



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the Republic of El Salvador and welcome the constructive engagement of your Government during the 34th session of the UPR Working Group in November 2019.

As the final outcome report on the review of El Salvador has been recently adopted by the Human Rights Council at its 43rd session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of El Salvador – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 74 delegations and the presentation made and responses provided by the delegation of El Salvador. I have also considered the actions taken by the Government to implement the 117 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I appreciate the results of governmental policies to combat the high rates of violence; efforts towards the prohibition of marriage of persons under the age of 18 in all cases; and legislative and institutional measures to protect women's rights, such as the creation of specialized courts, as well as policies aimed at eliminating discrimination against women. I am also pleased that during the adoption of the Working Group report by the Human Rights Council, El Salvador expressed its commitment to continue ratifying human rights treaties to which it is not yet a party. However, some challenges in the protection of human rights were also highlighted by different treaty bodies and human rights mechanisms. In this regard, I am pleased to know that during the adoption of the report of the third UPR, El Salvador expressed its commitment to continue considering all the recommendations received.

Her Excellency
Ms. Alexandra Hill Tinoco
Minister for Foreign Affairs
Republic of El Salvador

I encourage El Salvador to develop a comprehensive national human rights action plan in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate the preparations for El Salvador's fourth cycle of the UPR. My advice to all Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular the national human rights institution and all civil society organizations and, where necessary, with the support of international organizations, including my Office and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

I also encourage El Salvador to continue its efforts to strengthen the Inter-Agency Mechanism for the Implementation and Follow-up of International Human Rights Commitments for comprehensive reporting and follow-up on recommendations received from all international and regional human rights mechanisms and on treaty obligations, while linking these to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at: http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf. My Regional Office for Central America in Panama can support in this regard, by providing technical assistance and information on the matter.

Please, kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can positively contribute to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage El Salvador to consider submitting a mid-term report on follow-up to the third cycle of the review, by 2022.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

Finally, kindly allow me to use this opportunity to express my Office's profound solidarity with your country and all Member States in connection with the negative impact of the COVID-19 pandemic. I hope that despite unprecedented challenges it will soon be over in all countries worldwide, including through implementation of human rights based approaches to our collective response to the pandemic. I look forward to discussing with you, and personally as soon as possible in the coming months and in the course of an upcoming visit to the country, ways in which my Office may continue assisting El Salvador in relation to the areas identified in this letter and its annex.

Please, accept, Excellency, the assurances of my highest consideration.



Michelle Bachelet
High Commissioner for Human Rights

cc: Her Excellency
Ms. Ana Geraldina Beneke Castañeda
Deputy Minister for Foreign Affairs, Integration and Economic Development
Republic of El Salvador

Ms. Birgit Gerstenberg
United Nations Resident Coordinator
Republic of El Salvador

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Continuing its efforts to ratify international human rights treaties to which El Salvador is not yet a party, mainly the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and thus establishing a national mechanism for the prevention of torture.
- Accelerating the completion of consultations to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

National human rights framework

- Continuing to strengthen legal and institutional frameworks to ensure the promotion and protection of human rights and fundamental freedoms.
- Ensuring that the Inter-Agency Mechanism for the Implementation and Follow-up of International Human Rights Commitments engage on an inclusive process with a wide range of civil society representatives when implementing the UPR recommendations.
- Guaranteeing the implementation of the Office of the Human Rights Advocate resolutions, protecting it from any undue interference, and allocating sufficient resources in order to enable it to fulfil its mandate in full compliance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles).

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Taking legislative measures to harmonize national legislation on discrimination with the International Convention on the Elimination of All Forms of Racial Discrimination.
- Taking the necessary measures to combat discrimination at all levels and protect the human rights of women and girls from ethnic minorities, people with disabilities, migrants, internally displaced persons and other vulnerable groups, aligned with a gender perspective.

- Applying inclusive and anti-discrimination policies to prevent, condemn and prohibit all forms of violence and discrimination against lesbian, gay, bisexual, transgender and intersex people.

Development, the environment, and business and human rights

- Strengthening its national strategy to address climate change, including through the establishment of an effective mechanism to respond promptly and in a timely manner to natural disasters, including droughts, and to their impact on the most vulnerable population.

B. Civil and political rights

Right to life, liberty and security of person

- Intensifying its efforts to combat high rates of violence, conducting investigations of all alleged cases of extrajudicial executions, and strengthening the capacity of the National Civil Police to investigate extrajudicial executions, forced disappearances and torture, including by increasing the resources allocated to that institution and providing trainings with a human rights approach.
- Continuing to promote changes in the institutions of justice and public security to prevent human rights violations committed by the security forces.
- Redoubling its efforts to reduce prison overcrowding, in particular by promoting alternatives to the deprivation of liberty and ensuring that provisional detention is exceptional, reasonable and necessary in all circumstances. Ensuring that conditions of detention in all prisons in the country are in accordance with the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and allowing access to all prisons by independent international organizations, such as the International Committee of the Red Cross, the Office of the United Nations High Commissioner for Human Rights and specialized national organizations.

Administration of justice, including impunity, and the rule of law

- Ensuring that the process of selection and appointment of judges and magistrates is established by law and ensures their independence, capacity and integrity, as well as transparency and public scrutiny. Also ensuring that the regime of disciplinary measures for judges and magistrates is fully in line with the International Covenant on Civil and Political Rights and the Basic Principles on the Independence of the Judiciary.
- Establishing a national pact for justice and technically strengthening the institutions of the administration of justice system in investigation, prosecution and paying adequate attention to the protection of victims within the framework of the judicial system, *inter alia*, by developing specific protocols for the protection of women and children.

