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**Committee on Economic, Social and Cultural Rights****Concluding observations on the sixth periodic report of El Salvador\***

1. The Committee considered the sixth periodic report of El Salvador<sup>1</sup> at its thirty-second, thirty-fourth and thirty-sixth meetings,<sup>2</sup> held on 26, 27 and 28 September 2022, and adopted the present concluding observations at its sixtieth meeting, held on 14 October 2022.

**A. Introduction**

2. The Committee welcomes the submission by the State party of its sixth periodic report and the supplementary information provided in the replies to the list of issues.<sup>3</sup> The Committee appreciates the constructive dialogue with the high-level and technically knowledgeable delegation, which was conducted virtually for particularly exceptional reasons. The Committee notes that, as stated in its communication to the State party, this exceptional situation does not constitute a precedent in the Committee's working methods. Moreover, the Committee is of the view that the participation in person of a representative of the State party, in addition to the teams that participated virtually, would have contributed to fostering a greater degree of trust and a more effective discussion and, consequently, would have had a positive impact on the overall quality of the dialogue.

**B. Positive aspects**

3. The Committee welcomes the legislative, institutional and policy measures taken to enhance the protection of economic, social and cultural rights in the State party, including the adoption of the Special Act on the Inclusion of Persons with Disabilities, the National Climate Change Plan, the Caring Births Act, the Growing Together Act, the General Water Resources Act and the National Comprehensive Health System Act. The Committee also welcomes the efforts and progress made by the State party in addressing the coronavirus disease (COVID-19) pandemic and combating poverty, as well as other measures mentioned in the present concluding observations.

**C. Principal subjects of concern and recommendations****State of emergency**

4. The Committee is aware of the security challenges in El Salvador and takes note of the report submitted by the State party on 29 July 2022 in response to the joint communication by special procedures mandate holders, in which it provided information on the measures

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\* Adopted by the Committee at its seventy-second session (26 September–14 October 2022).

<sup>1</sup> [E/C.12/SLV/6](#).

<sup>2</sup> See [E/C.12/2022/SR.32](#), [E/C.12/2022/SR.34](#) and [E/C.12/2022/SR.36](#).

<sup>3</sup> [E/C.12/SLV/RQ/6](#).



taken to ensure the enjoyment of human rights in the context of the state of emergency declared in March 2022. However, the Committee is seriously concerned that the way in which the state of emergency is being implemented has had an impact on the enjoyment of economic, social and cultural rights. It is particularly concerned about the closure of forums for participation and dialogue at the national level, the practical restrictions imposed on the work of human rights defenders and on public protests and the conditions of detention of persons deprived of their liberty.

**5. The Committee recommends that the State party:**

(a) **Ensure that exceptional measures relating to the suspension of fundamental freedoms, due process and procedural guarantees do not limit the enjoyment of economic, social and cultural rights or restrict the work of human rights defenders, especially defenders of economic, social, cultural and environmental rights;**

(b) **Guarantee the right of association and peaceful protest in relation to policies relevant to economic, social and cultural rights;**

(c) **Re-establish forums for open and constructive participation and dialogue with all stakeholders at the national level, including representatives of civil society, academia and the private sector, representatives and leaders of Indigenous Peoples and human rights defenders;**

(d) **Ensure that the declaration and extension of states of emergency, and the way in which states of emergency are implemented, are consistent with the principles of temporariness, proportionality and necessity and other principles established by international human rights standards and that they are subject to judicial review;**

(e) **Ensure conditions of legality, humanity and dignity, judicial guarantees and respect for economic, social and cultural rights in detention centres and penitentiary facilities during and after the state of emergency.**

**Management of the COVID-19 pandemic and restrictions on the exercise of rights**

6. The Committee notes the State party's efforts to respond to the COVID-19 pandemic but regrets that it has not received detailed information on the impact that the Act on the Temporary Restriction of Specific Constitutional Rights in Response to the COVID-19 Pandemic has had on the enjoyment of economic, social and cultural rights.

