns on social media¹⁶, with people falsely accusing them of being linked to criminal groups. In addition, the idea that HRDs side with delinquents, because they denounce police abuses, is widespread in El Salvador. Activists have also been attacked for expressing their opinion on government policies, with cases of government members personally fuelling resentment by making or sharing social media posts inciting hostility¹⁷. In July 2019, a journalist who was “live-tweeting” a presidential conference was the target of multiple online attacks and insults after the president himself called her out publicly for one of her tweets¹⁸. The harassment regularly goes as far as death threats.

The Special Law Against Acts of Terrorism, a broad and vague piece of legislation enacted in 2006, has been misused to criminalise social movements, especially environmental activists. An illustration of this is back in July 2007, when 14 people faced charges of terrorism – filed by the government – following their participation in a protest against the privatisation of the water system. In many cases, as the claims made by environment defenders directly clash with the private interests of business groups, the latter do not hesitate to participate

¹⁵ <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/C0AB56F8-AF37-4F25-AD90-08AE401C0BA7.pdf>.

¹⁶ <https://monitor.civicus.org/newsfeed/2019/03/21/lgbti-community-targeted-el-salvador>.

¹⁷ <https://monitor.civicus.org/newsfeed/2019/08/27/salvadoran-women-hrds-face-online-harrasment-and-threats>.

¹⁸ <https://www.elsalvador.com/eldiariodehoy/apes-condena-acoso-a-periodistas-por-sus-opiniones-en-twitter/617815/2019>.

¹⁹ https://www.oas.org/dil/esp/Constitucion_de_la_Republica_del_Salvador_1983.pdf.

in the stigmatisation of the former. This was the case for Margarita Posada, who was publicly called a terrorist in a press release by the National Association of Private Companies, in relation to her work as advocate of the Alliance Against the Privatisation of Water.

Given this context, the EU must continue to be vocal about the need to safeguard human rights in any of the State’s action.

3.3 Freedom of Association

Freedom of Association in El Salvador is guaranteed by article 7 of the 1983 Constitution, which defends “the right to associate freely and assemble peacefully and without arms for any lawful purpose”. As for freedom of speech, it is covered by article 6, which states that “any person can freely express and disseminate thoughts as long as they do not subvert public order, nor harm the morality, honour or privacy of others.”¹⁹. In 1996, the Law of Non-Profit Associations and Foundations was adopted with the purpose of regulating the associations in the country.

Nevertheless, discretion in granting legal personality is a reality. The process of registering remains lengthy, tedious and costly, thus discouraging the smallest structures from engaging in the process. Moreover, SOLIDAR’s members and partners in El Salvador have underlined the growing tendency to discredit organising and assembly. What the incumbent government is actively promoting instead is direct contact between the people as individuals, and the decision-makers. Having intermediaries and representatives is subtly presented as a “practice of the past”. This type of populist rhetoric contributes to fostering a hostile environment for trade unions as well as for collective bargaining.

President Nayib Bukele took an even fiercer stand against freedom of association when he accused the Presidential House’s Union, SITRAPRES (Sindicato de Trabajadores de la Presidencia de la República), of attempting to thwart his mandate. Despite the Union being created lawfully in 2018, months before he was elected into office, the president alleged that it is a creation of former leaders and rivals FMLN Party, in order to infiltrate his government. His words were clearly threatening: “The mission of the Presidential general staff is to ensure the integrity of the Presidency, and for this reason I cannot allow a hostile union in the Presidential house.”²⁰.

²⁰ <https://rednoticia.online/bukele-amenaza-con-reprimir-con-el-ejercito-a-empleados-publicos>.



4. DECENT WORK AND SOCIAL PROTECTION FOR ALL

The 2030 Agenda features, with SDG 8, the attainment of decent work and its four pillars: employment creation, social protection, fundamental rights at work and social dialogue. However, the guarantee of fundamental rights at work is not effective in El Salvador, especially when it comes to vulnerable groups like women, youth, LGBTI people, farmers or indigenous people. As domestic work and work in the *maquiladoras* is mostly performed by women, addressing decent work issues in these sectors require a gendered perspective, something the EU is known to put in practice already.

Furthermore, civil society stakeholders are too seldom involved in making the rules in the health sector. As the government's role diminishes, the vacuum is being filled by businesses which jeopardises the ideal of a universally accessible and affordable health system.

