



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Seventy-fifth session

Summary record of the 1966th meeting

Held at the Palais Wilson, Geneva, on Friday, 18 November 2022, at 3 p.m.

Chair: Mr. Heller

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (continued)

Third periodic report of El Salvador (continued) (CAT/C/SLV/3 and CAT/C/SLV/3/Corr.1; CAT/C/SLV/Q/3)

1. *At the invitation of the Chair, the delegation of El Salvador joined the meeting via video link.*
2. **A representative of El Salvador** said that the new Administration had transformed the prison system; prisons now facilitated the rehabilitation and social reintegration of prisoners and no longer functioned as operations centres for armed groups. A differentiated approach was adopted for women, pregnant women, women with children, foreign prisoners, lesbian, gay, bisexual, transgender and intersex persons and persons with terminal illnesses, and a series of positive actions had been taken in the four priority areas of health care, infrastructure, treatment of prisoners and prison administration.
3. Measures had been undertaken to upgrade primary, secondary and tertiary health care to ensure equal, free and universal enjoyment of the right to health. Upon entry into the prison system, prisoners were evaluated by clinical staff to determine their health status, and diagnostic exams were performed for the timely detection and treatment of any health problems. Clinics were available around the clock in all prisons and provided a range of services, including vaccinations. Notably, 98 per cent of the prison population had been vaccinated against the coronavirus disease (COVID-19). If secondary and tertiary health-care needs could not be met within the prison, they were met by the national health system. Special health-care centres had been established for prisoners with chronic or terminal diseases, and there was one prison with the necessary facilities to perform surgery. Medical staff from a variety of specialist fields had been hired to meet specific needs. The implementation of the protocol for the prevention and control of COVID-19 in prison facilities had been successful, and the national programme on tuberculosis and respiratory diseases had considerably reduced tuberculosis infections in prisons.
4. There were 21 prisons with the appropriate infrastructure for the provision of meals, drinking water, and health and sanitation services; they also had recreational facilities and workshops, and various sorts of programmes were made available. Prisons were inspected by prison staff and supervisory authorities such as the International Committee of the Red Cross and the Office of the Human Rights Advocate, which had identified needed improvements, including the expansion of some facilities and alterations to ensure that there was cross ventilation and natural light.
5. Inmates were provided with social reintegration support, including post-release services. National and regional criminology councils worked to ensure that all prisoners received progressive, individualized treatment. Education, job training, physical education, religion and psychosocial skills-building programmes were available. Special programmes were also offered to meet the specific needs of, for example, sex offenders and drug-dependent persons. The programmes were designed to reduce crime within prison and prepare prisoners for life after release. Application of the principle of dynamic security made it possible to maintain order in the country's prisons, and there had been no reports of violence since the new system had been put in place. By performing different jobs in prison, prisoners could reduce their sentence by two days for every effective working day. There were also measures for social redress, such as community support activities, which had been well received by society. Under the *Segunda Oportunidad* (second chance) project being run by the United Nations Office on Drugs and Crime, the Directorate General of Prisons and Universidad Cristiana de las Asambleas de Dios, three cohorts of prisoners were studying for a degree in business administration at La Esperanza Prison, and it was hoped that the programme could be extended to other prisons in the country.
6. Continuous efforts were being made to strengthen the prison administration system and the skills of prison staff, who received training at the Prison Staff Training Academy in criminology, prison management, human rights, diversity management and a variety of other topics. The use of electronic notifications, virtual hearings and other technological advances

had gradually removed bureaucratic barriers and improved access to public services. The mandatory action protocol for prison personnel during the state of emergency had been implemented to protect prisoners' human rights, to keep their legal counsel and families informed and to enable inmates' families to bring them clothing, personal hygiene items or medicine.

7. **A representative of El Salvador** said that, in December 2016, the Office of the Attorney General of the Republic had established a special unit to investigate the grave human rights violations committed during the internal armed conflict and, in 2018, it had introduced a policy on the criminal prosecution of war crimes and crimes against humanity that had occurred during the conflict in order to bring the perpetrators of such crimes to justice, overcome impunity and ensure reparation. To date, the unit had investigated 207 cases, most of them involving massacres; 27 of those cases had been brought to trial and the other 180 were being actively investigated. There were over 50 ongoing investigations into cases of enforced disappearance.

