

EL SALVADOR: DIZZYING DESCENT INTO A HUMAN RIGHTS CRISIS

AMNESTY INTERNATIONAL:
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SUMMARY

This submission was prepared for the Universal Periodic Review (UPR) of El Salvador in January-February 2025. In it, Amnesty International evaluates the implementation of recommendations made to El Salvador in its previous UPR, mainly concerning the right to life, integrity and personal safety; the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; and protection from arbitrary detention.

It also evaluates the national human rights framework in light of the failure to ratify international human rights instruments; the failure to pass laws to protect and guarantee the rights of the population; and the reforms introduced in various legal and regulatory systems that compromise the right to a fair trial and judicial guarantees.

In particular, Amnesty International raises concerns about arbitrary detentions and mass incarcerations, the situation of persons deprived of their liberty, and the enforced disappearances and deaths in state custody reported since 27 March 2022 following the announcement of a state of emergency that has since been prolonged for 28 consecutive months. It also points out the ever more precarious situation of human rights defenders and the restrictions on exercising freedom of expression and association.

Amnesty International includes a set of recommendations which, if implemented, would help El Salvador improve the human rights situation in the country.

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FOLLOW-UP TO THE PREVIOUS REVIEW

1. In its third Universal Periodic Review (UPR) in November 2019, El Salvador received 207 recommendations from 74 state delegations.¹ It accepted and undertook to fully implement 152 of those recommendations.²
2. The majority of the accepted recommendations covered issues relating to respect for human rights in the application of security policies,³ the protection of certain vulnerable groups,⁴ and the enjoyment of economic, social and cultural rights,⁵ among others.
3. For example, El Salvador accepted recommendations to guarantee the adoption of security policies and measures based on a comprehensive approach that respects human rights. It also agreed to prevent abuses by the authorities with respect to the use of force, and to combat impunity for perpetrators of grave human rights violations.⁶
4. However, Amnesty International has documented how, since the last review, El Salvador has abandoned efforts to incorporate a comprehensive approach to public security, instead prioritizing the adoption of punitive measures, including increased militarization, increased use of detention and mass incarceration, and the prolonged use of a state of emergency, which has led to the suspension of rights that under international human rights standards cannot be suspended under any circumstances, such as the right to a fair trial.⁷
5. El Salvador also agreed to “[e]radicate major prison overcrowding and improve poor prison conditions”⁸ and reform the overall operation of the penitentiary system.⁹ However, Amnesty International has received information indicating that prison overcrowding has increased, and has documented dozens of cases reflecting systematic use of torture and other ill-treatment against persons deprived of their liberty in prisons.¹⁰ This trend would be contrary to the recommendations El Salvador accepted on preventing and combating torture.¹¹
6. Since the previous review, El Salvador has recorded an extremely worrying decline in the guarantee and respect for human rights. The adoption of a highly repressive security approach and the weakening of the rule of law have led the country into one of its worst crises since the end of the internal armed conflict.¹²
7. In the last four years, Amnesty International has verified the prevalence of factors that increase the vulnerability of individuals, such as the weakening of judicial independence; the misuse of the criminal process; the concealment of public information; the inefficiency of accountability and investigative mechanisms in the face of human rights violations committed by state agents; and the deployment of a series of government actions that restrict civic space and put human rights defenders and journalists at greater risk.¹³
8. Finally, since March 2022, when a state of emergency was declared that has since been prolonged for 28 consecutive months, Amnesty International has documented the emergence of an increasingly punitive and repressive approach to public security; the adoption of a legal framework that jeopardizes due process; and the systematic use of torture and other ill-treatment against individuals deprived of their liberty in penal institutions.¹⁴

THE NATIONAL HUMAN RIGHTS FRAMEWORK

9. During the last review, El Salvador simply took note of a set of recommendations aimed at promoting the alignment of its domestic legislation with international instruments.¹⁵ During this period, El Salvador has continued to postpone ratification of 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, among other instruments.¹⁶
10. El Salvador has also shelved several bills aimed at promoting a legal framework to guarantee human rights, bills to which civil society had contributed and which could have improved domestic legislation on the prevention of

discrimination, the protection of human rights defenders and journalists, and helping to advance justice for crimes committed during the armed conflict, among others.¹⁷

