

**Submission by the United Nations High Commissioner for Refugees**  
**For the Office of the High Commissioner for Human Rights' Compilation Report**  
**Universal Periodic Review: 3rd Cycle, 34th Session**

**EL SALVADOR**

**I. BACKGROUND INFORMATION**

El Salvador acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter, the *1951 Convention*) on the 22<sup>th</sup> February 1983. El Salvador is also Party to the *1954 Convention relating to the Status of Stateless Persons* (hereinafter, the *1954 Convention*) in 2015, but is not a State party to the *1961 Convention on the Reduction of Statelessness* (hereinafter, the *1961 Convention*).

The *National Refugee Law* was adopted in 2002<sup>1</sup> and its regulatory framework in 2005.<sup>2</sup> Both legal instruments together with the *Migration Law*<sup>3</sup> constitute the national legal framework for refugees.

El Salvador is affected by high levels of violence, poverty, discrimination, lack of opportunities and inequalities related to limited access to education, employment and health. These protection deficiencies constitute factors driving a steady flow of displacement both internally and externally. The homicide rate remains one of the highest in Latin America<sup>4</sup>, although it has decreased as a result of measures implemented by the Government.<sup>5</sup> Statistics show that, in 2018, a total of 3,340 people were murdered.<sup>6</sup> However femicides are reaching alarming levels with 384 women killed in El Salvador in 2018 alone.<sup>7</sup>

According to official figures, approximately 71,500 persons were internally displaced as a result of violence from 2006 to 2016.<sup>8</sup> There is a total of 138,000 Salvadoran refugees and asylum-seekers worldwide.<sup>9</sup> Additionally, 59,400 new asylum applications were submitted worldwide by Salvadoran citizens in 2017.<sup>10</sup> This represents a 38.5% increase in comparison to 2016. Some 26,702 new applications were also submitted from January to June 2018.<sup>11</sup>

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<sup>1</sup> Decreto N° 918 de 14 de agosto de 2002 “Ley para la Determinación de la Condición de Persona Refugiada”, available at: <https://www.acnur.org/fileadmin/Documentos/BDL/2002/1567.pdf>

<sup>2</sup> Decreto N° 79 de 7 de septiembre de 2005 “Reglamento de la Ley para la Determinación de la Condición de Persona Refugiada”, available at: <https://www.acnur.org/fileadmin/Documentos/BDL/2005/3792.pdf>

<sup>3</sup> Decreto Legislativo N° 2772, del 19 de diciembre de 1958 “Ley de Migración” available at: <https://www.oas.org/dil/Migrants/El%20Salvador/Ley%20de%20migraci%C3%B3n.%20Decreto%20Legislativo%20N%C2%BA%202772.%20del%2019%20de%20diciembre%20de%201958,%20publicado%20el%2023%20de%20diciembre%20de%201958.pdf>

<sup>4</sup> Source: INFOSEGURA based on official Information by National Civil Police (PNC). Available at: <https://www.laprensagrafica.com/elsalvador/La-Paz-el-departamento-mas-violento-de-2018-20190106-0216.html>

<sup>5</sup> The 2018 homicides rate in El Salvador per 100 000 was 50.3, which represents a reduction compared to last 2017's rate which was 60.1

<sup>6</sup> Source: INFOSEGURA based on official Information by National Civil Police (PNC).

<sup>7</sup> Source: INFOSEGURA based on official Information by National Civil Police (PNC). Prensa Gráfica de El Salvador. Available at: <https://www.laprensagrafica.com/elsalvador/Femicidios-aumentaron-en-tres-departamentos-20190106-0217.html>

<sup>8</sup> Ministerio de Justicia y Seguridad Pública, Caracterización de la movilidad interna a causa de la violencia en El Salvador, marzo 2018. Available at: <http://www.seguridad.gob.sv/caracterizacion-de-la-movilidad-interna-a-causa-de-la-violencia-en-el-salvador/>

<sup>9</sup> Data provided by governments to UNHCR (up to June 2018).

<sup>10</sup> UNHCR Global Trends 2017, approximately, 25.879 Salvadorans are refugees and 104.900 are asylum seekers worldwide. Available at: <https://www.unhcr.org/global-trends-2017-media.html>

<sup>11</sup> Data provided by Governments to UNHCR as of October 2018.

In the course of 2018, 26,499 Salvadorans were deported from the United States and Mexico,<sup>12</sup> despite information that 16% adults and 31% children reported leaving El Salvador due to insecurity and violence.

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

### **Positive developments linked to the 2nd cycle UPR recommendations**

**Linked to 2nd cycle UPR recommendation No. 103.1:** “Continue the process of ratification of international instruments, especially in the area of human rights.” (Cote d’Ivoire)

UNHCR commends El Salvador for acceding to the *1954 Convention relating to the Status of Stateless Persons* in 2015 as part of the commitment of the Salvadorian authorities to the 2014 *Brazil Declaration and Plan of Action*.

**Linked to 2nd cycle UPR recommendation No. 104.27:** “Speed up the process of establishing a special law on trafficking in persons.” (Philippines)

UNHCR acknowledges that El Salvador has made increasing efforts to tackle the challenges regarding trafficking in persons. In 2014, the Legislative Assembly sanctioned an anti-trafficking special law intended to strengthen the interagency anti-trafficking council. The law explicitly stipulates the right of victims to seek asylum before the competent authorities (art. 44).

### **Additional positive developments**

#### **Progress towards the adoption of the Draft Migration Law**

UNHCR welcomes the approval in 2018 of the *Draft Migration Law*, which includes international standards, such as the principle of non-refoulement and specific safeguards for persons under UNHCR’s mandate. UNHCR looks forward to the adoption of the law by the plenary of the Legislative Assembly.

