

Why El Salvador's Anti-Crime Measures Cannot (and Should Not) Be Exported

by Tiziano Breda

One year has passed since El Salvador's President Nayib Bukele launched a "war on gangs", embedded in a state of exception that has since been renewed monthly. The government claims to have arrested 66,000 alleged gang members, projecting the image of an upfront battle against criminal organisations that has yielded results in bringing down murder rates. This has earned Bukele the approval not only of most Salvadorans, but millions of citizens throughout Latin America. His methods have become a foreign policy tool and a driver of electoral disputes in the region. But are they "exportable" to other countries? And should they?

El Salvador's state of exception

The state of exception entails a set of extraordinary measures to respond to massive disruptions of the public order, which extend pre-trial detention from 72 hours to 15 days, ease phone wiretapping and restrict freedom of assembly and the right to a legal defence in court. These measures

were the response to an extraordinary outburst of violence in March 2022, when one of the country's main criminal gangs, the Mara Salvatrucha (or MS-13), spearheaded a killing spree that left 87 people dead within a weekend, reportedly as a result of the breakdown of secretive negotiations with the government.¹ The government coupled the measure with the approval of reforms to harshen sentences for gang-related crimes, including membership, to a minimum of 30 years, paving the way for an unprecedented dragnet against past and current gang members and collaborators.² In just twelve months, authorities claim to have detained over 66,000 people which, added to the 40,000 already in jail, has brought the country to have the highest prison population rate in

¹ Carlos Martínez, "Collapsed Government Talks with MS-13 Sparked Record Homicides in El Salvador, Audios Reveal", in *El Faro*, 17 May 2022, https://elfaro.net/en/202205/el_salvador/26177.

² Human Rights Watch, *El Salvador: Sweeping New Laws Endanger Rights*, 8 April 2022, <https://www.hrw.org/node/381706>.

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the world, with 1 in every 50 citizens behind bars. The government recently inaugurated a mega prison built in record times that is set to host up to 40,000 criminals, publicising the first transfers of half-naked, tattooed gang members lined up on the ground, face down, under the close watch of security officers.³

The appeal of Bukele's methods

However brutal they appear, Bukele's methods unequivocally dealt a blow to the criminal organisations that had wrought havoc in the country for decades, dismantling many of their operations and subsequently contributing to reducing the levels of violence to historical lows. And Salvadorans are feeling the change. In 2022, authorities reported 495 homicides, a figure simply unthinkable just eight years ago, when they topped 6,600.⁴ The reduction is continuing in 2023 which, based on current trends, may end with around 200 violent deaths, translating into a murder rate comparable with European countries' standards.⁵ Understandably, around 80 per cent of interviewees in any recent poll support the state of exception.

³ Christine Murray and Alan Smith, "Inside El Salvador's Mega-Prison: The Jail Giving Inmates Less Space Than Livestock", in *Financial Times*, 7 March 2023, <https://www.ft.com/content/d05a1b0a-f444-4337-99d2-84d9f0b59f95>.

⁴ Peter Appleby et al., "InSight Crime's 2022 Homicide Round-Up", in *InSight Crime*, 8 February 2023, <https://insightcrime.org/?p=209234>.

⁵ Estimate made by journalist Roberto Valencia, based on National Police figures, see his tweet, @cguanacas, 8:50pm, 27 March 2023, <https://twitter.com/cguanacas/status/1640546758492127232>.

The apparent success and popularity of these measures are echoing throughout Latin America, as finely edited videos of Bukele's strong-handed response circulate widely on social media.⁶ Politicians across the hemisphere have sensed the opportunity to use Bukele's success for their own benefits. Opposition representatives in Colombia, Chile and Argentina, for example, used Bukele's actions as a benchmark to criticise their national governments' relative inaction in the security realm. Presidential hopefuls in Guatemala and the Dominican Republic promised they would follow Bukele's footsteps if elected.

The Honduran government of Xiomara Castro, giving in to mounting public criticism for a perceived surge in extortion activities, effectively imposed a similar state of exception in December 2022, initially circumscribed to 160 communities of the country's two most violent cities, Tegucigalpa and San Pedro Sula, which has now been extended to 50 municipalities. Unlike its neighbour, however, Honduran authorities have only detained around 4,000 suspected criminals so far, and the 235 reported homicides in January were fewer but not light years away than the 269 registered in November. It appears that most people detained are actually being released for lack of evidence.⁷

⁶ Will Freeman, "Nayib Bukele's Growing List of Latin American Admirers", in *Americas Quarterly*, 16 February 2023, <https://www.americasquarterly.org/?p=32060>.

⁷ Celia Pousset, "El verdadero estado de excepción en Honduras: capturas arbitrarias, abusos y 49 casos judicializados", in *Contracorriente*, 24 February 2023, <https://contracorriente.red/?p=130498>.

Why Bukele's methods cannot be applied elsewhere

Despite the appeal of El Salvador's measures, some practical impediments reduce the odds that other countries may implement similar measures, or at least that these would yield the same results.⁸

First of all, the apparent success of Bukele's dragnet is deeply intertwined with the clearly defined criminal landscape in El Salvador. Unlike most Latin American countries, criminal activities in El Salvador are concentrated in densely inhabited urban and suburban settings, where only three criminal gangs – the Mara Salvatrucha and the two factions of the Barrio 18 – exerted a virtual hegemony. The spatial distribution of their "areas of influence", moreover, had been informally agreed upon in a negotiation called the Truce (2012–2014), making it easier for authorities to trace back violent crimes to either group.⁹

A second crucial element relates indeed to the authorities' preparedness to imprison tens of thousands of gang members and maintain control in jails. Since 2014, when the Truce fell apart and a full-fledged war broke out between gangs and security forces, Salvadoran authorities have built a database of gang members, which are estimated

to be over 75,000 in a country of barely 6.5 million people. Furthermore, El Salvador could count on over 25,000 police officers and 20,000 military officers deployed in public security missions, even before President Bukele announced the doubling of the army in July 2021. Albeit outnumbered by gang members, the ratio of one security officer per 100 inhabitants is no minor feat: by contrast, Honduras, despite doubling El Salvador's size and population, has less than 40,000 police and military officers.

