



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

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Committee against Torture

Concluding observations on the third periodic report of El Salvador*

1. The Committee against Torture considered the third periodic report of El Salvador¹ at its 1964th and 1966th meetings,² held on 17 and 18 November 2022, and adopted the present concluding observations at its 1971st meeting, held on 23 November 2022.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure, as this focuses the dialogue between the State party and the Committee. It regrets, however, that the report was submitted more than six years late.

3. The Committee appreciates having had the opportunity to engage in a dialogue, in hybrid format, with the State party's delegation and is grateful for the supplementary information provided during the consideration of the periodic report.

B. Positive aspects

4. The Committee welcomes the ratification of or accession to the following international instruments by the State party:

- (a) The Global Compact for Safe, Orderly and Regular Migration, in 2022;
- (b) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2015;
- (c) The Rome Statute of the International Criminal Court, in 2016;
- (d) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in 2014;
- (e) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2011.

5. The Committee also welcomes the following legislative measures taken by the State party in areas of relevance to the Convention:

- (a) The adoption of the Special Act for the Comprehensive Care and Protection of Persons in Situations of Forced Internal Displacement, in 2020;
- (b) The adoption of the Special Act on Migration and Alien Affairs, in 2019;

* Adopted by the Committee at its seventy-fifth session (31 October–25 November 2022).

¹ CAT/C/SLV/3 and CAT/C/SLV/3/Corr.1.

² See CAT/C/SR.1964 and CAT/C/SR.1966.



(c) The adoption of the Act on the Use of Electronic Monitoring Devices in the Criminal Justice System, in 2015;

(d) The adoption of the Special Act against Trafficking in Persons, in 2014;

(e) The promulgation of the Special Comprehensive Act on a Violence-Free Life for Women, in 2011;

(f) The adoption of the Special Act on the Protection and Advancement of Salvadoran Migrants and Their Families, in 2011;

(g) The adoption of the Access to Public Information Act, in 2011.

6. The Committee also welcomes the initiatives undertaken by the State party to amend its policies and procedures in order to afford greater human rights protection and to apply the Convention, in particular:

(a) The adoption of the action plan for the National Policy on Access to a Violence-Free Life for Women 2021–2025;

(b) The State party's accession to the comprehensive regional protection and solutions framework in application of the comprehensive refugee response framework, and the adoption of a national action plan, in 2019;

(c) The establishment of the Prison Information System, in 2019;

(d) The establishment by the Attorney General's Office of the National Directorate for Women, Children, Adolescents, Lesbian, Gay, Bisexual, Transgender and Intersex Persons and Other Vulnerable Groups, in 2018;

(e) The adoption of the Strategy for the Prevention of Femicide and Sexual Violence, in 2018, and the creation of a specialized court system with a remit to guarantee a life free from violence and discrimination for women, in 2016;

(f) The establishment by the Attorney General's Office of a special unit for the investigation of serious human rights violations committed during the armed conflict, in 2018, and the adoption of a policy for the criminal prosecution of war crimes and crimes against humanity committed during the armed conflict, also in 2018;

(g) The implementation between 2017 and 2019 of an institutional strengthening project to address cases of disappearances linked to organized crime and to combat impunity, and the development of an urgent action protocol and strategy for searching for disappeared persons and the Instructions on the Urgent Search for and Investigation of Cases of Missing Persons;

(h) The establishment of the National Commission on the Search for Children who Disappeared during the Internal Armed Conflict, in 2010, and the National Commission on the Search for Adults who Disappeared during the Armed Conflict in El Salvador, in 2017;

(i) The establishment of the Comprehensive Care Centre for Migrants, the formulation of the National Policy for the Protection and Advancement of Salvadoran Migrants and Their Families and the adoption of a protocol for the protection and care of Salvadoran child and adolescent migrants, in 2017;

(j) The adoption of a national action plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security, for the period 2017–2022;

(k) The adoption of the National Cross-sectoral Strategy for the Prevention of Child and Adolescent Pregnancy 2017–2027;

(l) The establishment by Decree No. 204 of 2013 of the Programme of Reparations for Victims of Serious Human Rights Violations Committed during the Internal Armed Conflict;

