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**Human Rights Council**

**Thirty-eighth session**

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador[[1]](#footnote-2)\*

Note by the secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her official visit to El Salvador (25 January to February 2018). The Special Rapporteur examined the situation of the right to life focusing on arbitrary deprivation of life, legal and policy responses, violations of the right to life by non-State actors, in particular gangs, the situation of groups at risk, and the absolute ban on abortion. She formulated a series of recommendations to the Government and international community.

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador[[2]](#footnote-3)\*\*

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A. Conclusions 17

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I. Introduction

1. The Special Rapporteur visited El Salvador from 25 January to 5 February 2018. She thanks the Government for their invitation, extensive cooperation and willingness to engage. The Special Rapporteur also thanks the Office of the High Commissioner for Human Rights including its Regional Office for Central America, UN Resident Coordinator for El Salvador and country team for their invaluable support.

2. The main focus of the visit was on: 1) allegations of arbitrary deprivation of life as part of a State security strategy and official responses; 2) violations of the right to life by non-State actors, primarily gangs; 3) programs designed to address and prevent killings of groups at risk; and, 4) the absolute ban on abortion.

3. The Special Rapporteur met with all branches of State at both the highest and municipal levels: The President, Ministers for Foreign Affairs and Justice, and Public Security, National Council on Citizen's Security and Co-existence, police and armed forces, National Forensics Institute, Coordinating Commission of the Justice Sector, National Human Rights Institution, National Women's Institute and Parliament (Legislative Assembly). She visited prisons under the “Extraordinary Security Measures” and a police station (*bartolina*). The Special Rapporteur also met with international, regional and national human rights organizations; grassroots human rights activists; indigenous peoples’ representatives; religious leaders; media professionals, including journalists; LGBTI persons; internally displaced persons; survivors of human rights violations, eye witnesses and family members of killed relatives.

4. The present report focuses on the situation as it was during the visit[[3]](#footnote-4), with specific references to subsequent developments where possible. The Special Rapporteur thanks the Government for the detailed responses received to the report and looks forward to engaging in further dialogue.

II. Overview of violence, including killings

5. The official murder rate in El Salvador peaked in 2015 at 103 per 100,000 inhabitants (6,657 homicides), making it - at the time - the highest in the world. The numbers have decreased since then to 80.94 in 2016 (5,278 homicides, a 21% decrease) and 60.07 in 2017 (3,950 homicides, a further 25% decrease). Still, the homicide rate remains extremely high. A large number of these killings, officially two-thirds but other sources suggest an even higher proportion, are attributed to gangs. Moreover, the percentage of murders allegedly attributed to the police increased from less than 1% in 2010 (11 of 4004 homicides) to almost 5% in 2015 (328 of 6656) and more than 10% in 2017 (412 of 3954).

6. El Salvador experiences high levels of generalized and pervasive interpersonal and sexual violence: Every 19 hours a woman is killed; every three hours someone is sexually assaulted. In more than 70% of cases, victims are minors.

7. Interlocutors spoke of what they perceive to be a war against the country’s youth, waged by both gangs and security forces. Young men face being forcefully recruited or killed by (rival) gangs for stepping foot in the wrong neighbourhood. Women and girls face femicide, rape and sexual exploitation, including as retaliation by gangs. Police and State officials assume that youth are gang-members based on their place of residence.

8. The Special Rapporteur met many visibly traumatized survivors and witnesses of the endemic violence. Some had been tortured and bore visible scars. Many witnessed horrific violence and are exposed to constant re-traumatization. They walk the same roads as their rapists; meet their torturers on street corners; watch their son’s killers pass-by routinely. The Special Rapporteur was alarmed by the paucity of services available to survivors of violence.

9. A number of interlocutors highlighted the country’s structural and systemic challenges. While these in no way justify the violations included in this report, it is important to acknowledge the complex economic, social and cultural context within which they are committed, including:

* Low job creation and high unemployment rates, particularly among youth;
* Limited investigatory resources and expertise available to the police, resulting in chronic paucity of forensic evidence and little to no scientific investigation capacity;
* Saturation of the court system, particularly at the first/entry levels, due to lack of resources compared to the high amount of cases;
* Demoralization and overstretching of police, poor pay and daily confrontations with difficult and traumatic situations. Measures to improve police well-being and protection have been initiated but remain limited;
* High levels of impunity for past crimes, giving rise to perpetuating and repetitive systemic patterns into the present;
* Lack of State effective presence and *de facto* territorial control by gangs.

III. State responses

10. Since the beginning of the 21st century, successive Governments have followed a *mano dura* (iron fist) strategy against gangs, with the exception of a two-year “truce” between 2012 and 2014. Over the years, security strategies have followed similar approaches: mass incarceration, militarization of policing and privatization of security. These policies appear not to have delivered tangible results and may actually have made matters worse by failing to address the root causes of violence and strength of gangs.

11. The Government has encouraged public participation in the development of *Plan El Salvador Seguro* (see below), but the overall political environment is not conducive to an open and well-informed public debate about the root causes of violence and gangs, nor possible policy options and alternatives to the dominant *Iron Fist* paradigm. The Special Rapporteur was told repeatedly that “dialogue” with, and rehabilitation of, gang-members are quasi-taboo topics.

12. However, there are a number of positive Government responses and due diligence initiatives that deserve highlighting. These include *Plan El Salvador Seguro*, “*Yo Cambio*”, a rehabilitation programme for detainees, and *“Jóvenes Con Todo*”, a youth programme providing learning, training and employment opportunities. All of these testify to the appetite, at least among some officials and sectors of society, for alternatives to repressive measures and a focus on root causes.

13. The Special Rapporteur was also impressed by the establishment of the National Council on Citizen’s Security and Co-existence, a multi-stakeholder coordinating body security strategy, as a demonstration of commitment to transparency and international scrutiny.

1. Plan El Salvador Seguro

14. In 2015, the Government adopted *Plan El* *Salvador Seguro*. An ambitious five-year plan to curb escalating gang-violence and address other forms of violence. Developed by the National Council on Citizen’s Security and Co-existence, the Plan contains a range of short-, medium- and long-term actions and focuses on five key areas: prevention, criminal punishment, rehabilitation and reintegration, victim protection and assistance, and institutional enforcement. Initiatives include development, education and employment projects for the country's 50 most violent municipalities. It also aims to curb the influence of gangs in prisons, improve prison conditions, and support victims with obtaining justice and reparations.

15. The Special Rapporteur met representatives of one priority municipality and was impressed by their commitment to the Plan, the many projects and initiatives it had generated and, most importantly, the “hope” that it provides, at least among local officials. Researchers have also highlighted that the Plan has strengthened efforts at local levels, and allowed committed mayors to undertake and demonstrate visible changes to their communities.

16. The Plan is estimated to cost around USD 210 million a year, financed by international cooperation funds and an earmarked tax. In 2017, close to 55% of this tax went to financing security personnel[[4]](#footnote-5) (of which 78% bonuses).

