



**International Covenant  
on Civil and  
Political Rights**

Distr.  
GENERAL

CCPR/C/SLV/6  
2 June 2009

ENGLISH  
Original: SPANISH

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**Sixth periodic report**

**EL SALVADOR\***

[13 January 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## I. INTRODUCTION

1. El Salvador, as a State party to the International Covenant on Civil and Political Rights, and pursuant to article 40, submits to the Human Rights Committee its sixth periodic report, which contains information for the period from January 2002 to December 2007.
2. The sixth report has been prepared in accordance with the recommendations of the Human Rights Committee contained in its concluding observations on the consolidated third, fourth and fifth periodic report (CCPR/CO/78/SLV); the recommendations of 15 August 2005 of the Office of the United Nations High Commissioner for Human Rights on the presentation and formatting of reports submitted by States parties to human rights treaty bodies; and the compilation of guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties (HRI/GEN/2/Rev.3).
3. The report is the result of the work of an inter-agency team coordinated by the Ministry of Foreign Affairs and made up of the following bodies: the National Council of the Judiciary; the National Council for Culture and the Arts; the Supreme Court of Justice; the Directorate-General for Migration and Alien Affairs; the Directorate-General for Prisons; the Directorate-General for Statistics and Censuses; the Office of the Attorney-General; the National Institute for the Advancement of Women; the National Institute for the Protection of Children; the Ministry of Education; the Ministry of Defence; the Ministry of Health and Social Welfare; the Ministry of Public Security and Justice; the Ministry of Labour and Social Security; the National Civil Police; the Office of the Procurator-General; the Office of the Procurator for the Protection of Human Rights; the National Secretariat for the Family; and the Supreme Electoral Tribunal.
4. The period covered by the sixth report saw major efforts to consolidate the civil and political rights already established and recognized in El Salvador; institutional changes were introduced consistent with the country's requirements, and mechanisms set up to meet the needs of the population.
5. This process has furthered the elaboration and implementation of national policies to strengthen the judicial system and enhance respect for the law and the legitimacy of institutions, without undermining the fundamental rights of citizens or suppressing political and ideological activities, provided they do not affect public order, morals, honour or the lives of others.
6. Since the submission in 2002 of the last report on the implementation of the International Covenant on Civil and Political Rights, the Government of El Salvador has focused on upholding the rights enshrined in that instrument.
7. Organizational and operational changes have been made in the bodies responsible for law enforcement and security and in institutions that work to ensure respect for human rights without any distinction, with a view to guaranteeing law and order and domestic peace and preventing social violence and crime. The problems and measures taken are being addressed in cooperation with a number of social groups and with inter-agency committees that have been set up.

8. In assuming these responsibilities, El Salvador is working to promote the enjoyment of the rights of individuals within its territory and subject to its jurisdiction, applying the provisions emanating from the Constitution and national legislation in order to ensure effective respect for human rights and fundamental freedoms.

## II. ARTICLE 1 OF THE COVENANT

9. El Salvador is committed to international peace and security and recognizes the right of all peoples to establish their own form of government, their national goals, their objectives and their development, making possible the effective enjoyment of fundamental rights.

10. Article 83 of the Constitution provides that:

El Salvador is a sovereign State. Sovereignty is vested in the people, who exercise it in the form and within the limits laid down in the Constitution.

11. The Government of El Salvador is “republican, democratic and representative”, pursuant to article 85 of the Constitution. Moreover:

The political system is pluralist and is reflected in political parties, which are the sole instrument for the representation of the people in the Government. Their rules, organization and operation are governed by the principles of representative democracy.

The existence of a single official party is incompatible with a democratic system and with the form of government established in the Constitution.

12. Article 87 of the Constitution recognizes:

The right of the people to rise up against the Government solely for the purpose of restoring the constitutional order when it has been disturbed by violation of the rules on the established form of government and political system or following serious infringement of the rights established in the Constitution.

The exercise of this right shall not result in the abrogation or reform of the Constitution, and is limited to the removal, when it is necessary, of culpable officials and replacing them temporarily until new officials come to office in the manner prescribed by the Constitution.

On no account may the powers and spheres of competence established by the Constitution be exercised by the same person or a single institution.

13. Thus, the right to rise up against the Government guarantees that citizens may remove an official who has disturbed the constitutional order, who is to be temporarily replaced until a new official comes to office in the manner prescribed by the Constitution.

14. The right of citizens to choose their system of government by constitutional and democratic means through free, periodic elections based on universal and secret suffrage and with the participation of the various political forces is recognized and practised as an expression of the sovereignty of the people.

15. For El Salvador, respect for non-intervention, the self-determination of peoples and the sovereign equality of States are fundamental principles of international relations.

16. El Salvador reaffirms its position on the exercise of the right to self-determination, non-intervention in the affairs of other States and the pre-eminence of a democratic and representative system of government based on free and fair elections. Since the submission by El Salvador of its consolidated third, fourth and fifth report in 2002, two Presidents and Vice-Presidents have been democratically elected; three Legislative Assemblies have been constituted; and there have been three elections to choose the members of the 262 municipal councils and deputies to the Central American Parliament.

17. Article 117 of the Constitution provides that it is the duty of the State to protect natural resources as well as the diversity and integrity of the environment so as to ensure sustainable development, and it declares the protection, conservation, rational use and restoration or replacement of natural resources to be of public interest.

18. It is not sufficient to guarantee the use of natural resources: mechanisms and instruments are also needed that contribute to their conservation. For that reason, Decree No. 233 of 2 March 1998 established the Environment Act, which was published in the *Diario Oficial* No. 79, vol. No. 339 of 4 May 1998, and in application of article 4 of said act, the first regulations on the organization and functions of the Ministry of the Environment and Natural Resources were issued by means of Executive Agreement No. 16 on the environment and natural resources of 14 February 2000. This ministry is responsible for promoting environmental protection and the rational use of natural resources through the elaboration of policies, strategies, a normative framework and legal and other instruments with the help of participatory processes to encourage changes in the behaviour of society in its interaction with nature and with regard to sustainable development.

### III. ARTICLE 2 OF THE COVENANT

19. Article 1 of the Constitution provides that:

“El Salvador recognizes the individual as the source and object of the activity of the State, which is organized for the attainment of justice, legal security and the common good.

It also recognizes every human being as a human person from the moment of conception.

Accordingly, the State has an obligation to guarantee the inhabitants of the Republic liberty, health, culture, economic well-being and social justice.”

20. The fundamental human rights and guarantees set out in the Constitution in Title Two (Fundamental Human Rights and Guarantees), which enshrines the principle of equality of persons in the enjoyment of their civil rights, without distinction on the basis of nationality, race, sex or religion, and the obligation of the State to protect the right to life, physical and moral integrity, liberty, security, work and ownership and possession of property, as well as the right to be protected in the preservation and defence of these rights. The right to honour and to personal and family privacy and self-image is also safeguarded, and the law must establish the circumstances and situations in which a claim may be made for compensation for injury of a moral nature.

21. El Salvador's normative framework ensures respect for foreigners on the national territory. Article 96 of the Constitution provides that:

From the moment of their entry into the territory of the Republic, foreigners shall be strictly obliged to respect its authorities and obey its laws and they shall acquire the right to be protected by them.

22. A subsidiary normative framework designed to punish acts of discrimination against the population and promote the equitable enjoyment of rights without any distinction on the basis of race, colour, sex, religion, political opinion or any other social condition is applied on the whole in accordance with article 17 of the Criminal Code.<sup>1</sup>

23. Criminal and labour legislation contain provisions on discriminatory acts. For example, article 30 of the Criminal Code specifies that employers are prohibited from committing direct or indirect acts of discrimination among their employees,<sup>2</sup> and articles 246 and 292 of the Criminal Code define discriminatory conduct.<sup>3</sup>

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<sup>1</sup> Application of criminal law to individuals.

The criminal law shall be applied equally to all persons who at the time of the offence are aged over 18 years. Persons below that age shall be subject to a special regime.

Notwithstanding the provisions of the preceding paragraph, the criminal law of El Salvador shall not apply when the person in question enjoys privileges under the Constitution of the Republic and international law or when he enjoys immunity in certain matters, in accordance with the Constitution of the Republic.

<sup>2</sup> Article 30: Employers are prohibited from: (...) 5. Discriminating among workers, by direct or indirect means, by reason of their trade-union status, or taking reprisals against them for the same reason.

<sup>3</sup> Discrimination in employment.

Article 246: A person who commits an act of serious discrimination in employment on the basis of sex, pregnancy, origin, civil status, race, social status or physical condition, religious or political beliefs, membership of a trade union or acceptance of its agreements, or kinship with other workers in the enterprise and who does not restore the situation of equality before the law, despite requests to do so or following administrative sanction, by making good any economic harm resulting from such an act shall be sentenced to imprisonment for six months to two years.

Infringements of the right to equality.

Article 292: Any public official or employee or agent of any authority or public authority who, on grounds of nationality, race, sex, religion or any other attribute of an individual, denies that person any of the individual rights recognized under the Constitution, shall be liable to one to three years' imprisonment and shall be disqualified from exercising his functions or holding his post during that time.

24. Similarly, the rights enshrined in the International Covenant on Civil and Political Rights are safeguarded as part of the legal order, and there are remedies to ensure their enforcement.

25. Thus, the constitutionally recognized rights of all persons are protected; in particular, anyone may file a complaint in court alleging a violation of any of those rights. Jurisdictional mechanisms at national level provide all persons with the possibility of filing for a revision of a judgement on the grounds that it has produced an unjustified restriction of rights or is in violation of the law.

26. That is based on a number of principles recognized by El Salvador at both national and international level, such as the presumption of innocence, the right to a hearing, due process and access to swift and effective remedies, which are set out in the Constitution. These principles apply in particular when judicial decisions are taken on questions of personal, civil or criminal responsibility.

27. The Constitutional Procedure Act establishes three remedies which persons who consider that State officials have violated their fundamental rights may use in order to obtain redress. The remedies are defined in article 1 of the Act: (a) the unconstitutionality of laws, decrees and regulations; (b) *amparo*; and (c) habeas corpus, or production of the person.

28. Articles 2 to 4 of the Constitutional Procedure Act establish competence for ruling in such matters. In all cases, the Constitutional Chamber of the Supreme Court of Justice is the competent authority for taking a decision.

29. Article 10 of the Constitutional Procedure Act defines the scope of each jurisdictional mechanism. In proceedings involving unconstitutionality, the ruling of the Constitutional Chamber is final; no remedies are admissible, and the ruling is binding for all State bodies, their officials and authorities and for all natural persons and legal entities. In the case of *amparo* or habeas corpus proceedings, the judgement is binding for the parties concerned.

#### **IV. ARTICLE 3 OF THE COVENANT**

30. For El Salvador, equality is a subjective right to obtain equal treatment which is possessed by all citizens, which imposes restrictions on the public power and obliges it to respect this right, and which requires that the adjudication of equal facts shall be identical in its legal consequences and ensure equality in the application of the law. In sum, it has two elements:

(a) Equality before the law. Men and women are equal before the law;

(b) Equality in the application of the law: its application in the judicial sphere must be the same when legal action is initiated, irrespective of whether the parties are men or women.

31. El Salvador is a party to the main international conventions on the rights and protection of women: the Convention on the Elimination of All Forms of Discrimination against Women, with effect from 1981; the Convention on the Political Rights of Women, with effect from 1994; the Inter-American Convention on the Granting of Civil Rights to Women, with effect from 1951; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), which entered into force for El Salvador in 1995; and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, ratified in 2003.

32. The Special Rapporteur on violence against women, its causes and consequences visited the country in February 2004 to be informed about various aspects of the situation of women in El Salvador, existing legislation and its implementation, and activities carried out at Government level.

33. The leading body in El Salvador on the question of women is the Salvadoran Institute for the Advancement of Women (ISDEMU), established by Legislative Decree No. 644 of 29 February 1996, published in the *Diario Oficial* No. 43, vol. 330, of 1 March 1996. ISDEMU has elaborated three action plans, for the periods 1997-1999, 2000-2004 and 2005-2009, currently under way. The preparation of the action plans took account of the Government's programme strategies.

34. ISDEMU is mandated to design, direct, carry out, assess and monitor the implementation of the National Policy on Women, an instrument set up to further the overall advancement of Salvadoran women. The policy has four areas of focus: (a) a social development focus: education, health care, the family, the mass media, culture and sports; (b) an economic development focus: work and productive integration, rural labour, environment and sustainable development; (c) a focus on civilian protection and promotion: violence against women, legislation, citizen and political participation; and (d) an institutional focus: institutional budgets, information systems and gender indicators, and strengthening of institutions.

35. Given the changes at national and international level and in the framework of social development programmes, the National Policy on Women aims to support and revitalize the Government's commitment to strengthening a cross-cutting gender approach in the elaboration, implementation and assessment of its policies, seeking to serve as the starting point and a meeting place on the road to new forms of governance and democratic harmony.



36. With regard to the subject of training, women's organizations in rural areas, parents and public school pupils, and programmes for the training of women and men that target the technical staff of the implementing bodies of the National Policy on Women promote the exercise of the rights of women.