- Promoting effective actions and policies that contribute to the prevention, investigation and punishment of acts of corruption, approving the Public Service Law, and adapting the criminal regulatory framework in the area of corruption control to its international obligations.
- Intensifying and accelerating transitional justice processes and measures in order to guarantee the rights to truth, justice and reparation for victims of the armed conflict, by investigating the violations committed during the armed conflict, adopting a comprehensive reparation policy at the national level to remedy the damage caused to the victims, and providing adequate resources for crimes committed during the civil war, including the El Mozote massacre.

Fundamental freedoms

- Adopting legislative measures to fully guarantee the right to freedom of assembly and to avoid the criminalization of those who exercise it, while harmonizing the respective national legislation with international standards.
- Adopting public policies that create a safe and respectful environment for journalists and human rights defenders, especially women human rights defenders, so that they are able to carry out their work.

Prohibition of all forms of slavery

- Taking the necessary measures to ensure thorough investigations and rigorous prosecutions against persons involved in the sale and trafficking of children under the age of 18 for the purpose of sexual exploitation.
- Developing a comprehensive strategy and action plan to prevent and combat trafficking and sexual exploitation of women and girls, with special attention to the victims of the *maras*.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Intensifying efforts to guarantee the rights to work and to equitable and satisfactory working conditions for all its population, especially for vulnerable groups, particularly women working in the *maquila* sector and people working in the private security sector, including by adopting a strategy with well-defined objectives and terms.

Right to social security

- Reviewing the existing regulatory framework related to corporations' labour practices to ensure their compliance with international human rights standards.

Right to an adequate standard of living

- Continuing its efforts to strengthen targeted poverty reduction programmes, by providing assistance to families to avoid the involvement of their children in the worst forms of child labour.
- Constitutionally recognizing the human right to water and sanitation as a public good, and adopting all necessary measures to ensure its enjoyment by the entire population, including vulnerable groups.

Right to health

- Expediting the adoption of the preliminary draft of the Sexual and Reproductive Health Act; increasing social policies for prevention and care of pregnant girls and adolescents, in particular by strengthening sex education programmes; increasing measures, including a comprehensive analysis, to ensure the availability of contraceptives and access for girls and boys to sexual health services; and allocating the necessary resources for the effective implementation of the National Cross-sectoral Strategy for the Prevention of Child and Adolescent Pregnancy 2017-2027 and its related programmes.

Right to education

- Continuing efforts to guarantee, without discrimination, access to free quality education for all children and adolescents and to create conditions for achieving true equality of opportunity in the education system.
- Allocating human, technical and financial resources necessary for the effective implementation of the National Education Plan and its six components and taking the necessary measures to eliminate the root causes of school absenteeism and the high dropout rate, especially in relation to secondary education.
- Increasing security measures in schools in order to protect children from gang violence.
- Extending free education to the age of 12 and taking measures to increase literacy and access to post-secondary education for people from low-income families.

D. Rights of specific persons or groups

Women

- Intensifying efforts to prevent, combat and punish all acts of violence against women, including those committed by members of the *maras* and gangs; and ensuring that all such crimes are investigated, that perpetrators are prosecuted and punished, and that victims obtain remedy and have access to assistance and protection.

- Strengthening the Women's City programme to effectively combat sexual and gender-based violence against girls and designing specialized inter-institutional protocols for the care of girls and adolescents victims of sexual violence; and implementing the national education programme to prevent gender-based violence under a human rights approach and promote equality and non-sexist education.
- Considering amending El Salvador's anti-abortion legislation to allow exceptions in cases of pregnancy resulting from sexual violence, rape or incest, risk to the mother's life or health, or unviability of the foetus; and exempting health professionals and public officials from the duty to report women to the police only on the basis of a mere suspicion of abortion.
- Organizing a broad debate on abortion, primarily involving women's associations, and adopting a protocol for medical action that includes a professional secrecy clause to ensure that health personnel can perform therapeutic abortion without fear of criminal prosecution.
- Declaring a moratorium on the application of article 133 of the Penal Code in order to free women imprisoned for abortion or obstetric emergencies.
- Continuing its efforts to achieve parity in all institutions, including by expanding the use of special measures to promote the representation of women, paying special attention to women who suffer from multiple and interrelated forms of discrimination.

Children

- Continuing its efforts to improve the national child protection system and allocating sufficient resources to increase the capacity to protect children at risk.
- Reviewing policies and programmes to combat violence and criminal acts committed by the *maras*, with a view to taking more effective measures to prevent the killing and disappearance of children and their recruitment by criminal groups; and addressing the root causes of violence, such as poverty and discrimination.

Persons with disabilities

- Adopting a human rights-based approach to disability.

Indigenous peoples

- Developing, in consultation with indigenous peoples, a legal framework for the recognition and protection of their rights, and taking the necessary measures to ensure the protection and exercise of the indigenous peoples' right to self-determination and to guarantee their access to land and resources.

Internally displaced persons

- Adopting a national policy for the prevention of sexual and gender-based violence against women, girls and adolescents in forced displacement; and promoting the

discussion and approval of a gender identity law and a plan of action for the protection of the rights of lesbian, gay, bisexual, transgender and intersex persons at risk of forced displacement and survivors of sexual gender-based violence.

- Incorporating the Guiding Principles on Internal Displacement into the preliminary draft Special Act on Assistance, Protection and Full Reparation for Victims of Crime and Violence and allocating sufficient resources for the protection and promotion of the rights of internally displaced persons, in accordance with the Guiding Principles.
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