**7. The Committee recommends that the State party ensure that the declaration and implementation of exceptional measures, including during a pandemic, are consistent with the principles of temporariness, proportionality and necessity and other principles established by international human rights standards and that they are subject to judicial review.**

**Domestic application of the Covenant**

8. While the Committee notes the State party's clear statement with regard to the incorporation of international human rights law in general, and the rights recognized in the Covenant in particular, into the national legal framework and their precedence and justiciability, it is concerned about the lack of information on domestic court decisions in which the Covenant has been invoked and the limited specialized training provided to judges, prosecutors and lawyers on the provisions of the Covenant and its justiciability.

**9. The Committee recommends that the State party:**

(a) **Raise awareness of the economic, social and cultural rights recognized in the Covenant and their justiciability, in particular among the judiciary, lawyers and law enforcement officials;**

(b) **Raise awareness of economic, social and cultural rights among State and non-State actors responsible for the implementation of the Covenant, such as labour inspectors, social workers, health workers and teachers, and among rights holders;**

(c) **Take due account of the Committee's general comment No. 9 (1998) on the domestic application of the Covenant.**

### Judicial independence

10. The Committee is concerned about reports that, despite the proclamation of principles safeguarding judicial independence in the Constitution and the Organic Act on the Judicial System, there is a lack of independence, in practice, between the judicial, executive and legislative branches. In particular, the Committee is concerned about the dismissal of the judges of the former Constitutional Chamber, which was carried out without respect for due process or the principle of security of tenure for judges. It is also concerned about the amendments to the Judicial Service Act and the Organic Act on the Attorney General's Office adopted on 31 August 2021, which are incompatible with the principle of independence of the judiciary and the Attorney General's Office.

11. **The Committee urges the State party to take all necessary measures to ensure the impartiality and independence of the judiciary, as a means of safeguarding the enjoyment of human rights, including economic, social and cultural rights, and preventing undue interference by the executive and legislative bodies in the activities of the judiciary, particularly in the selection, appointment and removal of judges. The Committee wishes to draw the attention of the State party to the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors, as well as to the communications of the Special Rapporteur on the independence of judges and lawyers<sup>4</sup> and opinion No. 76/2020 of the Working Group on Arbitrary Detention.<sup>5</sup>**

### National human rights institution

12. While the Committee acknowledges the important work of the Office of the Human Rights Advocate, it is concerned about reports that the Office is gradually losing its independence and failing to respond to human rights violations in the State party.

13. **The Committee recommends that the State party:**

(a) **Strengthen the Office of the Human Rights Advocate by further reinforcing its independence and providing it with sufficient financial and human resources to enable it to fulfil its mandate diligently and independently, including those aspects of its mandate that relate to the promotion and protection of economic, social and cultural rights;**

(b) **Take due account of the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

### Human rights defenders

14. The Committee is concerned about reports that persons defending human rights in the State party, including journalists; community, ethnic and environmental leaders; academics; and health workers, have been subjected to persecution, threats, harassment and reprisals in the context of the state of emergency.

15. **The Committee urges the State party to develop and adopt, in a broad and participatory manner, effective measures and mechanisms, integrating ethnic and gender perspectives, to prevent acts of violence against and protect the life, physical integrity and liberty of defenders of economic, social, cultural and environmental rights, ensuring effective coordination between national and local authorities in this regard. The Committee wishes to draw the attention of the State party to its statement on human rights defenders and economic, social and cultural rights.<sup>6</sup>**

### Business and human rights

16. The Committee is concerned about the lax enforcement of current environmental laws and administrative measures vis-à-vis companies operating under the jurisdiction of the State party. It is of concern that adequate environmental impact assessments are not conducted in

<sup>4</sup> See communications AL SLV 5/2021 and AL SLV 3/2022, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

<sup>5</sup> Concerning José Aquiles Enrique Rais López.

<sup>6</sup> E/C.12/2016/2.

respect of economic activities such as urban development projects, transportation and energy initiatives and landfills and that agrochemicals are used excessively in the agricultural sector. Of particular concern is that these activities affect the quality of the soil, air and water and harm the health of the population and the environment, thereby seriously hindering the enjoyment of the economic, social, cultural and environmental rights of Indigenous Peoples, neighbouring communities and farm workers. The Committee is also concerned about the reprisals to which judges and courts are subjected when they impose protective measures in respect of projects, both public and private, that cause environmental damage.

