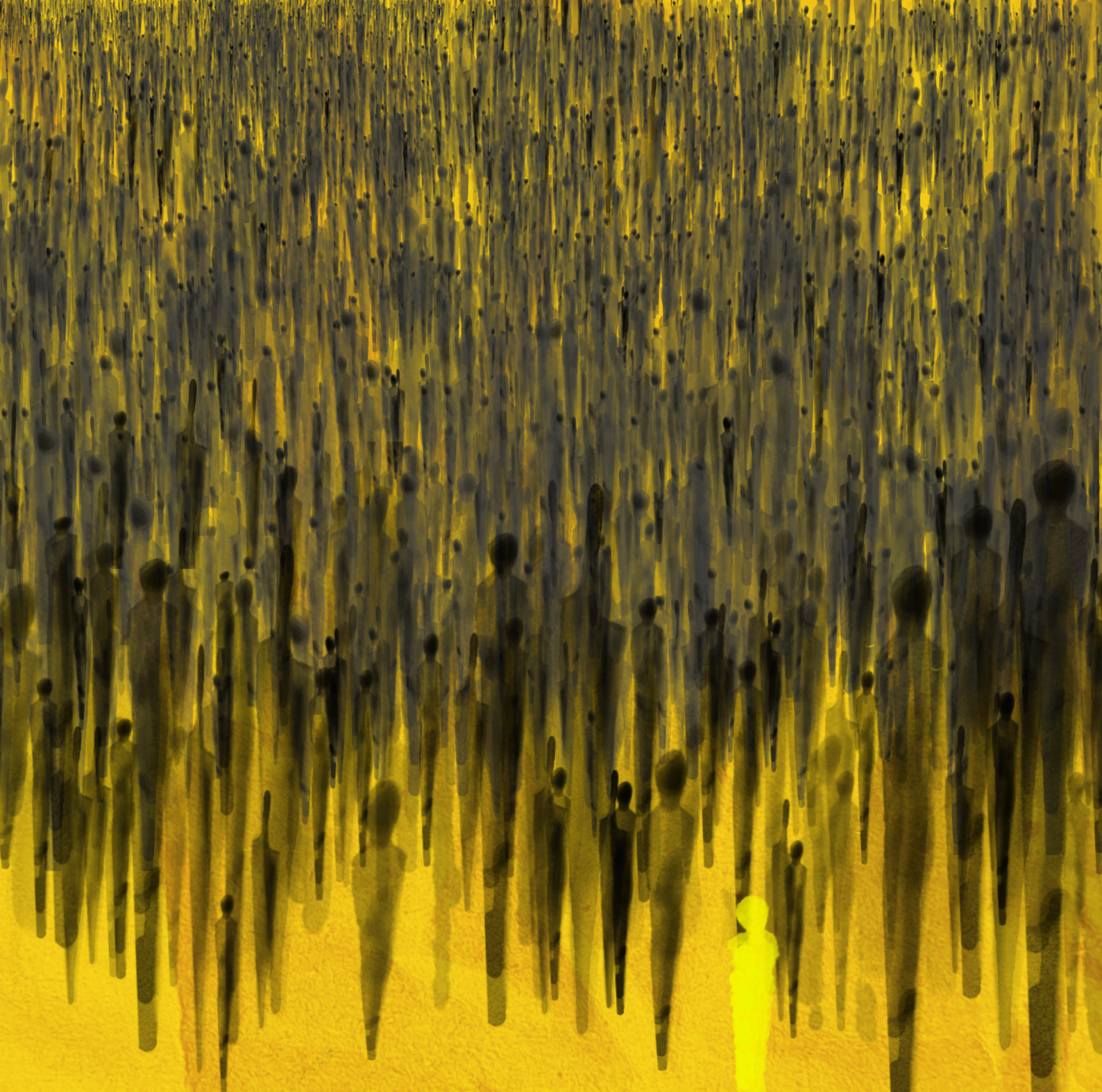




“SECURITY” WITHOUT RIGHTS

IMPACT OF MASS ARBITRARY ARRESTS AND DENIAL OF DUE
PROCESS ON THE POTENTIAL COMMISSION OF CRIMES
AGAINST HUMANITY IN EL SALVADOR

“SECURITY” WITHOUT RIGHTS
IMPACT OF MASS ARBITRARY ARRESTS AND DENIAL OF DUE PROCESS ON THE POTENTIAL COMMISSION OF CRIMES AGAINST HUMANITY IN EL SALVADOR

Amnesty International

AMNESTY
INTERNATIONAL



Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

CONTENTS

EXECUTIVE SUMMARY.....	4
1. INTRODUCTION.....	10
2. METHODOLOGY.....	13
3. THE SALVADORAN CONTEXT.....	16
3.1. CONCENTRATION OF POWER AND ELIMINATION OF INSTITUTIONAL CHECKS AND BALANCES	
3.2. REPRESSIVE APPROACH TO PUBLIC SECURITY	
3.2.1. INCREASING MILITARIZATION	
3.2.2. EXCESSIVE USE OF FORCE	
3.2.3. MASS INCARCERATION AND PRECARIOUS CONDITIONS OF DETENTION	
3.2.4. STRUCTURAL IMPACT	
4. IN-DEPTH ANALYSIS OF THE STATE OF EXCEPTION.....	28
4.1. ORIGIN, TIMELINE AND SUSPENSION OF CONSTITUTIONAL RIGHTS AND GUARANTEES	
4.2. LEGAL REFORMS AND SUPPRESSION OF DUE PROCESS	
4.3. STRUCTURAL EROSION OF JUDICIAL INDEPENDENCE AND STRENGTHENING OF A SPECIAL JURISDICTION	
4.4. DETENTIONS POLICY AND ABSENCE OF EFFECTIVE CONTROLS	
4.5. LACK OF ACCESS TO INFORMATION AND INVESTIGATION OF ABUSES	
5. MAIN PATTERNS OF HUMAN RIGHTS VIOLATIONS UNDER THE STATE OF EXCEPTION.....	71
5.1. Arbitrary detentions	
5.1.1. EXTENSION OF ADMINISTRATIVE DETENTION	
5.1.2. AUTOMATIC APPLICATION OF PROVISIONAL DETENTION AND ELIMINATION OF THE TIME LIMITS	
5.1.3. EXTENSION OF THE INSDETENTION STAGE	
5.1.4. IMPLEMENTATION OF OTHER INSTITUTIONAL PRACTICES THAT FACILITATE ARBITRARY DETENTION	
5.1.5. STRUCTURAL IMPACT	
5.2. DUE PROCESS VIOLATIONS AND RIGHT TO A FAIR TRIAL	
5.2.1. INCOMMUNICADO DETENTION, SOLITARY CONFINEMENT AND RESTRICTIONS ON TECHNICAL AND MATERIAL DEFENCE	
5.2.2. MASS HEARINGS AND COLLECTIVE COURT RULING	
5.2.3. IMPACT OF POLICE MANIPULATION, PROSPECTIVE INVESTIGATIONS AND FABRICATION OF CASES ON THE CRIMINAL PROCESS	

- 5.2.4. SYSTEMATIC REFUSAL TO CONSIDER ALTERNATIVES TO PRETRIAL DETENTION BASED ON DISCRIMINATORY CRITERIA
- 5.2.5. DELIBERATE INEFFECTIVENESS OF JUDICIAL REMEDIES AND OVERSIGHT MECHANISM
- 5.2.6. INCONSISTENT USE OF CRIMINAL OFFENCES AND CHARGES ON INSUFFICIENT GROUNDS

5.3. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND DEATHS IN CUSTODY

- 5.3.1. STRUCTURAL FACTORS THAT ENABLE A CONTEXT OF TORTURE AND ILL-TREATMENT
- 5.3.2. PATTERNS OF PHYSICAL AND PSYCHOLOGICAL TORTURE
- 5.3.3. DEATHS IN CUSTODY: SCALE, CAUSES AND RESPONSIBILITIES
- 5.3.4. STATE POLICY OF TOLERANCE, DENIAL AND COVER-UP

5.4. ENFORCED DISAPPEARANCES

- 5.4.1. DOCUMENTED MODALITIES AND CIRCUMSTANCES OF ENFORCED DISAPPEARANCES
- 5.4.2. DELIBERATE OBSTRUCTION OF SEARCH MECHANISMS AND CONSEQUENCES

6. FROM SERIOUS HUMAN RIGHTS VIOLATIONS TO POTENTIAL CRIMES AGAINST HUMANITY.....114

6.1. ESSENTIAL ELEMENTS OF CRIMES AGAINST HUMANITY

- 6.1.1 OBJECTIVE ELEMENT (ACTUS REUS)
 - a) Attack against a civilian population
 - b) Widespread or systematic
 - c) State or organizational policy
 - d) Link between an individual act and an attack
- 6.1.2 SUBJECTIVE ELEMENT (MENS REA)

7. CONCLUSIONS..... 120

8. RECOMENDATIONS..... 123

- 8.1. RECOMMENDATIONS TO THE AUTHORITIES OF EL SALVADOR
- 8.2. RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY
- 8.3. RECOMMENDATIONS TO REGIONAL AND UNIVERSAL HUMAN RIGHTS PROTECTION MECHANISMS

ANNEXES..... 128

- ANNEX 1
- ANNEX 2
- ANNEX 3
- ANNEX 4

EXECUTIVE SUMMARY

The state of exception declared by the government of President Nayib Bukele in El Salvador on 27 March 2022 constitutes one of the most profound and worrying processes of transformation of the country's criminal justice system in recent decades. Although it was presented by the authorities as an extraordinary response to an increase in gang violence, the state of exception has evolved into a model of public security that has normalized the suspension of constitutional safeguards and the adoption of measures incompatible with international human rights standards, creating conditions for the commission of serious human rights violations and possibly crimes under international law on a large scale. At the time of publication of this report, in July 2026, the state of exception was still in effect after having been extended repeatedly since it was first declared in March 2022.

Amnesty International's research documents how this policy has had profound consequences for thousands of individuals and their families. Between March 2022 and December 2025, more than 90,000 people were arrested under the state of exception, in many cases without a warrant, without flagrancy and without prior investigation. Human rights organizations have also recorded hundreds of deaths in state custody, widespread reports of torture and other cruel, inhuman or degrading treatment, and patterns of enforced disappearances, many of them short term, linked to detentions that are not registered or prolonged periods of incommunicado detention. Given their scale, persistence and systematic nature, these practices raise serious concerns regarding their compatibility with the Salvadoran state's international human rights obligations.

METHODOLOGY

This report is based on Amnesty International's sustained monitoring since the beginning of the state of exception. The research includes six fact-finding visits to the country between May 2022 and January 2025 and a total of 109 interviews with victims, family members, lawyers, public defenders, private defence attorneys, active and retired officers of the National Civil Police (PNC), citizen security experts, members of victims' movements, and representatives of civil society organisations, as well as the analysis of prosecutorial filings, judicial rulings, legislative decrees, official statistics, and statements by international bodies. This research led to the documentation of more than 80 representative individual cases illustrating the main patterns of human rights violations committed during this period.

AN INSTITUTIONAL ENVIRONMENT THAT ENABLED THE EROSION OF SAFEGUARDS

The extent of these violations cannot be understood without taking into account the institutional environment in which they took place. The state of exception did not emerge in a vacuum. Its implementation was preceded by a sustained weakening of the legal and institutional mechanisms for control and accountability of state action that began in 2021. In May of that year, the Legislative Assembly, controlled by the ruling party, dismissed the magistrates of the Constitutional Chamber of the Supreme Court of Justice and the Attorney General of the Republic, in a manner that local and international organizations qualified as irregular. Their replacements were appointed during the same legislative session. This decision severely undermined judicial independence and eliminated one of the primary institutional mechanisms for reviewing the constitutionality of decisions taken by the executive branch.

Subsequent reforms in legislation established the forced retirement of judges and prosecutors over the age of sixty or with more than thirty years of service, significantly reducing the experience built up within the judicial system and further weakening its independence. The Inter-American Commission on Human Rights (IACHR) and various United Nations bodies raised concerns about this process, warning that such measures could seriously undermine guarantees of judicial independence by allowing the mass removal of justice-sector officials without individual evaluations, thus undermining judges' security of tenure, an essential guarantee of the rule of law.¹ The Legislative Assembly also approved dozens of legal reforms through expedited procedures without meaningful parliamentary deliberation. More than seventy legislative decrees were adopted in a few months, approximately thirty of which modified criminal and procedural regulations. These reforms significantly extended the scope of criminal prosecution (by increasing the grounds for indictment, lowering thresholds for initiating proceedings, and extensively using detention as a central tool, thereby undermining the principle of individual criminal responsibility) and weakened basic safeguards of due process.

At the same time, public security policy underwent an accelerated process of militarization. The budget of the Ministry of Defence increased significantly, and the armed forces took on roles traditionally reserved for civilian police bodies, including community patrols, territorial control operations and direct participation in detentions. This shift in the roles of civilian institutions toward military structures significantly increased the state's coercive capacity, while oversight and accountability mechanisms were not strengthened.

¹ IACHR (7 September 2021). IACHR and UN Expert reject legislative reforms that remove judges and prosecutors in El Salvador and call for respect of guarantees for judicial independence. Press release 234/2021. Accessed at: https://www.oas.org/en/iachr/jsForm?File=/en/iachr/media_center/preleases/2021/234.asp.

SUSPENSION OF GUARANTEES AND WEAKENING OF DUE PROCESS

Under the provisions of Article 29 of the Constitution of the Republic, the state of exception suspended four specific constitutional guarantees, namely freedom of association and assembly (Article 7), the right of detained persons to be immediately informed of the reasons for their detention and to have access to legal counsel from the outset (Article 12, second paragraph), a maximum administrative detention time of 72 hours before being brought before a judge (Article 13, second paragraph), and the inviolability of correspondence and telecommunications (Article 24).

Although these rights have not been formally eliminated, their prolonged suspension over time has directly affected the exercise of basic guarantees such as the presumption of innocence and the right to defence. The extension of administrative detention, prolonged periods of incommunicado detention and restrictions on access to legal counsel have seriously weakened judicial control of deprivation of liberty and essential safeguards of due process, in practice allowing the detention of individuals without effective and sustained judicial oversight.

These developments must be examined from the perspective of the Salvadoran state's international human rights obligations, particularly in relation to rights and guarantees that cannot be suspended even in emergency situations. Although the state has not declared the suspension of non-derogable rights, evidence documented in this report suggests that the measures adopted under the state of exception have, in practice, affected the exercise of rights and guarantees that cannot be suspended under international law, even in emergency situations. Article 4 of the International Covenant on Civil and Political Rights and Article 27 of the American Convention on Human Rights establish that rights such as the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment, the recognition of legal personality (recognition as a person before the law), as well as the judicial guarantees essential for their protection, are non-derogable. However, the documented patterns – including allegations of torture, deaths in state custody, detentions without effective judicial oversight and substantial restrictions on access to legal counsel – evidence serious deficiencies in compliance with these obligations and raise the possibility that, in practice, violations incompatible with the non-derogable nature of these rights may have occurred in the context of the state of exception.

The repeated extension of the state of emergency has transformed an exceptional measure into a permanent mechanism, in violation of international standards that require such measures to be strictly necessary, proportionate and limited in time. Indeed, the evidence collected shows that the state of emergency in El Salvador has evolved beyond these limits, becoming progressively entrenched as a permanent public security policy

MASS INCARCERATION AND INHUMANE DETENTION CONDITIONS

One of the most visible features of this policy has been the mass incarceration of the population. At the end of 2024, approximately 1.8% of the Salvadoran population was deprived of liberty. Among men, the rate stood at around 3.3%, equivalent to three out of every one hundred men being in prison. With a figure of around 1,659 people incarcerated per 100,000 inhabitants, El Salvador currently has the highest incarceration rate in the world.

The information collected also suggests that detentions have disproportionately affected people living in poverty or other marginalized population groups, raising additional concerns regarding potential patterns of criminalization based on socioeconomic conditions.

The accelerated growth of the prison population has generated a crisis of extreme overcrowding in the prison system. In some prison facilities, occupancy far exceeds installed capacity, with overcrowding levels reaching between 163% and 300%. Witness statements compiled by Amnesty International describe conditions of detention characterized by limited access to safe water and adequate food, severe restrictions on contact with family members and legal representatives, permanent lighting, and systematic denial of medical care. These conditions have contributed to a widespread deterioration in the health and physical integrity of persons deprived of their liberty.

DEATHS IN CUSTODY, TORTURE AND ENFORCED DISAPPEARANCES

The most serious consequences of these conditions are reflected in the number of deaths recorded in state custody. Human rights organizations have documented at least 470 deaths in detention facilities as of December 2025. Most of these correspond to persons in provisional detention, that is, without a final conviction. In several cases, injuries incompatible with the official causes of death or signs of physical violence and medical negligence were recorded. Despite the seriousness of these events, the authorities have failed to carry out thorough investigations or take effective measures to prevent further abuses.

The report also documents patterns of enforced disappearances linked to the state of exception. In many cases, such disappearances were short term and linked to detentions without official registration, refusal of the authorities to recognize the deprivation of liberty, transfers between prisons without informing relatives, or continued imprisonment despite judicial orders of release. A period of incommunicado detention of up to fifteen days established by current legislation has facilitated the occurrence of these practices.

STRUCTURAL IMPUNITY AND ABSENCE OF CONTROLS

Institutional analysis also reveals the existence of an environment of structural impunity that hinders the investigation and punishment of these violations. Authorities have systematically denied the occurrence of abuses, while key institutions responsible for overseeing state action have performed poorly or failed to act at all. For example, the Attorney General's Office has failed to open substantive investigations into state agents for their potential role in acts of torture or deaths in custody, while the Office of the Procurator for the Defence of Human Rights has significantly reduced monitoring in detention centres.

POSSIBLE COMMISSION OF CRIMES AGAINST HUMANITY

Taken together, the evidence compiled suggests that the documented violations do not constitute isolated incidents but rather respond to patterns of state conduct facilitated by the reshaping of the country's institutional and legal framework. The concentration of political power in the executive and the ruling party, the weakening of institutional checks and balances, an increase in the state's coercive powers and the absence of effective accountability mechanisms have created an environment conducive to the commission of massive and systematic human rights violations.

In this context, the report's findings suggest that the serious and large-scale deprivation of liberty, systematic allegations of torture, patterns of enforced disappearances and deaths in state custody cannot be understood as isolated incidents, but rather as part of a pattern of abuse that, given their scale and organization, could amount to crimes against humanity under international criminal law.

KEY RECOMMENDATIONS

- Adopt a clear and verifiable plan for the progressive lifting of the state of exception and the full restoration of constitutional guarantees.
- Ensure that all detainees have immediate access to legal counsel, effective judicial oversight and review of the lawfulness of their detention.
- Investigate allegations of torture, enforced disappearances and deaths in custody independently, impartially and thoroughly, and punish those responsible.
- Take urgent measures to ensure that conditions of detention are consistent with international standards, including access to health, adequate food and contact with family members and defence attorneys.
- Strengthen judicial independence and institutional oversight mechanisms, including the role of the Office of the Procurator for the Defence of Human Rights.
- Ensure full and independent access to international and regional human rights mechanisms, and accept international technical assistance to strengthen due process, judicial oversight of detention and conditions of detention in line with international standards.

INTRODUCTION



1

INTRODUCTION

Crimes against humanity constitute one of the most serious types of crime sanctioned by international criminal law, as recognized by both customary and conventional law. The prohibition of crimes against humanity has the character of *ius cogens*, or peremptory norm.² According to Article 7 of the Rome Statute of the International Criminal Court – an instrument to which the Salvadoran state is a party³ – this type of crime is defined as any act such as murder, enslavement, imprisonment or other severe deprivation of physical liberty, in violation of fundamental rules of international law, torture, enforced disappearance or other inhuman treatment, among others, committed as part of a widespread or systematic attack directed against any civilian population.

The contextual element of the crime requires a series of necessary conditions for it to be qualified as such: i) that the attack is widespread, meaning large-scale and with a considerable number of victims, or ii) that it is systematic, meaning that it is executed in an organized manner, following a specific plan or policy.

Since 27 March 2022, El Salvador has been under a state of exception that has become a permanent state policy. As of December 2025, the measure had been extended for 43 consecutive periods, without adequate legislative debate or assessment. At the same time, a new criminal justice model has been created, through the enactment of new regulations or by reforming others already in effect.

This new institutional framework has conferred a semblance of legality to mass detention without sufficient evidence, the suspension of judicial guarantees and the imposition of disproportionate terms of administrative detention. It has also justified the adoption of automatic and prolonged provisional or pre-trial detention, and has provided cover for the implementation of a policy of torture and cruel, inhuman and degrading treatment in detention centres. In addition, it has resulted in short-term enforced disappearances and deaths in custody that have not been adequately investigated.

Given its scale – with more than 90,000 detentions, approximately 470 deaths in custody and hundreds of reports of torture and enforced disappearances –, its systematic, Non-random nature – involving uniform, organized and sustained action by state agents – and the impunity underpinning this crisis, it must be examined from the perspective of international criminal law to determine whether it encompasses the contextual and material elements that qualify as crimes against humanity.⁴

² International Law Commission (2022). Draft conclusions on identification and legal consequences of peremptory norms of general international law (*ius cogens*), Conclusion 23 - Non-exhaustive list and Annex, https://legal.un.org/ilc/texts/instruments/english/draft_articles/1_14_2022.pdf 5 S. Furthermore, ICJ, Questions relating to the Obligation to Prosecute or Extradite (*Belgium v. Senegal*), Judgment, 20 July 2012, ICJ Reports 2012, para. 99; IACtHR. Case of *Almonacid Arellano et al. v. Chile*: Preliminary Objections, Merits, Reparations and Costs. Judgment of 26 September 2006. Series C No. 154. para. 99; *Chambre Africaine Extraordinaire D'Assises, Ministère Public v. Hisssein Habré*, Jugement, 30 mai 2016, para. 1484; See also: C. Cheriff Bassiouni, *International Crimes: Jus Cogens and Obligatio Erga Omnes*, Law and Contemporary Problems, Vol.59, No. 4, 63. And G. Mettraux, *International Crimes, Law and Practice*, Volume II: Crimes against Humanity, OUP 2020, 415.

³ Legislative Decree No. 197 of 26 November 2015, published in Official Gazette No. 236, Volume 409, of 22 December 2015. El Salvador deposited the instrument of accession on 3 March 2016.

Serious human rights violations are not in themselves crimes against humanity, but may constitute such crimes when committed under certain conditions defined by international law. In this regard: International Law Commission (2015). First report on crimes against humanity, by Sean D. Murphy, Special Rapporteur. UN. UN Doc. A/CN.4/680, 17 February 2015, para. 11. Accessed at: <https://docs.un.org/en/A/CN.4/680>

In this sense, this report adopts a two-pronged approach. On the one hand, it examines the enabling factors (regulatory, institutional and political) for the potential commission of crimes against humanity, based on a description of the Salvadoran context prior to and during the state of exception, with the aim of gaining a better insight into how the conditions that have allowed the large-scale commission of crimes under international law and serious human rights violations over the last four years were created.

On the other, the report addresses and analyses the patterns of violations documented by Amnesty International during this period, including arbitrary detentions, torture, enforced disappearances and deaths in custody, in order to determine their scale, systematic nature and links with state policy. These two approaches together will permit an assessment of whether the contextual and material elements required by international criminal law to qualify crimes as crimes against humanity are present in the current Salvadoran context.

METHODOLOGY



2

METHODOLOGY

This research is part of a sustained effort of monitoring and documentation that Amnesty International has carried out on the state of exception in El Salvador since its implementation on 27 March 2022. Between March 2022 and December 2025 (the cut-off date for information incorporated in this report), the organization conducted a process of compilation, verification and analysis of information, aimed at evaluating the nature, scope and evolving patterns of human rights violations committed under this extraordinary measure, as well as their possible characterization under international criminal law.

Over this period, the team carried out six fact-finding visits to the country between May 2022 and January 2025, during which it was able to directly document cases of arbitrary detention, torture and other cruel, inhuman or degrading treatment, enforced disappearances and deaths in state custody. The information obtained from these visits was complemented by follow-up interviews conducted remotely, particularly in cases where security conditions prevented further face-to-face meetings.

The first research product to examine the main patterns of human rights violations under the state of exception – which constitutes a substantive basis for the preparation of this report – was published in December 2023 under the title: “Behind the veil of popularity: Repression and regression of human rights in El Salvador”.⁵ Based on the initial findings presented there, Amnesty International continued its efforts of documentation and analysis, incorporating new cases, patterns and contextual elements, and carrying out a more detailed review of the regulatory and institutional factors that have enabled the commission of such serious violations.

A total of 82 individual cases, considered to be representative, were documented. These were selected on the basis of criteria such as severity, geographical representation and diversity of victim profiles – including young persons, women, informal sector workers, community and union leaders and human rights defenders –, as well as their relevance in demonstrating structural patterns. The selection and documentation of cases was nevertheless constrained by a context of marked repression, surveillance and widespread fear, which was a constant limitation both during field visits and in subsequent remote monitoring activities. Victims and witnesses frequently expressed fear of reprisals, and this affected the statements obtained and the level of detail with which certain facts could be documented.

The findings of the report are based on 109 face-to-face and remote interviews with victims, relatives, witnesses, human rights defenders, journalists, medical personnel, former justice operators, public defenders and private attorneys providing counsel and criminal and prison experts. The team also interviewed active and retired members of the National Civil Police, whose statements provided relevant information on issues of operational practice, chain of command and institutional ways of working within the framework of the state of exception. Technical meetings were held with Salvadoran civil society organizations, victims’ associations and international actors with a protection mandate. In addition, the team reviewed legal case files, resolutions,⁶ legislative decrees (including Legislative Decree No. 333 and its successive extensions), legal and constitutional reforms enacted since 2019, as well as available official statistics on

⁵ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023 Accessed at: <https://www.amnesty.org/en/documents/amr29/7423/2023/en/>

⁶ In some cases, Amnesty International had access to copies of judicial decisions provided by the relatives of the detained persons or private defence attorneys who met with the organization. The repositories authorized by the judicial body for public consultation were also accessed.



detentions, prison population and deaths in custody. Reports by regional and universal protection bodies, relevant case law from the Inter-American Court of Human Rights and observations of United Nations special procedures were reviewed. The investigation also included systematic monitoring of media reporting, official social media channels and public statements by authorities.

The investigation adopted a two-pronged methodological approach. Firstly, it examined the regulatory, institutional and political environment enabling the sustained implementation of the state of exception and the reshaping of the criminal and procedural framework. Secondly, patterns of state behaviours were identified and analysed systematically based on the empirical evidence collected, in order to assess their potential widespread or systematic nature and their links with state policy.

During the investigation period (March 2022 to December 2025), the team faced significant difficulties, including a lack of disaggregated official data, partial or negative responses to requests for access to information,⁷ lack of openness of state authorities for holding substantive meetings, and restrictions deriving from the progressive closure of civic space. It is important to note that over the last four years the index of classified information kept by institutions has increased considerably, rendering it impossible to obtain official statistical data on the number of people deprived of liberty, rates of overcrowding in detention centres, deaths in custody, or whether undue use of force by public security agents is being recorded and sanctioned, among other security variables that would allow the monitoring and evaluation of the security context and the state of exception.⁸

Added to this was a persistent climate of stigmatization and fear that hindered access to certain sources and forced the team to adopt strengthened protection measures, including withholding the identity of the persons interviewed for this report and omitting any details that could put them at risk.

Despite these limitations, the cross-checking of sources, the internal coherence of the testimonies collected, the documentary review carried out and the consistency of the patterns identified allow us to draw firm conclusions about the scale, systematic character and nature of the documented violations. Amnesty International is deeply grateful to the survivors, family members, human rights organizations, journalists and other sources who contributed to this research in an adverse and highly stigmatizing context. Many of them requested that their identity be withheld for fear of reprisals. The organization particularly acknowledges the tireless efforts of those who continue to document and report abuses, despite the deterioration of the rule of law and the absence of effective internal protection mechanisms.

⁷ The organization sent requests for information in May 2022, September 2023 and October and November 2025 to the following institutions: National Civil Police, Ministry of Defence, Attorney General's Office, Supreme Court of Justice, Public Prosecutor's Office, General Directorate of Penal Centres, and the Office of the Procurator for the Defence of Human Rights.

⁸ The indexes of classified information can be consulted through the following links: Ministry of Defence: <https://transparencia.gob.sv/documentos/11-18> ; Ministry of Justice and Security <https://transparencia.gob.sv/documentos/15-18> ; Attorney General's Office: <https://portaldetransparencia.fgr.gob.sv/informacion.php?grpid=4&grpname=Cumplimiento%20LAIP> ; General Directorate of Penal Centres <https://transparencia.gob.sv/documentos/68-18> National Civil Police: <https://transparencia.pnc.gob.sv/download/indice-de-informacion-reservada-ene-07-octubre-2025> ; and Supreme Court of Justice: <https://transparencia.oj.gob.sv/es/documentos/581>

THE SALVADORAN CONTEXT



THE SALVADORAN CONTEXT

Since 2019, El Salvador has been experiencing one of its most serious human rights crises, characterized by an accelerated erosion of the rule of law. This has come about as a result of several converging processes: the concentration of power and elimination of institutional checks and balances, the implementation of an openly repressive security policy, and the accelerated closure of civic space.⁹ These elements, already highlighted in previous reports by Amnesty International,¹⁰ have enabled the consolidation of an institutional framework that resorts to authoritarian practices to achieve its objectives.

