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I. General information about the reporting State

A. Demographic, economic, social and cultural characteristics of the State

1. Background information on the national characteristics of the State

1. The official name is the Republic of El Salvador and its capital is San Salvador. The official language is Spanish (article 62 of the Constitution of the Republic) and less than 1 per cent of the population speaks Nahuat.

2. El Salvador is situated in the south-west of the Central American Isthmus on the Pacific Coast. It lies in the torrid zone north of the equator, between 13°09' and 14°27' north latitude and 87°41' and 90°08' west longitude. The territory over which El Salvador exercises jurisdiction and sovereignty is irreducible, comprising a surface area of 20,742 square kilometres, and includes, in addition to the mainland:

(a) The islands, islets and cays listed in the judgement of the Central American Court of Justice delivered on 9 March 1917 which are also established as belonging to it by other sources of international law, as well as other islands, islets and cays which belong to it in accordance with international law;

(b) The territorial waters and the common waters of the Gulf of Fonseca, which is a historic bay with the characteristics of a closed sea and is governed by a regime defined by international law and by the judgement referred to in subparagraph (a) above;

(c) The airspace, the subsoil and the corresponding continental and island shelf, as well as the sea, its subsoil and seabed to a distance of 200 nautical miles from the baseline, all in conformity with the rules of international law.

3. The Salvadoran territory is bounded:

(a) To the west, by the Republic of Guatemala, in accordance with the Treaty of Territorial Limits, concluded at Guatemala City on 9 April 1938;

(b) To the north and east, partly by the Republic of Honduras in those sections delimited by the General Peace Treaty between the Republic of El Salvador and Honduras, signed at Lima, Peru, on 30 October 1980;

(c) On the remainder of the eastern border, by the Republics of Honduras and Nicaragua along the Gulf of Fonseca;

(d) To the south, by the Pacific Ocean.

4. The terrain is largely mountainous with a narrow coastal strip and a central meseta.

5. For the purpose of political and administrative organization, the territory of the Republic is divided into 14 departments, which are in turn divided into 262 municipalities. The departments are grouped into three areas: Western, Eastern and Central. Each department is under the authority of a governor representing the executive branch, directly appointed by the President of the Republic, and resident in the departmental capital. The municipalities are governed by municipal councils, elected by direct suffrage every three years by the citizens registered in the corresponding municipal constituency.

6. The history of El Salvador dates back to the pre-Colombian era some 1,500 years B.C., as can be seen from Mayan remains in the west of the country. The first settlers were the Pokomans, Lencas and Chortis. They were followed by the Uluas and the Pipils, who settled in the western and central parts of the country about the middle of the eleventh

century, dividing their territory into various chieftaincies under the control of the chieftaincy of Cuscatlán.

7. On 31 May 1522, the Spaniard Andrés Niño headed an expedition which landed on Meanguera Island in the Gulf of Fonseca, making this the first part of Salvadoran territory to be visited by the Spaniards. A colony, designated as a town with the name of San Salvador, was founded around 1 April 1525, and in September 1546 it was granted the status of a city by the Holy Roman Emperor Charles V (Charles I of Spain).

8. In the years that followed, the country developed under Spanish domination, and by the end of the first decade of the nineteenth century, the Spanish colonies of Central America all wanted independence and autonomy.

9. The first proclamation of independence was made in San Salvador on 5 November 1811 by Father José Matías Delgado, who was a focal point for the ideas and movements that eventually led to Central American independence. In the year independence was proclaimed the Government was established at Guatemala City, and it decided on the union of the Central American provinces with Mexico. El Salvador, however, again under the leadership of Delgado, opposed the annexation until 1823, when the Mexican Empire of Agustín de Iturbide fell and the five Central American provinces proclaimed their independence from any other nation and adopted a republican and democratic form of government.

10. The five provinces remained united under the so-called Federal Republic of Central America and elected as their first president the Salvadoran Manuel José Arce. The federation lasted only a short time, with El Salvador being the last province to leave the union. These events led to the establishment of the Republics of Guatemala, Honduras, El Salvador, Nicaragua and Costa Rica.

11. On 12 June 1824, El Salvador promulgated its first constitution, under which it retained federalist ties. It became an independent State in 1841 when it issued its second constitution, the Political Constitution of the State of El Salvador.

12. Throughout the nineteenth century political life in El Salvador was turbulent. Liberals and conservatives fought for power in a series of political intrigues and uprisings, a situation that often aggravated conflicts in neighbouring States. Political power changed hands a number of times, alternating between family dynasties and centralist Governments through the first two decades of the twentieth century.

13. Under the presidency of General Gerardo Barrios (1859–1863) important changes were introduced in the country: the civil and criminal codes were adopted and efforts were made to promote the education of the population and to develop the technical and academic qualifications of the army. This constructive period saw the introduction of coffee as a crop; it would eventually become the country's leading export and the mainstay of the Salvadoran economy.

14. During the first 25 years of the twentieth century the country's economic development was outstanding and accompanied by significant improvements in communications and transport.

15. Following the free elections of 1930, Arturo Araujo took office, but internal difficulties stemming from the effects of the Great Depression and the collapse of coffee prices led to a coup d'état that brought General Maximiliano Hernández Martínez to power. Hernández Martínez assumed the office of President in 1931 and held it until 1944, when he was deposed by a coup d'état, after which power was exercised successively by provisional military Governments until 1948.

16. Under the government of General Hernández Martínez, the economic and social situation of the country was characterized by a constant decline in living conditions, which was more marked in the years prior to independence. In 1932 a peasant uprising took place, which was a combination of protest and insurrection arising from an unequal system of landholding, exacerbated by presidential reforms that deprived peasants of their common land and gave them to the large landholders. The 1932 uprising ended in ethnocide.

17. In 1948, a revolutionary movement overthrew the regime of General Salvador Castaneda Castro. Lieutenant Colonel Oscar Osorio held power from 1950 to 1956, when he was succeeded by Lieutenant Colonel José María Lemus. In late 1960, Lemus was replaced by a leftist junta composed of René Fortín Magaña, Ricardo Falla Cáceres, Fabio Castillo, Colonel César Yanez Urías, Lieutenant Colonel Miguel Angel Castillo and Major Rubén Alonso Rosales. This junta was overthrown in January of the following year and a more moderate joint civilian-military directorate took control of the country. Its members were Colonel Aníbal Portillo, Lieutenant Colonel Julio Adalberto Rivera, José Antonio Rodríguez Porth, José Francisco Valiente, Feliciano Avelar and Major Mariano Castro Morán. From January to July 1962 Rodolfo Eusebio Cordón served as temporary President.

18. On 7 September 1950 a new Constitution was proclaimed by the ruling Revolutionary Council, which in December had overthrown the presidency of Castañeda Castro, setting out a new social, political and economic approach. The form of government was retained, as well as the powers of state:

(a) The legislature comprised a single chamber, members of the assembly being renewed every two years and its functions included appointing members of the Central Election Board;

(b) The executive branch: the presidential term of office was increased from four to six years and the post of vice-president was re-established;

(c) The judiciary: the administration of justice was proclaimed permanently free of charge, the Offices of Attorney-General of the Republic [*Fiscalía General de la República – FGR*] and Counsel-General of the Republic [*Procuraduría General de la República – PGR*] were created, the power of mayors to commute sentences passed by justices of the peace was removed, slavery was prohibited, freedom of worship was guaranteed, together with the right of *habeas corpus*, etc. Spanish was recognized as the official language.

19. In 1962 a new Constitution was promulgated and Lieutenant Colonel Julio A. Rivera became President of the Republic until 1967. He was succeeded by General Fidel Sánchez Hernández, who remained in office from 1967 to 1972. In 1972 Colonel Arturo Armando Molina became President. In 1977, General Carlos H. Romero was elected President. He was ousted in a coup on 15 October 1979 and was succeeded by a Revolutionary Junta composed of Guillermo Manuel Ungo, Román Mayorga Quiroz, Mario Andino, Colonel Adolfo Majano and Colonel Jaime Abdul Gutiérrez. This body was succeeded in 1980 by a second Revolutionary Junta, whose members were José Napoleón Duarte, José Antonio Morales, José Ramón Avalos and Colonel Jaime Abdul Gutiérrez.

20. From 1980 to 1992, El Salvador was the arena for a civil war resulting from the demise of a system based on authoritarian notions of power and the adverse effects, felt around the world, of cold-war confrontation. The Salvadoran conflict was characterized by grave acts of violence and heavy damage to the national economy. This period could be described as a lost decade in the political, economic and social development of El Salvador and the rest of Central America, given that the crisis spread throughout the entire region and undermined its political stability and economic and social development.

21. In 1982, elections were held for the Constituent Assembly, which decreed, ratified and proclaimed the 1983 Constitution of the Republic that currently governs the institutional life of the nation.

22. In 1982 a Government of National Unity was formed with Alvaro Magaña as President. In June 1984 he handed over political power to José Napoleón Duarte, who remained in office until May 1989 and who was succeeded by Alfredo Félix Cristiani Burkard on 1 June 1989.

23. At the end of 1991 the United Nations certified that the parties to the conflict had fulfilled their commitments and invited them to the signing of the Peace Accords in 1992 in the Castle of Chapultepec (Mexico City). The Accords were signed on 16 January 1992, their main objectives being to end the war through political means, promote the democratization of the country, guarantee full respect for human rights and reunite the Salvadoran people. A process of reconstruction was initiated and important changes were introduced with a view to strengthening the legal and institutional framework of the State and the creation of new political, judicial, public security and human rights institutions.

24. The task of monitoring compliance with the Peace Accords was entrusted to the United Nations, which completed its work in January 2003, confirming that the commitments and obligations undertaken in those Accords had been respected in El Salvador.

25. President Félix Cristiani handed over the presidency in June 1994 to Armando Calderón Sol, who governed until 1999. He was succeeded by Francisco Guillermo Flores Pérez, whose term of office ended on 11 May 2004.

26. From 1 June 2004, the presidency was assumed by Elías Antonio Saca González, who governed until June 2009. His government was responsible for implementing the “Solidarity Network Programme”, which provided subsidies to families living in conditions of extreme poverty in the country’s most under-developed municipalities. Efforts were also made to promote fiscal reform, which was aimed at attenuating the grave fiscal crisis brought about by conservative government measures and which attracted strong criticism from the country’s private enterprise sector. The government also implemented the so-called *Plan Supermano Dura* (Super Firm Hand Plan) to contain the high levels of delinquency in the country, as part of the *Plan País Seguro* (Secure Country).

27. A significant political event in this period was the victory of the political party Frente Farabundo Martí para la Liberación Nacional in the presidential elections of 15 March 2009 through its candidate Carlos Mauricio Funes Cartagena. It was the first triumph by a left-wing party in the country’s history. Carlos Funes took office as President of the Republic on 1 June 2009, together with Salvador Sánchez Cerén as Vice-President.

2. Main ethnic and demographic characteristics and standard of living of the population

28. El Salvador recognizes the coexistence of a number of cultures within its boundaries, including the indigenous Lenca, Cacaopera and Nahuatl/Pipil peoples, the latter being the most numerous, located in communities in the western part of the country (mostly in the departments of Sonsonate and Ahuachapán).

29. The Profile of the Indigenous Peoples of El Salvador¹ recognizes 64 towns with a significant indigenous presence, and also records a total of 53 brotherhoods, guilds and fraternities at national level, as well as 19 organizations and associations, some with legal personality. These same communities are those which define themselves in terms of an indigenous identity and on the basis of their self-determination reproduce their cultural specificities in their social, economic, political and cultural systems.

30. Estimates of the indigenous population in El Salvador are imprecise. According to the Profile of the Indigenous Peoples, it varies between 10 and 12 per cent. However, the Sixth Population Census and Fifth Housing Census carried out in 2007 by the Directorate-General of Statistics and Censuses (DYGESTIC) puts the indigenous population in El Salvador at 0.23 per cent of the country's 5,744,113 inhabitants. Given this situation and following consultations with demographic experts, the country is considering carrying out a data collection exercise in 2012 to quantify and determine a number of basic characteristics of the indigenous population. This activity will be coordinated by DIGESTYC, the Secretariat for Social Integration (SIS) and the United Nations Population Fund, with the aim of obtaining disaggregated data on the country's indigenous population.

31. Article 3 of the Constitution of the Republic establishes the principle of equality and provides for the exercise of civil rights without distinction of nationality, race, sex or religion. El Salvador accordingly recognizes that combating discrimination against the indigenous peoples demands the adoption of positive measures and actions to meet the specific needs of the communities concerned, including the preservation of their culture, language, customs and beliefs.

32. Demographic trends in El Salvador are characterized by sustained and relatively high rates of birth, mortality and migration. Mortality and migration have been affected by the armed conflict, which lasted from the late 1970s until the early 1990s.

33. These trends also reveal a relatively young population in which females outnumber males. There is significant internal migration towards the main urban areas, where an increasingly large share of the country's population is concentrated. International migration has become a major phenomenon in the country, with large outflows of Salvadorans to other countries.

34. The comparative table below shows the situation of El Salvador's socio-economic indicators for 2005–2009, together with those of other indicators set out in appendix 3 of the harmonized guidelines.

Table 1
Socio-economic indicators 2005–2009

A. Population data

<i>Indicator</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Total population	6 864 080	6 980 279	5 744 575	6 122 413	6 150 953
Population density (inhabitants/km ²)	326	332	273	291	292

¹ The *Profile of the Indigenous Peoples of El Salvador*, which was produced in 2003 by the Secretariat for Culture (formerly CONCULTURA), the World Bank, the Ministry of Education, the Regional Technical Assistance Unit and the indigenous peoples, is a document offering an overview of the indigenous peoples living in the country, in which their cultural practices are described as part of the national heritage and they themselves are recognized as the bearers of an ancestral culture.

<i>Indicator</i>		<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
By area	Urban	59.9%	59.9%	62.7%	35.2%	63.2%
	Rural	40.1%	40.1%	37.3%	64.8%	36.8%
By age	0 to 30	61.6%	61.1%	59.2%	59.8%	59%
	60 or over	10.0%	9.6%	10.3%	10.1%	10.3%
By sex	Women	52.7%	53.8%	52.9%	52.6%	52.7%
	Men	47.3%	46.2%	47.1%	47.7%	47.3%

Source: DIGESTYC.

B. Illiteracy

<i>Indicator</i>		<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
National		14.9%	14.6%	13.9%	14.1%	14%
By sex	Women	17.5%	16.9%	16.1%	16.4%	16%
	Men	11.8%	11.9%	11.3%	11.5%	11.6%
By area	Urban	9.7%	9.3%	9.1%	9.9%	9.2%
	Rural	23.1%	23%	22.4%	22.4%	22.7%

Source: DIGESTYC.

C. School attendance and schooling

<i>Indicator</i>		<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
School attendance – national		32.4%	32.8%	32.9%	33.0%	32.4%
By sex	Women	30.3%	30.8%	30.9%	30.8%	30.4%
	Men	34.8%	35.2%	35.1%	35.5%	34.7%
By area	Urban	6.9%	7.0%	7.0%	6.9	32.6%
	Rural	3.8%	3.9%	4.0%	4.0	32.1%
Average years of schooling – national		5.7	5.8	5.9	5.9	6
By area	Urban	6.9	7.0	7.7	6.9	7.2
	Rural	3.8	3.9	4.0	4.0	4.1

Source: DIGESTYC.

D. Population with health problems (illness or accident)

<i>Indicator</i>		<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
National rate		13.6%	12%	11.1%	10.9%	15.8%
By sex	Women	55.8%	55.2%	55.6%	55.3%	54.7%
	Men	44.2%	44.8%	44.4%	44.6%	45.3%
By area	Urban	13.9%	14.3%	10.4%	12.1%	14.6%
	Rural	18.4%	18.2%	12.4%	13.7%	17.9%

Source: DIGESTYC.