37. ISDEMU coordinates its efforts with the municipal governments, and nine training and production centres have been set up in the municipalities of Santo Tomás, Aguilares, El Carmen, San Pedro Nonualco, San José Guayabal, Victoria, Atiquizaya, Chalatenango and Tejutla in order to work towards the productive integration of women in these localities. Training programmes on human rights, citizen participation, environmental conservation, prevention of domestic violence and HIV/AIDS, among other subjects, are also held at these centres.

38. The above-mentioned efforts have helped some 35 governmental and non-governmental bodies institutionalize a gender focus in their plans, programmes, projects and activities. Successful initiatives to encourage the productive integration of women in municipalities of extreme poverty reached more than 6,000 families in the years 2002 to 2007.

39. With regard to the subject of domestic and gender violence arising from acts and actions in Salvadoran families and involving the psychological, moral and domestic abuse of women and children, the Family Relations Improvement Programme provides the following services: (a) crisis intervention to help victims of domestic violence; (b) psychological monitoring of victims during the initial episode of the crisis; (c) telephone counselling, support and monitoring of victims during the corresponding legal proceedings; (d) follow-up treatment in cases of individual and group violence, crisis management and monitoring of aggressors; and (e) selection and monitoring of cases in which victims require shelter.

**Interventions to assist victims under the Family Relations  
Improvement Programme in 2006 and 2007**

Nature of the case	Victims assisted					
	2006			2007		
	Female	Male	Total	Female	Male	Total
Sexual assault	791	100	891	658	75	733
Child abuse	1 563	1 369	2 932	1 920	1 189	1 189
Domestic violence	4 494	298	4 792	4 289	153	4 442
Orientation	639	263	902	765	333	1 098
Total by gender	7 487	2 030	9 517	7 632	1 750	9 382

**Assistance provided under the Family Relations  
Improvement Programme in 2006 and 2007**

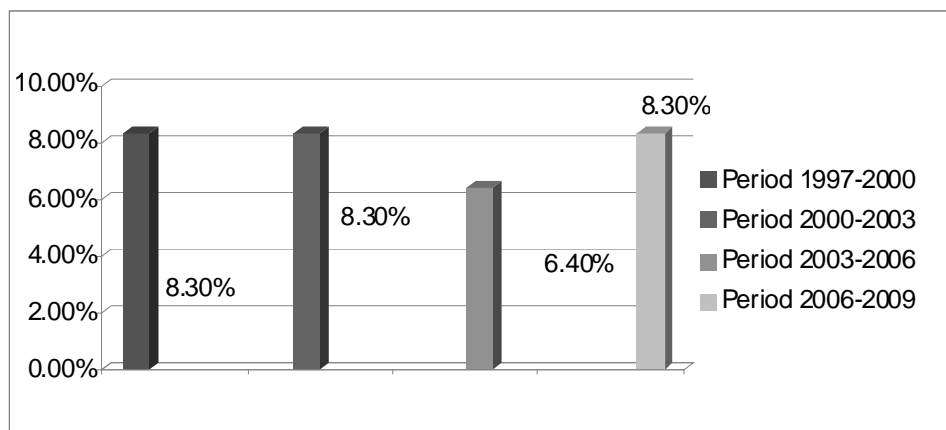
Assistance provided to victim, by gender	2006			2007		
	Female	Male	Total	Female	Male	Total
Psychological	6 024	1 670	7 694	5 773	1 303	7 076
Social	698	221	919	666	156	822
Psychological, legal	160	13	173	22	1	23
Psychological, social	30	18	48	32	6	38
Medical	88	14	102	23	1	24
Psychological, legal, social	18	9	27	2	0	2
Psychological, legal, medical, social	0	0	0	2	0	2
Psychological, medical	3	2	5	0	0	0
Legal	183	41	224	89	12	101
Legal, social	153	16	169	61	12	73
Legal, medical	52	9	61	0	0	0
Legal, medical, social	0	0	0	0	0	0
Medical, social	0	0	0	0	0	0
Psychological, medical, social	2	0	2	0	0	0
Psychological, legal, medical	0	0	0	0	0	0
Social, shelter	1	0	1	0	0	0
Psychological, shelter	14	5	19	12	0	12
Psychological, shelter, social	5	2	7	1	0	1
Psychological, medical, police	0	0	0	0	0	0
Police	42	6	48	30	3	33
Psychological, police	6	2	8	3	0	3
Social, medical, shelter	1	0	1	0	0	0
Social, legal, police	3	2	5	3	6	9
Psychological, legal, shelter	4	0	4	2	0	2
Total by gender	7 487	2 030	9 517	6 721	1 500	8 221

40. ISDEMU has 11 offices in the Departments of San Salvador (headquarters), Santa Ana, San Miguel, Sonsonate, La Paz, Chalatenango, La Unión, Morazán, Usulután, Cabañas and Ahuachapán, which provide assistance to victims of domestic violence. There is also a shelter for the victims and their children.

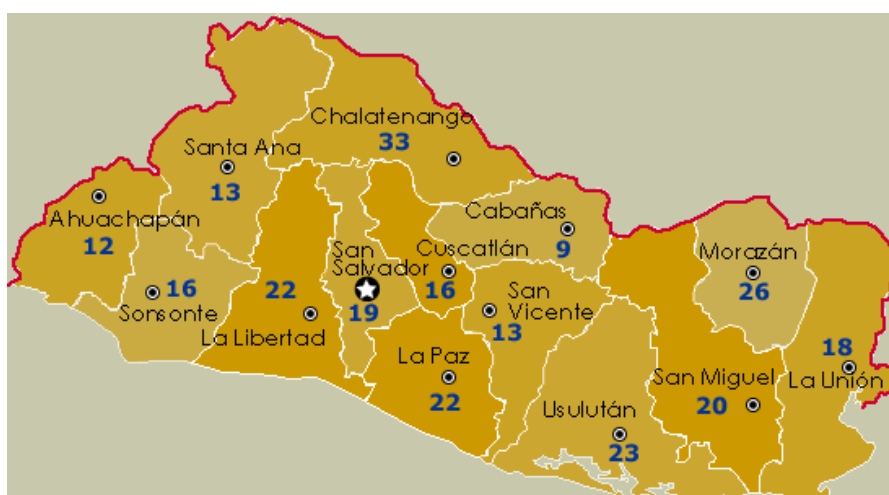
41. With regard to the participation of women in public office, the following can be reported: in the Legislative Assembly, the number of women deputies who are property owners rose from 9 in the period 2003-2006 to 14 in the period 2006-2009, this being the highest figure ever.

42. The number of women mayors in the country has risen compared to the period 2000-2003. In El Salvador's 262 municipalities, for the above-mentioned period 6.4 per cent of all mayors were women; the figure rose to 8.30 per cent for the period 2003-2006. Currently, 22 mayors are women, as shown in the following chart.

### Percentage of women mayors in four periods



### Distribution of El Salvador's 262 municipalities



43. A total of 24 women hold posts in the cabinet of the current Government, including the Vice-President, three ministers and six vice-ministers. The number of women who are deputies to the Legislative Assembly, judges and magistrates in the judiciary, mayors in municipal governments, ambassadors and consuls and office holders in other bodies reflects their growing presence in important posts in the public administration. This being the case, and in view of the new challenges posed by a democratic society and El Salvador's firm commitment to addressing the most important practical and strategic needs of Salvadoran women, national institutions active in the area of women and gender are working to promote equality between men and women.

44. Salvadoran women are increasingly present in the area of public security and in the military sphere, as seen in the figures for admission to the National Public Security Academy, the National Civil Police and the armed forces. This is illustrated in the following four tables.

**Admission of women to the Military Academy as  
cadets in the period 2002-2007**

Period	Number of women admitted	Number of graduates
2002	20	0
2003	22	16
2004	17	12
2005	21	10
2006	18	7
2007	19	10
Total	117	55

**Admissions of operational personnel to the National Civil Police**

Hierarchical levels										
Executive						Basic				
Year	Men	%**	Women	%**	Total	Men	%**	Women	%**	Total
2002	1	100.00	0	0.00	1	597	92.27	50	7.73	647
2003	11	100.00	0	0.00	11	813	94.64	46	5.36	859
2004	3	100.00	0	0.00	3	613	93.45	43	6.55	656
2005	15	71.43	6	28.57	21	1 007	94.82	55	5.18	1 062
2006	13	100.00	0	0.00	13	1 169	91.54	108	8.46	1 277
2007	*	0	*	0.00	0	457	89.43	54	10.57	511
Subtotals	43		6		49	4 656		356		5 012
Overall total	5 061									

\* Figure to be determined outside the period covered by the present State report.

\*\* Refers to the percentage of admissions by gender.

45. The participation of Salvadoran women in the civil and political spheres has become considerable, and they are now a significant and relevant presence in the country. The constitutional principle of legal equality and the international conventions ratified by El Salvador which promote gender equality and non-discrimination of women have been vital in helping gradually eliminate the obstacles that they face.

46. The activities of women's organizations, the work of local governments and the support of the private sector have created the necessary conditions for a debate on the main issues affecting women; this has led to new aspects being addressed that pose challenges to their advancement.

47. There is currently a total of 251 women in the judiciary, holding offices as municipal magistrates and judges, and judges in commercial, labour, civil and family courts, courts of first instance, sentence enforcement courts and juvenile courts. The Supreme Court of Justice is composed of 15 judges, of whom 5, or 33 per cent, are women.

48. With regard to proposing candidates for posts as judges, the National Council of the Judiciary<sup>4</sup> has provided the following statistics:

**Number of men and women proposed for each year**

Gender	Period					
	2002	2003	2004	2005	2006	2007
Men	160	322	112	84	57	133
%	47.62	51.36	50.45	56.00	55.88	62.44
Women	176	305	110	66	45	80
%	52.38	48.64	49.55	44.00	44.12	37.56
Total number of court officials	336	627	222	150	102	213
Total %	100.00	100.00	100.00	100.00	100.00	100.00

49. The following table provides details on the number of court officials holding posts as judges in courts of appeal and courts of first instance, and as municipal judges.

**Number of court officials by gender and year**

Gender	Period					
	2002	2003	2004	2005	2006	2007
Men	789	800	750	710	705	721
%	56.76	54.95	56.01	54.83	54.52	54.46
Women	601	656	589	585	588	603
%	43.24	45.05	43.99	45.17	45.48	45.54
Total	1 390	1 456	1 339	1 295	1 293	1 324
Total %	100.00	100.00	100.00	100.00	100.00	100.00

50. The National Council of the Judiciary conducts an initial two-year training programme for judges; as of December 2007, three cycles have been completed.

51. For the three cycles, the gender breakdown has been as follows:

Period	First cycle 2001-2003	Second cycle 2004-2005	Third cycle 2006-2008
Men	18 (51.42%)	22 (62.85%)	19 (54.28%)
Women	17 (48.57%)	13 (37.14%)	16 (45.71%)
Total	35	35	35

<sup>4</sup> The National Council of the Judiciary is an independent institution responsible for proposing candidates for posts as judges of the Supreme Court, courts of appeal and courts of first instance, and as municipal judges; it also organizes and runs the Judicial Service Training College, which trains judges and other court officials (article 187 of the Constitution).

52. The Judicial Training Academy of the National Council of the Judiciary offers courses in justice and gender for court officials. The following table shows the number of persons who attended these courses.

Subject: Justice and Gender	2002		2003		2004		2005		2006		2007	
	No. of groups	No. of participants	No. of groups	No. of participants	No. of groups	No. of participants	No. of groups	No. of participants	No. of groups	No. of participants	No. of groups	No. of participants
	46	1 035	4	81	12	298	3	50	20	339	17	426

53. The Corporation of Municipalities of the Republic of El Salvador (COMURES) is implementing an institutional policy on gender equality, and a Commission of the Family, Women and Children has been set up in the COMURES Administrative Council to promote institutional gender policy.

54. In 2007, fresh impetus was given for the period 2006-2009 to the Trade Union Commission on the Family, Women, Children and Adolescents, which was joined by men, whereas earlier only women mayors took part. The Commission has formulated an initial work plan which prioritizes initiatives to publicize the gender policy of COMURES. As part of the effort to institutionalize the issue at local level, it was involved in helping to draft the amendment to article 4.29 of the Municipal Code, through which a women's unit was set up as a mechanism or instrument to provide an administrative framework for elaborating and promoting programmes and activities for the advancement of gender equality at municipal level.

55. COMURES also contributed to the drafting of amendments to the Family Code and the Act on Names of Natural Persons. At meetings on the subject, measures were introduced to guarantee the legal protection and physical and moral integrity as well as the honour, personal and family privacy and self-image of women. This helps ensure that women are not discriminated against in society solely for having acquired the civil status of a divorced person or a widow.

56. As to the issue of the right to an identity, at the 23rd Congress of Municipalities held on 5 and 6 November 2007, agreement was reached that the municipalities are to facilitate the registration of boys and girls, and a cooperation convention was signed with the Ministry of Public Security and Justice, the National Registry of Natural Persons (RNPN) and the National Institute for the Comprehensive Development of Children (ISNA) to simplify the registration of children of female inmates at the Ilopango Women's Rehabilitation Centre.

57. COMURES has taken an active part in events such as the launching of a course on local leadership and management from the perspective of Central American women, organized by the Institute of Local Development for Central America (IDELCA) with the presence of political leaders of the region, and a National Dialogue Day, held by the International Research and Training Institute for the Advancement of Women (INSTRAW) on 15 and 16 February 2007.

