

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/SLV/CO/2)

EL SALVADOR

(...)

C. Principal subjects of concern and recommendations

(...)

General Amnesty (Consolidation of the Peace) Act and recommendations of the Truth Commission

15. The Committee notes with satisfaction the Government's statement that it will not maintain the position upheld by previous administrations of justifying the application of the Amnesty Act as necessary for the preservation of peace in the State party. It also notes that in its ruling of 26 September 2000, the Supreme Court held that, although the Amnesty Act is constitutional, judges may decide not to apply it when giving judgements on specific cases, adding that "it shall be for the judge to decide in each specific case when this exception applies, by means of an interpretation in keeping with the Constitution", and that "if the events which gave rise to the civil responsibility of a public official or employee have not been covered by an amnesty — because they involve crimes which cannot be the subject of an amnesty — or if the amnesty granted breaches the Constitution, the obligation to provide compensation may be asserted before the competent courts". However, the Committee considers that this Act violates the right to an effective remedy, since it hinders the investigation and punishment of all those responsible for human rights violations and stands in the way of the right to redress, compensation and rehabilitation of the victims. The Committee notes with concern that the State party has not implemented the recommendations made by the Truth Commission in 1993 (arts. 2, 4, 5 and 14).

The Committee urges the State party to repeal the General Amnesty (Consolidation of the Peace) Act. In that regard, it draws the State party's attention to paragraph 5 of its general comment No. 2 on the implementation of article 2 by States parties (CAT/C/GC/2), in which the Committee considers that amnesties or other impediments which preclude or indicate unwillingness to provide prompt and fair prosecution and punishment of perpetrators of torture or ill-treatment violate the principle of non-derogability. The Committee likewise recommends that all necessary steps should be taken to guarantee that investigations of cases of torture and other cruel, inhuman or degrading treatment or punishment are carried out thoroughly, promptly and impartially, that

the perpetrators are prosecuted and punished and that measures are adopted to provide redress and rehabilitation for the victims, in accordance with the provisions of the Convention.

The Committee notes with satisfaction the willingness of the new Government to adopt a policy of full material and moral redress for the victims of human rights violations which have occurred in the present or the recent past. The Committee nevertheless urges the State party to take prompt steps to implement the recommendations of the Truth Commission, and in particular to prosecute and punish promptly and impartially those responsible for acts of torture, ill-treatment or enforced or involuntary disappearance, to remove from their posts all officials who have been identified as alleged perpetrators of human rights violations, to create a special fund to compensate victims, to construct a national monument bearing the names of all the victims, and to declare a national holiday in memory of the victims.

(...)

Conditions of detention

(...)

19. The Committee is also particularly concerned about prison conditions for minors, who suffer from ill-treatment and inadequate access to medical services and education (arts. 11 and 16).

The Committee recommends that the State party should:

- (a) Take immediate steps to reduce overcrowding in prisons, in particular through the application of alternatives to imprisonment, and take steps to improve infrastructure, sanitary conditions and health services;**
- (b) Ensure that accused persons are kept separate from convicted prisoners, women from men and children from adults in all places of detention;**
- (c) Provide the necessary equipment, personnel and budgetary resources to ensure that prison conditions throughout the country are brought into line with minimum international standards and principles relating to prisoners' rights;**
- (d) Abolish all forms of incommunicado detention;**
- (e) Pursue the development of programmes for prisoner resocialization and reintegration;**
- (f) Take urgent steps to prevent violence among prisoners and ensure the prompt, impartial and thorough investigation of all incidents of violence in detention facilities and the punishment of those responsible.**

Prisoners' complaints should not have to be made within a specific time frame;

(g) Promptly, impartially and thoroughly investigate all allegations of ill-treatment of child prisoners and take urgent steps to prevent acts of torture and ill-treatment against child prisoners. The State party should also ensure that the deprivation of liberty is a last resort, used for the shortest time possible, and promote the use of alternatives to custodial sentences.

(...)

Violence against women and femicide

21. The Committee notes the setting up of 14 Inter-Institutional Committees to implement the National Plan on Domestic Violence, the establishment of observatories on violence and the initiation in 2005 of the national research project on femicide. The Committee takes note of a draft bill on violence against women and the touring fairs aimed at educating and informing people about domestic violence. Nevertheless, it is very concerned at the prevalence of numerous forms of violence against women and girls, including sexual abuse, domestic violence and the violent deaths of women (femicide). The Committee is furthermore concerned at the absence of thorough investigations into reported cases and the impunity enjoyed by the perpetrators of such acts (arts. 12, 13 and 16).

The State party should increase its efforts to ensure that urgent and efficient protection measures are put in place to prevent and combat violence against women and girls, including sexual abuse, domestic violence and femicide. The Committee considers that these crimes should not go unpunished and the State party should provide human and financial resources to punish the perpetrators of these acts. The State party should also organize widespread awareness-raising campaigns and training courses on violence against women and girls for officials in direct contact with the victims (law enforcement officers, judges, lawyers, social workers, etc.) as well as for the public at large.

(...)

35. The Committee requests the State party to inform it within one year of the steps taken in pursuance of the recommendations contained in paragraphs 15, 19 and 21.

(...)
