



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights Seventy-second session

### Summary record of the 32nd meeting

Held at the Palais Wilson, Geneva, on Monday, 26 September 2022, at 4 p.m.

*Chair:* Mr. Abdel-Moneim

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### Consideration of reports

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*Sixth periodic report of El Salvador*

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*The meeting was called to order at 4.05 p.m.*

### **Consideration of reports**

#### **(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant**

*Sixth periodic report of El Salvador (E/C.12/SLV/6; E/C.12/SLV/Q/6; E/C.12/SLV/RQ/6)*

1. *At the invitation of the Chair, the delegation of El Salvador joined the meeting via video link.*
2. **The Chair**, welcoming the delegation, said that, owing to the internal situation in the State party, an exception had been made to the decision taken by the Chairs of the human right treaty bodies that dialogues with States parties should generally be held in person. He invited the head of the State party delegation to make her opening statement.
3. **Ms. Mira** (El Salvador) said that her Government was taking comprehensive measures to improve the opportunities of its citizens, particularly the most vulnerable, and to promote their full participation in social, economic and political life. In that connection, it was redrafting public policies in line with its obligations under international treaties, placing a particular focus on civil security, early childhood, health and access to essential services. It was also taking steps to tackle the considerable national debt amassed by previous administrations.
4. In the area of early childhood, in addition to the Caring Births Act, a bill had been developed to promote breastfeeding. The Growing Together Policy 2020–2030 contained measures to support the development of children aged up to eight years in areas such as health, nutrition and education, and the Government was providing training to some 16,000 early years teachers within the framework of the recently launched My New School Programme.
5. Against a challenging global economic backdrop, the Government had taken steps to tame inflation and protect household finances. For instance, it had temporarily abolished import duties on staple goods and had subsidized or fixed the price of fuel and energy. As a result, El Salvador had one of the lowest inflation rates of all countries in Central America.
6. El Salvador had received international praise, including from the World Health Organization, for its handling of the coronavirus disease (COVID-19) pandemic. Indeed, as a result of the Government's timely and comprehensive health-care and economic support, the country had the lowest number of confirmed COVID-19 infections and fatalities in the region. Specifically, the Government had provided Salvadorans and foreign nationals residing in the country with free access to vaccinations, donated vaccines to neighbouring countries and provided financial support to businesses, in particular small and medium-sized enterprises, as part of an ambitious economic recovery plan. It had also taken measures to protect the food supply chain.
7. The Government was in the process of designing a model for sustainable food systems, aimed at strengthening the links between policies and related sectoral initiatives and improving resource management. It had also enacted a law providing for the protection of water resources and the recognition of the human right to water and sanitation.
8. The various actions and efforts mentioned demonstrated the determination of President Bukele and his Government to implement the Covenant and guarantee the full enjoyment of human rights by Salvadoran citizens. The Government was committed to cooperating fully with the Committee and looked forward to receiving its observations and recommendations.
9. **Mr. Mancisidor de la Fuente** (Country Rapporteur) said that the State party had noted in both its report (E/C.12/SLV/6) and its replies to the list of issues in relation to the report (E/C.12/SLV/RQ/6) that those documents had been drafted in consultation with numerous State institutions. He wished to know whether the institutions included all three branches of the Government – namely the executive, the legislature and the judiciary – and

whether input had also been sought from non-governmental stakeholders, such as the Office of the Human Rights Advocate, human rights non-governmental organizations (NGOs) and academia.

10. He wondered why the delegation had not mentioned the state of emergency – which he understood had been renewed for a sixth time – in its opening statement, particularly as, by their very nature, states of emergency involved the suspension of certain economic, social and cultural rights, such as the rights to freedom of assembly and freedom of expression. With respect to reports that the Government had arrested some 50,000 persons as “terrorists” during the state of emergency, he wished to know on what grounds the State party had determined that those individuals were indeed terrorists. He would be interested to know whether journalists and human rights defenders in the country, in particular defenders of economic, social and cultural rights, were able to carry out their work freely and independently.

