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Committee on Economic, Social and Cultural Rights

Information received from El Salvador on follow-up to the concluding observations on its sixth periodic report*

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* The present document is being issued without formal editing.



I. Methodology

1. This report on follow-up to the concluding observations of the sixth periodic report under the Covenant on Economic, Social and Cultural Rights (hereinafter the Covenant) was prepared by the Ministry of Foreign Affairs of El Salvador, with contributions from various State institutions with competence in the areas for which information was requested.

II. Introduction

2. El Salvador submitted its sixth periodic report to the Committee on Economic, Social and Cultural Rights (hereinafter the Committee) in 2019. The report was reviewed by the Committee on 26, 27 and 28 September 2022 and the concluding observations (E/C.12/SLV/CO/6) were adopted and issued at the Committee's sixtieth meeting, held on 14 October 2022. In accordance with its procedure on follow-up to concluding observations, the Committee requested El Salvador to provide, within 24 months of the adoption of the concluding observations, information on the implementation of the recommendations contained in paragraphs 5 (state of emergency), 11 (judicial independence) and 59 (a) (abortion).

III. Follow-up information

State of emergency

Follow-up information relating to paragraph 5 of the concluding observations (E/C.12/SLV/CO/6)

3. At the start of the first administration of President Nayib Bukele, in June 2019, the Government of El Salvador made a priority commitment to the comprehensive protection of all citizens of El Salvador that was given concrete form through implementation of the Territorial Control Plan. This multi-phase strategic plan proved effective in combating the violence fuelled by organized criminal groups,¹ but the gangs' response to the measure unleashed an unprecedented wave of homicides² that led the Government to impose a state of emergency³ pursuant to article 29 (2) of the Constitution, under the conditions established in article 30.

4. The state of emergency was specifically aimed at dismantling organized criminal groups and has not restricted the general public's enjoyment of economic, social and cultural rights;⁴ rather, it has had a positive impact on the full exercise of human rights. Each extension of the state of emergency has been preceded by a thorough analysis, in the new temporal context, of the reasons for which the state of emergency was originally imposed, ensuring compliance with the legitimacy requirements established in the Constitution and in constitutional jurisprudence on the matter.⁵ Moreover, although included among the guarantees that might lawfully be suspended in a state of emergency pursuant to the constitutional provisions, freedom of movement (Constitution, art. 5) and freedom of expression and information (Constitution, art. 6) have never been suspended and have remained in full effect. Also, the right to peaceful assembly (Constitution, art. 7) was fully

¹ See: https://www.youtube.com/watch?v=hINb0Z_jVjg.

² See: <https://diario.elmundo.sv/nacionales/marzo-2022-el-mes-mas-violento-desde-que-inicio-el-plan-control-territorial>.

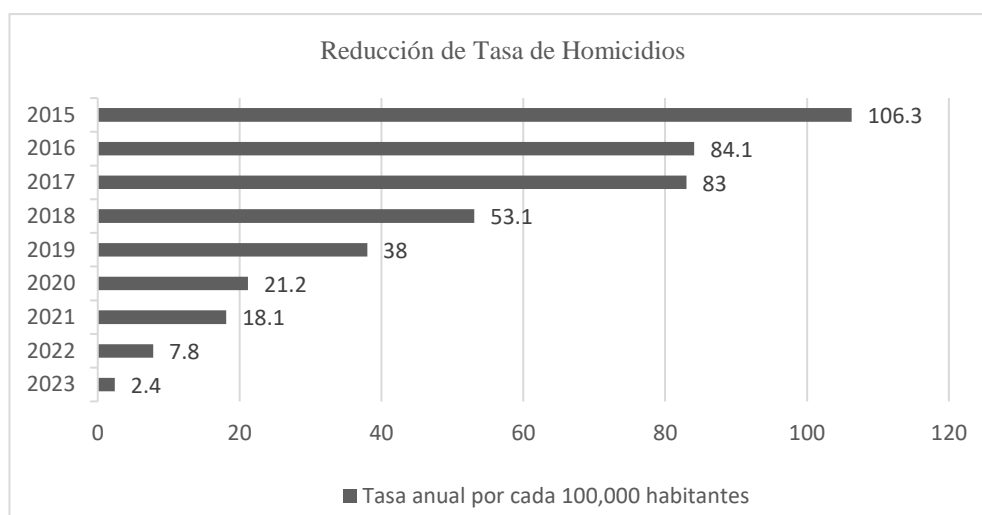
³ Legislative Assembly Decree No. 333:
<https://www.asamblea.gob.sv/sites/default/files/documents/decretos/DB383826-6092-4CA2-AEAB-A9F53A35EEEB.pdf>.