8. With regard to the state of emergency, the Attorney General's Office had brought 50,625 cases to trial. Of the persons arrested, it had been found that a total of 262 adults and 28 minors were not gang members, and those persons had been released. Following the imposition of the state of emergency, there had been an immediate reduction in gang-related crimes. Cases of murder had decreased from 5,222 cases in the period 2019–March 2022 to 123 cases in March–September 2022. Likewise, there had been 9,077 cases of extortion in the period 2019–March 2022 compared to 1,224 cases in April–September 2022. Cases of enforced disappearance had decreased from 551 cases in the period 2019–March 2022 to 212 cases in the period April–September 2022. There had been approximately 90 investigations into deaths of prisoners during the state of emergency; however, no evidence of any causal relationship had yet been established between any prisoner deaths and an excessive use of force by police, military or prison officers. During the period 2019–2022, 11 investigations into torture had been initiated, of which 5 were ongoing. In the same period, 15 cases had been brought to trial, some of which had been opened prior to the period cited, and 4 cases had resulted in a conviction.

9. Through the Training Academy for Prosecutors, between 2019 and 2022, 125 prosecutors had received training on the investigation of torture, the Minnesota Protocol and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Training concerning violence against women had also been provided to 21,000 prosecutors between 2019 and 2021.

10. **A representative of El Salvador** said that the Constitutional Division of the Supreme Court of Justice constantly monitored compliance with Judgment No. 44-2013, by which the Court had found the General Amnesty (Consolidation of the Peace) Act to be unconstitutional. A public hearing had been held, and various resolutions had been issued to ensure that the transitional justice bill currently under consideration in the Legislative Assembly was aligned with the parameters established in Judgment 44-2013. That bill would also subsequently be subjected to scrutiny by the Constitutional Division.

11. It was important to clarify that many of the guarantees of due process established in the Constitution remained in force despite the state of emergency. Suggestions that judges had passed sentences or issued provisional arrest warrants without due consideration of each individual case were untrue. Statistics showed that, to date, alternatives to pretrial detention had been issued in 1,223 cases of criminal proceedings against adults.

12. **A representative of El Salvador** said that, since 2019, the Office of the First Lady had been working to promote the alignment of national laws with the Convention on the Rights of the Child. With the entry into force of the new law that would replace the Child and Adolescent Protection Act, investing in the care and protection of children, from early childhood through adolescence, would become an obligation not just of the State, but of each government ministry. That focus on the best interests of the child would, it was hoped, dissuade young people from joining gangs or other criminal organizations. Specific measures and programmes had been rolled out to promote the human rights of juvenile offenders: for example, in reintegration centres, they were provided with identity documents and afforded

personalized care, including not only basics such as food and clothing, but also psychological care and access to education and vocational training as well as recreational activities. Social workers helped to prepare them for their reintegration into society.

13. Between 2018 and 2021, the majority of court decisions involving juvenile offenders had imposed non-custodial measures. During the same period, the number of juvenile offenders in closed detention facilities had fallen from 1,158 to 511, while the number of those placed in open facilities had dropped from 1,267 to 945. Since the state of emergency had been declared, 2,033 cases involving adolescents had been heard, as a result of which 896 adolescents had been released, 706 stays of proceedings had been granted and 349 adolescents had been convicted of an offence. In all cases, the multidisciplinary teams of the National Council for Children and Adolescents had provided support to ensure that the adolescents' rights were protected.