## III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

### **Challenges linked to outstanding 2nd cycle UPR recommendations**

#### **Issue 1: Implementing a national plan to protect victims of violence.**

**Linked to 2nd cycle recommendation No. 105.28:** “Consider drawing up and implementing a national human rights programme that addresses comprehensively issues such as public safety and violence, taking into account all social actors.” (Nicaragua)

Many of the persons who suffer gang-related violence and other types of persecution in El Salvador are forced to leave the country in order to protect themselves and their families from harm, as shown by the growing number of Salvadoran nationals who applied for asylum in the last few years.

Since 2017, within the framework of the implementation of Axis 4 of *Plan El Salvador Seguro* (PESS), the Government established 20 Local Offices for Assistance to Victims (OLAVs) in municipalities that have been prioritized for the PESS. An additional OLAV was created within the Directorate of Assistance to Migrants (DAMI), which functions as the reception center for deported persons. The OLAVs are mandated to provide legal, psychological and social assistance the victims of violence.

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<sup>12</sup> <http://www.migracion.gob.sv/noticias/balance-de-servicios-migratorios-enero-a-diciembre-de-2018/>

In practice, however, the protection mechanisms for victims of violence established by the PESS are not totally effective due to lack of specific and adequate budgetary allocations to allow the proper functioning of shelters, ensuring livelihoods and the provision of effective education, psycho-social support, legal counseling, land and property protection, among others.

### **Recommendations:**

UNHCR recommends that the Government of El Salvador:

- (a) Strengthen the current protection mechanisms established under the *Plan El Salvador Seguro* through the allocation of funds, human resources and adequate structure for the 20 Local Offices for Assistance to Victims (OLAVs); and
- (b) Design a comprehensive policy to provide services, protection and reparation to victims of violence.

### **Issue 2: Addressing gender-based violence**

**Linked to 2nd cycle UPR recommendation No. 104.24:** “Continue to implement legal and administrative measures to protect women and girls from domestic and sexual violence” (Singapore); and **No. 105.34:** “Take concrete measures to strengthen its policies of promotion and protection of LGBT people, through public policies which combat hate crimes against those individuals (Brazil).

The Salvadoran State categorized the sexual and patrimonial violence against women as epidemic in 2018. As part of the response for the protection of women, the Salvadoran Institute for the Development of Women (ISDEMU) issued the National Equality Plan (2016-2020),<sup>13</sup> aiming to provide essential services such as mental, sexual and reproductive health, livelihoods and access to justice. The plan includes also generic provisions to address SGBV, such as changing the cultural stereotypes on the role of the woman.

Moreover, the National Equality Plan fails to address violence against LGBTI persons in El Salvador, who remain socially invisible. A project law recognizing gender identity drafted on 22 March 2018 has not yet been discussed in the Legislative Assembly.

### **Recommendations:**

UNHCR recommends that the Government of El Salvador:

- (a) Develop, adopt and implement a National Policy for the prevention of sexual and gender-based violence against forcibly displaced women, girls and adolescents; and
- (b) Pass and implement a Gender Identity Law and adopt an Action Plan for the protection of the rights of LGBTI persons at risk of forced displacement and survivors of SGBV.

### **Issue 3: Protection of children**

**Linked to 2nd cycle UPR recommendation No 103.58:** “Adopt official procedures to establish the best interests of the child in all processes, in particular in those referring to immigration and refugees, using as a guideline, inter alia, general comment No. 14 of the Committee on the Rights of the Child” (Iceland); **No 103.59:** “Support the ongoing process of protection of children and adolescents by raising awareness of the ramifications of illegal migration, and provide for the adequate care and facilities necessary for their repatriation and reintegration into society (Egypt)” and **No. 103.61:** “Cooperate at the regional level to find a solution to the very serious problem of the growing number of unaccompanied minors from El Salvador that immigrate to other countries of the region” (France).

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<sup>13</sup> Plan Nacional de Igualdad, Instituto Salvadoreño para el Desarrollo de la Mujer (ISDEMU), El Salvador, 2016. [http://www.isdemu.gob.sv/phocadownload/2017/RIS\\_documentos2017/Plan\\_Nacional\\_de\\_Igualdad\\_2016\\_2020.pdf](http://www.isdemu.gob.sv/phocadownload/2017/RIS_documentos2017/Plan_Nacional_de_Igualdad_2016_2020.pdf)

The Salvadoran National Institute for Children and Adolescence has expanded its territorial presence through the creation of four Child, Adolescent and Family Attention Centres (CANAF) aiming to provide legal, psycho-social and material assistance to deportees' children and families with protection needs. Nonetheless, the outreach is limited to 4 out of 14 Departments, which correspond to 28% of the national territory. Additional staffing, infrastructure and capacity building to State authorities would help to have a better territorial coverage in terms of protection of deportees children. In addition, state institutions part of the National Child Protection system fail to apply best interest procedures, particularly in cases of forced displacement.

Moreover, according to a study conducted by the Ministry of Education in 2018 on school abandonment, there is a higher risk of school drop-out among youth reaching the final years of higher education. The study established a close correlation between the drop-out rates and the risks associated with social violence.

#### **Recommendations:**

UNHCR recommends that the Government of El Salvador:

- (a) Strengthen family reception plans for deportees and alternative care policies in order to reduce the institutionalization of children and adolescents;
- (b) Strengthen the identification of out-of-school children and their access to Accelerated Education programs; and
- (c) Improve the national legislation and public policy by establishing best interest of the child procedures for managing cases of children at risk, through enhancement of inter-institutional coordination mechanisms, specialized capacity building for State authorities and direct consultations with children.