17. The lack of resources for prevention has resulted in a loss of faith among interviewees in the ability or willingness of the Government to truly implement the Plan as intended. In addition, members of opposition parties (ARENA and GANA) have indicated their mistrust for such “soft” measures, if not outright rejection, making its implementation a political challenge and the unfortunate hostage of elections and politics.

**B. Legal and policy responses**

18. In recent years, El Salvador has adopted a series of measures, in principle, designed to be temporary. A month before decreeing the Extraordinary Security Measures aimed at regaining control in prisons, the Executive declared a state of emergency in 25 of them. Subsequently, the Government decreed the measures in seven prisons, and has extended their validity ever since.

19. Several Governments, including the current one, have used their constitutional powers to authorize the armed forces to execute public security tasks, which the Special Rapporteur is concerned, they are not trained for, may distort their functions and lead to further abuses of power and human rights violations. She is also concerned that, since 2015, gang-members are prosecuted under the Special Law against Acts of Terrorism to “restore order and create social peace”. The Special Rapporteur stresses that the cumulative effect of overlapping permanent and complex regimes of emergencies makes accountability and oversight of emergency powers difficult (A/HRC/37/52, para. 59).

1. Extraordinary Security Measures

20. In April 2016, the Government announced the implementation of a set of measures officially aimed to address the violence, including killings. They are divided into three groups: 1) “Extraordinary Security Measures” (Measures) aimed at those deprived of liberty; 2) Public safety; and, 3) Legal reforms.

21. With regard to persons deprived of liberty, Legislative Decree 321 of 2016 established a series of Measures applied to seven (now six) different penitentiaries to regain full control of them. These Measures include, inter alia, the 24-hour confinement of prisoners to their cells, suspension of all family and intimate visits, correspondence by and to detainees, prohibition of transfer of detainees to court for hearings, as well as denial of access by (inter)national organizations to these prisons. While lawyers are in principle allowed to visit their clients, the many obstacles in place result in a *de facto* prohibition. On 6 April 2018, the National Assembly approved a six-month extension of the Decree, except for the prohibition of detainees’ transfer to court (some prisons can also hold virtual hearings).

22. With regard to public safety, the Government strengthened joint police-military work. In 2016, it launched the Force for the Intervention and Recovery of the Territory, composed of 600 military and 200 police officers (February); Specialized Reaction Forces (FES)[[5]](#footnote-6), composed of 600 military and 400 police officers (April); Task Force “Centro Histórico”, composed of 400 military reservists and 400 police officers (June); and, Joint Group for Community Support (November). The involvement of the armed forces in policing functions dates back to December 1992 and significantly increased in 2009. It has expanded without a proper legal framework that determines the specific role of the military units involved in public security tasks, thus potentially leading to a *de facto* militarization of civil policing.

23. The Special Rapporteur met military officials of these units who insisted on their supporting role indicating that the police was ultimately responsible for leading joint operations. However, they acknowledged that their role increased over the past three years “due to the increase of violent clashes” and referred to the current security situation as a low intensity conflict. From 2006 to 2017, the number of military personnel increased from 876 to 13,827.

24. Article 150 Constitution provides that “National Defence and Public Security will be under different ministries,”, Article 168.2 Constitution states that “exceptionally, if ordinary means for the maintenance of internal peace, tranquillity and public security have been exhausted, the President of the Republic may dispose of the Armed Forces for this purpose”. The use of the armed forces for public security has an “exceptional” nature, confirmed by Article 3 Organic Law of the Armed Forces, and is placed under parliamentary control. The President must inform the Legislative Assembly about these actions.

25. The military role in public security is thus clearly established as exceptional. However, in practice, the executive, legislative, military and police forces have turned what should be an exceptional regime into a norm in the name of public emergency.[[6]](#footnote-7)

26. The joint police-military deployments have been accompanied by ambiguous and permissive speech regarding their human rights obligations. For example, the Director of National Public Security Academy declared “The full legitimacy of the State to preserve the police is in your hands […] There is no need to be thinking that there are human rights involved, that there is criticism from the press or international organizations: when the legitimacy of the State is disrespected, you have to make use of all tactics […].” The Director of the Police publicly affirmed that “no case will be left in impunity, we will look for them under stones and if they resist, they will die [...]. Whomever harms a member of the police should prepare for a hail of fire.”

27. New legal reforms were also initiated including the creation of 13 new crimes and reform of 11 existing criminal provisions (extension of penalties and modification of crimes). In 2016, the Juvenile Criminal Law was reformed to allow the Attorney-General’s Office to issue arrest warrants against minors.

28. Officials pointed to the decline in homicide rates since 2015 as evidence that the Measures are “working”. Official figures indicate that, from 2016 to 2017, rates in the prioritized municipalities declined by some 25%, largely attributable to a drop in gang-related murders. The reasons of this apparent decline should, however, be further documented to identify the conducive factors. In particular as it appears that a similar reduction in homicides has occurred in non-prioritized municipalities since de launching of the Plan.

1. Special Law against Acts of Terrorism

29 In 2015, the Attorney-General announced the use of the Special Law to prosecute gang-members and “restore order and create social peace.” The Law defines acts of terrorism as “evidence of intent to provoke states of alarm, fear or terror in the population, place in imminent danger or affect the life or physical or mental integrity of people.” The Supreme Court confirmed, in August 2015, that the Law and its application to gangs was constitutional. The Special Rapporteur was able to confirm the effective implementation of this Law, as during the prison visits she conducted the vast majority of detainees claimed that they were charged with membership of a terrorist organization, or illegal groups, along with a range of other crimes such as extortion or homicide.

30. In April 2016, the definition of a terrorist organization under this Law was broadened to include “those declared by the competent authority of the country and those framed in the United Nations lists, International Organizations of which El Salvador is a party, as well as those established by Bilateral Agreements.”

31. Between January and 27 October 2017, 3,413 people were charged with membership of a terrorist organization under this Law and placed in pre-trial detention. In the first six months of 2017, 19 men were found guilty of membership of a terrorist organization (compared to 7 men in 2016) and 3 were found guilty of membership of a terrorist organization with special aggravating circumstance (compared to 25 men and 8 women in 2016).[[7]](#footnote-8) The disparity between the charges and sentences could indicate that such charges are used primarily for the purpose of (arbitrary) detention.

32. Expansive anti-terrorism laws “pose the risk that, where such laws and measures restrict the enjoyment of rights and freedoms, they will offend the principles of necessity and proportionality that govern the permissibility of any restriction on human rights” (A/HRC/16/51, para. 26).