**17. The Committee recommends that the State party:**

(a) **Strengthen its legislation and regulations, in accordance with its international human rights obligations, to ensure that urban development projects, transport and energy initiatives, landfills and other economic development activities undertaken by both national and international companies do not have an adverse effect on the enjoyment of economic, social and cultural rights;**

(b) **Prevent acts of intimidation and reprisals, including acts of violence, against judges and lawyers working to ensure the enforcement of environmental laws and administrative measures;**

(c) **Ensure that communities and Indigenous Peoples affected by activities related to economic development and the exploitation of natural resources in their territories are consulted, receive compensation for any damage or loss and draw tangible benefits from such activities;**

(d) **Take due account of the Committee's general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities and the reports of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes with respect to the right to science in the context of toxic substances<sup>7</sup> and to the rights of workers in relation to occupational exposure to toxic substances.<sup>8</sup>**

**Rights of Indigenous Peoples**

18. The Committee notes the efforts made by the State party but regrets that it has not received detailed information on the extent of implementation and the results of the National Action Plan for Indigenous Peoples. The Committee is also concerned that the State party has no legal mechanism for recognizing the right of the Indigenous Peoples as such to acquire collective title to land and that free, prior and informed consultation with Indigenous Peoples is not systematically carried out in the context of decision-making processes related to the exploitation of natural resources in their ancestral territories. In particular, the Committee is concerned that El Salvador has not yet ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO).

**19. The Committee recommends that the State party:**

(a) **Establish mechanisms for recognizing Indigenous peoples' rights to their ancestral lands and natural resources;**

(b) **Design, adopt and implement, in consultation with Indigenous Peoples, an adequate procedure that guarantees their right to free, prior and informed consultation in respect of legislative or administrative measures that may affect their rights and territories, and ensure that this procedure takes their traditions and cultural specificities into account;**

(c) **Engage in prior consultations regarding mining and hydrocarbon resource exploration and development activities that allow the peoples concerned to give their free and informed consent;**

<sup>7</sup> [A/HRC/48/61](#).

<sup>8</sup> [A/HRC/39/48](#).

(d) **Expedite the process of becoming a party the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169);**

(e) **Redouble efforts to promote and apply the principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples.**

#### **Maximum available resources**

20. The Committee notes the fiscal measures taken by the State party. However, it reiterates its concern<sup>9</sup> that tax revenue in the State party remains low and that the tax system is still regressive and excessively reliant on indirect taxation. The Committee is also concerned about the increasing level of public debt in relation to gross domestic product and the adoption of highly volatile and speculative financial instruments, such as bitcoin, as legal tender as of 7 September 2021. Moreover, the Committee regrets that it has not received detailed information on the proportion of public expenditure allocated by the State party for social priorities, such as social security, food, housing, water and sanitation, health and education (art. 2).

21. **The Committee recommends that the State party:**

(a) **Continue developing a progressive tax policy that will boost revenue and make it possible to increase the resources available for the implementation of economic, social and cultural rights;**

(b) **Ensure that the budget is formulated and implemented in a transparent and participatory manner and in such a way as to guarantee that all sectors of the population, particularly the most marginalized and disadvantaged groups and individuals, may realize their economic, social and cultural rights;**

(c) **Strengthen the accountability mechanisms applied to public revenue and expenditure;**

(d) **Review and amend the Bitcoin Act to reduce potential macroeconomic risks and establish monitoring mechanisms that regulate and supervise the use of bitcoin to ensure the necessary transparency and accountability and prevent money laundering.**

#### **Data collection**

22. While the Committee acknowledges the efforts made by the State party to strengthen its statistical and data-collection systems, it is concerned that the measures taken in this regard, when considered in conjunction with the abolition of the Directorate General of Statistics and Censuses and the transfer of its mandate to the Central Reserve Bank, are not sufficient to ensure the collection and generation of the reliable, disaggregated data necessary to monitor the progressive realization of the rights recognized in the Covenant (art. 2 (1) and (2)).