#### **Issue 4: Accession to international instruments related to Statelessness**

**Linked to 2nd cycle UPR recommendation No. 103.1:** "Continue the process of ratification of international instruments, especially in the area of human rights" (Cote d'Ivoire).

El Salvador is not a Party to the *1961 Convention on the Reduction of Statelessness*. The Government invokes incompatibilities between the *National Constitution* and the *1961 Convention* on the issue of loss of nationality in cases where it was acquired by naturalization. According to the *National Constitution*, El Salvadoran nationality acquired by naturalization may be lost in cases where the concerned persons reside for two consecutive years in their country of origin or for five consecutive years outside of El Salvador. This provision however is at variance with the *1961 Convention*, which stipulates that acquired nationality could be lost following a minimum period of at least seven years of residence abroad, provided the persons concerned fail to declare their intention to retain their nationality. Currently there are no registered cases of statelessness.

#### **Recommendations:**

UNHCR recommends that the Government of El Salvador:

- (a) Accede to the *1961 Convention on the Reduction of Statelessness*;
- (b) Establish a statelessness determination procedure; and
- (c) Adopt and implement normative provisions to facilitate the naturalisation of stateless persons.

#### **Additional protection concerns**

#### **Issue 5: Aligning existing Refugee Status Determination Law with international protection standards**

The *Refugee Status Determination Law* currently in force in El Salvador does not meet international standards. It fails to adequately stipulate for the right to due legal process, by

requiring that the admissibility procedure be accessed within the five days of arrival to the country, and omits making provision for an effective and independent instance of appeal. UNHCR is also aware of cases where border authorities did not respect the principle of non-refoulement. In addition to this, Salvadoran authorities operate a restrictive interpretation of the right to family unity. Furthermore, the Government of El Salvador has not put in place a special procedure to address the concerns of unaccompanied and separated children.

Asylum-seekers who undertake the procedure do not receive documentation that entitles them to work. Asylum-seekers and refugees are also denied access to an adequate standard of living, including adequate housing, as national authorities fail to provide shelter or other forms of humanitarian assistance. No programme aimed at providing refugees with specific durable solution is currently put in place.

#### **Recommendations:**

UNHCR recommends that the Government of El Salvador:

- (a) Reform the current *Refugee Status Determination Law* to comply with international standards; and
- (b) Accept technical support from UNHCR in order to reform the current legal framework.

#### **Issue 6: Protection of internally displaced persons (IDPs)**

UNHCR welcomes the 411/2017 ruling of the Constitutional Chamber of El Salvador's Supreme Court of Justice acknowledging the existence of an internal forced displacement phenomenon due to the context of violence and insecurity.<sup>14</sup> Although El Salvador has not yet implemented a follow-up mechanism as required under the 411/2017 ruling, in particular the establishment of public audiences where condemned institutions could present follow-up measures, the Government has taken a number of positive steps to address internal displacement. In 2018, it published a Study on Internal Mobility due to Violence<sup>15</sup> and developed an initial Roadmap for the Comprehensive Attention and Protection to Victims of Violence that includes a number of protection measures and safeguards for IDPs. Nonetheless, significant gaps remain. IDPs need comprehensive protection responses from municipal authorities, including strengthened protection networks, policies, legal aid and humanitarian assistance, such as shelter and medical/psychosocial support, and durable solutions.

Further protective measures for IDPs are envisaged under the *Draft Law for the Comprehensive Attention and Protection to Victims of Violence*, currently in discussion before the Legislative and Constitutional Issues Commission of the Legislative Assembly. However, political disagreement in the Legislative Assembly on whether the objectives of the Draft Law could be achieved through a general law on victims' rights or a specific law on internally displaced persons currently delays advancement on the Draft Law.

#### **Recommendations:**

UNHCR recommends that the Government of El Salvador:

- (a) Establish a follow up mechanism and implement the 411/2017 ruling of the Constitutional Chamber;
- (b) Adopt the Draft Law for the Comprehensive Attention and Protection to Victims of Violence, including the Guiding Principles on Internal Displacement; and
- (c) Allocate adequate resources for the prevention, protection, reparation and promotion of durable solutions of the rights of IDPs in line with the Guiding Principles of Internal Displacement.

**UNHCR, March 2019**

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<sup>14</sup> <https://www.refworld.org/es/category,LEGAL,,,5b4f72e54,0.html>

<sup>15</sup> <http://www.seguridad.gob.sv/caracterizacion-de-la-movilidad-interna-a-causa-de-la-violencia-en-el-salvador/>

## ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders.

### EL SALVADOR

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to El Salvador.

#### I. Universal Periodic Review (Second Cycle – 2014)

Recommendation	Recommending state/s	Position
<b>Right or area: 2.1. Acceptance of international norms</b>		
103.1 Continue the process of ratification of international instruments, especially in the area of human rights (Côte d'Ivoire); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Côte d'Ivoire	Supported
<b>Right or area: 5.1. Constitutional &amp; legislative framework</b>		
104.4 Develop a comprehensive policy in order to remove obstacles to the effective implementation of existing laws protecting women and children (Norway); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Norway	Supported <i>(implemented or implementation in process)</i>
104.5 Enforce existing legislation on women's, children's and adolescents' rights (Sierra Leone); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Sierra Leone	Supported <i>(implemented or implementation in process)</i>
<b>Right or area: 5.2. Institutions &amp; policies</b>		
104.2 Continue the introduction of advanced programmes for ensuring fundamental rights, especially for vulnerable groups (Democratic People's Republic of Korea); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Democratic People's Republic of Korea	Supported <i>(implemented or implementation in process)</i>
105.28 Consider drawing up and implementing a national human rights programme that addresses comprehensively issues such as public safety and violence, taking into account all social actors (Nicaragua); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 9)	Nicaragua	Supported
105.29 Promote the drawing up and adoption of a national human rights plan (Peru); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 10)	Peru	Supported
103.6 Take additional steps to combat crime, especially that committed by young people and carry out strategies to protect them (Russian Federation); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Russian Federation	Supported