⁴ See: https://www.youtube.com/watch?v=-Jvm_Dq3ITw.

⁵ See: Ruling of unconstitutionality No. 21-2020 AC13 of 8 June 2020 issued by the Constitutional Chamber of the Supreme Court, available at:
<https://www.jurisprudencia.gob.sv/DocumentosBodega/D/1/2020-2029/2020/08/DF061.PDF>.

restored by Legislative Decree No. 476 of 17 August 2022 without any restrictions on public meetings of a religious, cultural, sporting or other nature having ever being imposed.

5. The extensions of the state of emergency were essential to quell the criminal activities of organized criminal groups that have for years undermined the rights of citizens and limited freedom of movement and the free exercise of economic activities. Since its imposition, the state of emergency has had very positive results, evidenced primarily by a significant reduction in homicides, extortion and other serious crimes.⁶ Crime and homicide rates have fallen to levels never previously seen, having dropped from an annual rate of 106.5 per thousand inhabitants in 2015 to 2.4 by 2023.



Source: National Civil Police.

6. Despite external factors associated with the global economy, the anti-inflation measures and fiscal and security policies implemented by the Government of El Salvador have had a positive effect on growth in the Salvadoran economy. This has been noted by the International Monetary Fund, which highlighted the security measures taken to combat criminal gangs as key supports for the Salvadoran economy that serve to restore confidence among local and foreign investors and attract investment, tourism and cooperation. Additionally, El Salvador has for the first time managed to achieve a fully financed national budget, without borrowing to cover current spending.

7. In 2023, the Salvadoran economy expanded by 3.5 per cent, exceeding the average growth rate of 2.1 per cent recorded in previous years. According to estimates of the Central Reserve Bank, gross domestic product (GDP) was US\$ 34,015.62 million, representing an increase of US\$ 2,026.7 million on the previous year, attributable to the safer environment, tourism, investment, job sustainability, the reactivation of production chains and legal certainty.⁷

8. In the first quarter of 2024, economic growth in El Salvador was marked by a significant upturn in various economic activities that boosted the country's GDP. In 2024, recreational services expanded by 20.7 per cent, compared with 10.2 per cent in 2023; government services grew by 7.5 per cent, compared with 3.9 per cent in 2023; the transport sector expanded by 6.9 per cent, compared with 1.8 per cent in 2023; and financial and insurance services grew by 6.7 per cent, compared with 7.5 per cent in 2023. This growth in key sectors is a sign of economic diversification and strengthening in areas conducive not only to economic development but also to social well-being.

⁶ On 17 April 2024, the Ministry of Justice and Public Security announced that there had been no homicides in El Salvador for 600 days, consolidating the country's position as one of the safest in the western hemisphere. This achievement is attributed to the continuity of the security policies implemented under the state of emergency, which have enabled the State to significantly reduce rates of violence and crime. <https://www.seguridad.gob.sv/600-dias-sin-homicidios/>.

⁷ See: Annual Economic Report of the Central Reserve Bank.

9. The creation of an economic system conducive to the establishment and operation of technology businesses has also aided the country's growth. In April 2024, Google opened offices in El Salvador – the first Google technology hub in Central America – that will facilitate the implementation of modernization projects in key areas such as digital governance, health, education, digital security, customs and land registration. There are also plans to open a technology training centre for Salvadorans and a data centre in the historic centre of the capital.