E. Employment indicators

<i>Indicator</i>	2005	2006	2007	2008	2009
Population of working age (national)	52.4%	52.6%	65.1%	65.0%	66%
Economically active population – national (percentage of population of working age)	61.7%	61.6%	62.1%	62.7%	62.7%
By area					
Urban	63.7%	62.8%	67.5%	68.9%	67.5%
Rural	36.3%	37.2%	32.5%	31.1%	32.5%
By sex					
Women	39.5%	40.4%	41.6%	41.3%	41.4%
Men	67.4%	67.0%	58.4%	58.7%	58.6%
Unemployment rate – national	7.2%	6.6%	6.3%	5.9%	7.3%
By area					
Urban	7.3%	5.7%	5.8%	5.5%	7.1%
Rural	7.1%	8.0%	7.4%	6.7%	7.8%
By sex					
Women	4.2%	4.6%	3.7%	3.6%	4.9%
Men	8.2%	8.7%	8.2%	7.5%	9%
Underemployment rate**	32.1%	36%	28.4%	32.1%	34%

Source: DIGESTYC.

F. Poverty

<i>Indicator</i>	2005	2006	2007	2008	2009
National poverty (percentage households)	35.2%	30.7%	34.6%	40.0%	37.8%
National extreme poverty	6.6%	9.6%	10.8%	12.4%	12%
Relative poverty	25.5%	23.6%	23.8%	27.6%	25.8%

Source: DIGESTYC.

Table 2
Sex of head of household, by area

<i>Area of residence</i>	<i>Year 2002–2003</i>		<i>Year 2008</i>	
	<i>Male head of household</i>	<i>Female head of household</i>	<i>Male head of household</i>	<i>Female head of household</i>
Urban	56.8	43.2	59.6	40.4
Rural	69.3	30.7	67.6	32.4
Country as a whole	62.7	37.3	63.2	36.8

Source: National Family Health Survey 8FESAL), carried out every five years, the last two in 2003 and 2008.

Table 3
Percentage of households with a female head of household, by area of residence

<i>Totals</i>	<i>Year 2002–2003</i>		<i>Year 2008</i>	
	<i>Urban</i>	<i>Rural</i>	<i>Urban</i>	<i>Rural</i>
Total	43.2	30.7	40.4	32.4
National total		37.3		36.8

Source: FESAL.

Table 4
Life expectancy at birth

<i>Age</i>	<i>Year 2002–2003</i>			<i>Year 2008</i>		
	<i>Estimated life expectancy</i>	<i>Women</i>	<i>Men</i>	<i>Estimated life expectancy</i>	<i>Women</i>	<i>Men</i>
	70.6	73.7	67.7	70.6	75.5	66

Source: FESAL.

Table 5
Fertility and its determinants

<i>Fertility and its determinants</i>	<i>Total</i>	<i>Urban</i>	<i>Rural</i>
Overall fertility rate (children per woman)	2.46	2.05	3.01
Average age of first sexual relation (years)	18.4	18.8	17.8
Average age of first marital union (years)	19.9	20.8	18.9
Average age of first birth (years)	20.8	21.6	19.9

Source: FESAL.

Table 6
Breastfeeding and state of child nutrition

<i>Breastfeeding and state of nutrition of under5 years-olds (%)</i>	<i>Total</i>	<i>Urban</i>	<i>Rural</i>
Start of maternal breastfeeding in the first hour postpartum	32.8	26.9	38.3
Prevalence of growth retardation (under-height for age)	19.2	13.6	24.2
Prevalence of under-weight for age	5.6	3.6	7.4
Prevalence of anaemia in children from 12 to 59 months	23.4	21.0	25.5

Source: FESAL.

Table 7
Aggregate cases of HIV/AIDS over the last five years, 1984–2009

<i>Component</i>	<i>Up to 2005</i>	<i>Up to 2006</i>	<i>Up to 2007</i>	<i>Up to 2008</i>	<i>Up to 2009</i>
Aggregate cases of people living with AIDS (PLWA)	16 313	18 018	20 095	22 207	24 098
Aggregate cases of HIV	8 981	10 272	11 923	13 719	15 427

<i>Component</i>	<i>Up to 2005</i>	<i>Up to 2006</i>	<i>Up to 2007</i>	<i>Up to 2008</i>	<i>Up to 2009</i>
Aggregate cases of AIDS	7 332	7 746	8 172	8 488	8 671
Main modes of transmission over the last year	Sexual 85%	Sexual 86%	Sexual 93%	Sexual 99%	Sexual 98%
Aggregate cases among males	190 299	11 370	12 622	13 934	15 121
Aggregate cases among females	6 014	6 648	7 473	8 276	8 977
Male-female ratio	1.3:1	1.7:1	1.5:1	1.7:1	1.7:1

Source: Combined Monitoring, Evaluation and Epidemiological Surveillance System for HIV/AIDS (SUMEVE).

Table 8
Infant and child mortality

<i>Infant and child mortality (per 1 000 liveborn infants)</i>	<i>Total</i>		<i>Urban</i>		<i>Rural</i>	
	<i>2002/03</i>	<i>2008</i>	<i>2002/03</i>	<i>2008</i>	<i>2002/03</i>	<i>2008</i>
Neonatal mortality rate	13.0	9.0	14.0	8.0	13.0	9.0
Postneonatal mortality rate	11.0	7.0	11.0	5.0	11.0	9.0
Infant mortality rate	24.0	16.0	24.0	13.0	24.0	18.0
Child mortality rate**	6.0	3.0	6.0	2.0	6.0	4.0

Source: FESAL.

** Refers to dysfunctions among children aged one to five (per 1,000 children surviving their first birthday).

Table 9
Use of contraceptives by women of childbearing age and the decision on their use by the couple

<i>Place of residence</i>	<i>Year 2002–2003</i>			<i>Year 2008</i>		
	<i>Both</i>	<i>Women</i>	<i>Men</i>	<i>Both</i>	<i>Women</i>	<i>Men</i>
Urban	68.7	26.0	3.3	72.4	23.9	2.7
Rural	72.2	20.1	3.0	74.9	22.4	2.2

Source: FESAL.

Table 10
Main causes of death

<i>Number</i>	<i>Cause of death</i>
1	Non-communicable chronic degenerative diseases of the genitourinary system
2	Cerebrovascular
3	Cardiovascular system
4	Diabetes
5	Pneumonia
6	Septicaemia
7	Traumatisms

<i>Number</i>	<i>Cause of death</i>
8	Cancer: cervical, breast, stomach, ovarian (in women)
9	Cancer: lung, stomach, prostate and colorectal (in men)
10	Chronic kidney failure

Source: Ministry of Health.

35. In the economic sphere, the Monetary Integration Act ('bi-monetarism') came into effect on 1 January 2001 under the government of President Francisco Flores, authorizing the free circulation in the country of the United States dollar, at a fixed exchange rate of 8.75 colones (1 dollar = 8.75 colones). The colon has today been definitively replaced by the United States dollar.

36. Regarding the performance of the main macroeconomic variables, inflation which stood at 5.5 per cent at the end of 2008 has shown a marked decline, attaining negative rates of minus 0.2 per cent by the end of 2009. Unemployment, according to official figures, stands at about 7 per cent and is showing an upward trend due to the global economic crisis. However, over 50 per cent of the population works in the informal sector.

37. El Salvador has enjoyed the lowest interest rates in the region as a result of the linking of the national currency to the dollar. However, in the last quarter of 2008 there was an increase in the interest rate, a trend that has continued, attaining 11.7 per cent in March 2010.

38. With regard to public finances, the deficit which had remained stable in the preceding years at around 2.4 per cent rose at the end of 2009 to 5.5 per cent. The public debt hovered at around 48 per cent of GDP and was expected to rise to above 50 per cent at the end of 2010.

39. The country's foreign debt has doubled over the last 10 years, although the trend was broken in 2007. However, the picture has changed with the approval in May 2009 of the Legislative Assembly's agreement to the contraction of new loans totalling 1,800 million dollars. The foreign debt as of March 2010 stands at 12,800 million dollars, almost 48 per cent of GDP.

40. The foreign sector shows a trade deficit amounting to 23 per cent of GDP. In 2008, the trend was for a continued widening of the deficit, which rose by 21 per cent. As a result of the implementation of the Dominican Republic-Central America Free Trade Agreement (CAFTA), a gradual change is emerging in the pattern of trade.

41. In 2008 an increase was furthermore recorded in both exports (19 per cent) and imports (18 per cent). However, this trend changed and in 2009 the foreign trade gap was reduced by 33.5 per cent, exports totalling 3,797.32 million dollars while imports amounted to 7,254.73 million dollars.

42. Remittances by Salvadorans living abroad play a crucial role in the Salvadoran economy by helping to offset the trade deficit. In 2008 the growth in remittances was halted and coverage of the deficit declined to 68 per cent. The effects of the slowdown in the United States economy started to be felt so that in the first half of 2009 remittances fell by over 10 per cent compared with the same period in the previous year, ending the year 8.8 per cent lower.

43. This pattern is changing and in the first quarter of 2010 family remittances totalled 848.4 million dollars, an increase of 0.6 per cent compared with the same period in the previous year. This is the first positive rate recorded since October 2008.

44. Direct foreign investment, which had performed excellently in 2007, mainly due to the acquisition of national banks by foreign investors at a cost of over 1,400 million dollars, fell by 48 per cent in 2008. Despite the substantial decline in productive investment, the recorded level of foreign investment amounted to 7,132 million dollars.

45. Between 2000 and 2010, the Human Development Index (HDI) for El Salvador increased by 0.06 per cent annually, rising from 0.606 to 0.659, placing the country in 90th position. In regional terms, El Salvador is situated below the regional average. In 2010, according to the Human Development Index, the proportion of the population below the poverty income threshold stands at 6.43 per cent, the gender inequality index at 0.653 per cent and the inequality-adjusted HDI at 0.477. The income-related Gini coefficient for 2010 is 46.9, a slight reduction compared with previous years.

46. The percentage of poor households increased from 30.8 per cent to 34.6 per cent between 2006 and 2007, due mainly to an increase of 8 percentage points in the rural poverty figures. As for extreme poverty, it rose from 9.8 per cent to 10.8 per cent in the same period, which is explained by the increase of 4.1 per cent in rural areas.² In the context of the current economic crisis, there was an increase in poverty in 2008 as a result inter alia of the decline in economic activity and remittances; this increase continued in 2009, attaining 37.8 per cent.

47. The 2009 Budget continued the tendency in recent years for an increase in expenditure. The total provision for 2009 amounted to 3,627.6 million dollars, representing an increase of 8.5 per cent (\$285 million), accompanied by forecasts of growth through increased tax revenues. Since it did not provide for the contracting of new debt, the budget relied for its financing on State resources (95 per cent), loans (2.5 per cent) and donations (2.5 per cent).

48. The budget for 2010 showed a slight increase in expenditure, amounting overall to 3,654 million dollars.

49. The different structural adjustment programmes in the 1990s focused on four aspects: price liberalization, privatization, monetary and fiscal discipline, and trade openness. Those reforms had led the country towards a liberalized economy.

50. Since 1991 El Salvador has made great efforts to be an open economy. Its efforts resulted in the accession that year to the General Agreement on Tariffs and Trade (GATT). In 1995 it ratified its participation in the World Trade Organization (WTO), taking advantage of the transitional periods to which developing countries were entitled.

51. The most recent trade policy review for El Salvador conducted by WTO took place in 2009, the previous one having taken place in 2003. El Salvador occupies eleventh place among the most open economies in the world and the second place in Latin America. It was a beneficiary of the European Community's Generalized System of Preferences (GSP) drugs regime until 2005; and, thanks to the Legislative Assembly's ratification in May 2009 of the constitutional reform enabling El Salvador to accede to the conventions of the International Labour Organization (ILO) concerning the right of civil servants to form trade unions, it has managed to remain among the countries benefiting from the new GSP Plus regime.

52. GSP benefits currently exist in the United States and Japan, and with the aim of furthering the international integration of El Salvador in foreign markets and expanding economic opportunities for the national productive sectors, our country has concluded Free

² *Análisis Económico de El Salvador*, Oficina Económica y Comercial de España in San Salvador, May 2010.

Trade Agreements with a number of countries such as the United States, Mexico, Colombia, Dominican Republic, Chile, Panama and Taiwan, and in May 2010 acceded to the Partnership Agreement with the European Union along with the other Central American countries and is currently negotiating unilaterally another free trade agreement with the Caribbean Community (CARICOM).

53. It currently has an average tariff of 7.5 per cent as a result of the process of tariff reduction applicable to all products, which was completed on 1 January 2000 and which imposes very few limitations on the import of goods and services (fuel, asphalt, textiles and sugar). El Salvador maintains a largely liberal system of market access for merchandise. Tariffs constitute the main instrument of frontier protection. The average most-favoured-nation (MFN) rate is 7.4 per cent; the average for non-agricultural products is 6.7 per cent, and for agricultural products 12 per cent.

54. The tariff structure is characterized by significant progressivity. All tariffs are consolidated: the maximum rate is 40 per cent, which is why there is a large disparity between the rates applied and the consolidated rates, which can hamper the predictability of market access conditions. Nevertheless, efforts are still needed to clarify the investment regime, strengthen competition policy, improve the application of legislation on State procurement involving foreign companies and enhance the protection of intellectual property rights.

Table 11
Real GDP growth rate

<i>Year</i>	<i>Percentage</i>
2007	4.30
2008	2.40
2009	-3.50

Source: Quarterly Review Central Reserve Bank April–June 2010.

Table 12
GDP per inhabitant at constant (1990) prices

<i>Year</i>	<i>GDP</i> <i>(millions of dollars)</i>	<i>Population</i> <i>(thousands)</i>	<i>GDP/inhabitant</i>
2007	9 176.1	6 098.7	1 504.6
2008	9 399.4	6 124.7	1 534.7
2009	9 066.6	6 152.6	1 473.6

Source: Quarterly Review Central Reserve Bank April–June 2010.

Table 13
Inflation rate

<i>Year</i>	<i>Rate</i>
2007	4.9
2008	5.5
2009	-0.2
June 2010	0.6

Source: Quarterly Review Central Reserve Bank April–June 2010.

Table 14
Trade balance

<i>Year</i>	<i>Balance</i>
2007	-4 727.4
2008	-5 205.3
2009	-3 457.4
June 2010	-409.2

Source: Quarterly Review Central Reserve Bank April–June 2010.

Table 15
Balance of payments current account

<i>Year</i>	<i>Amount</i>
2007	-1 221.3
2008	-1 681.9
2009	-373.5
January–March 2010	-42.7

Source: Quarterly Review Central Reserve Bank April–June 2010.

Table 16
Public sector debt

<i>Period</i>	<i>Servicing of the external and domestic debt (millions of dollars)</i>
2007 P	1 558.8
2008 P	1 533.3
2009 P	2 291.9
January–June 2010 P	1 209.8

Source: Quarterly Review Central Reserve Bank April–June 2010.

B. Constitutional, political and legal structure of the State

1. Constitutional structure of the Salvadoran State

55. The Constitution, which entered into force on 20 December 1983 and was produced by the Constituent Assembly elected by popular vote in 1982, is a legal instrument which, as well as containing regulations governing the State’s political life, organizing its society, structuring its institutions and limiting bias and arbitrary action on the part of its rulers, also establishes safeguards for the rights of citizens without any discrimination whatsoever and the power to restrict those rights in the circumstances provided for by law and by order of the competent authority.

56. In article 1 of the 1983 Constitution, the Salvadoran State “recognizes the human person as the source and the object of the activity of the State, which is organized for the attainment of justice, judicial security and the common good. Accordingly, it is the duty of the State to ensure that the inhabitants of the Republic enjoy liberty, health, culture, economic well-being and social justice”. Unlike previous constitutions, particularly the

more recent ones of 1950 and 1962, the present Constitution establishes and proclaims as a guiding principle recognition of and respect for the individual and his or her dignity, and the concomitant guaranteeing and protection of the rights inherent in that dignity, which override the importance attached by the State and its structures to the pursuit of major national objectives.