In this context, it is essential to examine the enabling factors that explain the normalization of the state of exception and the discarding of its temporary and extraordinary character to turn it into a permanent state policy under which mass arbitrary detentions, undue restrictions on human rights and serious human rights violations in detention centres have been legitimized.

An analysis of these factors is key to understanding how the conditions that have allowed serious violations of human rights to become potential crimes against humanity in El Salvador have been forged.

3.1. CONCENTRATION OF POWER AND ELIMINATION OF INSTITUTIONAL CHECKS AND BALANCES

The serious human rights crisis documented by Amnesty International in El Salvador stems largely from the elimination of institutional checks and balances and the deterioration of the rule of law, as a result in turn of a process of almost total concentration of political power in the figure of President Nayib Bukele and his New Ideas (NI) party.¹¹ Under the claim of strengthening “governance” and streamlining the state’s response, the government has driven a weakening and takeover of the main oversight bodies since its first years in office, consolidating a power structure with no independent supervision

⁹ The accelerated closure of civic space includes documented patterns of stigmatization and vilification against journalists and defenders, arbitrary restrictions on access to information, unlawful surveillance, criminalization of dissent and punitive use of administrative mechanisms, persecution of public protest, and the adoption of the Foreign Agents Law, in contravention of arts. 13, 15 and 16 of the American Convention on Human Rights (ACHR) and arts. 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR). See: Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 45–52. Accessed at: <https://www.amnesty.org/en/documents/amr29/7423/2023/en/>; Amnesty International (1 July 2025). El Salvador: Amnesty International declares Ruth Eleonora López, Alejandro Henríquez and José Ángel Pérez prisoners of conscience amid increasing repression. Accessed at: <https://www.amnesty.org/en/latest/press-release/2025/07/el-salvador-amnistia-internacional-declara-presos-de-conciencia/>; IACHR (23 July 2025). Public Hearing “El Salvador: Consequences of the closing of civic space for human rights defenders”. 193 Period of Sessions. Accessed at <https://www.oas.org/en/iachr/sessions/hearing.asp?Hearing=3839>.

¹⁰ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023; Amnesty International (5 October 2020) Some things never change: repression and militarization of public security in El Salvador. Accessed at: <https://www.amnesty.org/en/latest/news/2020/10/repression-militarizacion-seguridad-publica-el-salvador/>; and Amnesty International (20 December 2024). El Salvador: A thousand days into the state of emergency. “Security” at the expense of human rights. Accessed at: <https://www.amnesty.org/en/latest/news/2024/12/el-salvador-mil-dias-regimen-excepcion-modelo-seguridad-a-costa-derechos-humanos/>.

¹¹ Amnesty International (2023, December). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023; HRW (2023). World Report 2023: El Salvador. Accessed at: <https://www.hrw.org/world-report/2023/country-chapters/el-salvador>; and V-Dem (2024). Democracy Report 2024. Democracy Winning and Losing at the Ballot, p. 27. Accessed at: https://www.v-dem.net/documents/43/v-dem_dr2024_lowres.pdf.

or accountability, allowing the adoption of decisions that are detrimental to the rights of the population with no oversight.¹²

This process of concentration of power in the executive intensified in May 2021, when the new Legislative Assembly, in which the ruling party held a qualified majority,¹⁴ irregularly dismissed the five judges of the Constitutional Chamber of the Supreme Court of Justice (CSJ) and the Attorney General of the Republic in its first legislative session, and appointed replacements during the same session. This procedure lacked guarantees of due process or observance of applicable constitutional requirements. The move was criticized by regional and universal human rights protection mechanisms.¹⁵

These actions undermined the judicial independence and autonomy of the Public Ministry, weakening the separation of powers and oversight inherent to the rule of law. In addition, in July 2021 the ruling majority appointed the five judges whose terms had expired, which meant that the executive and its majority in the Assembly had effectively appointed ten of the 15 judges in the CSJ.¹⁶ With this control over the CSJ, the executive and its legislative body now had the ability to decisively influence the internal structure of the judiciary, with the majority required to push through new appointments of candidates aligned with the ruling party, intervene in disciplinary proceedings and amend the regulations governing the structure of the judiciary.

The result was the establishment of a system of institutional capture of the state by the executive branch, which has facilitated the adoption of authoritarian practices and the instrumentalization of the legal framework to restrict rights and evade accountability.¹⁷ Shortly after, in September 2021, the Legislative Assembly introduced reforms to the

¹² For example, President Bukele has said that “institutionality, transparency, human rights... sound good, but they are terms that are really only used to subjugate people” in a speech for his second term. See: Swissinfo.ch, “El salvadoreño Bukele dice que democracia y derechos humanos ‘son términos’ para ‘someter’ [Salvadoran Bukele says democracy and human rights ‘are terms used to subjugate people’]”, 1 Jun 2025, EFE. Accessed at: <https://www.swissinfo.ch/spa/el-salvadore%C3%B1o-bukele-dice-que-democracia-y-derechos-humanos-%22son-t%C3%A9rminos%22-para-%22someter%22/89444838>. Likewise, pro-government legislators defended constitutional reforms by eliminating re-election limits, arguing that “The constitution isn’t untouchable. What should be untouchable is the WILL of the people.” See: The Guardian, “Opposition leaders say, ‘democracy in El Salvador has died’ after scrapping of presidential term limits,” 1 Aug 2025. Accessed at: <https://www.theguardian.com/world/2025/aug/01/el-salvador-bukele-presidential-term-limits?> And the president himself rejected the criticism, calling himself a dictator if necessary in the face of his security and public order policies. See: El País, “Bukele: ‘I don’t care if they call me a dictator...’”, 2 Jun 2025. Accessed at: <https://elpais.com/america/2025-06-02/bukele-me-tiene-sin-cuidado-que-me-llamen-dictador-lo-prefiero-a-que-maten-salvadores-en-la-calle.html>

¹³ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023 pp. 60-65

¹⁴ After the elections of 28 February 2021, the NI party obtained 56 of the 84 seats in the Legislative Assembly (two-thirds of the total), ensuring effective control of the parliamentary agenda, including for the adoption of decisions requiring a reinforced majority, such as decreeing a state of exception or appointing judges to the Supreme Court of Justice, among others. In 2023, the Legislative Assembly also approved a reform to the Electoral Law that reduced the number of seats from 84 to 60 and modified the allocation system, favouring majority parties, thus benefiting the ruling party and decreasing the representation of the opposition.

¹⁵ IACHR (3 May 2021). The IACHR condemns the removal of the judges of the Constitutional Chamber of the Supreme Court of Justice without respect for due process and urges El Salvador to preserve the rule of law. Press release 110/2021. Accessed at: <https://www.oas.org/es/cidh/jsForm/File=/es/cidh/prensa/comunicados/2021/110.asp>; OHCHR (2021, May 4). El Salvador: dismissal of Constitutional Chamber and Attorney General seriously undermines the rule of law – Bachelet. Accessed at: <https://www.ohchr.org/es/2021/05/el-salvador-dismissal-constitutional-chamber-and-attorney-general-seriously-undermines-rule>; and Special Rapporteur on the Independence of Judges and Lawyers (5 May 2021). El Salvador: UN expert condemns dismissal of top judges and A-G, Press Release. Accessed at: <https://www.ohchr.org/es/2021/05/el-salvador-un-expert-condemns-dismissals-top-judges-and-g>

¹⁶ Citizen Action (2022). Elección de Magistraturas de Corte Suprema de Justicia 2021-2030 [Election of judges of the Supreme Court of Justice 2021-2030]. Observatory for Institutional Strengthening, p. 1. Accessed at: <https://www.accion-ciudadana.org/informes/Informe.-Eleccion-de-magistraturas-a-la-Corte-Suprema-de-Justicia.-Período-2021-2030.-FEADES-CNJ-Asamblea-Legislativa.-Accion-Ciudadana.-2022.pdf>.

¹⁷ This capture of the judiciary body has continued. In 2024, the terms of the five judges not appointed under the Bukele administration expired. With the appointment of their replacements, the full structure of the CSJ has now been named by NI. See DPLF (11 September 2024). Renovación de la Corte Suprema en el Salvador: una Corte a la medida del Ejecutivo [Renewal of the Supreme Court in El Salvador: a Court tailored to the Executive]. Accessed at <https://dplf.org/renovacion-de-la-corte-suprema-en-el-salvador-una-corte-a-la-medida-del-ejecutivo/>.

Judicial Career Law and the Organic Law of the Attorney General's Office¹⁸ through which it imposed the forced retirement of hundreds of judges and prosecutors over the age of 60 or with 30 years of service, and failed to comply with the legal procedure provided for their replacement.¹⁹ This measure served to remove and intimidate independent voices within the justice system, severely weakening the separation of powers and undermining the independence of the judiciary.²⁰

With a restructured judiciary and the Attorney General's Office (FGR) aligned with the government, the legislative body, controlled by the ruling party and with no significant opposition, has continued to pass legislation unhindered in support of initiatives promoted by the executive, eliminating institutional checks and balances, limiting pluralism and restricting rights and freedoms.²¹

This is the environment in which expedited legal and constitutional reforms have been approved over recent years to consolidate a governance model with no institutional oversight or checks and balances, including the erosion of due process guarantees and the amendment of the procedure for constitutional reform, which does away with public consultation and debate, among other issues (see annex 1).

All these changes were made with procedural waivers,²² little deliberation and no public consultation.²³

At the same time, the Legislative Assembly has promoted and approved procedures the appointment of second-degree officials (senior officials elected by the Legislative Assembly) that human rights organizations and the media have denounced as containing irregularities²⁴ that compromise institutional independence and impartiality, in

¹⁸ The reforms to the Judicial Career Law were approved by Legislative Decree No. 144 of 31 August 2021, published in the Official Gazette No. 175, Volume 432, of 14 September 2021. The reforms to the Organic Law of the Attorney General's Office were adopted through Legislative Decree No. 145 of the same date, also published in the Official Gazette No. 175, Volume 432, of 14 September 2021. For further details: CNN (1 September 2021). Aprueban ley para jubilar a jueces y fiscales a los 60 años en El Salvador [Law to retire judges and prosecutors at age 60 passed in El Salvador]. Accessed at:

<https://cnnespanol.cnn.com/2021/09/01/aprueban-ley-para-jubilar-a-jueces-y-fiscales-a-los-60-anos-en-el-salvador>

¹⁹ FOCOSTV (12 July 2023). Jueces a la medida: la farsa de la depuración de Bukele [Hand-picked judges: the farce of Bukele's purge]. Accessed at <https://focostv.com/jueces-a-la-medida-la-farsa-de-la-depuracion-de-bukele/>. See also: HRW (2021, September 2). El Salvador: New laws threaten judicial independence. Press release. Accessed at: <https://www.hrw.org/es/news/2021/09/02/el-salvador-nuevas-leyes-amenazan-la-independencia-judicial>.

²⁰ IACHR (7 September 2021). IACHR and UN Expert reject legislative reforms that remove judges and prosecutors in El Salvador and calls for respect for guarantees for judicial independence. Press release 234/2021. Accessed at: <https://www.oas.org/es/cidh/jsForm?File=/es/cidh/prensa/comunicados/2021/234.asp>.

²¹ IACHR (12 November 2024). Public hearing on constitutional reforms and democratic institutions in El Salvador. 191st Period of Sessions. Accessed at: <https://www.oas.org/es/cidh/sesiones/audiencia.asp?Hearing=3770>; Vance Center for International Justice (September 2024). El Salvador: Judicial System Assessment in Central America and the Caribbean. Accessed at: <https://www.vancecenter.org/wp-content/uploads/2024/11/Judicial-System-Assessment-El-Salvador-Sept-2024.pdf>; Gellman, Mneesha (2022). The Democracy Crisis in El Salvador: An Overview (2019–2022). CeMeCA's Regional Expert Paper Series No. 4. Columbia University – Center for Mexico and Central America. Accessed at: https://ilas.columbia.edu/sites/ilas.columbia.edu/files/content/CeMeCA_Paper4_Gellman_English.pdf.

²² In El Salvador, "waiver of procedure" is a parliamentary mechanism by which the Legislative Assembly exempts a bill from standard parliamentary review, including its committee analysis, so that it can be immediately approved in plenary session, without substantive debate or public deliberation. See Rules of Procedure of the Legislative Assembly (RIAL), article 76.

²³ IACHR (12 November 2024). Public hearing on constitutional reforms and democratic institutions in El Salvador. 191st Period of Sessions. Accessed at: <https://www.oas.org/es/cidh/sesiones/audiencia.asp?Hearing=3770>.

²⁴ Entre las irregularidades que se han registrado se encuentran la inobservancia a las reglas establecidas para realizar el proceso de selección y nombramientos de algunos de estos funcionarios, la ausencia de escrutinio público y perfiles con conflictos de interés, seguidos por un patrón de decisiones alineadas con el Ejecutivo. Estos elementos, a la luz de la CADH y PIDCP, la Carta Democrática Interamericana, los Principios de París y los Principios de la ONU sobre independencia judicial y fiscal, permiten calificar la práctica como autoritaria por desnaturalizar los frenos y contrapesos y comprometer la independencia e imparcialidad de los órganos de control. Para mayor detalle, véase: HRW. (2021, 1 de noviembre). El El Salvador: Legislature Deepens Democratic Backsliding. Obtenido: <https://www.hrw.org/news/2021/11/01/el-salvador-legislature-deepens-democratic-backsliding>; Acción Ciudadana. (2022). Elecciones de segundo grado en El Salvador en el año 2021. Observatorio para el Fortalecimiento Institucional. Obtenido: <https://www.accion-ciudadana.org/informes/Presentacion-de-los-informes-Elecciones-de-segundo-grado-en-El-Salvador-en-el-2021.-Accion-Ciudadana.-2022.pdf>; Acción Ciudadana. (2025, marzo). Monitoreo al proceso de elección del Fiscal General de la República. Período 2025–2028. Obtenido: <https://accion-ciudadana.org/wp-content/uploads/2025/03/informe-monitoreo-al-proceso-de-eleccion-del-fiscal-general-de-la-republica-periodo-2025-2028.-accion-ciudadana.-2025.pdf?utm>

contravention of inter- American and international standards on the separation of powers and the rule of law established in the American Convention on Human Rights (ACHR), the International Covenant on Civil and Political Rights (ICCPR) and other international instruments.²⁵

These include the re-election of the Attorney General of the Republic,²⁶ the appointment of the Procurator for the Defence of Human Rights,²⁷ the appointment of the Procurator-General of the Republic,²⁸ the selection of magistrates of the Supreme Electoral Tribunal (TSE),²⁹ the election of the president and magistrates of the Court of Accounts of the Republic (CCR)³⁰ and the election of members of the National Council of the Judiciary (CNJ)³¹ (see annex 2).

The consequence of these appointments has been the loss of independence and, subsequently, of the suitability of the bodies responsible for overseeing state action, which has in turn led to an absence of effective checks and balances and accountability for human rights violations and crimes under international law in matters of public security.³² This weakening of the rule of law has allowed arbitrariness to become entrenched as a form of state functioning. Taken together, these factors have facilitated the adoption of a criminal and procedural framework that undermines due process, and the systematic use of torture and other ill- treatment in detention centres, with no oversight mechanisms obliging the state to comply with its international obligations.

An example of the impact of this environment on human rights, within the framework of the state of exception, is the loss of autonomy of the Office of the Procurator for the Defence of Human Rights (PDDH).³³ This is manifested in its systematic omission to exercise its legal powers to protect the population against state abuse, including through

²⁵ See: ACHR, arts. 8.1 and 25.2, (independent and impartial courts; effective remedies); ICCPR, art. 14; the Inter-American Democratic Charter, arts. 3–4 (separation and independence of powers; transparency and accountability); Paris Principles for NHRIs (1993); Case law of the Inter-American Court of Human Rights (IACtHR) on judicial independence: (Apitz Barbera v. Venezuela, 2008; Supreme Court of Justice (Quintana Coello et al.) v. Ecuador, 2013; Constitutional Court (Camba Campos et al.) v. Ecuador, 2013. See also: General Comment no. 32 of the Human Rights Committee (2007); and UN Basic Principles on the Independence of the Judiciary (1985) and Guidelines on the Role of Prosecutors (1990).

²⁶ Legislative Assembly (24 December 2024). Rodolfo Delgado es reelegido como fiscal general de la República [Rodolfo Delgado is re-elected as Attorney General of the Republic]. Accessed at <https://www.asamblea.gob.sv/node/13445>; GatoEncerrado (24 December 2024). Los antecedentes del fiscal impuesto y reelegido por el bukelismo [The background of the attorney general imposed and re-elected by Bukele's loyalists]. Accessed at: <https://gatoencerrado.news/2024/12/24/los-antecedentes-del-fiscal-impuesto-y-reelegido-por-el-bukelismo/>.

²⁷ Legislative Assembly (15 October 2022). Raquel Caballero es juramentada como titular de la Procuraduría para la Defensa de los Derechos Humanos [Raquel Caballero is sworn in as head of the Office of the Procurator for the Defence of Human Rights]. Accessed at: <https://www.asamblea.gob.sv/node/12468>; LPG. (14 October 2022). Hoy eligen a nuevo procurador de los derechos humanos [New human rights ombudsman to be elected today]. Accessed at: <https://www.laprensagrafica.com/elsalvador/Hoy-eligen-a-nuevo-procurador-de-los-derechos-humanos-20221013-0091.html>.

²⁸ Legislative Assembly (27 April 2022). Diputados eligen a René Escobar Álvarez como nuevo procurador general de la República [Deputies elect René Escobar Álvarez as the new Procurator-General]. <https://www.asamblea.gob.sv/node/12118>; Legislative Assembly (1 May 2025). Abogado René Escobar es reelegido como procurador general de la República [Attorney René Escobar is re-elected as Procurator-General of the Republic]. Accessed at: <https://www.asamblea.gob.sv/node/13556>; LPG (5 March 2025). Procurador René Escobar busca la reelección en la PGR [Procurator- General René Escobar is seeking re-election at the PGR]. Accessed at <https://www.laprensagrafica.com/elsalvador/Procurador-Gustavo-Escobar- busca-la-reeleccion-en-la-PGR-20250305-0069.html>.

²⁹ GatoEncerrado (2 October 2024). Bukelismo entrega el control del Tribunal Electoral a su leal abogada Roxana Soriano [Bukele hands control of the Electoral Tribunal to his loyal lawyer Roxana Soriano]. Accessed at: <https://gatoencerrado.news/2024/10/03/bukelismo-entrega-el-control-del-tribunal-electoral-a-su-leal-abogada-roxana-soriano/>.

³⁰ EDH (7 February 2025). Asamblea elige a Walter Sosa como presidente de la Corte de Cuentas [Assembly elects Walter Sosa as President of the Court of Accounts]. Accessed at: <https://www.elsalvador.com/h-noticias/h-nacional/corte-de-cuentas-asamblea-bancada-nuevas-ideas/1198967/2025/>.

³¹ DW (27 May 2021). El Salvador: Congreso elige nuevo Consejo de Judicatura [El Salvador: Congress elects new Judiciary Council amid controversy]. Accessed at: <https://www.dw.com/es/el-salvador-congreso-elige-nuevo-consejo-de-judicatura-en-medio-de-pol%C3%A9mica/a-59257174>.

³² Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 4 et seq.

³³ The Office of the Procurator for the Defence of Human Rights (PDDH) is a public institution established by the Constitution, under the Public Ministry but having administrative autonomy, with a mandate to ensure the protection, promotion and guarantee of human rights in El Salvador. Its main functions include investigation, ex officio or as a result of a complaint, of possible human rights violations; oversight of the actions of public authorities; monitoring of the conditions of persons deprived of their liberty; promotion of judicial or administrative remedies for the protection of rights; and issuing recommendations and reports on documented violations. See Constitution of the Republic of El Salvador, art. 194, and Law of the Office of the Procurator for the Defence of Human Rights, Legislative Decree N° 183, of 20 February 1992.



effective monitoring of respect for and guarantee of the human rights of persons deprived of their liberty and the limits of administrative detention, and its openly partial stance towards the repressive security policy driven by the executive.³⁴

In short, Salvadoran institutional architecture has been reshaped to eliminate any possibility of the authorities being held accountable for their abuses. The mechanisms for overseeing public action are ineffective or inoperative. The general population and critical voices in particular have been excluded from and silenced in important debates, with absolutely no say in the decisions shaping the country's legal framework. This has paved the way for the executive to implement a security policy that violates human rights, and legal reforms that take a punitive approach, undermining the rule of law and creating conditions conducive to the abuse of state power and the consolidation of authoritarian practices.

3.2. REPRESSIVE APPROACH TO PUBLIC SECURITY

In its 2023 report, Amnesty International warned that President Bukele's government was intensifying the approach inherited from previous administrations on the issue of public security by prioritizing a punitive and repressive model to combat violence and criminality. This was characterized by increasing militarization, excessive use of force by law enforcement agencies, mass incarceration and precarious conditions of detention for people deprived of their liberty.³⁵

The ultimate manifestation of this eminently repressive model was the imposition of the state of exception in March 2022 and its successive extensions. This is analysed further in the chapter *"In-depth analysis of the state of exception"*.

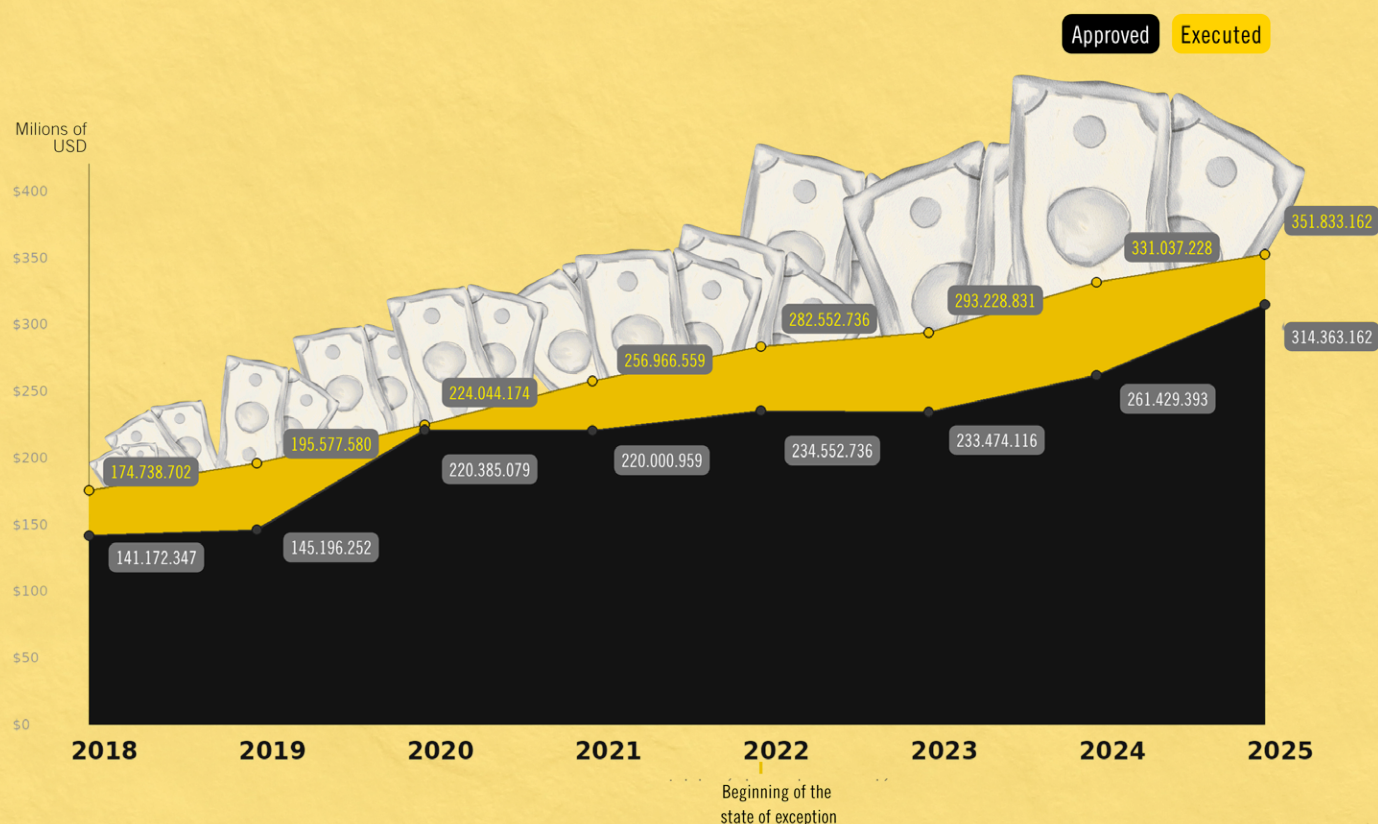
3.2.1. INCREASING MILITARIZATION

The role of the Salvadoran Armed Forces in public security tasks has been key during the current government, together with an increase in the number of officers and the budget allocated to the Ministry of Defence.³⁶ In the context of the state of exception, this increasing militarization has resulted in excessive or disproportionate use of force and massive human rights violations or crimes under international law against historically impoverished and stigmatized communities.

³⁵ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 10-14.

³⁶ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 13-14.

FIGURE 1. MINISTRY OF DEFENCE BUDGET 2018-2025

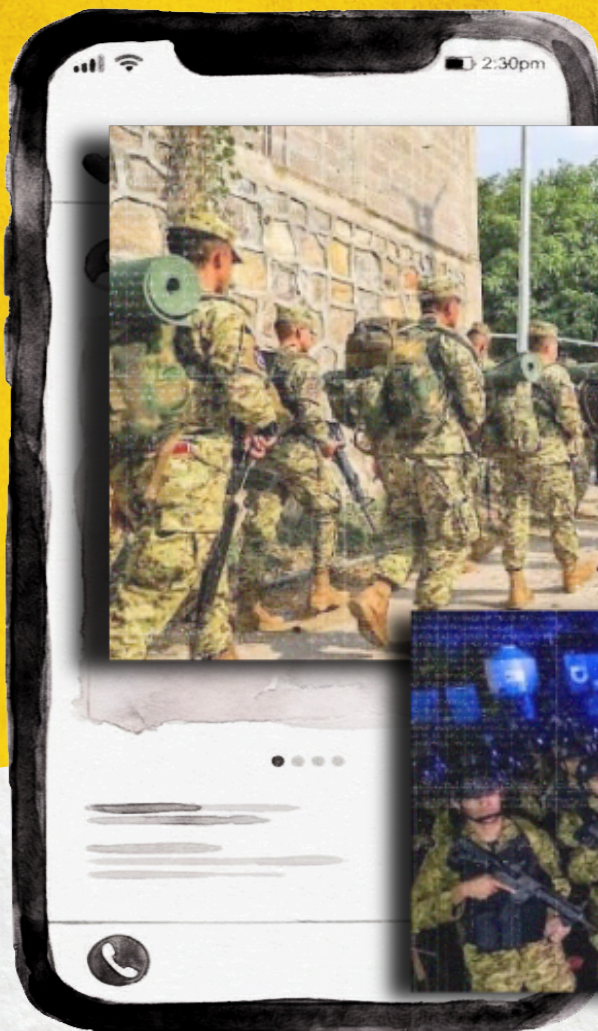


Prepared by Amnesty International based on available data on approved general budgets, 2018 – 2025.³⁷

One manifestation of the spread of this practice has been the deployment of military cordons and soldier patrols in poor neighbourhoods. According to newspaper reports, since the beginning of the state of exception the government has deployed at least 12 military cordons (see annex 3), presented as part of the strategy to combat gangs.³⁸

³⁷ Ministry of the Treasury, Fiscal Transparency Portal, Ejecución del gasto por clasificación presupuestaria, Gobierno Central, Ramo de la Defensa Nacional [Expenditure by budget classification, Central Government, National Defence], revised budget figures for the years 2019 to 2025. Accessed at https://www.transparenciafiscal.gob.sv/ptf/es/PTF2-Datos_Abiertos.html

³⁸ The use of military cordons was first recorded in October 2022. The measure was then presented by the President of the Republic on 24 November 2022 as the fifth phase of the Territorial Control Plan, named “Extraction”. Accessed at: <https://www.seguridad.gob.sv/presidente-nayib-bukele-anuncia-fase-5-del-plan-control-territorial-extraccion/>



© El Diario de Hoy,
published on 6
January 2025.



© Press Office of the Presidency
of the Republic via AFP.
Published by DW on 11
October 2023.

This increased military presence in the daily lives of communities and neighbourhoods and the arbitrary and violent actions of the military personnel reflect historical patterns of massacres, extrajudicial executions, torture and enforced disappearances.³⁹ The resurgence of this culture of violence under the state of exception revives repressive practices that undermine the dignity and human rights of the population.

“

In fact, statements from victims of the armed conflict show that ‘fear has returned... before we could at least talk, but today there is fear of reprisals or, worse, fear of being captured... because this government does not want to know or hear anything about human rights’. In addition, the increased military presence, justified by the state of exception, generates a sense of déjà vu in victims which has a strong psychosocial impact, reminding them of the context in which they were victims of serious human rights violations and reopening traumas that cause them serious psychological and emotional issues.

”

Salvadoran civil society organizations. Alternative report of Salvadoran coalitions on transitional justice for the Universal Periodic Review of El Salvador (2024). Submitted to the Human Rights Council in 2024.