1. Criminal Procedure Code

33. In 2013, a reform of the Criminal Procedure Code (CPC) was enacted, allowing the “Justice of the Peace” to, among others, order the definitive dismissal of charges against security personnel serving public security functions. In these cases, the superior of the security officer involved, must send a report to the Office of the Prosecutor or judge, detailing the circumstances under which the incident occurred. The judge’s decision to dismiss is based on this report and other evidence provided. For its part, Attorney-General’s Office has 72 hours to determine whether to call for a dismissal of the charges or not.

34. This legal reform has resulted in a substantial increase in the definitive or provisional dismissals of investigations against police officers. According to civil society, in 2013, prior to this reform, no cases were permanently dismissed and more than 60% of those under investigation were detained. In contrast, since 2014, more than 50% of the cases investigated by the Attorney-General’s Office have been permanently dismissed.

35. The reform further established that when security personnel, among others, "affect legal rights in the fulfillment of their legal duty ", their identity must be protected from the moment of arrest. The protection of identity is lifted only when the judge has issued the final judgement. While reform seeks to ensure the protection of the officer, in light of the "specific conditions of violence," it should not be an obstacle to State accountability for crimes committed by its agents.

IV. State Responsibility: Arbitrary deprivation of life and impunity

36. The Special Rapporteur found a pattern of behaviour among security personnel, amounting to extrajudicial executions and excessive use of force, nurtured and aggravated by very weak institutional responses. Elements of the legal framework, such as the 2006 Special Law and its application to gangs; elements of the 2013 CPC reform and the 2016 Measures contribute to this. The failure of State institutions to undertake professional and effective investigations, constitutes a separate violation of the right to life. Breaking the cycle of impunity is an absolute necessity. This will demand, among others, a firm and sustained political will; stronger investment in security personnel internal control mechanisms; independent monitoring; strengthening of criminal investigatory techniques and know-how; strategic litigation; and, cooperation with and support to human rights lawyers.

A. Allegations of extrajudicial executions and/or excessive use of force

37. The Special Rapporteur learned of a large number of alleged extrajudicial killings or deaths resulting from excessive use of force by security agents. While officials acknowledged there may be some cases of extrajudicial killings they insisted that these were isolated incidents. However, the Special Rapporteur finds that the above-mentioned pattern of behaviour by security personnel points to extrajudicial executions facilitated by inadequate investigations and judicial responses.

38. Official figures[[8]](#footnote-9) indicate an alarming increase in the number of persons – alleged gang-members - killed by security personnel, from 103 in 2014 to 591 in 2016 with a further 119 wounded. Between 2014 and June 2017, the mortality ratio between security agents and civilians rose significantly, from 15 to 112.5. In 2017, during 536 so-called “assault with a firearm” situations, 66 security personnel and 413 "criminals" were killed, and 290 “criminals” detained.

39. Interviews conducted with survivors and witnesses of so-called “armed confrontation” pointed out similar, highly concerning, patterns across these “clashes”. In particular, alleged gang-members are reportedly killed execution-style and the crime scene tampered with by those responsible or others, including by placing weapons and drugs alongside the dead bodies. A number of interviewees in different locations pointed to a pattern of army officers being replaced immediately after an incident by another team. With few exceptions, these testimonies suggest extrajudicial killings rather than excessive use of force. This pattern is confirmed by similar cases of extrajudicial executions investigated by the NHRI, NGOs and journalists. This includes the *San Blas* massacre of eight persons, including seven alleged gang-members.

40. Several family members in addition vehemently denied that their relative killed was a gang-member. The Special Rapporteur was also informed of various allegations of torture preceding attempted executions, as reported by survivors themselves (all of whom bore physical signs in evidence of their claims).

41. In addition, the Special Rapporteur received various allegations of the existence of “death squads” within the police and military, some of which have been confirmed by officials and corroborated by investigations. In August 2017, the Attorney-General’s Office announced opening investigations into three death squads operating in the country - two in the eastern zone and one in the western zone - in which police officers were involved.

42. According to official information, in the *El Carmen, La Unión* case, a squad, calling itself the "Extermination Group", was identified consisting of six persons accused of having perpetrated crimes of aggravated homicide, deprivation of liberty, illegal trafficking of persons and illicit groups. In the *Lourdes, Colón* case, five police officers were identified among 22 members of the "Lourdes Hitmen" squad that committed 11 homicides between 2014 and 2015. The police officers were, among others, in charge of providing logistical means, including police uniforms, in addition to actively participating in illicit acts. In the *Intipuca, La Union case* (first phase), a squad consisting of 26 people (38 during second phase) was identified and accused of, inter alia, aggravated homicide. Three police and 11 armed forces personnel were detained in the case.

43. The Special Rapporteur received information on a number of statements made by high-ranking officials regarding their human rights obligations that may violate international standards on the prohibition of incitement to violence. It appears that repressive “quick fixes” to extremely complex problems are routinely and falsely sold to a population deeply traumatized by decades of high levels of violence.

44. For example, The Speaker of the Legislative Assembly declared that “*the only way a gang-member can pay for the murder of a Public Servant is with their life [...] That is why it is important that we continue to be alert, so that we can one day approve the death penalty for gang-members or mareros who endanger the lives of Salvadorans [...] People are not really expecting that in five years you can get rid of this plague of gang-members [...] with the will of a national effort, with decision and having this as a national goal, the mareros [...] can be finished in a couple of months”.*

B. Impunity: weak or passive institutional responses

45. To date none of these allegations have resulted in the conviction and sentencing of any police or military officer, making conviction rates for killings by security personnel even lower than El Salvador’s overall criminal conviction rate, which stands at less than 5%. Few of these allegations have been fully and properly investigated.

46. This “impunity bottleneck” begins during the first 72 hours after the alleged execution or excessive use of force has taken place: from 2014 onwards, the Attorney-General’s Office has requested dismissal of charges for more than 50% of these cases. In 2017, the Judges of the Peace similarly dismissed charges in 52% of cases (against zero in 2013 when they were not allowed to do so).

47. When these cases do make it to a more in-depth investigatory stage, the vast majority (93% in 2017 according to NGOs) are dismissed and never reach the sentencing stage. With regard to the very few cases reaching sentencing level, judges so far have never convicted security personnel. Astonishingly, this includes the *San Blas* case where the judge concluded that one extrajudicial killing had taken place (eight persons killed) but that no individual responsibility could be attributed.

48. The majority of family members interviewed have filed formal complaints against security personnel. Most of these cases were dismissed at the first stage by the Judges of Peace, prompting one of them to tell the Special Rapporteur *“My testimony was useless; the judge did not use it. The case was dismissed. There is no justice for us poor people[...].”*

49. Internal disciplinary responses have also proven weak. According to official data, as of 31 December 2017, 238 police and 40 military personnel had been prosecuted. Of these police officers, 189 were permanently dismissed, two provisionally dismissed, and 47 remain under investigation, with four detained. According to the Ministry of Defense, 12 soldiers and two sergeants have been sentenced for deprivation of freedom and breaking and entering (pending cassation); and eight soldiers remain under investigation, pending judgement, for deprivation of freedom and aggravated homicide. In 2017, the NHRI also received 78 complaints on human rights violations by the armed forces.