11. Finally, in the past two years, under the pretext of facilitating implementation of the state of emergency, El Salvador has introduced reforms – mostly in criminal law and criminal procedure – that violate the right to a fair trial. The main changes include concealing the identity of judges; automatically applying pretrial detention for crimes linked to *maras* or gangs, without an individual analysis of the necessity of such measures; the possibility of holding summary trials; and removing time limits for pretrial detention for offences linked to “terrorist or illegal groups”. This last measure allows for the use of an indefinite period of pretrial detention and violates the right to be tried or released within a reasonable time.¹⁸

THE HUMAN RIGHTS SITUATION ON THE GROUND

Unlawful deprivation of liberty and judicial guarantees

12. The state of emergency has led to the arbitrary detention of tens of thousands of people. The authorities reported that 80,500 people had been detained as a direct result of this measure up to May 2024. According to information obtained by Amnesty International, most arrests were made without judicial or administrative warrants, with no evidence of wrongdoing, and without being informed of the reasons for the detention. Most of the people were arrested in mass raids, often based on anonymous accusations or factors such as having tattoos, supposed family links to gangs or a criminal record, or living in impoverished areas. Those arrested are accused of illegal gatherings and placed in pretrial detention.¹⁹
13. Detainees lack adequate contact with their legal representatives, and receive only mass summary hearings, with up to 500 defendants at a time, often without evidence.²⁰
14. Many families do not know the whereabouts of their detained relatives, which has led to habeas corpus petitions and appeals to the Human Rights Ombudsperson’s Office, without any significant progress being made.²¹

Right to life and personal integrity

15. Regarding the situation of persons deprived of their liberty and the conditions in detention centres, and based on analysis of the public statements made by the highest state authorities and other available documentation, Amnesty International has been able to verify that El Salvador has adopted a policy of systematic torture of all persons detained during the state of emergency on suspicion of being gang members. Among the most serious consequences of this policy are deaths in state custody, some with clear signs of violence, and many others as a result of the inhumane detention conditions, including shortages of food and basic hygiene products, as well as denial of healthcare and medication.²²

Closing civic space

16. Amnesty International has also noted an increase in state actions infringing freedom of expression and association and restrictions to the right to peaceful assembly, the right to participate in public affairs and the right to access public information.²³
17. Among the main tactics used by authorities for these purposes are: i) a government media discourse aimed at stigmatizing the work of human rights defenders and transparency; ii) harassment of journalism and any form of dissent or criticism; iii) the concealment and manipulation of public information; iv) the use of vague criminal typologies that could put human rights defenders and/or journalists at risk; v) the invocation of reasons of public order or national security to violate or hinder the exercise of human rights; and vi) excessive controls on media and civil society organizations.²⁴
18. The main targets of these tactics have been human rights defenders, independent journalists and media outlets, civil society organizations, trade union members and some justice operators.

19. The most alarming incidents in a context of suspended rights have involved the use of the state of emergency to criminalize critical voices. To date, the worst-affected people have been those involved in defending land, territory, natural resources and workers' rights and in strengthening social cohesion at community level.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of El Salvador to:

National human rights framework

20. Urgently ratify the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women.
21. Revise and repeal the laws and regulations passed under the state of emergency which permanently suspend due process guarantees, to ensure that fair trial guarantees and due process rights are respected and upheld for all persons arrested during the state of emergency.

Repressive security policies and measures

22. End repressive security policies and replace them with comprehensive strategies that incorporate a human rights perspective, measures focusing on the underlying causes of violence, and elements such as prevention, reintegration and rehabilitation. The state must enable civil society participation in both the design and the monitoring of said measures and policies.
23. Address the concerns of the United Nations High Commissioner for Human Rights, the Inter-American Commission on Human Rights and other United Nations special mechanisms with regard to the extension of the state of emergency, given the lack of evidence provided by the authorities regarding the current situation of emergency and need.

Arbitrary detention, unlawful deprivation of liberty and judicial guarantees

24. Guarantee the human rights of detainees, including access to a lawyer and the possibility to appeal their detention, ensuring detention conditions are in line with international human rights standards, and enabling the implementation of alternatives to detention, such as release on bail or house arrest.

Right to life and personal integrity

25. Enforce the absolute prohibition of torture and other cruel, inhuman and degrading treatment, and investigate all credible allegations in an independent, prompt, effective and impartial manner, ensuring that all persons suspected of such acts receive a fair trial.
26. Ensure that all detainees are held in humane conditions, guaranteeing access to adequate medical care and making sure that they are not subjected to excessive restrictions or difficulties beyond those required for their deprivation of liberty. In addition, and as a way to reduce prison overcrowding, it is recommended that the state adopt measures aimed at reducing imprisonment rates, particularly by upholding the exceptional nature of pretrial detention.