³⁹ The responsibility of the Armed Forces for serious human rights violations and international crimes committed during the conflict has been extensively documented by the United Nations Truth Commission (1993) and verified by recent judicial investigations. In June 2025, a Salvadoran court convicted senior military officers for the murder of four Dutch journalists in 1982. This ruling constitutes the first criminal conviction for a crime against humanity documented by the Truth Commission. See International Federation of Journalists (IFJ) (June 2025). El Salvador: histórica sentencia por el asesinato de los periodistas holandeses en 1982 [El Salvador: landmark sentence for the murder of Dutch journalists in 1982]. Accessed at: <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/el-salvador-historica-sentencia-por-el-asesinato-de-los-periodistas-holandeses-en-1982?utm>.

The Inter-American Court of Human Rights (IACtHR) has established that “maintaining internal public order and public safety should, above all, be reserved to civil police agencies” and that participation of the armed forces must be regulated and supervised by competent, independent and technically capable civil authorities.⁴⁰ Similarly, the United Nations has also affirmed that public security tasks must be carried out by civil agencies, and that the use of the armed forces in internal security roles must be exceptional, limited and strictly monitored.⁴¹

However, the Salvadoran authorities continue to expand military involvement in areas that are the responsibility of the civil administration,⁴² with the recent appointment of a female military officer as Minister of Education yet another example of this trend.⁴³ This appointment goes well beyond the constitutional mandate of the armed forces, which is limited to defending national sovereignty and territorial integrity,⁴⁴ and contradicts the spirit of the 1992 Peace Accords, which provided for the strict separation of military and civilian functions and the subordination of the military to civilian authorities.⁴⁵

The military’s involvement in areas outside its constitutional remit, training and expertise, and in particular in strategic issues such as national education policies and programmes, could pose serious risks by introducing approaches and chains of command not designed for dealing with civilian matters.

3.2.2. EXCESSIVE USE OF FORCE

Under the government of Nayib Bukele, police and military forces have deployed operations characterized by disproportionate and arbitrary use of force. During the COVID-19 pandemic, Amnesty International documented the presence of armed military personnel in health containment efforts, which often resulted in unlawful detentions and widespread reports of abuse.⁴⁶

In the context of the state of exception, this *modus operandi* has intensified. Over these four years, Amnesty International has verified multiple cases in which victims report having suffered beatings, violent raids, threats, torture and other ill-treatment at the hands of state agents, mainly police officers, soldiers and prison guards.⁴⁷ These actions have occurred both at the time of arrest and while individuals were in administrative and pre-trial detention.⁴⁸

⁴⁰ IACtHR. Case of Alvarado Espinoza et al. v. Mexico. Merits, Reparations and Costs. Judgment of 28 November 2018, paras 178 and 182.

⁴¹ United Nations. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. 7 September 1990. Accessed at: <https://www.ohchr.org/es/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement>.

⁴² Amnesty International (5 October 2020). Some things never change: repression and the militarization of public security in El Salvador. Accessed at: <https://www.amnesty.org/en/latest/news/2020/10/repression-militarizacion-seguridad-publica-el-salvador/>.

⁴³ Infobae (22 August 2025). Bukele nombró a una militar como Ministra de Educación: las nuevas reglas para los alumnos [Bukele appointed a female military officer as Minister of Education: the new rules for students]. Accessed at: <https://www.infobae.com/americas/america-latina/2025/08/22/bukele-nombró-a-una-militar-como-ministra-de-educacion-las-nuevas-reglas-para-los-alumnos/?utm>

⁴⁴ Constitution of El Salvador, Article 212.

⁴⁵ United Nations: 1992. El Salvador: Peace Accords. UN Doc. A/46/864-S/23501, 27 January. Chapter 1. Accessed at: https://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/pa_es_01161992.pdf.

⁴⁶ Amnesty International (5 October 2020) Some things never change: repression and the militarization of public security in El Salvador. Accessed at: <https://www.amnesty.org/es/latest/news/2020/10/repression-militarizacion-seguridad-publica-el-salvador/>.

⁴⁷ Amnesty International (20 December 2024). El Salvador: A thousand days into the state of emergency. “Security” at the expense of human rights. Accessed at: <https://www.amnesty.org/es/latest/news/2024/12/el-salvador-mil-dias-regimen-excepcion-modelo-seguridad-a-costa-derechos-humanos/>.

⁴⁸ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, p. 34; and HRW and Cristosal (December 2022). We can arrest anyone we want. Widespread human rights violations under El Salvador’s “state of emergency”, p. 61. Accessed at: <https://cristosal.org/ES/wp-content/uploads/2023/03/informa-derechos-humanos-regimen-hrw-y-cristosal.pdf>.

These practices contravene international standards and obligations. Pursuant to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, any police intervention must be governed by the principles of legality, necessity, proportionality and accountability. Furthermore, Article 7 of the ICCPR and Article 5 of the ACHR unequivocally prohibit torture and cruel, inhuman or degrading treatment. The Inter-American Convention to Prevent and Punish Torture, to which El Salvador is a state party, contains a similar prohibition.

The normalization of these repressive practices has generated a climate of fear and harassment. Rather than ensuring safety and security, state policy has entrenched a pattern of institutional violence that erodes the rule of law and intensifies human rights violations against the population.⁴⁹

3.2.3. MASS INCARCERATION AND PRECARIOUS CONDITIONS OF DETENTION

As previously mentioned, El Salvador was already witnessing a trend towards punitive measures and militarization prior to the state of exception that affected people's freedom and put the physical integrity of those being held in state custody at risk.⁵⁰ These practices anticipated an increasing use of detention as a primary means of combatting crime and violence, while institutional tolerance of ill-treatment and precarious conditions of imprisonment that compromised human rights, including the health of those deprived of their liberty, also increased.⁵¹

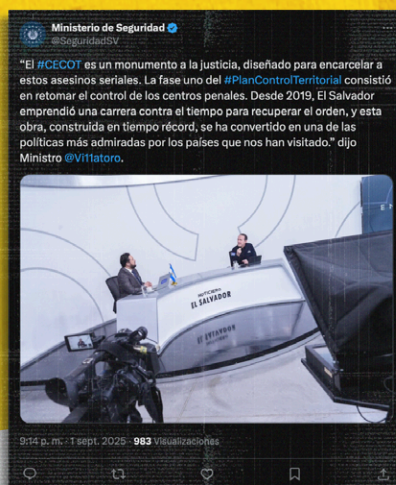
With the entry into force of the state of exception, these patterns not only increased but also consolidated the implementation of a security policy focused on mass arrests and criminalization, with no guarantees of due process. The state even built a maximum security mega-prison (the Centre for the Confinement of Terrorism, CECOT) with capacity for tens of thousands of detainees,⁵² which it has exploited in the media as a symbol of a policy that treats prison and disproportionate punishment as the only solutions to criminality.

⁴⁹ Amnesty International (16 May 2025). El Salvador: Government deepens authoritarian pattern in the face of social discontent. Accessed at: <https://www.amnesty.org/en/latest/news/2025/05/el-salvador-gobierno-profundiza-patron-autoritario-frente-al-descontento-social/?utm>.

⁵⁰ Amnesty International (5 October 2020). Some things never change: repression and the militarization of public security in El Salvador.

⁵¹ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023.

⁵² IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24, paras 249-254. Accessed at: https://www.oas.org/en/cidh/informes/pdfs/2024/Informe_EstadoExcepcionDDHH_ElSalvador.pdf



This approach has taken precedence over comprehensive efforts to address the structural causes of violence, ignoring factors such as limited employment generation, high school drop-out rates and youth unemployment, the lack of resources and technical training for the police, as well as an overburdened judicial system.⁵³ The state has thus prioritized deprivation of liberty as one of the central pillars of its security policy, in direct contravention of international human rights standards which require the adoption of citizen security policies centred on prevention, social inclusion and unequivocal respect for basic guarantees.⁵⁴

As a result of this policy, at the end of 2024 records showed that 1.8% of the Salvadoran population was deprived of liberty. Disaggregating the figures by sex, among men the rate increased to 3.3%, equivalent to three out of every 100 men being in prison.⁵⁵ According to records from international organizations, El Salvador had the highest incarceration rate in the world at the start of 2025, with around 1,659 prisoners per 100,000 inhabitants, more than double that of the second country on the list (Cuba, with 794).⁵⁶ This has generated a crisis of extreme overcrowding in most prisons, with occupancy in some cases exceeding 300% of installed capacity at the beginning of the state of exception, according to civil society

⁵³ Human Rights Council (2018). Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador. UN Doc. A/HRC/38/44/Add.2 of 7 December. Accessed at: <https://docs.un.org/en/A/HRC/38/44/Add.2>. UNFPA, La inclusión socioeconómica de la población joven. El Salvador [El Salvador, Socioeconomic inclusion of youth], 9 September 2024, UNFPA El Salvador. Accessed at: <https://docs.un.org/es/A/HRC/38/44/Add.2>.

UNFPA El Salvador, La inclusión socioeconómica de la población joven, 9 de septiembre de 2024, UNFPA El Salvador.

Obtenido: https://elsalvador.unfpa.org/sites/default/files/pub-pdf/2024-09/cajaDatos_01_Juventudes.pdf

CEPAL, Informe Nacional El Salvador, julio 2024. Obtenido: https://www.cepal.org/sites/default/files/static/files/el_salvador_-_informe_nacional_2.pdf

⁵⁴ The ICCPR (articles 2, 9 and 10) and the ACHR (articles 1, 7 and 8) provide that all persons have the right to personal liberty, to be free from arbitrary detention and to be treated with dignity in conditions of deprivation of liberty. See also: Inter-American Commission on Human Rights (IACHR), Citizen Security and Human Rights, OAS/Ser.L/V/II, Doc. 57, 31 December 2009, which states that security policies must prioritize prevention, institutional strengthening and respect for human rights; and United Nations, United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), A/RES/45/110, 14 December 1990

⁵⁵ LPG (4 November 2024). 3 de cada 100 hombres salvadoreños están en prisión, según nuevo censo [Three out of every 100 Salvadoran men are in prison, according to a new census]. Accessed at <https://www.laprensagrafica.com/elsalvador/3-de-cada-100-hombres-salvadorenos-estan-en-prision-segun-nuevo-censo-20241104-0006.html>

⁵⁶ OMTC (2025). Global Torture Index 2025: Technical data sheet for El Salvador. Accessed at: <https://www.omct.org/en/global-torture-index>; World Prison Brief (WPB). Highest to Lowest - Prison Population Rate. Accessed at: https://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All

organizations.⁵⁷ Prison overcrowding in the country's main prisons currently ranges from 163%⁵⁸ to 300%.⁵⁹

Testimonies collected by Amnesty International from people who were detained in the context of the state of exception describe this situation as “hell”, characterized by a lack of medical care, poor basic services such as food and water, and frequent cruel, degrading, and inhuman treatment, including torture.⁶⁰ According to local organizations, more than 450 deaths in state custody had been recorded as of November 2025.⁶¹

Amnesty International has had access to information on cases of deaths due to beatings, torture and lack of timely medical care.⁶² These deaths show a systematic failure of the authorities to protect the life and integrity of those it is their responsibility to care for. Despite the magnitude of this tragedy, to date the authorities have still not adequately investigated these cases or taken effective measures to prevent further abuses,⁶³ reinforcing a climate of impunity that normalizes institutional violence and underpins the view that the Salvadoran authorities have adopted a policy of torture inside prisons.⁶⁴

3.2.4. STRUCTURAL IMPACT

In short, El Salvador is at a critical juncture, with the combination of factors described creating an environment that is conducive to massive and systematic violations of human rights, with characteristics that could constitute crimes against humanity under international law. The dismantling of the independence of key institutions has left the population devoid of the protections usually offered by the rule of law, allowing the authorities to apply repressive policies arbitrarily and with impunity.

The coordination of the three branches of state and the Public Ministry in designing, approving and implementing these repressive practices – whether by passing laws that are contrary to international standards, applying them without judicial oversight or ignoring victim reports – reveals an intentional dismantling of the mechanisms of checks and balances inherent to the rule of law. In other words, the legal and institutional framework in El Salvador has been reshaped to permit abuse rather than prevent it.

⁵⁷ El Mundo (20 July 2022). Calcularan que el hacinamiento carcelario sobrepasa el 300 % por el régimen de excepción [Estimates are that prison overcrowding exceeds 300% due to the state of exception]. Accessed at:

<https://diario.elmundo.sv/nacionales/calculan-que-el-hacinamiento-carcelario-sobrepasa-el-300-por-el-regimen-de-excepcion>

⁵⁸ Institute for Crime & Justice Policy Research (ICPR) (2024). World Prison Brief: El Salvador, Birkbeck, University of London.

Accessed at <https://www.prisonstudies.org/country/el-salvador>

⁵⁹ OMTIC (2025). Global Torture Index 2025: Technical data sheet for El Salvador

⁶⁰ Amnesty International (20 December 2024). El Salvador: A thousand days into the state of emergency. “Security” at the expense of human rights.

⁶¹ SWI (3 November 2025). Una ONG registra 450 muertes en cárceles de El Salvador durante el régimen de excepción [An NGO records 450 deaths in prisons in El Salvador during the state of exception]. Accessed at:

<https://www.swissinfo.ch/spa/una-ong-registra-450-muertes-en-c%C3%A1rceles-de-el-salvador-durante-el-r%C3%A9gimen-de-excepci%C3%B3n/90272648>; InformaTV (13 November 2025). [InformaTV_]. #EncuentroTVI “El sistema carcelario de El

Salvador tiene por lo menos hasta esta fecha 454 víctimas mortales en este régimen de excepción [The prison system of El Salvador has at least 454 fatalities to date under this emergency regime...] X post. Accessed at:

https://x.com/InformaTV_/status/1988971236685226058.

⁶² Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 33-36.

⁶³ Infobae. (21 July 2024). Los últimos informes sobre centenares de muertes y torturas en las cárceles de El Salvador y la negación de Bukele ante la CIDH [The latest reports on hundreds of deaths and torture in El Salvador's prisons and Bukele's denial to the IACHR]. Accessed at <https://www.infobae.com/americas/america-latina/2024/07/21/los-ultimos-informes-sobre-centenares-de-muertes-y-torturas-en-la-carceles-de-el-salvador-y-la-negacion-de-bukele-ante-la-cidh/?utm>

⁶⁴ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 36-37; and Amnesty International (20 December 2024). El Salvador: A thousand days into the state of emergency. “Security” at the expense of human rights.

IN-DEPTH ANALYSIS OF THE STATE OF EXCEPTION



IN-DEPTH ANALYSIS OF THE STATE OF EXCEPTION

The state of exception operates in a context of accelerated weakening of the rule of law, characterized by the concentration of power, the elimination of institutional checks and balances and an openly repressive approach to public security. This context, analysed in the previous chapter, has allowed the serious human rights violations committed under it to occur in a systematic and widespread manner, with total impunity.

The following analysis details the shaping of the operational and regulatory structure that sustains the state of exception in El Salvador and has led to thousands of serious human rights violations. It also describes the main patterns documented by Amnesty International since the beginning of the state of exception, including arbitrary and mass detentions, violations of due process, enforced disappearances, cruel and inhuman treatment, torture and deaths in state custody.

4.1. ORIGIN, TIMELINE AND SUSPENSION OF CONSTITUTIONAL RIGHTS AND GUARANTEES

The state of exception in El Salvador was implemented on 27 March 2022, following a sharp increase in homicides—87 people killed in a single weekend—⁶⁵ attributed to the alleged breakdown of the supposed pact between the government and gangs.⁶⁶ On the same day, the Legislative Assembly, at the request of President Bukele and citing Article 29 of the Constitution,⁶⁷ declared a state of exception through Legislative Decree No. 333, with the stated aim of providing the National Civil Police (PNC) and the Armed Forces with the “legal tools and mechanisms” required to restore order and public security.⁶⁸ Since then, this extraordinary measure has been successively extended, disregarding the international standards that regulate the suspension of guarantees.

From the first months of implementation of the measure, basic human rights such as freedom of association and assembly, privacy of communications,⁶⁹ the right to be informed of the reasons for detention and the right to legal counsel were suspended. In addition,

⁶⁵ El Mundo (22 March 2022). Repunte de homicidios dejó 87 muertes en El Salvador este fin de semana [Homicide spike left 87 dead in El Salvador this weekend]. Accessed at: <https://diario.elmundo.sv/nacionales/repunte-de-homicidios-dejo-87-muertes-en-el-salvador-este-fin-de-semana>; El Faro (3 April 2022). Las víctimas del día más violento del siglo [The victims of the most violent day of the century]. Accessed at: https://elfaro.net/es/202204/el_salvador/26107/Las-v%C3%ADctimas-del-d%C3%ADa-m%C3%A1s-violento-del-siglo.htm.

⁶⁶ Investigations by journalists suggested that the government of Nayib Bukele had reached a deal with the main gangs in the country to reduce homicide rates in exchange for certain benefits for their leaders. See: LPG (16 July 2021). Suprema retiene la extradición de cabecilla MS-13 [Supreme Court stays extradition of head of MS-13]. Accessed at: <https://www.laprensagrafica.com/elsalvador/Corte-Suprema-retiene-la-extradicion-de-cabecilla-MS-13-20210715-0114.html>; El Faro (18 January 2023). Cronología del pacto entre el Gobierno de Bukele y las pandillas. [Timeline of the pact between the Bukele government and gangs]. Accessed at https://elfaro.net/es/202301/el_salvador/26676/Cronolog%C3%ADa-del-pacto-entre-el-Gobierno-de-Bukele-y-las-pandillas.htm; El Faro (May 2025). Confesiones de un líder pandillero que pactó con Bukele - Parte 1 [Confessions of a gang leader who made a deal with Bukele - Part 1]. Accessed at: <https://www.youtube.com/watch?v=ZAdcoYRhr70&t=18s>; El Faro (May 2025). “Sin cuerpo no hay delito”: confesiones del pacto con Bukele -Parte 2 [“Without a body there is no crime”: confessions of the pact with Bukele - Part 2]. Accessed at: <https://www.youtube.com/watch?v=uAwT1F924xE&t=14s>

⁶⁷ Article 29 of the Constitution empowers the legislative branch to temporarily suspend specific constitutional guarantees in times of war, invasion, rebellion, serious disturbance of public order or other catastrophes, with the aim of restoring normality..

⁶⁸ Legislative Decree No. 333 of 27 March 2022, published in Official Gazette No. 62, Volume 434, of 27 March 2022.

⁶⁹ As of the fifth extension, declared through Legislative Decree No. 476 of 16 August 2022, the rights to freedom of association and assembly were no longer included among suspended rights. See: <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/71811C3C-2A45-46AE-8F76-5B4E03BE1592.pdf>

administrative detention was extended from 72 hours to 15 days,⁷⁰ which, in practice, makes it impossible for the legality of the detention to be reviewed by a judicial authority in a timely manner, as required by international standards.



Over the months, successive extensions have selectively maintained these measures, thereby institutionalizing a prolonged suspension of guarantees that, in accordance with international standards, are essential for the protection of human rights and cannot be suspended under any circumstances.⁷¹

⁷⁰ The extension of administrative detention up to fifteen days does not expressly appear in the text of Legislative Decree No. 333 declaring the state of exception. This power derives from the joint interpretation of the second paragraph of Article 29 of the Constitution, which allows the suspension of the guarantees contained in Article 13, second paragraph, and establishes that, in such case, “administrative detention shall not exceed fifteen days”. Given that Article 13, second paragraph, establishes as a general rule a maximum limit of 72 hours, it is only through

⁷¹ General Comment No. 29 of the United Nations Human Rights Committee, in paragraph 11, states that even in times of emergency, states must not deviate from certain fundamental legal principles, such as the right to a fair trial and the presumption of innocence. It further emphasizes that the prohibition of arbitrary deprivation of liberty must be respected, ensuring that all detainees have access to effective and expeditious legal and judicial procedures. See UN Human Rights Committee (2001). General comment No. 29: Article 4: Derogations during a State of Emergency (Article 4). UN Doc. CCPR/C/21/Rev.1/Add.11, 31 August.

Box 1 - Explainer

Constitutional guarantees and rights suspended by the state of exception in contravention of international human rights standards

Article of the Constitution	Contents	Related international instrument	Practical impact of suspension	Validity
Art. 7	Recognizes the right of assembly and freedom of association, provided that the purposes are lawful. Prohibits the existence of armed groups of a political, religious or guild nature.	• ICCPR, Art. 21 (right of peaceful assembly), Art. 22 (freedom of association). • ACHR, Art. 15 (right of assembly), Art. 16 (freedom of association).	• Restriction or prohibition of public demonstrations and protests. • Obstacles to the functioning of trade unions and social organizations. • Stigmatization of civil society organizations by alleging that they defend criminals.	Suspended from 27 March 2022 to 16 August 2022.
Art. 12, inciso 2	Recognizes the right to legal counsel and the presumption of innocence. Establishes that no one can be convicted or deprived of rights without being heard and found guilty in court, or put on trial without knowing what they are accused of.	• ICCPR, Art. 9.2 and 9.3 (information on reasons for detention and right to be brought promptly before a judge); Art. 14.2 (presumption of innocence), Art. 14.3 (right to defence). • ACHR, Art. 8.2 (judicial guarantees).	• Detainees are unaware of the reasons for their detention. • Impossibility of timely access to the legal counsel. • Proceedings based on generic charges such as “unlawful association”. • Breach of the principle of presumption of innocence	Ongoing suspension since 27 March 2022.
Art. 13, paragraph 2	Provides that administrative detention cannot exceed 72 hours, within which time the detainee must be brought before a judge.	• ICCPR, Art. 9.3 (right to be brought promptly before a judge), Art. 9.4 (habeas corpus). • ACHR, Art. 7.5 (immediate presentation before a judge), Art. 7.6 (writ of habeas corpus)	• The term was extended to 15 days of detention without judicial oversight. • Ineffectiveness of habeas corpus. • Increased risk of torture, illtreatment and enforced disappearances.	Ongoing suspension since 27 March 2022.
Art. 24	Guarantees the inviolability of correspondence and communications (postal, telephone, electronic, etc.); any intervention must be authorized by a judge for specific purposes.	• ICCPR, Art. 17 (protection against arbitrary Interference in correspondence and privacy). • ACHR, art. 11.2 (inviolability of correspondence).	• Surveillance and interception of communications without a warrant. • Possibility of using information obtained arbitrarily in criminal proceedings. • Criminalization of individuals on the basis of alleged links without verifiable evidence.	Ongoing suspension since 27 March 2022.

Analysis of Legislative Decree No. 333 and its 43 successive extensions that were approved without substantive debate reveals that the measure does not comply with the essential safeguards that must govern any state of exception under international human rights standards, namely necessity, proportionality and temporality.

Regarding **necessity**, although the state justified the measure for reasons of public security, according to regional protection mechanisms no evidence was presented to show that crime constituted a real, exceptional and imminent threat to the life of the nation, as required by Article 4 of the ICCPR and Article 27 of the ACHR.



The Commission considers that, although the sudden increase in homicides produced a context that required immediate and urgent action by the State to prevent new fatalities, the suspension of some of the constitutional provisions affected would not be necessary or reasonable measures to address the reported situation.



IACHR. El Salvador State of Exception and Human Rights Report. June 2024.

Moreover, IACtHR case law has established that “States do not enjoy an unlimited discretion”⁷² in declaring states of exception, and that it is therefore essential to recall that “suspension of guarantees must be used as a strictly exceptional means to face real emergency situations ‘to the extent and for the period of time strictly required by the exigencies of the situation’, and not as a means to fight common crime”.⁷³

This conclusion is consistent with Salvadoran constitutional jurisprudence. Since 1997, the Constitutional Chamber has held that an increase in criminality cannot be used as grounds for declaring a state of exception, given that there are already ordinary legal instruments in place to address such an issue and it therefore does not meet the requirement of strict necessity.⁷⁴

In terms of **proportionality**, international law requires that essential guarantees be respected even in emergency situations, including absolute prohibitions of torture and arbitrary deprivation of liberty, effective judicial review of the legality of detention – in particular habeas corpus – and effective access to legal counsel, all of which are non-derogable according to international standards and jurisprudence.⁷⁵

Since the beginning of the state of exception, United Nations experts have warned that various practices, such as the use of the concept of “permanent flagrancy”, lack legal basis and facilitate arbitrary detentions without judicial oversight, increasing the risk of violations of due process and judicial guarantees.⁷⁶

⁷² IACtHR. Case of Zambrano Vélez et al. v. Ecuador. Merits, Reparations and Costs. Judgment of 4 July 2007. Series C No. 166, para. 47.

⁷³ IACtHR. Case of Zambrano Vélez et al. v. Ecuador. Merits, Reparations and Costs. Judgment of 4 July 2007. Series C No. 166, para. 52.

⁷⁴ Constitutional Chamber. Judgment of unconstitutionality 15-96 and Ac. Legislative Decree No. 668, of 14 February 1997. Accessed at <https://www.jurisprudencia.gob.sv/DocumentosBoveda/D/1/1990-1999/1997/02/8926B.PDF>.

⁷⁵ IACtHR. Case of Zambrano Vélez et al. v. Ecuador Merits, Reparations and Costs. Judgment of 4 July 2007. Series C No. 166, paras 42-52; IACtHR. Habeas corpus in Emergency Situations (arts. 27.2, 25.1 and 7.6 ACHR). Advisory Opinion OC-8/87 of 30 January 1987. Series A No. 8; IACtHR. Judicial guarantees in states of emergency (arts. 27.2, 25 and 8 ACHR). Advisory Opinion OC-9/87 of 6 October 1987. Series A No. 9; United Nations Human Rights Committee. General Comment No. 29 on Article 4 of the ICCPR, para. 11.

⁷⁶ “It should be noted that in 2010 El Salvador enacted its “Law on the Prohibition of Maras, Gangs, Groups, Associations and Organizations of a Criminal Nature”, which establishes in articles 1 and 2 that these groups are criminal structures and declares that simply belonging to them is unlawful. Thus, from the date of entry into force of this special law, the concept of ‘permanent flagrancy’ applies to all members of such groups, as this constitutes crimes of mere activity, meaning that the offence is being committed on an ongoing basis for as long as the person continues to be part of the criminal organization. Within this context, therefore, the detention of such persons does not require the prior existence of a written warrant.” Response from the Salvadoran state to the joint communication from the United Nations Special Procedures regarding alleged human rights violations or the potential risk of violations in the context of the state of exception and reforms to criminal legislation. 29 July 2022 Accessed at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=37045>



Despite its obligation to protect citizens from such atrocious acts, the Government cannot trample on fair trial rights in the name of public safety... We urge the authorities of El Salvador to ensure that people are not arrested on mere suspicion of gang membership or association without sufficient legal authorization, that detainees are afforded all fundamental safeguards required under international human rights law and guaranteed due process.



Comunicado conjunto. Mandatos especiales de Naciones Unidas- El Salvador: El prolongado régimen de excepción socava el derecho a un juicio justo. 22 de mayo de 2023.⁷⁷

Based on the analysis carried out, Amnesty International believes that the state of exception does not meet the proportionality test required by international law. To date, the authorities have not demonstrated that the prolonged suspension of guarantees is appropriate for achieving the stated purpose of citizen security, nor strictly necessary, in the sense of being absolutely indispensable and there being no less harmful alternatives that would allow the same objective to be achieved without imposing an excessive encroachment on the rights affected such as that which has been documented.⁷⁸

On the contrary, the information recorded by Amnesty International reveals that the intensity and indefinite duration of the measure, the state's conduct during its implementation – including the scale of documented violations – and the absence of effective judicial oversight have resulted in serious and disproportionate violations of fundamental rights, such as freedom and personal integrity, judicial guarantees, due process and even the right to life, that cannot be justified under any valid parameter of international law.

In this context, it is reasonable to conclude from a legal perspective that the state of exception does not meet the requirement of proportionality set out in international standards for the suspension of guarantees in a state that aspires to fully respect its human rights obligations.

Finally, with regard to **temporality**, the continued extensions, approved without substantive debate or objective evidence of a persistent threat, have turned an exceptional measure into ordinary state policy. This contravenes the obligations established in Article 4.1 of the ICCPR and Article 27.1 of the ACHR, which require that states of exception be limited in time and to the extent strictly required by the exigencies of the situation.

Salvadoran civil society organizations have stated that despite not meeting the requirements of international standards for such a measure, the state of exception has been extended continuously through legislative processes that have not reviewed the issue of necessity or proportionality.⁷⁹

⁷⁷ Accessed at: <https://www.ohchr.org/es/press-releases/2023/05/el-salvador-extended-state-emergency-undermines-right-fair-trial-un-experts>

⁷⁸ IACtHR. Habeas corpus in Emergency Situations (arts. 27.2, 25.1 and 7.6 ACHR). Advisory Opinion OC-8/87 of 30 January 1987. Series A No. 8, paras 22-39; IACtHR. Case of Romero Feris v. Argentina Merits, Reparations and Costs. Judgment of 15 October 2019. Series C No. 391, paras 76-77; IACtHR. Jenkins Vs. Argentina Preliminary Objections, Merits, Reparations and Costs. Judgment of 26 November 2019. Series C No. 397, paras 73-77.

⁷⁹ IACHR. (23 June 2022). Public hearing "Situation of human rights and rule of law in El Salvador". 184th Session. Accessed at: <https://www.oas.org/es/cidh/sesiones/audiencia.asp?Hearing=3594>.