50. Between 2014 and 2016, 41 cases of police involvement in extermination groups or homicides have been investigated. Of these, 24 cases have been dismissed, 10 are under investigation, six are under deliberation and action of the Inspector General, and only one person has been sanctioned. In relative terms, 2.44% of those implicated in these practices have reached a conviction, and 58.54% have been shelved because the investigation did not yield results.

C. Prison conditions and deaths in custody

51. The Special Rapporteur thanks the Government for giving her full access to various detention facilities. In those subject to the Measures - applied in penitentiaries with an initial critical overcrowding rate - she saw detainees with no other belongings than their shorts, living in spaces so overcrowded that they could not sit or lie down, forcing them to take turns sleeping. She met people who had not seen day light for weeks and inmates who were so weak that they had to be carried in to speak with her as they were not strong enough to walk.

52. According to official information, as of January2018, the total prison population was 39,302 (3,721 women), of which 26,436 convicted (67%) and 12,866 pre-trial detainees, resulting in an average overcrowding rate of 218% with figures reaching as high as 664 in San Fransisco Gotera and 902% in San Miguel prison. Homicide (30%), extortion (17%), robbery (9.5%), drug related crimes (8%), unlawful groups (7%) and rape (7%) are the most common crimes.

53. The number of deaths in detention is alarming. While prisons not subject to the Measures have averaged 39 deaths a year since 2015, those subject to these Measures have reportedly seen a significant increase from 63 deaths in 2015 (41 according to NHRI) to 127 in 2017 (83 according to NHRI). Outbreaks of tuberculosis (TB) have caused a large number of these deaths in custody, all of which could have been prevented had the proper conditions been provided.

54. The number of TB cases increased from 724 in 2015 to 1,956 in 2017. According to the Ministry of Health, of the TB cases among detainees more than 95% are bacterial pulmonary, meaning contagious and air borne. The Ministry of Justice has further indicated that of the total prison population around 5.45% have suffered from TB and received treatment. As of January 2018, 1,272 cases of TB were registered in prisons under the Measures, compared to 96 cases prior to their entry into force, an increase of 1225%that the NHRI has called a “great health crisis”.

55. The Special Rapporteur interviewed a number of detainees diagnosed with TB and observed with great concern their conditions of detention, including damp places with poor hygienic conditions. While the level of overcrowding is similar to before the Measures, the difference is that detainees are now locked up 24-hours a day, further deteriorating conditions, facilitating the spread of the virus and complicating medical follow-up, making the development of multidrug resistant TB more likely.

56. The Special Rapporteur was informed, saw and welcomed a number of steps being taken by Prison authorities to address TB, malnutrition and other communicable diseases, and takes note of the launch in April 2018 of the penitentiary human rights unit. It should be adequately resourced to be effective in its functions to, inter alia, prevent deaths in custody.

57. On 31 January 2018, the Ministry of Justice also announced a number of provisional measures, for the duration of one month, aimed at improving conditions in Measures facilities, including providing inmates receiving TB treatment with access to open air for one-hour daily and all inmates with access to the prison store and basic hygiene supplies. Duly accredited public and private defenders have also been allowed to enter these prisons. The prohibition of intimate and family visits applied to members of Mara Salvatrucha (MS-13) held in specific sectors remains in force.

58. While the Special Rapporteur was encouraged by these and other[[9]](#footnote-10) mitigating measures, she urges they are implemented in full compliance with international standards and unconditionally. Not allowing natural light, regular open air access, personal hygiene products, change of clothing, sufficient water and food, communication with lawyers and family visits under any circumstances and lack of cell space are examples of measures that must be lifted immediately.

59. Security concerns alone do not explain the conditions witnessed, leading to the conclusion that measures have been implemented for the primary purpose of dehumanizing detainees. International human rights obligations such as the prohibition of inhuman and degrading treatment and punishment are not subject to pilot testing. The Special Rapporteur also urges that alternative restrictions be explored and implemented in full compliance with international standards, in particular the minimum standards set out by the “Mandela Rules”. It is also of the utmost importance to immediately grant access to these detention centers to international independent organizations, including ICRC and/or OHCHR, and national specialized organizations.

60. The Special Rapporteur also visited a police station (*bartolina)*. These are not designed to hold people for more than 72 hours, but end up holding persons awaiting trial and those remanded in custody. The vast majority of detainees were held there for months, sometimes years, with several deaths in custody, in violation of Articles 9(3) and 14(2) ICCPR. The cells are not equipped with furniture and those holding male detainees alarmingly overcrowded, barely allowing them to move and forcing them to sleep in shifts on concrete floors. Detainees rely on family members or acquaintances for food or on other inmates to share. They also mentioned lack of warm clothes, access to health care and personal hygiene materials, including soap.

61. As stated by the Constitutional Chamber of the Supreme Court of Justice, police stations should be used only temporarily to protect prisoners and not exceeding the time limits. A minimum amount of cell space must be guaranteed at all times, including in these *bartolinas,* so that all detainees are able to move and not be forced to sit, crouch or remain standing and can rest with mats or cots placed on the ground.

62. The State acquires a heightened level of responsibility when it deprives a person of their liberty and becomes the guarantor of their fundamental rights, including to life, health and humane treatment[[10]](#footnote-11). Lack of compliance with the duties to guarantee the health and welfare of inmates, as well as to “ensure that the manner and method of any deprivation of liberty does not exceed the unavoidable level of suffering inherent in incarceration […] may constitute a violation of the absolute prohibition against torture and cruel, inhumane, or degrading punishment or treatment” [[11]](#footnote-12) (see also A/56/44, para. 95f).

V. Killings by non-State actors

A. Gang killings

63. Part of the visit focused on killings by gangs or “*Maras”*. Gangs, by virtue of their territorial control, are responsible for massive human rights violations, including a large proportion of El Salvador’s homicides. The Special Rapporteur found that most of these killings are not random criminal acts. They are organized and appear to be part of something close to a deliberate “strategy,” targeting security personnel and their families to terrorize them.

64. There are two main gangs operating on the territory of El Salvador with an unverified estimated total of 60,000 members, mostly young men: MS-13, comprising an estimated two-thirds of gang-members, and two factions of 18th Street (Barrio 18). A possible re-organization of the gang landscape appears to be underway with the emergence of splinter groups. Some sources suggest that the support base of these gangs includes some 500,000 people (almost 8% of the total population). However, the Special Rapporteur was also told that whomever lives in gang territory has little choice but to “cooperate” with them.