(m) The formulation of the National Policy on Comprehensive Protection for Children and Adolescents 2013–2023;

(n) The creation of a forensic databank of missing Salvadoran migrants, in 2010.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations,³ the Committee requested the State party to provide information on the follow-up given to the recommendations regarding the General Amnesty (Consolidation of the Peace) Act and recommendations of the Truth Commission; conditions of detention; and violence against women and femicide.⁴ The Committee regrets that although the rapporteur for follow-up to concluding observations sent a reminder to the State party on 28 March 2011, it received no response from the State party under the follow-up procedure. In the light of the information contained in the State party's third periodic report on the action taken in follow-up to the above recommendations, the Committee is of the view that they have not yet been fully implemented. These pending issues are covered in paragraphs 12, 13, 20, 21, 28 and 29 of the present document.

Definition of torture

8. While noting that torture is explicitly prohibited under article 366-A of the Criminal Code (chap. XIX, on crimes against humanity), the Committee considers that the definition of torture solely as a crime against humanity limits the possibility of prosecuting other acts of torture that do not constitute crimes against humanity under international law. The Committee also notes that article 62 of the Criminal Code applies to attempted torture and that article 99 establishes a statute of limitations for the offence of torture. The Committee is concerned that, although the Criminal Code provides for a penalty of 6 to 12 years' imprisonment for the offence of torture, the penalty of disqualification from office or employment is limited to the same duration as the prison term, which is not commensurate with the seriousness of the crime (arts. 1 and 4).

9. **The State party should incorporate torture in its criminal legislation as a separate and specific offence and ensure that torture is punishable by appropriate penalties which take into account its grave nature, in accordance with article 4 (2) of the Convention. The State party should also ensure that the offence of torture is not subject to any statute of limitations, amnesty or pardon.**

Fundamental legal safeguards

10. While taking into account the information submitted by the State party concerning the homicide rate and serious public order disturbances attributed to the upsurge in gang violence in the country during the period under review, the Committee expresses its deep concern at the serious human rights consequences of the measures taken by the authorities under the state of emergency declared on 27 March 2022 and still in force, which to date have resulted in the detention of more than 57,000 persons. In particular, the Committee is concerned about reports of:

- (a) Mass arrests of a discriminatory nature, carried out without an arrest warrant or explanation of the reasons for the arrests;
- (b) Obstacles preventing persons deprived of liberty, including minors, from informing a relative or other person that they have been detained;
- (c) Difficulties in accessing legal assistance, including free legal aid where appropriate, as a result of the high number of arrests and detentions, and despite the appointment of 40 additional public defenders attached to the Office of the Counsel General of the Republic.
- (d) The extension of the deadline for detained persons to appear before a judge from 72 hours to 15 days;

³ CAT/C/SLV/CO/2, para. 35.

⁴ Ibid., paras. 15, 19 and 21.

(e) The ineffectiveness of the remedy of habeas corpus due to the increase in the number of habeas corpus applications filed with the Constitutional Chamber of the Supreme Court;

(f) The absence of a systematic and complete register of persons deprived of liberty, including information on transfers between detention centres;

(g) The lack of sufficient information on investigations and disciplinary or criminal penalties imposed on law enforcement officers for failing to comply with procedural safeguards to prevent torture and ill-treatment (art. 2).

11. The State party should:

(a) **Take effective steps to prevent arbitrary arrests without a warrant and to ensure that detainees enjoy, in practice and from the outset of their deprivation of liberty, all fundamental legal safeguards in accordance with international standards, in particular the right to be informed of the reasons for their arrest, the right to promptly inform a relative or other person of their detention, and the right to be assisted promptly by a lawyer and to receive free high-quality legal assistance in case of need;**

(b) **Ensure that its emergency legislation complies with international human rights standards;**

(c) **Abolish the provisions whereby arrested persons may be held in administrative detention for up to 15 days and make the necessary amendments to introduce instead a maximum period of 48 hours;**

(d) **Step up efforts to ensure that applications for habeas corpus are processed as quickly as possible;**