11. Noting that, in its replies to the list of issues, the State party had mentioned that the independence of the different branches of government was recognized in the Constitution and subsidiary legislation and the functional independence of judges was guaranteed by the existence of a professional judicial service, he said he would be interested to hear the delegation’s view on reports of the dismissal of judicial officers from the Constitutional Division of the Supreme Court of Justice and the Attorney General’s Office, which raised concerns about the separation of powers in the State party. The President’s recent announcement that he intended to stand again at the next elections despite an explicit prohibition under the Constitution would seem to reinforce those concerns.

12. He noted that, despite a certain amount of progress in terms of access to information, there had been an erosion of the space available to independent sources of information and statistics, which made it difficult to monitor developments in several areas. He would be interested to hear how the State party intended to further promote transparency and free access to information as a means of ensuring the enjoyment of economic, social and cultural rights.

13. He would welcome the delegation’s comments on the introduction of bitcoin as legal tender. A highly speculative and volatile currency, its value had fallen by half since its adoption in the State party, representing a significant loss of resources that might otherwise have been assigned to the development of economic and social rights by means of reliable policies backed up by predictable budgets. Of particular concern was the lack of transparency associated with bitcoin, which hindered efforts to combat corruption.

14. Turning to the applicability of international instruments and treaties in the State party’s legal order, he said that he would welcome some examples of judicial decisions invoking such instruments, particularly in respect of economic, social and cultural rights. He also wished to know how the Government applied the findings and conclusions of human rights treaty bodies in relation to communications and complaints brought against the State party by individual citizens.

15. He would welcome details of the legislation and regulations in place to guarantee equality between men and women and of the methods used by the State party to combat stereotypes that hindered the attainment of gender equality. Noting that the Directorate for Sexual Diversity was no longer in existence, he said he would be interested to know how the State party now ensured genuine equality for members of the lesbian, gay, bisexual, transgender and intersex communities in the exercise of their economic, social and cultural rights. The Committee would also appreciate information on the recognition and rights of same-sex couples.

16. He would welcome information on specific examples of successful and satisfactory consultations on projects affecting indigenous peoples, with a view to ensuring their prior free, informed consent. Noting that the State party had repeatedly reported that it was considering ratification of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), he asked whether the delegation could say if the deliberations would at some point lead to ratification.

17. According to information received, questions had arisen regarding the independence of the Office of the Human Rights Advocate. He would like to know whether the State party was taking appropriate measures to guarantee that Office's independence and to ensure that it had sufficient resources to properly discharge its mandate.

18. In relation to the country's population as a whole and in comparison with other countries in the region, the prison population in the State party appeared disproportionately large. It also seemed excessive, being reportedly twice as large as prison capacity allowed, a situation that which impaired, for example, inmates' exercise of their rights to health, education and food. It was possible that that problem reflected the fact that the state of emergency called for punitive policies and that those policies were not complemented by others that focused more on prevention or on alternatives to imprisonment; he would welcome the delegation's comments in that regard.

19. Lastly, he would be interested to receive information on the human rights training provided to members of the judiciary, the police and armed forces and public servants in general.

*The meeting was suspended at 4.45 p.m. and resumed at 4.50 p.m.*

20. **A representative of El Salvador** said that, historically, her country had found itself left behind and condemned to live with violence and poverty. Several former presidents had been implicated in corruption. The previous Government had introduced innovative structures that had been designed in theory to protect minority rights, but had turned out to be merely a means whereby the State could defraud the people.

21. The COVID-19 pandemic, which had broken out just after the current President had taken office, had exposed real deficiencies in a country in thrall to terrorist gangs, with a scandalous murder rate and where women were persecuted, small businesses were exposed to extortion and economic progress was impossible because the country attracted no foreign investment.