14. During the state of emergency, juvenile offenders had been held in special detention facilities, completely separate from adult offenders. No cases of children having been held together with adults had been reported. The Ministry of Health ensured that a medical assessment was performed for each new arrival and, if a child had a pre-existing condition, medical follow-up appointments were set up. Multidisciplinary teams of the National Council for Children and Adolescents were tasked with keeping the parents or guardians of juvenile offenders informed of the status of their child's legal proceedings and medical condition. Cases of juvenile defendants were heard by judges for minors, and access to a public defender was facilitated; the entire process was overseen by the Office of the Human Rights Advocate. The physical and mental health of juvenile offenders in detention was attended to, and access to COVID-19 tests and vaccines was made available upon request. Training covering human rights was provided to all the staff of reintegration centres. Agreements had been signed with companies to provide employment opportunities for juvenile offenders upon their release. The National Council for Children and Adolescents had rolled out a special plan of action for the reintegration of migrant and forcibly displaced children. Government investments in 2022 and 2023 in the infrastructure of social reintegration centres were aimed at defending the rights of juvenile offenders and protecting them from violence and ill-treatment. The Growing Together Act set out the right of children and adolescents to be protected against torture and other cruel, inhuman or degrading treatment or punishment.

15. **A representative of El Salvador** said that one of the objectives of the Territorial Control Plan was to reduce the rate of violence in El Salvador by at least 50 per cent. Following its roll-out in 2019, the murder rate had fallen by 38 per cent in 2019, 21.2 percent in 2020 and 18.1 per cent in 2021; it was predicted to fall by another 8.5 per cent in 2022.

16. The main gangs had members in all 14 departments of El Salvador. The gang known as MS had over 77,000 members, while *18 Sureños* and *18 Revolucionarios* had some 21,000 and 20,000 members, respectively. The national police force was tasked with protecting people's rights, and it therefore did not grant prisoner benefits in exchange for money. Some 80 per cent of murders were committed by terrorist groups, including gangs. Between 1 January and 16 November 2022, over 57,000 people had been arrested on murder charges. In November 2022, a police officer had been arrested in connection with a murder that had taken place in April 2018. No incidents after the introduction of the Territorial Control Plan – as part of which law enforcement personnel had received special training – had led to the arrest of any law enforcement personnel. Rights-related training for such personnel covered topics such as the legitimate use of force, domestic and gender-based violence, torture and ill-treatment, as well as provisions of the Convention against Torture, the Optional Protocol thereto and other instruments such as the Istanbul Protocol and the Minnesota Protocol.

17. The right to have access to a lawyer was part of due process and as such was enshrined in the Constitution. There were no rules about the frequency or length of lawyers' visits with their clients; while legal proceedings were ongoing, they were free to visit their clients. Persons were informed of their rights from the moment that they were deprived of their liberty.

18. **A representative of El Salvador** said that the Government, by addressing the serious public security situation, hoped to usher in an era of greater stability for El Salvador and thus improve living conditions for its people while also attracting tourism. The national public

security policy was based on five strategic pillars: crime prevention and control, reconstruction of the social fabric, the modernization of law enforcement institutions, access to justice, and the rehabilitation and reintegration of convicts. The policy's main lines of action included reinstating State sovereignty over the entire territory; combating criminal groups, including gangs, and holding them accountable for their acts; reorienting the penitentiary system towards the rehabilitation and reintegration of inmates; and generating opportunities for individual and community development. Implementing the policy also entailed identifying and addressing the root causes of crime and amending national legislation that had allowed criminals to enjoy impunity under previous Administrations.

19. In late March 2022, an unprecedented number of homicides had occurred, with 87 homicides being committed in the space of just two days. There had been no clear motive for the crimes, as those killed had had no apparent connection to criminal structures. In response, the President had requested – and the Legislative Assembly had approved – the declaration of a state of emergency on 27 March 2022. The true magnitude of the problem facing the authorities had become apparent over the 30 days that had followed, and the state of emergency had therefore been extended successively over the ensuing months. Such extensions were permitted under the Constitution, so long as the circumstances justified them; all the extensions sought thus far had been justified based on information provided by the nation's security forces. As part of the national security strategy, a vast number of legal amendments had been adopted by the Legislative Assembly. One example was the introduction of a new paragraph under article 345 of the Criminal Code that stated that the creation or dissemination of messages that referred to criminal groups such as gangs was a criminal offence. In addition, the justice system was being reformed so as to better protect victims. As part of that process, the Government had consulted experts of the European Union, the United Nations and the private sector.