58. With regard to illiteracy, disaggregated by gender, 17.5 per cent of women and 11.8 per cent of men are illiterate. The relationship between the two figures is constant throughout the country: 12.4 per cent of women as opposed to 6.4 per cent of men are illiterate in urban areas, 25.9 per cent of women as opposed to 20.0 per cent of men in rural areas, and 9.4 per cent of women as opposed to 4.2 per cent of men in the San Salvador metropolitan area.

59. As for higher education, in 2003 the gross enrolment rate for women stood at 19.41 per cent. Of the 12,545 higher-level graduates in that year, 58.06 per cent (7,284) were women and 41.95 per cent (5,261) were men.

60. In 2006, the total student population in higher education at universities, specialized institutes and technological institutions nationwide stood at 124,956, which constituted 100 per cent of persons enrolled, of whom 54.69 per cent (68,336) were women and 45.31 per cent (56,620) were men.

## **V. ARTICLE 4 OF THE COVENANT**

61. The Committee is referred to the information given in El Salvador's second periodic report (CCPR/C/51/Add.8, paras. 81 to 93 and 98), in which the procedure for declaring a state of emergency is explained.

62. The Constitution makes provision for the declaration of a state of emergency or the suspension of constitutional guarantees as a contingency measure for dealing with a number of emergency situations, namely unusual, extraordinary and temporary situations resulting from events of a certain level of seriousness - such as war, public catastrophe, invasion, rebellion, sedition, disaster or serious disturbance of the public order - which make it necessary to vest the state authorities, and in particular the Executive, with equally extraordinary powers to deal with the situation promptly and effectively.

63. The state of emergency is regulated in detail in articles 29 to 31 of the Constitution, which define the circumstances and measures for coping with such emergency situations. The same section provides that such situations are to be dealt with through the suspension of constitutional guarantees or, to put it more correctly, through limitations on the exercise of certain fundamental rights.

64. El Salvador's constitutional system sets out the following details concerning states of emergency: (a) principles governing its application: (i) the principle of proportionality, namely the extraordinary measures that may be taken to cope with a state of emergency must be commensurate with the reasons for its declaration; and (ii) the principle of strict legality, namely all matters relating to the state of emergency - bodies authorized to declare it, duration, forms of jurisdictional control and responsibility for measures taken - must be regulated by law, and in particular the Constitution; (b) determination of the sole circumstances under which constitutional guarantees may be suspended; (c) limitations on bodies authorized to declare such a suspension, since this power is vested primarily in the Legislative Assembly, or else in the Council of Ministers; (d) setting of a maximum duration - 30 days, with the possibility of prolonging it for an equal period only if the circumstances which led to the suspension persist; (e) possibility of judicial review of the constitutionality of the declaration of suspension; and (f) possibility of setting the parameters and forms of responsibility of the decision-making bodies.

65. In keeping with the principle of strict respect for the rule of law, a state of emergency may be invoked only for certain reasons or emergency situations, only certain bodies are authorized to declare it, and the exercise of only certain fundamental rights may be limited: these aspects must

be consistent with the relevant constitutional regulations. A de facto imposition of a state of emergency which fails to comply with those regulations would be considered unconstitutional.

## **VI. ARTICLE 5 OF THE COVENANT**

66. The Committee is referred to paragraphs 193 and 194 of the consolidated third, fourth and fifth periodic report (CCPR/C/SLV/2002/3) concerning the conditions which continue to be maintained to ensure compliance with this article.

## **VII. ARTICLE 6 OF THE COVENANT**

67. Article 1 of the Constitution of El Salvador “recognizes the individual as the source and object of the activity of the State (...)”; article 2.1 establishes that “all persons have the right to life, physical and moral integrity, liberty, security, work, and ownership and possession and the right to be protected in the preservation and defence of these rights”. Article 11.1 provides that “no one may be denied the right to life (...)”; in other words, legislation places overriding importance on this right as being inherent in the human person. For its part, the Criminal Code establishes penalties of imprisonment for anyone who commits an offence which violates the right to life of a person; punishment is from 6 months’ imprisonment, for example in the case of a culpable abortion under article 137 of the Criminal Code, to 50 years’ imprisonment for aggravated homicide under article 129.

68. In recent years, the impact of violence and crime has become increasingly perceptible, disrupting the normal life of citizens; the homicide rate is on the rise. This situation has prompted the authorities to step up their efforts to combat the problem and to seek a consensus among the bodies responsible for law enforcement and justice to promote policies and measures in keeping with the realities and possibilities in the country.

69. The issue has deep roots in the past, with historical and structural causes. Investigations into the emergence of gangs have found that the phenomenon is related to the disintegration of the family in the 1980s and the culture of war inherited from the armed conflict of that period; thus, this is a complex problem which requires inter-agency treatment and efforts and courageous involvement on the part of the citizenry.

70. In 2007, the Ministry of Public Security and Justice came into being, responsibility for public security having been shifted to it from the Ministry of the Interior. The National Civil Police, the National Public Security Academy, the prisons, the public security authorities and the National Commission for Drug Control and the Protection of Victims and Witnesses report to this new ministry.

71. The Act on Organized Crime and Complex Offences and the Act on the Protection of Victims and Witnesses were promulgated, among others, to reinforce public security, and the following bodies were set up: the Rural Police, to ensure law and order in rural areas; the Homicide Investigation Division; and the Public Security Advisory Council, which produces recommendations on public security that the Government can implement and monitors implementation of existing plans. Investments have been made in patrols, police salaries, and



intelligence systems and equipment in order to provide better and more effective service, and the INTERPOL security system has been permanently installed to improve overall conditions for monitoring criminal activities.

72. The minimum age for obtaining a licence to bear and use firearms has been raised from 21 years to 24. A natural person or legal entity may not purchase more than one firearm every two years, and the bearing of firearms in public transport continues to be prohibited.
73. Members of the National Civil Police (PNC), the body responsible for public security, are authorized to use force and firearms in the line of duty. Police officers are trained at the National Public Security Academy, whose courses stress values, discipline and respect for human rights.
74. Training courses to teach police staff about the use of force and firearms follow the procedures contained in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
75. The PNC has a permanent monitoring procedure which makes it possible to remove police officers who have committed an offence. The mass media, with the help of monitoring by the Office of the Procurator for the Protection of Human Rights, report cases of abuse committed against citizens by the police, including violation of the right to life, and the General Inspectorate of the National Police takes the necessary steps to investigate and identify the responsibility of the persons concerned.
76. Article 27 of the Constitution provides that the death penalty may be imposed only in cases specified in military law during a state of international war. Pardon and amnesty are recognized pursuant to articles 104 and 105 of the Criminal Code; those provisions may be invoked by a person sentenced to death under military law.
77. El Salvador has supported United Nations General Assembly resolutions on a moratorium on the use of the death penalty which called on all States which still maintain the death penalty to respect international standards guaranteeing the protection of the rights of those facing the death penalty and to progressively restrict its use.
78. To fulfil commitments with regard to assistance to victims of armed conflicts and respect for international humanitarian law, the Inter-institutional Committee on International Humanitarian Law in El Salvador (CIDIH-ES) was created to advise the Government on measures for the application, interpretation and dissemination of international humanitarian law in order to meet its commitments. The Committee was legally established by Executive Decree No. 118 of 4 November 1997, published in the *Diario Oficial* No. 215, vol. No. 337, of 18 November 1997.

### VIII. ARTICLE 7 OF THE COVENANT

79. El Salvador confirms the validity of the information provided in paragraph 244 of its consolidated third, fourth and fifth periodic report concerning the provisions of article 27.2 of the Constitution, which also safeguards the physical and moral integrity of the human person enshrined in articles 2, 4, 9, 10 and 11.

80. The prohibition of acts constituting cruel, inhuman or degrading treatment or punishment, in addition to being embodied in the Constitution, is also set out in the Criminal Code and the Code of Criminal Procedure, the Prisons Act, the disciplinary regulations of the National Civil Police and the disciplinary regulations of the armed forces.

81. Although in the performance of their duties, police officers must follow procedures which ensure respect for and safeguard fundamental human rights, there have been cases in which police officers have been involved in acts of assault and insults, torture and degrading treatment targeting detainees. Those cases have been documented by the General Inspectorate of the PNC and by the Office of the Procurator for the Protection of Human Rights.

82. Torture is an offence under national criminal law and is punishable by appropriate penalties pursuant to Title XIV of the Criminal Code (Offences against the fundamental rights and guarantees of the individual), which provides as follows:

Torture (art. 297): Public officials or employees, law enforcement officers or public authorities who, in the course of their duties, subject an individual to physical or mental torture or who have the power to prevent it but fail to do so shall be liable to three to six years' imprisonment and disqualification from their functions or post during that time.

83. Conduct involving cruel treatment is punishable pursuant to article 320 of the Criminal Code, which stipulates that:

Public officials or employees or persons responsible for a public service who, in the performance of their functions, commit an unlawful or arbitrary act, harass or humiliate a person or damage property, or exert unlawful or unnecessary pressure in the performance of their duties or functions or permit a third person to do so, shall be liable to two to four years' imprisonment and disqualification from their post for the same period of time.

84. The judges appointed to supervise prisons and the enforcement of sentences and also the Prisons Supervision and Sentence Enforcement Division<sup>5</sup> are responsible for monitoring the legality of the enforcement of sentences in order to guarantee respect for the dignity of convicted offenders. Corporal disciplinary measures, such as confinement in a dark cell, or any other cruel, inhuman or degrading measures are prohibited, as is the use of inmates to impose or enforce disciplinary measures.

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<sup>5</sup> Articles 6, 9.4, 11, 37 and 128 of the Prisons Act.

85. The measures adopted in prisons with regard to the treatment of inmates have been defined earlier in articles 5<sup>6</sup> and 22.2<sup>7</sup> of the Prisons Law.

86. The Directorate-General for Prisons holds courses for prison staff on the rights of persons deprived of their liberty, inculcating the strict implementation, in all prison activities and procedures, of laws, regulations and international treaties on the proper treatment of inmates.

87. Information on the rights of the prison population is made available through programmed visits by the staff of the Office of the Procurator for the Protection of Human Rights, and the prison administration provides the necessary facilities so that State authorities can inform prisoners of their rights and occasionally distribute literature on the subject.

88. When two or more disciplinary measures are imposed on a prisoner, they are carried out separately, starting with the most severe. Generally speaking, any disciplinary measure imposed on a prisoner is placed on record.

89. Article 22.3 of the Prisons Act<sup>8</sup> prohibits the subjecting of prisoners to scientific experiments, even with the prisoner's consent. This prohibition does not include the continuous

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<sup>6</sup> Humanity and equality.

Article 5: The use of torture, ill-treatment or humiliating practices in the enforcement of sentences is strictly prohibited.

This provision prohibits any measure that violates the integrity of the prisoner or discriminates against him.

No prisoner shall be discriminated against on grounds of nationality, sex, race, religion, political opinion or tendency, financial or social status or any other circumstance.

This provision prohibits discrimination on grounds of race, religion or political opinion or tendency.

<sup>7</sup> Prohibitions on the administration.

Article 22: The administration is prohibited from carrying out prison activities which, directly or indirectly, entail:

- (2) Unequal treatment on grounds of race, religion, social status, political ideas or opinions or any other circumstance of a similar nature.

<sup>8</sup> See footnote 7 *supra*.

Article 22.2 refers to the principle of equality set out in article 3 of the Constitution:

- (3) Subjection to scientific experiments, even with the prisoner's consent.

evaluation of prisoners on a voluntary basis by specialists such as psychiatrists and psychologists, but does cover the subjecting of prisoners to any scientific experiments that violate their right to life, health or physical integrity, even with their express consent.<sup>9</sup>

90. The above information shows that El Salvador has included this prohibition in its legislation so as not to violate the principles of legal equality, freedom of conscience and the right of the defence, as well as the prohibition on subjecting prisoners to special authoritarian regulations which may impose punishments on them that are contrary to the rule of law.

### **IX. ARTICLE 8 OF THE COVENANT**

91. Article 10 of the Constitution defines the scope of legislation regulating the right to liberty of person. It establishes that the law may not authorize acts or contracts which entail the loss or irreparable sacrifice of individual liberty or dignity. The principle of individual liberty is set out in article 4 of the Constitution.<sup>10</sup>

92. The principle that no one may be forced to carry out forced or compulsory labour is anchored in article 9 of the Constitution, which specifies that no one is required to carry out work that violates their dignity. The Criminal Code makes provision in article 55 for a sentence of community service as an alternative to prison, provided that the offender meets the requirements for serving this type of penalty, his dignity and physical integrity are respected, his normal work activities are not interfered with and the work imposed is in keeping with his capacities. Salvadoran legislation does not allow imprisonment with forced labour.

93. Article 13 of the Prisons Act provides that inmates must obey the prison rules. Persons on parole must meet certain conditions, such as reporting at regular intervals to the judge responsible for them who supervises the enforcement of sentences and complying with special norms for behaviour.

94. Article 215 of the Constitution establishes military service for Salvadorans,<sup>11</sup> the details of which are defined by the Armed Forces Military Service and Reserves Act.

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<sup>9</sup> Prisons Act, article 123.

<sup>10</sup> Article 4: All persons are free in the Republic.

No person entering its territory shall be a slave, and no person who traffics in slaves shall be a citizen. No one may be subjected to servitude or to any other condition which impairs his dignity.