23. **The Committee recommends that the State party:**

(a) **Ensure that the collection of official statistical data for the assessment of the level of enjoyment of Covenant rights is done in an impartial manner, according to transparent technical criteria, and that complete, disaggregated data are made publicly available, in particular among disadvantaged and marginalized individuals and groups;**

(b) **Take due account of the publication by the Office of the United Nations High Commissioner for Human Rights on a human rights-based approach to data collection.**

#### **Non-discrimination**

24. The Committee is concerned that article 3 of the Constitution does not guarantee equality and non-discrimination in a comprehensive manner. It is also concerned about the absence of comprehensive anti-discrimination legislation establishing an exhaustive list of

<sup>9</sup> [E/C.12/SLV/CO/3-5](#), para. 8.

prohibited grounds for discrimination. Moreover, the Committee is concerned about the persistence of de facto systemic discrimination and manifestations of violence towards some groups of the population, in particular women, Indigenous Peoples, people of African descent and the rural population, among others (art. 2 (2)).

**25. The Committee encourages the State party to take measures to document formal and substantive discrimination and to report on the impact of those measures. It recommends that the State party:**

(a) **Consider reforming article 3 of the Constitution to insert explicit guarantees of equality and non-discrimination for all persons, without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, in accordance with the obligations set forth in the Covenant;**

(b) **Promote the adoption of comprehensive anti-discrimination legislation that prohibits direct and indirect discrimination in a comprehensive manner for all prohibited reasons recognized in the Covenant;**

(c) **Ensure that victims of discrimination have access to effective remedies, including the possibility of obtaining redress;**

(d) **Take due account of the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

#### **Discrimination on the basis of sexual orientation and gender identity**

26. The Committee notes the measures taken by the State party to prevent all forms of discrimination on the basis of gender identity and/or sexual orientation in public administration but is concerned that these measures are insufficient. It is also concerned about the widespread prevalence, in practice, of discrimination, stigmatization and negative stereotypes that make it difficult for lesbian, gay, bisexual, transgender and intersex persons to enjoy their economic, social and cultural rights (art. 2 (2)).

**27. The Committee recommends that the State party:**

(a) **Take all necessary measures to ensure that lesbian, gay, bisexual, transgender and intersex persons can fully enjoy their economic, social and cultural rights without discrimination, both in the public and the private sectors, including through strategies to raise awareness and combat stereotypes;**

(b) **Conduct awareness campaigns targeting the public, health-care providers, law enforcement officers and other public officials to eliminate negative stereotypes and stigma with regard to lesbian, gay, bisexual, transgender and intersex persons;**

(c) **Ensure that lesbian, gay, bisexual, transgender and intersex persons are able to enjoy their economic, social and cultural rights and have access to health, education, employment, housing, poverty reduction and food security programmes. In this regard, the Committee wishes to draw the attention of the State party to the report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity concerning the socioeconomic and cultural inclusion of lesbian, gay, bisexual, transgender and intersex persons.<sup>10</sup>**

#### **Persons with disabilities**

28. The Committee regrets that it has not received detailed statistical information on the results and impact of activities carried out under the regulatory framework that existed prior to the adoption of the Special Act on the Inclusion of Persons with Disabilities, which has been in force since 1 January 2021. Moreover, the Committee remains concerned about the persistence of cultural barriers and prejudices that hinder the enjoyment of economic, social and cultural rights by persons with disabilities (art. 2 (2)).

<sup>10</sup> [A/74/181](#).

29. **The Committee reiterates its previous recommendation<sup>11</sup> in this regard and urges the State party to:**

(a) **Set up a monitoring, follow-up and inspection mechanism with sufficient material, technical and human resources to monitor the implementation of the Special Act on the Inclusion of Persons with Disabilities effectively and impartially;**

(b) **Take all necessary measures to eliminate persistent cultural barriers and prejudices in society with regard to persons with disabilities.**

#### **Equality between men and women**

30. The Committee recognizes the efforts made by the State party to demystify cultural patterns and gender stereotypes and develop policies promoting shared responsibility for caregiving. However, it remains concerned<sup>12</sup> about the persistence and growth of the gender wage gap, the very low participation of women in the labour market and the smaller proportion of women in decision-making positions, both in the civil service and in the private sector (art. 3).