65. Interlocutors pointed to the complex and multiple factors influencing gangs’ origins and development, including the past internal armed conflict, immigration, family disintegration, natural disasters, economic policies and mass deportations from the U.S. in the late 1990s, and highlighted the following gang characteristics as regards their organization and modus operandi:

1. *Exercise of territorial control* expressed through, among others, the use of checkpoints. Gangs reportedly maintain a “presence” in some 247 out of 262 municipalities, sometimes of just a few blocks wide,. The narrative regarding gang territories is reminiscent of that used for war-torn countries: people speak of borders, the unauthorised crossing of which may result in death, resulting in large detours they are forced to make to get to work or reach a certain place.
2. *Extraction of “revenue”,* which is largely territorially-based and consists of small scale extortion of small businesses. Some pointed out that gangs do not have direct business control over parts of the drug trade, but drug traffickers sporadically employ them as “muscle” in some operations.
3. The typical *profile of a gang-members* is a young male, on average 25 years old, usually born to a low-income family and recruited around the age of 15.
4. A number of interlocutors said that all political parties have, at one point or another, *“negotiated” with gangs*, if only to obtain authorisation to run electoral rallies and gain electoral votes. Also, some indicated that both major political parties have allegedly paid gangs in exchange for votes. These were consistent allegations, which the Special Rapporteur could not verify.
5. The modus operandi of gang-members include the commission of *a range of serious and pervasive violations* within the territories they control and sometimes beyond:
   1. Sexual violence and exploitation, including rape, of women and girls;
   2. Restrictions on freedom of movement and forced internal displacement;
   3. Forced recruitment of children, including through control over schools;
   4. Control over the public transport system, including its forced paralysis through threats and killings.
6. *Gang killings* are an integral part of gangs’ exercise of control and power. They are in large majority part of a deliberate strategy targeting, inter alia, rival gang-members; women and girls; individuals resisting extortion or complaining about them; and representatives of public services. This is evidenced by the:
   1. Large statistical disparity between the highs and lows in gang committed homicides, suggests a high level of organized determination as to who should be killed, when and where.
   2. Spike in killings, and widespread targeting of specific individuals seen as representative of the State: - police and military personnel, prison guards, public electricity company workers, judicial branch personnel as well as their families. Human rights organizations and public officials speak of a *systematic strategy against agents of the State,* in response to or as a precursor of, the Government’s war against gangs. Official figures show a sharp increase from 13 killings of security personnel in 2013, to 60 in 2017.
   3. Increase in the alleged number of armed confrontations between opposing gang-members and security personnel. According to official data[[12]](#footnote-13), the number of armed confrontations increased from 256 in 2014 to 407 in 2016. While the official description of some of these “clashes” may be questioned, gangs themselves have reportedly claimed responsibility for the increase in armed confrontations.
7. There was no indication that gangs have an ideological basis or political programme.

66. No one suggested that the threshold of a non-international armed conflict or an insurgency had been met. The Special Rapporteur agrees with this view. However, she also points to troubling developments, such as the official discourse regarding gangs, militarization of policing functions, State reliance on counter-terrorism legislation, and extensive imprisonment of gang-members.

67. Whether or not gangs have “displaced” State control and governance, or merely filled a vacuum remains open to debate. What leaves little doubt is the fear they generate among the population through widespread violence. The NHRI has concluded that, in view of their capacities for territorial control, *“these groups can be considered as having enough power to systematically violate the human rights of a large number of the population”* including violations of the right to life, health, personal integrity and security, property and freedom of movement, as well as a range of economic, social and cultural rights, including to work and education*.*

68. The NHRI does not suggest that gang-members should be tried for human rights violations. However, this is the logical conclusion of any assessment of the situation, even though such a step presents legal challenges. On the other hand, framing the crimes committed by gangs as human rights violations, while addressing the root causes of the existence, growth and influence of gangs, such as governance deficits, as well as economic and social disparities and related marginalization of increasing sections of society, may provide alternative narratives to the situation, less centred on security,and assist in securing long-term solutions.

B. Groups at risk

1. Women and girls

69. The 2012 Law on a Violence Free Life for Women defines femicide as “*the extreme form of gender violence against women, product of the violation of their human rights, in the public and private spheres, conformed by misogynistic conduct that lead to social impunity*” (article 9(b)). It is one of the key pillars guiding public policies on the prevention of violence against women. The State has set up specialized courts for gender-based crimes in San Salvador with more to set up in other departments during 2018. One weakness of the Law is that State response is triggered solely when femicides are committed by male partners, thus excluding gang-members and female perpetrators.

70. The Special Rapporteur notes with concern that El Salvador continues to register alarmingly high numbers of femicide. According to the National Women's Institute (ISDEMU), in 2017, every 18.7 hours a woman was killed. The departments with the highest rates of femicide are: San Salvador, San Miguel, La Paz and Sonsonate. While the classification of murders as femicide increased in 2017, the numbers remain scattered and vary from one institution to another, and more importantly seldom reach the sentencing stage.

71. Many killings constituting femicide are still registered only as homicide or “violent death of women”. The lack of a unified systematization of data makes it difficult to grasp the magnitude of these killings. According to ISDEMU, between 2015 and June 2017, 1299 killings were registered as “violent deaths of women”, 846 of which were classified as femicide. ISDEMU also indicated that, during the same period, 1626 investigations total were opened into cases of homicide of women, of which 855 were registered as femicide. Of these cases, 177 resulted in conviction (59 for femicide) and 75 acquittal (18 for femicide).

72. The Special Rapporteur also received troubling information of increased numbers of enforced disappearances of women (and men), which may be indicative of a higher than reported murder rate, as many disappearances culminate in killings. It is concerning that this number may be underreported due to lack of complaints lodged for fear of reprisals.

73. Women’s bodies are a territory for revenge and control. Not one person interviewed denied the harsh reality for women in gang-controlled areas. Gangs are male dominated and girls and women are often forced into sex slavery. Women are also killed or otherwise punished by gangs in revenge. The Special Rapporteur heard testimony of a gruesome case involving the brutal rape of two women by several gang-members for having family members in the armed forces.

2. LGBTI

74. The Special Rapporteur received disturbing reports of discrimination and attacks against LGBTI individuals committed by State and non-State actors. Between 2009 and 2016, the NHRI documented 19 killings of LGBTI that it considers hate crimes. In none of these cases was justice obtained, as the prosecutor was unable to identify the perpetrators. This number is believed to be only a small fraction of cases as many go unreported. According to civil society, between 1995 and 2016, more than 500 LGBTI individuals were killed. However, there is no common registry for these cases.

75. The lack of trust in State institutions and systematic abuse and discrimination against LGBTI inhibits the victim’s search for justice and redress. The Special Rapporteur was shocked to learn about sexual violence suffered by transgender and lesbian women allegedly to “cure them”. While the definition of hate crime was included in the Penal Code in 2015, no case has so far been catalogued as such, and no conviction occurred under this provision.