In this regard, the IACHR has reminded the Salvadoran state that the suspension of rights and guarantees is a measure to be taken in extraordinary circumstances and not a means to fight common crime. It has also urged the state on several occasions to repeal the state of exception, stressing that essential judicial guarantees cannot be ignored.

“

In this regard, based on information provided by the State, it appears that the regulations extending the suspension of guarantees have not complied with this requirement, given that they do not present specific data or facts illustrating 'serious disturbances of public order' when each decree was adopted. On the contrary, they recognize a substantial reduction in violent acts in the country.

”

IACHR. El Salvador State of Exception and Human Rights Report. June 2024.

Universal human rights bodies have also expressed concern about the extension of the measure, believing that it could contravene the exceptional and temporary nature established by the relevant standards for applying it; particularly in light of elements such as public statements by government officials regarding changes in the country's security situation.⁸⁰



Although the state of exception was established and extended through legislative decrees, inter-American case law has consistently held that formal legality alone is not sufficient to validate emergency measures that enable vague restrictions, expand state powers in a discretionary manner or affect rights that cannot be suspended under any circumstances.⁸¹ In the case of El Salvador, the scope and imprecise nature of the powers conferred by the state of exception – including violation of non-derogable guarantees – demonstrate a failure to comply with the substantive legal standards required by the ACHR.

⁸⁰ OHCHR: (11 September 2023). Türk: Human rights are antidote to prevailing politics of distraction, deception, indifference and repression. Speech delivered at the 54th Session of the Human Rights Council. Accessed at: <https://www.ohchr.org/es/statements/2023/09/turk-human-rights-are-antidote-prevailing-politics-distraction-deception>.

Taken together, these deficiencies show that Legislative Decree No. 333 and its subsequent extensions have not only failed to comply with El Salvador's international obligations, but have also established an operational and legal framework that has facilitated and given the appearance of legality to practices such as detention without evidence, the suspension of judicial guarantees and the imposition of disproportionate terms of administrative detention, causing serious violations of human rights in contravention of inter-American and universal standards. States of exception cannot be used as grounds to disproportionately or permanently suspend rights, or to cover up systematic repressive practices.

Box 2 - Explainer

The Salvadoran state's arguments in response to observations by regional and universal human rights protection mechanisms

Criterion	State's official position	International standards (ICCPR, ACHR, General Comment No. 29.	Observations of the IACHR and UN mechanisms
Necessity	Alleged that the wave of homicides in March 2022 (92 in 4 days) constituted a "serious disturbance of public order". Asserted that ordinary laws and the judicial system were insufficient to contain criminality, making it essential to suspend guarantees ⁸²	The threat must be real, current, exceptional and imminent, and cannot be addressed with ordinary mechanisms. Not every security crisis justifies a state of exception (CCPR/C/21/Rev.1/Add.11, para. 11).	IACHR and UN experts stressed that the decree did not detail why violence could not be addressed with ordinary powers. In addition, the reduction in homicides recorded in subsequent months calls into question the existence of a persistent threat.
Proportionality	Alleged that the measures affected only gangs and criminal structures, and that the general public could continue holding unrestricted religious, social and cultural gatherings ⁸³	Restrictions must be strictly necessary, reasonable and as non-intrusive as possible, and must not have a widespread impact on the population.	IACHR noted that Decree No. 333 provided a broad suspension of rights, with no limits or conditions, affecting the entire population. UN rapporteurs warned that mass detentions and the weakening of habeas corpus exceed any legitimate justification.

⁸¹ See Inter-American Court of Human Rights (IACtHR), Habeas corpus in Emergency Situations (arts. 27.2, 25 and 7.6 ACHR), Advisory Opinion OC-8/87, 30 January 1987, paras 21-26 (the suspension of guarantees cannot suppress judicial remedies essential for the protection of non-derogable rights); IACtHR, Judicial guarantees in states of emergency (arts. 27.2, 25 and 8 ACHR), Advisory Opinion OC-9/87, 6 October 1987, paras 28-38 (measures adopted in states of emergency must strictly comply with the principles of legality, necessity, proportionality and temporality, and cannot affect essential judicial guarantees); IACtHR, The word "laws" in Article 30 of the American Convention on Human Rights, Advisory Opinion OC-6/86, 9 May 1986, paras 21-24 (restrictions on rights must be provided for in rules that are clear, precise and materially compatible with the Convention); and IACtHR, Case of Zambrano Vélez et al. v. Ecuador, Judgment of 4 July 2007, paras 47-52 (the declaration of a state of exception does not exempt the state from conventionality control or authorize unlimited discretionary powers, and the strict limits of Article 27 of the American Convention must be respected).

⁸² Legislative Decree No. 333, of 27 March 2022, published in Official Gazette No. 62, Volume 434, of the same date, declaring the state of exception, where the Legislative Assembly justified the measure on grounds of a "serious disturbance of public order" derived from the increase in homicides registered between 24 and 27 March 2022. See also public statements by President Nayib Bukele on social media on 26 and 27 March 2022, in which he linked the wave of homicides with the need to adopt extraordinary measures, including the suspension of guarantees, considering that the ordinary legal framework was not sufficient to fight criminality.

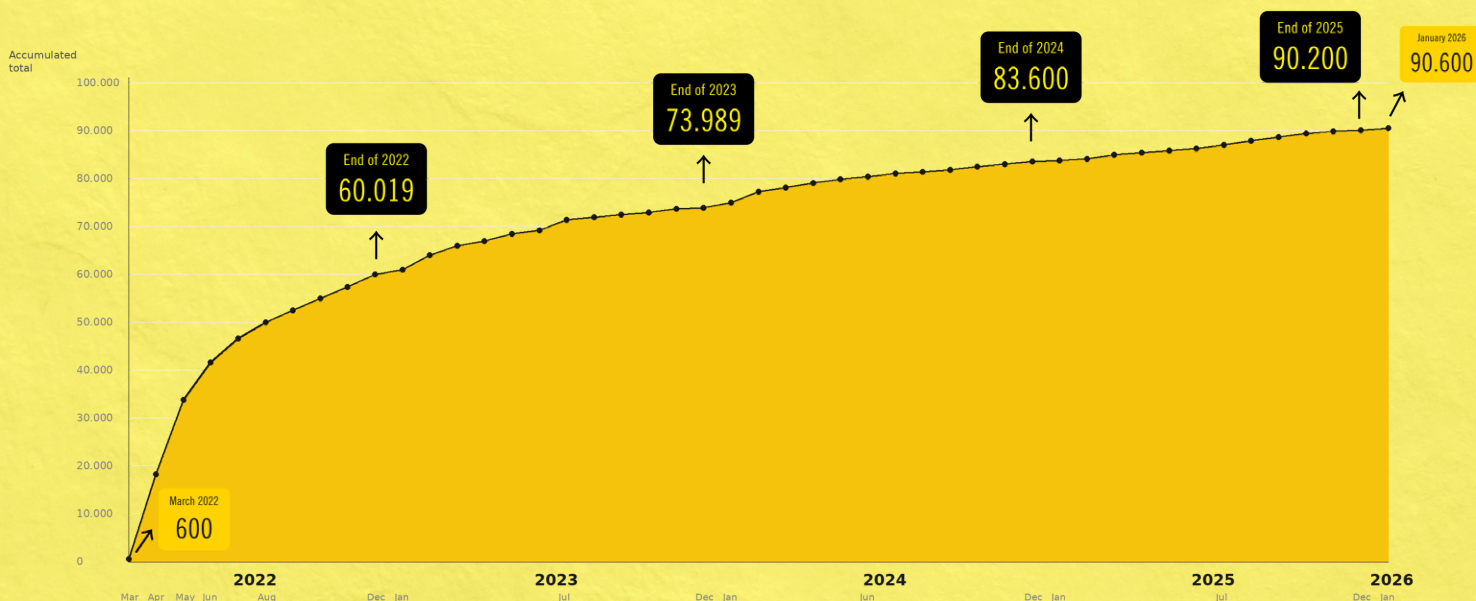
⁸³ Legislative Decree No. 333 of 27 March 2022, which provides for the suspension of certain constitutional guarantees without imposing general restrictions on social or religious life. See also public statements by President Nayib Bukele and security authorities between 26 and 30 March 2022, in which the state of emergency was presented as a measure directed against gangs and not against the general population.

Temporality	Argued that the extensions were necessary due to persistence of the threat and to consolidate subsequent phases of the “Territorial Control Plan” ⁸⁴	States of exception must be strictly temporary and end as soon as the emergency situation ceases to exist. Indefinite extension contravenes the ICCPR and the ACHR.	IACHR indicated that the extensions were approved without objective grounds or a substantive debate. UN experts warned that the officially reported drop in homicides contradicted the justification for indefinitely maintaining the state of exception.
-------------	---	---	---

Este estado de suspensión crónica de garantías judiciales y del debido proceso, prolongado por más de cuatro años, ha estado acompañado de una política de detenciones masivas e indiscriminadas. Durante el primer año, las autoridades reportaron más de 65.000 detenciones⁸⁵ —en su mayoría arbitrarias—. Para marzo de 2024, la cifra superaba las 78.000.⁸⁶ Al cumplirse el tercer año, en abril de 2025, ascendía a 85.000 personas detenidas,⁸⁷ y al finalizar 2025, superaban los 90.000,⁸⁸ un número sin precedentes en la historia reciente del país.

FIGURE 2. CUMULATIVE NUMBER OF DETAINEES

Total accumulated month by month | March 2022 - January 2026



Prepared by Amnesty International based on information contained in the legislative decrees extending the state of exception.

⁸⁴ Ministry of Justice and Public Security of El Salvador. Declarations by Minister Gustavo Villatoro, who stated that “the state of exception must continue” as it provides tools that the ordinary legal framework does not allow, in the context of the state security strategy. See also [Associated Press](#), which includes statements by the minister indicating that the measure would continue until the last gang member is captured, as well as [press reports](#) documenting that authorities have justified the extensions on grounds that there are criminal structures that have yet to be dismantled.

⁸⁵ Legislative Decree No. 719 of 12 April 2023, published in Official Gazette No. 67, Volume 439, of 13 April 2023.

⁸⁶ Legislative Decree No. 964 of 8 March 2024, published in Official Gazette No. 48, Volume 442, of 8 March 2024.

⁸⁷ Legislative Decree No. 269 of 1 April 2025, published in Official Gazette No. 64, Volume 447, of 1 April 2025.

⁸⁸ Legislative Decree No. 439 of 29 October 2025, published in Official Gazette No. 204, Volume 449, of 29 October 2025.

PERSONS DETAINED

DURING THE STATE OF EMERGENCY

From march 2022 to january 2026



PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022

PERSONS DETAINED

2022→2023

PERSONS DETAINED

2023

PERSONS DETAINED

2023→2024

1. **Introduction**
 2. **Background**
 3. **Methodology**
 4. **Results**
 5. **Discussion**
 6. **Conclusion**
 7. **References**
 8. **Appendix**
 9. **Figure 1**
 10. **Figure 2**
 11. **Figure 3**
 12. **Figure 4**
 13. **Figure 5**
 14. **Figure 6**
 15. **Figure 7**
 16. **Figure 8**
 17. **Figure 9**
 18. **Figure 10**
 19. **Figure 11**
 20. **Figure 12**
 21. **Figure 13**
 22. **Figure 14**
 23. **Figure 15**
 24. **Figure 16**
 25. **Figure 17**
 26. **Figure 18**
 27. **Figure 19**
 28. **Figure 20**
 29. **Figure 21**
 30. **Figure 22**
 31. **Figure 23**
 32. **Figure 24**
 33. **Figure 25**
 34. **Figure 26**
 35. **Figure 27**
 36. **Figure 28**
 37. **Figure 29**
 38. **Figure 30**
 39. **Figure 31**
 40. **Figure 32**
 41. **Figure 33**
 42. **Figure 34**
 43. **Figure 35**
 44. **Figure 36**
 45. **Figure 37**
 46. **Figure 38**
 47. **Figure 39**
 48. **Figure 40**
 49. **Figure 41**
 50. **Figure 42**
 51. **Figure 43**
 52. **Figure 44**
 53. **Figure 45**
 54. **Figure 46**
 55. **Figure 47**
 56. **Figure 48**
 57. **Figure 49**
 58. **Figure 50**
 59. **Figure 51**
 60. **Figure 52**
 61. **Figure 53**
 62. **Figure 54**
 63. **Figure 55**
 64. **Figure 56**
 65. **Figure 57**
 66. **Figure 58**
 67. **Figure 59**
 68. **Figure 60**
 69. **Figure 61**
 70. **Figure 62**
 71. **Figure 63**
 72. **Figure 64**
 73. **Figure 65**
 74. **Figure 66**
 75. **Figure 67**
 76. **Figure 68**
 77. **Figure 69**
 78. **Figure 70**
 79. **Figure 71**
 80. **Figure 72**
 81. **Figure 73**
 82. **Figure 74**
 83. **Figure 75**
 84. **Figure 76**
 85. **Figure 77**
 86. **Figure 78**
 87. **Figure 79**
 88. **Figure 80**
 89. **Figure 81**
 90. **Figure 82**
 91. **Figure 83**
 92. **Figure 84**
 93. **Figure 85**
 94. **Figure 86**
 95. **Figure 87**
 96. **Figure 88**
 97. **Figure 89**
 98. **Figure 90**
 99. **Figure 91**
 100. **Figure 92**
 101. **Figure 93**
 102. **Figure 94**
 103. **Figure 95**
 104. **Figure 96**
 105. **Figure 97**
 106. **Figure 98**
 107. **Figure 99**
 108. **Figure 100**
 109. **Figure 101**
 110. **Figure 102**
 111. **Figure 103**
 112. **Figure 104**
 113. **Figure 105**
 114. **Figure 106**
 115. **Figure 107**
 116. **Figure 108**
 117. **Figure 109**
 118. **Figure 110**
 119. **Figure 111**
 120. **Figure 112**
 121. **Figure 113**
 122. **Figure 114**
 123. **Figure 115**
 124. **Figure 116**
 125. **Figure 117**
 126. **Figure 118**
 127. **Figure 119**
 128. **Figure 120**
 129. **Figure 121**
 130. **Figure 122**
 131. **Figure 123**
 132. **Figure 124**
 133. **Figure 125**
 134. **Figure 126**
 135. **Figure 127**
 136. **Figure 128**
 137. **Figure 129**
 138. **Figure 130**
 139. **Figure 131**
 140. **Figure 132**
 141. **Figure 133**
 142. **Figure 134**
 143. **Figure 135**
 144. **Figure 136**
 145. **Figure 137**
 146. **Figure 138**
 147. **Figure 139**
 148. **Figure 140**
 149. **Figure 141**
 150. **Figure 142**
 151. **Figure 143**
 152. **Figure 144**
 153. **Figure 145**
 154. **Figure 146**
 155. **Figure 147**
 156. **Figure 148**
 157. **Figure 149**
 158. **Figure 150**
 159. **Figure 151**
 160. **Figure 152**
 161. **Figure 153**
 162. **Figure 154**
 163. **Figure 155**
 164. **Figure 156**
 165. **Figure 157**
 166. **Figure 158**
 167. **Figure 159**
 168. **Figure 160**
 169. **Figure 161**
 170. **Figure 162**
 171. **Figure 163**
 172. **Figure 164**
 173. **Figure 165**
 174. **Figure 166**
 175. **Figure 167**
 176. **Figure 168**
 177. **Figure 169**
 178. **Figure 170**
 179. **Figure 171**
 180. **Figure 172**
 181. **Figure 173**
 182. **Figure 174**
 183. **Figure 175**
 184. **Figure 176**
 185. **Figure 177**
 186. **Figure 178**
 187. **Figure 179**
 188. **Figure 180**
 189. **Figure 181**
 190. **Figure 182**
 191. **Figure 183**
 192. **Figure 184**
 193. **Figure 185**
 194. **Figure 186**
 195. **Figure 187**
 196. **Figure 188**
 197. **Figure 189**
 198. **Figure 190**
 199. **Figure 191**
 200. **Figure 192**
 201. **Figure 193**
 202. **Figure 194**
 203. **Figure 195**
 204. **Figure 196**
 205. **Figure 197**
 206. **Figure 198**
 207. **Figure 199**
 208. **Figure 200**
 209. **Figure 201**
 210. **Figure 202**
 211. **Figure 203**
 212. **Figure 204**
 213. **Figure 205**
 214. **Figure 206**
 215. **Figure 207**
 216. **Figure 208**
 217. **Figure 209**

2024→2025

PERSONS DETAINED

2025

1. **Introduction**
 2. **Background**
 3. **Methodology**
 4. **Results**
 5. **Discussion**
 6. **Conclusion**
 7. **References**
 8. **Appendix**
 9. **Figure 1**
 10. **Figure 2**
 11. **Figure 3**
 12. **Figure 4**
 13. **Figure 5**
 14. **Figure 6**
 15. **Figure 7**
 16. **Figure 8**
 17. **Figure 9**
 18. **Figure 10**
 19. **Figure 11**
 20. **Figure 12**
 21. **Figure 13**
 22. **Figure 14**
 23. **Figure 15**
 24. **Figure 16**
 25. **Figure 17**
 26. **Figure 18**
 27. **Figure 19**
 28. **Figure 20**
 29. **Figure 21**
 30. **Figure 22**
 31. **Figure 23**
 32. **Figure 24**
 33. **Figure 25**
 34. **Figure 26**
 35. **Figure 27**
 36. **Figure 28**
 37. **Figure 29**
 38. **Figure 30**
 39. **Figure 31**
 40. **Figure 32**
 41. **Figure 33**
 42. **Figure 34**
 43. **Figure 35**
 44. **Figure 36**
 45. **Figure 37**
 46. **Figure 38**
 47. **Figure 39**
 48. **Figure 40**
 49. **Figure 41**
 50. **Figure 42**
 51. **Figure 43**
 52. **Figure 44**
 53. **Figure 45**
 54. **Figure 46**
 55. **Figure 47**
 56. **Figure 48**
 57. **Figure 49**
 58. **Figure 50**
 59. **Figure 51**
 60. **Figure 52**
 61. **Figure 53**
 62. **Figure 54**
 63. **Figure 55**
 64. **Figure 56**
 65. **Figure 57**
 66. **Figure 58**
 67. **Figure 59**
 68. **Figure 60**
 69. **Figure 61**
 70. **Figure 62**
 71. **Figure 63**
 72. **Figure 64**
 73. **Figure 65**
 74. **Figure 66**
 75. **Figure 67**
 76. **Figure 68**
 77. **Figure 69**
 78. **Figure 70**
 79. **Figure 71**
 80. **Figure 72**
 81. **Figure 73**
 82. **Figure 74**
 83. **Figure 75**
 84. **Figure 76**
 85. **Figure 77**
 86. **Figure 78**
 87. **Figure 79**
 88. **Figure 80**
 89. **Figure 81**
 90. **Figure 82**
 91. **Figure 83**
 92. **Figure 84**
 93. **Figure 85**
 94. **Figure 86**
 95. **Figure 87**
 96. **Figure 88**
 97. **Figure 89**
 98. **Figure 90**
 99. **Figure 91**
 100. **Figure 92**
 101. **Figure 93**
 102. **Figure 94**
 103. **Figure 95**
 104. **Figure 96**
 105. **Figure 97**
 106. **Figure 98**
 107. **Figure 99**
 108. **Figure 100**
 109. **Figure 101**
 110. **Figure 102**
 111. **Figure 103**
 112. **Figure 104**
 113. **Figure 105**
 114. **Figure 106**
 115. **Figure 107**
 116. **Figure 108**
 117. **Figure 109**
 118. **Figure 110**
 119. **Figure 111**
 120. **Figure 112**
 121. **Figure 113**
 122. **Figure 114**
 123. **Figure 115**
 124. **Figure 116**
 125. **Figure 117**
 126. **Figure 118**
 127. **Figure 119**
 128. **Figure 120**
 129. **Figure 121**
 130. **Figure 122**
 131. **Figure 123**
 132. **Figure 124**
 133. **Figure 125**
 134. **Figure 126**
 135. **Figure 127**
 136. **Figure 128**
 137. **Figure 129**
 138. **Figure 130**
 139. **Figure 131**
 140. **Figure 132**
 141. **Figure 133**
 142. **Figure 134**
 143. **Figure 135**
 144. **Figure 136**
 145. **Figure 137**
 146. **Figure 138**
 147. **Figure 139**
 148. **Figure 140**
 149. **Figure 141**
 150. **Figure 142**
 151. **Figure 143**
 152. **Figure 144**
 153. **Figure 145**
 154. **Figure 146**
 155. **Figure 147**
 156. **Figure 148**
 157. **Figure 149**
 158. **Figure 150**
 159. **Figure 151**
 160. **Figure 152**
 161. **Figure 153**
 162. **Figure 154**
 163. **Figure 155**
 164. **Figure 156**
 165. **Figure 157**
 166. **Figure 158**
 167. **Figure 159**
 168. **Figure 160**
 169. **Figure 161**
 170. **Figure 162**
 171. **Figure 163**
 172. **Figure 164**
 173. **Figure 165**
 174. **Figure 166**
 175. **Figure 167**
 176. **Figure 168**
 177. **Figure 169**
 178. **Figure 170**
 179. **Figure 171**
 180. **Figure 172**
 181. **Figure 173**
 182. **Figure 174**
 183. **Figure 175**
 184. **Figure 176**
 185. **Figure 177**
 186. **Figure 178**
 187. **Figure 179**
 188. **Figure 180**
 189. **Figure 181**
 190. **Figure 182**
 191. **Figure 183**
 192. **Figure 184**
 193. **Figure 185**
 194. **Figure 186**
 195. **Figure 187**
 196. **Figure 188**
 197. **Figure 189**
 198. **Figure 190**
 199. **Figure 191**
 200. **Figure 192**
 201. **Figure 193**
 202. **Figure 194**
 203. **Figure 195**
 204. **Figure 196**
 205. **Figure 197**
 206. **Figure 198**
 207. **Figure 199**
 208. **Figure 200**
 209. **Figure 201**
 210. **Figure 202**
 211. **Figure 203**
 212. **Figure 204**
 213. **Figure 205**
 214. **Figure 206**
 215. **Figure 207**
 216. **Figure 208**
 217. **Figure 209**

2025→2026

2026

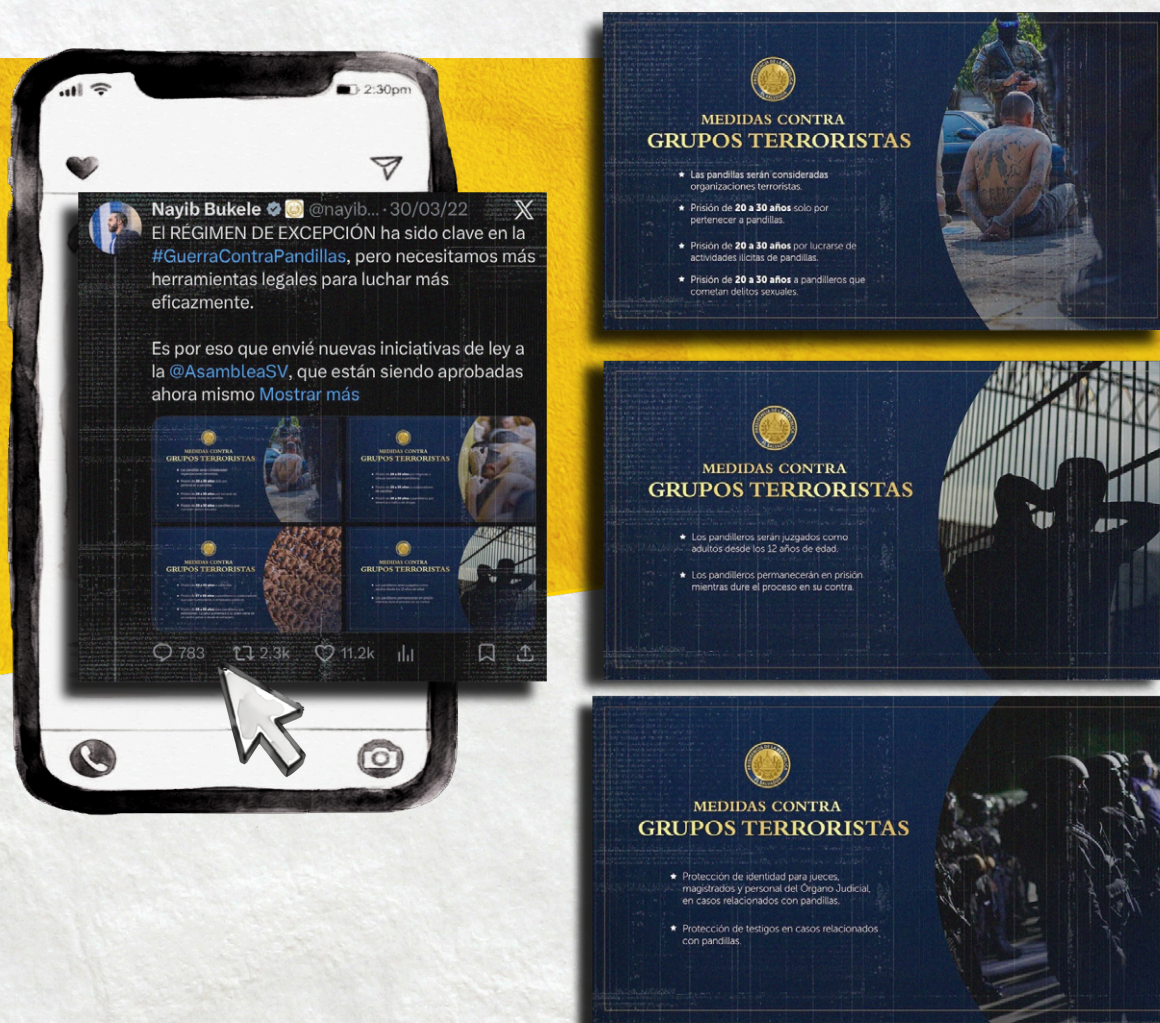


**1 out of every 70
citizens in El Salvador
was deprived of their
liberty under the
state of emergency**

From March 2022 to January 2026

4.2. LEGAL REFORMS AND SUPPRESSION OF DUE PROCESS

The Legislative Assembly has issued over 70 legislative decrees in the context of the state of exception,⁸⁹ 30 of which have amended or introduced new legislation relating to criminal law, criminal procedure and the prison system,⁹⁰ on the grounds that the new legislation is necessary to create the conditions required to implement this exceptional regime, although it would remain in force even after the state of exception was lifted.⁹¹ Most of these reforms have arisen from initiatives promoted by the executive branch purportedly to combat gang activity, and have been approved without adequate legislative debate or participation from civil society.



⁸⁹ In particular: 30 decrees have had the purpose of reforming or creating new regulations relating to criminal law and criminal procedure; a further 49 have served to extend the state of exception; and six have been used to modify the budget law in the justice, security and defence sectors, in order to facilitate the acquisition of goods and services without having to follow the usual legal procedures and requirements for state purchases.

⁹⁰ Reforms to criminal law and criminal procedure were approved over four separate periods: between March and April 2022, September and October 2022, July and August 2023 and lastly February and August 2025.

⁹¹ El Salvador's Permanent Mission to the United Nations and other international organizations (29 July 2022). Informe de estado a la comunicación conjunta con referencia AL SLV 2/2022 de los procedimientos especiales sobre alegaciones de presuntas violaciones de derechos humanos o el posible riesgo de ellas en el marco del régimen de excepción y reformas a la legislación penal [Status report in response to joint communication AL SLV 2/2022 from Special Procedures on allegations of human rights violations or the risk of such violations within the framework of the state of exception and reforms to criminal legislation], p. 8. Specifically, they argued that "[i]n this respect, it was considered necessary to carry out permanent reforms that would contribute to the fight against these terrorist groups, not only during this period of emergency, but also over time". Accessed at: <https://recursos.elsalvador.com/documentos/2022/08/15/Informe-gobierno-ante-ONU.pdf>.

The permanent adoption of this new regulatory framework allows and gives the appearance of legality to the restriction of a number of judicial rights and guarantees that cannot, under any circumstances, be subject to limitation in accordance with international standards.⁹² The main changes introduced include:

- ▶ Withholding the identity of judges,⁹³ a measure criticized by the Inter-American Court of Human Rights and United Nations Special Procedures in other contexts of organized violence, as it breaches the right to be tried by a competent, independent and impartial tribunal.⁹⁴
- ▶ Automatic application of pre-trial detention for crimes related to maras or gangs,⁹⁵ without an individual analysis of necessity and proportionality, which contravenes international standards establishing that provisional detention should be an exceptional, justified and reviewable measure.⁹⁶
- ▶ Elimination of time limits on pre-trial detention for crimes related to terrorism or organized crime,⁹⁷ which violates the right to be tried or released within a reasonable time and enables indefinite detentions that constitute arbitrary deprivations of liberty.⁹⁸
- ▶ Lowering of the minimum age of criminal responsibility from 14 to 12 years for offences related to organized crime,⁹⁹ representing a regression that is incompatible with international standards on juvenile justice, which require that any criminal response prioritize social, educational and reintegration measures.¹⁰⁰
- ▶ Transfer of adolescents convicted of organized crime to adult prisons,¹⁰¹ even if placed in “separate sectors”, which violates the principle of strict separation between children and adults deprived of liberty and puts their physical and psychological integrity at risk.¹⁰²
- ▶ Modification of the criminal procedure for offences attributed to organized crime, through the consolidation of different procedural stages, such as the presentation of charges and the decision on precautionary measures, into a single hearing.¹⁰³ This consolidation restricts the right to defence and undermines effective judicial oversight of the lawfulness of the detention and the adequacy of the evidence presented by the Attorney General’s Office.¹⁰⁴

⁹² Amnesty International (December 2003). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023.