(e) **Ensure that detention is systematically recorded in a register at the place of deprivation of liberty and in a central register of persons deprived of liberty to which their lawyers and relatives have access;**

(f) **Ensure respect for the fundamental legal safeguards of persons deprived of their liberty, sanctioning law enforcement officers who disregard such safeguards.**

Human rights violations during the armed conflict between 1980 and 1992

12. The Committee takes note of the 2016 decision of the Constitutional Chamber of the Supreme Court declaring the General Amnesty (Consolidation of the Peace) Act unconstitutional.⁵ It also takes note of the State party's efforts in the area of transitional justice, including the establishment within the Attorney General's Office of a special unit to investigate crimes committed during the internal armed conflict. Nevertheless, the Committee continues to be concerned about:

(a) The insufficient resources allocated to the special unit and the delay in prosecuting those responsible, especially in cases involving alleged war crimes, crimes against humanity, torture and enforced disappearance. In this regard, the Committee takes note of the information provided by the State party's delegation on the progress made in some criminal proceedings, including that of the massacre of Jesuit priests, in which regard the Constitutional Chamber recently handed down a decision overturning a previous judgment by which it had dismissed the case;

(b) Restrictions on access to information contained in the files of the military and of security forces that operated between 1980 and 1992, and to military installations, especially in relation to the El Mozote massacre;

(c) Delays in the processing of the transitional justice bill by the Justice and Human Rights Committee of the Legislative Assembly and reports of a lack of continuing dialogue with victims and human rights organizations regarding the bill's content. The Committee takes note of the commitment made by the State party, in the context of the

⁵ CERD/C/SLV/CO/18-19, paras. 32–33.

submission of the periodic report, to enact the transitional justice bill and to provide full redress for victims;

(d) Reports that insufficient human and financial resources have been allocated to the National Commission on the Search for Adults who Disappeared during the Armed Conflict and the National Commission on the Search for Children who Disappeared during the Internal Armed Conflict, and that there are shortcomings and delays in the Programme of Reparations for Victims, which currently benefits some 5,000 recognized victims (arts. 2, 12, 13, 14 and 16).

13. The State party should:

(a) **Redouble its efforts to promptly investigate, in an effective and impartial manner, all alleged serious human rights violations, including torture and enforced disappearances, that occurred between 1980 and 1992 and ensure that alleged perpetrators are prosecuted. In particular, the State party should provide the special unit of the Attorney General's Office with the necessary resources;**

(b) **Ensure the cooperation of the armed forces in the investigation of past human rights violations, and access to the files of the military and the security forces, and to military installations, when relevant to the investigation;**

(c) **Enact a comprehensive transitional justice law in line with international human rights standards, ensuring that such a law excludes amnesties, immunity for alleged perpetrators and statutes of limitations for serious human rights violations. The participation of victims and specialized human rights organizations in the final drafting of this law should also be ensured;**

(d) **Consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance;**

(e) **Take the necessary steps to improve the functioning of the national commissions on the search for disappeared persons, providing them with the necessary resources to operate properly and ensuring that their recommendations are acted upon. Full redress for victims and/or their families, including psychosocial assistance for persons testifying before these commissions, should also be ensured, in accordance with article 14 of the Convention and taking into account the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties.**

State response to criminal violence

14. While noting the current security challenges posed by gang violence and other criminal activities, and the impact of the Territorial Control Plan as presented by the State party's delegation, in particular the significant reduction in crime since the introduction of the state of emergency, the Committee is concerned about:

(a) Reports of arbitrary detentions and extrajudicial executions, including of minors, allegedly committed by police officers and members of the armed forces, involving excessive use of force, lethal force, acts of torture and ill-treatment. These reports indicate that the armed forces continue to be deployed for public safety purposes on a regular basis, despite the requirement, which the State party has recognized, that such deployments be exceptional. Also of serious concern is the allegation that "death squads" are operating within the police and armed forces;⁶

(b) The broad scope of application of the Special Act on Counter-Terrorism; the recent amendment, by Legislative Decree No. 341 of 2022, of the definition of "terrorist organizations", whose vagueness may be contrary to the legal principles of necessity and proportionality; and the consequent increase in arrests, especially of young adults and adolescents, for allegedly belonging to terrorist groups;

(c) Reports of scant progress in investigations or prosecutions following complaints of excessive use of force, torture, ill-treatment and enforced disappearance

⁶ CCPR/C/SLV/CO/7, paras. 21–22.

allegedly committed by police officers or military personnel in the context of the fight against gang violence; the dismissal of many criminal cases in relation to alleged extrajudicial executions or excessive use of force; and the small number of convictions for acts of torture in recent years (arts. 2, 12, 13, 14 and 16).