57. The existing Constitution, which came into force on 20 December 1983, repealed the 1962 Constitution and reshaped the political, economic and social order. The traditional designation “State authorities” was replaced by “organs of the state”, namely the legislature, the executive branch and the judiciary.

58. In November 1991 and January 1992, in keeping with article 248 of the Constitution, the Legislative Assembly ratified reforms to the Constitution reflecting a national consensus. They concerned human rights, electoral and judicial questions and matters relating among other things to the National Civil Police, the Public Legal Service and the Armed Forces.

2. The State, its form of government and political system

59. 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. The form of government is republican, democratic and representative. The State is unitary.

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

61. On 29 July 2010, the Constitutional Division of the Supreme Court of Justice issued a ruling on the unconstitutionality action concerning articles 211, para.1; 215, para.2 (3) and (5); 216; 218, para. 1; 239, para. ; 250, para.1; and 262, para.6 of the Electoral Code. It declared unconstitutional article 215, para.2 (5) for violating articles 72 and 126 of the Constitution, since the requirement that a candidate or deputy be a member of a political party restricted the right of all citizens to stand for the offices concerned. It likewise declared unconstitutional article 262, para. 6 of the Electoral Code for violating article 78 of the Constitution, since the impact of the closed and blocked list system on the right of citizens to exercise their vote with complete freedom of choice was disproportionate; in that regard, it declared unconstitutional articles 239, 238, 250 and 253-C of the Electoral Code with reference to the closed and blocked list system.

62. On the other hand, it ruled that articles 211 and 215 of the Electoral Code were not unconstitutional since they could be seen as consistent with articles 72 and 126 of the Constitution given that candidates could only be required to run on a party ticket if they opted to do so and that they could also stand as independent candidates or in other circumstances specified in the ruling. It likewise declared that articles 215, 216, 218, 239, 250 and 262 of the Electoral Code were not unconstitutional since the list system they established facilitated exercise of the right to vote under the electoral process; and they lastly ruled that article 262 of the Electoral Code was not unconstitutional since citizens exercised the right to vote directly, as prescribed by the Constitution. It is clear from what precedes that El Salvador needs to undertake a wide-ranging electoral reform.

63. It was noted in this context, without prejudice to the right of political parties and coalitions to propose candidates for posts of deputy and municipal councillor by means of electoral lists, that characterization of the voting as “direct” makes it necessary to amend the unconstitutional system of blocked and closed forms and to restore to citizens the sovereign power to elect their representatives freely, in keeping with the Constitution and international instruments signed and ratified by El Salvador. This is only possible if

deputies can be elected by means of open and independent lists that enable the elector to vote directly for the candidate of his or her choice.

64. The Constitution of the Republic establishes that the existence of a single official party is incompatible with a democratic system and with the form of government it prescribes. It likewise recognizes the right of the people to rise up against the Government for the sole 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.

65. The rotational nature of the presidency is indispensable for maintaining the established form of government and political system.

3. Political structure

66. Public authority emanates from the people, and the various branches of government exercise their powers independently, within their respective jurisdictions, as established by the Constitution and the law. The powers of the various branches of Government may not be delegated, but the branches cooperate with one another in carrying out State duties.

67. The main branches of the Government are the legislature, the executive branch and the judiciary. Government officials are the delegates of the people and have no powers greater than those expressly conferred on them by law.

68. The main elements of the political structure are as follows:

- Form of the State: Presidential Republic;
- Head of Government (President): Mauricio Funes Cartagena (2009–2014);
- Next legislative and presidential elections: March 2012 and March 2014 respectively;
- Legislative Assembly (unicameral) (84 seats; its members are elected by direct universal suffrage for a three-year term).

Table 17

Main political parties and legislative representation from 2009–2012

<i>Political party</i>	<i>Seats</i>	<i>Men</i>	<i>Women</i>
Frente Farabundo Martí para la Liberación Nacional	35	22	13
Alianza Republicana Nacionalista	18	14	4
Gran Alianza por la Unidad Nacional	13	13	
Partido de Conciliación Nacional	10	10	
Partido Demócrata Cristiano	2	2	
Convergencia Democrática	1	1	
Líderes por el Cambio (Independent Parliamentary Group)	5	4	1

Source: Legislative Assembly.

4. Electoral system

69. In the context of the armed domestic conflict, following the negotiations between the Government of El Salvador and the FMLN that led to the signing in 1992 of the

Chapultepec Peace Accords, it was agreed to reform the electoral system. Under article 208 of the 1983 Constitution, provision was made for the establishment of the Supreme Electoral Tribunal, which replaced the Central Election Board. The Supreme Electoral Tribunal is the supreme authority in that regard: subject only to the principle of constitutional primacy, it is independent and has absolute technical, administrative and jurisdictional autonomy since it is not dependent for its decision-making on any organ of government.

70. In the elections held since then, there have been no complaints of any major irregularities, but questions have been raised concerning the failure of the Supreme Electoral Tribunal to exercise its judicial function, due to the presence of representatives of the interested parties in the role of judges.

71. In accordance with article 208 of the Constitution of El Salvador, the functions of the Supreme Electoral Tribunal are the following:

- The administrative function, which consists in planning, organizing and conducting the elections in El Salvador for the following public offices:
 - (a) President and Vice-President of the Republic;
 - (b) Members of the Legislative Assembly;
 - (c) Members of the Central American Parliament;
 - (d) Mayors and Councillors;
- The judicial function, which consists in having exclusive authority for meting out electoral justice in response to complaints by citizens of violations of their voting rights, and for resolving conflicts between political parties.

72. The Supreme Electoral Tribunal consists of five judges, elected by the Legislative Assembly for a term of office of five years. Three of them are elected from the lists submitted by the three political parties or legal coalitions which obtained the largest number of votes at the last presidential election, one from each list. The remaining two are elected, with at least two thirds of the elected deputies voting in favour, from two lists submitted by the Supreme Court of Justice.

Current members

73. For the period 2009–2014, the titular judges are as follows:

Table 18

Titular judges

<i>Title</i>	<i>Judge</i>	<i>Proposed by</i>
Presiding judge	Eugenio Chicas Martínez	FMLN
Judge	Walter René Araujo Morales	ARENA
Judge	Julio Eduardo Moreno Niños	PCN
Judge	Mario Alberto Salamanca	Supreme Court of Justice
Judge	Eduardo Antonio Urquilla	Supreme Court of Justice

Source: Supreme Electoral Tribunal.

74. There are five alternate judges elected in the same manner as the titular judges. If for any reason a list is not submitted, the Legislative Assembly proceeds to the election without the missing list.

75. The presiding judge is the one proposed by the party or legal alliance which obtained the largest number of votes at the last presidential election.

76. Article 76 of the Constitution of the Republic states that the electorate consists of all citizens entitled to vote, namely Salvadoran citizens over 18 years of age who are entered on the electoral roll and fully entitled to their civil and political rights. Election legislation regulates the activities of the Supreme Electoral Tribunal and the other authorities which oversee the exercise of the right to vote.

Table 19

Electoral roll

Electoral roll

Roll of eligible voters	4 591 102 (to 15 April 2010)
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Source: Electoral Control Board. Supreme Electoral Tribunal.

77. In recent years, El Salvador has gone through three elections which were of great significance for the democratic life of the country. These took place on 12 March 2006 and on 18 January and 15 March 2009; it was a success for the Supreme Electoral Tribunal that the election took place by means of a free, direct, equal and secret vote in strict respect of legality and constitutionality, which strengthened the institutions of the Salvadoran State.

Table 20

Elections held over the last five years

Elections held over the last five years

Year	12 March 2006	18 January 2009	15 March 2009
Type of election	Deputies and municipal councillors	Deputies and municipal councillors	President and Vice-President

Source: Supreme Electoral Tribunal.

78. As mentioned in paragraph 255 of the sixth periodic report of El Salvador on the implementation of the International Covenant on Civil and Political Rights (document CCPR/C/SLV/6), one aspect of the process of modernization undertaken by the Tribunal is the new electoral roll, which is based on the single identity document, produced with data from the National Register of Natural Persons, 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.

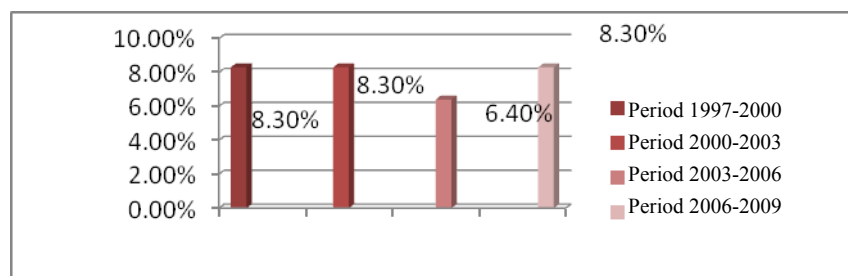
79. The Supreme Electoral Tribunal's initiatives to guarantee political rights include the procedure followed in the 2006 election, namely the implementation of a pilot "residential" voting project in seven municipalities of the Republic. Because of the success of the project, the system was used in the 2009 elections and extended to 16 more municipalities as well as the Department of Cuscatlán. There is currently a political commitment by the Tribunal to introduce residential voting in two stages in 2012 and 2014. For the 2012 elections, it has been decided to extend it to nine of the country's departments.

80. With regard to the participation of women in public office, it should be noted that the number of incumbent women deputies in the Legislative Assembly rose from nine in the period 2003 to 2006 to 14 in the period 2006–2009 and to 18 in the period 2009–2014.

81. The percentage of women mayors in the country has risen compared to 2000–2003. During that period, the number of women mayors in El Salvador’s 262 municipalities represented 6.4 per cent. The figure rose to 8.3 per cent for the period 2003–2006, and the number of elected women mayors currently stands at 22 as the following table shows:

Table 21

Percentage of women mayors over four periods



Source: Supreme Electoral Tribunal.

82. The activities of women’s organizations and the work of local governments have created the necessary conditions for a debate on the main issues affecting women, helping to address new aspects that pose challenges to their advancement.

5. Legislature

83. The Legislative Assembly is a collegiate body of 84 deputies elected by the people by direct, secret and equal vote. Its main function is that of legislating — in other words, of creating, interpreting, amending and repealing laws and of ratifying or rejecting the ratification of treaties or agreements concluded by the executive branch with other States or international organizations. The Assembly’s actions are governed by the Constitution and by its own internal regulations. Despite its key role in the legislative process, its powers are not exclusive since under article 137 of the Constitution the executive branch can block the adoption of a law through the presidential veto.

84. Article 125 of the Constitution stipulates that deputies represent the whole of the people and are not bound by mandatory terms of reference. They are inviolable and shall not be held liable at any time for opinions expressed or votes cast. However, in accordance with the provisions of article 130 of the Constitution, they must relinquish their posts in the following cases: “1. If they are convicted of serious offences in a final judgement; 2. If they violate any of the prohibitions set out in article 128 of the Constitution; 3. If they resign without justifiable cause that has been so deemed by the Assembly”.

85. Deputies are elected for a term of three years and may be re-elected. Their term of office begins on 1 May of the year in which they are elected.

86. For the purposes of decision-making, the vote of at least one half of the elected deputies plus one is required; in other words 43 votes. However, a number of decisions require a qualified majority of two thirds (56 votes in favour), such as election of the President and judges of the Supreme Court of Justice, the President and judges of the Supreme Electoral Tribunal, the President and judges of the Court of Audit of the Republic, the Attorney-General of the Republic, the Counsel-General of the Republic, the Human Rights Advocate and members of the National Council of the Judiciary.

87. Deputies may not occupy any paid public post during their term of office, except for academic or cultural posts or those connected with professional social welfare services.

6. Executive branch

88. The executive branch consists of the President and Vice-President of the Republic, the Ministers and Deputy Ministers of State and their subordinate officials. It acts in conformity with the provisions of the Constitution and its own internal regulations.

89. The President of the Republic is Head of State, Head of Government, and Commander-in-Chief of the Armed Forces and the executive branch is under his or her direction. The presidential term of office is five years and begins and ends on 1 June.

90. The conduct of public affairs is the responsibility of such State secretariats as may be necessary, with the various branches of the administration allocated among them. Each secretariat is headed by a minister, who acts in cooperation with one or more deputy ministers, in accordance with article 159 of the Constitution. In order to be valid, presidential decrees, agreements, orders and decisions must be endorsed and published by the competent ministers or, where appropriate, by their deputies.

91. The Council of Ministers is composed of the President and Vice-President of the Republic together with the Ministers of State or those acting in their stead. Its responsibilities include: decreeing the internal regulations of the executive branch and its own regulations; drawing up the government's overall plan and the draft income and expenditure budget for submission to the Legislative Assembly; and considering reforms to the aforesaid budget when transfers between allocations to different branches of the public administration are involved.

92. The executive branch currently consists of: the Ministry of Foreign Affairs; the Ministry of the Interior; the Ministry of Finance; the Ministry of Economic Affairs; the Ministry of Education; the Ministry of Defence; the Ministry of Labour and Social Security; the Ministry of Agriculture and Livestock; the Ministry of Health and Social Welfare; the Ministry of Works; the Ministry of the Environment and Natural Resources; and the Ministry of Justice and Public Security. The Office of the President of the Republic includes the Secretariat for Social Integration, the Technical Secretariat of the Office of the President, the Secretariat for Culture and the Secretariat for Foreign Affairs.

93. National defence is assigned under the Constitution to the Ministry of Defence and public security is the responsibility of the National Civil Police, which was created after the 1992 Peace Accords and inspired by humanist and democratic principles. The National Civil Police is a professional body independent of the armed forces and removed from all partisan activity. The Ministry of Justice and Public Security and the National Public Security Academy exercise responsibilities in the same field.

94. The Director of the National Civil Police is appointed by the President of the Republic. The National Civil Police is responsible for policing activities in urban and rural areas and guarantees order, security and public tranquillity. It cooperates in the conduct of criminal investigations and performs all of its functions in accordance with the law, with strict respect for human rights.

95. The armed forces are a permanent institution in the service of the nation. They are an obedient, professional, apolitical and non-deliberative body whose mission is to uphold the sovereignty and territorial integrity of the State.

7. Judiciary

96. There is currently a total of 251 women in the judiciary, holding offices as judges, magistrates and justices of the peace 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 and 67 per cent men.

97. With regard to the number of candidates proposed for posts as judges, the National Council of the Judiciary³ has provided the following statistics:

Table 22

Number of men and women proposed for posts as judges

<i>Gender</i>	<i>Periods</i>					
	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
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	100	100	100	100	100

Source: Supreme Court of Justice.

98. Number of court officials holding posts as judges in courts of appeal and courts of first instance, and as justices of the peace:

Table 23

Number of court officials by gender and year

<i>Gender</i>	<i>Periods</i>					
	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
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 number of court officials	1 390	1 456	1 339	1 295	1 293	1 324
Total (%)	100	100	100	100	100	100

99. The National Council of the Judiciary conducts an initial training programme for judges, which lasts about two years.

³ 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).

100. For the current and previous cycles, the gender breakdown is as follows:

Table 24

Distribution of the initial training programme for judges by sex and cycle

<i>Period</i>	<i>1st cycle 2001–2003</i>	<i>2nd cycle 2004–2005</i>	<i>3rd cycle 2006–2008</i>
Men	18 (51.42%)	22 (62.85%)	19 (54.28%)
Women	17 (48.57%)	13 (37.145)	16 (45.71%)
Total	35	35	35

Source: Supreme Court of Justice.

101. 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.