20. Since the declaration of the state of emergency, 57,568 persons had been arrested and 1,837 firearms, 2,233 vehicles, 3,465 cell phones and cash in the amount of US\$1,430,000 had been seized. There had been a significant drop in the crime rate for all types of offences, demonstrating the effectiveness of the Government's strategy in tackling crime.

21. **Ms. Racu** (Country Rapporteur) said that the Committee appreciated the State party's efforts to protect people's rights under the Convention against the backdrop of financial constraints, limited resources and an overall situation of extreme violence in the country. Generally speaking, an environment of peace and cooperation was required for advances in social reform and development to be made. She welcomed the State party's reference to dynamic security, which was a progressive approach that she hoped would be backed up by appropriate government and judicial action.

22. She wished to know whether sufficient medicines, medical equipment and medical personnel, in particular psychiatric staff, were available for the entire prison population. She would welcome statistics on the government budget allocated for health care throughout the prison system, including for health-care infrastructure, medicines and staff, and on the number of incidents of violence and excessive use of force in places of detention, as well as information on the measures that had been taken to reduce the levels of violence in such places. She would be grateful for a reply to her question concerning a mechanism for medical personnel to report possible or alleged cases of torture. Information on the measures that had been taken or were envisaged by the Government to prevent domestic violence and decriminalize abortion would also be appreciated.

23. **Mr. Iscan**, noting that Legislative Decree No. 575, on transitional justice had been vetoed by the President of El Salvador, said that he wished to know what the current status of the bill on transitional justice was and whether a legislative debate on the points of contention that had been raised by the President had been launched.

24. The Committee had received reports of a significant discrepancy between the number of allegations of torture and ill-treatment and the number of prosecutions and convictions. He would welcome clarification on the criteria used by prosecutors to categorize acts as torture or ill-treatment in line with the Criminal Code and article 1 of the Convention. Data on the number of cases of torture that had been prosecuted and the number of such cases in which convictions had been obtained would be appreciated, as would information on the

sentences that had been handed down and the measures of redress, compensation and rehabilitation that had been provided to victims. Lastly, while he welcomed the reduction in the homicide rate during the state of emergency, he wished to emphasize that certain rights, such as the right to life and the prohibition of torture, were absolute and non-derogable under any circumstances and that any and all restrictions imposed during a state of emergency must comply with the principles of legality, necessity and proportionality.

25. **Mr. Buchwald**, noting that the State party's approach to classifying gangs as terrorist organizations was based on three criteria – namely the use of lethal force, the intention to sow fear and compel the State to take certain action, and the promotion of an ideological objective – said that he would be interested to hear what the State party believed the ideological objective of the gangs was and why it considered it necessary to classify the gangs as terrorist organizations in order to combat them.

26. **The Chair** (Country Rapporteur) said that, with reference to paragraph 38 of the State party's report, he would welcome an update on the status of a bill on human rights defenders which had been submitted to the Legislative Assembly by human rights organizations.

27. **A representative of El Salvador**, providing an overview of the health-care system in general and the system for the prison population in particular, said that the national development strategy was based on three key pillars: security, education and health. The COVID-19 pandemic had not only caused a health crisis but also provided opportunities to re-engineer and optimize the health-care system. A new health-care model designed to meet the needs of the population, including persons deprived of their liberty, had been introduced.

28. As a result of the pandemic, the health-care budget had been raised from 4 to 6 per cent of gross domestic product, in accordance with World Health Organization guidelines. While much more remained to be done, persons deprived of their liberty were currently offered a broad range of health-care services, including preventive care, medical screening for early detection of diseases, vaccinations, 24-hour emergency care and healthy living programmes. The entire Salvadoran health-care system at all levels of care worked in coordination with hospitals and clinics in places of deprivation of liberty. There were 20 multidisciplinary teams, comprising approximately 300 doctors, 300 nurses and 120 multidisciplinary health workers, sited in places of detention around the country. Additional doctors and nurses had also been brought in to address the needs of the prison population during the state of emergency. A good practice worth highlighting had been the training of 1,000 persons deprived of their liberty to serve as counsellors or health-care promoters in the country's prisons. Those inmates also helped to monitor the health of the prison population in general and the treatments administered to individual prisoners.