22. The current Government enjoyed the approval of 90 per cent of the population, with whom it was working closely to change the situation in the country. Concerns such as those raised by Mr. Mancisidor de la Fuente were often a reflection of inaccurate reporting in the media. The delegation would answer the Committee's questions by referring to the legislation in force and relevant documentation.

23. The plans in place at the time the pandemic had hit had been so far divorced from the reality of the country that the health system had found itself completely incapable of addressing the situation, owing to the lack of equipment and beds in hospitals and the chaos that had prevailed in local health centres. However, her Government had put in place a range of legal, economic and health measures that had achieved better results than many countries with greater resources.

24. It had gone on to take control of public affairs in a way that had not been done before. Thanks to the democratic mandate, the legislature now had a high degree of legitimacy. Members of the judiciary were no longer selected at meetings behind closed doors. All branches of government were working for change. The main instrument of change was the Social Development Plan 2019–2024, which set 10 measurable objectives, each with an appropriate budget and indicators of success. The first goal was the reduction of poverty and inequality, in pursuit of which several institutions were working together towards specific targets with clear deadlines. The second was the reduction of malnutrition: several new items of legislation regulated matters such as food provision and school meals.

25. The third goal focused on early childhood development, with new provisions on care for boys and girls from the moment of conception and an emphasis on the mother-child bond. The fourth goal was to improve the level of education, notably by narrowing the digital divide through the provision of equipment to more than 1.2 million children of elementary and secondary school age; by investing over US\$ 600 million in infrastructure, benefiting 1,000 schools, including some that had previously not been able to benefit owing to their illegal status; and by introducing changes to the curriculum.

26. The fifth goal was to reduce the mortality rate, in particular for mothers and newborn babies. Much progress had been made in that regard, and early childhood care services had been significantly improved. The sixth goal was to reduce gender inequality. Special measures had been taken to ensure that all women had access to public services and credit, including for housing.

27. The seventh goal was to reduce climate vulnerability. Goal 8 was to bring about a cultural transformation, including through measures to preserve and restore the cultural heritage of indigenous populations. The ninth goal was to ensure security for the country's citizens, in particular by eliminating terrorist groups. The tenth and final goal was to reduce irregular migration into and out of the country, notably through initiatives to support Salvadoran returnees.

28. **A representative of El Salvador** said that the continuation of the state of emergency was necessary in order to allow the public authorities to effectively combat terrorist groups operating on Salvadoran territory. In a ruling of 24 August 2015, the Constitutional Division of the Supreme Court of Justice had set forth its reasoning for the classification of various criminal gangs, including Mara Salvatrucha (MS-13) and Mara Barrio 18 (18th Street Gang), as terrorist groups, and of their leaders, members, collaborators, supporters and funders as terrorists. Based on that ruling, a number of amendments had been made to the Criminal Code to facilitate the eradication of the scourge of terrorism in El Salvador

29. **A representative of El Salvador** said that the Constitutional Division ruling was based on a comprehensive technical and legal analysis. The new classification meant that special measures could be taken against the terrorist gangs, outside of the scope of the ordinary criminal law. The United States Department of State had also recently classified members of the same gangs as terrorists. A spate of gang-related murders of innocent civilians across El Salvador in late March 2022 had left the Government with no choice but to request the Legislative Assembly to declare a state of emergency under article 29 of the Constitution, which it had done through its Decree No. 333. Since then, the security forces had been deployed on special missions throughout the territory and had been gradually neutralizing the terrorist threat, making a high number of arrests. As a result of those special measures, there had been no terrorism-related murders in El Salvador for over two and a half months. On the basis of the success of the measures taken thus far, various restrictions on constitutional safeguards introduced through Decree No. 333 had already been lifted. The freedoms of assembly and demonstration were not restricted and persons who participated in demonstrations were neither persecuted nor punished. Over 90 per cent of the population supported the decisions and measures taken by the Government to ensure national security.

