

Executive Summary

The report “*The Situation of Security and Justice 2009-2014 – Between expectations for change, heavy-handed military and gang truces*” is the outcome of research led by the University Public Opinion Institute (Iudop) at Centroamericana Jose Simeon Cañas University (UCA), from August 2012 through July 2014. The main objective of this study was to contribute to the understanding and critical analysis of security policies and strategies adopted by the Government of Mauricio Funes, and to generate public policy recommendations for the new administration.

This is a qualitative study based on interviews with experts on the issue of public security, including officials and former officials in the branch of security, scholars, prevention program operators, and a broad-based desk review of official documents, statistics and hemerographic information concerning the issue.

The first chapter examines delinquency rates recorded in official sources for some of the main reported crimes. According to official records, between 1990 and 2013 in El Salvador there were over 73,000 people murdered. This is a figure that approaches the number of deaths estimated during the armed conflict, which indicates that lethal violence has been a constant challenge throughout the post-war period. In recent years, statistical records show a significant reduction in violent deaths, which the Funes Administration attributed to the "truce between gangs" as it was called. Certainly, between 2009 and 2013 the rate of violent deaths dropped from 71.2 to 39.7 per 100,000 inhabitants, an unprecedented phenomenon in the history of the country. However, even with the reduction documented in the official records, these figures are a little over six times greater than the worldwide average, and four times greater than the PAHO parameter for violence to be considered an epidemic.

The report also points out that firearms are present in approximately 70% of the murders that take place in the country, and that the victims of homicide are still mainly young men. This trend notwithstanding, homicide rates for women have undergone a massive upsurge in the last decade. Between 2003 and 2011, the homicide rate for women rose from 7.4 to 19.1 deaths per 100,000 women. This is one of the highest rates worldwide.

The study also cautions that the proliferation of practices of interment and concealment of bodies in recent years, manifested in the rise in the number of clandestine graves and cemeteries, coupled with a recurrent resort to dismemberment of corpses, makes it increasingly difficult to locate the bodies, to identify the victims, and this masks the situation of crime. As a result, evidence suggests that the reduction in the number of violent deaths registered in official figures in recent years may not reflect the magnitude of the lethal violence actually taking place in the country.

Analysis also sheds light on the fact that, although the challenge of bringing down the number of homicides is a priority for the country, because of the high human, social and economic costs entailed, insecurity in El Salvador cannot be reduced to violent deaths. Available data shows that phenomenons such as forced disappearances, sexual assaults, injuries, threats, family violence and extortions continue affecting a significant segment of the population, particularly in the poorest social strata. This is the backdrop for the flow of internal and external forced displacement that has become notorious in recent years.

The second chapter, dedicated to analyzing the workings of the justice system, shows the limited efficacy of the institutions that are in charge of meting out justice. According to official data, in the period from 2006-2009, over 80% of cases that were reported to the Attorney General's Office were filed by that very institution. Of a total 119,797 cases opened in 2009 by the Attorney General's, 99,379 were filed definitively or administratively, which corresponds to the 83.9% of the cases known in the AG's Office. Another alarming figure is the high number of cases entered in the justice system, and that conclude with a dismissal of proceedings. These are cases that end with no ruling to clarify the responsibility for the facts that were researched. Data shows that in 2009, over 70% of initiations of prosecution concluded with a definitive dismissal, which sheds doubt on the system operators' research capacity, particularly on the role the Attorney General's plays in managing a criminal investigation.

Regarding the resolution of these penal processes, when analyzing the cases that came to court from 2009 to 2013, data show that only 15% of these concluded with a final ruling, either conviction or acquittal. Furthermore, 8.4% of rulings led to conviction, whereas 5.4% led to acquittal of the accused. These data are the reflection of a series of problems and deficiencies that criminal justice administration faces, which are deepened with the growing demand resulting from the serious situation of crime. The truth is the weaknesses in the system for enforcing justice have acted as an important factor, perpetuating the impunity and crime that is prevalent in the country.

The third chapter is dedicated to analyzing advances and setbacks the country experienced in terms of security policy, during the Funes Administration. This section presents the efforts to move toward strengthening and modernizing institutions in charge of security, that the security branch implemented during the early years of the Funes Administration, covering the obstacles encountered, and the turn the overnment has taken toward remilitarizing public security.

The study shows the advances made in formulating the Policy for Justice, Security and Coexistence, which contained strategic guidelines on public security and the diverse efforts made by the police and authorities in that branch, in order to drive different institutional strengthening strategies. In this sense, outstands the design of a series of plans, policies and working instruments focused on professionalizing the National Civil Police, and recovering the civil and democratic police doctrine it came

from, after the political reform of the Peace Accords. One of the fundamental lines of action during this first period was implementing a community police model, revisiting the focus on serving the community. Other strategic efforts got underway, involving strengthening the Inspectorate General of the National Civil Police and its oversight units of internal discipline, as well as activating a process of purging the police force by investigating police staff linked to abuse, police corruption, and criminal organizations.