29. A specialized unit of the Ministry of Health focused on the prevention and control of HIV/AIDS, tuberculosis and other respiratory diseases in places of detention. There were comprehensive treatment centres for persons living with HIV/AIDS or tuberculosis and specialist units for treating drug-resistant tuberculosis. A number of teams, including a mobile unit, also performed regular testing. As a result, there had been a significant reduction in the tuberculosis rate since 2019. Moreover, virtually the entire prison population had been vaccinated against COVID-19, and 98 per cent had been tested for HIV/AIDS, with around 220 persons living with the disease in places of detention receiving quality medical care and attention.

30. An interinstitutional committee had been set up to ensure access to the full range of health-care services for migrants and returnees free of charge. A milestone had been reached in the protection of the rights of mothers and newborns with the adoption of a law designed to put a stop to the human rights violations experienced by pregnant women, including those in places of detention, and to guarantee the right to privacy and universal care, without discrimination.

31. Medical personnel were under an obligation to inform the public prosecutor's office and the police when treating persons deprived of their liberty for injuries. A broad legal and regulatory framework for mental health care was in place in El Salvador. The country had two psychiatric institutions and eight hospitals with mental health units. Procedures were in place for overseeing the conduct of medical personnel with regard to the administration of

medicines, in particular to persons with psychosocial disabilities, and for obtaining free, informed and prior consent from patients or their family members.

32. The right to life was recognized in El Salvador from the moment of conception and was enshrined in article 1 of the Constitution. The State therefore had an obligation to take positive measures to uphold the right to life from conception onward; there was no regional or international human rights convention, law or principle pursuant to which abortion was recognized as a right. That being said, the criminal nature of abortion was not absolute; the law provided for exceptions, such as when the life of the mother was in danger.

33. **The Chair**, explaining that the delegation could provide additional information in writing within 48 hours, said it was regrettable that, owing to the time constraints associated with the hybrid meeting format, the constructive dialogue would have to conclude so soon. The exchange had been a very interesting one; had the delegation been able to participate in person, the discussion could have continued for an additional two hours.

34. **Ms. Mira** (El Salvador) said that, while she acknowledged that less time was allowed for meetings held in hybrid format, she nevertheless welcomed the opportunity to participate on that basis. Her country would not have been able to field such a large delegation or to provide such detailed information if it had had to send representatives in person.

35. Owing to the various public policies aimed at fostering improved living conditions in El Salvador, her Government had managed to drastically reduce irregular migration. The Government was concerned about the disappearances of migrants and had been working with a forensic team to obtain samples and support family members in the search for missing persons. Among its international and regional cooperation efforts, El Salvador had championed the Global Compact for Safe, Orderly and Regular Migration, advocated the adoption of the Declaration on Migration and Protection in the framework of its presidency pro tempore of the Regional Conference on Migration and formed part of a regional coalition to combat trafficking in persons and the illicit smuggling of migrants. Her Government was committed to working with relevant stakeholders in the field of migration and to exchanging information and best practices. Its efforts in that regard had borne fruit, as El Salvador had seen a significant reduction in the number of Salvadorans migrating in an irregular manner to the United States of America.

36. With regard to the questions asked concerning the transitional justice bill, it was to be noted that, in the past, victims of violations had had difficulty in obtaining justice owing to the now defunct General Amnesty (Consolidation of the Peace) Act of 1993. The current bill had been developed through an inclusive, participatory process involving not only government institutions but also civil society and multilateral bodies. Work in that regard was ongoing, and the Government would strive to ensure the provision of redress and reparation for victims.

37. She would like to take the opportunity to reaffirm her country's commitment to fulfilling its international human rights obligations and to safeguarding the rights of Salvadorans. For that reason, it had implemented the Territorial Control Plan, through which it had achieved a reduction in levels of violence and crime, enabling Salvadorans to walk the streets in peace and enjoy a level of calm they had not known for years. In closing she wished to urge the Committee to issue specific, relevant recommendations to provide further guidance to El Salvador in its implementation of the Convention and to take full account of the information provided by the Salvadoran delegation during the dialogue.

The meeting rose at 5.05 p.m.