Table 25

Admission of operational personnel to the National Civil Police

<i>Year</i>	<i>Hierarchical levels</i>									
	<i>Executive</i>					<i>Basic</i>				
	<i>Men</i>	<i>%**</i>	<i>Women</i>	<i>%**</i>	<i>Total</i>	<i>Men</i>	<i>%**</i>	<i>Women</i>	<i>%**</i>	<i>Total</i>
2002	1	100	0	0	1	597	92.27	50	7.73	647
2003	11	100	0	0	11	813	94.64	46	5.36	859
2004	3	100	0	0	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	0	0	13	1 169	91.54	108	8.46	1 277
2007	*	0	*	0	0	457	89.43	54	10.57	511
Subtotals	43		6		49	4 656		356		5 012
Overall total										5 061

Source: National Civil Police.

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

** Refers to the percentage of admissions by gender.

Recognition of non-governmental organizations

102. In its first and second paragraphs, article 7 of the Constitution establishes the State's obligation to guarantee the right of the inhabitants of El Salvador to associate freely. On the basis of this constitutional principle, the country possesses a Not-For-Profit Associations and Foundations Act and its associated regulations.

103. The purpose of this Act is to establish a special legal framework applicable to not-for-profit associations and foundations through a register that serves as an instrument for formally publicizing their establishment, organization and leadership and that also provides legal security for the entities concerned, their members and their third-party contractors.

104. Under articles 64 and 65 of the Act, legal personality is acquired by associations and foundations through registration of their constituent instruments in the Registry, subject to executive decision in the case of associations and executive decree in the case of foundations. A registration procedure exists for this purpose, which is initiated when a

person — who is required under the statutes to show proof of legal representation of the entity concerned — submits a written request in three copies to the Director-General of the Registry, which should include two authenticated copies of the articles of incorporation of the relevant association or foundation, mentioning the adoption of the statutes and the election of the first board of management or governing body. In addition, three copies of the statutes (each article arranged separately) should be attached as well as a certified list of the employees of the entity concerned, showing the nationality and identity document of each. A certified copy of the minutes of the election of members of the board of management, council or committee should also be submitted, together with the relevant volumes of the records of the General Assembly and of the board of management, the register of the board's members and lastly the accountancy records.

105. The Office of the Director-General examines the documents submitted to the Registry to ensure compliance with legal requirements and it may carry out exploratory consultations. If any omission, formal defects or infringements of the law, morality, public order or good custom are discovered, notice is given within a maximum of 90 working days following receipt of the documents, indicating the errors or infringements and advising the person responsible to make the necessary corrections.

106. Such alterations must be made within 45 working days. If none have been requested or if they have been made, the executive branch through the Ministry of Justice and Public Security grants recognition of legal personality and status, approves the statutes, orders their publication in the Official Gazette and includes the entity in the Registry within a maximum of 70 working days.

107. If the authority concerned has not issued a decision before the expiry of the specified time limit the statutes are automatically adopted and the association or foundation concerned is registered without further formalities. The order is then given for the statutes to be published in the Official Gazette and a footnote is placed in every document included quoting the number of the executive decision or decree, the registration number and the date of registration, accompanied by the authorization of the Director-General of the Registry.

Table 26

National and foreign associations and foundations registered with legal personality 2005–2010

<i>National associations</i>	<i>National foundations</i>	<i>International NGOs</i>
754	231	50

Source: Department of Not-For-Profit Associations and Funds, Ministry of the Interior.

Administration of justice and criminal statistics

108. The judiciary comprises the Supreme Court of Justice, the appellate courts and such other courts as may be established by subsidiary laws. It has the power to adjudicate and to execute judicial decisions in constitutional, civil, criminal, commercial, labour and agrarian matters as well as in administrative disputes and in such other areas as may be determined by law. Its structure and functioning are governed by the Constitution of the Republic and by the Judiciary Organization Act, in accordance with article 172 of the Constitution.

109. As reported in the sixth periodic report on the implementation by El Salvador of the International Covenant on Civil and Political Rights, everyone in El Salvador has easy and free access to the courts; article 3 of the Constitution enshrines the principle of equality of all persons before the law. 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.

110. With the signing of the Peace Accords in El Salvador, it became necessary to reform the judicial system to strengthen and improve the administration of justice. This reform included a change to the membership of the Supreme Court of Justice, which is composed of 15 men and women judges. In accordance with article 49 of the National Council of the Judiciary Act, “The plenary meeting of the Council shall draw up a list of candidates for the position of judge in the Supreme Court of Justice, consisting of three times the number of titular and alternate judges to be elected. Half shall be drawn from the candidates of the representative associations of lawyers of El Salvador and the other half shall be selected by the plenary meeting, having regard to the main currents of legal thought”.

111. For this purpose, the technical selection unit keeps an updated register of lawyers authorized by the Supreme Court of Justice, excluding those who are suspended or deceased or who do not yet meet the constitutional requirements for the post. This list constitutes the Special Register of Lawyers Qualified as Candidates for the Office of Judge of the Supreme Court of Justice, a register published in two national newspapers following authorization by the plenary meeting of the Council.

112. In compliance with article 64 of the implementing regulations of the National Council of the Judiciary Act, the plenary meeting of the Council transmits to the Federation of Bar Associations of El Salvador (FEDAES) the final version of the Special Register of Lawyers Qualified as Candidates for the Office of Judge of the Supreme Court of Justice for it to organize and oversee the nationwide election process whereby aspiring candidates will be nominated by the representative bar associations of El Salvador.

113. In accordance with article 65 of the implementing regulations of the National Council of the Judiciary Act, notice of the accreditation and nomination meeting is published within three days of the transmission of the final version of the Special Register. The plenary meeting of the Council convenes representative of the lawyers associations of El Salvador complying with the legal requirements and wishing to participate in the process to submit their credentials and nominate candidates for the Office of Judge of the Supreme Court of Justice to the Federation of Bar Associations of El Salvador within eight days of the publication of the meeting.

114. Following the elections, the Federation of Bar Associations of El Salvador (FEDAES) submits the results to the National Council of the Judiciary (CNJ), and the list is drawn up in accordance with the number of votes obtained. Subsequently the plenary meeting of the Council establishes the final list, comprising the fifteen candidates chosen in the process organized by the Federation of Bar Associations of El Salvador and fifteen candidates proposed by the CNJ. The list is submitted to the Legislative Assembly, responsible under the Constitution for appointing within the legal time-frame those who will occupy the post of Judge of the Supreme Court of Justice.

115. The Constitution provides that the judiciary shall receive an annual allocation of not less than 6 per cent of the current revenue of the State budget so as to ensure its economic independence.

116. As noted, the CNJ was set up as an independent body responsible for proposing candidates for posts as judges of the Supreme Court, courts of appeal and courts of first instance, and as justices of the peace; it also organizes and runs the Judicial Service Training College, which trains judges and other court officials.

117. In order to modernize the justice system and ensure a more rapid and effective administration of justice, a wide-ranging reform of laws and regulations has been undertaken, including reforms to the Civil Code, a new Code of Criminal Procedure and the modification of civil and commercial proceedings under a new Code of Civil and Commercial Procedure introducing oral hearings. Reforms have been carried out to legislation on the child and the family under the Comprehensive Protection for Children and Adolescents Act; and the Legislative Assembly is currently discussing a draft constitutional procedures bill designed to make *amparo*, *habeas corpus* and unconstitutionality proceedings more flexible and effective.

118. The Supreme Court of Justice comprises four divisions. The Constitutional Division is responsible for hearing and ruling on petitions seeking to have laws, degrees and regulations declared unconstitutional and on *amparo*, *habeas corpus* and unconstitutionality proceedings. It consists of five specially elected judges and is headed by the President of the Court, who is at the same time President of the Judiciary, both being appointed by the Legislative Assembly.

119. The Civil Division consists of a President and two members and considers applications for annulment in civil, family, commercial and labour matters and appeals against judgements of the labour courts and the family courts of the Central Section relating to cases which these courts heard in first instance. The Criminal Division consists of a President and two members and considers applications for annulment and appeals against judgements of the Criminal Division of the First Section of the Central Court handed down in proceedings of first instance; and, finally, the Administrative Disputes Division consists of a President and three members and hears disputes arising in relation to the legality of acts of the public administration and other matters specified by law.

120. The second-tier jurisdictions, or appellate courts, consist of two judges, while the courts of first instance and courts of justices of the peace are single-judge courts. These judges are all appointed by the Supreme Court of Justice from a list of three candidates submitted in each case by the National Council of the Judiciary (article 175 of the Constitution).

121. All members of the judiciary are independent in the discharge of their duties and subject exclusively to the Constitution and the law. However, by virtue of the powers vested in them by the Constitution, relating to the administration of justice, they may, in the cases they are called upon to adjudicate, declare any law or any measure taken by another branch of the Government inapplicable on the grounds of a breach of constitutional provisions.

122. The Judiciary Organization Act prescribes the organization of the courts, determines the functions of the President of the Supreme Court of Justice in plenary and of its divisions, of the appellate and lower courts, and of bailiffs. It also determines the duties of other judicial officials who do not exercise jurisdiction, such as chiefs of section, registrars, chief clerks, legal assistants, coroners and legal experts. The Act also establishes the actual territory covered by each court and its jurisdiction.

123. Under the Act, the Supreme Court of Justice has the following sections:

- (a) The Notarial Section, which monitors the functions of notaries;
- (b) The Probity Section, which keeps a check on the assets of public officials under the Illicit Enrichment of Public Officials and Employees Act;
- (c) The Professional Investigation Section, which investigates the conduct of notaries, law students empowered to defend or prosecute, bailiffs and other officials appointed by the court who are not members of the judiciary;

(d) The Publications Section, which publishes the *Revista Judicial*, the publication by which the Supreme Court of Justice disseminates information, in particular: laws and regulations relating to the judiciary; agreements and decisions of the Supreme Court of Justice that it has ordered to be published; judgements of the courts and judges on matters of legal importance in the opinion of the Director; bills drafted by the Court and reports issued in cases where it was legally required to do so; and academic works on legal subjects by national authors.

124. The Supreme Court of Justice also has three units that are responsible for: (1) information on persons detained by any authority; (2) monitoring the serving of criminal sentences; and (3) seizures made and fines paid in all courts of the Republic.

125. For its part, the Department of Detainee Information keeps a check on such persons in order to ensure that their rights are respected and to provide information to interested parties requesting it. Accordingly, every State or municipal judicial or administrative authority or auxiliary body in the justice system or the military, including subordinate authorities, must, within 24 hours, inform the Department when any person is detained on their initiative or pursuant to an order by a competent authority.

126. The Supreme Court also has an Executive Administrative Unit, consisting of the Finance, Engineering, Human Resources, Administration and Maintenance Sections and is to have a section responsible for compiling the laws, regulations and jurisprudence of the Supreme Court of Justice as well as a number of administrative units.

127. The function of the Department of Evidence and Probation is to cooperate with the judges of courts for prison supervision and the enforcement of sentences in monitoring the conditions or rules of conduct imposed in cases involving conditional suspension of criminal proceedings, security measures, conditional release, conditional suspension of the execution of a sentence in any of its forms, and the serving of sentences that do not involve imprisonment.

128. The Department of Forensic Medicine of the Supreme Court of Justice is the body with overall responsibility for forensic medicine in support of the administration of justice. The services of the Institute of Forensic Medicine are made available by order of the Attorney-General's Office, by judicial order, by the Counsel-General's Office, by the Human Rights Advocate's Office [*Procuraduría para la Defensa de los Derechos Humanos – PDDH*] and in some cases by the National Civil Police.

8. Independence of judges and of the judiciary

129. Article 172, paragraph 3, of the Constitution stipulates that in matters pertaining to the discharge of judicial duties, judges shall be independent and subject exclusively to the Constitution and the law. In accordance with that provision, judges, when handing down decisions, are bound solely by the Constitution and the laws that must be respected in their verdicts. Judges, irrespective of their rank, are independent when trying the cases brought before them.

130. The independence enjoyed by judges in the exercise of their judicial duties is consistent with the idea of due process, which is also established in the Constitution. Article 24 of the Judiciary Organization Act similarly conveys this idea by providing that: "In matters pertaining to the discharge of their judicial duties, judges shall be independent and subject exclusively to the Constitution and the law. They may not lay down any rules or provisions of a general character regarding the application or interpretation of the laws nor may they publicly censure the manner in which they are applied or interpreted by other courts in their judgements, whether they are higher or lower courts. The foregoing shall be interpreted without prejudice to the provisions of article 183 of the Constitution and to the

fact that the higher courts may issue to the lower courts any warnings which they deem appropriate for better administration of justice.”

131. As a result of these provisions, a judge may not be subject to any authority in his or her decisions other than the terms of the Constitution and of the applicable laws.

132. In a series of provisions that cover budget and operational matters, the current Constitution has guaranteed the independence of the judiciary vis-à-vis the other branches of the State. For example, the final paragraph of article 172 states that “The judiciary shall be entitled to an annual allocation of not less than 6 per cent of the current revenue of the State budget.” Article 182, paragraph 13, of the Constitution states that it is the duty of the Supreme Court of Justice “to prepare the budget for salaries and expenditures in the administration of justice and to transmit it to the executive branch for inclusion in the general budget of the State. The Legislative Assembly shall consult with the Supreme Court of Justice about any adjustments to the budget estimates that it deems necessary.”

133. Operational independence is guaranteed mainly through the Judicial Profession Act and the National Council of the Judiciary Act, two laws that strengthen the justice system and enhance the independence of the officials concerned. The first Act sets out the principle of security of tenure and promotion of judges, while the second elaborates this principle even further, making it feasible to assess the competence of judges through the establishment of the Judicial Service Training College.

9. Participation of the judiciary in law-making

134. The Supreme Court of Justice may, in certain cases, intervene in the law-making process. Under article 133, paragraph 3, of the Constitution, the Supreme Court of Justice has the power to draft legislation on matters concerning the judiciary, the practice of the legal profession by notaries and lawyers, and the jurisdiction and competence of the courts.

135. The Supreme Court of Justice may also intervene in the law-making process, on any matter, when the President of the Republic vetoes a bill on the grounds of unconstitutionality and the legislature confirms it by at least two thirds of the votes of the elected deputies. In such cases, the President of the Republic must, within three days, ask the Supreme Court of Justice to decide whether or not the bill is constitutional.

136. The tables below show the status of the indicators included in appendix 3 of the harmonized guidelines.

Table 27

Homicides

Type of death	2005	2006	2007	2008	2009	2010
Homicides involving common acts of violence	3 812	3 928	3 497	3 179	4 382	2 178

Source: Department of Forensic Medicine Statistics.

Table 28

Rape by sex

Sex	2005	2006	2007	2008	2009
Female	1 647	1 632	1 849	2 131	1 784
Male	146	148	168	191	141

Source: Department of Forensic Medicine Statistics.

Table 29
Cases of crimes against sexual freedom

<i>Cases initiated: crimes against sexual freedom at national level, 2005–2010</i>	
<i>Year</i>	<i>Total</i>
2005	5 471
2006	5 371
2007	5 732
2008	6 395
2009	6 597
Up to June 2010	3 100
Total	32 666

Source: Department of Statistics, Office of the Attorney-General of the Republic.

* According to the census carried out in 2007 by the Directorate-General of Statistics and Censuses (DIGESTYC).

Table 30
Cases of death in custody during the period 2005 to June 2010

<i>No.</i>	<i>Detention centre</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>June 2010</i>
1	Occidental	4	1	2		1	1
2	Metapám	1					
3	Apanteos	11	4	27	6	5	6
4	Sonsonate				1	1	1
5	La Esperanza	7	10	8	13	10	3
6	Quezaltepeque	2	4			4	1
7	Chalatenango		4	2	11		1
8	Sensuntepeque		2		2		1
9	Ilopango	1		1	1	2	1
10	Zacatecoluca	1	1	1	1	1	1
11	Cojutepeque	1	2	1	9	2	5
12	San Vicente		2	4	3	4	3
13	Usulután	2	1	2		3	
14	Jucuapa					1	
15	San Miguel			1	3	2	2
16	Ciudad Barrios	5	10	7	3	3	
17	Gotera			1	1	4	1
18	La Unión		2	1	1	1	
19	Izalco				1	2	
20	R. H. Psiquiátrico				1	1	
21	R. H. Rosales			1			
Total		35	43	59	57	47	27

Source: Directorate-General of Prisons.