⁹³ Legislative Decree No. 339 of 30 March 2022, published in Official Gazette No. 65, Volume 434 of 30 March 2022, Article 2

⁹⁴ IACtHR. Case of J v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of 27 November 2013. Series C No. 275, para. 184; IACtHR. Case of Apitz Barbera et al. (“First Administrative Court”) v. Venezuela. Preliminary Objection, Merits, Reparations and Costs. Judgment of 5 August 2008. Series C No. 182, para. 56; and Human Rights Council (31 December 2003). Civil and political rights, including the questions of independence of the judiciary, administration of justice, impunity. Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy. UN Doc. E/CN.4/2004/60, para. 59.

⁹⁵ Legislative Decree No. 339 of 30 March 2022, published in Official Gazette No. 65, Volume 434 of 30 March 2022, Article 5

⁹⁶ IACtHR. Jenkins v. Argentina Preliminary Objections, Merits, Reparations and Costs. Judgment of 26 November 2019. Series C No. 397, paras 74-76; IACtHR. Case of Romero Feris v. Argentina. Merits, Reparations and Costs. Judgment of 15 October 2019. Series C No. 391, para. 92; and IACtHR. Case of López Álvarez v. Honduras. Merits, Reparations and Costs. Judgment of 1 February 2006. Series C No. 141, para. 67-69.

⁹⁷ Legislative Decree No. 339 of 30 March 2022, published in Official Gazette No. 65, Volume 434 of 30 March 2022, Article 1.

⁹⁸ Article 14 (3) (c) of the ICCPR. Right to be tried without undue delay. Article 8 of the ACHR. Right to a Fair Trial. Art 7.5 establishes the right to be tried within a reasonable time or to be released.

⁹⁹ Legislative Decree No. 342 of 30 March 2022, published in Official Gazette No. 65, Volume 434 of 30 March 2022

¹⁰⁰ Committee on the Rights of the Child. UN Convention on the Rights of the Child. General comment No. 24 (2019) on children’s rights in the child justice system: “States parties are encouraged... to increase their minimum age [of criminal responsibility] accordingly, to at least 14 years of age... the Committee commends States parties that have a higher minimum age, for instance 15 or 16 years of age, and urges States parties not to reduce the minimum age of criminal responsibility under any circumstances, in accordance with article 41 of the Convention.”

¹⁰¹ Legislative Decree No. 342 of 30 March 2022, published in Official Gazette No. 65, Volume 434 of 30 March 2022

¹⁰² Article 37.c. Convention on the Rights of the Child; Rule 11 of the Mandela Rules.

¹⁰³ Under the standard procedure regulated by the Code of Criminal Procedure, the judge must hold an initial hearing to examine the lawfulness of the detention, assess the evidence and decide on the imposition of precautionary measures; subsequently, once an indictment has been filed, a preliminary hearing is held to clarify charges, evidence and procedural issues. However, the changes introduced by Legislative Decree No. 547 (29 November 2022) modified Art. 17 applicable to proceedings against organized crime, establishing that the Office of the Attorney General must request the imposition of precautionary measures within 72 hours in a single hearing, and that the indictment may be filed up to six months later. In practice, this merges procedural stages that were previously sequential, reducing the possibility of a timely judicial review of the indictment and undermining defence guarantees.

¹⁰⁴ Legislative Decree No. 547 of 26 October 2022, published in Official Gazette No. 225, Volume 437 of 29 November 2022, Article 15; and Legislative Decree No. 383 of 15 August 2025, published in Official Gazette No. 152, Volume 448 of 15 August 2025, Article 4.





The state of exception, in combination with the reforms, has created an unbalanced system. On the one hand, the police can keep people in detention for up to fifteen days without judicial supervision, while the Attorney General's Office prepares generic charges – such as 'unlawful association' – with no individual evidence. On the other, when appearing before a judge, the defendant faces irregular hearings: mass proceedings held virtually, with no effective counsel...

I have been part of proceedings with 200, 300 and even more defendants, where communication with counsel is minimal or non-existent and pre-trial detention is automatically ordered for the entire group, for periods of up to six months or more... Failure to communicate charges and restricted access to evidence are further obstacles to our work as defence attorneys.



Public defence attorney, in an interview
with Amnesty International. January 2025



These measures represent a significant step backwards in the protection of civil and political rights, as they remove essential procedural guarantees – including the right to a competent, independent and impartial tribunal, the right to appeal a conviction, the right to a reasonable period of detention and a trial without undue delay – and ignore principles of due process, such as legality, judicial independence and impartiality, presumption of innocence and equality of arms.¹⁰⁵

“

All hearings are held virtually, with detainees joining via video link from prison, or simply having their case file added to a pile alongside hundreds of others. Under these circumstances, it is impossible for each individual to explain their particular circumstances or for a lawyer to adequately defend them.

In fact, in these mass hearings under the state of exception, most detainees never even get to see the face of the judge or talk to their defence attorney. Everything happens in minutes and in the end pre-trial detention is decreed for the entire group, for at least six months, based on the standard argument that they are members of a gang.

”

Private defence attorney, in an interview with Amnesty International. December 2024

Various United Nations bodies have repeatedly stated that judicial guarantees cannot be suspended even in emergency situations, and have urged the state of El Salvador to bring its legislation into line with international standards on the right to a fair trial.¹⁰⁶

4.3. STRUCTURAL EROSION OF JUDICIAL INDEPENDENCE AND STRENGTHENING OF A SPECIAL JURISDICTION

The institutional changes implemented during the state of exception have led to a profound and structural erosion of judicial independence in El Salvador. The reconfiguration of the justice system has not been the result of neutral administrative adjustments, but rather of state decisions that have subordinated both the judiciary and the Attorney General's Office to the executive's repressive logic, thereby contributing to the implementation of the state policy of keeping those detained in the context of the state of exception deprived of their liberty for extended periods of time.

¹⁰⁵ These provisions contravene international standards on the right to a fair trial, recognized in Article 14 of the ICCPR and in Article 8.1 of the ACHR, which guarantee the right of every person to be heard, with due guarantees and by a competent, independent and impartial tribunal.

¹⁰⁶ Human Rights Council (1 June 2022). Mandates of the Working Group on arbitrary detention; the Working Group on enforced or involuntary disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. UN Doc. AL SLV 2/2022. Accessed at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27299>; OHCHR (22 May 2023). El Salvador: Extended state of emergency undermines right to fair trial, UN experts say. Accessed at: <https://www.ohchr.org/en/press-releases/2023/05/el-salvador-extended-state-emergency-undermines-right-fair-trial-un-expert>

A central element of this restructuring has been the ex post facto creation of a special jurisdiction (Courts against Organized Crime) to hear cases relating to the state of exception.¹⁰⁷ This new jurisdiction was designed and its members selected directly by the Supreme Court of Justice (CSJ) in a context of institutional co-optation, following the arbitrary dismissal of judges and magistrates and the appointment of individuals sympathetic to the government.¹⁰⁸ The way in which this jurisdiction has been structured and used undermines the principle of tribunal established by law, an essential pillar of due process that requires the relevant body to exist prior to the occurrence of the facts, to be independent and to be established by law. The ex post facto creation of a special jurisdiction and the designation of its members in a context of judicial co-optation retroactively alters the jurisdiction and favours the involvement of government-aligned operators, thus weakening the independence of judges and affecting the impartiality of the process

The Attorney General's Office has also extensively used its power to group cases at its discretion and influence what courts hear collective cases,¹⁰⁹ which sometimes group together more than 1,500 accused persons. This discretion, with no independent oversight, enables cases to be assigned to the courts against organized crime that systematically reproduce the executive's decisions and automatically apply the regulations governing the state of exception.¹¹⁰ It is important to clarify that the Attorney General's Office has discretionary power not in the direct assignment of the court, but in the manner in which the charges are brought, as determined in a prior procedural decision. When the Attorney General's Office files charges of unlawful association or other criminal offences linked to gang activity under the special regulations approved within the framework of the state of exception and legislation against organized crime, the special jurisdiction is automatically triggered. It is this categorization of the crimes that determines whether the proceedings will be heard by the specialized courts against organized crime referred to in the previous paragraphs. From a procedural perspective, the legal categorization of crimes is not neutral, but directly determines the competent court and, therefore, the applicable procedural framework.¹¹¹

¹⁰⁷ Legislative Decree No. 551 of 1 November 2022, published in Official Gazette No. 92, Volume 439, of 22 May 2023.

¹⁰⁸ Supreme Court of Justice (25 May 2023). 18 jueces para el combate del crimen organizado y de garantía son juramentados por la CSJ [18 judges for combatting organized crime and arraignment are sworn in by the Supreme Court]. Accessed at: <https://www.csj.gob.sv/18-jueces-para-el-combate-del-crimen-organizado-y-de-garantia-son-juramentados-por-la-csj/>; and Gato Encerrado (12 July 2023). Jueces a la medida: la farsa de la depuración de Bukele [Hand-picked judges: the farce of Bukele's purge]. Accessed at <https://gatoencerrado.news/2023/07/12/jueces-a-la-medida-la-farsa-de-la-depuracion-judicial-de-nayib-bukele/#:~:text=Para%20llenar%20las%20primeras%20vacantes,o%20culpabilidad%20de%20una%20persona>.

¹⁰⁹ The legislative decrees that have made this change possible are: Legislative Decree No. 803 of 26 July 2023, published in Official Gazette No. 57, Volume 440, of 25 August 2023; and Legislative Decree No. 383 of 25 August 2025, published in Official Gazette No. 152, Volume 448, of 15 August 2025.

¹¹⁰ Infobae (15 August 2025). El Salvador amplía prisión provisional bajo régimen de excepción [El Salvador extends pretrial detention under a state of emergency]. Accessed at <https://www.infobae.com/americas/america-latina/2025/08/16/el-salvador-amplia-prision-provisional-bajo-regimen-de-excepcion/>; SWI (15 August 2025). El fiscal de El Salvador prevé 600 juicios colectivos para presuntos pandilleros [El Salvador's Attorney General plans 600 group trials for alleged gang members]. Accessed at: <https://www.swissinfo.ch/spa/el-fiscal-de-el-salvador-prev%C3%A9-600-juicios-colectivos-para-presuntos-pandilleros/89840574>

¹¹¹ Private and public defence attorneys interviewed by Amnesty International between 2023 and 2025 mention the power of the Attorney General's Office in relation to the grouping of cases. Other organizations and regional protection mechanisms have also documented this pattern: WOLA (3 August 2023). Mass trials in El Salvador reflect unsustainability of the state of emergency. Accessed at <https://www.wola.org/es/analysis/juicios-colectivos-el-salvador-reflejan-insostenibilidad-regimen-excepcion/>; IACHR (2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24, of 28 June. Accessed at: https://www.oas.org/es/cidh/informes/pdfs/2024/Informe_EstadoExcepcionDDHH_ElSalvador.pdf

“

It's a 'huacal',¹¹² where everyone gets dumped in. [Legislative Decree] 803 empowers the prosecutor, not the judge, to determine membership of a 'clica' [local gang cell]. If a 'clica' operates in a certain geographical area, everyone living in that area is lumped into the same group, regardless of whether they belong to the 'clica' or whether they have also been charged with belonging to another terrorist structure. And that's how mega hearings come about.

”

Public defence attorney, in an interview with Amnesty International. January 2025

One of the most worrying aspects of this judicial structure is the widespread use of judges whose identity is withheld,¹¹³ a practice that conceals the identity of those who preside over proceedings even from the parties involved. Although the authorities justified this measure on grounds of security, its implementation has resulted in a serious regression in transparency, accountability and due process guarantees. It is a practice that highlights the concerns raised by the inter-American system regarding “faceless judges”, which has been declared incompatible with the ACHR on the grounds that it violates the right to be tried by an independent and impartial judge appointed in advance by law.¹¹⁴

This withholding of identity does not protect judges, but rather their decisions, shielding them from public scrutiny and removing any possibility of oversight of their actions. In this context, judicial independence is compromised not only by the selection of closely aligned individuals, but also by the total lack of transparency that prevents any assessment of the impartiality of those who make decisions that affect the freedom of thousands of people.

“

Judicial independence no longer exists; that is over. Selection processes have stopped looking for the most suitable candidates and are now driven primarily by political affiliation, not merit. It is even questionable whether there is any real separation between the judiciary and the Attorney General's Office. What we have now is a collusive relationship.

”

Defence attorney, in an interview with Amnesty International. January 2025

The reforms adopted during this administration have done away with specific requirements for appointments and transfers, made the process of allocating positions more flexible and allowed judges to be transferred or removed without the safeguards inherent to the judicial career.¹¹⁵ These changes have consolidated an environment in which the executive branch has a decisive influence on the allocation of cases and judicial conduct, thereby undermining any institutional checks and balances.

¹¹³ Name for a tray or container (traditionally a hollowed-out gourd)

¹¹³ Under the state of exception, a reform to the Code of Criminal Procedure was approved in 2022, introducing article 73-A and the concept of judges with reserved identities. In practice, the implementation of this reform has meant that rulings can be issued without the judge's name being known, instead using only internal identification codes or numbers

¹¹⁴ IACTHR. Case of J v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of 27 November 2013. Series C No. 275, para. 184; and IACTHR. Case of Apitz Barbera et al. (“First Administrative Court”) v. Venezuela. Preliminary Objection, Merits, Reparations and Costs. Judgment of 5 August 2008. Series C No. 182, para. 56.

¹¹⁵ 5 The reforms to the Judicial Career Law were approved by Legislative Decree No. 144 of 31 August 2021, published in Official Gazette No. 175, Volume 432, of 14 September 2021. For further details: CNN (1 September 2021). Aprueban ley para jubilar a jueces y fiscales a los 60 años en El Salvador [Law to retire judges and prosecutors at age 60 passed in El Salvador]; FOCOSTV (12 July 2023). Jueces a la medida: la farsa de la depuración de Bukele [Hand-picked judges: the farce of Bukele's purge]. Accessed at: <https://cnnespanol.cnn.com/2021/09/01/aprueban-ley-para-jubilar-a-jueces-y-fiscales-a-los-60-anos-en-el-salvador/>; FOCOSTV. (July 12, 2023). Handpicked Judges: The Farce of Bukele's Purge. Retrieved from: <https://focostv.com/jueces-a-la-medida-la-farsa-de-la-depuracion-de-bukele/>

Furthermore, an analysis of judicial action in the cases examined by Amnesty International reveals an almost complete lack of oversight of the actions of the Attorney General's Office and the police. Judges accept standardized police reports without question, fail to verify the lawfulness of detentions or examine the adequacy of the evidence provided, and neglect to exercise conventionality control over the system's regulatory provisions. This systematic omission contributes to the consolidation of a procedural model that validates arbitrary detentions and reinforces prolonged deprivation of liberty as a central tool of state policy.

Taken together, the creation of the special jurisdiction, the use of judges whose identity is kept confidential, the discretion of the prosecuting authority in the allocation of cases and the absence of effective judicial oversight have shaped a judicial system that serves the needs of the state of exception and the policies of the executive branch. Judicial independence, impartiality and objectivity – essential requirements of the right to a fair trial – have been replaced by a system of institutional subordination that ensures predictable outcomes: the automatic validation of decisions taken by the executive and the ruling majority in the Legislative Assembly, and ongoing deprivation of liberty.

This design is no accident. It is the very element that enables the regime to be sustained through uncontrolled mass detentions, prospective investigations, perfunctory hearings and collective decisions. The erosion of judicial independence is thus an essential component of the widespread and systematic attacks described in this report and constitutes a crucial factor when analysing crimes against humanity.

4.4. DETENTIONS POLICY AND ABSENCE OF EFFECTIVE CONTROLS

Since the beginning of the state of exception, the government has increased the military's involvement in public order tasks, deploying army troops alongside the National Civil Police (PNC) in urban neighbourhoods and rural areas. As previously mentioned, this strategy has included armed patrols, checkpoints, military cordons, and the prolonged occupation of entire communities.

The police and military presence in the most impoverished and marginalized areas, where gangs operate or used to operate, has generated an atmosphere of repressive control, often involving abuses against the civilian population. Rather than promoting a rights-based model of citizen security, the authorities have prioritized a punitive policy which has resulted in gang violence being gradually replaced by state violence.¹¹⁶

This model, designed to deliver immediate results, has driven the adoption of institutional practices within the army and the PNC aimed at maximizing the number of detentions, without regard for any legal limits or international human rights obligations.

One crucial element in the implementation of the state of exception has been the practice of indiscriminate detention. Testimonies from active and retired PNC officers, together with information from secondary sources and witness statements from detainees, enabled Amnesty International to identify an institutional policy of detentions organized in stages and characterized by their scale and the absence of judicial control.¹¹⁷ According to the officers' testimonies, operational guidelines issued by police commanders were communicated verbally, without any written record, and were based on a step-by-step approach combining objectives of repression and propaganda.

¹¹⁶ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023.

¹¹⁷ Over four years, Amnesty International interviewed seven National Civil Police officers working at different police stations at the time of the interviews.



STAGE 1: IMMEDIATE ORDERS AND INITIAL SCREENING

According to the police officers, the first stage took place in the days following the approval of the state of exception on 27 March 2022. The officers received verbal instructions, via phone calls or instant messaging groups, to detain all individuals who had ever been registered as gang members in their databases.¹¹⁸ They were told that anyone included in such lists should be detained immediately on grounds of unlawful association, and that “all constitutional guarantees had been suspended”.

Based on such lists, targeted raids were carried out in historically marginalized areas throughout the month of April 2022. However, many of those registered no longer lived at their old address, or had left the gangs years before, so the information contained in the databases was rapidly depleted. According to the testimonies, police commanders then extended instructions to include the capture of family members of those who were on the lists, on grounds that their family ties or the fact that they lived together automatically turned them into gang supporters.¹¹⁹

These new instructions marked the start of a pattern, aimed more at demonstrating “effectiveness” while ignoring minimum investigative standards.

Box 4 - Explainer

Profiling database

According to testimonies from several active and retired members of the PNC interviewed by Amnesty International, since the early 2000s the institution has maintained an internal register at each of its territorial stations of individuals linked to gang structures, informally known among officers as the “profiling database”. This system stored the personal and visual information of thousands of people considered by the authorities to be gang members, including their name, alias, address, area of operation, criminal record, tattoos, family members and, in some cases, photographs.

Information for the database was obtained from previous arrests, internal intelligence reports and anonymous tips. However, there were no verification procedures or regular updates and, as a result, the registry accumulated inaccurate, outdated or erroneous information over the years, including details of deceased individuals, migrants and those who had been rehabilitated.

According to the police officers, during the state of exception declared in March 2022 this database became the initial operational tool for mass arrests. It was enough for a person to be on the list or reside at a listed address for their detention to be ordered, without any prior investigation or court order. In several cases, according to the officers interviewed, the lists were printed and distributed among patrols by sector, accompanied by verbal orders to “look for the assigned targets”. If those listed could not be located, officers were instructed to detain other residents from the area instead.

This system resulted in criminalization based on geographical, physical or social profiling, which is contrary to the principles of legality and presumption of innocence enshrined in Article 8.2 of the American Convention on Human Rights and Article 14.2 of the International Covenant on Civil and Political Rights. In practice, the register ceased to be an intelligence tool and became a mechanism for indiscriminate detention used to justify the capture of thousands of individuals under the state of exception.

¹¹⁸ See Box 3 on the police profiling registry of individuals linked to gangs.

¹¹⁹ El Faro (7 August 2022). State of Exception Files: hundreds arrested for prior convictions or “looking nervous”. Accessed at: https://elfaro.net/es/202208/el_salvador/26318/los-expedientes-ocultos-del-regimen-cientos-de-arrestos-por-nerviosismo-y-ficha-policial; LPG (12 September 2022). “Captúrenlos a todos”: la verdadera historia del régimen de Bukele [“Capture them all”: the true story of the Bukele regime]. Accessed at <https://www.laprensagrafica.com/Capturenlos-a-todos-la-verdadera-historia-del-regimen-de-Bukele-1202209110001.html>; HRW (27 June 2025). El Salvador: Police officers speak out about abuses. Arbitrary detention based on quotas, fabricated evidence. Accessed at <https://www.hrw.org/news/2025/06/27/el-salvador-police-officers-speak-out-about-abuses>

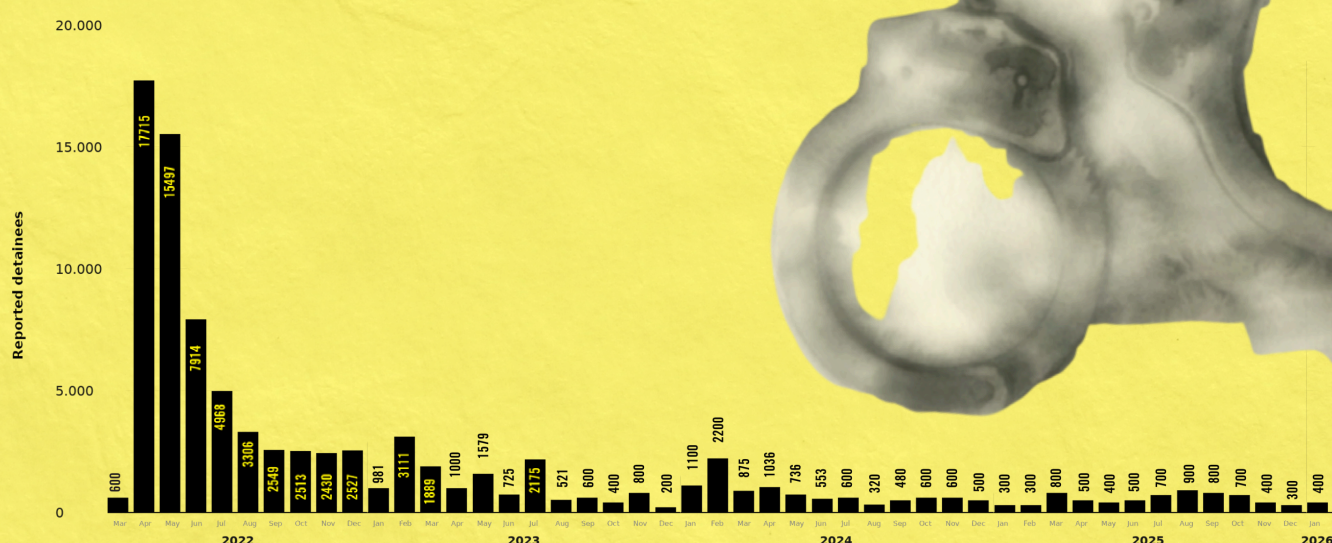
STAGE 2: INSTITUTIONALIZATION OF QUOTAS AND MASS DETENTIONS

The police authorities set daily detention quotas for each police station and patrol unit, turning police work into a numbers game. Officers had to achieve a minimum number of detentions to avoid sanctions, transfers or loss of benefits, while those who met their targets were rewarded with days off or other incentives.¹²⁰ To meet these quotas, security forces resorted to mass arrests and automatically applied the crime of unlawful association even to minor offences such as drunkenness, public disorder or fighting on the street.¹²¹

During this stage, young people from impoverished communities were detained based on stereotypes and biases, rather than on specific investigative processes or concrete evidence. Many detentions were reportedly based on “anonymous accusations” of questionable veracity, or on arbitrary profiling such as having tattoos, dressing in a particular way or living in areas that have historically been marginalized by poverty and gang violence.¹²² This focus on quantitative performance replaced all notions of criminal investigation, making mass detention the main indicator of institutional effectiveness, rather than a legitimate measure of crime control.

In the more than 70 cases analysed by Amnesty International, none of the detainees had a prior arrest warrant against them, nor was an individual investigation found to justify their detention. There was also no flagrancy in many of the cases, with thousands of individuals being apprehended in their homes, at work or in the street despite not committing any crime at the time of their detention.¹²³

FIGURE 3: PATTERN OF DETENTIONS UNDER THE STATE OF EXCEPTION



Prepared by Amnesty International based on information contained in the legislative decrees extending the state of exception.

¹²⁰ France 24 (13 April 2022). El Salvador: policías denuncian presión para cumplir con cuotas de arresto [El Salvador: Police report pressure to comply with arrest quotas]. Accessed at <https://www.france24.com/es/am%C3%A9rica-latina/20220412-el-salvador-pandillas-detenciones-arbitraria-policias>

¹²¹ HRW (27 June 2025). El Salvador: Police officers speak out about abuses. Arbitrary detention based on quotas, fabricated evidence.

¹²² Amnesty International (2 June 2022). El Salvador: President Bukele engulfs the country in a human rights crisis after three years in government. Accessed at <https://www.amnesty.org/en/latest/news/2022/06/el-salvador-president-bukele-human-rights-crisis/>; HRW (27 June 2025). El Salvador: Police officers speak out about abuses. Arbitrary detention based on quotas, fabricated evidence.

¹²³ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023

STAGE 3: MILITARIZATION AND CONSOLIDATION OF TERRITORIAL CONTROL

From May 2022, the direct involvement of the armed forces in the detentions intensified, with the army taking on a leading role.¹²⁴ On numerous occasions, soldiers carried out arrests in the absence of the police, in a clear violation of the Constitution and internal procedural rules. PNC officers were subsequently instructed to sign reports that “legalized” detentions in which they had not participated, inserting the names of military personnel and fabricating accounts of the circumstances of the arrests. The reports were written with standardized wording, such as “the subject was dressed like a gang member” or “was acting suspiciously”. The use of force and the injuries sustained by some of the detainees were often concealed. This pattern reveals a systematic policy of covering up arbitrary detentions, ill-treatment and torture, with the PNC providing a veneer of legality to acts carried out by the military.

From late 2022 and throughout 2023, the government reinforced this approach through the use of “military cordons” in various municipalities.¹²⁵ Although presented as operations against gang structures, they actually functioned as media-driven displays of force aimed at social control, consolidating the militarization of public spaces and the normalization of the state of exception as a permanent security policy.¹²⁶

This sequence illustrates a structural shift in the operation of the PNC, which went from applying criminal investigation criteria to implementing a politically driven policy of mass detentions. The stages identified point to the existence of a state strategy of arbitrary deprivation of liberty, characterized by planning, inter-institutional coordination and a territorial reach.

Finally, according to testimonies from three PNC officers obtained by Amnesty International, after the first public allegations of abuse, the police high command issued a “detention protocol” and made online human rights training courses compulsory for all staff. However, these measures did nothing to change established practices but rather sought to create a semblance of legality and shift any potential criminal responsibility arising from such detentions to the officers carrying them out.

At the same time, quota requirements were reduced, particularly following the leak of the detainee database, which evidenced the sheer scale of detentions and violations of due process.¹²⁷ According to PNC officers interviewed by Amnesty International, this resulted in the coexistence of two very different realities: an official discourse focusing on respect for the law, and operational practices centred on repression and people control.

¹²⁴ Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception], p. 18.

¹²⁵ El Mundo (22 June 2025). ¿Dónde y cuándo se han instalado cercos militares en El Salvador desde 2022? [Where and when have military cordons been deployed in El Salvador since 2022?]. Accessed at: <https://dev.elmundo.sv/nacionales/donde-y-cuando-se-han-instalado-cercos-militares-en-el-salvador-desde-2022>

¹²⁶ Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception], pp. 24 and 25; LPG (3 December 2022). “Cercos militares no es coherente con el discurso de país seguro”: defensoras de derechos humanos [Military cordons not consistent with the rhetoric of a safe country”: women human rights defenders]. Accessed at: <https://www.laprensagrafica.com/elsalvador/Cercos-militares-no-es-coherente-con-el-discurso-de-pais-seguro-defensoras-de-derechos-humanos-20221203-0024.html>

¹²⁷ HRW (27 January 2023). El Salvador: Leaked Database Points to Large-Scale Abuses. Accessed at: <https://www.hrw.org/es/news/2023/01/27/el-salvador-filtracion-de-base-de-datos-apunta-abusos-gran-escala>



“

That course was basically to say that we knew what the procedures were, but it was never applied. The commanders were simply protecting themselves, because they knew that those of us who signed the reports were the ones who were going to be held responsible [...] The media claimed that the law was being upheld, but on the ground the raids, beatings and arrests on mere suspicion continued. It was like living in two realities: one for the cameras and one for us.

”

PNC officer, in an interview with Amnesty International. December 2024

The policy of mass detention implemented under the state of exception has been supported by a judicial system that has surrendered legal oversight to become a mechanism for “legalizing” arbitrary deprivation of liberty. In practice, detainees only appear before a judge after the 15 days of administrative detention authorized by the state of exception, despite this being a right that should guarantee a review of the legality of the detention within a reasonable time.¹²⁸ This delay suspends the right to immediate judicial review enshrined in articles 7.5 of the ACHR and 9.3 of the ICCPR.

Numerous judges, and particularly those appointed to hear cases under the state of exception, have ceased to act as guarantors of rights. Instead, they now merely rubber-stamp mass arrests and extend pre-trial detention without carrying out individual reviews. This takes place in mass hearings, held in closed session (confidentially) and without public access, in contravention of the principles of transparency, contradiction and equality of arms. This practice has effectively turned the initial hearing into a mere formality aimed at validating decisions previously taken by the police and the public prosecution.