31. **The Committee recommends that the State party:**

(a) **Redouble its efforts to increase the participation of women in the labour market and close the gender wage gap by addressing vertical and horizontal gender-based segregation in the labour market, review its social and fiscal policies and address factors that discourage women from continuing their careers or taking on full-time positions, including through measures that support an appropriate work-life balance;**

(b) **Promote greater representation of women at all levels of the civil service, particularly in decision-making positions, and in managerial positions in the private sector;**

(c) **Take due account of the Committee's general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

#### **Right to work**

32. The Committee acknowledges the efforts made by the State party but remains concerned about the high rates of unemployment and underemployment; the high number of workers, in particular women, young people and persons over 60 years of age, in the informal sector, who are not covered by basic labour regulations; and the significant disparity between urban and rural areas in terms of access to the labour market (arts. 3 and 6).

33. **The Committee reiterates its previous recommendation<sup>13</sup> in this regard and urges the State party to:**

(a) **Take all necessary measures to ensure that workers in the informal sector benefit from basic labour standards and social protection;**

(b) **Assess and monitor the impact of the National Policy on Decent Work 2017–2030 and report on the results in its next periodic report;**

(c) **Step up its efforts to transition the informal economy to the formal economy, regularize the situation of workers in the informal sector and prioritize efforts to reduce labour gaps in rural areas. In this regard, the Committee wishes to draw the attention of the State party to the ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).**

<sup>11</sup> E/C.12/SLV/CO/3-5, para. 9.

<sup>12</sup> Ibid., para. 10.

<sup>13</sup> Ibid., para. 11.

**Just and favourable conditions of work**

34. The Committee reiterates<sup>14</sup> that, despite the efforts made in this area, the minimum wage remains low and is insufficient to ensure decent living conditions for workers and their families. The Committee is also concerned about information it has received regarding labour conditions, especially the conditions of women and migrant workers in certain sectors, such as the maquila, domestic service, construction, private security and agricultural sectors. The Committee is particularly concerned that working conditions in these sectors reportedly remain precarious and expose workers to risks of abuse and exploitation (art. 7).

35. **The Committee recommends that the State party:**

(a) **Establish an effective mechanism for periodically reviewing the minimum wage, in accordance with article 7 (a) (ii) of the Covenant, in which workers, employers and their representative organizations participate, in order to ensure that all workers receive a minimum wage that ensures a decent standard of living for themselves and their families;**

(b) **Set up a labour inspection mechanism with sufficient material, technical and human resources to monitor working conditions effectively and impartially in all sectors;**

(c) **Establish effective mechanisms for reporting any sort of abuse or exploitation of workers, paying particular attention to the situation of women and migrant workers employed in maquilas and the domestic service, construction, private security and agriculture sectors.**

**Trade union rights**

36. The Committee reiterates its concern<sup>15</sup> about the formal and substantive restrictions on the right to strike and the existence of obstacles to the registration of trade unions. It also regrets that it has not received accurate, up-to-date information on the number of strikes declared illegal between 2014 and 2021 and the grounds for those rulings as set out by the State party's courts (art. 8).

37. **The Committee reiterates its previous recommendation<sup>16</sup> in this regard and urges the State party to:**

(a) **Take the necessary measures to ensure that all workers can exercise their right to strike in accordance with article 8 of the Covenant, and consider reforming the applicable regulatory framework to that end;**

(b) **Guarantee the right to form and register unions and refrain from interfering in their internal processes;**

(c) **Protect persons involved in trade union activities and prevent and punish all forms of reprisal;**

(d) **Revise the scope of the category of essential services to ensure that all public servants whose services cannot reasonably be deemed as essential have the right to strike.**

**Right to social security**

38. While the Committee notes with interest the reform of the pension system being undertaken by the State party, it is concerned that only around 30 per cent of the economically active population enjoys social security coverage (art. 9).

39. **The Committee recommends that the State party:**

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<sup>14</sup> Ibid., para. 13.

<sup>15</sup> Ibid., para. 14.