The education system also suffers from much neglect in El Salvador, being both of poor quality and not always accessible. The uneven network of schools, the gang violence raging in some parts of the country, and even forced displacements are common factors impeding children's access to education. Ultimately, SOLIDAR's network strongly wishes to see the international community support capacity building and infrastructural improvements, in order to advance the agenda of universal access to affordable and quality health and education.

4.1 Fundamental Rights at Work

SOLIDAR Network in El Salvador has reported persistent job discrimination faced by the LGBTQI population as well as people living in remote areas and indigenous people; migrants are exploited and often deprived of any social protection. The Equality, Fairness and Eradication of Discrimination Against Women Act was passed in 2011, but no government or government-supported body is in charge of monitoring its enforcement and compliance. Eventually, it should be pointed out that no national minimum wage exists in El Salvador; it differs according to the different work sectors. People working in agriculture have a minimum wage of \$250 per month (about €225) whereas those employed in the trade sector enjoy a \$300 minimum wage (about €270). As for domestic work, there is no minimum wage set at all.

When it comes to forced labour, El Salvador ratified the 1930 ILO Convention on Forced Labour in 1995 and adopted the Act to combat trafficking in persons in 2014, as well as its regulations decree in 2016. The Act includes a broad definition of trafficking in persons and foresees that committing these acts in respect to children is an aggravating circumstance. Between 2016 and 2017, six people were convicted of trafficking of minors in El Salvador.

In this regard, the ILO Committee of Experts notes that human exploitation is aggravated around the border, with 87 cases identified by the Salvadorian government in 2016, 68 of which were children²¹. The one thing missing from this plan to combat trafficking is proper prevention of the engagement of children in such criminal activities. This can only go hand in hand with combating child labour in general. This remains an important blind spot in the Act to combat trafficking in persons. Moreover, while the 2011 Law to protect childhood and adolescence (LEPINA - *Ley de Protección Integral de la Niñez y Adolescencia*), which reaffirms the commitment to a minimum working age of 14 years, the body in charge of enforcing the act (i. e. the National Council for Children and Young Persons -CONNA) lacks resources and the political commitment towards the well-being of minors in general remains weak.

El Salvador is among the countries in Latin America with the most *maquiladoras*, mostly in the textile sector. In 2015 alone, the maquilas system generated 130,000 new jobs in El Salvador. It is however a place which subjects its employees, who are mostly women, to dreadful working conditions. SOLIDAR's partner ORMUSA has done extensive work on women in the Salvadorian labour market and found that their wage is very low: \$229 per month in 2015 (about €214). As a result, one in four women working in *maquilas* lives in poverty. On top of this, these workers have to face exposure to occupational risks such as blows, wounds, exposure to noise, exposure to chemicals and burns, among others; stress can also be a significant factor in these structures with an objective-driven production chain. This exploitation of workers continues for a number of reasons, including 1) the level of fines set by the law which are not high enough to incite employers to actually remedy to occupational risks 2) the persistence of a strong anti-union culture among employers²².

²¹ <https://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/committee-of-experts-on-the-application-of-conventions-and-recommendations/lang-en/index.htm>

²² <http://observatoriolaboral.ormusa.org/investigaciones/MercadoLaboral2016.pdf>.





In view of the above, SOLIDAR Network in El Salvador led by the ACPP considers that 1) A mechanism of training for trade unions and employers on the topic of child labour ought to be implemented, and the EU could take part in its design; 2) The EU could make funding conditional on the compliance with the ILO's core conventions, as well as increase the funding available for labour-themed projects.

4.2 Universal access to health

Nowadays on a global scale, public services, including in the health sector, are subject to mercantile logic just like any other type of service, with a growing tendency to resort to Private-Public Partnerships. El Salvador is not spared by this global trend, despite having enshrined in its Constitution the principle that health is a public service. The country has also witnessed the emergence of a social movement fighting against the privatisation of health, since the late 1990s, with waves of strikes by civil society and unions of health practitioners. However, lately, the privatisation of health has become more subtle, not so active anymore but rather passive: the public health sector is being weakened by budget cuts, creating a vacuum that is only filled with private, return-driven investments.

The new government has already shown signs that it will carry on the path of commodification of the health sector. SOLIDAR's in-country partners have highlighted that this process is disguised under the pretence of a "specialisation of services".

Civil society is too seldom associated with decision-making when it comes to health. Involving CSOs, along with government and stakeholders in the dialogue to design health care public policies is essential.

4.3 Universal access to education

The Multiannual Indicative Programme 2014-2020 has chosen youth as a focal point by putting forward “Youth and Social Inclusion” as one of the main areas for intervention. Specifically, the EU has been monitoring the number of children enrolled in secondary education with EU support, as well as the level of public expenditure in education.