<sup>11</sup> Article 215: Military service shall be compulsory for all Salvadorans between the ages of 18 and 30 years.

Where the situation so requires, all Salvadorans who are fit for military service shall be conscripted.

This matter shall be regulated by special legislation.

95. Article 9 of the Constitution<sup>12</sup> stipulates that in a public emergency, compulsory services may be required, in other words citizens must provide special services which, owing to the nature of the requirement, are unpaid.
96. El Salvador recognizes the concept of trafficking in persons, which article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, defines as: “recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.
97. Aware of the importance of trafficking in persons, El Salvador is committed to preventing and combating this scourge and to assisting the victims; it has conducted coordinated initiatives at both national and regional level to address the problem and will continue to do so in the future.
98. El Salvador is a party to the following international treaties: International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified in 2001; United Nations Convention against Transnational Organized Crime, ratified by Legislative Decree No. 165 of 16 October 2003; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), ratified by Legislative Decree No. 166 of 16 October 2003; the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, ratified by Legislative Decree on 16 October 2003; and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, ratified by the Legislative Assembly on 24 February 2004.

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<sup>12</sup> Article 9: Nobody shall be obliged to perform work or provide his personal services without fair remuneration and without his full consent, except in the event of a public emergency and in the other cases prescribed by law.

99. Legislative Decree No. 210 of 25 November 2003, published in the *Diario Oficial* No. 4, vol. 362, of 8 January 2004, introduced article 367-B in the Criminal Code<sup>13</sup> for the purpose of preventing and combating the crime of trafficking in persons.

100. Subsequently, article 367-C<sup>14</sup> was introduced through amendment No. 23, which provides for aggravating circumstances for this offence. The amendment was approved by Legislative Decree No. 457 of 7 October 2004, which was published in the *Diario Oficial* No. 207, vol. 365, of 8 November 2004.

101. On 18 August 2005, the Ministries of Foreign Affairs of El Salvador and Guatemala and the respective Directorates General of Migration signed a memorandum of understanding on the protection of victims of trafficking in persons and illegal transport of migrants. To implement the memorandum, a plan of action was elaborated which envisages joint measures for preventing and combating trafficking in persons and caring for the victims, the three areas in which the phenomenon must be addressed.

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<sup>13</sup> Article 367-B: A person who himself or as a member of a national or international organization with the intent of obtaining an economic benefit recruits, transports, transfers, harbours or receives persons, within or outside the national territory, in order to carry out an act of sexual exploitation, to put such persons to forced labour or service in circumstances analogous to slavery, to remove organs, or to conclude fraudulent adoptions or forced marriages shall be sentenced to imprisonment for four to eight years.

#### REPEALED

Any person who facilitates, promotes or encourages any of the acts described above shall be sentenced to imprisonment for three to six years.

When the acts described above are carried out in commercial premises or in premises of any kind which require a permit from a competent authority, the permit shall be revoked and the premises closed immediately.

<sup>14</sup> Article 367-C: The offence referred to in article 367-B of this Code shall be punishable by the maximum corresponding sentence, increased by one third, and disqualification of the perpetrator from engaging in his occupation for the duration of the sentence, in the following cases:

1. When the offence is committed by a civil servant, public or municipal employee, public authority, agent of an authority or member of the National Civil Police;
2. When the victim is aged under 18 years or lacks legal capacity;
3. When the offence is committed by a superior of the victim in a relationship of trust, domestic association, education, work or any other relationship;
4. When as a consequence of the commission of the offence the passive subjects suffer deprivation of liberty abroad, are victims of offences of any kind or die from wrongful or culpable causes.

102. On 17 May 2005, a memorandum of understanding was signed by the Government of the Republic of El Salvador and the Government of the United Mexican States on the protection of women and minors victims of trafficking or illegal transport of persons. As in the case of Guatemala, a plan of action was elaborated to implement the memorandum in the same three areas of preventing and combating trafficking in persons and caring for the victims.

103. The National Committee on Trafficking in Persons was created by Decree No. 114, published in the *Diario Oficial*, No. 224, vol. 369, of 1 December 2005, with the aim of comprehensively combating this scourge by implementing a national plan to eliminate human trafficking, in conformity with the obligations undertaken by Salvadoran law. The Committee took office on 6 March 2006, and from then until December 2007, 16 ordinary meetings and 1 extraordinary meeting were held.

104. The Committee consists of representatives from the following ministries and institutions: the Ministry of Foreign Affairs (which provides the Chair and the permanent secretariat), the Ministry of Public Security and Justice, the Ministry of Finance, the Ministry of Education, the Ministry of Labour and Social Security, the Ministry of Health and Social Welfare, the Ministry of Tourism, the National Secretariat for the Family, the National Civil Police, the Directorate-General for Migration and Alien Affairs, the National Institute for the Comprehensive Care of Children and Adolescents and the National Institute for the Advancement of Women. The Committee receives advice and technical cooperation from the International Organization for Migration (IOM), the International Labour Organization through the International Programme on the Elimination of Child Labour (ILO/IPEC), the United Nations Children's Fund (UNICEF), the Inter-American Commission of Women (CIM/OAS) and others which the Committee deems necessary.

105. To fulfil its objective, the Committee has the following functions: preparing the National Plan of Action to Combat Human Trafficking, establishing the priority areas in which efforts should be focused to combat and prevent such trafficking and to rescue and provide services for victims; integrating and coordinating efforts aimed at investigating and preventing this crime and providing services for the victims through national institutions and international organizations; and publicizing efforts to combat this heinous practice.

106. The following table contains figures on the number of cases of trafficking in persons dealt with by the National Civil Police.

Cases dealt with as of October 2007			
Year	Number of cases	Cases solved	Number of detainees
2005	32	18	53
2006	67	37	56
2007	39	6	30
Total	138	61	139

*Source:* National Civil Police of El Salvador.

107. With regard to the efforts made by the National Committee on Trafficking in Persons with the help of the authorities involved in the investigation and prosecution of cases of trafficking, in 2006, according to the data of the Office of the Attorney-General, there were 46 cases, of

which 25 were under investigation; 21 persons were brought to trial, and 3 convictions were handed down. In 2007, there were 47 cases, of which 30 were under investigation; 17 persons were brought to trial and 1 conviction was handed down.

108. One of the Committee's initiatives was the holding of inter-agency workshops with the participation of officials from around the country to analyse the manner in which cases involving trafficking in persons have been dealt with in the courts. Officials who took part included members of the National Committee on Trafficking in Persons and of the Institute of Forensic Medicine, and judges from the central, sub-central, eastern and western regions.

109. Consistent with its commitment to prevent, deal with and combat human trafficking, El Salvador prepared guidelines on the phenomenon for its Foreign Service; publication was financed by ILO. The guidelines aim to raise awareness of the problem among diplomatic and consular representatives. The document contains information on what to do in the event of being in the presence of possible victims, the information to be obtained and the national institutions to which the situation should be reported.

110. As a result of visits to Guatemala-Mexico border zones between 2004 and 2007, the need was established to prepare a communication strategy to publicize migration-related issues in a large-scale manner. Participants in this effort include the United Nations Development Programme (UNDP), IOM, UNICEF and MERIDIANO 89,<sup>15</sup> coordinated by the Vice-Ministry of Foreign Relations with Responsibility for Salvadoran Nationals Abroad. The radio, press and television campaign launched to raise awareness of the risks of emigrating without documents includes the subject of trafficking in persons.

111. As part of this effort, the Vice-Ministry, in coordination with UNICEF and the Ministry of Education, launched a campaign on the "Dangers of the Northern Route" to inform secondary school pupils about the dangers of emigrating without documents.

112. Another initiative in this connection is the school pilot project on the prevention of trafficking in children and adolescents and the strengthening of knowledge on sexual health and reproduction. The goal of 400 trained teachers was exceeded, attaining 701; 5 theatre performances helped the project reach 28,040 pupils and their families in 66 schools. Bibliographical material (satires) was also distributed among the assistants.

113. These efforts have helped prevent trafficking in persons and have improved the level of information, education and knowledge of human rights in the area of trafficking in persons and in migrants. The launching in June 2007 of the campaign "Commercial Sexual Exploitation is an Offence" has also heightened awareness of the issue.

114. A memorandum of understanding was signed on 30 November 2005 between the Government of El Salvador, the International Organization for Migration and the Huellas Foundation to implement the project "Shelter for providing care services to victims of human trafficking in El Salvador". The shelter opened its doors on 29 April 2006. It is being

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<sup>15</sup> Meridiano 89 is a media company which operates a news magazine.



coordinated by the Huellas Foundation in conjunction with the National Committee on Trafficking in Persons and IOM. As of October 2007, 105 victims (98 new victims and 7 readmissions) of different nationalities have received assistance. A procedural handbook for the repatriation of child victims of trafficking in persons was produced; a handbook already exists on care services for victims of trafficking in persons.

#### **X. ARTICLE 9 OF THE COVENANT**

115. Article 2 of the Constitution states: “All persons have the right to life, liberty, security, work, and ownership and possession and the right to be protected in the preservation and defence of these rights.” Article 4 establishes that everyone is free in the national territory, and article 11 provides that “no one may be denied the right to life, liberty, ownership and possession or any other of his rights without first having been tried and judged in accordance with the law; nor may a person be tried twice on the same charge”, and that “everyone has the right to habeas corpus when any authority or individual illegally restricts his liberty”.

116. Article 148 of the Criminal Code defines the offence of deprivation of liberty, which is punishable by a sentence of three to six years’ imprisonment. There are also other offences, such as abduction - namely the deprivation of liberty for the purpose of obtaining economic gain - which, pursuant to article 149 of the Criminal Code, is punishable by a sentence of 30 to 45 years’ imprisonment. Article 152 defines the offence of detention by individuals, which is punishable by a sentence of six months to one year’s imprisonment, and article 290 establishes the offence of deprivation of liberty by public officials or employees, law enforcement officers or public authorities, with a sentence of three to six years’ imprisonment and disqualification from functions during that time.

117. In accordance with article 12 of the Constitution, anyone who is detained must be informed in an understandable manner of the reasons for his detention; article 13 provides that the detained person must be brought before the competent judge within 72 hours, and the judge then has 72 hours, beginning from the time that the accused is brought before the court, to decide whether to order pretrial detention or release. Provision is also made for the State to pay compensation to anyone who has been the victim of a duly substantiated judicial error.

#### **XI. ARTICLE 10 OF THE COVENANT**

118. The Prisons Act recognizes the rights of all persons deprived of liberty, account being taken of the Constitution and the Standard Minimum Rules for the Treatment of Prisoners.

119. Pursuant to the Constitution, the State is required to ensure the integral development of all minors, without distinction on grounds of nationality, race, sex or religion; when a child’s antisocial behaviour constitutes an offence under the Juvenile Offenders Act, a procedure is instituted to ascertain whether or not the act constituted an offence or a misdemeanour, which is subject to special legal rules. The above is in accordance with article 35 of the Constitution, on the protection of minors.

120. In this connection, El Salvador has taken into consideration the treaties, conventions, covenants and other international instruments that it has signed and ratified dealing with minors,

and it has a special legal framework applicable to minors who violate the law. An example of this is the Juvenile Offenders Act, established by Legislative Decree No. 863 of 27 April 1994, published in the *Diario Oficial* No. 106, vol. 323, of 8 June 1994.

121. The purpose of this Act is: (a) to regulate the rights of minors who are alleged or declared to be the perpetrators of or participants in a criminal offence; (b) to establish the guiding principles for its application and interpretation, and the normative and institutional developments to be created for its enforcement; (c) to determine the measures which should be applied to minors who have committed a criminal offence; and (d) to establish the procedures for safeguarding the rights of minors subject to such measures.

122. Measures for supervising the application of the rules for the treatment of persons deprived of liberty are the responsibility of the National Criminological Council,<sup>16</sup> the administrative body that verifies the rules in conjunction with the Regional Criminological Councils (western, central, sub-central and eastern), which directly monitor the opening of a single record file, further entries and follow-up for both accused persons and convicted offenders. The elaboration of a comprehensive personalized treatment plan for each prisoner is also monitored and approved. The implementation of the plan requires oversight of programme follow-up and supervision of the approval of convicted offenders during the various stages of the progressive regime.

123. With a view to promoting the reintegration and rehabilitation of offenders, the Directorate-General for Prisons, the entity responsible for applying and enforcing the Prisons Act and its regulations, has created the Commission for the Planning and Coordination of the Prison System Modernization Process, in which the various sectors and institutions participate in order to ensure the rehabilitation of the persons concerned.

124. The entry into force of the progressive regime established by the Prisons Act has made it necessary to build and equip open prisons to accommodate prisoners granted semi-release, who have the right to leave every day for 12 hours and at weekends to visit their families. There is now an open prison for women in Santa Tecla, Department of La Libertad, and another for men which is an annex of La Esperanza (Mariona) Central Prison.

125. The annual operational plan, which is produced by the National Criminology Council, monitored by the regional criminology councils and implemented by the prison criminology teams, contains the programmes for female inmates with the following focus: comprehensive maternal and child care; work training and formal education; drug addiction and emergency response; treatment of older female inmates, in conjunction with the National Secretariat for the Family, the National Foundation for Older People and health care units; domestic violence; criminological diagnosis; prison classification; and operation of the open prison for women.