This practice reflects the structural erosion of judicial independence, characterized by a pattern of hierarchical and political subordination to the punitive measures promoted by the executive branch.

“

No one here verifies whether the detentions were lawful or not. We only take the people to them, the Attorney General's Office receives the package, and that's it. No judge can see anything at that moment [...] By the time they are taken to court, fifteen days have gone by; the judges simply read the list and confirm everything. No one asks if beatings took place, or if an arrest warrant was issued.

”

PNC officer, in an interview with Amnesty International. December 2024

The Attorney General's Office has filed broad, blanket charges, often by simply pointing out a detainee's supposed gang affiliation without providing individual evidence. Given its broad and ambiguous nature, the crime of “unlawful association” became a catch-all charge used to indict thousands of people, allowing the criminalization of mere membership of or suspected ties to gangs.

¹²⁸ The state of exception, in force since 27 March 2022, suspended the application of Article 13 of the Constitution of the Republic, which limits administrative detention to a maximum of seventy-two hours, and extended the period to fifteen days, as per the provisions of Legislative Decree No. 333.

Salvadoran human rights organizations have warned that this charge focuses on who a person is – their origin, environment or appearance – rather than on any specific acts they may have committed, thus facilitating persecution through profiling and association. As a result, thousands of people have been imprisoned simply for living in an impoverished neighbourhood or for having characteristics that are stigmatized and associated with crime.

Amnesty International analysed copies of six charging documents issued between July 2022 and February 2024, and was able to identify a pattern of systematic criminalization by association and lack of proper investigation. These documents provide evidence of an institutional mechanism for collective criminal prosecution lacking any legal oversight and designed to support the state's policy of mass arrests under the state of exception.

The indictments analysed use standard language to collectively attribute the crime of unlawful association to groups of people,¹²⁹ without specifying individual behaviours, dates, means or acts. Those charged are described in general terms as “active members”, “collaborators” or “civilian strikers” of criminal organizations, despite there being no direct or indirect evidence proving their membership or participation in criminal activities.

In the charging documents analysed, prosecutors invoke the legal interest of “public peace” as the only interest affected by the alleged actions of those charged, without any verifiable material or testimonial evidence, and build the case based on criteria of residence, kinship or cohabitation with alleged gang members. This pattern constitutes criminalization by association, which is incompatible with the principle of individual criminal responsibility, recognized in Article 14.2 of the ICCPR and Article 8.2 of the ACHR.

Similarly, none of the charging documents reviewed describe any independent investigative activity by the Attorney General's Office, such as interviews, inspections or expert reports that would allow the allegations to be substantiated. Rather, the accusations are based almost exclusively on “police intelligence reports” or alleged “arrests in flagrante delicto”, despite the absence of objective evidence of such flagrancy or of any independent verification.

Taken together, these elements confirm that the Attorney General's Office failed to act with due diligence or fulfil its duty of objectivity, becoming a mere administrative body that rubber-stamped indiscriminate police repression. Rather than exercising autonomous oversight of the criminal investigation, as required by Article 193 of the Constitution of El Salvador and international standards on the role of the Public Ministry, the institution neglected its role as guarantor of legality and due process and legitimized arbitrary detentions and collective accusations without any evidence.

These practices violate the right to a fair trial and the principle of legality, both of which are fundamental pillars of due process as recognized by the UN Human Rights Committee and the IACtHR.¹³⁰

¹²⁹ The documents analysed by Amnesty International showed that the number of people prosecuted together in a single case ranged from 34 to 112.

¹³⁰ UN Human Rights Committee (23 August 2007). General Comment No. 32: Article 14. Right to equality before courts and tribunals and to fair trial. UN Doc. CCPR/C/GC/32, paras 30–33; United Nations (7 September 1990). Guidelines on the role of prosecutors. Approved by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana (Cuba), August 27 to September 7, 1990. UN Doc. A/CONF.144/28/Rev.1, p. 192, paras 11–12; IACtHR. Case of Nissen Pessolani v. Paraguay. Merits, Reparations and Costs. Judgment of 21 November 2022. Series C No. 477, para. 57; and IACtHR. Case of Fernández Prieto and Tumbeiro v. Argentina. Merits and Reparations. Judgment of 1 September 2020. Series C No. 411, para. 83.

4.5. LACK OF ACCESS TO INFORMATION AND INVESTIGATION OF ABUSES

In the face of thousands of complaints of arbitrary detentions, torture and deaths in state custody documented by national and international organizations, the authorities have responded by denying, covering up and discrediting such allegations.¹³¹ This strategy of denial has created a climate of structural impunity, characterized by a lack of investigations, restrictions on public information and an absence of effective accountability mechanisms.

Since the start of the state of exception, the authorities have adopted a narrative centred on denying human rights violations. Senior officials responsible for public security and criminal investigations have issued statements aimed at discrediting reports of abuse by presenting the allegations as “propaganda” or as attempts to “favour criminals”.



What surprises me is that no NGO, politician, or international organization ever seems to care about the human rights of the woman who is assaulted, but they're always quick to defend the rights of criminals: [complaining] that they are not given chicken or meat in prison, that they are not given the chance to walk free and assault someone again, or that they should be freed during the trial. Why? So that they can harm more innocent women? Why do they defend the human rights of offenders and not those of the victims?



Nayib Bukele, President of the Republic of El Salvador. Post on social media X. 23 April 2025

Authorities have severely restricted access to essential public information: there are no official lists of detainees, nor any up-to-date information on their legal status or where they are being held. In addition, information relating to prison management has been classified as confidential for several years, preventing public scrutiny and hindering the work of defence attorneys, humanitarian monitoring and efforts to locate detainees.¹³³

This institutional opacity prevents an assessment of the full extent of the violations and hinders independent investigative efforts. Internal oversight bodies, such as the PDDH,

¹³¹ DW (13 July 2024). Gobierno de El Salvador: en las cárceles “no hay torturas” [Government of El Salvador: “There is no torture in jails”]. Accessed at: <https://www.dw.com/es/gobierno-de-el-salvador-en-las-c%C3%A1rceles-no-hay-torturas/a-69649772>; TIME Magazine (29 August 2024). TIME interview with President Nayib Bukele. “...there are many false narratives. For instance, claims of torture in prisons lack any evidence. As for deaths in our prisons, our death rates are quite low.” Accessed at: <https://time.com/7015751/entrevista-presidente-nayib-bukele/>; VOA (26 September 2024). Falso que no haya pruebas de tortura en cárceles de El Salvador como dijo Nayib Bukele a TIME [It is false that there is no evidence of torture in El Salvador’s prisons, as Nayib Bukele told TIME]. Accessed at: <https://www.vozdeamerica.com/a/falso-que-no-haya-pruebas-de-tortura-en-carceles-de-el-salvador/7773182.html>; and LPG (11 September 2023). “Con la reserva de información ha sido imposible mantener la contraloría social” [With the withholding of information, it has been impossible to maintain public oversight]. Accessed at: <https://www.laprensagrafica.com/elsalvador/Con-la-reserva-de-informacion-ha-sido-imposible-mantener-lacontraloria-social-20230910-0055.html> Post on X: <https://x.com/nayibbukele/status/1916954136110895382?s=20>

¹³² Post on X: <https://x.com/nayibbukele/status/1916954136110895382?s=20>

¹³³ ACHR (2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24 of 28 June, paras 345- 326. Accessed at https://www.oas.org/es/cidh/informes/pdfs/2024/Informe_EstadoExcepcionDDHH_ElSalvador.pdf; Azul Originario, AMATE, Cristosal, FESPAD, Idhuca, Salvadoran Network of Women Defenders, Servicio Social Pasionista (March 2023). Annual report on human rights violations during the state of exception in El Salvador. Accessed at: <https://cristosal.org/informe-anual-sobre-violaciones-a-derechos-humanos-durante-el-estado-de-excepcion-en-el-salvador-marzo-2023/>; and LPG (29 December 29). Existen 97 reservas de información relacionadas a seguridad hasta 2023 [There are 97 reserves of information related to security up to 2023]. Accessed at: <https://www.laprensagrafica.com/elsalvador/Existen-97-reservas-de-informacion-relacionadas-a-seguridad-hasta-2023-20231228-0083.html>

have shown a lack of independence and due diligence, contrary to their constitutional mandate.¹³⁴ The institution has not conducted meaningful investigations into widespread allegations of arbitrary detentions, torture and deaths in custody, and it has been reported that the General Directorate of Penal Centres (DGCP) has denied the PDDH access to prisons and information, even in violation of court orders.¹³⁵

The Attorney General's Office has also acted contrary to its constitutional mandate to conduct objective investigations by becoming part of the institutional structure that participates in the state's policy of mass arbitrary detentions. For instance, as of the closing date of this report, there is no publicly available information indicating any ongoing investigations against state agents for their possible involvement in human rights violations committed during the state of exception.

Despite the more than 400 deaths in custody reported as of December 2025,¹³⁶ the Attorney General's Office has not prosecuted or sanctioned any public official suspected of responsibility. Allegations of torture, cruel treatment and enforced disappearances have also been ignored.¹³⁷ This failure to act contravenes the state's obligations under articles 1.1 and 8 of the ACHR and articles 2 and 14 of the ICCPR, which require the investigation and punishment of serious violations of human rights.

The Constitutional Chamber, whose lack of independence has already been criticized, has systematically rejected or delayed habeas corpus appeals filed by relatives of detainees. In doing so, it has contributed to the lack of effective judicial protection, denying access to justice and reparations.¹³⁸

At the legislative level, the Assembly has relinquished its oversight function. Successive extensions of the state of exception are approved without debate or political control, and proposals to establish special commissions to investigate alleged human rights violations have been rejected.¹³⁹ As a result, there are no effective internal checks and balances, and administrative, judicial and legislative mechanisms are subordinated to the executive branch.

¹³⁴ With regard to the PDDH, universal human rights monitoring mechanisms have noted the institution's gradual loss of independence and have expressed concern over its failure to respond to human rights violations. Committee on Economic, Social and Cultural Rights (CESCR). Concluding observations on the sixth periodic report of El Salvador. 9 November 2022.

¹³⁵ IACHR (2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24 of 28 June, para. 173. Accessed at: https://www.oas.org/es/cidh/informes/pdfs/2024/Informe_EstadoExcepcionDDHH_ElSalvador.pdf; Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 29 and 36; PDDH (June 2023). Informe de Labores de la PDDH 2022-2023 [PDDH Work Report 2022-2023], pp. 74-76. Accessed at: <https://www.pddh.gob.sv/portal/wp-content/uploads/2023/09/memoria-de-labores-22-23.pdf>

¹³⁶ El País (30 January 2026). Pastores, sindicalistas y menores, entre los 470 muertos en prisiones bajo el régimen de Bukele [Pastors, trade unionists and minors, among the 470 killed in prisons under the Bukele regime]. Accessed at: <https://elpais.com/america/2026-01-30/pastores-sindicalistas-y-menores-entre-los-470-muertos-en-prisiones-bajo-el-regimen-de-bukele.html>

¹³⁷ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, p. 36; AP (13 June 2023). Fiscalía archiva 142 muertes en las cárceles de El Salvador que atribuye a causas naturales [Attorney General's Office closes the cases of 142 deaths in El Salvador's prisons, attributing them to natural causes]. Accessed at: <https://apnews.com/world-news/general-news-d5b114d180b5cb24a6dc6a31e8650c23>; IACHR (14 July 2023). 187th Period of Sessions. Hearing: Human rights violations and states of exception in El Salvador; El Faro (7 August 2023). Comisionado Guzmán: 'No he hablado con nadie que haya salido de las cárceles del régimen de excepción' [Commissioner Guzmán: "I have not spoken to anyone who has been released from the prisons of the state of exception"]. Accessed at: https://elfaro.net/es/202308/ef_tv/26971/comisionado-guzman-no-he-hablado-con-nadie-que-haya-salido-de-las-carceles-del-regimen-de-excepcion

¹³⁸ Based on testimonies from six private defence attorneys obtained by Amnesty International between 2023 and 2025; IACHR (2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24 of 28 June, para. 188; Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception], pp. 93 et seq.; DPLF (June 2024). (Lack of) Judicial Protection. The response of the Constitutional Chamber during the state of emergency in El Salvador; OUDH (2023). Informe: Sobre acceso a la justicia y régimen de excepción en El Salvador [Report: On access to justice and the state of exception in El Salvador], among others.

¹³⁹ LPG (4 March 2025). Oficialismo rechaza evaluar el régimen de excepción [The ruling party refuses to evaluate the state of exception]. Accessed at: <https://www.laprensagrafica.com/elsalvador/Oficialismo-rechaza-evaluar-el-regimen-de-excepcion-20250304-0077.html>; El Mundo (4 March 2025). Francisco Lira pide reformar régimen de excepción: sin votos [Francisco Lira requests that the state of exception be reviewed but obtains no votes]. Accessed at: <https://diario.elmundo.sv/politica/francisco-lira-pide-reformar-regimen-de-excepcion-sin-votos>

Furthermore, the authorities' response to international bodies has also been one of denial of human rights violations and lack of cooperation. The IACHR and various United Nations Special Procedures mandate holders have requested detailed information on the number of arrests, deaths in custody and prison conditions, as well as authorization to conduct on-site visits. Despite repeated requests, the Salvadoran authorities have not allowed international monitoring, thereby breaching their obligation to cooperate in good faith.¹⁴⁰

This lack of transparency has also prevented conditions in prisons from being verified and has reinforced the regime's official narrative of success, which is based solely on detention figures and official data on reduction in homicide rates, while not addressing the numerous allegations of human rights violations.

The absence of oversight mechanisms has enabled the consolidation of a pattern of institutional cover-ups regarding abuses committed within prisons. Reports from national and international organizations, including forensic findings, document a highly punitive prison policy, characterized by systematic beatings, stress positions, severe overcrowding, denial of water, food, and medication, and prolonged solitary confinement.¹⁴¹ These widespread practices, tolerated and committed by prison authorities, constitute forms of torture and cruel, inhuman or degrading treatment under the terms of the Convention against Torture.¹⁴²

In this context, with many cases of deaths in state custody, local organizations¹⁴³ have reported that some of those who died had signs of violence on their bodies, or that there were strong indications that their death could have been caused by a lack of timely medical care.¹⁴⁴ Each death represents a failure by the state to fulfil its duty to protect the life and personal integrity of detainees (arts. 4 and 5 ACHR). However, the state has neither acknowledged its responsibility nor taken measures to prevent further human rights violations.

In short, the actions of the authorities during the state of exception reveal a systematic policy of opacity, denial and failure to investigate, as well as a lack of accountability in the face of the serious human rights violations committed during its implementation.

¹⁴⁰ EDH (9 November 2023). IACHR insists on visiting El Salvador to verify the human rights situation. Accessed at <https://www.elsalvador.com/h-noticias/h-nacional/cidh-insiste-visit-er-el-salvador-para-verificar-situacion-derechos-humanos/1102652/2023/>.

¹⁴¹ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24; Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception]; Azul Originario, AMATE, Cristosal, FESPAD, Idhuca, Salvadoran Network of Women Defenders, Servicio Social Pasionista (March 2023). Annual report on human rights violations during the state of exception in El Salvador; and HRW/Cristosal (December 2022). "We Can Arrest Anyone We Want": Widespread Human Rights Violations Under El Salvador's "State of Emergency".

¹⁴² El Salvador has been a State party to the Convention against Torture since 17 July 1996. The internal ratification is contained in Legislative Decree No. 833, published in Official Gazette No. 92, Volume 323, of 19 May 1994.

¹⁴³ Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception]; Cristosal, Idhuca, DPLF, Network of Women Defenders, SSPAS. (2024, July). Muertes en cárceles durante el estado de excepción en El Salvador: presuntas ejecuciones extrajudiciales. Informe de organizaciones de sociedad civil ante el relator especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias de Naciones Unidas [Prison deaths during the state of emergency in El Salvador: alleged extrajudicial executions. Report of civil society organizations to the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions]. Accessed at: https://dplf.org/wp-content/uploads/2024/07/muertes_en_carceles_durante_el_estado_de_excepcion_en_el_salvador_-_presuntas_ejecuciones_extrajudiciales_-_informe_a_relator_especial_de_naciones_unidas.pdf; Azul Originario, AMATE, Cristosal, FESPAD, Idhuca, Salvadoran Network of Women Defenders, Servicio Social Pasionista (March 2023). Annual report on human rights violations during the state of exception in El Salvador; and HRW/Cristosal (December 2022). "We Can Arrest Anyone We Want": Widespread Human Rights Violations Under El Salvador's "State of Emergency"; among others.

¹⁴⁴ Amnesty International has documented 12 cases of deaths in state custody in this context. In three of these cases, the families of those who died showed Amnesty International during the interview official certificates issued by the Institute of Forensic Medicine or hospitals where the victims were treated before dying, stating as the main cause of death "mechanical asphyxia", "multiple unidentified traumas" and "badly beaten". To date, none of those interviewed have been contacted by the authorities to inform them of investigations into the circumstances of the deaths and to determine who is responsible. Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 33-34.

iThe deliberate withholding of crucial information, ineffective oversight bodies, absence of criminal investigations and refusal to cooperate with international mechanisms constitute a pattern of institutionalized impunity.

Rather than adopting measures to address the situation or provide accountability, the authorities have reinforced their system of cover-ups and propaganda, blocking the path to any potential truth, justice or reparation for victims. This behaviour violates El Salvador's international obligations under the ACHR, the ICCPR and the Convention Against Torture, and perpetuates a context in which impunity not only protects perpetrators but ensures that abuses will continue.

MAIN PATTERNS OF HUMAN RIGHTS VIOLATIONS UNDER THE STATE OF EXCEPTION



MAIN PATTERNS OF HUMAN RIGHTS VIOLATIONS UNDER THE STATE OF EXCEPTION

Within the context described, over the last four years Amnesty International has documented a number of persistent and consistent patterns of serious human rights violations,¹⁴⁵ and potentially crimes under international law, which illustrate how El Salvador's institutions have operated under the state of exception. As mentioned previously, a key element is an institutional policy based on mass deprivation of liberty, undermining of due process, a lack of transparency within the judicial and prison systems, and the systematic use of criminal punishment as a tool for social control.

These practices, organized and implemented in a coordinated manner by different state institutions, are evidence of widespread and systematic repression targeted at specific sectors of the population. The structural and planned nature of these actions brings the situation within the analytical threshold of crimes against humanity, as defined by international human rights law and international criminal law.

The main patterns of serious human rights violations detected are described below.

5.1. ARBITRARY DETENTIONS

In certain circumstances, the prohibition of all forms of arbitrary deprivation of liberty is a peremptory norm of international law (*jus cogens*)¹⁴⁶ and is therefore non-derogable for states. Despite this, as previously detailed, the state of exception has served to consolidate a policy of mass and indiscriminate detention, carried out by the PNC and the armed forces, particularly in historically impoverished communities with the added stigma of being considered “areas under gang control”. The nature of these actions reveals an institutional pattern that is deeply at odds with the prohibition on arbitrary deprivation of liberty.¹⁴⁷

The security cabinet's official narrative is one of “systematic and coordinated operations” that have led to the capture of “a significant number of members and leaders of criminal organizations”, an argument used to justify the continuation of the state of exception.¹⁴⁸

¹⁴⁵ Amnistía Internacional. (2023, diciembre). Detrás del velo de la popularidad: Represión y regresión en materia de derechos humanos en El Salvador. AMR 29/7423/2023.

¹⁴⁶ Consejo de Derechos Humanos. (2012, diciembre 24). Informe del Grupo de Trabajo sobre la Detención Arbitraria: Deliberación N° 9 sobre la definición y el alcance de la privación de libertad arbitraria en el derecho internacional consuetudinario. UN Doc. A/HRC/22/44. Párrs. 37-75.

¹⁴⁷ Corte IDH. Caso Fernández Prieto y Tumbeiro Vs. Argentina, Fondo y Reparaciones, Sentencia de 1 de septiembre de 2020, Serie C N.º 411, párrs. 82-86.

¹⁴⁸ Considerando IV. Decreto Legislativo N.º 439 del 29 de octubre de 2025, publicado en el Diario Oficial N.º 204, Tomo 449, de 29 de octubre de 2025.

However, Amnesty International's documentation of more than 70 cases shows that the majority of arrests were made without a warrant, with no prior investigation, no identification of individual responsibility or situation of flagrante delicto, and through generic accusations of "unlawful association",¹⁴⁹ often based on territorial criteria, historical stigmas or factors unrelated to criminal conduct. Furthermore, detainees were held in administrative detention for up to 15 days.¹⁵⁰ Taken together, these elements constitute actions that are incompatible with El Salvador's international obligations.

The scale of the situation is overwhelming. Since March 2022, more than 90,000 arrests have been made under the state of exception, but there is no publicly available information on how many of those arrested have been formally charged, brought to trial or convicted. The lack of data, due to information being withheld by the authorities on grounds of confidentiality, makes it difficult to verify the legality of each arrest and determine the actual status of the proceedings.¹⁵¹

Amnesty International's findings, which are consistent with those of other national and international organizations,¹⁵² show that a large proportion of these detentions have been applied without any proven link to specific criminal acts and without an individual assessment to justify their necessity.

Analysis of the documented cases shows that these detentions are based on the "presumption of dangerousness", which is in turn based on the profiling of individuals using discriminatory criteria that are unrelated to criminal behaviour. These include i) residing in specific geographical areas, that are usually economically depressed and have high levels of social exclusion; ii) having certain physical traits or characteristics; iii) falling within specific age ranges; and/or iv) level of education.¹⁵³

¹⁴⁹ his offence is contained in Article 345 of the Penal Code and is used to prosecute members of gangs and other criminal groups. According to human rights organizations, its description is vague and ambiguous, allowing for arbitrary interpretation and application by the authorities. In addition, they believe that this offence is used to persecute individuals for who they are, rather than for the acts they may have committed. See: Cristosal (October 2023). La excepción se volvió la norma. Una mirada a las reformas penales y su impacto en las garantías ciudadanas [The exception became the norm. A look at penal reforms and their impact on citizen guarantees]. Accessed at: <https://cristosal.org/la-excepcion-se-volvio-la-norma-una-mirada-a-las-reformas-penales-y-su-impacto-en-las-garantias-ciudadanas/>

¹⁵⁰ International standards require that anyone arrested or detained be brought promptly before a judge. The Human Rights Committee has expressed concern about the laws of several countries that allow detainees to be held for at least 72 hours without being taken before the judicial authority. The extension of up to 15 days would be well above the limit considered appropriate by instruments such as the ACHR and the ICCPR. See: Human Rights Committee (25 April 2005). Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding Observations of the Human Rights Committee on Uzbekistan. UN Doc. CCPR/CO/83/UZB, para. 14; Human Rights Committee (28 November 2006). Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding Observations of the Human Rights Committee on Ukraine. UN Doc. CCPR/C/UKR/CO/6, para. 8; and Human Rights Committee (4 November 2009). Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding Observations of the Human Rights Committee on the Republic of Moldova. UN Doc. CCPR/C/MDA/CO/2, para. 19.

¹⁵¹ National organizations and journalists have denounced opaque institutional policies and undue restrictions on public access to information relating to public security, as well as the consequences of implementing the state of exception. These issues have also been described by the IACHR in its reports and resolutions on El Salvador. See IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24, paras 345-364. Along the same lines, an Amnesty International report reviewed the analysis by the organization Passionist Social Service which showed how it was no longer possible to access essential statistical information, such as the number of people deprived of their liberty, deaths in custody, records of crimes or data on the use of force, due to unjustified confidentiality imposed by institutions such as the DGCP, the Attorney General's Office, the Institute of Forensic Medicine (IML), the PNC and the Ministry of Defence. See: Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 63-64. Cristosal has also reported anomalies and excesses in the institutions' indexes of reserved information, including information on homicides, feminicides, disappearances, clandestine graves, the Territorial Control Plan, tenders for appointment of food service providers in prisons, etc. See Cristosal (2024). Reporte sobre el estado de la transparencia: La instauración de la opacidad [Report on the Status of Transparency: The establishment of opacity], p. 15. Accessed at: <https://cristosal.org/ES/wp-content/uploads/2024/01/Reporte-sobre-el-estado-de-la-transparencia-enero-2024.pdf>.

¹⁵² DPLF, CEJIL, CCPR, Cristosal, FESPAD, Idhuca, OMCT and SSPAS (November 2024). Arbitrary detentions in the state of emergency in El Salvador. Joint communication by civil society organizations to the UN Working Group on Arbitrary Detention (WGAD). Accessed at: <https://dplf.org/detenciones-arbitrarias-en-el-marco-del-estado-de-excepcion-en-el-salvador/>

¹⁵³ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023; IACHR (2022). Public Hearing: Arbitrary detentions and situation of persons deprived of liberty in the State of Exception in El Salvador. 185 Period of Sessions; HRW and Cristosal (2022, December). "We Can Arrest Anyone We Want": Widespread Human Rights Violations Under El Salvador's "State of Emergency", pp. 60-63.



Regarding such practices, the IACtHR has considered that the use of preconceptions or stereotyped reasoning by security forces can lead to discriminatory actions that are manifestly unreasonable and arbitrary.¹⁵⁴

The information analysed has also revealed that several of the arrests stem from anonymous calls and unspecified tips regarding alleged links to gangs.¹⁵⁵ Backed by the government's offer of confidentiality and the possibility of financial compensation for informants (persons reporting alleged gang members),¹⁵⁶ this mechanism creates a serious risk of exploitation for purposes unrelated to justice, such as personal vendettas. In the context of the state of exception and the absence of prior institutional verification, this practice leaves individuals vulnerable to baseless accusations.



[The saying that] he who owes nothing fears nothing is a lie, because we know that we do feel fear, even if we owe nothing. The simple fact of living in an area that was once [controlled by gangs] or someone taking a dislike to you, that's enough to get you arrested.



Isabel,* family member of a person detained during the state of exception, in an interview with Amnesty International. September 2023

As described in the previous chapter, the evidence suggests that these arrests are not isolated incidents or the result of individual decisions by police officers, but rather the expression of a state policy aimed at maximizing the number of arrests during the state of exception, implemented in various stages.¹⁵⁷ This coordinated institutional pattern is incompatible with the standards of legality, necessity and proportionality required for the protection of personal liberty.

¹⁵⁴ Specifically, the Inter-American Court has considered that “[t]he use of preconceptions about a person or their behavior, or the use of stereotypical reasoning by the security forces – for example, about the presumed dangerousness of certain social groups and whether a person belongs to them – can give rise to discriminatory actions that will therefore be manifestly unreasonable and arbitrary”. See: IACtHR. Guerrero, Molina et al. v. Venezuela. Merits, Reparations and Costs. Judgment of 3 June 2021. Series C No. 424, para. 104.

¹⁵⁵ In particular, around 25% of the cases documented by Amnesty International respond to this practice. For more details, see also: IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24, para. 149; Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, p. 22; IACHR. Hearing: Human rights violations and states of exception in El Salvador. 187th Period of Sessions, 14 July 2023; HRW (27 June 2025). El Salvador: Police officers speak out about abuses. Arbitrary detention based on quotas, fabricated evidence.

¹⁵⁶ Presidency of El Salvador (14 May 2022). El Gobierno pone a disposición de la ciudadanía el número de teléfono 123 para dar información de forma confidencial sobre el accionar de grupos criminales [The government makes number 123 available to the public so they can provide confidential information on the actions of criminal groups by phone]. Press release. Accessed at: <https://www.presidencia.gob.sv/el-gobierno-pone-a-disposicion-de-la-ciudadania-el-numero-de-telefono-123-para-dar-informacion-de-forma-confidencial-sobre-el-accionar-de-grupos-criminales/>.

¹⁵⁷ See discussion in Section 4.4. “Detentions policy and absence of effective controls” of this report.





“When I asked [the police officer] what the problem with my son was, he replied: ‘No, nothing... if I knew he was a gang member, I would have already massacred him... so no.’ Then they decided to take him to the police station, and the officer told me that he was only going to check something there in the database. So I felt pretty confident because my son had never had any problems, he had never been stopped by the police, never been detained even for a couple of hours. And so they took us to the station with lies, they told us that was all [checking the database] and then they would let him get back to his studies [because he was already late for his class]. But when we got to the police station, they handcuffed him.”



Carmen,* family member of a person detained during the state of exception, in an interview with Amnesty International. December 2024.



Furthermore, the involvement of the armed forces in arrest operations – with no legal framework enabling such involvement and no effective judicial controls – further contravenes the provisions of the ACHR, the ICCPR and the criteria of the Working Group on Arbitrary Detention.¹⁵⁸ Taken together, this web of informal guidelines, profiling and mass operations constitutes an institutionalized mechanism of arbitrary deprivation of liberty.

Amnesty International has documented a number of cases in which it was able to verify excessive use of force and arbitrary detentions involving members of the armed forces.¹⁵⁹ Reports by local organizations and media outlets also account for other abuses committed by military personnel, including giving false testimony to incriminate innocent individuals, extortion, threats and even sexual violence.¹⁶⁰

In addition, various testimonies, official documents and observations by protection bodies show that, in a significant number¹⁶¹ of cases, detainees were not immediately informed of the reasons for their arrest or the charges against them in a clear and comprehensible manner, in violation of articles 7.4 of the ACHR and 9.2 of the ICCPR. This omission directly affects the ability to question the legality of the arrest and constitutes a form of arbitrariness in itself, according to consistent jurisprudence from the IACtHR.¹⁶²

The pattern of arbitrary detentions is exacerbated by the systematic and unjustified prolongation of deprivation of liberty. While there is no detailed publicly available information on the procedural status of all detainees, the available data shows that judicial progress is significantly slower than the volume of detentions. This marked disparity between the high number of detainees and the slow progress of court cases suggests a structural effect: detention is effectively a form of pre-emptive punishment. This prolongation is not an incidental phenomenon, but rather the direct result of regulatory reforms that have institutionalized the deprivation of liberty for indefinite periods, in clear breach of the state's obligation to guarantee effective judicial oversight, the exceptional nature of pre-trial detention and the diligent conduct of criminal proceedings.

