



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues prior to submission of the seventh periodic report of El Salvador\*

The Human Rights Committee, at its ninety-seventh session (A/65/40 (Vol. I), para. 40), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 40 of the Covenant.

#### Constitutional and legal framework (arts. 1 and 2)

1. In the light of the Committee's previous recommendations (CCPR/C/SLV/CO/6, para. 4), please indicate whether the State party has taken steps to bring its legislation into line with the Covenant and whether there is a mechanism in force to ensure that draft legislation is in conformity with the Covenant. Also, please provide information on cases in which the provisions of the Covenant have been cited and applied in the national courts. Please describe the procedure currently applicable for implementation of Views adopted by the Committee under the Optional Protocol to the Covenant.

2. Please explain the measures adopted to ensure that the Office of the Human Rights Advocate is provided with adequate human and financial resources, in line with the Principles relating to the status of national institutions (the Paris Principles) adopted by the General Assembly in resolution 48/134. Please also provide information on measures taken to ensure the independence and proper functioning of the Office and to protect it from any undue interference or external pressure.

#### Non-discrimination, equal rights between men and women, and violence against women (arts. 2, 3, 6, 7 and 26)

3. Please explain the measures adopted to combat structural racism, racial discrimination and xenophobia. In particular, please provide information on the steps taken by the State party to combat discrimination, including discrimination against persons of African descent, indigenous and migrant communities, persons with disabilities and persons infected with HIV, and particularly in relation to access to

\* Adopted by the Committee at its 114th session (29 June-24 July 2015).



education, housing and employment.

4. Please explain the measures taken to prevent and to provide protection from violence and discrimination based on sexual orientation or gender identity, including when committed by public officials, and the impact those measures. Please provide information on the Permanent Committee on the Human Rights of the Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Population. Please include information on relevant court decisions concerning this matter. Please also include information on (a) the number of complaints received regarding violence against lesbian, gay, bisexual or transgender persons; (b) the investigations carried out in such instances and their results, including the sentences handed down to the perpetrators; and (c) the remedies provided to the victims.

5. Please describe the steps taken by the State party to eliminate the wage gap between men and women and prevent workplace harassment. Please also provide information regarding measures adopted by the State party to ensure that women are effectively represented in decision-making positions.

6. Please provide detailed and up-to-date information on steps taken to guarantee that women working in maquiladoras and women domestic workers enjoy the rights recognized in the Covenant in conditions of equality, especially with regard to their conditions of employment and recruitment. In the light of the Committee's previous recommendations, (CCPR/C/SLV/CO/6, para. 11), please provide information on the measures adopted to protect rural and indigenous children employed as domestic workers who are particularly vulnerable. Please also comment on the information provided to the Committee comparing the conditions to which these workers are subject to forced labour.

7. Please provide information on steps taken by the State party in response to the concern expressed by the Committee in its previous concluding observations (CCPR/C/SLV/CO/6, para. 9) regarding violence against women in the State party, in particular concerning the implementation and impact of the Special Act for a Life Free of Violence for Women (Decree No. 520). Specifically, please provide information on steps taken to eliminate gender stereotypes and incorporate the gender perspective in the plans and programmes developed in the State party; the advances made in the prevention and punishment of violence against women and the protection of women from violence, and the impact of the measures adopted; and the powers and human and financial resources of the institutions responsible for dealing with cases of violence against women, the level of coordination between those institutions and the impact of their work in the areas of prevention, prosecution and punishment. Please say what action has been taken to protect teenage girls from being coerced by gang members into becoming their "girlfriends" and to protect them from sexual abuse. Please also include statistical data relating to the period under review, disaggregated by age of the victim (adult/minor), on: (a) complaints received concerning the various forms of violence against women, including sexual violence; (b) the investigations conducted in such instances and their results, including the sentences handed down to perpetrators; and (c) the remedies provided to victims, including rehabilitative measures. Please comment on information received by the Committee to the effect that incidents of rape are not usually reported.

8. Please provide information on the steps taken to address the recurrent violent murders of women ("femicide"). Please clarify whether conciliation is still used in cases of family violence. Please provide information on the current statistical system for collecting disaggregated data on gender-based violence, particularly the violent murder of women.

**Right to life, prohibition of torture and other cruel, inhuman or degrading treatment, and combating impunity (arts. 2, 6 and 7)**

9. Please indicate the measures adopted in response to the Committee's previous recommendations (CCPR/C/SLV/CO/6, para. 10) regarding the continuing total ban on abortion in El Salvador. In particular, please provide information on the steps taken to prevent women treated in public hospitals from being reported by the medical or administrative staff for the offence of abortion. Also, please provide information on the measures adopted to ensure that women are properly informed about contraception methods and to prevent unwanted pregnancies, promote sexual and reproductive health education for young people and reduce maternal mortality rates, particularly among adolescent girls.