The study reveals there was an abrupt change away from the approach to strategic security initially proposed, which was progressively put aside for measures that were short-term and aimed at the media, such as increasing the number of military troops involved in security work, and a greater use of force. This led to a falling into the inertia of continuing the populist-punitive approaches that have prevailed in the administration of security, and hindered the advances toward professionalizing and modernizing the institutions in charge of security at the onset of the administration's term.

A statistic that reveals this shift that the Funes Administration made is the 253% rise in the number of military troops involved in security work during the first year of his administration, an unprecedented increase in the post-war period. Furthermore, the president expanded the attributions and competencies of the Armed Forces in other areas such as penitentiary security and border security, and he authorized their participation in security plans for public transportation, for security in schools, and in different crime fighting and prosecuting tasks, with no subordination to the police. This afforded the military broad discretion with which they progressively took control of security operations in other key settings, such as the international airport, customs and borders, immigration and foreign services, to name a few. Likewise, the National Defense budget allocation grew 20.4 million dollars in the last five years, and the number of military troops in the Armed Forces increased by 40% between 2009 and 2012, this is in contrast to the progressive reduction in spending and troops proposed in the Peace Accords.

The prominent role given to the military at the forefront of internal security – that had been reverted by political reform two decades before– reached its maximum expression when general Munguía Payés was formally appointed the head of the Ministry of Justice and Public Security, and general Salinas at the National Civil Police. Before their appointments they had been Minister of National Defense and Head of the Armed Forces, respectively. This decision went against the police reform proposed in the Peace Accords, whose core had been the demilitarization public security. It violated the constitution, which establishes that a civilian should lead the National Civil Police.

All this, set the stage for the military to take on unprecedented relevance and it positioned itself in the public view as a sector that was indispensable for solving the problems of crime in the country, in which negotiation with the gangs had a key part.

These decisions caused serious distortions and greatly weakened the institutions in charge of public security, particularly the National Civil Police, by mixing conflicting approaches, interrupting the professionalization processes that had started and reversing the removal of bad elements in the police that the previous authorities had started, generating effects that were adverse, and counterproductive in the institutional culture that take time to revert.

The fourth chapter analyzes the situation of the prisons around the country, and the reforms promoted to modernize them in recent years. Even though data concerning the high rates of prison overpopulation and overcrowding are well known, these rates have exceeded by far the critical parameters established at the international level. Exponential growth of prison populations has exceeded threefold the penitentiary system's capacity as a whole. By late 2013, the adult prison population reached a rate of 557 per 100,000 inhabitants, confirming the high rate of imprisonment in the country, which is considered the highest in Latin America. This has been compounded by the prevalence of criminal policy favoring the hardening of laws and jail-time as a sanction and preventive measure, and by the worsening of the state of crime.

Likewise, concomitantly with the growth in the prison population, there is a notable rise in the rate of imprisonment among the young population. Over 70% of the adult prison population is between the ages of 18 and 35. Simultaneously, between 2003 and 2013, the gang population in the penitentiary system grew by 254%. Currently, 40.2% of the prison population are active or retired members of some gang. Numerical growth of the gang members in prison, along with the policy of separating gangs in the prisons by their gang affiliation, has brought about a situation in which prisons holding gang members have greater levels of overcrowding, and the most deplorable conditions.

On the other hand, although the prison population is predominantly male (90%), the incarceration rate for women has doubled in the last eight years. Between 2005 and 2013, the number of adult women deprived of liberty grew 252%, from 600 to 2,524. The significant rise in the female population in a system that –as a whole– was not designed for women, has led to a situation where four out of six prisons that house women present the highest levels of overpopulation in the entire prison system. A paradigmatic example is Ilopango, the main re-adaptation center for women, which in 2013 registered a prison density of 894.5, that is, has exceeded nine times the installed capacity. This provides an idea of the dehumanizing conditions the inmates survive under, which together with the lack of gender policy to address their particular needs, exacerbates their situation inside the prison system.

However, it must be noted that efforts were made during the previous administration to carry on a prison reform, whose main thrusts were purge of prison personnel, the professionalization of prison personnel, and reinsertion programs such as the "I Change" program that featured the prison farm model. Although these

programs faced limited coverage and gaps in the model for productive reinsertion, they are an important step toward institutionalizing rehabilitation and reinsertion programs into the penitentiary system.

The study concludes with a series of recommendations, notably the implementation of the Policy for Justice, Security and Coexistence, the adoption of reforms to the institution that aim to improve the agencies that are responsible for prosecuting crime and investigation and criminal sanction functioning as an integrated system, the coordination of a unified system of criminal statistics generating reliable and certified data, expansion in the coverage of social reintegration programs started with the prison population, and institutional development of the community police model, in the context of inter-agency work to manage security, to name the most important ones.