15. The State party should:

(a) **Ensure that prompt and impartial investigations are conducted into all complaints of torture, ill-treatment and excessive use of force, as well as those related to possible extrajudicial executions and enforced disappearances, that are made against police and military personnel; that suspected perpetrators are prosecuted and, if found guilty, are punished in a manner commensurate with the seriousness of their actions; and that the victims or their families receive full redress;**

(b) **Ensure that the regulations on the state of emergency comply with the State party's international human rights obligations;**

(c) **Ensure that public order and public safety are maintained, insofar as is possible, by civilian police forces;**

(d) **Ensure that its counter-terrorism legislation is compatible with its obligations under international law, in particular the Convention, and that this legislation is applied strictly to the fight against terrorism;**

(e) **Increase efforts to systematically provide training to all law enforcement officers and members of the armed forces on the use of force, taking into account the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**

(f) **Expand in-service training programmes for judges and prosecutors in order to improve the quality of investigations and the correct classification of criminal acts, especially acts of torture and ill-treatment committed by public officials and criminal offences committed by gang members;**

(g) **Collect detailed information on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of torture, ill-treatment and excessive use of force, as well as in relation to cases of arbitrary detention and extrajudicial executions.**

Redress

16. The Committee regrets that the State party has provided no information on the reparation and compensation measures ordered by the courts or other State bodies and effectively provided to victims of torture, ill-treatment and excessive use of force, or their families, during the period under review (art. 14).

17. The Committee draws the attention of the State party to general comment No. 3 (2012) on article 14 of the Convention, in which the Committee explains the content and scope of the obligations of States parties to provide full redress to victims of torture and ill-treatment, including excessive use of force. In particular, the State party should ensure that victims of torture obtain redress, including an enforceable right to fair and adequate compensation and the means for as full rehabilitation as possible. It should also compile and disseminate up-to-date statistics on the number of victims of torture and ill-treatment who have obtained redress, including medical or psychosocial rehabilitation and compensation, as well as on the forms of such redress and the results achieved.

Excessive use of pretrial detention

18. The Committee notes with concern reports of excessive and in some cases indefinite use of pretrial detention – without sufficient and individual determination of its necessity and proportionality in accordance with article 331 of the Code of Criminal Procedure – following the entry into force of the state of emergency in March 2022, and the negative impact of the state of emergency on conditions of detention. It is also concerned about the excessive use of police detention centres or *bartolinas* to house persons awaiting trial (arts. 11 and 16).

19. **The State party should ensure that pretrial detention is used only as a measure of last resort and for the shortest possible period of time, applying alternative measures wherever possible. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). The State party should ensure that persons awaiting trial in police detention centres are transferred to prisons without delay.**

Juvenile justice

20. While noting the information provided by the State party on the situation of children in conflict with the law, the Committee is concerned at the high number of children who were admitted to juvenile protection centres (2,464) and Social Integration Centres (1,730) between January and September 2022. The Committee also notes several measures taken by the State party, including social and educational measures and services provided to children in conflict with the law, but regrets the lack of detailed information on the general conditions of detention in these centres and on steps taken to prevent the torture and ill-treatment of those who are held there. The Committee is also concerned about the amendment to the Juvenile Offenders Act which, inter alia, introduced penalties for organized crime offences of up to 20 years' imprisonment for minors aged 16 years and older and up to 10 years' imprisonment for minors aged 12 and older. The Committee also regrets not having received the requested information on the application of these provisions (arts. 2, 11 and 16).