Table 31
**Homicides. Data of the Department of Statistics, Directorate-General of Prisons,
 to 31 December 2009**

<i>Type of death</i>	2005	2006	2007	2008	2009	2010
Homicides involving common acts of violence	3 812	3 928	3 497	3 179	4 382	2 178

Source: Department of Forensic Medicine Statistics.

Table 32
Frequency of homicides by sex

<i>Sex</i>	2005	2006	2007	2008	2009	2010
Female	390	437	347	348	592	321
Male	3 422	3 484	3 150	2 831	3 790	1 854

Source: Department of Forensic Medicine Statistics.

Table 33
Prison population, 2005–2009

<i>Region</i>	<i>Detention centre</i>	<i>Convicted</i>			<i>Prosecuted</i>			<i>Overall total</i>
		<i>Men</i>	<i>Women</i>	<i>Total</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>	
Western 23.84%	Pen. occidentale	623	0	623	1	0	1	624
	Apanteos	2 122	0	2 122	1 005	0	1 005	3 127
	Metapan	139	0	139	51	0	51	190
	Izalco	736	0	736	88	0	88	824
	Sonsonate	370	0	370	156	0	156	526
	Total for region	3 990	0	3 990	1 301	0	1 301	5 291
Central 36.89%	Pen. central	2 933	0	2 933	1 685	0	1 685	4 618
	Ilopango	0	531	531	0	833	833	1 364
	Quezaltepeque	864	65	929	0	85	85	1 014
	Chalatenango	418	0	418	774	0	774	1 192
	Total for region	4 215	596	4 811	2 459	918	3 377	8 188
Paracentral 16.23%	Pen. oriental	1 097	0	1 097	911	0	911	2 008
	Sensuntepeque	225	123	348	20	50	70	418
	Cojutepeque	40	0	40	824	0	824	864
	Zacatecoluca	302	0	302	10	0	10	312
	Total for region	1 664	123	1 787	1 765	50	1 815	3 602
Eastern 22.46%	San Miguel	692	156	848	6	46	52	900
	Usulután	832	0	832	0	0	0	832
	Ciudad barrios	1 860	0	1 860	0	0	0	1 860
	San Francisco Gotera	425	0	425	43	0	43	468

Region	Detention centre	Convicted			Prosecuted			Overall total
		Men	Women	Total	Men	Women	Total	
	La Unión	18	0	18	435	0	435	453
	Jucuapa	0	0	0	473	0	473	473
	Total for region	3 827	156	3 983	957	46	1 003	4 986
	Subtotal all regions	13 696	875	14 571	6 482	1 014	7 496	22 067
Other institutions 0.59%	Psychiatric hospital	2	0	2	23	4	27	29
	Hospital Rosales	0	0	0	0	0	0	0
	Men's open prison	75	0	75	0	0	0	75
	Women's open prison	0	27	27	0	0	0	27
	Subtotal other institutions	77	27	104	23	4	27	131
Overall total		13 773	902	14 675	6 505	1 018	7 523	22 198

Source: Directorate-General of Prisons.

Table 34
Judiciary: Supreme Court of Justice. Department of Institutional Planning

Number of judges per 100 000 inhabitants (2010)	12
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Source: Supreme Court of Justice.

Table 35
Number of prosecutors per 100,000 inhabitants

Year	Prosecutors per 100 000 inhabitants
2005	10.4
2006	10.8
2007	12.6
2008	10.9
2009	15.7
To June 2010	15.6

Source: Department of Statistics, Office of the Attorney-General of the Republic.

Table 36
Titular judges and magistrates by type of court and sex, 2010

Post and type of court	Sex		Total
	Male	Female	
Chamber judges (<i>magistrados de sala</i>)	10	5	15
Chamber judges (<i>magistrados de cámara</i>)	34	14	48
Specialized chamber judges	0	2	2

<i>Post and type of court</i>	<i>Sex</i>		<i>Total</i>
	<i>Male</i>	<i>Female</i>	
Justices of the Peace	146	170	316
Examining magistrates	23	21	44
Specialized examining magistrates	2	2	4
Sentencing judges	43	19	62
Specialized sentencing judges	4	0	4
Civil court judges	20	6	26
Commercial court judges	3	2	5
Civil and commercial court judges	8	8	16
Labour court judges	6	3	9
Traffic court magistrates	5	4	9
Petty offences magistrate-judges	2	6	8
Military court judges	1	0	1
Family court judges	13	15	28
Juvenile court judges	5	12	17
Sentence enforcement judges	3	1	4
Prison supervision judges	3	7	10
Judges in courts of first instance	13	9	22
Total	334	306	650

Source: Office of the Attorney-General of the Republic.

Table 37
Alternate judges and magistrates, by court and sex at national level, 2010

<i>Post and type of court</i>	<i>Sex</i>		<i>Total</i>
	<i>Male</i>	<i>Female</i>	
Chamber judges	2	2	4
Justices of the peace	5	3	8
Examining magistrates	1	1	2
Sentencing judges	0	1	1
Juvenile court judges	1	2	3
Sentence enforcement judges	1	0	1
Judges in courts of first instance	1	0	1
Total	11	9	20

Source: Supreme Court of Justice.

Table 38
Legal aid to victims

Legal aid to victims following sentencing, by type of offence, in the Real and Personal Rights Unit

Cases dealt with in the San Vicente and Gotera branches of the Counsel-General's Office, 2005–2010 6

Source: Office of the Counsel-General of the Republic.

Table 39
Legal aid provided by the Public Defender's Unit

Legal aid provided by the Public Defender's Unit, June 2004–May 2010

	<i>June 2004 May 2005</i>	<i>June 2005 May 2006</i>	<i>June 2006 May 2007</i>	<i>June 2007 May 2008</i>	<i>June 2008 May 2009</i>	<i>June 2009 May 2010</i>
Adults Men	62 817	63 613	70 111	69 627	62 503	59 347
Adults						
Women	5 604	5 485	6 119	7 362	7 166	7 020
Minors	5 646	6 613	7 950	9 404	9 594	9 868
Total	74 067	75 711	84 180	86 393	79 263	76 235

Source: Office of the Counsel-General of the Republic.

Table 40
Legal aid to children and adolescents

Legal aid to child and adolescent victims

<i>Family Protection Unit</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Number of cases dealt with by public defenders in the family unit	384	609	886	756	770	445
Number of cases dealt with by public defenders in the children's unit (abandoned children)					547	72
Total	348	609	886	756	1 317	517

Source: Office of the Counsel-General of the Republic.

Table 41
Psychological assistance to victims

Psychological assistance to victims by the Psychosocial Assistance and Prevention Unit

<i>Cases dealt with</i>	<i>June 2006 May 2007</i>	<i>June 2007 May 2008</i>	<i>June 2008 May 2009</i>	<i>June 2009 May 2010</i>
Sexual abuse	306	179	237	207
Trafficking in human beings	-	-	-	1

Source: Office of the Counsel-General of the Republic.

II. General framework for the protection and promotion of human rights

A. Acceptance of international human rights norms

137. All international instruments which have been ratified by the State, including those that have not been mentioned, constitute laws of the Republic that require observance and respect for the principles and precepts which they establish throughout the national territory.

Table 42

Status of the main international human rights treaties

<i>System</i>	<i>Human rights instruments</i>	<i>Date of ratification</i>
Universal	Convention on the Prevention and Punishment of the Crime of Genocide.	Legislative Decree No. 803 of 5 September 1950, published in the Official Gazette No. 192 of 4 September 1950.
	International Convention on the Elimination of All Forms of Racial Discrimination.	Legislative Decree No. 27 of 22 November 1969, published in the Official Gazette No. 218, vol. 265, of 23 November 1979.
	International Covenant on Economic, Social and Cultural Rights.	Legislative Decree No. 27 of 22 November 1969, published in the Official Gazette No. 218, vol. 265, of 23 November 1979.
	International Covenant on Civil and Political Rights.	Legislative Decree No. 27 of 22 November 1969, published in the Official Gazette No. 218, vol. 265, of 23 November 1979.
	Optional Protocol to the International Covenant on Civil and Political Rights.	Legislative Decree No. 321 of 30 March 1995, published in the Official Gazette No. 82, vol. 327, of 5 March 1995.
	International Convention on the Suppression and Punishment of the Crime of Apartheid.	Legislative Decree No. 27 of 22 November 1969, published in the Official Gazette No. 218, vol. 265, of 23 November 1979.
	Convention on the Elimination of All Forms of Discrimination against Women.	Legislative Decree No. 705 of 2 June 1981, published in the Official Gazette No. 105, vol. 271, of 9 June 1981.
	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.	Legislative Decree No. 833 of 23 March 1994, published in the Official Gazette No. 92, vol. 323, of 19 May 1994.

<i>System</i>	<i>Human rights instruments</i>	<i>Date of ratification</i>
	Convention on the Rights of the Child.	Legislative Decree No. 487 of 27 April 1990, published in the Official Gazette No.108, vol. 307, of 9 May 1990.
	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.	Legislative Decree No. 609 of 15 November 2001, published in the Official Gazette No. 238, vol. 353, of 17 December 2001
	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.	Legislative Decree No. 280 of 25 February 2004, published in the Official Gazette No. 57, vol. 362, of 23 March 2004.
	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.	Legislative Decree No. 164 of 19 February 2003, published in the Official Gazette No. 49, vol. 358, of 13 March 2003.
	Convention on the Rights of Persons with Disabilities.	Legislative Decree No. 432 of 11 October 2007, published in the Official Gazette No. 205, vol. 377, of 5 November 2007.
	Convention on the Political Rights of Women.	Legislative Decree No. 754 of 15 December 1993, published in the Official Gazette No. 17, vol. 322, of 25 January 1994.
	Convention relating to the Status of Refugees.	Legislative Decree No. 167 of 22 March 1983, published in the Official Gazette No. 46, vol. 278, of 7 March 1983.
	Protocol relating to the Status of Refugees.	Legislative Decree No. 167 of 22 March 1983, published in the Official Gazette No. 46, vol. 278, of 7 March 1983.
Inter-American	Inter-American Convention on the Granting of Political Rights to Women.	Legislative Decree No. 124 of 17 January 1951, published in the Official Gazette No. 45 of 6 March 1951.
	Inter-American Convention on the Granting of Civil Rights to Women.	Legislative Decree No. 123 of 17 January 1951, published in the Official Gazette No. 45 of 6 March 1951.
	American Convention on Human Rights (Pact of San José)	Legislative Decree No. 5 of 15 June 1968, published in the Official Gazette No. 113, vol. 259, of 19 June 1978.

<i>System</i>	<i>Human rights instruments</i>	<i>Date of ratification</i>
	Inter-American Convention to Prevent and Punish Torture.	Legislative Decree No. 798 of 2 February 1994, published in the Official Gazette No. 127, vol. 324, of 8 July 1994.
	Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).	Legislative Decree No. 320 of 30 March 1995, published in the Official Gazette No. 82, vol. 327, of 5 May 1995.
	Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para).	Legislative Decree No. 430 of 23 August 1995, published in the Official Gazette No. 154, vol. 328, of 23 August 1995.
	Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.	Legislative Decree No. 420 of 4 October 2007, published in the Official Gazette No. 238, vol. 355, of 17 December 2001.
International Humanitarian Law	Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.	Legislative Decree No. 173 of 10 December 1952, published in the Official Gazette No. 37 of 24 February 1953.
	Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.	Legislative Decree No. 173 of 10 December 1952, published in the Official Gazette No. 37 of 24 February 1953.
	Geneva Convention (III) relative to the Treatment of Prisoners of War.	Legislative Decree No. 173 of 10 December 1952, published in the Official Gazette No. 37 of 24 February 1953.
	Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War.	Legislative Decree No. 173 of 10 December 1952, published in the Official Gazette No. 158, vol. 158, of 24 February 1953.
	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I).	Legislative Decree No. 12 of 4 July 1968, published in the Official Gazette No. 158, vol. 260, of 28 August 1978.

<i>System</i>	<i>Human rights instruments</i>	<i>Date of ratification</i>
	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).	Legislative Decree No. 12 of 4 July 1968, published in the Official Gazette No. 158, vol. 260, of 28 August 1978.
	Protocol (III) additional to the Geneva Conventions of 12 August 1949, and relating to the adoption of an additional distinctive emblem.	Legislative Decree No. 331 of 18 June 2007, published in the Official Gazette No. 122, vol. 376 of 4 June 2007.

138. Regarding the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at abolition of the death penalty, the executive branch has delegated the corresponding consultations to the relevant bodies to enable a comprehensive study to be carried out as part of the process prior to ratification.

139. Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and recognition of its Committee's competence, in accordance with articles 21 and 22, are currently the subject of analysis and appraisal with regard to content and scope.

140. Concerning recently signed instruments, on 25 September 2009 the Salvadoran Government signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights at United Nations Headquarters. The executive phase of its incorporation has now been completed, and the request was made on 7 June 2010 to initiate the legislative phase of its ratification.

Table 43

Recently signed international instruments

<i>International instrument</i>	<i>United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol</i>						
Ratification	Legislative Decree No. 432 of 11 October 2007, published in the Official Gazette No. 205, vol. 377, of 5 November 2007						
Submission of ratification to the United Nations	14 December 2007						
Reservation	<p>“The Government of the Republic of El Salvador signs the present Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, adopted by the United Nations General Assembly on 13 December 2006, to the extent that its provisions do not prejudice or violate the provisions of any of the precepts, principles and norms enshrined in the Constitution of the Republic of El Salvador, particularly in its enumeration of principles.”</p>						
	<table> <tr> <td>Nature and extent</td> <td>General</td> </tr> <tr> <td>Reason and status</td> <td>Reason: articles 144 and 246 of the Constitution of the Republic. Status: In force</td> </tr> <tr> <td>Effect</td> <td>Unilateral</td> </tr> </table>	Nature and extent	General	Reason and status	Reason: articles 144 and 246 of the Constitution of the Republic. Status: In force	Effect	Unilateral
Nature and extent	General						
Reason and status	Reason: articles 144 and 246 of the Constitution of the Republic. Status: In force						
Effect	Unilateral						

<i>International instrument</i>	<i>United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol</i>
Possible withdrawal	Consideration might be given to its possible withdrawal under the Government's current "human rights policy" project, article 4(d) of which states that one of its strategic guidelines is "to promote the withdrawal of inappropriate reservations to international human rights treaties".

Source: Directorate-General of Legal Affairs.

B. Legal framework for the protection of human rights at national level

141. Currently, human rights treaties do not have constitutional status under the 1993 Constitution of the Republic; however, under article 144 of the Constitution, international treaties take precedence over secondary legislation in the case of conflict between a law and a treaty.

142. A wide range of international instruments on human rights and international humanitarian law which protect human rights form part of Salvadoran law. However, the Government has thought it necessary to strengthen the national system for the protection of human rights by conducting a study of the main international human rights instruments to which El Salvador is not yet party, with a view to launching the domestic procedures required for their ratification and entry into force.

143. Accordingly, on 25 September 2009 during the sixty-fourth session of the General Assembly, El Salvador through its Ministry of Foreign Affairs signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; it thereby agrees to promote an academic, cross-sectoral dialogue intended to facilitate the eventual accession by El Salvador to the Rome Statute of the International Criminal Court.

144. As a State party to the American Convention on Human Rights, El Salvador accepted and recognized the competence of the inter-American system for the protection of human rights, namely the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, as from 23 June 1978. In the case of the Court, El Salvador recognized its jurisdiction until 6 June 1995.