10. With regard to the Committee's previous concluding observations (CCPR/C/SLV/CO/6, paras. 5 and 6) and in the light of the recent decision of the Constitutional Chamber issued on 5 February 2014 concerning the San Francisco Angulo case, please provide updated information on the steps taken to remove internal legal obstacles to the investigation and prosecution of past human rights violations and the punishment of the perpetrators. Please also indicate whether or not there are plans to reconsider the validity of the General Amnesty Act of 1993 and the extent of compliance with the sentence handed down by the Inter-American Court of Human Rights in the case of *Massacres of El Mozote and nearby places v. El Salvador* in that regard.

11. In response to the Committee's previous recommendations (CCPR/C/SLV/CO/6, para. 7), please provide information on the National Reparations Programme, in particular whether it includes all the measures of rehabilitation, fair and adequate compensation and satisfaction, and guarantees that there will be no repetition. Please also indicate whether the Programme has an adequate budget to enable it to function properly.

12. Concerning the Committee's previous concluding observations (CCPR/C/SLV/CO/6, para. 8), please provide information on the work of the Inspectorate-General of the National Civil Police (PNC). Please provide information on measures taken to prevent and investigate human rights abuses and violations committed by law enforcement officials, particularly torture and ill-treatment, and to punish those responsible, and also on the training provided to those officials. Specifically, please provide statistical data, from 2010 onwards, on (a) the number of complaints received of human rights violations attributed to police officers, especially those involving torture and ill-treatment; (b) the number of proceedings and disciplinary actions undertaken in relation to these cases; (c) the number of subsequent trials, indicating the charges, penalties and disciplinary measures; and (d) the protection and compensation provided to victims in these cases.

13. Please provide information on the presence of the Armed Forces in areas of activity that are traditionally under the responsibility of the National Civil Police and explain how the rights and guarantees enshrined in the Covenant are enforced in practice by the Armed Forces.

14. Please comment on reports to the effect that persons with psychosocial or intellectual disabilities are detained in psychiatric centres or other institutions without their free and informed consent and that the conditions in those centres and institutions are usually harsh. Please also provide information on legislation that permits the forced sterilization of women with disabilities.

**Prohibition of trafficking in persons (art. 8)**

15. In the light of the Committee's previous recommendations (CCPR/C/SLV/CO/6, para. 13), please provide information on the measures adopted, and the impact of those measures, with regard to preventing, investigating and punishing trafficking in persons, with particular reference to the 2008-2017 National Policy on Trafficking in Persons in El Salvador. In particular, please specify what mechanisms are used for data collection and for victim referral and identification. Please provide statistical information, from 2011 onwards, disaggregated by the victim's sex, age and country of origin, on: (a) complaints of human trafficking received; (b) investigations carried out and the outcome, including the penalties imposed on the perpetrators; (c) protection measures for victims, relatives and witnesses in investigations into trafficking; (d) measures of reparation awarded to victims and (e) monitoring of repatriated foreign victims of trafficking. Please provide information on the obstacles to investigating trafficking and punishing the perpetrators. Please also report on the training provided to judges, prosecutors, police and other State officials on preventing and detecting cases of trafficking in persons and on investigating cases and bringing them to trial.

**Right to liberty and security of person, rights of persons deprived of their liberty, right to a fair trial and due process (arts. 7, 9, 10 and 14)**

16. In light of the Committee's previous recommendations (CCPR/C/SLV/CO/6, paras. 14 and 15), please indicate whether legislation relating to provisional detention has been amended and whether it provides that anyone detained must be brought promptly, within 48 hours, before a judge or other officer authorized by law to exercise judicial power. Please comment on information provided to the Committee according to which a person may be detained without being brought before a judge for longer than permitted by law. Please include updated information, with statistics disaggregated by sex, age group and ethnic origin or nationality, on the number of persons held in pretrial detention. Please also comment on reports of instances of arbitrary detention by those with responsibility for ensuring compliance with the law, and provide information on the steps taken to deal with those complaints.

17. Please comment on information provided to the Committee according to which lawyers and public defenders, when entering and leaving detention centres, are subjected to checks that are occasionally improper, intrusive and humiliating. Please also provide information on the safeguards in place to ensure that lawyers may exercise their functions without intimidation or undue interference.