10. Set up to foster sustainable growth in El Salvador, the Investment and Exports Promotion Agency of El Salvador (INVEST)⁸ works to foster economic development and employment opportunities. Additionally, the opening of the “3 February” hydroelectric power plant will enable the country to meet domestic demand for electricity besides positioning El Salvador as a key energy exporter in Central America.

11. President Nayib Bukele's second term in office has seen the launch of the three-phase El Salvador Economic Plan. The first phase, referred to as the “Food” phase, is focused on developing food security through the establishment of agromarkets and construction of food supply centres, among other measures. The second “Technology” phase, centred on boosting macroeconomic growth, has included the opening of the first tier III certified commercial data centre in El Salvador, which will offer advanced services such as colocation, public and private cloud services and dedicated spaces for individuals. The third “Logistics” phase envisages a reinforcement of the country's logistics infrastructure on the back of a US\$ 1,615 million investment, the largest and most important investment made in the country to date.

12. The Government of El Salvador has developed a comprehensive strategy to address security; the Territorial Control Plan, which has been key to countering violence in communities, extends beyond punitive measures to encompass the rehabilitation of public spaces and strengthening of community infrastructure, so contributing to the creation of safer and more cohesive environments for families, and especially young persons.

13. In phase II of the Territorial Control Plan, referred to as the “Opportunities” phase, Urban Centres for Well-being and Opportunities⁹ have been established in areas previously controlled by gangs in a bid to reduce crime rates and foster recreational, cultural and training activities conducive to peaceful coexistence and social integration. A first monitoring survey, conducted in April 2024, revealed that, with the launch of the Urban Centres for Well-being and Opportunities, the time dedicated to recreation had increased for half of all children, who between them had visited the centres more than 596,000 times. In addition, the surrounding communities have seen substantial improvements in security that have strengthened neighbourhood relations and stimulated local economic development.

14. Phase VI of the Territorial Control Plan, referred to as the “Integration” phase, saw the adoption of the National Integration System Act, creating the Integration Directorate.¹⁰ This new institution's remit is to combat poverty and improve quality of life for the country's people by means of a new development model designed to strengthen collective relations between the State and the people. The implementation of this model has been reinforced by a general revitalization of public spaces nationwide, among other actions. One of the main projects executed involved a revitalization of the historic centre of the capital city where, in November 2023, the new National Library of El Salvador¹¹ was inaugurated. The Library, which is the largest in Central America and the most modern in all of Latin America, was designed as a space to stimulate the development of recreational skills and offers cultural,

⁸ See: <https://transparencia.asamblea.gob.sv/node/1829>.

⁹ See: <https://cubo.gob.sv/>.

¹⁰ Legislative Assembly of El Salvador. National Integration System Act, phase VI of the Territorial Control Plan. Legislative Decree No. 892 of 14 November 2023. Available at: <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/D61FB1B1-05A0-45E7-AE7C-6DAD49900419.pdf>.

¹¹ See: <https://www.cultura.gob.sv/la-nueva-biblioteca-nacional-de-el-salvador-y-sus-servicios-para-la-poblacion/>.

educational and inclusive experiences through reading, art, culture, information and communication technologies, among other activities.

15. All these actions are supported by government policies that protect the economic, social and cultural rights of the people and an approach to upholding and protecting the human rights of children that accords particular priority to early childhood, comprehensive educational reforms, an integrated healthcare system and a policy of shared responsibility for care, among others. When combined with prevention, territorial control and social development strategies and public policy tools in other areas, these policies are transforming El Salvador in such a way that it not only offers numerous opportunities for business, trade and investment but is also in a position to drive activity in the region in general, promoting economic integration and sustained and inclusive economic growth through its involvement in regional forums.