<sup>16</sup> Ibid.



(a) **Develop a social security system that ensures universal coverage and provides sufficient benefits for all, especially for the most disadvantaged and marginalized groups, in order to ensure that they enjoy a decent standard of living;**

(b) **Step up its efforts to devise a social protection floor that includes basic universal social guarantees. In this regard, the Committee refers the State party to its general comment No. 19 (2007) on the right to social security and to the Social Protection Floors Recommendation, 2012 (No. 202).**

#### **Protection of children**

40. The Committee reiterates its concern<sup>17</sup> about the persistence of child labour in the State party. It is particularly concerned about reports that a high number of children are exposed to the worst forms of child labour and about the fact that child labour is not an offence under the Criminal Code. The Committee is also concerned that poverty, especially in rural areas, combined with limited access to the education system and low school retention rates, is increasing the risk of child labour. The Committee regrets that it has not received information on measures taken to prevent the exploitation of children in street situations (art. 10).

41. **The Committee recommends that the State party:**

(a) **Make child labour an offence under the Criminal Code;**

(b) **Redouble its efforts to effectively apply the Child and Adolescent Protection Act and the related special inter-agency protocol, ensure that child labour laws are rigorously enforced, strengthen child labour inspection mechanisms and provide support to poor families to make sure that their children attend school;**

(c) **Conduct a comprehensive study on the situation of children in street situations in order to address this problem and implement protection programmes in a comprehensive manner.**

#### **Violence against women and girls**

42. The Committee is concerned about reports of high rates of femicide and sexual and domestic violence and about the inadequacy of measures taken to ensure the effective protection of victims (art. 10).

43. **The Committee recommends that the State party:**

(a) **Conduct thorough investigations into all cases of femicide and violence against women and ensure that all perpetrators are prosecuted and duly punished;**

(b) **Take all necessary steps to effectively prevent acts of violence against women;**

(c) **Step up efforts to protect all women and girl victims of violence, in particular victims of domestic violence, and ensure that they have access to justice and to effective means of obtaining reparation and compensation and suitable and timely access to shelters where they can receive immediate physical protection, legal advice and physical and mental health care;**

(d) **Organize information campaigns to raise public awareness and provide law enforcement officials and judges with training as to the seriousness and criminal nature of violence against women and domestic violence.**

#### **Poverty**

44. While the Committee notes the efforts made by the State party, it is concerned that the rates of poverty and extreme poverty remain high and about the wide disparity in poverty levels between rural and urban areas. In addition, the Committee regrets that it has not received information on the extent of implementation or the results of the Poverty Eradication

<sup>17</sup> Ibid., para. 16.

Strategy of 2017, or detailed statistical data in that regard, in particular in relation to the situation of Indigenous Peoples (art. 11).

45. **The Committee reiterates its previous recommendation<sup>18</sup> in this regard and urges the State party to:**

(a) **Take the necessary measures to combat poverty, especially extreme poverty, within the framework of the Social Development Plan 2019–2024, applying a human-rights based approach and focusing in particular on rural areas and on the social exclusion of Indigenous Peoples in order to ensure that they are able to fully enjoy their human rights, especially their economic, social and cultural rights;**

(b) **Provide, in its next periodic report, detailed statistical information on the results and impact of the measures taken to combat poverty. In this regard, the Committee refers the State party to its 2001 statement<sup>19</sup> on poverty and the Covenant.**

#### **Right to adequate housing**

46. The Committee notes the measures taken by the State party. However, it reiterates its concern<sup>20</sup> regarding the inadequacy of the budget allocated for housing and the insufficient availability of social housing, especially in rural areas. The Committee is concerned about the absence of legislation on forced evictions that meets international standards (art. 11).