103.7 Reduce citizen insecurity in a sustainable, long-term perspective, addressing the root causes of violence and combating impunity while respecting human rights (Sweden); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Sweden	Supported
<b>Right or area: 7.1. Context, statistics, budget, cooperation with civil society</b>		
104.3 Continue its efforts to involve relevant stakeholders, including civil society, as a partner of the Government in promoting and protecting human rights (Indonesia); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Indonesia	Supported <i>(implemented or implementation in process)</i>
<b>Right or area: 8. Non-discrimination</b>		
105.33 Bring its legislation into conformity with its commitment to equality and non-discrimination, by prohibiting discrimination based on sexual orientation (Canada); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 13)	Canada	Noted
105.34 Take concrete measures to strengthen its policies of promotion and protection of LGBT people, through public policies which combat hate crimes against those individuals (Brazil); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 13)	Brazil	Noted
105.35 Continue the effective implementation of preventive programmes to guarantee the full enjoyment of rights and the protection of LGBTI people against acts of violence and discrimination affecting them (Chile); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 13)	Chile	Noted
105.32 Draft, in consultation with civil society, and adopt a law on gender identity for transgender persons in which their right to identity is recognized among other civil and political rights (Spain); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 13)	Spain	Noted
105.36 Guarantee the right of all people to live and develop in accordance with their self-perceived gender identity (Colombia); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 13)	Colombia	Noted
<b>Right or area: 9. Racial discrimination</b>		
104.15 Continue its efforts to eradicate acts of racism and other forms of discrimination (Bolivia (Plurinational State of)); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Bolivia (Plurinational State of)	Supported <i>(implemented or implementation in process)</i>
<b>Right or area: 12. Right to physical and moral integrity</b>		
105.37 Keep striving to eradicate unchecked criminality, corruption and gang activity, which produce devastating human rights violations, especially those acts of violence and murder, by focusing on education, proper employment and transparency in law enforcement (Holy See); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 14)	Holy See	Supported
105.39 Undertake extensive action in order to demilitarize the police force and to grant responsibility for public security to the appropriate institutions (Greece); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 15)	Greece	Noted
105.40 End the involvement of military personnel in civilian security work, and train police officers to carry out their responsibility to protect the population efficiently and with integrity (Norway); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 15)	Norway	Noted
105.38 Strengthen measures to confront the origins of violence and crime in its combat against organized crime and adopt a restorative justice approach for young people (Norway); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 14)	Norway	Supported
<b>Right or area: 12.7. Prohibition of slavery, trafficking</b>		

103.32 Secure the cooperation and full involvement of local government units and civil society partners in the implementation of anti-trafficking laws and programmes (Philippines); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Philippines	Supported
104.29 Continue making efforts to prevent and sanction trafficking in persons (Venezuela (Bolivarian Republic of)); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Venezuela (Bolivarian Republic of)	Supported <i>(implemented or implementation in process)</i>
104.27 Speed up the process of establishing a special law on trafficking in persons (Philippines); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Philippines	Supported <i>(implemented or implementation in process)</i>
104.28 Take the necessary steps to ensure the adoption of new legislation to counteract human trafficking (Trinidad and Tobago); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Trinidad and Tobago	Supported <i>(implemented or implementation in process)</i>
<b>Right or area: 15.1. Administration of justice &amp; fair trial</b>		
105.42 Reinforce the judicial system and law enforcement authority with a view to eliminating widespread and organized violent crimes which seriously threaten public safety, especially the safe school environment (Republic of Korea); <b>Source of position:</b> A/HRC/28/5/Add.1 (para. 17)	Republic of Korea	Supported
<b>Right or area: 16. Right to an effective remedy, impunity</b>		
103.33 Take further steps to address victims' rights, including taking forward reparations for victims of internal armed conflict, and to explore possible cooperation with United Nations special procedures in that regard (Germany); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Germany	Supported
<b>Right or area: 25. Right to education</b>		
103.47 Work on increasing the attendance rate of children at all levels of education, also with the aim of hampering and weakening the capability of criminal organizations to attract youngsters in the vicious circle of illegal activities and violence (Italy); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Italy	Supported
<b>Right or area: 29.1. Discrimination against women</b>		
104.24 Continue to implement legal and administrative measures to protect women and girls from domestic and sexual violence (Singapore); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Singapore	Supported <i>(implemented or implementation in process)</i>
<b>Right or area: 29.2. Gender-based violence</b>		
103.8 Take measures to further improve enforcement of existing laws criminalizing rape and domestic violence, including by thoroughly investigating and prosecuting all acts of violence against women, and providing targeted training and capacity-building to law enforcement officials (Canada); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Canada	Supported
103.9 Adopt measures guaranteeing the protection of women, who are victims of discrimination and violence on the grounds of their sexual orientation or gender condition (Argentina); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Argentina	Supported
103.10 Ensure that all cases of gender-based violence are properly investigated, the perpetrators are brought to justice and that its victims have better access to justice, health and social services and State support (Czech Republic); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Czech Republic	Supported