21. **The State party should ensure that deprivation of liberty of a juvenile is a disposition of last resort, is for the minimum necessary period, and is limited to exceptional cases, and that detention pending trial is replaced by alternative measures whenever possible. It should also ensure the dignified treatment of all minors deprived of their liberty and the maintenance of adequate conditions of detention in juvenile detention centres. In this regard, the Committee draws the State party's attention to rule 13 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and rules 1, 2, 17 and 18 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.**

Conditions of detention

22. While noting the information provided by the State party on the implementation of a new prison management model and on investment made in improving prison infrastructure, the Committee remains concerned about overcrowding in the country's prisons, which has been aggravated by a significant increase in the prison population – from 39,500 inmates in March 2022 to more than 94,000 in October 2022, according to information available to the Committee. The Committee regrets that the State party has not provided up-to-date information in this regard. It is concerned at reports of failure to execute release orders, the lack of strict separation of untried prisoners and convicted prisoners and the ill-treatment of persons deprived of their liberty. Also of concern are reports documenting inadequate water supply, sanitation and hygiene in some prisons and police stations, with a consequent risk to the health of persons deprived of their liberty. The Committee takes note of the resources allocated to medical and health care in prisons and of the existing programmes for the prevention and treatment of diseases among the prison population; however, it is concerned about reports of inadequate medical care. The absence of social reintegration policies is another cause for concern. Furthermore, the Committee regrets that the State party has provided scant information on protocols to address the specific needs of women, persons with disabilities, older persons and lesbian, gay, bisexual, transgender and intersex persons deprived of their liberty (arts. 2, 11 and 16).

23. **The State party should:**

(a) **Take the necessary measures to reduce overcrowding in detention centres, in particular through recourse to non-custodial measures, and continue to improve existing prison facilities and the general living conditions in prisons;**

(b) **Adopt a system for monitoring the completion of custodial sentences and ensure the execution of all release orders;**

(c) **Ensure the dignified treatment of inmates and the strict separation of untried prisoners and convicted prisoners;**

(d) **Continue to improve medical and health care in detention centres, including programmes for the prevention, detection and treatment of infectious diseases such as tuberculosis, hepatitis and HIV among the prison population. The State party should also ensure that the specific needs of women, persons with disabilities, older persons and lesbian, gay, bisexual, transgender and intersex persons deprived of their liberty are addressed;**

(e) **Develop comprehensive social reintegration policies and ensure access to vocational training, education and recreational and cultural activities in prisons.**

Violence in places of detention and deaths in custody

24. The Committee notes the information provided by the State party regarding the violent deaths in 2018 of nine persons deprived of their liberty, but regrets that it has not received full disaggregated statistical data on deaths in custody and violent incidents during the period under review. The Committee has received no information on the outcomes of investigations into those deaths or on measures taken to prevent the recurrence of such cases. In this regard, the Committee expresses its concern at reports of more than 90 deaths in custody since the entry into force of the state of emergency. It takes note of the investigations opened by the authorities, but remains concerned that the causes of these deaths reportedly included a lack of timely medical care, inadequacies in the supply of medicines, and homicide.⁷ Also of concern are complaints of sexual assaults and violence committed by prison officers and inmates against transgender women incarcerated in male prisons. Finally, the Committee notes that no information has been provided on the training of medical personnel in contact with persons deprived of their liberty in the detection of torture and ill-treatment (arts. 2, 11 and 16).

25. **The Committee urges the State party to:**

(a) **Ensure that all deaths in custody are investigated in a prompt, impartial and independent manner, taking into account the Minnesota Protocol on the Investigation of Potentially Unlawful Death. The Committee awaits information on the results of the ongoing investigations into deaths in custody during the state of emergency;**

(b) **Investigate any possible responsibility of police officers or prison officials in the death of persons in custody and, where appropriate, duly punish those responsible and provide fair and adequate compensation to family members;**

(c) **Take steps to prevent and reduce violence in prisons, including suicide and sexual violence against transgender women, and document such incidents in order to investigate complaints and punish those responsible;**

(d) **Ensure that all medical personnel in contact with persons deprived of their liberty receive specific training in the detection of torture and ill-treatment in accordance with the revised version of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and that suspected cases of torture are brought to the attention of the competent judicial authorities.**

Monitoring of places of detention

26. The Committee takes note of the information provided by the State party's delegation on the monitoring visits to detention centres conducted by international mechanisms and national bodies, including the Office of the Human Rights Advocate. However, it regrets the lack of complete information on the periodicity and nature of the visits or on the action taken

⁷ Ibid.

by the competent authorities in follow-up to the recommendations made by these bodies. The Committee is concerned that the Office of the Human Rights Advocate does not have the necessary resources to carry out its mandated tasks (art. 2).