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<sup>16</sup> Pursuant to article 28 of the Prisons Act, the National Criminological Council is composed of a lawyer, a criminologist, a sociologist, a physician, a psychiatrist, a psychologist, a trained social worker and a trained educational expert, and it is chaired by a director elected by its members. The Council reports administratively to the Ministry of Public Security and Justice and is fully independent in its technical and scientific work.

126. Riots have taken place in a number of prisons during the period covered by the report. There is an awareness of the problems facing the prison system, notably overcrowding, confusion among different categories of defendants and an insufficient budget. This has led to explosions of violence in a number of prisons - not only riots, but also fights between inmates, attacks on prison guards and escape attempts, some of them successful.

127. Measures taken to prevent and address the above-mentioned situation include: training of prison staff on the rights of prisoners; training to ensure strict compliance, during all prison activities and procedures, with legislation, regulations and international treaties on the treatment of inmates; timely reaction to intelligence in order to prevent incidents which impair the stability of the prison system; upgrading of the physical security of prisons; strengthening of control and supervision measures; improvement of the internal infrastructure of prisons; appointment of prison directors with skill and experience in prison management; reform of the Prisons Act to amend the disciplinary procedure for inmates and permit visits; segregation of members of gangs and problem persons in special wings.

128. With regard to measures to prevent torture and cruel, inhuman or degrading treatment and means of ensuring impartial supervision, the prison directors and technical staff are in direct contact with prisoners in this type of situation and are required to report such cases. A hotline is available for making allegations concerning these or other violations of fundamental rights or of improper behaviour on the part of the prison staff.

129. As of November 2007, El Salvador had a total prison population of 17,426, with an installed capacity for 7,000 persons. Inmates are housed in prisons on the basis of a classification; persons awaiting trial are kept duly separate from convicted offenders.

130. Court proceedings for less serious offences last one year and may last two years for serious offences. Convicted inmates are eligible for the progressive system, depending on their development. There is also a special confinement regime for prisoners referred by the regional criminological councils who fulfil the criteria for such confinement. The prisons have clinics, areas for visits, schools, sports facilities, libraries, etc.

131. Prisons in El Salvador are classified according to the type of imprisonment:

(a) **High-security prisons:** these facilities are for inmates considered to be very dangerous and aggressive (there are two such prisons);

(b) **Open prisons:** for prisoners exhibiting no significant problems of adaptation in ordinary prisons. The regime for prisoners in these prisons is based on trust and self-management. Currently there are two open prisons, but the infrastructure is shared with other prisons;

(c) **Preventive detention centres:** these facilities are exclusively for the holding and custody of persons subject to pretrial detention by judicial order (there are four such facilities);

(d) **Sentence enforcement centres:** for prisoners who are serving their sentences (there are three such facilities);

(e) **Mixed centres:** at these prisons, prisoners who have been tried and convicted and who for various reasons are awaiting sentencing are held in separate wings (there are 10 such prisons).

132. The following table provides a breakdown of the various types of prisons.

**Table of various types of prisons in El Salvador**

No.	Open prisons	Preventive detention centres	Sentence enforcement centres	Mixed centres	High-security prisons
1	Open prison for men located in La Esperanza Central Prison, entirely separate from the areas in which inmates are held under ordinary conditions	Sonsonate Prison	Usulután Prison	Ilopango Rehabilitation Centre for Women	Zacatecoluca High-Security Prison
2	Open centre for women located in Santa Tecla. Began operating in 2000	Ilobasco Prison	Sensuntepeque Prison	La Esperanza Prison	San Francisco Gotera Prison
3		La Unión Prison	Santa Ana Western Prison	Ciudad Barrios (M-18) Mara 18 Sentence Enforcement Centre	
4		Jucuapa Preventive Detention Centre - men		Quezaltepeque (MS) Mara Salvatrucha Prison	
5				Metapán Prison	
6				Apanteos Prison	
7				Chalatenango Prison	
8				Berlín Prison	
9				San Miguel Prison	
10				San Vicente Eastern Prison	

133. Within the prison system there is a Post-Release Coordination Centre responsible for providing institutional assistance through technical and vocational orientation to help former convicts find jobs, thereby facilitating their social reintegration.

134. The Post-Release Coordination Centre is assisting 662 former convicts and 445 offenders from open prisons (September 2007). Former prison inmates are regularly monitored and benefit from awareness-raising and support measures. This has resulted in a greater demand for the Centre's services.

135. A cooperation agreement has been signed between the Ministry of Public Security and Justice and the Ministry of Labour and Social Security for providing former convicts and offenders from open prisons (trust and partial liberty stage) with training in various areas.

136. With a view to enforcing the constitutional provisions and relevant regulations in the prisons, schools are authorized by the Ministry of Education, which appoints teachers to provide primary-school and, in some prisons, middle-school education. With regard to occupational training, only detainees in the trust stage of the progressive regime are eligible for higher and technical education.

137. Convicted prisoners are required to perform work suited to their physical and mental capacities, except when, with the authorization of the regional criminological council, they may spend their time in regular education courses or other useful activities, for which the following persons are also eligible: persons disabled by illness or accident, subject to a medical certificate; pregnant women during the month preceding delivery and for two months thereafter, subject to a medical certificate; persons who for mental reasons are incapable of performing any kind of work; and persons who cannot work for reasons beyond their control or on account of their physical condition.

138. The National Institute for the Comprehensive Development of Children (ISNA) has five rehabilitation centres for minors: Sendero de la Libertad Rehabilitation Centre (male wing); Sendero de la Libertad Rehabilitation Centre (female wing); El Espino Rehabilitation Centre; Tonacatepeque Rehabilitation Centre; and the Alternative Centre for Juvenile Offenders. Juvenile offenders are between 12 and 18 years of age.

139. The programme for alternative measures and internment of juveniles in conflict with juvenile criminal law seeks to bring about the family and social reintegration of juveniles convicted of criminal offences or misdemeanours. The programme has educational, vocational, health care, psychological, recreational, sports, social and spiritual components so that such persons can be reintegrated in society once the measures taken in their favour have been completed.

140. Mr. Paulo Sergio Pinheiro, Special Rapporteur on Children of the Inter-American Commission on Human Rights, visited El Salvador in November 2004 as part of a regional tour to find out about the situation of children and adolescents, and in particular minors in conflict with the law. He met with officials specialized on the subject, who provided him with the information requested and further details. He also visited Tonacatepeque Rehabilitation Centre.

## **XII. ARTICLE 11 OF THE COVENANT**

141. With regard to the provisions of this article of the Covenant, the Committee is referred to the information given in paragraph 445 of the consolidated third, fourth and fifth periodic report concerning the prohibition on imprisonment for debt pursuant to article 27.2 of the Constitution.<sup>17</sup>

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<sup>17</sup> Article 27: Imprisonment for debt, life imprisonment, afflictive punishments, proscriptive penalties and all forms of torture are prohibited.

### **XIII. ARTICLE 12 OF THE COVENANT**

142. Article 5.1 of the Constitution provides that “all persons shall be free to enter and remain in the territory of the Republic and to leave it, subject to the restrictions established by law”. Article 5.3 specifies that “no Salvadoran shall be expatriated, or prohibited from entering the territory of the Republic, or denied a passport for his return or other identification papers. Nor shall he be prohibited from leaving the territory except by decision or judgement of a competent authority handed down in accordance with the law”.

143. The regulations for the entry and departure of aliens are contained in the Migration Act and in the Aliens Act; the body responsible for enforcing these regulations is the Directorate-General for Migration and Alien Affairs, which reports to the Ministry of Public Security and Justice.

144. The Committee is referred to the articles of the Constitution concerning aliens:

Article 96: From the moment of their entry into the territory of the Republic, foreigners shall be strictly obliged to respect its authorities and obey its laws and they shall acquire the right to be protected by them.

Article 97: The circumstances and manner in which entry into and residence in the national territory may be denied shall be established by law. Foreigners who participate directly or indirectly in internal politics lose the right of residence in the country.

145. Thus, upon entry into the national territory, aliens must respect the authorities and obey the law.

146. Facilities for the free movement of nationals of Guatemala, Honduras, Nicaragua and El Salvador are in effect following the introduction of migration measures by these countries in 2007. A single Central American visa, CA-4 (El Salvador, Guatemala, Honduras and Nicaragua), simplifies the free movement of aliens within the territory of these four countries.

147. The Frontiers Division of the National Civil Police cooperates with the migration authorities on the supervision, control, admission, departure and registration of activities of aliens in the country and, where necessary, their expulsion, and reports operations involving cases of persons identified, minors rescued, and detentions for people-smuggling, trafficking in persons and other offences.

148. The following is from a report of the Frontiers Division of the National Civil Police on undocumented persons in the country between 2002 and 2007.

**Table of undocumented persons in El Salvador between  
1 January 2003 and 31 December 2007**

Country/Year	2003	2004	2005	2006	2007
Australia	3	0	2	2	0
Germany	0	0	1	2	0
Argentina	4	3	0	3	1
Armenia	4	0	0	0	0
Bangladesh	4	0	0	1	0
Bolivia	3	19	15	28	3
Belize	1	6	4	3	4
Brazil	4	2	0	5	2
Canada	1	4	0	0	2
Cameroon	0	0	3	0	0
China	14	7	8	30	17
Colombia	22	20	18	25	17
Costa Rica	1	2	2	7	1
Korea	6	7	9	3	3
Cuba	4	4	9	6	2
Chile	1	0	1	1	3
Ecuador	42	29	42	2	61
Egypt	0	0	1	0	0
United States	16	11	29	34	13
Eritrea	0	0	0	0	7
Spain	1	0	1	1	2
Philippines	0	3	1	1	0
France	0	0	0	0	5
Ghana	0	0	0	1	0
Great Britain	0	0	1	0	1
Guatemala	541	529	222	336	400
Haiti	0	2	1	725	1
Honduras	952	1 062	1 227	0	516
India	0	0	0	1	0
Indonesia	1	0	0	0	0
England	1	0	0	0	0
Ireland	0	1	0	0	0
Israel	0	1	0	0	0
Italy	0	1	3	3	1
Japan	3	1	1	2	0
Jordan	1	4	0	0	0
Kenya	0	0	0	1	0
Mexico	136	211	169	132	76
Nicaragua	414	357	450	491	785
Nigeria	0	0	3	2	0
Norway	0	0	0	1	1
Palestine	0	3	0	0	0

Country/Year	2003	2004	2005	2006	2007
Panama	4	4	2	6	0
Paraguay	0	0	1	0	11
Peru	16	25	18	7	0
Poland	2	0	0	0	0
Dominican Republic	6	7	5	6	6
Russia	0	0	1	0	0
Sri Lanka	0	0	0	2	0
South Africa	0	1	0	0	1
Switzerland	0	0	1	0	2
Turkey	0	0	1	0	0
Uruguay	0	1	0	1	1
Venezuela	0	1	3	0	0
Yemen	0	1	0	0	0
Unknown	1	0	0	0	0
Total	2 209	2 332	2 255	1 872	1 950
Overall total in the reported period					10 618

149. The Aliens Unit of the Directorate-General for Migration and Alien Affairs has a computer system with a database on aliens legally residing in the country and their migration status, i.e. the type of residence permit granted; there is also a computerized system for the issuance of ordinary passports to nationals.

#### XIV. ARTICLE 13 OF THE COVENANT

150. With regard to this article, it is reiterated that constitutional guarantees are in force for all inhabitants of the Republic, including aliens present in it, and that due process is ensured in the case of expulsion, pursuant to which the persons concerned are informed of the reasons for expulsion, the legal provisions which have been violated, the evidence, and their right to a hearing and legal defence in accordance with the law.

151. Article 3 of the Aliens Act establishes that: "Foreigners within the national territory shall enjoy individual guarantees on an equal footing with nationals, subject to the limitations set forth in the Constitution and the subsidiary laws of the country." Article 4 of the Act states that: "From the moment of their entry into the national territory, they are obliged to respect the Constitution, subsidiary laws and authorities of the Republic, and they acquire the right to be protected by them."

152. The Committee is referred to the case of restriction on entry into El Salvador of Mr. José Luis de Jesús Miranda, of Puerto Rico, who violated article 4 of the Aliens Act and articles 6.1 and 25 of the Constitution, restrictive measures having been imposed on his entry into the country because his "International Ministry Growing in Grace" disseminates illicit messages directed against Christian religious practices and because of other acts contrary to morals and public order.



## **XV. ARTICLE 14 OF THE COVENANT**

153. Everyone has easy and free access to the courts; article 3 of the Constitution enshrines the principle of equality of all persons before the law.

154. There are 322 municipal courts in the country's 262 municipalities, the larger localities having more than one. These courts are of great importance, because they are mixed, which means that at an initial stage they deal with a range of criminal, civil, labour, commercial, family and juvenile matters, issues involving low-income housing, etc., except for certain special jurisdictions which have a specialized court, such as family or juvenile courts.

155. All court proceedings are designed to ensure due process, an example of which is the fact that, since the legal and judicial reform of 1998, nobody may be sentenced in absentia for a criminal offence.

156. Court proceedings are public, except if the judge, in a reasoned decision, orders the proceedings to be held partially or totally in closed session on grounds of morals, public interest or requirements of national security, or if a specific law makes provision for so doing. Given their nature, proceedings concerning minors or family matters are held in closed session.