145. Since the election of President Mauricio Funes, El Salvador has fully accepted the binding legal character of the Commission's reports and the Court's judgements; it has also accepted the recommendations of the United Nations Human Rights Council in the recent universal periodic review and those of the various treaty bodies.

146. With regard to the cases brought before the inter-American system for the protection of human rights, the Government has entered into a process of dialogue with victims of human rights violations and complainants in the various cases brought against the Salvadoran State with a view to expediting compliance with the recommendations of both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, in keeping with the Government's political and social commitment to restoring the dignity of victims through active listening and integration. There has also been a change of political stance, as evidenced in various hearings before the Commission and the Court (children who disappeared, Monseñor Romero, Jesuits, García Prieto).

147. This new vision of the State has generally involved adopting a different position in relation to its human rights commitments, recognizing the need to initiate a collective

process of reparation to the victims of grave human rights violations in the context of the past armed conflict. As part of this process, a significant action by the State was the public act of redress by the President of the Republic on 16 January 2010 in the context of the 18th anniversary of the Peace Accords, at which in the presence of the signatories of the Accords, representatives of international organizations, civil society and national and international media the President recognized the grave human rights violations that had occurred during the armed conflict and issued an apology on behalf of the State to the victims of the acts concerned and to their families. On the same occasion, the establishment of the National Commission on Reparations for the Victims of Human Rights Violations in the Context of the Internal Armed Conflict was announced under Executive Decree No. 57 of May 2010.

148. Some of the cases brought before the inter-American system for the protection of human rights have already resulted in substantive Commission reports or Court judgements, including the cases of:

- Monseñor Óscar Arnulfo Romero (IACHR report 2000);
- Ramón Mauricio García Prieto (IACHPR judgement 2007);
- Hermanitas Serrano Cruz (IACHPR judgement 2005).

149. In the case of Monseñor Óscar Arnulfo Romero, the Salvadoran State in part fulfilment of the Commission's recommendations held a special event at which the Head of State issued an apology and paid honour to the victims. In this case, victims also received material compensation and active steps are being taken in coordination with civil society organizations dedicated to the cause of Romero to implement other reparation measures, such as the construction of a memorial and the production of a video on the life and work of Monseñor Romero.

150. In the case of Ramón Mauricio García Prieto, the Court's final judgement was issued in 2007. In this case, the State withdrew the accusations by previous governments offensive to the dignity of the victims. The Court is currently engaged in ensuring compliance with its judgement, involving the re-publication of paragraphs of the original text to ensure full redress for the victims, which was not the case with the initial publication. The State is currently making the necessary arrangements to expedite compliance with the judgement.

151. In the case of the young Hermanas Serrano sisters, the Inter-American Court of Human Rights is also at the stage of monitoring implementation of its judgement, issued on 1 March 2005. In part fulfilment of the obligations deriving from that judgement, the State has in this instance set up a National Commission to search for children who disappeared during the internal armed conflict, under Executive Decree No. 5, published in the Official Gazette No. 11, vol. 386, of 18 January 2010, which was amended under Executive Decree No. 45, published in the Official Gazette No. 75, vol. 387, of 26 April 2010. The new Commission is consistent with international standards established by the Court, which guarantee the independence of State institutions in the exercise of their functions and their collaboration in the task of searching for children who have disappeared.

152. With reference to the United Nations system, El Salvador has made significant strides in implementing the recommendations of the various international human rights treaty committees. A commitment exists in this regard, and it is recognized that further action remains to be taken by the State. In the period covered by this report, El Salvador invited the United Nations Working Group on Enforced or Involuntary Disappearances to visit the country, which it did in February 2007.

153. The following institutions guarantee the effective exercise of human rights and fundamental freedoms, in accordance with article 191 of the Constitution:

- (a) The Judiciary, which comprises the Supreme Court of Justice, the appellate courts and such other courts as may be established by subsidiary laws;
- (b) The Public Legal Service, which comprises the following:
 - (i) The Attorney-General's Office;
 - (ii) The Counsel-General's Office;
 - (iii) The Office of the Human Rights Advocate.

154. The Attorney-General's Office is responsible for defending the interests of the State and society. It institutes legal proceedings at its own initiative or at the request of a party in defence of the law. It also conducts criminal investigations with the help of the national civil police and initiates legal proceedings in criminal matters at its own initiative or at the request of a party, among other functions and attributes. The post of Deputy Procurator for Human Rights has been established within the Attorney-General's Office.

155. The Counsel-General's Office, under article 194, section II, of the Constitution, is responsible for the defence of the family and of the persons and interests of minors, those lacking legal capacity and the elderly. Its tasks include the provision of legal assistance to persons of limited financial means and the provision of legal representation in the defence of their freedom and employment rights.

156. Its nature is defined by article 2 of the Office of the Counsel-General Organization Act, which provides that it is an institution forming part of the Public Legal Service and is a permanent and independent body, with legal personality and administrative independence, domiciled in the city of San Salvador and including assistant procurators providing services nationwide.

157. The Counsel-General's Office has 17 assistant procurators located as follows: Ahuachapán, Apopa, Chalatenango, Cojutepeque, La Libertad, La Unión, Metapán, San Francisco Morazán, San Miguel, San Salvador, San Vicente, Santa Ana, Sensuntepeque, Sonsonate, Soyapango, Usulután and Zacatecoluca. They provide services completely free of charge through six user assistance units.

158. The function of the Counsel-General's Office is to provide technical human rights protection in the areas of family, criminal law, labour and real and personal rights through the necessary administrative, legal and notarial assistance as well as mediation and psychosocial prevention services. It comprises four units offering user assistance and involved with victim care:

- Family, Children and Adolescents Protection Unit: the service is available in the 17 nationwide branch offices of the Counsel-General and is based on the guiding principles of family law — family unity, the equal rights of children, the comprehensive protection of minors, the disabled, the elderly, and fathers and mothers when one of them is solely responsible for the household;
- Real and Personal Rights Unit: its main function is to provide legal assistance to persons of limited means in cases related to property, possession, ownership of immovable or movable property, and notarial services. It is through this service that claims can be made on behalf of victims for civil damage compensation, subject to a prior criminal court verdict specifying the amount of the compensation;
- Public Defender Unit: its function is to provide legal defence of the individual freedom of adults, children and adolescents aged over 12 and under 18 who have been accused of a criminal offence;

- Psychosocial Prevention Unit: its function is to provide psychological and social care to individuals and family groups requesting it as well as care for the victims of crime, especially cases involving human trafficking.

159. The principal functions of the Office of the Human Rights Advocate include ensuring respect for and enjoyment of human rights; investigating, at its own initiative or on the basis of complaints received, cases of human rights violations; supervising the conduct of the public administration towards individuals; issuing opinions and preparing and publishing reports; and undertaking activities to promote human rights.

160. A Justice and Human Rights Commission has been established in the Legislative Assembly. The National Civil Police also has its own Inspectorate and a Human Rights Division, and a Human Rights Division exists within the Ministry of Defence.

161. The Ministry of Foreign Affairs has created a Directorate-General for Human Rights, which handles protection of the human rights of migrant Salvadorans and those living abroad, moral and material compensation for victims of the internal armed conflict and compliance with the State's commitments in the human rights field with respect to international instruments and their respective treaty bodies.

1. Judicial authority in El Salvador

162. Judicial authority lies with the judiciary, which consists of the Supreme Court of Justice and its Divisions, the appellate courts, the courts of first instance and the courts of justices of the peace. This branch of government has exclusive powers to adjudicate and to execute judgements in constitutional, civil, criminal, commercial, labour and agrarian matters, as well as in administrative disputes and in such other matters as may be determined by law.

163. It will be seen that, in the exercise of judicial authority, judges are independent and are subject to no restrictions other than those established by the Constitution and by the law.

164. The jurisdiction of the courts in El Salvador tends to be specialized by subject matter. Accordingly, there are courts of first instance for civil, family, criminal, military and labour matters and for cases involving housing, traffic violations, commerce, juveniles and public finance. There are also courts of appeal for civil, labour and criminal matters, while the Supreme Court of Justice has constitutional, civil, criminal and administrative disputes divisions. The latter exercise constitutional jurisdiction, deal with reviews on points of law in civil and criminal cases and with administrative disputes, serving as the final arbiter with regard to the constitutionality and legality of acts by any public authority.

165. In the administrative sphere, the Counsel-General's Office has the task of protecting the human rights of all the country's inhabitants. Other institutions administratively concerned with the enforcement and development of human right include:

- The Ministry of Health and Social Welfare;
- The Ministry of Labour and Social Security;
- The National Minimum Wages Council;
- The Ministry of the Economy;
- The Salvadoran Institute for the Advancement of Women;
- The Salvadoran Institute for Child and Adolescent Development;
- The Consumer Watchdog.

166. In addition, a non-governmental entity that monitors compliance with human rights is the Human Rights Commission.

2. Quasi-judicial authority in El Salvador

167. The Office of the Human Rights Advocate was established under the 1992 Peace Accords pursuant to the provisions of articles 191, 192 and 194 of the Constitution. This institution is part of the Public Legal Service and is a permanent and independent body having legal personality and administrative autonomy whose function is to ensure the promotion and teaching of respect for human rights and their unrestricted enjoyment.

168. Under article 194, section I, of the Constitution, the Human Rights Advocate shall:

- (a) Ensure respect for and the enjoyment of human rights;
- (b) Investigate, of his own accord or in response to complaints received by him, cases of human rights violations;
- (c) Assist presumed victims of human rights violations;
- (d) Initiate judicial or administrative proceedings for the protection of human rights;
- (e) Monitor the situation of persons deprived of their freedom; the Advocate shall be notified of all arrests and ensure that the legal limits for administrative detention are observed;
- (f) Carry out any inspections deemed necessary to ensure respect for human rights;
- (g) Supervise the conduct of the public administration towards individuals;
- (h) Promote reforms in State bodies with a view to the advancement of human rights;
- (i) Give advice concerning draft legislation that affects the exercise of human rights;
- (j) Promote and propose any measures deemed necessary to prevent human rights violations;
- (k) Formulate conclusions and recommendations, publicly or privately;
- (l) Prepare and publish reports;
- (m) Develop an ongoing programme of activities to foster awareness of and respect for human rights;
- (n) Exercise any other powers conferred on him by the Constitution or the law.

169. The Office of the Human Rights Advocate Act was promulgated by Legislative Decree No. 183 of 20 February 1992. This legislation lays down the functions and constitutional powers of the institution and determines the way in which it is organized and how it operates. Funding is provided for in the general State budget.

170. The Human Rights Advocate may, for the proper discharge of his duties, ask State bodies, civil, military or police authorities or officials or any other person for assistance, cooperation, reports or opinions, all of whom shall be obliged to cooperate with him and to give his requests and recommendations priority and immediate attention.

171. In addition to those mentioned above, the Human Rights Advocate has the following duties, in accordance with the applicable law:

- (a) To ensure strict compliance with the legal procedures and time limits for any appeals he or she may lodge or legal proceedings in which he or she may be involved;
- (b) To ensure respect for the guarantees of due process and to prevent detainees from being held in solitary confinement;
- (c) To keep a consolidated record of persons deprived of their freedom and of authorized detention centres;
- (d) To submit draft legislation for the promotion of human rights in El Salvador;
- (e) To promote the signature, ratification of or accession to international human rights treaties;
- (f) To issue statements of public censure against persons materially or intellectually responsible for human rights violations;
- (g) To endeavour to reconcile persons whose rights have been violated with the authorities or officials allegedly responsible, when the nature of the case so permits;
- (h) To establish, promote and develop communication and cooperation links with intergovernmental and non-governmental bodies for the promotion and protection of human rights, both national and international, and with the various sectors of Salvadoran society;
- (i) To issue the rules and regulations for the application of this Act and any rules of procedure that may be necessary;
- (j) To appoint, remove, grant leave to and accept the resignations of officials and employees of the Office;
- (k) To prepare the annual budget and transmit it to the competent authority;
- (l) To exercise any other powers conferred on him or her by the Constitution or the law.

172. The Office is headed by the Human Rights Advocate, who performs his or her duties throughout all of the national territory, either personally or through his or her deputies. The Office is based in the city of San Salvador.

173. The Human Rights Advocate is elected by the Legislative Assembly, by a clear two-thirds majority of the elected deputies, for a three-year term and may be re-elected. The holder of this post may not hold any other public office or exercise his or her profession, with the exception of teaching or cultural activities. The post is also incompatible with active participation in political parties, executive positions in trade unions or business organizations or with the position of minister in any religious denomination.

174. In addition to its titular head, the Office is composed of a Deputy Human Rights Advocate and Deputy Advocates for: economic, social and cultural rights; civil and political rights; environmental rights; rights of children and youth; and women's rights. The Human Rights Advocate may appoint such other Deputy Advocates as he or she may consider necessary for the most effective discharge of his or her constitutional and legal duties.

C. Framework within which human rights are promoted at national level

1. National legal framework for the protection of human rights

175. The mandate of the Office is extremely broad and allows it to monitor the respect shown for human rights by all State agencies without exception. This mandate also gives the Office wide scope to engage in various activities for the promotion and dissemination of

human rights, including civil, political, economic, social and cultural rights and the third-generation rights set forth in the Constitution, laws and treaties in force, as well as those embodied in the declarations and principles of the United Nations and of the Organization of American States.

176. As noted previously, the Office of the Human Rights Advocate has undergone major institutional strengthening in recent years through budgetary reinforcement by the State.

Table 44

Trends in the budget of the Office of the Human Rights Advocate

<i>Year</i>	<i>Budget</i>
2010	10 854 225
2009	6 574 720
2008	5 228 650
2007	4 382 525
2006	4 175 925
2005	4 175 925
2004	4 175 925
2003	3 703 000

Source: Fiscal Transparency Portal of the Ministry of Finance.

2. Incorporation of international human rights treaties into domestic law

177. Article 168, paragraph 4, of the Constitution confers on the President of the Republic the power to conclude international treaties and agreements, to submit them for ratification by the Legislative Assembly and to ensure compliance with their provisions.

178. The Legislative Assembly may refuse to ratify a treaty or agreement or may ratify it with reservations if it considers the parts to which it objects to be unconstitutional or inappropriate.

179. The Constitution of the Republic contains the basic norms relating to civil and political rights, economic, social and cultural rights, guarantees of due process of law and the duties of individuals, which are compatible with the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the American Convention on Human Rights, the Universal Declaration of Human Rights and the American Declaration on the Rights and Duties of Man.

180. Subsidiary laws also establish rights that are contained in international human rights instruments. For example, the Criminal Code and Code of Criminal Procedure provide punishment for torture, acts of terrorism, kidnapping, genocide, violation of the laws and customs of war, enforced disappearance of persons and child prostitution. Some domestic subsidiary laws have drawn on non-binding international instruments, as in the case of the National Civil Police Organic Law, which has incorporated provisions of the Code of Conduct for Law Enforcement Officials and of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

181. The Constitution of the Republic establishes that once international treaties enter into force in accordance with their own provisions and the Constitution, they become laws of the Republic. It is thus accepted that treaties that have been legally concluded and ratified form part of Salvadoran legislation.

182. The Constitution likewise establishes the position of treaties in Salvadoran law, according them equal ranking to subsidiary laws, whether enacted before or after the entry into force of the treaty. However, it provides that no subsidiary legislation may repeal or amend the provisions of a treaty, and that in the case of a conflict between them it is the treaty that prevails.

183. It should be noted that article 145 of the Constitution also stipulates that “treaties in which constitutional provisions are in any way restricted or affected may not be ratified unless the ratification is accompanied by the appropriate reservations. In such cases the provisions of the treaty in respect of which reservations have been made shall not be a law of the Republic”.

3. Domestic protection of the human rights contemplated in international instruments

184. Under the Constitution, the rights and freedoms contemplated in the human rights instruments ratified by El Salvador form part of its domestic positive law and guarantee citizens the possibility of applying to the relevant jurisdictions to avail themselves of the right of protection afforded by the treaties so that they can enjoy the rights and freedoms provided in them.