103.11 Continue and promote the policy of women protection and empowerment through, inter alia, applying harsher punishments to perpetrators of the crime of femicide (Egypt); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Egypt	Supported
103.12 End the prevailing climate of impunity regarding violence against women, by ensuring that such cases are investigated thoroughly, that those responsible are brought to justice and that survivors have access to justice, effective remedies and appropriate support services (Spain); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Spain	Supported
103.13 Adopt a national action plan on the Security Council resolution on women, peace and security (Portugal); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Portugal	Supported
103.14 Adopt a national plan to protect women against violence (Russian Federation); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Russian Federation	Supported
103.15 Continue its efforts to take more concrete measures to ensure the protection of women against all forms of discrimination and violence (State of Palestine); <b>Source of position:</b> A/HRC/28/5 (para. 103)	State of Palestine	Supported
103.16 Put in place more concrete measures to combat violence against women and children (Thailand); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Thailand	Supported
103.17 Continue efforts to improve the situation of women and combat violence against women (France); <b>Source of position:</b> A/HRC/28/5 (para. 103)	France	Supported
104.18 Accord a high priority to the implementation of legislation addressing violence against women (Australia); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Australia	Supported <i>(implemented or implementation in process)</i>
104.19. Take all necessary steps to ensure the effective implementation of legislation seeking to combat violence against women and girls, and take specific measures to protect those who are victims of violence based on their sexual orientation and gender identity (Ireland); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Ireland	Supported <i>(implemented or implementation in process)</i>
104.21 Deploy all necessary efforts to ensure the full implementation of the Comprehensive Special Law for a Life Free of Violence for Women, adopted in November 2010 (Uruguay); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Uruguay	Supported <i>(implemented or implementation in process)</i>
104.22 Continue working against violence against women in line with its national legal framework for equality (Bolivia (Plurinational State of)); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Bolivia (Plurinational State of)	Supported <i>(implemented or implementation in process)</i>
104.20 Take all necessary measures to guarantee the full and effective implementation of laws on the protection of women and girls so as to strengthen the rights of victims, but also to fight against the impunity of perpetrators of violence against them (Luxembourg); <b>Source of position:</b> A/HRC/28/5 (para. 104)	Luxembourg	Supported <i>(implemented or implementation in process)</i>
<b>Right or area: 30.1. Children: definition, general principles, protection</b>		
103.21 Establish effective measures to implement the Law on the Comprehensive Protection of Children and Adolescents so as to eradicate the violence suffered by children, girls and adolescents (Costa Rica); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Costa Rica	Supported

103.22 Establish indicators to assess and follow up the effective implementation of the national policy on the protection of children and adolescents (2013–2023), adopt education policies to prevent dropouts at all levels and reintegrate deported children (Mexico); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Mexico	Supported
103.24 Develop a comprehensive policy to prevent violence against children, including all necessary measures to prevent children from being subject to torture and ill-treatment, to living and working in the streets and being subjects to threats and forced recruitment by gangs. (Germany); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Germany	Supported
103.59 Support the ongoing process of protection of children and adolescents by raising awareness of the ramifications of illegal migration, and provide for the adequate care and facilities necessary for their repatriation and reintegration into society (Egypt); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Egypt	Supported
103.60 Implement a national programme to support minors, to reduce the flows of migration (Russian Federation); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Russian Federation	Supported
103.61 Cooperate at the regional level to find a solution to the very serious problem of the growing number of unaccompanied minors from El Salvador that immigrate to other countries of the region (France). <b>Source of position:</b> A/HRC/28/5 (para. 103)	France	Supported
<b>Right or area: 34. Migrants</b>		
103.56 Promote the adoption of a new national migration legislation (Sierra Leone); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Sierra Leone	Supported
103.58 Adopt official procedures to establish the best interests of the child in all processes, in particular in those referring to immigration and refugees, using as a guideline, inter alia, general comment No. 14 of the Committee on the Rights of the Child (Chile); <b>Source of position:</b> A/HRC/28/5 (para. 103)	Chile	Supported

## II. Treaty Bodies

### Committee on the Rights of the Child

Concluding observations, (29 November 2018), CRC/C/SLV/CO/5-6

#### **Allocation of resources**

8. With reference to its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee recommends that the State party set up a budgeting process that includes a child rights perspective, including by:

- (a) Significantly increasing the budget allocations for health and education, with a view to reaching the minimum internationally accepted levels as soon as possible;**
- (b) Promptly implementing a programme-based budget with a focus on results for the financing of public policies longer than one year;**
- (c) Implementing a tracking system for the allocation and use of resources for children throughout the budget;**
- (d) Defining budgetary lines for children in disadvantaged or vulnerable situations, particularly in situations of poverty, violence or migration;**
- (e) Ensuring transparent and participatory budgeting through public dialogue, including with children, for the proper accountability of local authorities;**
- (f) Strengthening institutional capacities to effectively detect, investigate and prosecute corruption, taking note of target 16.5 of the Sustainable Development Goals on substantially reducing corruption and bribery in all their forms.**

### **Children affected by maras**

22. The Committee notes the measures taken by the State party to address the issue of maras (youth gangs), in particular the adoption of the “Safe El Salvador” (El Salvador Seguro) Plan, but remains deeply concerned about the extent to which criminal violence is affecting children, and particularly:

- (a) The extremely high number of killings and disappearances affecting children, most of them committed by maras, and the vulnerability of boys as young as 5 years old and girls as young as 12 to being recruited by maras;**
- (b) The high level of impunity for crimes committed against children by maras, with limited investigations and prosecutions being carried out and few cases reaching the courts or resulting in sanctions for the perpetrators;**
- (c) The lack of official recognition of the impact that maras and criminal violence have on the internal displacement of children and their families;**
- (d) The limited focus on the structural causes of violence, evidenced by the limited resources allocated to the prevention and rehabilitation measures contained in national policies, and the prevalence of a repressive approach to security, including the increasing involvement of the army;**
- (e) The classification of members of maras as terrorists, which implies that assisting the rehabilitation of children seeking to leave those groups is a criminal act.**

23. With reference to its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and taking note of target 16.2 of the Sustainable Development Goals on ending all forms of violence against children, the Committee urges the State party to:

- (a) Review the policies and programmes addressing violence and the criminal acts committed by maras with a view to adopting more effective measures to prevent the killings and disappearances of children and their recruitment by criminal groups; and address the root causes of violence and child recruitment such as poverty and discrimination, and take into consideration the particular needs of boy and girl victims;**
- (b) Strengthen the technical and investigative capacities of the police and the prosecution authorities, and increase the human and financial resources available to the police and the judiciary to conduct prompt, impartial and thorough investigations of crimes committed by maras against children and to bring perpetrators to justice;**
- (c) Officially recognize violence as a root cause of internal displacement, and take the measures necessary to effectively implement the road map of the Ministry of Justice and Public Safety for the inter-institutional coordination of the comprehensive care and protection of victims;**
- (d) Review the “Safe El Salvador” (El Salvador Seguro) Plan to ensure that its measures directed at the prevention of violence, rehabilitation and reintegration, and services for victims, reflect the particular situation of children; and reinforce the human, technical and financial resources necessary for their effective implementation;**
- (e) Review the Special Law against Acts of Terrorism with a view to removing the classification of members of maras as terrorists;**
- (f) Strengthen its efforts to implement the national action plan to end violence against children and, in the light of the Global Partnership to End Violence against Children, continue to cooperate with UNICEF and the United Nations Development Programme in this regard.**

### **Education**

42. While noting the slight increase in the education budget, the Committee remains seriously concerned about:

- (a) The overwhelming impact of violence on children's access to education, with the majority of schools situated in communities where maras are active, or in areas affected by drug circulation, the presence of weapons or extortion, and with the occurrence of sexual violence and child trafficking in schools and the high number of killings of teachers and students;**
- (b) The dangers faced by children on their way to school and within school;**
- (c) The insufficient funds allocated to education, with only 3.2 per cent of the gross domestic product allocated to education in 2018;**
- (d) The insufficient number of teachers and the precarious school infrastructure, with schools lacking water, electricity, adequate sanitation and access to educational resources such as libraries, computers and the Internet;**
- (e) The high number of dropouts in primary and, in particular, secondary schools;**
- (f) The lower educational attainment of teenage mothers, with pregnant girls being forced to leave education and finding it difficult to resume after giving birth, hindering their personal development;**
- (g) The difficulties faced by children in migration situations and internally displaced students in continuing and resuming their education.**

43. With reference to its general comment No. 1 (2001) on the aims of education and taking note of target 4.1 of the Sustainable Development Goals on free, equitable and quality primary and secondary education, the Committee urges the State party to:

- (a) Ensure the human, technical and financial resources necessary for the effective implementation of the national education plan and its six components, aimed at violence-free schools, quality teachers, improved early childhood care, 12 levels of schooling, and improved higher education and infrastructure, which would help to ensure children's rights to both education and freedom from violence;**
- (b) Identify, with the participation of children, the causes of danger and violence on the way to school and inside school and take the measures necessary to address them, with a focus on prevention policies;**
- (c) Take the measures necessary to address the root causes of school absenteeism and the high number of dropouts among children aged 4 to 18 years old, as identified by the Directorate General of Statistics and Censuses in 2017;**
- (d) Take urgent measures to ensure that pregnant teenagers and adolescent mothers are supported and assisted in continuing their education in mainstream schools and have access to support mechanisms from schools and social services;**
- (e) Invest in and develop flexible education measures to allow children in situations of migration or internal displacement to continue their studies with minimal disruption.**

#### **Children in situations of migration**

46. The Committee welcomes the creation of the comprehensive migrant care centre and the child, adolescent and family care centres, and the adoption in 2017 of the protocol for the protection and care of Salvadoran migrant children and adolescents. With reference to joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration, the Committee recommends that the State party:

- (a) Strengthen the identification system in Salvadoran consulates in transit or destination countries for children awaiting deportation, and in the assistance centres in the State party for children who have been deported;**
- (b) Improve access to care centres and shelters and step up measures to expand family-based alternative care for unaccompanied children who have returned or been deported;**
- (c) Strengthen the implementation of the protocol for the care of unaccompanied migrant children and adolescents through improved inter-institutional coordination at the municipal level, in particular for children leaving the comprehensive migrant care centre, and extend the protocol to include migrant children who are non-nationals of the State party;**
- (d) Strengthen the technical capacity of the protection boards of the National Council for Children and Adolescents to process and follow up the cases of children in need of protection, including through better coordination with other services;**
- (e) Develop a referral protocol to identify and assist returned or deported children who are survivors of sexual and gender-based violence;**
- (f) Continue seeking technical assistance from the Office of the United Nations High Commissioner for Refugees in this regard.**

### **Trafficking**

50. The Committee welcomes the adoption in 2014 of the Special Act against Trafficking in Persons and the updated National Policy on Trafficking in Persons, and recommends that the State party:

- (a) Review the Special Act to include a definition of human and child trafficking consistent with international law, and adjust the National Policy and the mandate of the National Council on Trafficking in Persons to include children under the age of 18;**
- (b) Ensure that the National Council has sufficient resources to implement its mandate and strengthen its efforts to promptly investigate, prosecute and sanction trafficking offences, including those committed by government officials;**
- (c) Develop and implement procedures to identify child victims of trafficking, including for labour exploitation;**
- (d) Continue to invest in measures to provide information and raise awareness on preventing trafficking, reporting cases to authorities and changing the social stigma associated with victims.**

### **Human Rights Committee**

Concluding observations, (9 May 2018), CCPR/C/SLV/CO/7

#### **Right to life and security of person**

20. The State party should step up its efforts to reduce the high levels of violence and to protect victims. It should ensure that the Safe El Salvador Plan, and in particular its preventive and rehabilitative measures, which include education and protection programmes for children and young people who refuse to join gangs, is implemented in its entirety, within the framework of a comprehensive rights-based approach. It should also ensure that the measures taken to combat violence comply with the Covenant and that due process guarantees are observed, without stigmatizing young people and adolescents. The State party should also ensure that all violent crimes and other serious offences are investigated in a prompt, thorough and impartial manner, that those responsible are prosecuted and punished, and that victims receive full reparation.