76. Civil society reports indicate almost complete impunity for killings of LGBTI persons. The endemic violence in the country and the territorial control of gangs over certain areas has also negatively impacted LGBTI, who in addition to unlawful killings have suffered a wide range of human rights violations, including forced displacement, threats and intimidation, sexual violence and torture. The Special Rapporteur was deeply disturbed to hear the story of a lesbian woman killed by a gang in 2017, allegedly upon orders from members of her own family because they disapproved of her sexual orientation.

77. Transgender women encounter pervasive discrimination in Salvadoran society, with some public officials referring to them as boys or “men with a wig”. As one transgender woman described: “*We are rejected and thus even more targeted, even more discriminated against*”.

78. Both State and non-State actors target transgender women. They are particularly exposed to police violence during the evening and night. The Special Rapporteur learned of several horrific attacks on transgender women by police and gang-members. She received information about a transgender woman who was raped by two police officers in order to be released from detention. In February 2017, three transgender women were killed in La Paz. In November 2017 a transgender woman was badly beaten by a gang-member for not paying the extortion fee, and one transgender human rights defender had to flee the country and seek international protection due to threats of killings.

79. The majority of transgender killings are hate crimes, usually preceded by death threats. They are also an illustration of the extreme kind of violence that is aimed at individuals defying conventional gender roles. Out of the 19 LGBTI killings documented by the NHRI, 16 victims were transgender women (84 percent). According to civil society an estimated 700 hate crimes have taken place over the last 10 years. They registered 32 killings of transgender women in 2016 and 14 in 2017.

80. The Special Rapporteur notes positively the launch by the Ministry of Justice and Public Security of the “Institutional policy for the attention of the LGBTI population”. This is an important step towards addressing the aforementioned violations. Other initiatives include the development of a new protocol for LGBTI persons deprived of liberty, to guarantee dignified conditions during imprisonment; and the pilot violence prevention programme carried out in the Municipality of Santiago Nonualco, La Paz.

3. Migrants and IDPs

81. Migration is part of everyday reality in El Salvador. A large number of Salvadorans[[13]](#footnote-14) leave the country to escape violence and insecurity. While some do so under the auspices of the UNHCR resettlement program, the vast majority leaving the country are undocumented. Undocumented migrants suffer grave human rights violations during their journeys (usually to the United States), including killings, enforced disappearances, sexual violence and inhuman conditions in detention centers.

82. While these crimes take place outside the territory of El Salvador, the State retains a range of obligations to protect the rights of their migrated nationals. For instance, the Special Rapporteur received information on 195 Salvadoran migrants killed in San Fernando, Tamaulipas, Mexico, evidenced by the discovery of 47 clandestine graves in April 2011. Relatives of killed or disappeared migrants spoke of the lack of national support, advice and accompaniment.

83. In 2010, the Forensic Data Bank of Non-Localized Migrants was created in coordination with the Office for the Defense of Human Rights, Ministry of Foreign Affairs, Argentine Forensic Anthropology Team and Committee of Relatives of Migrants who have Died or Disappeared (COFAMIDE). It should should allow for better tracing and matching of the remains of missing migrants and thus provide information to affected families about their faith. It remains weak and in desperate need of capacity strengthening and operational support as part of the Global Compact for Safe, Regular and Orderly Migration.

84. The planned termination of the United States Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS) creates the risk of an unprecedented crisis for which El Salvador is not prepared. The Special Rapporteur calls on the Government of the United States to continue DACA and TPS for El Salvador.

85. The Bureau of Civil Society against Forced Displacement reported that, in 2016, 699 individuals were forcibly displaced due to violence. Nevertheless, to date, the State has not recognized the problem. As noted by the Special Rapporteur on the human rights of internally displaced persons, El Salvador does not have a legal framework, policies or programs for its displaced population.[[14]](#footnote-15)

4. Human rights defenders

86. The Special Rapporteur was informed that a number of those working towards the rehabilitation of gang-members have been harassed and threatened by security personnel, and their work hampered and stigmatized. She also received worrying information about threats towards investigative media workers and journalists documenting alleged executions, as well as intimidation and criminalization of church leaders working in gang controlled communities. The Special Rapporteur urges the Government to ensure their protection, including through appropriate legal frameworks. The scourge of violence that plagues the society cannot be effectively addressed without cooperation from different actors seeking to curb the violence, provide alternatives to gang recruitment and address its root causes.

VI. Absolute ban on abortion

87. El Salvador is one of very few countries in the world that still has an absolute ban on abortion. Women who experience obstetric emergencies – a life threatening situation - and miscarriages may later be unjustly charged with having induced termination of pregnancy. More than 20 women have been charged with “aggravated homicide” and sentenced to harsh prison sentences of up to 40 years. According to civil society data, as of October 2017, at least 159 women had been imprisoned under the country’s Penal Code for abortion related offences.

88. The Special Rapporteur was informed of some progress in some of these cases known as “Las 17”. For instance, the commutation of the sentences of Ms. Teodora Vasquez Vasquez, in February 2018, and of Ms. Maira Verónica Figueroa Marroquín, in March 2018, which ended their imprisonment. Nonetheless, the Special Rapporteur notes with concern that the charges against them have not been dismissed and there has been no provision for full access to justice, redress nor compensation. She calls for the rapid and careful review of the convictions to ensure the release of these women and review of existing legislation criminalizing abortion.

89. The UN human rights mechanisms and Inter-American system have systematically called for decriminalization of abortion to safeguard women’s rights to life, health, autonomy and wellbeing. In February 2017, the CEDAW Committee expressed concern “about the absolute criminalization of abortion, according to Article 133 Penal Code and about women often resorting to unsafe methods of abortion, thus facing serious risk to health and life and called for a moratorium on the application of this law, as well as a review of the law” (CEDAW/C/SLV/CO/8-9, para. 36).

90. The Special Rapporteur recalls that the death of a woman, where it can be medically linked to a deliberate denial of access to life-saving medical care because of an absolute legal ban on abortion, would not only constitute a violation of the right to life and an arbitrary deprivation of life, but would also amount to a gender-based arbitrary killing at the hands of the State, only suffered by women, as a result of discrimination enshrined in law.

91. There is no unified or up-to-date information on how many women have undergone unsafe abortions or how many of these have resulted in the arbitrary deprivation of a woman’s life due to complications. According to information received, between 2011 and 2015, 14 women died because of complications related to abortion, 13 due to ectopic pregnancy and 36 because of complications during pregnancy. While the maternal mortality rate has dropped significantly in recent years, there is high suicide rate among pregnant women. According to civil society, in 2016, 57% (69 out of 121) of women that committed suicide were pregnant.

92. The Special Rapporteur condemns the failure of the Legislative Assembly in April 2018 to vote on two proposed bills seeking to amend Article 133 Penal Code that would have allowed access to safe and legal abortion services when pregnancy poses a risk to the health or life of the woman and in cases of rape and fatal fetal impairments. She notes that human rights standards require decriminalization of abortion, and legalization at a minimum in cases of threat to life and health of the woman, rape and incest, and fetal impairment, and urges law-makers in El Salvador to move towards these standards expeditiously.