185. As for the restriction or limitation of human rights and the circumstances in which they are applicable, articles 29, 30 and 31 of Section 2 (“Regime of Exceptions”), Chapter I (“Individual rights and the regime of exceptions”), Title II (“Fundamental individual rights and guarantees”) of the Constitution provide that in the event of war, invasion of the national territory, rebellion, sedition, catastrophe, epidemic or other general calamity or in the event of serious disturbances of public order some of the safeguards established in articles 5, 6.1, 7.1 and 24 of the Constitution may be suspended, except in the case of religious, cultural, economic or sports meetings or associations. Such suspension may apply to the whole or part of the territory of the Republic and shall be effected by a decree of the Legislature or the Executive as the case may be.

186. The suspension of constitutional guarantees shall be for a maximum duration of 30 days. The suspension may subsequently be prolonged for an equal period, subject to the issuing of a new decree, if the circumstances that led to the suspension persist. If the decree is not issued, the suspended constitutional guarantees shall be automatically restored.

187. The Legislative Assembly or the Council of Ministers, as appropriate, is responsible for restoring the suspended constitutional guarantees when the circumstances that led to their suspension cease to exist.

188. Rights laid down in the Constitution that are mentioned in the various international human rights instruments include:

- Art. 1 – Right to life, liberty, health, culture and social justice;
- Art. 2 – Right to life, physical and moral integrity, freedom, security, work, ownership and possession of property, honour, personal and family privacy and self-image;
- Art. 3 – Right to equality;
- Art. 4 – Right to liberty and dignity;
- Art. 5 – Right to freedom of movement, domicile or residence;
- Art. 6 – Right to freedom of expression and thought, right of reply;
- Art. 7 – Right of free association and assembly;

- Art. 12 – Right to the presumption of innocence and to defence in a public hearing. Right to information;
- Art. 15.– Principle of legality;
- Art. 17 – Compensation for judicial delay;
- Art. 32 – Right to found a family;
- Art. 37 – Right to work and social security;
- Art. 47 – Right to form trade unions;
- Art. 48 – Right to strike;
- Art. 53 – Right to education and culture;
- Art. 65 – Right to health and social welfare;
- Art. 72 – Political rights.

189. As already pointed out, the international treaties ratified by El Salvador constitute laws of the Republic and imply an obligation on the part of State officials to apply them directly with no need for a subsequent legislative or administrative act, subject always to the principle of constitutional supremacy.

190. As regards international human rights machinery, El Salvador has ratified the Optional Protocol to the International Covenant on Civil and Political Rights, which establishes a procedure for the submission of individual communications to the Human Rights Committee.

191. In the context of the inter-American system for the protection of human rights, El Salvador on 6 June 1995 submitted to the Secretary General of the Organization of American States its instrument of notification recognizing the jurisdiction of the Inter-American Court of Human Rights to hear complaints concerning violations of the human rights set out in the American Convention on Human Rights. Its recognition of jurisdiction had previously been ratified by the Legislative Assembly under Legislative Decree No. 319 of 30 March 1995.

192. Within the inter-American system for the protection of human rights, the Inter-American Commission on Human Rights handles complaints concerning individual cases, issuing resolutions and recommendations that the Salvadoran State recognizes as binding.

193. In accordance with the principle of subsidiarity, this international machinery comes into play once all domestic remedies established in the judicial system have been exhausted. This machinery constitutes an additional recourse for persons who consider that their human rights and fundamental freedoms have been violated.

194. The Ministry of Foreign Affairs serves as the link with the competent national bodies and prepares replies with the information received from them concerning human rights complaints or communications.

195. During the armed internal conflict, the situation of human rights in El Salvador was considered by the former United Nations Commission on Human Rights, which appointed Professor José Antonio Pastor Ridruejo as Special Representative in 1981 with a mandate to investigate human rights violations in El Salvador and make relevant recommendations covering the period 1982 to 1992. In 1992, the Commission appointed Dr. Pedro Nikken as independent expert with a new mandate of “providing assistance in human rights matters to the Government of El Salvador, considering the human rights situation in that country and the effects of the Peace Accords on the effective enjoyment of human rights, and investigating the manner in which both parties applied the recommendations contained in

the final report of the Special Representative and those made by the United Nations Observer Mission in El Salvador (ONUSAL) and the commissions established during the negotiating process”, with instructions “to report to the General Assembly and the Commission on Human Rights”.⁴

196. The first of the substantive agreements in the El Salvador peace process was the San José Agreement on Human Rights of 26 July 1990, which laid down a commitment to ensuring respect for human rights and to the establishment, under Security Council resolution 693 (1991) of 20 May 1991, of ONUSAL as an integrated operation to verify compliance with all the peace agreements, its duties to conclude in 1995.

197. El Salvador was a member of the former Commission on Human Rights from 1962 to 1964 and from 1995 to 2000, and in 1997 served as Rapporteur to the Bureau of the Commission at its 53rd session.

4. Domestic promotion of the rights contained in international human rights instruments

198. On the basis of the 1992 Peace Accords, a commitment was established to make progress in respecting and promoting human rights, which had been violated at a number of levels during the period of the Civil War.

199. The general environment in El Salvador has been favourable to institutionalizing a culture of respect for human rights and democratic freedoms; the State has made efforts to strengthen the legal and institutional framework, thus making it possible to change attitudes and behaviour. Civil society has become very active, with increased participation in democratic life, and has reached out to the population through education and information campaigns designed to help people exercise and assert their rights.

200. As a result, human rights in El Salvador are now considered from a broad perspective that encompasses respect for the freedom and dignity of the individual, safeguards for the expression of ideas and political participation, which are political and social rights, and a reclaiming of economic, social and cultural rights.

201. The national education system seeks to promote human rights in El Salvador. To this end, article 60, paragraph 2, of the Constitution stipulates that human rights education will be mandatory in all teaching centres, whether public or private, civilian or military.

202. By constitutional mandate, the Office of the Human Rights Advocate is entrusted with developing an ongoing programme of activities to promote familiarity with and respect for human rights. It carries out activities aimed at meeting its obligations in this area and enhancing public awareness of human rights and fundamental freedoms.

203. Information on and knowledge of human rights legislation, policies and procedures are regularly provided by means of training, practical courses, seminars and special human rights commemorative activities for government employees, prosecutors, public defenders, judges, police, and military and prison personnel.

204. State institutions helping to disseminate information, promote awareness and provide training in the area of human rights include the Judicial Service Training College, the Secretariat for Social Integration, the Salvadoran Institute for the Advancement of Women and the Salvadoran Institute for Child and Adolescent Development (ISNA). The Police Human Rights School, which comes under the Inspectorate-General of the National

⁴ Report of the Independent Expert, Mr. Pedro Nikken, on developments in the human rights situation in El Salvador, prepared pursuant to Commission on Human Rights resolution 1994/62 (E/CN.4/1995/88).

Civil Police, also provides human rights training to the police corps. The National Public Security Academy includes such training in its curriculum, as does the prison school.

205. The Salvadoran State recognizes that international cooperation has been of great importance for the development of programmes concerned with the administration of justice, public security, the human rights of vulnerable groups, and education in and promotion of human rights.

206. One significant international cooperation activity was the technical cooperation project in the field of human rights undertaken in El Salvador by the Office of the United Nations High Commissioner for Human Rights from 1997 to 2000, designed to provide training and documentation on the system for the protection of human rights and to strengthen public security in El Salvador. The institutions that benefited were the Ministry of Foreign Affairs, the Legislative Assembly, the armed forces, the National Civil Police and its General Inspectorate, the Public Security Academy, the Salvadoran Institute for the Protection of Minors and the Salvadoran Institute for the Advancement of Women.

207. As part of this project, publications and material on human rights and fundamental freedoms were issued and disseminated on the following topics: basic human rights standards; basic standards of international humanitarian law; the Convention on the Rights of the Child (pocket edition); national and international standards concerning violence against women (pocket edition); Universal Declaration of Human Rights (pocket edition); national and international standards applicable to the penitentiary system (pocket edition); national and international standards concerning discrimination against women (pocket edition); national and international standards applicable to juvenile offenders (pocket edition); and international human rights standards for law enforcement.

208. Posters dealing with human rights were also printed and distributed to various State institutions and non-governmental human rights organizations. The subjects covered were: the rights and duties of the individual; children's rights and duties; main human rights treaties in force in El Salvador; and the rights and obligations of persons deprived of their liberty and prison staff.

209. Periodically, messages are inserted in the mass media (press, radio and television) with support from the Government, the private sector and non-governmental organizations, in particular concerning the protection of the human rights of vulnerable sectors of the population (children, women and the disabled).

5. Manner and extent to which international human rights instruments have been translated into local languages

210. As part of the technical cooperation project carried out by the Office of the United Nations High Commissioner for Human Rights, the Universal Declaration of Human Rights has been translated into Pipil, the language used by the indigenous minorities, in order to familiarize them with its principles. The Pipil-language version can be found on the web site of the High Commissioner's Office.

211. A Spanish translation of the Universal Declaration has been printed in Braille and a video has been made which presents the Universal Declaration in sign language, both initiatives with the aim of enabling persons with sight and hearing impairment to be familiar with it and its application.

212. This material has been distributed to cultural centres throughout the country so that it can be available and easily accessible to those interested.

D. Reporting process at national level

1. National coordination structure

213. The preparation of the reports which El Salvador submits to the United Nations human rights treaty bodies is an inter-agency effort, coordinated by the Ministry of Foreign Affairs.

214. Experts from the Government as well as from independent and State agencies, particularly those concerned with the implementation of the rights covered by the various international human rights covenants and treaties, participate in the preparation of these reports.

215. Efforts have been launched to ensure efficient collaboration among non-governmental organizations through activities relating to protection and investigation in the area of human rights.

216. Through the Secretariat for Social Integration, a policy of openness, honesty and transparency has been established in relation to civil society organizations representing indigenous peoples. Such is the case with the Salvadoran National Indigenous Coordinating Council, the Association for the Coordination of Indigenous Communities of El Salvador and many others that do not feel themselves represented by the two above bodies.

217. Reflecting the open and transparent relationship being built with all sectors of civil society and indigenous organizations, the Government of El Salvador invited anyone wishing to submit alternative situation reports or concerns to the various committees to do so through the official delegations.

2. Participation of departments, institutions and officials at national, regional and local levels of governance and, where appropriate, at federal and provincial levels

218. Concerning the participation of officials at national, regional and local level, it should be noted that reports are prepared with the support of central government bodies, which in turn include in their information data on activities at regional and local level.

3. Whether reports are made available to or examined by the national legislature prior to submission to the treaty monitoring bodies

219. The process of preparing country reports includes inviting the Legislative Assembly to provide information on progress made in legislation relating to the specific topics on which reporting is taking place. It should be mentioned that as a result of the current administration's closer relationship with the treaty bodies, the various country reports submitted to Committees are being given wider distribution and publicity. An example is the distribution given to the observations by the CEDAW Committee on the sixth report of El Salvador, which were publicized nationally through public events. The observations were also published in a document distributed by ISDEMU.

4. Participation of entities outside of government

220. The Delegation present at the defence of the report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination received two reports: the first, from the Committee for the Defence of the Natural Resources of Nahuizalco, entitled "Summary of the Campaign of the Committee for the Defence of the Natural Resources of Nahuizalco"; and the second, from the Salvadoran National Indigenous Coordinating Council, entitled "Alternative Report on Compliance by the Salvadoran State with the Recommendations of the Convention on the Elimination of

All Forms of Racial Discrimination”. Both reports were distributed to members of the Committee by the Government delegation.

221. In the preparation of country reports, the Ministry of Foreign Affairs has recourse to the Office of the Human Rights Advocate for the compiling of information and organization of inter-agency drafting groups.

5. Follow-up to concluding observations of human rights treaty bodies

222. Through the Ministry of Foreign Affairs, the present Government plans from 2010 to adopt a procedure for coordinating the contribution of State institutions to the submission of reports and implementation of recommendations related to the activities of the various United Nations human rights treaty bodies. It is also planned to adopt a procedure for the effective participation of civil society.

223. El Salvador hopes that these new arrangements will result in significant changes in the dissemination and follow-up of the Committees’ recommendations as well as in report preparation procedures, thereby ensuring more effective exercise of the State’s duty to safeguard the human rights recognized in the Covenant.

III. Information on non-discrimination and equality and effective remedies

A. Non-discrimination and equality

224. El Salvador ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1979 and the Convention on the Elimination of All Forms of Discrimination against Women in 1981.

225. In fulfilment of its obligations under the Convention, the State of El Salvador has incorporated into its Constitution and subsidiary legislation provisions to ensure implementation. Article 144 of the Constitution provides that all treaties signed by El Salvador constitute laws of the Republic and take precedence over subsidiary legislation, in the following terms: “The international treaties concluded by El Salvador with other States or international organizations shall constitute laws of the Republic once they have entered into force, in conformity with the provisions of the treaties in question and of this Constitution. The law may not change or derogate from that which has been agreed in a treaty in force for El Salvador. In the event of a conflict between the treaty and the law, the treaty shall take precedence.” In other words, according to the Salvadoran legal system, treaty provisions are directly enforceable.

226. In 2007, El Salvador signed and ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol. In August 2010, it verbally submitted to the Committee on the Elimination of Racial Discrimination its consolidated fourteenth and fifteenth periodical reports, in which it explained in depth the legal framework for preventing discrimination and the institutional policies carried out to guarantee equality and public participation.

227. 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 have 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.

228. It should be noted that article 3 of the Constitution states: “All persons are equal before the law. No restrictions based on nationality, race, gender or religion may be imposed on the exercise of civil rights. Hereditary offices or privileges shall not be recognized.”

229. In the area of education, science and culture, article 58 of the Constitution, which establishes that no educational institution may deny education on the grounds of racial difference, is worded as follows: “No educational establishment shall refuse to admit students because of the nature of their parents’ or guardians’ union or because of social, religious, racial or political differences.”

230. Non-discrimination in the area of health care is established in secondary legislation, specifically in the Health Code, which in article 33 (under chapter VIII (Obligations, Rights and Prohibitions), section 1 (Obligations)) provides as follows: “Health professionals, technicians, auxiliaries, hygienists and assistants shall: (a) provide the best type of care to all those who seek their professional services, having regard always to their human condition, without any distinction based on nationality, religion, race, political conviction or social class (...).”

231. Information on the incorporation of the principle of non-discrimination in national legislation was provided in El Salvador’s consolidated third, fourth and fifth reports specifically concerned with the implementation of the International Covenant on Economic, Social and Cultural Rights.

232. The document concerned includes more detailed information on measures to ensure equal exercise of the rights embodied in the Covenant.

B. Effective remedies

233. Under Salvadoran legislation, any person who considers that any of the constitutional principles has been violated has three basic remedies regulated by the Constitutional Procedures Act: (a) *habeas corpus*; (b) enforcement of constitutional rights (*amparo*); and (c) constitutional review.

234. In addition, the Constitution and the Administrative Jurisdiction Remedies Act regulate any controversies arising in relation to the legality of acts of the public administration; such appeals are lodged with the Administrative Disputes Division of the Supreme Court of Justice.

1. Habeas corpus

235. The remedy of *habeas corpus* is a constitutional procedure whereby real or imminent restrictions on the freedom of the subject of a writ are declared illegal or arbitrary. Article 11, subparagraph 2, of the Constitution provides that: “everyone has the right to *habeas corpus* when any authority or individual illegally restricts his liberty”.

236. Article 4 of the Constitutional Procedures Act also stipulates: “Where the violation of a right consists in the illegal restriction of individual freedom by any authority or individual, the affected person shall have the right to file a writ of *habeas corpus* before the Constitutional Division of the Supreme Court of Justice or before appellate courts located outside the capital.”