#### **Prohibition of slavery, forced labour and trafficking in persons**

26. The State party should step up its efforts to prevent, combat and punish trafficking in persons and ensure that the measures it takes are implemented effectively. It should ensure that crimes of trafficking in persons are investigated, the perpetrators prosecuted and punished, and victims given access to adequate protection and assistance measures. It should also step up its efforts to prevent, combat and punish the use of child labour, including in its worst forms, and forced labour, particularly in the maquiladora industry and in the fishing, agricultural and domestic sectors. It should ensure that legal protection is in place and that labour law is enforced, including by ensuring the provision of appropriate training, effective inspections and the imposition of penalties on employers.

### **Migrants, asylum seekers and internally displaced persons**

31. The Committee takes note of the existence of a draft law on migration and aliens, which specifies the maximum period for detention at the Centre for the Comprehensive Care of Migrants, as well as of the ongoing reform of the Refugee Status Determination Act.

However, it is concerned that the existing legal framework for the protection of refugees and asylum seekers is not in accordance with international standards. It is also concerned about information regarding the detention of asylum seekers, including families with young children, at the Centre, and about the unsuitability of the Centre for this purpose. The Committee is also concerned about reports regarding the lack of adequate protection and assistance for persons deported to the State party, in particular unaccompanied migrant children, and for unaccompanied migrant children travelling through El Salvador en route for the United States of America (arts. 7, 9, 10, 12, 13, 14, 24 and 26).

32. The State party should:

- (a) Ensure that national immigration legislation, including the Refugee Status Determination Act and the law on migration and aliens, is consistent with the Covenant and other international standards;**
- (b) Avoid placing asylum seekers, especially children, in administrative detention and provide alternatives to detention for adult asylum seekers, so that detention is used only as a last resort and for as short a period as possible;**
- (c) Ensure the provision of protection and assistance to asylum seekers in appropriate conditions, as well as access to basic services and to the national asylum system;**
- (d) Ensure that persons deported to El Salvador and unaccompanied migrant children travelling through El Salvador en route for the United States receive adequate assistance and protection;**
- (e) Ensure the provision of training on the Covenant, on international standards for dealing with asylum seekers and refugees and on human rights for the staff of institutions dealing with migration and border issues.**

33. The Committee is concerned about reports that a large number of persons — in particular women, children, adolescents and LGBTI persons — have been displaced internally as a result of the violence prevailing in the State party, as well as about the absence of official statistics and the lack of assistance and protection for these population groups (arts. 2, 12, 24 and 26).

34. The State party should step up its efforts to prevent internal displacement. It should also establish a national register of internally displaced persons and a legal framework, policies and programmes aimed at ensuring that assistance and protection are provided

to such persons, and in particular women, children, adolescents and LGBTI persons.

### **Committee on the Elimination of Discrimination against Women**

Concluding observations, (3 March 2017), CEDAW/C/SLV/CO/8-9

#### **Gender-based violence against women**

22. The Committee welcomes the introduction of a legislative and policy framework aiming to guarantee a life free of violence for all women, as well as the creation of an institutional framework for its implementation. The Committee is however concerned at the:

- (a) Insufficient resources allocated to the implementation of the Law for a Violence-Free Life of Women, especially in light of the increasing rates of femicide and high rates of domestic violence and sexual violence against women and adolescent girls in the State party;**
- (b) Lack of information on how cases of domestic violence are adjudicated;**
- (c) Low number of prosecutions in cases of violence against women and femicides and at the even lower number of convictions;**
- (d) Limited application of the Protocol for the Investigation of Femicide and limited enforcement of protection orders, as well as the preference given to victims' reconciliation with perpetrators;**
- (e) Insufficient protection, support, recovery, and social reintegration mechanisms for women victims of gender-based violence;**
- (f) Limited efforts made for protection and recovery of women and girl victims of gang violence and their families in the current national security plan (Plan El Salvador Seguro; PESS), especially considering the link of gender-based violence to criminal gang activities.**

23. Taking into account the Committee's general recommendation No. 19 (1992) on violence against women, the Committee recommends that the State party:

- (a) Allocate sufficient human, technical and financial resources to the implementation of the Policy and Action Plans for Women's Access to a Life Free of Violence and monitor their implementation (CEDAW/C/SLV/CO/7, para. 24);**
- (b) Collect data on the treatment of domestic violence cases from the time of reporting until the final judgement, and study the impact and effectiveness of the mechanisms for addressing such cases;**
- (c) Expedite the development of protocols for the implementation of the Law for a Violence-Free Life of Women (art. 56 LEIV), which guarantee the application of a victim-oriented approach and the due diligence principle;**
- (d) Strengthen the capacity of judges, lawyers and law enforcement personnel on the strict application of the Law for a Violence-Free Life of Women, the Law for Comprehensive Protection of Children and Adolescents and their corresponding implementation guidelines;**
- (e) Reinforce the protection, support, recovery, and social reintegration of women and girls who are victims of gender-based violence, and especially women victims of domestic violence;**
- (f) Attend to the specific needs of internally displaced and deported girls, women and their families, in terms of protection from all forms of violence, especially those related to gangs.**

#### **Trafficking and sexual exploitation**

24. The Committee welcomes the provisions for the protection of women victims of trafficking contained in the Law on a Violence-Free Life for Women, as well as the

conclusion of bilateral and multilateral cooperation agreements on the prosecution of traffickers and protection of victims. It also notes the establishment of a shelter for victims of trafficking. The Committee is however alarmed at reports of sexual exploitation of young women and girls by criminal gangs under threats of homicide against them and their families. It remains concerned at the absence of a strategy for protecting women and girls from trafficking and sexual exploitation and to reintegrate victims. The Committee is also concerned at the insufficient efforts to monitor and fight trafficking and sexual exploitation, as well as the lack of investigations into cases of trafficking in women and girls and the very low number of prosecutions and convictions of perpetrators.