157. Article 172 of the Constitution guarantees the principle of the independence of the judiciary. Accordingly, chamber and court judges and magistrates enjoy full independence in the administration of justice, handing down their judgements in conformity with the law and the evidence submitted for their consideration in the course of the trial. To cite one example, article 3 of the Code of Criminal Procedure sets out the following principle: "The magistrates and judges having competence to hear criminal cases shall be subject solely to the Constitution of the Republic and the secondary legislation, and their proceedings shall be impartial and independent."

158. The presumption of innocence is anchored in article 12 of the Constitution and is reflected in criminal legislation, namely article 4 of the Code of Criminal Proceedings, which states that: "Any person charged with a criminal offence shall be presumed innocent until his guilt is proved in accordance with the law and in a public hearing in which he is accorded the guarantees of due process. The burden of proof rests on the accusers." Pursuant to this principle, there are no sentences in absentia for criminal offences in El Salvador, because the accused has the right to avail himself of a material and technical defence.

159. Criminal procedure in El Salvador has introduced a number of new jurisdictions, including family courts, juvenile courts and prison courts, as well as the principle of oral proceedings. Judges currently hold as many as five to seven hearings daily, and thus proceedings are more flexible, thereby providing legal certainty and swifter judgements for those concerned.

160. Juvenile offenders are sentenced to the completion of measures rather than punishment when they have been convicted of a criminal offence, even theft or homicide. The Juvenile Criminal Act was established in 1994, on the basis of which the necessary infrastructure was set up for the completion of measures separate from ordinary prisons for adults. This jurisdiction for minors led to the creation of juvenile courts, courts for the enforcement of measures and a Juvenile Chamber, which hears appeals.

161. In the various jurisdictions, judicial proceedings are structured in a way that remedies exist through which a judicial decision may be reversed by a second court. This makes for an effective verification of judicial proceedings, and there have not been any allegations of a judicial error.

162. Although the case has not arisen, legislators have made provision for a reparation mechanism in the event of judicial error (article 17 of the Constitution) and in cases in which a judicial review of the facts in a criminal matter is applicable (article 439 of the Code of Criminal Procedure).

163. Article 11 of the Constitution provides that no one may be tried again for an offence for which he has already been convicted or acquitted. This principle has been elaborated on in article 7 of the Code of Criminal Procedure. This ensures legal certainty for someone whose case has already been tried and whose conviction or acquittal, on the basis of the evidence submitted, is final, and it prevents retrial for the same act.

#### **XVI. ARTICLE 15 OF THE COVENANT**

164. Article 15 of the Constitution establishes the principle of the rule of law, which is also taken up and developed in article 1 of the Criminal Code and article 2 of the Code of Criminal Procedure. Judicial officials comply fully with this principle, as can be seen in the establishment in 1998 of a new Criminal Code containing new offences. The new offences came into effect on 20 April 1998, the date of the entry into force of the new Code. The new provisions do not have retroactive legal effect, and thus may not be applied before this date.

#### **XVII. ARTICLE 16 OF THE COVENANT**

165. The right to recognition as a person before the law is a right that has assisted individuals ever since it came into being. It is guaranteed in article 1 of the Constitution, which states that the individual is the source and object of the activity of the State.

166. Salvadoran legislation does not provide for any exception to the right to recognition as a person before the law, whether for nationals or aliens.

#### **XVIII. ARTICLE 17 OF THE COVENANT**

167. In accordance with the Constitution and national legislation, everyone is guaranteed the right to honour, personal privacy and self-image and no one may be subjected to interference with his privacy or correspondence.

168. Criminal legislation makes any violation of these rights punishable. The Criminal Code defines the following offences: breaking and entering, defamation, slander, and interfering with or intervening in telephone communications, and it also provides for the sanctity of the mail (arts. 300 to 303 and 188).

169. The Committee is referred to the information given in paragraphs 540 to 542 of the consolidated third, fourth and fifth periodic report concerning the protection of the privacy, family, home, correspondence and honour of all inhabitants of the Republic.

170. The Office of the Procurator-General is the body responsible for defending, representing and upholding the interests of Salvadoran society; acting in conformity with the principles of seriousness, efficiency and responsibility, legality, justice, security and impartiality, it regulates its actions in accordance with, inter alia, the Criminal Code, the Code of Criminal Procedure and the Civil Code.

171. The Procurator for the Protection of Human Rights has reported allegations concerning cases of persons who alleged that the National Civil Police presented them in public as perpetrators of illegal acts, although they had not been accused of any offence.

172. The following table of statistics on several types of offences of relevance to the article under consideration has been taken from the 2006-2007 Report of the Procurator for the Protection of Human Rights.

**Types of offences at national level  
(June 2006-May 2007)**

No.	Offences relating to ...	Frequency
1	Family relations	3 269
2	Property	42
3	Fundamental rights and guarantees	41
4	Honour and privacy	32
5	The family, public morals and decorum	26
6	The right to life and personal integrity	2
7	Public order and disturbance of the peace	302
	Total	3 714

**XIX. ARTICLE 18 OF THE COVENANT**

173. The right to freedom of thought, conscience and religion is enshrined in the Constitution, article 25 of which provides that:

This Constitution recognizes the free exercise of all religions, subject to no other limitation than the requirements of public morals and order. No act of religion shall be used to establish the civil status of persons.

174. Article 26 states that:

This Constitution recognizes the juridical personality of the Catholic Church. Other Churches may obtain recognition of their juridical personality in accordance with the law.

175. The majority of the Salvadoran population is Catholic, and there has been growth in the Baptist Evangelical Church with its various local congregations and in other Protestant confessions (Anglican, Adventist, Presbyterian, Mormon, etc.). Other minority confessions also enjoy freedom of belief and religion, for example a Muslim minority, which has premises for its religious practice, and a small Jewish community.

176. The main religious communities have their own newspapers and magazines, radio stations and television channels.

177. In addition to official (i.e. State-run) schools, El Salvador also has private schools, which may be non-denominational or religious. Catholic and Protestant schools hold classes in religion and emphasize Christian values. Centres of higher learning are also in operation.

178. Following a number of public actions and rites in mid-2006, in which members of the International Ministry Growing in Grace sect burned bibles, destroyed religious objects and made offensive statements in front of the San Salvador Metropolitan Cathedral, the Legislative Assembly introduced amendments to article 296 of the Criminal Code to increase the prison sentence for anyone who repeatedly and publicly offends religious sentiments or beliefs.

## **XX. ARTICLE 19 OF THE COVENANT**

179. Article 6 of the Constitution provides that:

All persons may freely express and impart their thoughts, provided that they do not disturb public order or cause harm to the morals, honour or privacy of others. Exercise of this right shall not be subject to prior examination, censorship or security, but any person who in exercising it breaks the law shall be held liable for the offence committed.

In no case shall printing presses or their accessories or any other means of disseminating thoughts be confiscated as instruments of an offence.

Print, radio, television and other media enterprises may not be taken over by the State or nationalized either by expropriation or by any other procedure. This prohibition shall apply to the stocks and shares owned by their proprietors.

The above-mentioned enterprises shall not apply different tariffs or engage in any other kind of discrimination on the basis of the political or religious nature of the material published or broadcast.

The Constitution recognizes the right of reply as a means of protecting the fundamental rights and guarantees of the person.

Public performances shall be subject to censorship in accordance with the law.

180. With regard to freedom of expression and information, the main communications media have been devoting broadcasting time to informing society through investigations and background reports about relevant situations and matters of public interest.

181. The Committee is referred to the information given in paragraphs 554 to 556 of the consolidated third, fourth and fifth periodic report concerning restrictions on freedom of expression established by law.

182. Television or radio reporters covering events such as marches or public protests have been the victims of assaults to different degrees by demonstrators. In a number of cases, reporters have denounced this form of violent protest and have demanded that assaults during the course of their work be stopped.

183. In October 2007, a television reporter was assaulted by a member of the Unit for the Maintenance of Order of the National Civil Police while covering a protest against a sanitary landfill being built in the locality of Cutumay Camones, Department of Santa Ana. The authorities concerned apologized for this act, and the police officer involved was the subject of an investigation for excessive use of force.

184. The Government provided the information on this situation requested by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and endorsed his determination to ensure respect for those rights in accordance with the Constitution and the laws of the Republic and El Salvador's international human rights commitments.

## **XXI. ARTICLE 20 OF THE COVENANT**

185. The Committee is referred to the information given in paragraphs 557 and 558 of the consolidated third, fourth and fifth periodic report concerning the provisions of the Criminal Code.

186. El Salvador is a successful case of the conflict settlement with United Nations assistance, a circumstance that has made possible its election as member of the Commission on Human Rights, in which it completed two mandates between 1995 and 2000. Between 1997 and 2004, the Office of the United Nations High Commissioner for Human Rights conducted two technical cooperation projects in El Salvador to strengthen institutions relating to the peace process and enhance national capacity for addressing human rights issues.

187. El Salvador was elected Vice-Chair of the United Nations Peacebuilding Commission, which supports post-conflict countries.

188. Article 168.3 of the Constitution imposes as a function and obligation of the President to: "ensure social harmony and to preserve domestic peace and tranquillity and the security of the human person as a member of society".

189. Consequently, controlling violence, ensuring the security of citizens and stopping crime in all its manifestations have been important aspects of the Government agenda for building domestic peace, and to that end, bodies such as the Commission for Civil Security and Domestic Peace and the National Council for Public Security focus on preventing violence and crime and hold educational campaigns to promote the values of peace and a culture of respect.

190. In addition to Government initiatives to combat crime and violence, the main communications media have conducted campaigns stressing the importance of the family, education and justice.

191. The Inter-institutional Committee on International Humanitarian Law in El Salvador (CIDIH-ES) disseminates information in various sectors of the population on international humanitarian law and its application in armed conflicts, and to that end, it has held training and refresher courses for civil and military authorities, interested institutions and the public at large.

192. These activities, which have helped to spread information on international humanitarian law, have focused on a culture of peace to prevent war and respect for the application of these international humanitarian norms in times of armed conflict; this includes the protection of cultural property.

193. In conjunction with the National Council for Culture and the Arts and the Ministry of Education, the CIDIH-ES has introduced practical information on international humanitarian law in textbooks for students studying for first-level degrees. In June 2007, a page informing children about international humanitarian law was published in one of the biggest national newspapers.

194. The above-mentioned measures promote knowledge of the importance of international humanitarian law and respect for its norms, thereby heightening the awareness and improving the education of the population with regard to this issue.

## **XXII. ARTICLE 21 OF THE COVENANT**

195. Article 7 of the Constitution provides that:

“The inhabitants of El Salvador have the right to associate freely and to assembly peacefully and without weapons for any lawful purpose, and that nobody may be obliged to belong to an association.

No one may be limited in or prevented from exercising any lawful activity on grounds of not belonging to an association.

Armed groups of a political, religious or trade union nature are prohibited.”

196. The Committee is referred to the information given in paragraph 560 of the consolidated third, fourth and fifth periodic report on the provisions of the National Civil Police (Organization) Act concerning the right of assembly and freedom to demonstrate.

197. During the disturbances which broke out on 5 July 2006 in the vicinity of the University of El Salvador, two officials of the Unit for the Maintenance of Order of the National Civil Police were murdered and others were injured, an event which caused considerable agitation, because attacks on police officers were filmed and the person who fired the shots attracted attention due to his political past, thus arousing fears in the population, which was reminded of acts which had occurred during the period of the armed conflict in El Salvador. It should be noted that the various political parties publicly reaffirmed their rejection of violent methods and responded to public calls to maintain the atmosphere of the 1992 Peace Accords.

198. Reference is also made to the events that took place in the locality of Suchitoto on 2 July 2007 during the presentation of the national water decentralization policy by the President and the peaceful protest organized in that context against the alleged privatization of

water, which later turned violent, 14 persons having been arrested and accused of acts of terrorism and assault and battery. The Office of the Procurator-General subsequently changed the accusation from acts of terrorism to civil disorder, and the case was dismissed.

### **XXIII. ARTICLE 22 OF THE COVENANT**

199. The Government of El Salvador, which respects the right of workers to freedom of association and their right to form and join trade unions, ratified on 24 August 2006 ILO Conventions No. 87 concerning Freedom of Association and Protection of the Right to Organize, 1948; No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, 1949; No. 135 concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking, 1971; and No. 151 concerning Protection of the Right to Organize and Procedures for Determining Conditions of Employment in the Public Service, 1978.

200. On 6 September 2006, the Government of El Salvador deposited the above-mentioned conventions at the International Labour Office in Geneva; they entered into force on 6 September 2007.

201. Following the entry into force of the conventions, and in keeping with the rule of law in El Salvador, on 30 October 2007 the Constitutional Chamber of the Supreme Court of Justice, in a ruling on constitutional challenges submitted by two citizens, found article 2 of ILO Convention No. 87 to be unconstitutional.

202. The Supreme Court declared, in a general and mandatory ruling, that the phrase "without distinction whatsoever" in article 2 of ILO Convention No. 87 was unconstitutional, because it was at variance with article 47.1 of the Constitution, since article 2 of the Convention extended the right to organize to public employees, who are not included in the constitutional definition as being entitled to such a right.