47. **The Committee recommends that the State party:**

(a) **Redouble its efforts to develop budgets and allocate financial resources for programmes aimed at granting security of tenure, including access to credit and housing subsidies for low-income families and disadvantaged groups. In this regard, the Committee refers the State party to its general comment No. 4 (1991) on the right to adequate housing;**

(b) **Adopt legislation on forced evictions that is in line with international standards and guidelines, including general comment No. 7 (1997) on forced evictions.**

#### **Right to food**

48. The Committee is concerned about the fact that the right to food has not yet been recognized in the State party's Constitution. It is also concerned about the absence of a comprehensive legislative framework on the right to food. The Committee regrets that it has not received updated statistical information, disaggregated by rural/urban area, on child malnutrition rates for the last five years. It is concerned about the persistence of food insecurity in the State party (art. 11).

49. **The Committee recommends that the State party:**

(a) **Entrust the legislature with completing the constitutional reform process and ensuring that the right to food is recognized in the Constitution;**

(b) **Take all necessary measures to prevent and combat child malnutrition, including under the Social Development Plan 2019–2024 and the “Growing Together” policy;**

(c) **Take due account of the Committee's general comment No. 12 (1999) on the right to adequate food and to the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security.**

#### **Rights to water and sanitation**

50. The Committee is concerned about the fact that the right to water has not yet been recognized in the State party's Constitution and about the significant disparity between urban and rural areas in terms of access to drinking water and sanitation services. It is also

<sup>18</sup> Ibid., para. 19.

<sup>19</sup> E/C.12/2001/10.

<sup>20</sup> E/C.12/SLV/CO/3-5, para. 18.

concerned about the lack of information on measures taken to reduce the possible impact of extractive activities on transboundary waters (art. 11).

51. **The Committee recommends that the State party:**

(a) **Step up its efforts to ensure adequate protection of its water resources and adopt adequate measures with regard to the processing of wastewater and the prevention and reduction of surface and groundwater pollution;**

(b) **Redouble its efforts to provide water supply and sanitation services to all existing dwellings, especially in rural areas;**

(c) **Take the necessary measures to ensure that transboundary waters are not impacted by extractive activities, which impair access to drinking water, particularly for communities affected by such activities;**

(d) **Take due account of the Committee's general comment No. 15 (2002) on the right to water.**

#### **Right to physical and mental health**

52. While the Committee notes the efforts made by the State party to increase the budget allocated for and the quality of health services, and is aware of the challenges that have arisen in the context of the COVID-19 pandemic, it reiterates its concern<sup>21</sup> that the health budget remains too low to adequately cover the needs of all population groups, in particular disadvantaged and marginalized groups (art. 12).

53. **The Committee recommends that the State party increase the health budget and take the necessary measures to establish a national health system accessible to all without discrimination, in accordance with article 12 of the Covenant, taking due account of its general comment No. 14 (2000) on the right to the highest attainable standard of health.**

#### **Rights to health and to an adequate standard of living in prisons**

54. The Committee acknowledges the efforts made by the State party to improve living conditions in prisons and detention centres but is concerned about information indicating that the prison population has increased, in particular during the state of emergency, and about reports of overcrowding, lack of health care and insufficient access to adequate food and clean drinking water (arts. 11 and 12).

55. **The Committee recommends that the State party:**

(a) **Make every effort to eliminate overcrowding in prisons and detention centres, ensure adequate living conditions, provide adequate access to health care, including reproductive and sexual health care, and ensure that persons deprived of their liberty receive adequate food and clean drinking water;**

(b) **Allow civil society organizations access to penitentiary institutions and ensure that conditions are conducive to their being able to monitor the enjoyment of the rights enshrined in the Covenant;**

(c) **Take due account of the Human Rights Committee's general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).**

#### **Sexual and reproductive health**

56. The Committee notes the measures taken by the State party. However, it reiterates its concern<sup>22</sup> about the scarcity and inadequacy of sexual and reproductive health services, particularly for women, and especially young women; despite certain improvements, this

<sup>21</sup> Ibid., para. 21.

<sup>22</sup> Ibid., para. 23.

situation continues to contribute to high maternal mortality and teenage pregnancy rates, in particular in rural areas (art. 12).