Finally, Salvadoran authorities have been able to impose their authority in the penitentiary system, after the gangs' leadership had used jails as headquarters to consolidate their power and direct criminal activities outside. Since 2016, prison authorities have enforced so-called "extraordinary measures", which impose a strict isolation regime to inmates held in security jails, including the prohibition of family visits and reduced leisure time. Furthermore, accounts of people jailed and then released under the state of exception point to brutal repression tactics employed by jail guards to maintain order and prevent mutinies, such as teargassing cells to silence people simply talking among themselves.¹⁰ For now, the order has been maintained, despite unprecedented levels of overcrowding – over 300 per cent at the end of 2022, before the inauguration of the new jail.

⁸ Tiziano Breda, "Latin America Likes Bukele's 'War on Gangs.' That's a Problem", in *World Politics Review*, 15 December 2022, <https://www.crisisgroup.org/node/20049>.

⁹ Sofía Martínez et al., "Life Under Gang Rule in El Salvador", in *International Crisis Group Commentaries*, 26 November 2018, <https://www.crisisgroup.org/node/7834>.

¹⁰ International Crisis Group, "El Salvador's Politics of Perpetual Violence", in *Latin America Reports*, No. 64 (19 December 2017), <https://www.crisisgroup.org/node/5488>.

The risks for democracy

Behind these tactics' apparent success lie some worrisome features that copycat politicians must take into account: massive human rights violations, undemocratic concentration of power and uncertain long-term effects in the security realm.

Human rights organisations and media outlets have reported the unjustified arrest of thousands of citizens, often based on unverified, anonymous complaints or even the "suspicious" or "anxious" look of people searched by the police. The "detain first, investigate after" approach Salvadoran authorities have adopted, coupled with a general environment of impunity (Bukele himself has publicly downplayed abuses of force and accused critics of siding with gangs),¹¹ has created a fertile environment for unpunished abuses. Authorities admit that more than 3,700 people have been released, but the toll of those unjustly detained is probably much higher. Those detained usually appear before a judge in hasty hearings of up to 500 accused at a time, often without legal representatives most of them could not afford anyway.¹²

Second, Bukele has been able to extend the state of exception perpetually and

ensure that most people detained are not released thanks to his concentration of power. Having won a supermajority in the Legislative Assembly in the 2021 election, his party *Nuevas Ideas* has turned it into a rubberstamp parliament, approving without debate any initiative coming from the executive. Hence the undebated extension of what is supposed to be an emergency measure for eleven times and counting. The new Assembly also dismissed ten out of fifteen Supreme Court judges and the Attorney General, as well as one-third of ordinary judges and police officers, and replaced them with Bukele loyalists.¹³ Therefore, neither ordinary nor constitutional judges dare to oppose the directives coming from the presidency.

The state of exception is for now targeting criminal gangs, with appalling side effects on the lives of thousands of innocent people, but has also laid the groundwork to build a full-scale police state. The measure was accompanied by over 15 legal reforms that not only harshen sentences for gang-related crimes, but also erase transparency on public procurement processes, wipe out constitutional guarantees to free and fair trials, and even sanction media that share messages that can create "anxiety" among the population.¹⁴

¹¹ Bukele has mocked gang members roughed up by the police and has claimed that foreign governments and NGOs have come out to defend gang members. See his tweets, @nayibbukele, 11:21pm, 31 March 2022, <https://twitter.com/nayibbukele/status/1509762961874858009> and 9:33pm, 11 April 2022, <https://twitter.com/nayibbukele/status/1513721850785775617>.

¹² Human Rights Watch, *El Salvador: Widespread Abuses Under State of Emergency*, 7 December 2022, <https://www.hrw.org/node/383517>.

¹³ Mat Youkee, "Nayib Bukele Calls Himself the 'World's Coolest Dictator' – But Is He Joking?", in *The Guardian*, 26 September 2021, <https://www.theguardian.com/p/jxf9d>.

¹⁴ Gabriel Labrador and Óscar Martínez, "Un año de régimen de excepción: se consolida un estado militar y policial", in *El Faro*, 26 March 2023, https://elfaro.net/es/202303/el_salvador/26785.

Finally, the longevity of El Salvador's security achievements is anything but certain. Prison overcrowding may trigger mutinies and violence within jails (around 100 people have reportedly died in dubious circumstances already), where gangs could also take advantage of the resentment of unjustly detained people and those who had tried to leave their criminal lives behind to feed their ranks. Moreover, authorities are unlikely to detain all gang members, as many have already fled to neighbouring countries. Meanwhile, the underlying conditions that gave rise to the gang issue in El Salvador, such as marginalisation, lack of economic opportunities and a disrupted social fabric with a deep-rooted culture of violence, have not changed at all, increasing the odds that, rather than completely disappearing, criminal violence may just take different forms.¹⁵

All in all, despite the appeal of Bukele's methods, the likelihood that other Latin American governments implement similar dragnets on violent crime remains relatively low. Nonetheless, the risk of populist security-related promises should not be underestimated, and can only be stemmed by fostering democratic checks and balances.

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¹⁵ International Crisis Group, "A Remedy for El Salvador's Prison Fever", in *Latin America Reports*, No. 96 (5 October 2022), <https://www.crisisgroup.org/node/19727>.

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