18. In the light of the Committee's previous recommendations (CCPR/C/SLV/CO/6, para. 16), please explain what measures have been adopted by the State party to improve detention conditions in accordance with article 10 of the Covenant, with particular regard to serious overcrowding, infrastructure, access to health care, hygiene conditions and the separation of persons awaiting trial and convicted prisoners. Please also provide information on the use of non-custodial measures and sentences. Please provide information on the steps taken to prevent prolonged incommunicado detention. Please also provide information on the number of persons serving sentences in police stations rather than within the prison system and what measures are being adopted to resolve that problem.

19. Please provide information on conditions in the Centre for the Comprehensive Care of Migrants and whether they comply with the Covenant. Please also clarify the time limit prescribed under domestic legislation for the administrative detention of aliens and whether that limit is respected in practice.

20. Please indicate the measures taken to ensure that the process of selecting and appointing judges and magistrates, members of the National Council of the Judiciary and heads of the public prosecution institutions applies objective criteria that are clearly defined under domestic regulations. Please also indicate the measures taken to ensure transparency and public oversight in the selection process, and measures taken to combat corruption in the judicial system. Please also provide information on the system for imposing disciplinary measures on judges and magistrates and whether it ensures their impartiality and independence.

21. Please provide information on the measures adopted to combat the growing violence in the State party, particularly regarding the implementation of the Act outlawing maras and other criminal gangs, groups, associations and organizations, and measures taken to curb the proliferation of illegal weapons. Please also confirm whether the Act ensures full exercise of the rights established in the Covenant, in particular the provisions of articles 2, 7, 9 and 10.

#### **Human rights defenders (arts. 9, 21 and 22)**

22. Please describe the legal framework in place to protect the activities of human rights defenders and the practical measures taken to protect their safety and integrity as they carry out their activities. In particular, please comment on information provided to the Committee according to which human rights defenders calling for the decriminalization of abortion have been publicly maligned in the media. Please supply information on recorded cases of attacks on human rights defenders and threats against them, and say if anyone has been tried and convicted of such acts.

#### **Freedom of opinion, expression and peaceful assembly (arts. 19 to 21)**

23. Please provide information on “the groups, associations and illegal organizations” and the crime of “public disorder” referred to in articles 345 and 348 of the Criminal Code and comment on the compatibility of those articles with the Covenant, in particular with articles 19 to 21. Please comment on information received by the Committee according to which the Counter-Terrorism Act permits of broad interpretations and can violate the right of assembly and freedom to demonstrate. Please also describe the steps taken to effectively apply the Access to Public Information Act.

#### **Measures for the protection of minors (arts. 7 and 24)**

24. Please provide information on the measures adopted to prevent and prohibit by law corporal punishment at home and in nurseries. What measures are being taken to raise public awareness of the harmful effects of corporal punishment and to promote alternative forms of discipline of children? Please clarify whether there are any plans to establish an age of consent for sexual intercourse.

25. Please provide information on the measures adopted to: (a) ensure that minors in conflict with the law are housed in suitable centres that facilitate their reintegration; (b) use the detention or imprisonment of minors as a last resort and for as little time as possible; and (c) guarantee for minors in conflict with the law the right to be heard in criminal proceedings related to them and the right to appropriate legal assistance. Please also confirm whether the State party has an independent mechanism to monitor compliance of juvenile detention facilities with the rights enshrined in the Covenant.

26. Please provide information on the legislative and practical measures adopted to eradicate child labour, especially domestic work and dangerous farming activities. Please provide data on the number of children, including street children, employed in the formal and informal economies. Please provide information on the steps taken to ensure the registration of all births in the territory of the State party, particularly in rural areas.

27. Please provide information on the steps taken to mitigate the risks run by migrant children travelling to the United States of America without their parents and to protect them.

28. Please provide information on the activities of the National Children and Adolescents Council and their results. Please also provide information on the measures adopted to ensure that the Council functions properly, including the allocation of human and financial resources to enable it to carry out its activities.

**Rights of indigenous peoples (arts. 2, 26 and 27)**

29. Please supply information on mechanisms or consultation processes in place to guarantee the prior, free and informed consent of indigenous peoples regarding any legislative or administrative measures liable to affect them directly. Please also provide information on the process of awarding land titles, including statistical data on the granting of land titles to families identified as indigenous. Please confirm whether the State party recognizes the right of indigenous peoples, as such, to acquire land titles. Please also provide information on the steps taken to boost the representation of indigenous peoples in decision-making positions.

**Dissemination of information about the Covenant and its optional protocols (art. 2)**

30. Please describe the measures taken to disseminate information about the Covenant and its optional protocols, the submission of the State party's report and the Committee's upcoming consideration of the report. Please also provide more detailed information about the participation of representatives of ethnic and minority groups, civil society, NGOs and the national human rights institution in the process of preparing the report.

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