57. **The Committee recommends that the State party:**

(a) **Redouble its effort to implement the National Cross-sectoral Strategy for the Prevention of Child and Adolescent Pregnancy 2017–2027 and ensure the accessibility and availability of sexual and reproductive health services, especially in rural areas;**

(b) **Expand and reinforce comprehensive and age-appropriate sexual and reproductive health education for both sexes in the primary and the secondary school curricula and introduce education and awareness-raising programmes for the public at large;**

(c) **Take due account of the Committee’s general comment No. 22 (2016) on the right to sexual and reproductive health.**

#### **Abortion**

58. The Committee reiterates its concern<sup>23</sup> about the continuing complete ban on abortion, which makes no allowance for exceptional circumstances and which has given rise to grave situations of distress and injustice, in particular for poor and less educated women. The Committee is particularly concerned about cases in which women whose health was seriously at risk have turned to the health system and been reported on suspicion of having had an abortion. In some cases disproportionate criminal penalties have been imposed with no regard for due process. The Committee is also concerned at the high number of unsafe abortions, which have serious consequences for health and are still one of the main causes of maternal mortality (art. 12).

59. **The Committee recommends that the State party:**

(a) **Revise its legislation on the complete ban on abortion to make it both compatible with other fundamental rights, such as women’s right to life and health, and consistent with the dignity of women;**

(b) **Provide quality treatment for complications arising from abortions carried out in unsafe conditions, rather than focusing on criminal prosecution.**

#### **Right to education**

60. While the Committee notes the increased education budget and the improvement of indicators pointing to reduced illiteracy and greater gender parity in access to education, it is concerned about the inadequacy of the budget and the high dropout rate in secondary education. It is also concerned about the significant differences in school enrolment and retention rates among students from households with different income levels and disparities between urban and rural areas in terms of the quality of education and school infrastructure (arts. 13 and 14).

61. **The Committee recommends that the State party:**

(a) **Provide the resources necessary to ensure adequate quality and infrastructure in schools in both rural and urban areas;**

(b) **Pursue its literacy plan and redouble its efforts in that regard in rural areas and among Indigenous communities;**

(c) **Develop special programmes to prevent children from dropping out of school and address the root causes of school dropout.**

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<sup>23</sup> Ibid., para. 22.

### **Bilingual intercultural education**

62. The Committee notes the measures taken by the State party. However, it reiterates its concern<sup>24</sup> about the existence of barriers to access to and retention in secondary and higher education, which affect Indigenous adolescents and young people in particular. The Committee is also concerned about the high illiteracy rate among Indigenous communities, in particular among women and girls (arts. 13 and 14).

63. **The Committee recommends that the State party:**

(a) **Adopt effective measures to guarantee that Indigenous Peoples have access to intercultural education in their own languages and ensure that such education incorporates Indigenous traditions and cultural knowledge;**

(b) **Redouble its efforts to preserve Indigenous languages and promote their use, including by ensuring that municipal and local authorities teach them and use them in schools, where appropriate.**

### **Access to the Internet**

64. While the Committee notes the efforts made by the State party to broaden Internet access, it is concerned that such access remains limited, especially for Indigenous peoples, rural populations and poor households (art. 15).

65. **The Committee recommends that the State party step up its efforts to ensure universal and high-quality Internet access, particularly for marginalized and disadvantaged groups.**

## **D. Other recommendations**

66. **The Committee recommends that the State party consider ratifying the core human rights instruments to which it is not yet a party, namely, the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

67. **The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, including in the recovery from the COVID-19 pandemic. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Moreover, the Committee recommends that the State party support the global commitment of the decade of action to achieve the Sustainable Development Goals. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee wishes to draw the attention of the State party to its statement on the pledge to leave no one behind.<sup>25</sup>**

68. **The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee emphasizes the crucial role that parliament plays in the implementation of the present concluding observations and encourages the State party to ensure its participation in future reporting and follow-up procedures. The Committee encourages the State party to engage with the Office of the Human Rights Advocate, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in**

<sup>24</sup> Ibid., para. 26.

<sup>25</sup> E/C.12/2019/1.

the process of consultation at the national level prior to the submission of its next periodic report.

69. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 5 (state of emergency), 11 (judicial independence) and 59 (a) (abortion) above.

70. The Committee requests the State party to submit its seventh periodic report in accordance with article 16 of the Covenant by 31 October 2027, unless otherwise notified as a result of a change in the review cycle. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

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