27. The State party should provide the Office of the Human Rights Advocate with the resources necessary for its proper functioning, ensuring that it can carry out unannounced visits to any place where persons are deprived of their liberty and follow up on the results of its monitoring activities. The Committee encourages the State party to consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with a view to establishing a national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.

Gender-based violence

28. The Committee notes the measures taken by the State party to address violence against women.⁸ However, it is concerned at reports of high rates of domestic violence and sexual violence, disappearances of women, femicides and acts of sexual exploitation and violence committed by gang members against women.⁹ The Committee observes that, according to the information provided by the State party, only 13.9 per cent of the 13,947 criminal cases opened for acts of violence against women during the period 2013–2019 led to a prosecution and only 308 cases resulted in a conviction.¹⁰ While the State party has submitted information on ongoing investigations and prosecutions for the offences of femicide, homicide, rape and statutory rape, the Committee regrets that the information it has received is incomplete, especially regarding the penalties imposed and reparations granted during the period under review. The Committee is also concerned about the insufficient number of refuges and shelters for victims of gender-based violence (arts. 2 and 16).

29. The State party should:

(a) **Ensure that all cases of gender-based violence, including cases of sexual violence, murders and disappearances of women, and especially those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, are punished appropriately, and that the victims receive redress, including adequate compensation;**

(b) **Provide protection and assistance services to victims of gender-based violence, ensuring that the necessary resources are allocated so that they receive the medical care, psychological support and legal assistance that they require;**

(c) **Continue to provide mandatory training on the prosecution of perpetrators of gender-based violence, including sexual violence, to police officers, prosecutors and judges and conduct awareness-raising campaigns on all forms of violence against women;**

(d) **Maintain statistics, disaggregated by age and ethnic origin or nationality of the victim, on complaints, investigations, prosecutions, convictions and sentences relating to gender-based violence and the reparations granted to victims.**

Abortion

30. The Committee takes note of the statement by the State party's delegation that Salvadoran law does not prohibit emergency treatment for therapeutic reasons and that there are protocols and regulations that provide for the protection of the life of the mother and the unborn child in case of need. However, the Committee remains concerned about Criminal Code provisions that criminalize all acts related to the provision of abortion services and that

⁸ CAT/C/SLV/3, paras. 26–37.

⁹ E/C.12/SLV/CO/6, paras. 42–43; CRPD/C/SLV/CO/2-3, paras. 20–21 and 32–33; and CCPR/C/SLV/CO/7, paras. 13–14.

¹⁰ CAT/C/SLV/3, paras. 25–26 and 37; and CAT/C/SLV/3/Corr.1.

do not allow any exceptions, even for therapeutic reasons or in cases of sexual violence.¹¹ In this regard, the Committee is also concerned about reports that the law not only forces women and girls to resort to clandestine abortions or endure obstetric emergencies that endanger their lives and health, but also exposes them and the medical professionals who perform abortions to criminal sanctions. The Committee has information before it documenting cases of women who have been prosecuted for this reason or arrested following treatment for obstetric emergencies (arts. 2 and 16).

31. The State party should ensure that all women and girls have effective access to the means of terminating a pregnancy when not doing so is likely to result in severe pain and suffering, such as when the pregnancy is the result of rape or incest, when the life or health of the pregnant person is at risk and in cases of fatal fetal impairment. The Committee invites the State party to take the necessary measures, in accordance with the World Health Organization's abortion care guideline (2022), to ensure that neither patients who resort to abortions nor the medical professionals who perform them face criminal sanctions, and that women and girls have effective access to post-abortion care, regardless of whether they have had an abortion legally or illegally. The Committee urges the State party to exonerate and release from prison women convicted as a result of obstetric emergencies.