But many challenges remain in the field of universal access to education in El Salvador. Despite there being a free, State-managed education system, some technology-packed projects require cash-in-hand payments from schools to the government which inevitably leads to less budget for State schools. El Salvador also is one of the countries which dedicates the smallest percentage of its GDP to education. It should allocate a minimum of 6% of GDP to it.

The territorial network of schools also requires attention. In some remote areas, children do not have access to school, which means not only that they do not study but also puts them at risk of falling into delinquency. This is the case in the municipality of San Pedro Masahuat, where many pupils cannot afford to go to high school because it is too far away. Another obstacle to access to education is the threat of local gangs; if the closest school is located in an area dominated by a rival gang, then the physical integrity of the child is at risk and it becomes unsafe for them to attend this school.

There is room to improve citizen participation and inspection in the education system. While the EU cannot directly influence national policies, it is important that it is vocal about the unfulfilled needs of the education sector when engaging with the government of El Salvador.



6. CONCLUSIONS

Based on consultation with its field members and partners led by Asamblea de Cooperación por la Paz (ACPP), SOLIDAR International Network has identified the following main concerns to be addressed:

1. Enabling Environments for Civil Society Organisations (CSOs):

- Civic space in El Salvador is withering due to the government's lack of meaningful commitment to CSO participation.
- Human rights defenders are exposed to harassment, defamation, intimidation and in the worst cases, assassination. Their ability to work independently is therefore gravely undermined.
- Discretion in granting legal personality is still a common practice that limits the freedom to set up associations.

2. Decent Work and Social Protection for All:

- An important step in the right direction was taken with the adoption of the Act to combat trafficking in persons, but child labour remains a blind spot of the legislation.
- The commodification of the health sector is a growing trend that the State disguises under the pretence of a “specialisation of services” and it seriously jeopardises universal access to health care.
- The budget allocated to education is highly inadequate, leaving gaps in the territorial network of schools and depriving some children of the possibility to attend school, especially in rural areas.

To help address these concerns the following is proposed:

Enabling Environments for CSOs: The EU should push for the establishment of a permanent government subsidy mechanism for CSOs. It should also foresee capacity-building and network strengthening, as well as increase the cooperation funding available for CSOs. All high-level dialogue with the Salvadorian authorities should be used by EU officials as an opportunity to promote a narrative about human rights and citizens' participation. Eventually, the EU should watch foreign investments in El Salvador made by European multinational firms.

Decent Work and Social Protection for All: The ongoing trend of privatising health services, from which El Salvador is not spared, calls for a multi-sectorial and inclusive approach. The education sector, though not too much at risk of commodification, also faces the challenge of accessibility. The EU's support is sorely needed to back up the claims of CSOs working to improve the quality of these two services in El Salvador. As regards the fundamental rights of Salvadorian workers, the international community should make sure to closely monitor minimum wages, forced labour, and more importantly child labour which so far remains a blind spot in national legislation. The EU also should bolster initiatives promoting inclusiveness and non-discrimination.

ORGANISATIONS INVOLVED IN THE PROJECT

1. Asamblea de Cooperación por la Paz - ACP
2. Provida
3. Cristosal
4. Asociación Salvadoreña de Ayuda Humanitaria – AMSATI
5. Organización de Mujeres Salvadoreñas por la Paz – ORMUSA
6. FOS
7. Fundación Soletterre
8. Fundación para la Cooperación y el Desarrollo Comunal de El Salvador – CORDES
9. Federación Sindical de Trabajadores de los Servicios Públicos de El Salvador – FESTRASPES
10. Solidar Suiza
11. Coordinación de Sindicatos Azucareros de El Salvador CSTA-ES
12. Asesoría a Programas y Proyectos de Desarrollo – ASPROD
13. Asociación de Promotores Comunales Salvadoreños – APROCSAL
14. Confederación Sindical de Trabajadores y Trabajadoras de El Salvador – CSTS
15. Asociación Comunicando y Capacitando a Mujeres TRANS COMCAVIS
16. Asociación Centro para la Promoción de los Derechos Humanos “Madeleine Lagadec” - CPDH
17. Asociación para la Salud y el Servicio Social Intercomunal en El Salvador – APSIES



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Organising International Solidarity (OIS)
A presentation of the OIS programme can be found at the following link:
<https://prezi.com/view/9zuxuivoqUSD3w1pGJSz/>