16. The country's commitment to respecting human rights is also reflected in the protection afforded to persons deprived of their liberty and access to justice. To ensure effective protection for detained persons facing trial, communication technologies have been adopted that allow for oral hearings to be conducted by videoconference. In addition, the capacity of the specialized criminal courts has been strengthened through the appointment of 22 new officials (4 court magistrates and 18 judges), and other temporary positions have been made available to further build capacity. Chambers specializing in organized crime have been established, with four judges, including one juvenile judge, assigned to them, as well as guarantees courts. In total there are 11 courts, 2 guarantees courts and 2 chambers specializing in organized crime with nationwide jurisdiction.

17. As regards prison infrastructure, there are currently 23 detention facilities, including reception centres, preventive detention centres, centres for convicted prisoners and special centres. All these facilities have access to basic services, food, drinking water, healthcare, recreation, hygiene facilities, programmes and workshops. There are also women's prisons with adequate facilities for the children of mothers deprived of their liberty, who receive specialized care through the Child Development Centre; a prison for foreign nationals; a prison for lesbian, gay, bisexual, transgender and intersex persons and those with chronic or terminal illnesses; and the newly built Terrorism Confinement Centre, which has the capacity to house 40,000 inmates.

18. Assistance for persons deprived of liberty is guaranteed by the Attorney General's Office, which provides free legal aid through public defenders and runs a virtual assistance centre offering direct assistance to the family members of detainees.

19. The Government of El Salvador is also promoting forums for open, constructive and participatory dialogue with civil society. For example, while preparing its national report for the fourth cycle of the universal periodic review, it organized consultation workshops guaranteeing broad representation of civil society, community leaders, Indigenous Peoples and human rights defenders.

Judicial independence

Follow-up information relating to paragraph 11 of the concluding observations

20. In exercise of its constitutional powers, the Legislative Assembly has introduced amendments to the Judicial Service Act and the Organic Act on the Attorney General's Office¹² to modernize and streamline the regulations governing the judicial profession and ensure more effective protection for judicial guarantees. The amendments to the Judicial Service Act related to:

- the duration of judicial service, allowing for a system of reserve availability, when justified by reasons of necessity and subject matter specialty

¹² Adopted by Legislative Decrees No. 144 and No. 145 of 31 August 2021, published in Diario Oficial No. 175, volume No. 432, of 14 September 2021.

- the reclassification of magistrates and judges, guaranteeing better working conditions for members of the judiciary and fair remuneration commensurate with the duties performed
- the transfer of judges and magistrates, based on criteria of necessity, specialty and the complexity of court cases, without detriment to the classification of justice officials or their working conditions
- guarantees of security of tenure in position, in accordance with article 4 of the Judicial Service Act
- the amendments to the Organic Act on the Attorney General's Office clarified the administrative provisions governing careers in the prosecution service (appointment, promotion, transfer and termination), guarantees of security of tenure and respect for due process in the dismissal of prosecutors, allowing for continuity in service beyond the age of retirement, with the authorization of the Attorney General, for reasons of service exigency and the complexity or specialty of the duties performed

21. These amendments are compatible with the principle of judicial independence as they do not alter the powers and functions of justice officials and do not introduce restrictions on or allow for external factors to interfere with decision-making. They are designed to address the structural problems within the judicial branch, guarantee access to justice for the country's people, ensure judicial independence, eliminate corruption and eradicate the selective judicial practices that for years have had a serious impact on the human rights of the Salvadoran people.

Abortion

Follow-up information relating to paragraph 59 (a) of the concluding observations

22. El Salvador recognizes the right to life from the moment of conception, both in the Constitution and in the Growing Together Act, which establishes an obligation for the family, society and the State to guarantee for children and adolescents a dignified life, optimal growth and comprehensive, inclusive, non-discriminatory development physically, mentally, spiritually and socially, in accordance with the State's international obligations and the principles established in the Universal Declaration of Human Rights (arts. 3 and 6), the International Covenant on Civil and Political Rights (arts. 6, 10, 12 and 16), the Convention on the Rights of the Child (preamble and arts. 1, 2, 3 and 6), the American Convention on Human Rights (art. 4 (1)) and the American Declaration of the Rights and Duties of Man (arts. 1 and 17), since there is no inter-American or international legal norm, whether enshrined in a treaty or forming part of international custom or a general principle of law, that recognizes abortion as a right or establishes an obligation for the State to decriminalize abortion, and certainly no instrument ratified by the State of El Salvador.