Protection of civic space

27. Guarantee the right to freedom of expression and peaceful assembly, in accordance with international human rights standards.

28. Immediately and unconditionally end the arbitrary detention of individuals simply for exercising their right to freedom of expression or peaceful assembly, withdraw the charges against them and terminate these practices.
29. End all forms of restriction, stigmatization or criminalization of critical and dissenting voices. It is essential to promote an environment in which the media, journalists and civil society can operate freely and without fear of reprisals.

State response to serious human rights violations and combating impunity

30. Ensure that the Human Rights Ombudsperson's Office and the Presidential Commissioner for Human Rights and Freedom of Expression take proactive, independent and decisive action to address human rights violations and deal appropriately with the complaints and requests for action and information from the population and from victims' movements, particularly with regard to the situation and whereabouts of those who have been detained, charged and deprived of their liberty under the state of emergency.
31. Ensure that all competent state bodies undertake effective, independent and impartial investigations into the conduct of members of the National Civil Police, the Armed Forces and the staff of the General Directorate for Penal Centres, especially in relation to allegations of arbitrary detention, excessive use of force, cruel, inhuman and degrading treatment, and deaths in state custody suffered by detainees.
32. Design and implement state measures to provide reparations to those whose human rights have been violated in this context and take all necessary steps to ensure that such violations do not happen again.

ANNEX 1

KEY AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE

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¹ Report of the Human Rights Council on its 43rd session, UN doc. A/HRC/43/5 Add.1, 19 February 2020, para. 2

- ² Report of the Human Rights Council on its 43rd session, UN doc. A/HRC/43/5 Add.1, 19 February 2020, para. 4
- ³ Including, but not limited to, the Report of the Working Group on the Universal Periodic Review: El Salvador, 2 January 2020, UN doc. A/HRC/43/5, recommendations 103.22 (Cyprus), 103.40 (Indonesia), 103.41 (Lithuania), 104.46 (United States of America), 103.49 (Argentina), 103.50 (Australia)
- ⁴ Including, but not limited to, the Report of the Working Group on the Universal Periodic Review: El Salvador, 2 January 2020, UN doc. A/HRC/43/5, recommendations 103.89 (Serbia), 103.91 (Tunisia), 103.95 (Egypt).
- ⁵ Including, but not limited to, the Report of the Working Group on the Universal Periodic Review: El Salvador, 2 January 2020, UN doc. A/HRC/43/5, recommendations 103.22 (Cyprus), 103.40 (Indonesia), 103.41 (Lithuania), 104.46 (United States of America), 103.49 (Argentina), 103.50 (Australia).
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- ⁸ Including, but not limited to, the Report of the Working Group on the Universal Periodic Review: El Salvador, 2 January 2020, UN doc. A/HRC/43/5, recommendation 103.47 (Bolivarian Republic of Venezuela).
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- ¹¹ Including, but not limited to, the Report of the Working Group on the Universal Periodic Review: El Salvador, 2 January 2020, UN doc. A/HRC/43/5, recommendations 103.45 (Ukraine), 103.49 (Argentina).
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- ¹⁵ Report of the Human Rights Council on its 43rd session, UN doc. A/HRC/43/5 Add.1, 19 February 2020, para. 6
- ¹⁶ States recommended that El Salvador ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women; and the Indigenous and Tribal Peoples Convention, 1989 (International Labour Organisation Convention 169).
- ¹⁷ These bills included the Law on Gender Identity; the Law on the Recognition and Comprehensive Protection of Human Rights Defenders; the Law on the Protection of Journalists; the Law against Discrimination; reforms to the Comprehensive Special Law on a

Violence-Free Life for Women; and the Law Against Illegal People Trafficking. The following legislative proposals were also shelved: the Law on the Rights of Indigenous Peoples in El Salvador; the Special Law on Transitional Justice for Victims of Serious Human Rights Violations in the context of the Armed Conflict in El Salvador; and the Law on the Creation of the National System for Searching for, Investigating, Locating and Recovering Disappeared Persons.

¹⁸ Amnesty International, El Salvador: Behind the veil of popularity: Repression and regression of human rights in El Salvador (AMR 29/7423/2023), 4 December 2023, <https://www.amnesty.org/en/documents/amr29/7423/2023/en/>
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