93. The Special Rapporteur also notes with regret that the stance of the current Ombudsperson (NHRI) on the issue of abortion and sexual, health and reproductive rights of women and girls more generally contravenes international human rights law and standards, as well as treaty obligations undertaken by El Salvador, that fall under the NHRI purview.

VII. Transitional justice and indigenous peoples

94. The UN-backed Truth Commission, established as part of the Peace Agreements of El Salvador on 15 March 1993, documented the killing, torture and end enforced disappearance of more than 75,000 persons during the armed conflict (1979 to 1992). The Truth Commission recommended that investigations be carried out, and that those responsible for human rights violations be brought to justice. With the passing of a General Amnesty Law, the victims of this tremendous violence were made to wait for a quarter of a century for justice. In meetings with indigenous peoples representatives the Special Rapporteur also learned about the 1932 massacre of approximately 30,000 indigenous peoples, and other more recent alleged killings, disappearances and internal displacement.

95. The Special Rapporteur welcomes the initial steps taken over the last year to move forward in the search for justice for such massive past violations. In her view, such a process not only contributes to repairing wounds from the past but may also help set the conditions for combatting current impunity, as often patterns repeat themselves.

96. The repeal of the General Amnesty Law by the Constitutional Chamber of the Supreme Court, in July 2016, sparked new momentum for the drive towards justice. Since then, only three criminal cases – of the over 100 criminal complaints filed by victims over the years – have been re-opened, and one local judge has re-opened investigations into the actions of the armed forces (the 1981-El Mozote massacre). The Special Rapporteur call for these timid steps to inspire a broader movement towards addressing the crimes of the past, and thus paving the way for a healing process.

97. According to information received, the Attorney-General has appointed a small team of prosecutors to conduct investigations into conflict-related human rights violations. With technical assistance from OHCHR. The Government – and the international community – should continue to provide support to the litigators and human rights defenders representing victims.

98. The executive has also taken steps to support the healing process of its brutal past, the latest of which includes the establishment, by Presidential Decree No. 33, of the National Search Commission of Disappearances of Adults (September 2017), itthereby complements the 2010-National Search Commission of Children Disappeared during the Armed Conflict. These are commendable efforts, which must be strengthened and made State policies.

VIII. Conclusions and recommendations

A. Conclusions

**99. El Salvador’s security challenges are both complex and longstanding with one of the highest murder rates in the world and pervasive violence, largely by gangs exercising territorial control. El Salvador continues to suffer alarmingly high levels of killings of women and LGBTI persons, in particular transgender women. Large numbers of people have fled the country due to the violence, with many killed, disappeared or sexually abused on their journeys, or detained under inhuman conditions in neighboring or destination countries.**

**100. No matter how complex the context, the Government’s response to endemic violence should not further embed it. The surge in killings by security personnel, pointing to excessive use of force and extrajudicial executions, the massive imprisonment of alleged gang-members, normalization of emergency decrees, imposition of Extraordinary Security Measures and application of terrorism laws to gangs activities: all these measures are unlikely to address the root causes of violence and gang existence, or respond to the evident need for accountability.**

**101. For more than a decade, a series of “iron fist” strategies have failed to deliver security and justice. It is more than time for the Government to consider and implement other options, focusing on prevention, re-integration and rehabilitation. Welcoming and courageous steps have been taken in this direction, including *Plan El Salvador Seguro*, “*Yo Cambio*” and *“Jovenes Con Todo.*” These must now be fully resourced and implemented. So should the ambitious legal framework for the investigation and prevention of gender-based killings, including hate crimes and femicide, and the newly adopted LGBTI policy.**

**102. Since the 1990s, El Salvador has criminalized abortion under all circumstances. This absolute ban violates international human rights law and results in arbitrary deprivation of women’s and girls’ lives, involving State responsibility. The decriminalization of abortion to safeguard women’s rights to life, health, autonomy and wellbeing must be prioritized.**

B. Recommendations

**103. Recommendations to the Government:**

Legal framework and policies

1. **Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment and Optional Protocol to CEDAW.**
2. **Amend the Penal Code and define extrajudicial killings as a specific crime in line with international law and standards.**
3. **Prioritize violence prevention strategies and allocate sufficient public resources, particularly for prevention programs targeting youth.**
4. **Develop policies and frameworks to guide the reintegration of former gang-members.**
5. **Develop a comprehensive protection mechanism for victims of violence, including displaced and deportees.**
6. **Address legal gaps regarding femicide committed by gang-members and non-male partners.**
7. **Recognize the situation of IDPs.**

*Arbitrary killings by security personnel*

1. **Enhance the role, functionality and effectiveness of the Internal Affairs Unit of the National Civil Police to conduct independent, impartial, evidence-based and timely investigations into all alleged cases of extrajudicial killings committed by police officers, in good coordination with the Attorney-General’s Office.**
2. **Review, and eventually modify, existing policies to effectively investigate extrajudicial killings in full conformity with the Minnesota Protocol.**
3. **Gradually reduce the involvement of armed forces in public security tasks aimed at their complete withdrawal.**
4. **Strengthen investigative capabilities for extrajudicial killings, enforced disappearances, and torture, through more resources and international cooperation; Design and implement protocols to guide criminal investigations**
5. **Identify causes of the high level of dismissal of cases, with a focus on the first 72 hours; evaluate the role of the Justices of the Peace and the limits of preliminary investigation; Identify effective remedial responses to ensure allegations are properly, independently and professionally investigated by police officers acting.**
6. **Strengthen effective planning of security operations to minimize the use of lethal force; Ensure all investigations into use of lethal force include decisions and planning at earlier stages of the encounters.**
7. **Consider embedding independent human rights advisers in Security Units and municipalities where lethal use of force is particularly high.**
8. **Equip Security Patrols, Units and individual officers with GPS, body-worn cameras and video recording beginning with those with particularly high lethality rates.**
9. **Strengthen research into the systemic character of police abuse,**
10. **Strengthen external controls, including through coordination between FGR, PGR; PPDDH and civil society.**
11. **Prioritize resources to Forensic Institute to strengthen technical capacity and coordination with the Attorney-General’s Office, improve facilities, infrastructure and mobility.**
12. **Strengthen internal controls within the national police.**

*Transitional justice*

1. **Ensure public access to files in possession of armed forces containing information about enforced disappearances, extrajudicial executions, massacres and acts of torture committed during the armed conflict.**

*Gang crimes*

1. **Prioritize investigations into the most serious crimes, above all murder, rape and forced displacement; placing victims at the center of the process.**
2. **Consider developing legal and policy frameworks and establishing human rights investigation teams who, focusing on the worse cases, will investigate violations of human rights committed by individual gang-members and collectively.**
3. **Ensure victims of crimes and violations by gangs have access to remedies and reparations.**
4. **Expand the witness protection program for victims of gang violence.**
5. **Develop gender-specific strategies to protect adults, adolescents and children, including displaced and deportees, from violence and recruitment into criminal gangs;**