¹⁵⁸ This also goes against inter-American jurisprudence on participation of military forces during states of exception, which has ruled that involvement of the armed forces in internal security tasks must be strictly exceptional, limited and subject to reinforced civilian and judicial oversight, given that their training is not focused on the protection of the civilian population, but on responding in a context of armed conflict. See: IACtHR. Case of Zambrano Vélez et al. v. Ecuador. Merits, Reparations and Costs. Judgment of 4 July 2007. Series C No. 166, para 51. In this regard, the Committee against Torture has also expressed its concern when referring to the fact that “reports indicate that the armed forces continue to be deployed for public safety purposes on a regular basis, despite the requirement, which the State party has recognized, that such deployments be exceptional.” See: UN Committee against Torture (19 December 2022). Concluding observations on the third periodic report of El Salvador. UN Doc. CAT/C/SLV/CO/3, para. 14

¹⁵⁹ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 16, 28.

¹⁶⁰ SWI (16 November 2023). Denuncian a sargento salvadoreño por detenciones arbitrarias en régimen de excepción [Salvadoran sergeant reported for arbitrary detentions during the state of exception]. Accessed at <https://www.swissinfo.ch/spa/denuncian-a-sargento-salvadore%C3%B1o-por-detenciones-arbitrarias-en-r%C3%A9gimen-de-excepci%C3%B3n/48986030>; LPG (4 October 2023). Los soldados de Mizata no son los únicos acusados por violencia sexual [Mizata soldiers not the only ones accused of sexual violence]. Accessed at: <https://gatoencerrado.news/2023/10/18/exigen-que-militares-cesen-la-violencia-sexual-y-fisica-contra-las-ninas-en-el-regimen-de-excepcion/>; GatoEncerrado (18 October 2023). Exigen que militares cesen la violencia sexual y física contra las niñas en el régimen de excepción [Demand for military to cease sexual and physical violence against girls in the state of exception]. Accessed at: <https://gatoencerrado.news/2023/10/18/exigen-que-militares-cesen-la-violencia-sexual-y-fisica-contra-las-ninas-en-el-regimen-de-excepcion/>; FOCOSTV (6 November 2023). The regime of Bukele awakened a tyrant who harassed girls in Puerto El Triunfo. Accessed at: <https://focostv.com/el-regimen-de-bukele-desperto-a-un-tirano-que-acoso-a-ninas-en-puerto-el-triunfo/>; LPG (27 September 2024). Denuncian más casos de extorsión sexual por agentes de seguridad durante régimen de excepción [More cases of sexual extortion by security agents during the state of exception reported]. Accessed at: <https://www.laprensagrafica.com/elsalvador/Denuncian-mas-casos-de-extorsion-sexual-por-agentes-de-seguridad-durante-regimen-de-excepcion-20240927-0072.html>.

¹⁶¹ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24, paras 83, 146 et seq.; Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, p. 16; and HRW and Cristosal (December 2022). “We Can Arrest Anyone We Want”: Widespread Human Rights Violations Under El Salvador’s “State of Emergency”.

¹⁶² IACtHR. Case of Azul Rojas Marín et al. v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of 12 March 2020. Series C No. 402, para. 131; IACtHR. Case of J. v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of 27 November 2013. Series C No. 275, paras 149-151; and IACtHR. Case of Espinoza Gonzales v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of 20 November 2014. Series C No. 289, para. 124 et seq.

The procedural reforms adopted during the state of exception have contributed to keeping thousands of people deprived of their liberty without an adequate judicial determination of criminal responsibility. Public statements by senior officials reinforce and normalize this punitive approach, establishing prolonged detention as a key element of the state's security policy.



In real life, 'pardoning the criminal means condemning the victims.' You can keep clamouring for their immediate release. But we hear you, and we already know what the result of that would be: the return of death, chaos and fear... and we're not going to allow any of that. So no, we're not going to release them now, or ever.



Nayib Bukele. Speech of 1 June 2025.

5.1.1. EXTENSION OF ADMINISTRATIVE DETENTION

In particular, the Legislative Assembly has played a central role in shaping the pattern of human rights violations described here, through three interrelated measures that have facilitated the indefinite prolongation of the deprivation of liberty.

Firstly, Legislative Decree No. 333, which established the state of exception, extraordinarily extended administrative detention from 72 hours to 15 days.¹⁶³ This amendment means that an individual can be deprived of their liberty for up to two weeks before appearing before a judge, thus delaying judicial review of the legality of the detention and breaching international standards that require immediate, personal and material supervision over the legality of the detention.¹⁶⁴ This pattern represents one of the most serious violations of the right to personal liberty documented during this period.

Under international human rights standards, any person who is detained must be brought before a judge immediately, even in emergency contexts. The IACtHR has stated on numerous occasions that this judicial review must be carried out "without delay",¹⁶⁵ even in situations where rights have been suspended.¹⁶⁶

Although there is no fixed time limit in hours, IACtHR jurisprudence has deemed periods of 15 days (Case of J. v. Peru) and 5 days (Case of Cabrera García and Montiel Flores v. Mexico) to be disproportionate and incompatible with the ACHR, qualifying the resulting detention as arbitrary.¹⁶⁷ In the current context of El Salvador, extending the time limit to 15 days renders this guarantee meaningless at a time when the detainee is at their most vulnerable, particularly when detention occurs without a court order and deprivation of liberty depends solely on the discretion of the police or administrative authority.

¹⁶³ Legislative Decree No. 333 of 27 March 2022, published in Official Gazette No. 62, Volume 434, of 27 March 2022.

¹⁶⁴ IACtHR. Guerrero, Molina et al. v. Venezuela. Merits, Reparations and Costs. Judgment of 3 June 2021. Series C No. 424, para. 105.

¹⁶⁵ Among others, IACtHR. Guerrero, Molina et al. v. Venezuela. Merits, Reparations and Costs. Judgment of 3 June 2021. Series C No. 424, para. 105; Case of Cabrera García and Montiel Flores Vs. Mexico Preliminary Objection, Merits, Reparations and Costs. Judgment of 26 November 2010. Series C No. 220, para. 102

¹⁶⁶ IACtHR. Case of J. Vs. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of 27 November 2013. Series C No. 275, para. 143.

¹⁶⁷ IACtHR, Case of J. vs. Peru, Judgment of 27 November 2013 (Merit, Reparations and Costs), paras 155–159; and IACtHR, Case of Cabrera García and Montiel Flores v. Mexico, Judgment of 26 November 2010 (Merit, Reparations and Costs), paras. 93–102.



In this regard, the United Nations Committee against Torture (CAT) has recommended that the State of El Salvador “[a]bolish the provisions whereby arrested persons may be held in administrative detention for up to 15 days” and, instead, introduce a maximum period consistent with international standards, specifically “48 hours”.¹⁶⁸

In practice, the extension of administrative detention without judicial oversight has resulted in a period of institutional opacity, during which detainees are held incommunicado, without access to legal counsel or any real possibility of challenging their detention. It is therefore deeply concerning to find that administrative detention in all the documented cases lasted for up to 15 days. Testimonies collected and documents analysed by Amnesty International show that, over those 15 days, there was no information regarding detainees’ whereabouts, no immediate communication of the reasons for their arrest, and obstacles to ascertain whether they were alive, among other equally serious situations. Similar patterns have been documented in various reports by national and international human rights organizations and regional protection mechanisms.¹⁶⁹

The lack of judicial oversight during this period not only violates essential guarantees, but has facilitated short-term enforced disappearances, torture and cruel treatment, as well as patterns of arbitrary detention of Category I¹⁷⁰ and Category III¹⁷¹ as defined by the Working Group on Arbitrary Detention.

5.1.2. AUTOMATIC APPLICATION OF PROVISIONAL DETENTION AND ELIMINATION OF TIME LIMITS

Secondly, through reforms to the criminal procedural laws applicable in the country before the state of exception, the Legislative Assembly drove the automatic application of provisional or pre-trial detention, prohibiting its replacement by alternative measures and making its duration subject to the progress of the criminal proceedings until a final sentence was reached.¹⁷²

These reforms severely restricted the possibility of applying alternative measures¹⁷³ and eliminated the 24-month limit for provisional detention.¹⁷⁴ Through more than 70 documented cases, Amnesty International has found that, under the pretext of public security, pre-trial detention has become a widespread and routine practice, establishing

¹⁶⁸ UN Committee against Torture (19 December 2022). Concluding observations on the third periodic report of El Salvador. UN Doc. CAT/C/SLV/CO/3, para. 11.

¹⁶⁹ HRW and Cristosal (December 2022). “We Can Arrest Anyone We Want”: Widespread Human Rights Violations Under El Salvador’s “State of Emergency”; Cristosal. (12 May 2023). One year under state of exception. Accessed at: <https://cristosal.org/ES/informe-un-ano-bajo-el-regimen-de-excepcion-una-medida-permanente-de-represion-y-de-violaciones-a-los-derechos-humanos/>; IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24.

¹⁷⁰ Category I (WGAD) determines that detention is arbitrary when there is no legal basis to justify it, either because there is no legislative provision authorizing it, because the legal terms of deprivation of liberty are exceeded, or because the person continues to be detained despite a release order.

¹⁷¹ Category III (WGAD) determines that detention is arbitrary when, despite the existence of a formal legal basis, serious violations of the right to a fair trial, including lack of effective judicial control, the impossibility of challenging the detention, the absence of adequate legal counsel or lack of judicial independence, strips the deprivation of liberty of legitimacy.

¹⁷² Through the amendment of Article 8 of the Code of Criminal Procedure, the maximum limit for pretrial detention for certain crimes was eliminated and became subject to the total duration of the proceedings until a final sentence was reached. Similarly, amendment of Article 331 expressly prohibited the application of alternative measures or the substitution of provisional detention for a wide range of crimes, forcing judges to maintain the deprivation of liberty throughout the process. See Legislative Decree No. 339 of 30 March 2022, published in Official Gazette No. 65, Volume 434 of 30 March 2022, articles 1 and 5.

¹⁷³ Legislative Decree No. 339 of 2022, Article 5. .

¹⁷⁴ Legislative Decree No. 339 of 2022, Article 1.

a punitive system during the state of exception in which prolonged imprisonment without sufficient evidence is the norm. It is deeply concerning that those detained under the state of exception will, when first brought before a judge, be ordered into provisional detention that could deprive them of their liberty until the end of the criminal proceedings, without an individualized assessment of necessity or proportionality.¹⁷⁵

International protection bodies have reiterated that provisional detention is a strictly exceptional measure that can only be ordered when necessary and reasonable to ensure procedural outcomes,¹⁷⁶ after an individualized assessment of risks including flight, obstruction of justice, or recurrence of crime has been carried out.¹⁷⁷ However, based on the analysis of judicial decisions imposing provisional detention on individuals arrested under the state of exception,¹⁷⁸ Amnesty International has been able to verify that there is no specific review of such risks and that relevant personal circumstances, such as age, ties to the community, occupation, background, family responsibilities or situations of vulnerability, are not taken into account, in direct contravention of international standards. These findings were also confirmed in interviews with private defence attorneys currently representing individuals being prosecuted under the state of exception.¹⁷⁹

Analysis of the decisions reviewed by Amnesty International reveals a pattern of “standardized reasoning”, where legal arguments simply reproduce general narratives on historical gang activity and the context of the state of exception. The individual analysis of a case is replaced by allegations relating to the “seriousness of the crime” or “public alarm”.

This line of reasoning, which is based on presumptions of dangerousness rather than on a concrete assessment of the procedural risk or an individualized review of the criminal act, turns pre-trial detention into an automatic measure, applied without any effective challenges or consideration of evidence presented by the defence. In virtually all the decisions analysed, the Attorney General’s Office has based its orders exclusively on police detention reports, which are often standardized or inconsistent, without the courts requiring additional investigative evidence. This finding is consistent with the testimonies collected as part of this report.

¹⁷⁵ Both the IACtHR and the Human Rights Committee have reiterated that pre-trial detention cannot be automatic, must be based on strict criteria of necessity and proportionality, and cannot extend beyond a reasonable time. See: IACtHR. Case of Bayarri v. Argentina. Preliminary Objection, Merits, Reparations and Costs. Judgment of 30 October 2008. Series C No. 187, paras 74–75; Human Rights Committee (16 December 2014). General comment No. 35: Article 9 (Liberty and security of person). UN Doc. CCPR/C/GC/35, paras 37–38.

¹⁷⁶ Human Rights Council (17 May 2024). Opinions adopted by the Working Group on Arbitrary Detention at its 99th Session, 18–27 March 2024: Opinion No. 7/2024, relating to José Rubén Zamora Marroquín (Guatemala). UN Doc. A/HRC/WGAD/2024/7 para. 89; Human Rights Committee. General comment No. 35: Article 9 (Liberty and security of person), para. 38; and Human Rights Council (26 December 2011). Report of the Working Group on Arbitrary Detention. UN Doc. A/HRC/19/57, paras 48 to 58.

¹⁷⁷ Human Rights Council. (17 May 2022). Opinions adopted by the Working Group on Arbitrary Detention at its 99th Session, 18–27 March 2024: Opinion No. 7/2024, relating to José Rubén Zamora Marroquín (Guatemala). UN Doc. A/HRC/WGAD/2024/7 para. 89.

¹⁷⁸ Amnesty International analysed 7 court decisions issued between March 2022 and July 2024.

¹⁷⁹ During the period from May 2022 to January 2025, Amnesty International interviewed 8 defence attorneys who were representing several people accused of unlawful association in the context of the state of exception.



In my opinion, the law does not currently provide judges with any means of applying pre-trial detention on a mass and blanket basis, and in the abstract, to 300, 200 or 100 people at once. Nor does it empower them to disregard the nature of the crimes or the types of criminal offences being applied. To date, there is no secondary law or legal reform under the state of exception that states that 'a person may be kept in detention or the proceedings continue when there is no sign of the existence of the crime'.

We are talking about cases where the police and prosecutors bring cases saying 'we arrested this person on the street and people said he was a gang member', 'this person has participated, collaborated in a gang'. But they never provide a date, never specify a time or crime or place. They only say 'general collaborator', but fail to mention what they collaborated on. So there is no particular act that constitutes a crime. Just people being detained simply because they have been arbitrarily singled out as collaborators.

What crime appears to have been committed? There is no crime, other than 'an abstract and generic accusation'. And therefore there is currently no legal justification for keeping them in provisional detention.



Private defence attorney, in an interview with Amnesty International. January 2025

The findings of this investigation show that, under the state of exception, provisional detention has been applied automatically rather than on an exceptional basis, for purposes that go beyond legitimate procedural aims and take on a punitive character, contrary to IACtHR jurisprudence.¹⁸⁰ The fact that it is applied automatically, without individualized analysis or effective challenge, constitutes a serious violation of El Salvador's international obligations and reinforces the arbitrary nature of documented mass detentions.

5.1.3. EXTENSION OF THE INSTRUCTION STAGE

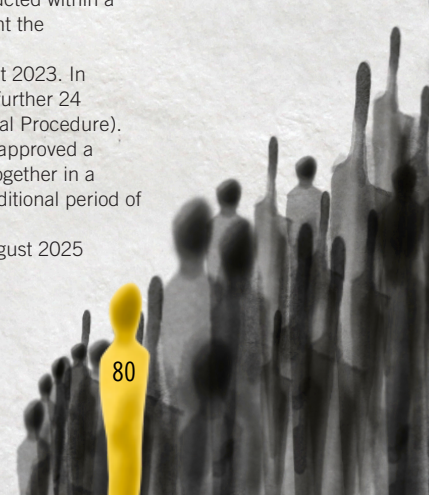
Thirdly, the legislative branch enabled the extension of the instruction stage¹⁸¹ in criminal proceedings brought against persons accused of unlawful association under the state of exception. It did this initially by means of transitional provisions adopted in July 2023, allowing the Attorney General's Office to group multiple detainees in a single criminal case and extend the term for this instruction stage for an additional 24 months.¹⁸² This was again subsequently extended through specific, permanent reforms to the Law on Organized Crime, which were approved in August 2025.¹⁸³

¹⁸⁰ IACtHR. Case of Pollo Rivera et al. v. "Peru: Merits, Reparations and Costs. Judgment of 21 October 2016. Series C No. 319, para. 122

¹⁸¹ In the Salvadoran criminal justice system, the instruction or preliminary investigation stage is an intermediate phase for judicial investigation of the alleged offence, during which evidence is collected and assessed, the legal status of the accused is determined, and a decision taken as to whether the case goes to trial or is dismissed. This stage must be conducted within a reasonable timeframe and with proper judicial oversight, in order to guarantee the right to a defence and prevent the unnecessary prolongation of deprivation of liberty.

¹⁸² Legislative Decree No. 803 of 26 July 2023, published in Official Gazette No. 157, Volume 440, of 25 August 2023. In accordance with Salvadoran procedural rules, the instruction stage can last up to 24 months (extendable for a further 24 months) for offences relating to organized crime and other complex crimes (Article 270-A of the Code of Criminal Procedure). However, in July 2023, when the state of exception had been in place for 17 months, the Legislative Assembly approved a series of transitional provisions which, among other things, empowered the Attorney General's Office to group together in a single criminal case several individuals detained under the state of exception. To this end, it was granted an additional period of 24 months beyond that originally established by law.

¹⁸³ Legislative Decree No. 383 of 15 August 2025, published in Official Gazette No. 152, Volume 448, of 15 August 2025



The cumulative effect of these measures is that thousands of individuals detained under the state of exception could remain in provisional detention until 2027, regardless of when they were detained, without trial or a formal charge against them. It is therefore particularly concerning to note that, according to official figures, around 74% of the arrests made under the state of exception occurred during its first year of implementation (representing a total of 69,989 people) (see figures 2 and 3). This means that almost two thirds of those captured under the state of exception could remain in provisional detention for up to five years, as a direct result of the extraordinary extensions of the instruction periods¹⁸⁴ and the automatic and indefinite application of the provisional detention described above.

Box 4 - Explainer

Prolonged indefinite detention (Legislative decrees — Legal consequences)

	Legislative Decree	Legal consequences
Administrative detention	Legislative Decree No. 333 of 27 March 2022: Approval of the state of exception and successive extensions.	1. Extension of administrative detention from 72 hours to 15 days.
Pre-trial detention	Legislative Decree No. 339 of 30 March 2022: Reforms to the Code of Criminal Procedure.	1. Prohibition on granting alternative measures to pre-trial detention to persons detained under the state of exception. 2. Extension of the limit for pre-trial detention up to a final decision in the proceedings.
Instruction stage	Legislative Decree No. 803 of 26 July 2023: Special transitional provisions governing the prosecution of defendants detained under the state of exception declared on 27 March 2022. Legislative Decree No. 383 of 15 August 2025: Reforms to the Law on Organized Crime.	1. Extension of the instruction stage until 2027.

Source: Prepared by Amnesty International based on current national legislation.

The Legislative Assembly has thus created a regulatory structure that results in prolonged indefinite detention, thereby undermining the principle of provisionality and reasonable pre-trial detention, and institutionalizing a model in which deprivation of liberty becomes the starting point for a pre-emptive, indefinite punishment, rather than a consequence of criminal proceedings that respect due process.

Amnesty International therefore believes that this prolongation of detention is not incidental but responds to a state policy coordinated by various institutions, including the legislative branch. The tangible result is the ability to hold thousands of people in indefinite detention, under a veneer of legality.

¹⁸⁴ As already mentioned, the instruction stage in criminal cases brought under the state of exception was extended initially until August 2025, through the approval of transitional regulations (Legislative Decree No. 803 of 26 July 2023) and, subsequently, through specific legal reforms (Legislative Decree No. 383 of 2025) that extended the period for 24 additional months, until August 2027.



5.1.4. IMPLEMENTATION OF OTHER INSTITUTIONAL PRACTICES THAT FACILITATE ARBITRARY DETENTION

Amnesty International has been able to verify that, during the validity of the state of exception, habeas corpus¹⁸⁵ – an essential and non-derogable guarantee even in situations of emergency –¹⁸⁶ has been dismantled as a judicial oversight mechanism for protecting personal liberty in El Salvador. According to the available evidence,¹⁸⁷ there is a systematic policy of dismissal and rejection: between 2022 and 2023, the Constitutional Chamber admitted only 1.6% of the 6,415 petitions received, and only 0.4% ended with a favourable ruling, figures that show a structural restriction in access to justice.

At the same time, the rulings show that constitutional precedents are ignored, with the Chamber failing to analyse the legality of the arrest, dismissing serious allegations (enforced disappearance, torture, impacts on health), redefining the roles of the police and the armed forces to expand their powers, and accepting official accounts without cross-checking these against the evidence.¹⁸⁸



We have submitted 2,800 habeas corpus petitions before the Constitutional Chamber but not a single person has been released, because this is obviously a Chamber 'imposed by Bukele'. The Chamber does not grant any habeas corpus, the few habeas that have been effective have been those heard by the Courts, where we have managed to get 12 persons released. There's not much we can do about the Chamber, where our petitions get rejected on absurd grounds. For instance, in cases where our petition is due to the fact that the detainee is facing serious health problems, they ask us: So what are they suffering from?, when we had actually included in the petition a copy of the forensic medical report stating that they were ill. We provide a reply anyway, but they still dismiss the case



Private defence attorney, in an interview with Amnesty International. December 2024

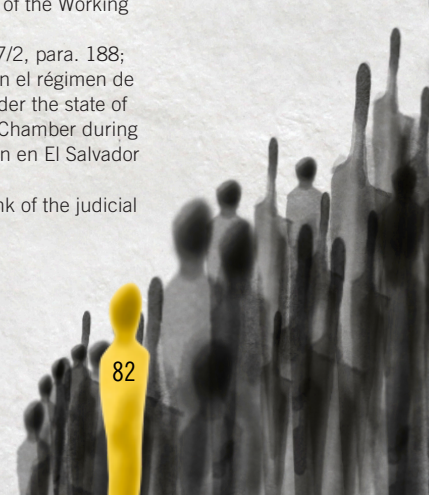
The conduct of constitutional justice in this context is unprecedented in El Salvador. Amnesty International has confirmed the misuse of amparo proceedings – designed to protect constitutional rights – to suspend previously granted habeas corpus, thus nullifying their practical effect.

¹⁸⁵ Habeas corpus is a fundamental and non-derogable human right, designed to guarantee immediate and effective judicial control over the legality of any detention. The Working Group on Arbitrary Detention has recognized this as an autonomous right the validity of which must be ensured even in emergency contexts. Along these lines, Article 9.4 of the ICCPR obliges states to ensure that any detained person may without delay have recourse to a court to review their deprivation of liberty. This safeguard, essential to prevent arbitrariness, has been consistently recognized by the IACtHR as a non-derogable pillar of the rule of law.

¹⁸⁶ IACtHR. Habeas corpus in emergency situations (Arts. 27.2, 25.1 and 7.6 American Convention on Human Rights). Advisory Opinion OC-8/87 of 30 January 1987. Series A No. 8; and Human Rights Council (26 December 2011). Report of the Working Group on Arbitrary Detention. UN Doc. A/HRC/19/57, paras. 59 et seq

¹⁸⁷ IACHR. (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/2, para. 188; Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception,]. Pp. 93 et seq.; DPLF (June 2024). (Lack of) Judicial Protection. The response of the Constitutional Chamber during the state of emergency in El Salvador; OUDH (2023). Informe: Sobre acceso a la justicia y régimen de excepción en El Salvador [Report: On access to justice and the state of exception in El Salvador], among others.

¹⁸⁸ Habeas corpus decisions issued by the Supreme Court of Justice can be consulted at the following official link of the judicial documentation centre of the judiciary: <https://www.jurisprudencia.gob.sv/busqueda/busquedaLibre.php?id=1>



“

2. [Ruling to] admit the application for amparo filed by the Attorney General of the Republic against the following resolutions of the Criminal Chamber of the First Section of the Western District of Santa Ana: i) that of 27 June 2022 admitting the habeas corpus petition in favour of Mr. KECG; and ii) that of 23 September 2022 admitting the habeas corpus petition in favour of Mr. REMA.

Such admission on grounds that, according to the Attorney General of the Republic, the defendant authority violated the rights to legal certainty and jurisdictional protection insofar as they relate to the duty to provide a reasoning of the [Attorney General's] judicial decisions, for ordering the release of the aforementioned individuals without a '...correct interpretation and subsequent application' of Legislative Decree No. 333 of 27 March 2022..., through which certain fundamental rights and guarantees of individuals were suspended for a specific period of time, under the state of exception decreed by the Legislative Assembly.

3. To suspend provisionally the effects of the situations under dispute; as a result, for the duration of these proceedings and until a final ruling is issued, the competent investigating judge, and any other judicial or administrative authority - must refrain from coercively enforcing the [contested] decisions.

”

Constitutional Chamber, amparo resolution 112-2023, issued 22 May 2023.

In addition, interviews with defence attorneys of people detained under the state of exception,¹⁹⁰ as well as statements by international bodies for the protection of human rights,¹⁹¹ show concern regarding excessive delays in the resolution of petitions, which is materially equivalent to a denial of justice, particularly for persons in situations of vulnerability.

Human rights organizations confirm the same pattern: habeas corpus does not operate in practice as a mechanism to determine the legality of detention, but rather as a symbolic and empty procedure, incapable of providing effective judicial protection in a context of mass arbitrary detentions.¹⁹²

The systematic failure of habeas corpus has alarming structural consequences. It exacerbates initial arbitrariness by depriving detainees of all effective means of challenging their detention, prevents the identification of enforced disappearances at an early stage, when judicial intervention could save lives, and normalizes a situation in which thousands

¹⁸⁹ Véase en: <https://www.jurisprudencia.gob.sv/busqueda/showFile.php?bd=1&data=DocumentosBoveda%2FD%2F1%2F2020-2029%2F2023%2F05%2FF9206.PDF&number=1020422&fecha=22/05/2023&numero=112-2023&cesta=0&singlePage=false%27>

¹⁹⁰ Al menos 4 abogados y abogadas defensoras entrevistadas por Amnistía Internacional reportan una demora excesiva en la resolución de hábeas corpus.

¹⁹¹ La CIDH informó que “de conformidad a la información oficial recibida, el porcentaje de habeas corpus resueltos en el 2022 fue de 28 % en tanto que en el 2023 del 88 %. Si bien la Comisión valora los esfuerzos del Estado para aumentar su capacidad de tramitación y respuesta a los recursos de habeas corpus en 2023, nota que un 84 % de los recursos recibidos en estos 2 años estarían todavía pendientes de resolución”. Cfr. CIDH. (2024, junio 28). Informe Estado de excepción y derechos humanos en El Salvador. OEA/Ser.L/V/II Doc. 97/24. Párrs. 195. También pueden consultarse: Comité contra la Tortura. (2022, diciembre 19). Observaciones finales sobre el tercer informe periódico de El Salvador. UN Doc. CAT/C/SLV/CO/3. Párr. 11; DPLF. (2024, Junio). (Des)protección judicial. La respuesta de la Sala de lo Constitucional durante el régimen de excepción en El Salvador. Pág. 19; y, OUDH. (2023). Informe: Sobre acceso a la justicia y régimen de excepción en El Salvador. Págs. 43 y ss.

¹⁹² Cristosal. (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción. Pág. 93; DPLF. (2024, Junio). (Des)protección judicial. La respuesta de la Sala de lo Constitucional durante el régimen de excepción en El Salvador.

of people remain deprived of their liberty without any genuine, independent and urgent judicial review taking place.

Through its interviews, Amnesty International has also documented a particularly concerning practice, namely the DGCP's refusal to carry out judicial orders for the release of individuals detained under the state of exception.

Although the full extent of this practice cannot be clearly determined due to the restrictions imposed on public access to information relating to the enforcement of the state of exception, human rights organizations and journalists have identified dozens of cases in which individuals who have been granted alternative measures to detention, and who therefore have a final court ruling ordering their immediate release, remain deprived of their liberty for days, weeks or even months.¹⁹³

This unjustified detention constitutes a form of "Category I" arbitrary detention as defined by the Working Group on Arbitrary Detention (WGAD), since the deprivation of liberty is maintained solely by decision of an administrative authority, without a valid legal basis and in open defiance of the competent judicial authority. In addition to violating the right to personal liberty, this practice reveals a structural undermining of the principle of separation of powers and effective judicial oversight, essential pillars of the rule of law.

In connection with the above, through documentary and testimonial information, Amnesty International has identified cases of "re-arrest" of individuals released from prison or granted alternative measures to provisional detention by judicial order.¹⁹⁴

In such cases, according to the defence attorneys interviewed, the individual is re-arrested without any new criminal charge, arrest warrant or legal basis to justify the restriction of their liberty. This institutional practice seeks to prevent the release just as it is about to take effect, through the – sometimes immediate – rearrest of the person released.