203. Article 2 of ILO Convention No. 87 is unconstitutional because it is clearly in conflict with a secondary norm, since article 47.1 of the Constitution permits and recognizes the right to organize solely and exclusively for three groups, namely: (a) employers; (b) workers in the private sector; and (c) workers in independent official institutions. It denies this right to civil servants, state employees and workers, and municipal employees. Contrary to the constitutional regulation, article 2 of the Convention recognizes the right to establish trade unions for all workers and employees, without any distinction whatsoever, regardless of whether the workers or employees are in the private or public sector. Thus, this legal provision is obviously unconstitutional.

204. It is clear that the scope of article 47.1 of the Constitution excludes state employees and civil servants from the right to organize; in other words, it permits limitations on the freedom of these public workers and employees to form trade unions, given the nature of their functions as part of the fundamental administrative organization of the state political structure.

205. It should be pointed out that the Government of El Salvador introduced an amendment to article 47 of the Constitution which was adopted by the 2006-2009 Legislative Assembly and in which state civil servants, employees and workers and municipal workers have the right to organize and to bargain collectively. However, for such an amendment to be decreed, it must be ratified by the next Legislative Assembly.

#### **XXIV. ARTICLE 23 OF THE COVENANT**

206. The family is recognized as the fundamental element of society, which requires the protection of society and the State. Accordingly, article 32 of the Convention establishes that:

The family is the fundamental basis of society and shall have the protection of the State, which shall enact the necessary legislation and create the appropriate organizations and services for its formation, well-being and social, cultural, and economic development.

Marriage is the legal basis of the family and rests on the juridical equality of the spouses.

The State shall promote matrimony, but the absence thereof shall not affect the enjoyment of the rights accorded to the family.

207. This constitutional mandate transcends the judicial sphere, by specifying that in addition to legislation to protect the family, institutions shall be established and shall provide the requisite services for its formation, well-being and social, cultural and economic development, and that notwithstanding the obligation of the State to promote marriage, the rights of families that have been created must be protected without the requirement of a formally legalized union.

208. The Family Code, in force since 1994, establishes the legal regime governing the family, minors and the elderly and thus regulates the relations of family members with each other and with society and State agencies.

209. As the guardian institution of the family, the National Secretariat for the Family (SNF) presides over and coordinates the main governmental bodies that carry out public programmes and policies and focuses its efforts on the implementation of public policies targeting members of the family and vulnerable groups.

210. The main programmes of the National Secretariat for the Family are as follows: the Programme Tenderness (*Programa Ternura*); the Healthy Schools Programme; the Family Relations Improvement Programme; the Strengthening Values Programme and the Grow in the Family Programme. The Secretariat also has inter-agency coordination functions, in particular for the implementation of public policies in the areas of women, equality of opportunities for disabled persons, comprehensive care for the elderly, children and adolescents, and mental health.

211. The Plan of Action of the National Policy for Women produces guidelines for activities in favour of women and promotes equality of opportunity for their development and advancement. The aim of the Family Relations Improvement Programme is to provide specialized services in the areas of assistance, prevention, rehabilitation, the elimination of the social problem of domestic violence in all its forms, sexual aggression and child abuse.



212. The situation of children and adolescents is a subject that has remained on the national agenda, and in this connection, a number of initiatives are being carried out to protect them and to promote their full development, under the responsibility of various public and private sectors and bodies, which rely on teams of professionals and technicians.

213. At the same time, efforts are continuing to ensure implementation of the existing legal framework for the family. During the period covered by this report, the National Committee of Tenderness (CONATER) was set up by Executive Decree No. 94 of 13 September 2006 and was incorporated in the Act on the Provision of Comprehensive Care for the Elderly, established by Legislative Decree No. 717 of 23 January 2002, published in the *Diario Oficial* No. 38, vol. 354 of 25 February 2002, which was amended by Legislative Decree No. 1043 of 1 November 2002, published in the *Diario Oficial* No. 231, vol. 357, of 9 December 2002. On 30 March 2007, El Salvador signed the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

214. The definition of marriage in El Salvador retains the criterion set out in paragraph 594 of the consolidated third, fourth and fifth periodic report. Marriage is seen as the legal union of a man and a woman with the aim of establishing a full and permanent life in common; accordingly, marriage between persons of the same sex is not possible.

215. Marriage may not be contracted by: persons aged under 18 years; persons tied by a bond of marriage; persons who are not in possession of the full use of their reason; and persons who cannot express their consent to marry in an unequivocal manner. However, persons below 18 years of age may marry if they have had a child together or if the girl is pregnant.

216. A woman who marries may continue to use her maiden names, because she has the right to keep her original surnames; however, if she wishes to use her husband's surname, she may do so by adding his first surname after her own first surname, preceded or not by the particle "de". This is specified in the act of marriage or the public marriage registry, and a marginal note is made in the birth certificate; in the event of divorce or annulment of the marriage, this reference may be deleted at the request of the person concerned.

217. In the event of divorce, legislation protects the family in such matters as: protection of the family home; special maintenance allowances; compensatory maintenance for the spouse economically affected by the divorce; and measures to protect the family against a spouse who behaves violently towards it, and psychological support for the affected children and spouses, as well as for the family in general.

218. The legislation on the protection of children in the event of divorce stipulates that if the parents have not reached agreement as to which of them is to have custody of the children, the judge awards custody to the parent best able to ensure the children's well-being, bearing in mind age and circumstances of a moral, affective, family, environmental and economic nature. These considerations are all based on the best interests of the child, which means everything which promotes physical, psychological, moral and social development and a full and harmonious enrichment of the child's personality.

219. With regard to the relations between children and parents once the marriage is dissolved, although the father or mother does not live with the children, he or she must maintain an affectionate relationship and behave towards them in such a way as to favour the normal development of their personalities.

220. The Healthy Schools Programme, which is coordinated by El Salvador's First Lady and the National Secretariat for the Family, promotes equality of opportunity by working to bring about an overall improvement in the quality of life of children who attend public schools in preschool, primary and secondary cycles of basic education; the programme focuses on health care, quality education, nutrition, infrastructure and basic services.

221. In the years 2004 to 2007, some 800,000 children at 4,100 schools in the country's 262 municipalities were provided with a school snack, primarily through central government funding.

222. With the support of the World Food Programme (WFP), food assistance was provided to an average of 5,500 children of preschool age in the country's 14 departments, who are cared for in the child welfare (CBI) and rural health and nutrition centres (CRSN) of the National Institute for the Comprehensive Development of Children (ISNA) and the Ministry of Health and Social Welfare (MSPAS).

223. Further child welfare centres have been opened to help with initial education in rural and urban areas, which enables mothers to have more time to improve their education, training and earnings.

224. Initiatives focusing on assistance for children include the activities of the National Committee of Tenderness (CONATER), the governing body of the Programme Tenderness, which contributes to security and coordinates efforts to improve the living conditions of Salvadoran families, and children in particular, as part of the protection of their rights.

225. The Programme Tenderness assists children up to 12 years of age - whether enrolled in school or not - through various care services and with the involvement of the family and the community. Its objectives are as follows: promoting the psychosocial development of healthy lifestyles for children by providing comprehensive care for the family; preventing sexual abuse of children and the consequences that it has for their lives (dealing with trauma); supporting childcare in the family and the community, giving priority to an approach that stimulates development, encourages breastfeeding and emphasizes the prevention of accidents through burns, deaths in traffic accidents, the use of addictive substances and HIV/AIDS; and helping to assist the largest possible number of children in a vulnerable situation.

226. The Solidarity Network Programme is a social programme of the Government which provides support to 100 municipalities with high levels of extreme poverty, improving the overall living conditions of families by stressing education, health care and nutrition. It also focuses on ameliorating the network of basic services and the productive development of

microcredits, for the benefit of all the inhabitants of the municipalities concerned. The Solidarity Network is part of efforts being made to help El Salvador to improve its human development index and meet its Millennium Development Goals. Specifically, it contributes to mitigating extreme poverty and hunger, improving the overall malnutrition rate among children under five years of age, achieving universal primary school education, reducing maternal mortality and mortality of children under five years of age, and promoting gender equality and greater independence of women.

227. The Safe Country Plan has helped expand programmes for comprehensive care for adolescents, with particular emphasis on illness prevention, healthy living practices, accident prevention, mental health and the productive use of free time.

228. Forced marriage is a form of trafficking in persons, and the National Committee on Trafficking in Persons includes information on this phenomenon in its campaigns on the subject.

229. According to the Office of the Procurator-General and the National Civil Police, no such case was registered between 2004 and 2006.

## **XXV. ARTICLE 24 OF THE COVENANT**

230. The rights of the child are recognized in the Constitution and legislation of El Salvador; various instruments enunciate, elaborate on or refer to them.

231. Article 34 of the Constitution states that:

All children have the right to live in family and environmental circumstances which facilitate their comprehensive development; to this end they shall enjoy the protection of the State.

The law shall specify the duties of the State and shall create institutions for the protection of maternity and children.

232. Article 35 of the Constitution requires the State to protect the physical, mental and moral health of minors and to guarantee their right to education and assistance, and article 38.10 ensures the protection of minors at the workplace.

233. In October 2002, consistent with the national policy for the comprehensive development of children, the National Institute for the Comprehensive Development of Children (ISNA) was established by Legislative Decree No. 983, published in the *Diario Oficial* No. 189, vol. No. 357 of 10 October 2002. ISNA replaced the National Institute for the Protection of Children (ISPM), which was established in 1993. In order to cover a greater area, ISNA contemplates shared social responsibility, in which all the vital forces of the country participate and are involved in order to improve the conditions and development of children and adolescents.

234. With a view to guaranteeing the right of children to be protected in their status as minors by their families, society and the State, and pursuant to national legislation and international norms, initiatives are under way to eliminate child labour with the technical and financial assistance of ILO, through its ILO/IPEC Programme in El Salvador, and institutions within the National Committee on Child Labour in order to implement ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

235. In its activities in this area, the Government of El Salvador has drawn on the following international instruments: (a) ILO Recommendation No. 190 concerning the prohibition and immediate action for the elimination of the worst forms of child labour; (b) ILO Convention No. 138 concerning Minimum Age for Admission to Employment, 1973; (c) the Convention on the Rights of the Child; (d) the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and (e) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

236. In addition to ratifying international conventions and recommendations, the Government of El Salvador has formally committed itself to their implementation, as reflected in the following initiatives: (a) the signing of a memorandum of understanding with ILO/IPEC on 13 June 1996, which was renewed on 25 November 1992; (b) the creation of the National Committee on the Elimination of the Worst Forms of Child Labour, coordinated by the Ministry of Labour and Social Security, formalized by Executive Decree No. 66 of 16 June 2005; (c) the establishment of a technical committee to assist the National Committee; and (d) the formulation and approval of the National Plan.

237. The purpose of the Plan is to ensure the sustainability of initiatives carried out to date to combat child labour in the country and to serve as a mechanism for monitoring the application of ILO Convention No. 182.

238. Agreements are also contemplated with the institutions that make up the Committee, which is seeking to become the key instrument for promoting initiatives to eliminate the worst forms of child labour in El Salvador and to build a country in which children can grow up in wholesome surroundings and can set future goals in life, making the most of opportunities that arise to achieve them.

239. To meet the strategic objectives and overall goals of the Plan for the Elimination of Child Labour, a set of strategic initiatives is envisaged for each of the State Secretariats; the initiatives are included in the National Plan with their respective implementation schedules: (a) inclusion of the fight against child labour in the Education Plan 2021; (b) participation of the Ministry of Agriculture in the memorandum of understanding with ILO, which sets out El Salvador's new commitments, in particular relating to efforts to eliminate child labour in the agricultural sector.

240. Government bodies are carrying out a number of activities to help eliminate child labour, including:

- (a) Coordination with ILO/IPEC on the implementation of programmes targeting working children and their families;
- (b) Introduction and development of a permanent unit on child labour in the Multi-purpose Household Survey;
- (c) Setting up of local and communal child labour monitoring committees;
- (d) Creation of the Child Labour Unit in the Ministry of Labour and Social Security and in the Directorate-General for Statistics and Censuses (DIGESTYC);
- (e) Care services for working children in cooperation with ILO/IPEC;
- (f) Organization of communications and public awareness campaigns on the subject.

241. The Ministry of Labour has 158 trained child labour inspectors, in addition to those who are part of the National Plan for the elimination of the worst forms of child labour and commercial sexual exploitation and relevant national and international legislation (ILO Conventions Nos. 77, 78, 138 and 182). Following meetings with the inspection staff, it was decided to amend the Inspection Rules to introduce a separate section on child labour.

242. To guarantee inspection quality, a child labour elimination unit has a team of collaborators whose main function is to monitor and support the work of the inspectors. Their activities, carried out through various projects, include the organizing of training and awareness-raising days for entrepreneurs, family members and the community on labour law and measures to prevent the worst forms of child labour.

243. Reference is made to the direct action programmes which the National Committee on the Elimination of the Worst Forms of Child Labour approved to prevent child labour and rescue the victims. The populations targeted by these programmes have the highest incidence of child labour. The following projects were carried out during the first stage of the direct action programme.