*Prisons*

1. **Evaluate the legality under international human rights law of the measures deemed necessary and appropriate to counter security risks. Discuss the evaluation with international and national human rights organizations. Repeal immediately the Extraordinary Measures that cannot be justified based on an objective interpretation of security risks.**
2. **Conduct an individualized evaluation to determine the necessity of placing a person under Extraordinary Measures (or any legal regime that restricts human rights); Authorities must periodically review *ex officio* if the necessity persists. The decision should be motivated and subjected to judicial review.**
3. **Grant immediate and unhindered access to all prisons to international independent organizations, including ICRC and OHCHR, and national specialized organizations.**
4. **Ensure that pre-trial and provisional detention is the exception, not the norm; The Judges of Prison Supervision and Enforcement of the Sentences must urgently update the cases in which, according to law, detainees should no longer have to remain deprived of liberty**
5. **Ensure that prisons and *bartolinas* have the necessary funds to provide sufficient food and water to detainees.**
6. **The Attorney-General’s Office should only order administrative detention after a careful analysis regarding compliance with legal requirements and in an exceptional manner.**
7. **Develop and implement as soon as possible policies and strategies towards decongestion of prison facilities, including by identifying and piloting alternatives to prison sentences and non-custodial measures (e.g. brazaletes electrónicos).**

*Women*

1. **The NHRI is urged to reconsider its position on the issue of abortion to support the promotion of women’s sexual and reproductive health rights.**
2. **Establish a moratorium on the application of Article 133 Penal Code; urgently set up a mechanism to review all cases where women have been imprisoned for obstetric emergencies or abortion-related offences, with the aim of releasing these women without delay.**
3. **Redouble efforts and provide specialized gender sensitive training to police officials, forensic experts and members of the judiciary, and seek assistance from the specialized bodies for such purposes.**
4. **Improve technical expertise to help implement the Latin American Model Protocol for Investigations of Femicide in a practical and consistent manner at all levels (police, prosecutor’s office and forensics), including at the departmental and municipal levels.**
5. **Ensure that killings of women are by default classified as femicide by the appropriate authorities.**
6. **Design and implement a national strategy for preventing, combatting, and punishing femicide and sexual violence based on the proposals that specialized institutions have created on the topic, including protocols to provide attention to survivors of sexual violence.**
7. **Ensure the effective application of the Normative Framework for Substantive Equality.[[15]](#footnote-16)**
8. **Ensure access to comprehensive reproductive health services, including legal abortion in cases where it is necessary to save the life and protect the health of the woman, and approval of the reform of Article 133 Penal Code, which seeks to decriminalize abortion for four predetermined reasons.**

*LGBTI*

1. **Enhance engagement with the LGBTI community to create a viable protection process and mechanisms recognizing the heightened risk facing some individuals, particularly transgender women.**
2. **Fully resource and implement all recently approved laws and policies for the attention of the LGBTI population; evaluate regularly and revise accordingly, in collaboration with LGBTI communities.**
3. **Approve the Law of Gender Identity to allow transsexual individuals to have identity documents in accordance with their identity and gender expression.**
4. **Publicly condemn State authorities and public personalities that have contributed to the justification of hate.**

*Migrants/IDPs*

1. **Design a comprehensive program to aid and protect displaced, deportees and returnees.**
2. **Develop a legal framework to aid and protect victims of internal displacement, inclusive of registration and monitoring mechanisms.**
3. **Establish a genetic database that complies with international standards and best practices to search for disappeared persons.**
4. **Establish Specialized Units of the Attorney-General's Office and National Civil Police in order to coordinate the search for disappeared persons.**

*Human rights defenders*

1. **Provide protection to human rights defenders, including through appropriate legal frameworks and adequate public policies.**
2. **Ensure that individuals and groups involved in the re-integration and rehabilitation of gangs members are not subject to criminal pursuits and are able to work without fear and stigmatization.**

*Trauma*

1. **Establish or support the establishment of community-based centers for the victims of torture, trauma and violence.**

**104. Recommendations to the international community:**

1. **Support the implementation of the above recommendations, strategically or financially.**
2. **Support development of legal and policy framework guiding UN and other actors’ interventions in situations of unconventional violence.**

1. \* The present report was submitted after the deadline in order to reflect the most recent developments. [↑](#footnote-ref-2)
2. \*\* Circulated in the language of submission and in Spanish only. [↑](#footnote-ref-3)
3. End-of-mission-statement: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22634&LangID=E>. [↑](#footnote-ref-4)
4. Term security personnel includes police and armed forces. [↑](#footnote-ref-5)
5. After the disappearance of a police officer, allegedly by members of her own elite unit (Police Reaction Group-GRP), the National Civil Police (NCP) decided to “dissolve” the GRP, and merge the FES and the Special Police Operations Unit into a new unit called Specialized Police Tactical Unit. [↑](#footnote-ref-6)
6. On 28 September 2009, President Mauricio Funes approved Executive Decree 60 authorizing the armed forces to support the NCP in operations for the maintenance of internal peace for six months. It has been renewed every year since then. [↑](#footnote-ref-7)
7. From 2016 to June 2017, 431 people were convicted for “illegal groups” (29 women); five for “criminal activities related to weapons, artefacts or explosive substances, chemical agents”; three for “terrorist acts committed with weapons, artefacts, explosive substances, chemical or biological agents”; 34 for “seizure, deviation or use of ship”; 36 for “terrorist organizations with special aggravating circumstance”. The General Directorate of Penal Centers registered 2,895 convicted crimes related to illegal groups (7% of the total of convicted crimes). [↑](#footnote-ref-8)
8. Ministry of Justice and Public Security. [↑](#footnote-ref-9)
9. Including the opening of a TB centre in Izalco Prison, a health facility for the treatment of severe and chronic diseases, Centro de Acopio Penitenciario and Prison Information Office. [↑](#footnote-ref-10)
10. Recognized by the Supreme Court itself: Sala de lo Constitucional, Corte Suprema de Justicia. Resolución de 7 de julio de 2017. page 7. [↑](#footnote-ref-11)
11. IACtHR, Case of Vélez Loor V. Panama. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 23, 2010. Series C No. 218, para. 198. [↑](#footnote-ref-12)
12. NCP, Ministry of National Defense, Attorney-General's Office. [↑](#footnote-ref-13)
13. These included at the end of 2016, 81,800 Salvadorian refugees and asylum-seekers worldwide, a number ten-times higher than in 2011. [↑](#footnote-ref-14)
14. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21985&LangID=E> [↑](#footnote-ref-15)
15. Comprehensive special law for a life free of violence for women and law on equality, equity, and eradication of discrimination against women. [↑](#footnote-ref-16)