30. **A representative of El Salvador** said that the motion of the Legislative Assembly to dismiss all five judges of the Supreme Court of Justice had been passed by a qualified majority of members of the Assembly and was in accordance with article 186 (1) of the Constitution. The grounds on which the Legislative Assembly could dismiss a judge were open and related to the judge's ability to effectively carry out his or her duty. A number of the rulings handed down by the judges in question had been found to be based on wrongful interpretations of the Constitution or on arbitrary or discriminatory findings, in violation of article 86 of the Constitution, and some of their rulings had directly violated the constitutional rights of citizens. Article 186 of the Constitution did not grant Supreme Court judges the right to a hearing on their dismissal because their appointment was a political prerogative. The judges had therefore been dismissed with immediate effect.

31. **A representative of El Salvador** said that, although the prison population had increased in size during the state of emergency, detention conditions were gradually improving as a result of efforts to increase monitoring in prisons and to facilitate the social reintegration of prisoners. A special protocol had been developed on the implementation of the state of emergency in prisons. Representatives of the Office of the Human Rights Advocate and the International Committee of the Red Cross had been given unrestricted access to prison facilities, and the Government was currently following up on their recommendations. Measures had been taken to improve all aspects of prison life, including in the areas of food and nutrition, health care, education, prison labour and rehabilitation. Salvadoran prisons were subject to monitoring by international bodies, whose views and recommendations were taken into consideration.

32. **A representative of El Salvador** said that, in the 2021 legislative elections, President Bukele's political party, Nuevas Ideas (New Ideas), had won 56 of the 84 seats in the Legislative Assembly. That result clearly demonstrated the national electorate's support for the current Administration. With regard to President Bukele's re-election campaign, the 2014 pronouncement of the Constitutional Division of the Supreme Court, which at that time had been composed of the judges who had been dismissed in 2021, was interpreted as referring not to the period prior to the election, but to the period prior to the term of office before the election. In El Salvador, the people's will was sovereign, and the population would decide whether or not they wished President Bukele to continue in office.

33. **A representative of El Salvador** said that, pursuant to the Bitcoin Act of 2021, bitcoin had been made legal tender in El Salvador, with a view to attracting international investment and fostering digital innovation. Nonetheless, under the Monetary Integration Act, the United States dollar remained the principal national currency. It was not mandatory to hold or use bitcoin, and the State continued to participate in traditional markets. The use of bitcoin was regulated in accordance with the pre-existing legal framework governing the economic sector, including anti-money laundering legislation.

34. **Mr. Uprimny** (Country Task Force) said that one of the primary aspects of the principle of judicial independence was that judges should be irremovable. The Legislative Assembly's decision to dismiss the judges of the Constitutional Division of the Supreme Court simply because it did not agree with their findings was a clear case of interference with the independence of the judiciary. He would therefore be grateful for clarification of the State party's position with regard to the principle of the irremovability of judges.

35. According to information received by the Committee, the Directorate General for Statistics and Censuses had been dissolved. The source of some of the information provided by the delegation was thus unclear. In that connection, he wished to know how the State party gathered and processed information on the success of its policies and activities with regard to social, cultural and economic rights and how it ensured the transparency of such information.

36. **Mr. Hennebel** (Country Task Force) said that he would be interested to learn whether the State party would be willing to receive support from the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to ensure that the measures it took under its state of emergency were fully in line with international human rights law. It would also be useful to learn whether the State party had taken measures to uphold the independence of the judiciary and prevent interference with its work and to ensure that defendants enjoyed the right to due process and procedural safeguards. In the recent and current reforms of the judicial branch, had due account been taken of the relevant international instruments and standards?

37. **Mr. Mancisidor de la Fuente** said that the automatic labelling of persons suspected of gang-related activity as terrorists could be indicative of lack of adequate procedural safeguards protecting the rights of defendants.

*The meeting rose at 6 p.m.*