237. Likewise, Article 40 of the Constitutional Procedures Act stipulates: “In all cases, whatever their nature, involving imprisonment, detention, custody or restraint that is not authorized by the law or is exercised in a manner or to a degree that is not authorized by the law, the affected party shall have the right to be protected by a writ of personal appearance.”

2. Remedy of *Amparo*

238. *Amparo* is a constitutional procedure, extraordinary in nature, designed to strengthen protection of the constitutional rights of citizens against acts by public authorities — whether formal or material — involving violation or restriction of the exercise of such rights.

239. This provision is developed in article 247 of the Constitution and in article 12 of the Constitutional Procedures Act, which states: “Any person may apply to the Constitutional Division of the Supreme Court of Justice for *amparo* in the event of the violation of the rights granted to him by the Constitution.” Where the application for *amparo* is based on unlawful detention or undue restriction of personal liberty, the matter should be treated as one of *habeas corpus*.

240. Application for *amparo* may be made in response to any act or omission by any authority or official of the State or of its decentralized bodies which violates those rights or impedes their enjoyment.

241. Application for *amparo* may be made only when the act complained of cannot be remedied by other recourse procedures. This and the other options available under the *amparo* procedure are regulated by the Constitutional Procedures Act.

3. Remedy of unconstitutionality

242. This remedy constitutes an abstract verification of constitutional legitimacy, since it is the tool specifically geared to protecting the supreme legal canon and the rights and principles it establishes. The citizen invoking it seeks to have an allegedly unconstitutional provision declared formally or procedurally inadmissible on the grounds that it does not meet the formal constitutional requirements for it to be valid. This procedure is embodied in articles 174 and 183 of the Constitution, which stipulate that the Constitutional Division of the Supreme Court of Justice is responsible, among other things, for hearing and ruling on petitions for the constitutional review of laws, decrees or regulations.

4. Administrative Disputes Division

243. The Administrative Disputes Division is responsible for hearing and resolving disputes arising in relation to the legality of acts of the public administration. In El Salvador the basis for resolving administrative disputes is article 172 of the Constitution, which grants the judiciary the exclusive power to adjudicate and execute judicial decisions in this domain.

244. The establishment of a judicial forum to hear administrative disputes dates back to 1978, when the Legislative Assembly adopted the Administrative Jurisdiction Remedies Act. This addition to the Salvadoran legal system constituted a major advance inasmuch as it provided an effective legal instrument to ensure that applicants’ individual rights and legitimate interests were protected against acts by the public administration, and thus constitutes an important tool for ensuring the legality and the certainty of the law.

245. The establishment of this machinery filled a gap in Salvadoran legislation, since the aforementioned Act guarantees the rights of the public administration as well as those of the individuals subject to it.

246. The Act is consistent with the relevant constitutional standards; it conceives and articulates the remedy of administrative jurisdiction as falling within the powers of the Supreme Court of Justice and, within the Court’s structure, as the responsibility of the Administrative Disputes Division. Thus the system of administrative justice constitutes a sole and final instance within the judiciary.

247. Basically the Administrative Jurisdiction Remedies Act is a statutory instrument containing provisions that are simple and easy to apply; it has its basis in the guiding principles and norms of administrative law that are to be found in the laws and codes of other States. Experience gained over the years has confirmed that this Act plays a primary role in ensuring the legality of administrative acts.

Table 45

International instruments applied in constitutional jurisprudence in *amparo* proceedings, 2005 to June 2010

<i>Procedure</i>	<i>Reference</i>	<i>Contested provision</i>	<i>Ruling</i>	<i>Instrument applied/Specific articles</i>
<i>Amparo</i>	259-2007	Appeal in <i>amparo</i> against a multipurpose law (<i>ley heteroaplicativa</i>), involving consideration of four rulings specifically concerned with implementation of the National Civil Service Pensions Institute Act, on the grounds that the Act in question contravened the right to equal treatment and the complainant's social security rights; since although the legal provision concerned enabled the widow and the widower to receive the surviving spouse's pension, subparagraph (1) of the provision in question established different requirements according to the sex of the applicant. Thus the Act required the claimant to prove that, as well as being a widower, he was also handicapped and economically dependent on the contributor, whereas the widow was only required to prove the death of her legal or common-law husband.	Ruling upheld 6/6/2008	<ul style="list-style-type: none"> • Art. 2.1 of the International Covenant on Civil and Political Rights. • Art. 1.1 of the American Convention on Human Rights. • Art. 22 of the Universal Declaration of Human Rights. • Art. 9 of the International Covenant on Economic, Social and Cultural Rights. • Art. 9 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador". • Arts. 24, 28 y 35 of the Inter-American Charter of Social Guarantees.
<i>Amparo</i>	439-2005	Dismissal of an employee of the National Register of Natural Persons without due process, alleging violation of the right to a hearing and job security. In this particular case, the labour relationship was based on an administrative decision to appoint to a post on a monthly basis; and on those grounds the authority concerned claimed that the person's entitlement to job security terminated with the month in question.	Ruling upheld 6/12/2006	<ul style="list-style-type: none"> • Employment Policy Convention No. 122; • Human Resources Development Convention No. 142.

<i>Procedure</i>	<i>Reference</i>	<i>Contested provision</i>	<i>Ruling</i>	<i>Instrument applied/Specific articles</i>
<i>Amparo</i>	438-2005	Dismissal of an employee of the National Register of Natural Persons without due process, alleging violation of the right to a hearing and job security. In this particular case, the labour relationship was based on an administrative decision to appoint to a post on a monthly basis; and on those grounds the authority concerned claimed that the person's entitlement to job security terminated with the month in question.	Ruling upheld 29/3/2007	<ul style="list-style-type: none"> • Employment Policy Convention No. 122; • Human Resources Development Convention No. 142.
<i>Amparo</i>	440-2005	Dismissal of an employee of the National Register of Natural Persons without due process, alleging violation of the right to a hearing and job security. In this particular case, the labour relationship was based on an administrative decision to appoint to a post on a monthly basis; and on those grounds the authority concerned claimed that the person's entitlement to job security terminated with the month in question.	Ruling upheld 29/2/2008	<ul style="list-style-type: none"> • Employment Policy Convention No. 122; • Human Resources Development Convention No. 142.
<i>Amparo</i>	348-2004	Failure of the Prosecutor-General of the Republic to address the complaints lodged by Schafik Jorge Handal Handal with the Office of the Prosecutor-General of the Republic on 25/2/2004.	Ruling upheld 2/10/2008	<ul style="list-style-type: none"> • Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the United Nations General Assembly (Principle No. 2). • American Convention on Human Rights (art. 8.1).
<i>Amparo</i>	163-2007	Decision No. 7440-1360-2006 issued on 15/12/2006 by the Ministry of the Environment and Natural Resources, granting permission to the Sociedad Jordan S.A. de C.V. for a building project at the Playa Los Cóbanos, on the grounds that the public consultation required under the relevant environmental legislation has not been carried out.	Ruling upheld 9/12/2009	<ul style="list-style-type: none"> • Art. 11 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

<i>Procedure</i>	<i>Reference</i>	<i>Contested provision</i>	<i>Ruling</i>	<i>Instrument applied/Specific articles</i>
<i>Amparo</i>	18-2004	Decision by the Director-General of the Register of Not-for-Profit Associations and Foundations to refuse to register the “Nombre de la Rosa Sexual Freedom Association”, on the grounds that it was not consistent with public order, morality, the law and good customs.	Ruling upheld 9/12/2009	<ul style="list-style-type: none"> Articles 1.1 and 16.2 of the American Convention on Human Rights. Art. 22.2 of the International Covenant on Civil and Political Rights. Inter-American Court of Human Rights. Advisory Opinions OC-5/85 of 13/11/1985 and OC-6/86 of 9/5/1986. Reference to the interpretation of the United Nations Human Rights Committee concerning article 26 of the International Covenant on Civil and Political Rights.
<i>Amparo</i>	166-2009	(i) Decision by the Director of Drug Therapy of the Salvadoran Social Insurance Institute, dated 19/12/2008, whereby it was decided not to grant the prescription of the specific drug entitled “Raltegravir” to the applicant; and (ii) the decision by the Director-General of the Salvadoran Social Insurance Institute, through the Secretary of the Institute’s Governing Council, confirming the refusal to supply the drug concerned.	Writ of acceptance with the adoption of a new interim measure 8/2/2009	<ul style="list-style-type: none"> Reference to Substantive Report No. 27/09 issued by the Inter-American Commission on Human Rights in case No. 12.249 Jorge Odir Miranda Cortez and others versus the State of El Salvador.
<i>Amparo</i>	473-2006	Agreement No. 2, contained in the record of the third extraordinary meeting of the Municipal Council of Lolotiquillo held on 2/5/2006, dismissing the petitioner from the post of Municipal Secretary without taking into account the fact that she was pregnant at the time.	Ruling upheld 16/6/2010	<ul style="list-style-type: none"> Art. 10.2 of the International Covenant on Economic, Social and Cultural Rights. Article 11.2 of the Convention on the Elimination of All Forms of Discrimination against Women.

Source: Supreme Court of Justice.

Table 46
Unconstitutionality proceedings

<i>Procedure</i>	<i>Reference</i>	<i>Contested provision</i>	<i>Ruling</i>	<i>Instrument applied/ Specific articles.</i>
Unconstitutionality	52-2003	<p>Arts. 1 to 6, 8 to 11, 16, 18, 19, 21, 22, 23.1, 24 to 27 and 29 to 45 of Legislative Decree No. 158, of 9/10/2003, published in the Official Gazette No. 188, vol. 361, dated 10/10/2003, which contains the Anti-Gang Law.</p> <ul style="list-style-type: none"> • The contested provisions make minors under 18 subject to the same criminal code as adults, whereas both the Constitution and International Human Rights Law have established that antisocial conduct by minors is subject to a special code; • There is no respect for due process, neither for victims nor their families; • Disregard for the limiting principles of the <i>Ius Puniendi</i> of States — principle of culpability and of legality. 	Ruling upheld	<ul style="list-style-type: none"> • Articles 1 and 40.3 of the Convention on the Rights of the Child; • Art. 2.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”); • Arts. 8.1, 8.2, 9 and 19 of the American Convention on Human Rights; • Arts. 14.2, 15.1 and 15.2 of the International Covenant on Civil and Political Rights.
	31-2004	<p>Legislative Decree No. 347 of 15/6/2004, published in the Official Gazette No. 128, vol. 364, of 9/7/2004 and articles 104 (c) and 200 (a) of the Pensions Savings Scheme Act</p> <p>The alleged violations relate to:</p> <ul style="list-style-type: none"> • Social security; • Criteria governing the ordering of legal standards. 	Ruling dismissed	<ul style="list-style-type: none"> • Art. 9 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; • Articles 24, 28 and 35 of the Inter-American Charter of Social Guarantees; • Article 2 of the International Covenant on Economic, Social and Cultural Rights; • Article 26 Convención Americana sobre Derechos Humanos.

<i>Procedure</i>	<i>Reference</i>	<i>Contested provision</i>	<i>Ruling</i>	<i>Instrument applied/ Specific articles.</i>
	91-2007	Article 191, subparagraphs 2 and 3, of the Penal Code, issued under Legislative Decree No. 1030 of 26/4/1997, published in the Official Gazette No. 105, vol. 335, of 10/6/1997, and amended by Legislative Decree No. 499, of 28-10-2004, published in the Official Gazette No. 217, vol. 365, of 22/11/2004. • Violation of honour, image and equality.	Ruling upheld	<ul style="list-style-type: none"> • Articles 3 and 19 of the Universal Declaration of Human Rights; • Articles 17, 19 and 49 of the International Covenant on Civil and Political Rights; • Articles 11, 13 and 14 of the American Convention on Human Rights.
	61-2009	Articles 211, 215, 216, 218, 239, 250.1 and 262.6 of the Electoral Code. • Provisions of the Electoral Code concerning exercise of the right to vote, election of candidates and membership of political parties.	Ruling upheld	<ul style="list-style-type: none"> • Article 21 of the Universal Declaration of Human Rights; • Articles 2 and 23 of the American Convention on Human Rights.

Source: Supreme Court of Justice.

Table 47
***Habeas corpus* proceedings**

<i>Procedure</i>	<i>Reference</i>	<i>Contested provision</i>	<i>Ruling</i>	<i>Instruments applied/specific articles.</i>
<i>Habeas corpus</i>	125-2005	Violation of human dignity with reference to the personal integrity of the human being, the prohibition of all kinds of torture and cruel, inhuman or degrading treatment with regard to the use of force by State authorities in the act of capture.	Ruling upheld 29/02/2008	<ul style="list-style-type: none"> • Articles 7 and 10.1 of the International Covenant on Civil and Political Rights; • Articles 5.1 and 5.2 of the American Convention on Human Rights; • Article 5 of the Universal Declaration of Human Rights; • Articles I and XXV of the American Declaration of the Rights and Duties of Man; • Principles 1 and 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; • Articles 2 and 5 of the Code of Conduct for Law

<i>Procedure</i>	<i>Reference</i>	<i>Contested provision</i>	<i>Ruling</i>	<i>Instruments applied/specific articles.</i>
				Enforcement Officials;
				<ul style="list-style-type: none"> Articles 1, 6 and 7 of the Inter-American Convention to Prevent and Punish Torture; Article 21 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment; Article 7 of the Framework Treaty on Democratic Security in Central America.
<i>Habeas corpus</i>	19-2008	Excessive restriction of personal freedom in relation to the conditions of administrative arrest and detention.	Ruling upheld 14/05/2009	<ul style="list-style-type: none"> Article 5 of the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live.
	117-2007		Ruling upheld 29/07/2009	
<i>Habeas corpus</i>	231-2006	Immediate capture in the absence of an administrative or judicial order.	Ruling upheld 19/08/2009	<ul style="list-style-type: none"> Articles 20.1 and 3 of the United Nations Convention against Transnational Organized Crime – signed and ratified by El Salvador on 8/3/2004.
<i>Habeas corpus</i>	131-2007	Enforced disappearance.	Writ of acceptance 15/06/2009	<ul style="list-style-type: none"> Articles 146 and 147 of the Geneva Convention (IV) of 12 August 1949 relative to the Protection of Civilian Persons in Time of War.
<i>Habeas corpus</i>	5-2010	Capture of a person of French nationality without informing him of his right to consular assistance.	Ruling dismissed 30/06/2010	<ul style="list-style-type: none"> Article 36 of the Vienna Convention on Consular Relations.
<i>Habeas corpus</i>	221-2009	Restriction of the personal freedom of minors as the result of being placed under an interim measure in the Salvadoran Institute for the Comprehensive Development of Children and Adolescents.	Ruling upheld 2/06/2010	<ul style="list-style-type: none"> Articles 3, 19, 20 and 39 of the Convention on the Rights of the Child.

<i>Procedure</i>	<i>Reference</i>	<i>Contested provision</i>	<i>Ruling</i>	<i>Instruments applied/specific articles.</i>
<i>Habeas corpus</i>	135-2005/ 32-2007 Accumulated	Imposition of a prison sentence based on inadmissible evidence involving the opening of a postal package.	Ruling upheld 16/05/2008	<ul style="list-style-type: none"> • Universal Postal Convention.
<i>Habeas corpus</i>	13-2008	Excessive restriction of the right to freedom during the stages of the criminal procedure as a consequence of undue delays.	Ruling upheld 7/05/2010	<ul style="list-style-type: none"> • Article 9.3 of the International Covenant on Civil and Political Rights.
	14-2008		Ruling upheld 7/05/2010	<ul style="list-style-type: none"> • Article 7.5 of the American Convention on Human Rights.
<i>Habeas corpus</i>	145-2008R	Imminent capture on the basis of an unfounded interim detention measure.	Ruling upheld 28/10/2009	<ul style="list-style-type: none"> • Articles 7.2, 7.6 and 8.2 of the American Convention on Human Rights. • Article 9.3 of the International Covenant on Civil and Political Rights.

Source: Supreme Court of Justice.