25. The Committee reiterates its previous concluding observation (CEDAW/C/SLV/CO/7, para. 26) and recommends that the State party:

- (a) Develop a comprehensive strategy and plan of action to prevent and combat trafficking and sexual exploitation of women and girls, with particular attention to gang-related victimization;**
- (b) Include in such a strategy preventive and protective programmes and measures for the rehabilitation and social integration of trafficking victims;**
- (c) Provide in its next periodic report data on trafficking, exploitation of prostitution of women and girls, the number of prosecutions and convictions in trafficking and sexual exploitation cases, as well as on the impact of the measures taken to combat these phenomena.**

26. The Committee notes with concern that legislation on trafficking is indiscriminately applied to women autonomously working in prostitution, giving rise to discriminatory treatment by local law enforcement personnel. The Committee is also concerned at reports of discrimination by health personnel against women engaged in prostitution.

27. The Committee recommends that the State party:

- a) Prohibit any discriminatory treatment of women by local law enforcement personnel in municipalities;**
- b) Develop a protocol for health services that ensure non-discriminatory treatment for all women, and with adequate monitoring of its application.**

### **III. Special Procedures Mandate Holders**

#### **Report of the Special Rapporteur on the human rights of internally displaced persons, on her mission to El Salvador**

Addendum: Mission to El Salvador (23 April 2018) [A/HRC/38/39/Add.1](#)

#### **Conclusions and recommendations**

- (a) Publicly acknowledge internal displacement and commit to developing appropriate legal, policy and institutional frameworks for the protection of and assistance to internally displaced persons. Including forced displacement as a specific crime in the Criminal Code will be an important step in this regard;**
- (b) Finalize and publish the findings of the profiling exercise that was carried out, as well as undertake additional data collection and analysis to build a comprehensive picture of the internal displacement situation, identify trends, patterns and risk profiles, and understand the location, needs, protection concerns and intentions of internally displaced persons;**
- (c) Adopt a national legal and policy framework to prevent and respond to internal displacement in accordance with the Guiding Principles on Internal Displacement;**

- (d) Establish an institutional focal point with an appropriate mandate and budget to effectively to implement the legal and policy framework on internal displacement, working across relevant line ministries and in cooperation with United Nations organizations and other national and international partners;**
- (e) Create a viable route for protection and attention to internally displaced persons, including dedicated, specific measures for families, women and girls;**
- (f) Provide secure shelter facilities for internally displaced women with the capacity to accept families, supported by specially trained staff while providing short and medium-term accommodation and support, including psychosocial services, as required;**
- (g) Ensure appropriate budgets to address internal displacement, based on legal and policy frameworks to implement policy measures and programme responses, including at the local level;**
- (h) Give a high priority to locating and providing information and assistance to internally displaced persons throughout El Salvador, including the establishment of a national registration mechanism, operating on inclusive principles and with a focus on the most vulnerable and at-risk individuals and families;**
- (i) Implement a national information campaign, including helplines established as a first means of interaction between internally displaced persons and national or local authorities.;**
- (j) Expand the role of the Directorate for Migrant Care in order to strengthen the identification of deported persons and their protection needs, as well as to develop protection mechanisms and reference pathways for them from the moment of their arrival in the country, when they cannot return safely to their communities of origin due to threats to their life or freedom or of other serious harm. Improve and guarantee security for schools, students and teachers in close consultation with teachers and, where necessary, provide specially trained staff and security measures within or in close proximity to schools;**
- (k) Ensure close consultations with and participation of internally displaced persons to ensure that policy or programme measures meet their needs without putting them at additional risk. Protective measures, including witness protection, should be closely tailored to needs and risk profiles;**
- (l) Identify viable family relocation sites within different departments that provide safe options for the temporary or longer term needs of internally displaced persons with appropriate security and measures to support employment;**
- (m) Review current policing and security policies, practices and structures, including the employment of extraordinary security measures in order to assess their effectiveness and impact on communities and ensure their compliance with human rights standards;**
- (n) Ensure prosecutions and access to justice for victims in cases in which crimes have been committed by serving officers;**
- (o) Enhance community policing and security methodologies, while ensuring sensitivity towards and full consultation with traumatized communities, and take all the steps necessary to create a culture of service, integrity and professionalism based upon human rights standards and national law, while undertaking steps to enhance law enforcement capabilities;**
- (p) Deploy female police officers as part of wider initiatives to prevent and address violence against women and displaced women and ensure that all members of the police and security forces undergo gender training;**
- (q) Investigate allegations of extermination groups or death squads conducting summary or arbitrary execution of gang members or suspected gang members in the context of enhanced security measures and bring those found guilty of crimes to justice;**
- (r) Expand the capacity of national bodies for the protection of women to include programmes and services for internally displaced women and girls, with budgets and**

capacity sufficient for them to become operational in delivering protection and support initiatives;

(s) Enhance engagement with the lesbian, gay, bisexual, transgender and intersex community to create a dedicated and viable protection process and mechanisms recognizing the heightened risk facing some individuals, particularly transgender women.