23. The principle of State sovereignty assumes State involvement in the determination of the sources of law applicable to the State. Thus, while it recognizes the valuable work carried out by the international treaty monitoring bodies, the Government of El Salvador reminds the Committee that its mandate is limited in scope to making recommendations and that it is not a body with jurisdictional powers. Accordingly, since no obligation to decriminalize abortion exists in binding sources of international law and none of the instruments ratified by El Salvador establish an international obligation to do so, it would be contrary to international law to require the State to comply with an international obligation that does not exist and would not in any case be binding upon the State.

24. The Government reaffirms that maternal and neonatal health is a State priority; unborn children are protected through health interventions and prenatal education and care as well as by provisions that guarantee the well-being of pregnant women and their families from the moment of conception until birth. El Salvador reiterates that it does not criminalize women who suffer obstetric emergencies or pregnancy-related complications and clarifies that the cases traditionally cited as examples of the criminalization of obstetric emergencies refer to

homicides of newborn children.¹³ In exercise of its sovereign powers and its freedom to shape domestic criminal policy, the Government has adopted a model that establishes grounds for exceptions to criminalization (Criminal Code, art. 27),¹⁴ which include situations of necessity. There is thus no absolute criminalization of abortion since it is possible to claim a situation of necessity and exemption from the obligation to act in accordance with the law.

25. Both in law and in practice, the medical authorities are empowered to perform procedures that they consider necessary to protect women's legal rights to life and health, and there are various strategies and protocols in place to ensure comprehensive care and appropriate follow-up for women experiencing a risky pregnancy from a rights-based perspective:

- the protocol on a human rights-based approach to care in the preconception, prenatal, labour and postnatal stages and in obstetric emergencies (2022)
- the Caring Births Act,¹⁵ which guarantees comprehensive and quality care for women from preconception through pregnancy and puerperium to the newborn stage, and its implementing regulations,¹⁶ which set out principles for the development of a technical standard and its implementation within the National Integrated Health System.

26. The National Cross-sectoral Strategy for the Prevention of Child and Adolescent Pregnancy 2017–2027 has a three-pronged action plan focused on prevention; special protection; and access to justice, rights restitution and the promotion of knowledge.

¹³ See <https://diario.elmundo.sv/nacionales/seis-bebes-han-sido-asesinados-en-menos-de-un-mes-en-el-salvador><https://lapagina.com.sv/nacionales/encuentran-un-recien-nacido-muerto-en-los-banos-de-un-centro-comercial-de-soyapango/>
<https://www.laprensagrafica.com/elsalvador/Proteccion-Civil-confirma-dispositivo-policial-por-presunta-desaparicion-de-un-bebe-en-residencial-de-Santa-Tecla-20240331-0019.html>
<https://www.elsalvador.com/noticias/nacional/bebe-asesinado-cuneta-quezaltepeque-la-libertad/1136334/2024/>
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<https://www.laprensagrafica.com/elsalvador/Rescatan-a-recien-nacido-de-fosa-septica-en-Izalco-20240423-0018.html>.

¹⁴ See: <https://www.fiscalia.gob.sv/medios/portal-transparencia/normativas/Politica-de-Persecucion-Penal%202017.pdf>.

¹⁵ Caring Births Act for Decent Childbirth and Loving and Sensitive Care for Newborn Children. See: https://crecerjuntos.gob.sv/dist/documents/Ley_nacer_con_carino.pdf.

¹⁶ See: https://crecerjuntos.gob.sv/dist/documents/REGLAMENTO_DE_LA_LEY_NACER_CON_CARIN_O.pdf.