**Direct action programmes of the National Committee on the  
Elimination of the Worst Forms of Child Labour**

Project No.	Project name	Focus	Area
1	Gradual elimination of child labour in the sugarcane sector in the municipalities of Zacatecoluca, San Vicente, Tecoluca and Verapaz (OEF)	Sugarcane	Subcentral
2	Elimination of dangerous child labour in the production of sugarcane in the municipalities of Aguilares, El Paisnal, Nejapa, Guazapa and Suchitoto (FUNDAZUCAR)	Sugarcane	Central
3	Gradual elimination of child labour in the fishing industry in the municipalities of San Dionisio, Jucuarán and Usulután (OEF)	Fishing	Eastern
4	Elimination of the worst forms of child labour in the cultivation of sugarcane in the municipalities of Nahulingo, Izalco, San Julián, Armenia, Cuisnahuat and Sonsonate (FUSAL)	Sugarcane	Western
5	Elimination of the worst forms of child labour in the fishing industry in Usulután (FUSAL)	Fishing	Eastern
6	Institutional enhancement project for the prevention, investigation and prosecution of offences involving commercial sexual exploitation of minors (National Civil Police, San Salvador)	Commercial sexual exploitation	Central
7	Contribution to the elimination of the worst forms of child labour (COMUS, Usulután)	Fishing	Eastern
8	Prevention of commercial sexual exploitation in the city of San Salvador, ESC (CONAMUS)	Commercial sexual exploitation	Central
9	Rescue and care of victims of commercial sexual exploitation in the city of San Miguel, ESC (PADECOMSM)	Commercial sexual exploitation	Eastern
10	Prevention of the phenomenon of commercial sexual exploitation of children in the urban zone of the city of San Miguel, ESC - ISNA	Commercial sexual exploitation	Eastern
11	Elimination of child labour at the Barranca Honda dump of the municipality of Chalchuapa, Department of Santa Ana (FUNDACIÓN NEHEMÍAS)	Waste disposal	Western
12	Care for girls who are victims of commercial sexual exploitation in the municipality of San Salvador and surrounding areas (ISDEMU)	Commercial sexual exploitation	Central
13	Gradual elimination of child labour in the waste disposal sector in the municipalities of San Luis Talpa, Department of La Paz (OEF of El Salvador)	Waste disposal	Subcentral
14	Gradual elimination of child labour at the Usulután markets (CRS)	Markets	Eastern

244. With the help of the programmes, 13,187 children have been rescued from the worst forms of child labour and 30,239 children have been prevented from engaging in child labour; thus, a total of 43,426 children have benefited from the programmes of action to combat the worst forms of child labour, as can be seen in the following tables.

**Children rescued from child labour, by sector (1999 to 2006)**

Sector	Boys	Girls	Total
Total	8 146	4 821	12 967
Sugarcane	4 263	1 578	5 841
Fishing	1 950	1 464	3 414
Waste disposal	217	176	393
Fireworks	392	425	817
Coffee	1 156	1 030	2 186
Commercial sexual exploitation	0	32	32
Urban labour (markets)	168	116	284

**Children prevented from engaging in child labour, by sector (1999 to 2006)**

Sector	Boys	Girls	Total
Total	16 885	12 918	29 803
Sugarcane	11 239	7 464	18 703
Fishing	3 442	2 660	6 102
Waste disposal	593	446	1 039
Domestic labour	15	485	500
Fireworks	175	118	293
Coffee	1 209	1 228	2 437
Commercial sexual exploitation	0	121	121
Urban labour (markets)	212	396	608

**Children rescued from child labour, by sector (January-December 2007)**

Sector	Rescued	Prevented
Fishing	145	200
Sugarcane	55	150
Markets	20	86
Total	220	436

245. According to preliminary data from studies still subject to revision for the final version,<sup>18</sup> up to 46.7 per cent (134,000) of working children and adolescents are employed in the agricultural sector, which is taken to include livestock raising, fishing and forestry as well.

246. As in the past, the initiatives and projects carried out with the technical and financial assistance of ILO/IPEC would continue to help rescue a significant number of children. These

<sup>18</sup> MINTRAB, DIGESTYC and ILO/IPEC: *Entendiendo el Trabajo Infantil en El Salvador 2003-2005 (Understanding Child Labour in El Salvador)* page 35, preliminary version, in editing.

persons are receiving comprehensive care from a number of public services, which is gradually enabling them to enjoy the rights to which they are entitled as children under national and international norms.

## **XXVI. ARTICLE 25 OF THE COVENANT**

247. The Salvadoran electoral system seeks to promote conditions for the exercise of political rights in an effective, participatory, democratic and egalitarian manner. These rights are recognized and protected by the Constitution, the Electoral Code and the Criminal Code.

248. The right to vote is regulated by the Constitution in articles 71 to 82 of Chapter III (Citizens, their Political Rights and Duties, and the Electoral Body), which includes: the political rights and duties of citizens; the right to freedom of association for the purpose of constituting political parties in accordance with the law and the right to join those already formed; the right to hold public office; suspension and loss of civil rights; the electoral body and the exercise of suffrage; elections and conditions for voting; and election officials and the duration of the election campaign.

249. In preambular paragraph III.1 of its ruling No. 28-2002 of 8 April 2003 on a constitutional challenge, the Constitutional Chamber of the Supreme Court of Justice defined suffrage as follows: “the right of all citizens to participate in the organization and activity of government aimed at constituting the collective will, whether by electing officials to public office or in taking decisions on fundamental issues on which they are consulted”.

250. Preambular paragraph IV.1 of the ruling defines the essential requirements for the right to vote in the following terms: (1) citizenship (article 71 of the Constitution); article 90 and 92 of the Constitution prescribe who is entitled to the status of Salvadoran citizen; (2) full exercise of political rights (article 74 and 75 of the Constitution and article 7 of the Electoral Code); insofar as the exercise of the right to vote necessarily requires capacity, which relates to qualities of intelligence and independence, and dignity, anyone who does not have the intellectual aptitudes or whose status or condition deprives him of liberty or who does not have the necessary dignity required to vote is excluded from its exercise; (3) registration in the census or the electoral roll as required by article 77 of the Constitution.

251. The 84 deputies to the Legislative Assembly are election officials, and thus, legally speaking, and pursuant to article 125 of the Constitution, they “... represent the entire people and are not bound by their mandate. They enjoy the right to inviolability and shall not bear responsibility at any time for the opinions they voice or the votes they cast”.

252. Consequently, the deputies to the Legislative Assembly are representatives of the Salvadoran people, and as such, their decisions are legitimate with regard to the exercise of their lawmaking duties and other functions defined by the Constitution.

253. Article 126 of the Constitution provides that:

To be elected deputy, a person must be older than 21 years of age, a Salvadoran by birth, the child of a Salvadoran father or mother and of recognized integrity and education and must not have lost his or her civil rights in the five years preceding the election.



254. This means that to be a deputy, it is not necessary to have a particular profession or specialization: ordinary citizens can become part of this democratic body, which is thus representative of the Salvadoran people.

255. The highest authority in electoral matters is the Supreme Electoral Tribunal, which has jurisdictional, administrative and financial independence; its decisions are binding for the authorities, political parties and citizens. The main functions of the Tribunal are: (a) organizing, directing and conducting the elections for President and Vice-President of the Republic, deputies to the Legislative Assembly and to the Central American Parliaments, and members of the Municipal Councils; and (b) taking decisions relating to elections in response to complaints by citizens of violations of their voting rights, and resolving conflicts within its competence.

256. The Committee is referred to the information given in paragraphs 700 to 710 of the consolidated third, fourth and fifth periodic report concerning developments in the Supreme Electoral Tribunal and the electoral roll. One aspect of the process of modernization undertaken by the Tribunal is the new electoral roll, which is based on the single identity document (DUI), produced with data from the National Register of Natural Persons (RNPN), and the use for the first time of an electoral roll containing photographs. All these changes were in place for the presidential elections of 2004.

257. Elections in El Salvador have been legitimate and transparent, with a large voter turnout, Salvadorans having freely expressed their political will in elections by universal suffrage held by secret ballot.

258. These important elements of representative democracy were recognized by the General Assembly of the Organization of American States (OAS) in its Declaration on Elections in El Salvador, adopted at the first plenary session of 7 June 2004, which congratulated the people of El Salvador for the demonstrations of democratic culture during the elections of 21 March 2004, from which the candidate of the Alianza Republicana Nacionalista (ARENA) emerged victorious over the candidate of the Frente Farabundo Martí para la Liberación Nacional (FMLN).

259. On 1 June 2004, the new Government took office, the reflection of the will of the people expressed in the third elections since the signing of the 1992 Peace Accords. An interesting statistic in connection with these presidential elections is the decline in the level of voter absenteeism and the high voter turnout, and a confirmation of the trend towards a two-party system, the ARENA and the FMLN having each obtained a large share of the vote.

260. The composition of the Legislative Assembly after the 2006 elections was as follows.

Political party	Deputies
Alianza Republicana Nacionalista	34
Cambio Democrático	3
Frente Farabundo Martí para la Liberación Nacional	32
Partido de Conciliación Nacional	9
Partido Demócrata Cristiano	6

261. National and international observers, primarily from the OAS, non-governmental organizations and the Office of the Procurator for the Protection of Human Rights, were present to monitor the elections and ensure respect for the political rights of the population.

262. In late 2007, the Department of Electoral Cooperation of the OAS submitted the final report of the Integral Audit to the Electoral Registry of El Salvador; the report concluded that the Electoral Registry was very reliable, and it made a number of recommendations for its improvement in connection with its production, composition, updating and maintenance.

#### **XXVII. ARTICLE 26 OF THE COVENANT**

263. The Constitution and subsidiary legislation contain provisions prohibiting discrimination. In that connection, reference is made to article 3 of the Constitution, which states that:

All persons are equal before the law. No restrictions on the exercise of civil rights may be established on the grounds of differences in nationality, race, sex or religion. Hereditary offices or privileges shall not be recognized.

264. With regard to education, article 58 of the Constitution specifies that:

No educational establishment may refuse to admit pupils or students on the ground of the nature of the marital union of their parents or guardians or on social, religious, racial or political grounds.

265. As to the provisions contained in subsidiary legislation, the Criminal Code includes the offence of labour discrimination in article 246, and discrimination with regard to acts relating to the right to equality in article 292.

266. The Health Code and the Family Code contain provisions concerning the prohibition of discrimination in health care and discrimination against minors and older people.

267. El Salvador is a party to the relevant international norms, and in 2007 it signed and ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol. In 2005, it submitted its consolidated ninth, tenth, eleventh, twelfth and thirteenth report to the Committee on the Elimination of Racial Discrimination, in which it explained in depth the legal framework for preventing discrimination and institutional policies carried out to guarantee equality and participation for such persons.

268. Despite the efforts made, problems continue to be identified at the structural and cultural levels in providing better opportunities for persons with disabilities, and shortcomings in the care of patients with HIV/AIDS has also been acknowledged, including problems with the punctual administering of medication and the existence of discriminatory attitudes towards persons living with the illness. Notwithstanding the normative progress and other positive measures, cases of gender discrimination persist.

#### **XXVIII. ARTICLE 27 OF THE COVENANT**

269. El Salvador recognizes the existence of three indigenous groups: the Nahuatl/Pipil, the Lenca and the Cacaopera, who live in communities and coexist with populations not identifiable

as indigenous. It is difficult to identify these groups, because they have lost many of their characteristics, such as their language and traditional dress. They are primarily identifiable by their customs and beliefs, popular art and handicrafts, spiritual practices and medicine.

270. The Constitution recognizes the existence of indigenous languages in article 62.2, which states that:

The indigenous languages spoken in El Salvador form part of the cultural heritage and shall be preserved, disseminated and respected.

271. The Nahuatl/Pipil, who live in the western and central zones, are the biggest population group and the one in which cultural manifestations are best preserved. There is still a small population of Nahuatl speakers, who live mainly in the municipalities of Santo Domingo de Guzmán, Cuisnahuat and Tacuba.

272. The Lenca live in the eastern zone. Their cultural richness has been lost, and the language is completely extinct, although cultural manifestations are maintained through dance and handicrafts. The Cacaopera make up the smallest group and live in the eastern part of the country. Only a few words and phrases of their original language survive. The Association for the Coordination of Indigenous Communities of El Salvador (ACCIES) teaches the Nahuatl language in four communities of the Department of Sonsonate.

273. Indigenous persons coexist with non-indigenous persons and persons of mixed origin, and the features that differentiate them from members of the other two groups are virtually imperceptible. However, all three are identifiable. In some cases, physical features are noticeable. An economic specialization, traditions, dress and customs also make it possible to distinguish between indigenous and non-indigenous persons.

274. The National Council for Culture and the Arts (CONCULTURA), the main institution for national culture, has an Office of Indigenous Affairs which encourages and promotes the consolidation and advancement of the indigenous population at national and international level and offers assistance to these communities, in cooperation with State bodies, through programmes on health care, education and culture, the dissemination and preservation of the language, agriculture, sustainable development, and workshops for the production and marketing of handicrafts.

275. The indigenous populations have organized and are represented by associations and organizations headed by indigenous leaders, which work with their communities and have launched initiatives to submit demands at national and international level. Some have legal personality, which makes them eligible for resources from international cooperation entities, non-governmental organizations and Government bodies, with which they can carry out communal development projects.

276. The 2006 National Prize for Culture was awarded to the Santo Domingo de Guzmán Brotherhood, Department of Sonsonate, for maintaining traditions and preserving valuable aspects of the sociocultural identity of the indigenous population.