Migration, asylum and forced internal displacement

32. The Committee notes that the State party has legislation and a procedure for granting refugee status, but regrets the lack of up-to-date statistical data on the number of asylum-seekers and refugees in the country. The Committee is concerned about the large number of reported cases of deaths and/or disappearances of Salvadoran migrants. It also notes the information provided by the State party regarding its cooperation with the Argentine Forensic Anthropology Team, among others, in conducting searches and investigations in these cases, but regrets the lack of complete information regarding the specific results of these investigations or follow-up actions taken on behalf of the victims and their families. The Committee notes with concern the high number of internally displaced persons and the challenges involved in providing them with adequate protection and assistance¹² (arts. 2, 3, 12, 13 and 16).

33. The State party should:

(a) Compile and publish comprehensive statistical information on asylum and refugee status;

(b) Strengthen national mechanisms that follow up on cases of deaths and/or disappearances of Salvadoran migrants and continue to develop bilateral and regional cooperation on safeguarding the rights of migrants in transit and destination countries;

(c) Strengthen legislative measures and policies to assist and protect persons who are displaced on its territory as a result of the situation of violence and insecurity in the country.

Psychiatric institutions and social centres

34. The Committee is concerned that national legislation, including the Mental Health Act of 2017, allows for invasive treatments, the use of physical and pharmacological restraints without prior consent and the involuntary institutionalization of persons with psychosocial or intellectual disabilities. The Committee notes that the Family Code allows relatives or guardians of persons with such disabilities to hospitalize them, without their consent, based on the presumption that they are "mentally ill".¹³ The Committee is also concerned about the lack of information on the supervision of these institutions by independent inspection mechanisms or on the results of inspections (art. 16).

¹¹ E/C.12/SLV/CO/6, paras. 58–59; CCPR/C/SLV/CO/7, paras. 15–16; and CRC/C/SLV/CO/5-6, paras. 35–36.

¹² CERD/C/SLV/CO/18-19, para. 28; and CCPR/C/SLV/CO/7, paras. 33–34.

¹³ CRPD/C/SLV/CO/2-3, paras. 28–29.

35. The Committee recommends that the State party amend its legislation to explicitly prohibit forced medical treatment, physical and pharmacological restraints and the involuntary institutionalization of persons with psychosocial or intellectual disabilities in psychiatric institutions. The State party should avoid forced hospitalization on medical grounds unless it is strictly necessary, and even then it should be used only as a last resort, in accordance with international law and standards, for the shortest time possible and solely when accompanied by adequate procedural and substantive safeguards, such as initial and periodic judicial review and unrestricted access to a lawyer and to a complaint mechanism. The State party should also ensure that psychiatric institutions are adequately supervised to prevent any torture or ill-treatment of patients.

Human rights defenders

36. The Committee regrets that to date the State party has not adopted a regulatory framework for the protection of human rights defenders, particularly in the light of reports of their being subjected to threats, intimidation and reprisals in the course of their work in defence of victims of enforced disappearances and on issues such as abortion and obstetric emergencies, gender violence and torture and ill-treatment. The Committee is concerned about the lack of investigations in this regard (arts. 2, 12, 13 and 16).

37. The Committee invites the State party to adopt a regulatory framework for the protection of human rights defenders. The State party should ensure that human rights defenders are protected from threats and intimidation arising from their activities, in particular, by communicating with or providing information to human rights treaty bodies, including the Committee against Torture; investigate any complaints of threats or intimidation; and punish those responsible.

Follow-up procedure

38. The Committee requests the State party to provide, by 25 November 2023, information on follow-up to the Committee's recommendations on fundamental legal safeguards, human rights violations during the armed conflict between 1980 and 1992, and the monitoring of places of detention (see paras. 11 (a) and (b), 13 (a) and 26 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues

39. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.

40. The Committee requests the State party to submit its next periodic report, which will be its fourth, by 25 November 2026. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its fourth periodic report under article 19 of the Convention.