

Public Security and the State of Exception

CRISTOSAL

Pre Session IV Cycle of the UPR

EL SALVADOR

Background: III cycle of UPR

- El Salvador received and accepted 17 recommendations in Cycle III of the UPR regarding
 - Public security and prevention
 - Prison conditions
 - Combating enforced disappearances, torture and extrajudicial executions.

Public Security

- El Salvador has experienced a significant decrease in the number of homicides since 2018, as well as in gang activity, which was one of the main concerns in the third cycle.
- However, there has been a serious deterioration in other facets of citizen security such as gender violence; in respect for human rights and in democratic institutions, due to the adoption of policies based on exceptional and punitive measures.

State of Exception

- The state of exception, in force since 2022, has led to the arrest of more than 82,000 people, giving El Salvador the highest rate of incarceration in the world, and leading to 2.5% of the adult population being in prison.
- More than 6,000 complaints of serious human rights violations such as arbitrary and illegal detentions, torture, cruel and inhuman treatment and deaths in state custody have been recorded.

Deaths in custody

- There have been at least 312 deaths in prisons of people prosecuted under the State of Exception. In some cases, signs of torture are evident that could indicate possible extrajudicial executions; and in other cases, deaths due to illness due to lack of medical care.
- The relatives of the deceased are not informed by the authorities, and in June 2023, the State closed 142 of the cases because it determined that there was no crime.

Due process

- People prosecuted under the state of exception do not have due process, are detained without evidence, lack quality defense and are subjected to collective trials, without judicial guarantees.
- Several penal reforms have been approved in the last two years. One of the most sensitive reforms is to apply the adult regime to the trial of minors. More than 3,000 girls, boys and adolescents have been detained and more than 1,000 convicted.

Incommunicado detention and forced disappearance

- Prison conditions have worsened in the last two years due to overcrowding, and there have been reports of torture and cruel and inhuman treatment of people prosecuted under the state of exception.
- Due to the restriction on family visits, defense attorneys and verification bodies in prisons, there is total incommunicado detention, which may constitute enforced disappearance.

Recommendations

- The repeal of Legislative Decree No. 333, which contains a State of Exception, and of the penal reforms contrary to international standards for the protection of human rights that have been approved in that context.
- Guarantee the right to security of the population, giving priority to the prosecution of those responsible for violent crimes and due reparation to the victims, as well as guaranteeing due process to those who are prosecuted under the state of exception and ordering the release of those who have been detained without credible evidence.

Recommendations

- Ensure the application of the Mandela Rules to persons deprived of liberty, adopting protective measures and/or alternatives to detention, according to criteria of differentiated intersectionality, and lifting the generalized restriction on family visits and on defenders.
- Guarantee the prompt and impartial prevention and investigation of complaints of human rights violations that occurred during the state of exception, through the creation of an external and independent monitoring mechanism that provides input for the adoption of effective measures for the prevention and punishment of those responsible, as well as reparation and guarantees of non-repetition for victims.