Generally, the person is re-arrested and taken into police custody without any official information being provided on the reasons for detention, nor any immediate judicial review taking place. This aggravated form of arbitrary detention (Category I of the WGAD) is evident in the case of Pedro* (not his real name for safety reasons), a case documented by Amnesty International in December 2024. Pedro was granted alternative measures in November 2023, but was "recaptured" without legal grounds or official explanation shortly after his release from prison, becoming a victim of double persecution. This forced detention by administrative decision, in defiance of the competent judicial authority, clearly violates the principle of legality. Salvadoran human rights organizations have also recorded similar cases over the last four years.¹⁹⁵

¹⁹³ Some cases documented by the media are: El Mundo (14 December 2022). PDDH registró 52 reos con carta de libertad que seguían presos [PDDH registered 52 inmates with a release order who were still in prison]. Accessed at: <https://diario.elmundo.sv/nacionales/pddh-registro-52-reos-con-carta-de-libertad-que-seguian-presos>; GatoEncerrado (11 April 2023). Una "carta de Libertad" en el régimen de excepción es un simple papel sin valor [A 'freedom card' in the state of exception is simply a worthless piece of paper]. Accessed at: <https://gatoencerrado.news/2023/04/12/las-cartas-de-liberacion-simple-papel/>; El Faro (7 December 2022). Juzgado ordena liberar a panadero capturado durante el Régimen, pero Centros Penales desobedece [Court orders the release of a baker captured during the state of exception, but Penal Centres disobey]. Accessed at https://www.elfaro.net/es/202212/el_salvador/26580/Juzgado-ordena-liberar-a-panadero-capturado-durante-el-R%C3%A9gimen-pero-Centros-Penales-desobedece.htm.

¹⁹⁴ Amnesty International documented at least two cases involving this practice. It was also ratified by 4 defence attorneys interviewed for this report. Likewise, the organization has learned of several reports and public statements from organizations that denounce this pattern, for example, the Committee of Relatives of Victims of the State of Exception, Bajo Lempa. (13 July). Statement on the recapture of Santos Rafael Bran Gómez and José Samuel Majano Gómez in Puerto El Triunfo, Usulután Oeste. Puerto El Triunfo–Jiquilisco, Usulután. Public statement; HRW (27 June 2025). El Salvador: Police officers speak out about abuses. Arbitrary detention based on quotas, fabricated evidence, among others

¹⁹⁵ Cristosal (12 May 2023). One year under state of exception. P. 64; Diario CoLatino (19 July 2025). Exigen libertad para jóvenes recapturados en el Bajo Lempa [Freedom demanded for young people recaptured in Bajo Lempa]. Accessed at: <https://www.diariocolatino.com/exigen-libertad-para-jovenes-recapturados-en-el-bajo-lempa/>.

Together with the automatic imposition of pre-trial detention and failure to comply with judicial orders for release – including alternative measures –, this situation reveals a deliberate undermining of the effectiveness of essential judicial guarantees that is incompatible with international human rights law and with the non-derogable nature of judicial review of detention.

5.1.5. STRUCTURAL IMPACT

The systematic practice of arbitrary detentions documented during the state of exception is not only an independent violation of the right to personal liberty, but also serves as the starting point for a chain of violations that reinforce each other and the severity of which intensifies progressively. The absence of effective judicial oversight, the practical impossibility of activating protection mechanisms such as habeas corpus and the automatic imposition of provisional detention mean that those detained are exposed, from the outset, to a real and foreseeable risk of further serious human rights violations being committed against them with total impunity.

In cases analysed by international bodies and national organizations, arbitrary deprivation of liberty has often resulted in short-term enforced disappearances, torture and other cruel, inhuman or degrading treatment, and deaths in state custody. This confirms that arbitrary detention operates as a structural condition that enables and facilitates further violations in the current Salvadoran context.

Finally, the evidence gathered leads to the conclusion that the detentions carried out under the state of exception are not the result of isolated excesses or occasional failures of the system, but rather of a sustained and coordinated institutional policy that has normalized the arbitrary deprivation of liberty as a central tool of social control. The convergence of mass arrests without legal basis, the absence of effective judicial oversight, the automatic imposition of provisional detention, the ineffectiveness of habeas corpus and systematic exposure to further serious violations is a pattern that directly contravenes El Salvador's international obligations and constitutes a form of mass, indiscriminate and systematic deprivation of liberty. Taken together, these elements meet the relevant criteria for their analysis as crimes under international law, as will be discussed in the following section.

5.2 DUE PROCESS VIOLATIONS AND RIGHT TO A FAIR TRIAL

The state of exception has profoundly and structurally transformed the way in which the criminal justice system in El Salvador operates. While arbitrary detention marks the beginning of the pattern of repression documented by Amnesty International, due process violations do not end at the moment of arrest but extend to all stages of the criminal proceedings and form part of an institutional mechanism designed to entrench the initial arbitrariness and ensure that detainees remain within the system, without even the most basic guarantees of justice.

The review of judicial case files, interviews with public and private defence attorneys, testimonies of relatives and detainees, and an analysis of court rulings and applicable legislation show that these violations are neither isolated incidents nor administrative errors. On the contrary, they constitute habitual, repeated, coordinated practices consistent with the regulatory and operational structure of the state of exception, and as such represent a widespread and systematic attack against a section of the civilian

population, in particular those living in a situation of poverty or vulnerability. The right to due process and a fair trial, enshrined in instruments such as the ACHR (Art. 8) and the ICCPR (Art. 14), is a set of minimum guarantees aimed at protecting any person who may be subject to criminal proceedings.

Judicial guarantees enshrined in the ACHR and the ICCPR

Right to be informed immediately of the reasons for arrest;

Effective access to technical and material defence from the outset;

Right to have adequate time and facilities to prepare the defence;

Publicity and contradiction of the trial;

Presumption of innocence;

The right to appear promptly before an independent, impartial judge previously authorized by law;

Access to effective remedies to challenge the deprivation of liberty;

The analysis contained in this chapter shows that most of these guarantees have been suspended in practice, with a number of them formally repealed from national legislation. The following sections describe practices such as prolonged incommunicado detention, absence of effective legal counsel, mass hearings, collective judicial decisions, police manipulation, prospective investigations, the discriminatory use of pre-trial detention, erosion of judicial independence and ineffectiveness of remedies that reveal an integrated pattern of a judicial system aimed not at guaranteeing justice, but at legitimizing mass detention and prolonged imprisonment without any real judicial oversight.

Taken together, these elements serve to characterize the actions of the authorities as a deliberate denial of due process, incompatible with international standards and with the basic functioning of the rule of law. The main findings are set out in detail below.

5.2.1. INCOMMUNICADO DETENTION, SOLITARY CONFINEMENT AND RESTRICTIONS ON TECHNICAL AND MATERIAL DEFENCE

From the start of the state of exception, Amnesty International and other national and international non-governmental organisations have documented a sustained pattern of prolonged incommunicado detention and solitary confinement that prevents individuals deprived of their liberty from exercising an effective defence. It also directly violates essential guarantees of due process.¹⁹⁶ What initially appears to be a formal suspension of the right to be informed of the reasons for detention or to have immediate access to legal counsel has in practice turned into indefinite periods of prolonged isolation, during which detainees are denied access to telephone calls, visits or basic information about their legal status.¹⁹⁷

¹⁹⁶ HRW and Cristosal (December 2022). "We Can Arrest Anyone We Want": Widespread Human Rights Violations Under El Salvador's "State of Emergency", p. 85; Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023; IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24.

¹⁹⁷ Human Rights Council. (1 November 2024). Summary of stakeholders' submissions on El Salvador. Report of the Office of the United Nations High Commissioner for Human Rights. UN Doc. A/HRC/WG.6/48/SLV/3, para. 17; and HRW and Cristosal (2022, December). "We Can Arrest Anyone We Want": Widespread Human Rights Violations Under El Salvador's "State of Emergency", p. 85.



This context of isolation exacerbates the vulnerability of detainees and creates conditions of absolute defencelessness by preventing any real opportunity for legal preparation. The most serious consequence is that most detainees appear in court without knowing the reasons for their detention, without having met with a lawyer and without having had access to their case file.¹⁹⁸ It is only at the hearing for the imposition of measures – a mass action, carried out in haste and without consideration of individual cases – that they first learn of the charges against them. This blatantly contradicts the obligation under international law to communicate the reasons for detention immediately, clearly and sufficiently to enable the defence to be prepared.

Evidence gathered by Amnesty International, as well as reports from national and international organizations and regional protection mechanisms,¹⁹⁹ indicates that communication between detainees and their defence attorneys takes place late, is superficial and occurs under conditions that make effective legal representation impossible. In many of the cases analysed, public defence attorneys only managed to speak with detainees minutes before mass hearings, with no time to review case files, understand the facts, or implement even basic defence strategies.²⁰⁰

One public defence attorney interviewed described it as follows:



The public defence attorney has no opportunity to meet with detainees before the hearings, despite the fact that there is no legal basis to restrict that right. Even in the times of 'extraordinary measures' we had access, but now it is an arbitrary decision since there is no legal restriction. The impact of this is that the public defence attorney can only exercise a formal defence, not an effective technical defence. Everything is designed so that the detainee cannot get out. This is one more element of the structure put in place.



Public defence attorney, in an interview with Amnesty International. December 2024

This deliberate restriction of access to legal representation is exacerbated by the widespread de facto ban on public and private defence attorneys entering prisons, as well as by arbitrary and systematic limitations on access to case files, which are often kept under broad and unfounded reserve, justified in general terms on grounds of “public safety” or “national security”. This prevents defendants and their representatives from examining the evidence against them, analysing the legality of the proceedings, or challenging the validity of the investigative procedures. It also hinders the obtaining of exculpatory evidence, locating of witnesses, and rebutting of the prosecution’s allegations.²⁰¹

The denial of access to case files in court and the imposition of indiscriminate reservations established by law directly contravene the principles of publicity, contradiction and procedural equality enshrined in international law and in the jurisprudence of the IACtHR.²⁰² This practice reduces the proceedings to a purely formal, opaque process,

¹⁹⁸ Interviews conducted by Amnesty International with a private attorney in October 2023 and December 2024.

¹⁹⁹ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24, para. 205; DPLF, CEJIL, CCPR, Cristosal, FESPAD, Idhuca, OMCT and SSPAS (November 2024). Arbitrary detentions in the state of emergency in El Salvador. Joint communication by civil society organizations to the UN Working Group on Arbitrary Detention (WGAD), p. 14; Cristosal (2023). A year under state of exception: A permanent measure of repression and human rights violations. Situation report 27 March 2022 - 27 March 2023, p. 62; OUDH (2023). Informe: Sobre acceso a la justicia y régimen de excepción en El Salvador [Report: On access to justice and the state of exception in El Salvador], p. 40; Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 16, 17, 20.

²⁰⁰ Interviews conducted by Amnesty International with 6 trial lawyers between February 2023 and January 2025.

²⁰¹ Interviews conducted by Amnesty International with 6 private defence attorneys between February 2023 and January 2025.

²⁰² IACtHR. Case of Lynn v. Argentina. Merits and Reparations. Judgment of 2 July 2025. Series C No. 556, para. 96; IACtHR. Case of Álvarez Ramos v. Venezuela. Preliminary Objection, Merits, Reparations and Costs. Judgment of 30 August 2019. Series C No. 380, para. 153; and IACtHR. Case of Palamara Iribarne v. Chile. Merits, Reparations and Costs. Judgment of 22 November 2005. Series C No. 135, paras 177-179.



where the defence is forced to work in the dark in the face of vague or unfounded charges.

Furthermore, the excessive workload of the public defence attorneys is another factor that prevents any possibility of effective legal representation.²⁰³ Prior to the state of exception, each attorney simultaneously dealt with between 200 and 250 cases; this figure has now multiplied. Some defence attorneys report representing over 400 defendants in a single collective file, making it materially impossible to provide an individualized defence.²⁰⁴

“

Defending more than 30 people in the same case is difficult, it's not something you can do anymore, it's crazy! Let alone provide an effective technical defence and consider each case individually. The system is designed to prosecute and convict.

”

Public defence attorney, in an interview with Amnesty International. December 2024

The current structure of the judicial process in cases linked to the state of exception has institutionalized a system of mass defence, in which public and private defence attorneys are given an extremely limited amount of time to speak during the hearings. According to testimony from at least six private defence attorneys and two public defence attorneys, the defence is usually given around ten minutes to present their case in proceedings involving dozens or even hundreds of individuals, particularly in the case of public defence attorneys.

This time limit not only makes it impossible to tailor the defence strategy to each individual case but also creates an environment of silencing and coercive deterrence for defendants seeking to exercise their right to participate in the trial, reducing the hearings to an administrative formality that merely resembles a judicial process.

The testimonies of detainees obtained by Amnesty International reflect the absolute helplessness they experience.

“

I was arrested in my home, suddenly and violently, by police officers... No one explained the reason for my detention... From that moment on, I was no longer able to communicate with my family... Nearly two weeks later, I appeared at an online hearing along with 300 others. At no time, either before or during the hearing, was I able to speak or have access to the public attorney assigned to me by the 'Procu' [Office of the Public Prosecutor]. During the trial I had no chance to speak, I never even saw the judge's face. Everything happened very quickly. I was shocked when they said we would all remain in detention for 6 months for allegedly being part of a gang structure. It didn't make sense! I had never seen any of those people before, and there was the judge saying that I had committed crimes with them.

”

Johanna*, a woman detained by police officers and who, in late 2022, after five months in prison, was granted alternative measures to provisional detention, in an interview with Amnesty International. February 2023

²⁰³ According to the University Observatory of Human Rights (OUDH), the Office of the Public Prosecutor (PGR) has taken on the role of technical defence in approximately 80% of the cases recorded during the state of exception. The OUDH also reported that, in 2024, the Criminal Public Defence Service saw a reduction of 67 posts (equivalent to almost 30% of its staff) at a time when criminal proceedings have acquired unprecedented relevance. It also reported that, by 2025, the PGR has only 356 prosecutors at the national level, of which 165 are assigned to the criminal division. Annual Report 2024: The State of Human Rights, May 2025. Accessed at: <https://drive.google.com/file/d/1tRDYGH94R-M7b3VaotpjH7k1xJgp5nF3/view>.

²⁰⁴ Interview conducted by Amnesty International with a public defence attorney in December 2024.

Isolation and a lack of communication are not merely incidental or unintended consequences of a high caseload. They are central to the design of the state of exception and result in: i) the inability to access an effective technical defence, ii) the concealment of irregularities in detentions, iii) the prevention of effective judicial oversight, and iv) the consolidation of a state of permanent defencelessness.

The combination of a lack of communication and an inability to consult attorneys or access case files, coupled with obstacles to presenting evidence, constitutes a comprehensive violation of the right to due process and access to justice. This deliberately constructed procedural framework renders the technical and material defence meaningless, creating conditions of absolute vulnerability and ensuring the continuation of arbitrary deprivation of liberty.

5.2.2. MASS HEARINGS AND COLLECTIVE COURT RULINGS

The state of exception has institutionalized a model of mass hearings that radically transforms the operation of Salvadoran criminal procedure. Although proceedings of this nature had been used sparingly – and were restricted to complex mega trials – before the current state of exception, they have now become the norm for prosecuting hundreds or even thousands of people simultaneously, under the pretext of procedural speed and backed by transitional reforms that allow defendants to be grouped together on the basis of their alleged membership of the same criminal organization.²⁰⁵ This procedural framework is one of the central pillars of the pattern of denial of due process documented by Amnesty International.

In this context, through testimonies from victims and defence attorneys, media reports and the analysis of legal case files, evidence has been compiled of hearings with between 200 and 1,500 detainees and with between five to ten minutes for the parties to intervene,²⁰⁶ making even the slightest attempt at a defence impossible. Judges conduct these proceedings in a purely administrative manner, by simply automatically applying the new regulations approved under the state of exception, without any oversight as to constitutionality or compliance with international conventions, despite these being essential legal obligations.



²⁰⁵ Legislative Decree No. 803 “Special transitional provisions governing the prosecution of defendants detained under the state of exception declared on 27 March 2022”, Article 1.

²⁰⁶ Interviews conducted by Amnesty International with 2 defence attorneys (one public and one private) between December 2024 and January 2025; IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24, para. 202; HRW and Cristosal (December 2022). “We Can Arrest Anyone We Want”: Widespread Human Rights Violations Under El Salvador’s “State of Emergency”, p. 86.

A defence attorney described the transformation of the procedural system as follows:



In the past, for hearings of this size, the procedural parties knew that they would be there until dawn, or even for two or three days... Now, under the state of exception, everything has to happen quickly and 'effectively'. There are too many people in too many processes. Before there were about a hundred such hearings a month; now, under the state of exception, there are a hundred every day. What used to take three or four days, or even a week, now has to happen in a single morning. To solve 'the problem' of being 'effective' in something that, given its magnitude, cannot be [effective], the only solution they have found is to violate fundamental rights.



Defence attorney, in an interview with Amnesty International. December 2024

Amnesty International has found that, in order to speed up proceedings, basic guarantees such as the presumption of innocence, the principle of legality and the right to defence, are being disregarded in the judicial conduct of these hearings, with priority being given to “procedural formality” aimed solely at expediting the process, rather than ensuring the judicial oversight required by international standards. This judicial practice fails to recognize that the hearing of a criminal case within a reasonable time requires, as the IACtHR has held, not only speed and an absence of undue delays, but also that procedural timeframes align with the characteristics of the particular case,²⁰⁷ as part of due process.

It is also a cause for concern that, according to the testimonies gathered by Amnesty International, another damaging effect of these mass hearings is that they are held without the detainees being present, whether due to a lack of transport, restrictive prison conditions, problems with the technical equipment used in virtual hearings, or unjustified administrative decisions. In these cases, a defendant's participation is reduced to a simple mention of their name from a list, or the presence of their legal defence counsel – usually a public defence attorney shared by a large number of defendants. This violates the right to be heard, to be informed of the charges and to actively participate in one's defence. Salvadoran human rights organizations also report this finding.²⁰⁸

For many people, particularly those held in conditions of prolonged isolation, the hearings represent the only opportunity for them to learn about the status of their case. However, the mass nature of these proceedings prevents personal communications and clarity regarding the charges against them, which in turn directly affects their ability to exercise basic procedural rights.

According to the attorneys interviewed, the mass nature of these proceedings also seriously undermines the possibility of seeking effective remedies. The defence has neither the time nor the information required to prepare applications for release or challenge irregularities in the arrest.

Furthermore, from an analysis of court rulings,²⁰⁹ Amnesty International has also found that when presiding over collective proceedings, the courts dismiss individual requests without due consideration. This is reflected in preset decisions, such as the automatic

²⁰⁷ IACtHR. Maidanik et al. v. Uruguay. Merits and Reparations. Judgment of 15 November 2021. Series C No. 444, para. 170.

²⁰⁸ Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception], pp. 93 et seq.; IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24: Paras. 203.

²⁰⁹ Amnesty International analysed 7 court ruling from initial hearings that took place between 2023 and 2024



imposition of provisional detention or the extension of procedural deadlines, based on generic considerations of “dangerousness” or “risk to public security”. It has similarly been found that judges reproduce the prosecution’s account without scrutiny and rely on standardized police reports to justify decisions depriving individuals of their liberty, without examining the specific elements of each case.

This practice is consistent with the testimonies of defence attorneys and relatives of detainees, who report systematic inconsistencies in police reports and clear discrepancies between the alleged locations and circumstances of the arrests and the true documented facts.

This pattern reverses the logic of the criminal process by establishing a prospective manner of conducting legal proceedings whereby the detained person is investigated seeking evidence to “retroactively” justify the criminal charges against them, rather than investigating a criminal action to identify the perpetrator and proceed to their arrest.²¹⁰ A public defence attorney explained it as follows:

“

They charge all 80,000 or 90,000 people. Many are indeed ‘gang members or criminals’, but most have no links with gang structures, terrorism or anything like that. But you are given the case for the offence of unlawful association.

When it comes to organized crime, the law establishes certain requirements: the first is the profile to be drawn up by the police, with things like: ‘this person moves in the company of two or more individuals; we have seen him/her with suspicious individuals; he/she goes to shops and leaves with envelopes’, or something to that effect. They need photographs, telephone taps authorized by the courts and other evidence to prove that someone belongs to a criminal structure. That’s the police profile.

This profile must be presented to the judge, accompanied by the evidence: photographs, videos, tapped calls. Now they don’t do that anymore. The profile is created after the person has been detained.

”

Public defence attorney, in an interview with Amnesty International. January 2025

Taken together, the mass hearings and collective rulings reveal a judicial process designed to give the appearance of legality to detentions that have already been carried out without proper oversight. This model eliminates the possibility of an effective defence, reinforces the presumption of guilt and prevents challenges to irregularities, essentially turning the judicial process into an automatic mechanism for validating arbitrary actions.

Amnesty International concludes that this model i) reinforces the presumption of guilt, ii) prevents the correction of initial irregularities, iii) hinders the preparation of a technical defence, and iv) guarantees the systematic imposition of provisional detention.

Overall, the purpose of this procedural framework is not to establish responsibilities in accordance with the law, but rather to ensure that detainees remain within the system, deprived of their liberty and without effective means of challenging the legality of their detention.

²¹⁰ It is important to note that Cristosal has also reported that “some defence attorneys argued that the so-called ‘police criminal profile files’ had been drawn up on the very day of arrest, which undermined their credibility. However, this argument was not taken into account by the judges. In many cases, the ‘police file’ was not even included in the case files”. See: Cristosal (2024). *El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción* [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception], p. 80.

5.2.3. IMPACT OF POLICE MANIPULATION, PROSPECTIVE INVESTIGATIONS AND FABRICATION OF CASES ON THE CRIMINAL PROCESS

As discussed in other sections of this report, the review of case files and the testimonies compiled by Amnesty International evidence a systematic pattern of police manipulation aimed at justifying arrests made without prior judicial control. Far from being isolated irregularities, these practices are part of an institutional approach that completely subverts the principles of criminal procedure. Rather than investigating criminal actions to identify those responsible, the authorities make arrests first and then seek to build evidence that retroactively supports the charges made.

One of the most consistent findings is the discrepancy between police reports and the true circumstances of arrests. Relatives, defence attorneys and other interviewees describe how the PNC and the military report arrests that supposedly took place “on the street” or in flagrante delicto, when the evidence points to detentions in private spaces, without a court order or indications of any crime. These alterations or distortions of the facts in police records are intended to lend an appearance of legality to arbitrary deprivations of liberty and avoid judicial scrutiny of the lawfulness of the detentions made.

The ex post facto creation of so-called “criminal profiles” is another pillar of the identified pattern. In cases of organized crime, Salvadoran legislation requires the police to provide objective evidence, such as photographs, videos, monitoring of movements or authorized telephone tapping, to substantiate that a person belongs to a criminal organization.²¹¹ However, under the state of exception, these profiles are constructed retrospectively, after the person has been detained, and without the technical evidence required by law.

This prospective investigative approach²¹² distorts the purpose of criminal procedure and reinforces the initial arbitrariness. Charges are often based on standardized police reports or vague references to “public opinion”, with no dates, descriptions of specific facts or any verifiable evidence. The use of generic statements, lacking factual detail, violates the right to be informed of the charges and to challenge the evidence, thereby removing all possibility of preparing an effective defence.²¹³ It also exposes the discriminatory nature of the arrests made under the state of exception.

During the evidentiary stage of the criminal process, these limitations become even more pronounced. Defence teams face systematic obstacles in accessing evidence, including reserved information, incomplete or inaccessible chains of custody, and abusive restrictions on the presentation of exculpatory evidence. The prosecution often bases its charges exclusively on police testimony without independent verification, which contravenes the principles of contradiction, equality of arms and access to evidence, essential for any criminal trial.

²¹¹ See: Code of Criminal Procedure, provisions on prosecution’s supervision of investigations and assessment of evidence; Special Law against Organized Crime and Complex Offences, articles on special investigation techniques and identification of criminal structures; and Special Law for the Interception of Telecommunications, on prior judicial authorization and control of legality.

²¹² Prospective investigations are police or prosecutorial actions initiated without the prior existence of a concrete and verifiable criminal report, and which are not aimed at clarifying a specific criminal act that has already occurred, but at openly investigating the conduct, relationships or environment of a person or group with the aim of detecting whether any criminal evidence may eventually come to light. In other words, it is a form of criminal investigation that lacks legitimacy, insofar as it focuses on an active search for crime, and not on its clarification. This type of action has been considered incompatible with the right to a fair trial by the European Court of Human Rights (ECHR), for being based on investigations of an exploratory rather than a passive nature lacking prior objective grounds for suspicion (in other words, based on verifiable facts predating the involvement of the investigating authorities). See European Court of Human Rights (ECHR). Bannikova v. Russia, Application No. 18757/06, Judgment of 4 November 2010, paras 33–41, 43–49.

²¹³ IACtHR. Case of Fernández Prieto and Tumbeiro Vs. Argentina, Merits and Reparations, Judgment of 1 September 2020, Series C No. 411, paras. 80–82.

There have also been repeated instances of refusal to admit social reports²¹⁴ and other evidence provided by the defence to demonstrate the defendant's ties to the community or challenge the charges brought against them. In several cases documented by Amnesty International, this evidence was dismissed by the court without sufficient technical justification. This practice undermines the principle of equality of arms and reinforces a presumption of guilt.

The absence of effective judicial oversight of these irregularities means that cases move forward without any meaningful assessment of legality. As described in the previous section, mass hearings favour the automatic admission of flawed evidence and limit opportunities to question inconsistencies or demand adequate standards of proof. The result is a procedural model that validates unsubstantiated charges and supports the deprivation of liberty of thousands of individuals without verifiable evidence.

The combined analysis of this evidence points to the fact that police manipulation and prospective investigations are not operational failings, but rather practices that are inherent to the functioning of the state of exception. Their recurrence, standardization and consistency in the decisions made by prosecutors and the courts demonstrate that they are part of an institutional mechanism designed to justify arbitrary detentions, sustain unfounded accusations and ensure that detainees remain within the prison system.

5.2.4. SYSTEMATIC REFUSAL TO CONSIDER ALTERNATIVES TO PRETRIAL DETENTION BASED ON DISCRIMINATORY CRITERIA

In this context, it is important to note that the judiciary is also operating under a pattern of discrimination that disproportionately affects those living in a situation of poverty or with limited financial resources. For this population group, provisional detention has effectively become an automatic measure, with no relation to the individual assessment of procedural risks and the guarantees of exceptionality required by international law.

A review of court rulings and several of the testimonies compiled show that decisions on pre-trial detention reflect unwritten criteria that punish those who lack extensive formal, family and/or community networks or private legal representation, in a context where the majority of detainees are already in a situation of social and economic vulnerability.

The rulings analysed show that the courts systematically dismiss arguments of arraigo or community ties²¹⁵ (family, employment, financial, etc.) presented by the defence on generic grounds, without assessing the relevance of the documentation provided.

In all the cases analysed, the judges ruled – with no consideration of personal circumstances – that detainees “have no community ties”, even though in some cases the defence attorneys submitted birth certificates, proof of employment and residence, sworn statements and other supporting documents, as required by Salvadoran legislation.²¹⁶ However, the judges deemed these insufficient based on a more restrictive standard for

²¹⁴ In the Salvadoran context, “social reports” refers to assessments providing information on the social, economic and community environment of a defendant, such as place of residence, personal relationships or situation of employment, among other aspects.

²¹⁵ In El Salvador, “arraigo” arguments refer to elements presented by the defence to demonstrate that a defendant has stable ties to a particular place, such as a fixed address, employment or family networks, in order to question the need for provisional detention and show that the risk of them absconding is low.

²¹⁶ Code of Criminal Procedure, Article 330 No. 2. Salvadoran criminal jurisprudence has specified that residence, family and employment ties (arraigo) must be demonstrated by means of suitable documentation that proves real and current ties with the place of residence and with the country, as an indicator of the defendant's willingness to submit to the proceedings. The documents considered by the courts have included birth and marriage certificates, proof of residence and of employment or independent professional practice, records of children's education centres, property deeds or utility bills in the defendant's name, and documents relating to financial obligations, such as loans or property in their name, emphasizing that generic records or utility bills in the name of third parties are not sufficient to prove adequate ties. See: Chamber of the Second Section of the East, ruling on appeal of precautionary measures, ref. APE-22-6-CPRPN-2012, Usulután, 28 February 2012.

assessing arraigo.²¹⁷ Provisional detention has therefore become the standard decision, with no consideration given to the analysis of procedural risks or the guarantees of exceptionality and individualization required by international law. As this predominantly affects a specific profile of detainees, there is evidence of discrimination in these measures of deprivation of liberty.²¹⁸



It doesn't matter what the defence submits; out of 100 people, almost all will be kept in detention. I have seen processes in which only two or three out of 100 are released... in some cases these have been pregnant women, but it is mainly people of a higher socioeconomic status. They sometimes make a distinction on appeal, but at the initial hearing detention is automatic.



Abogado defensor. Entrevista con Amnistía Internacional en enero de 2025.

Discrimination is exacerbated by the fact that, given the socio-economic status of most detainees, many are simply unable to meet the arraigo conditions required by the judicial system in the current context. Under El Salvador's state of exception, and according to the information available, the courts consider "individuals with community ties" to be those who have their own home, formal employment and a stable financial situation, as explained by a public defence attorney:



If you claim arraigo, it is because you have ties to the community. When you ask where he works, people say, 'He was a farmer.' That's work, in my view... but because it is not formal [employment], if that's what you argue, they will throw it back in your face. You cannot ask of this population group things they have never been able to meet.

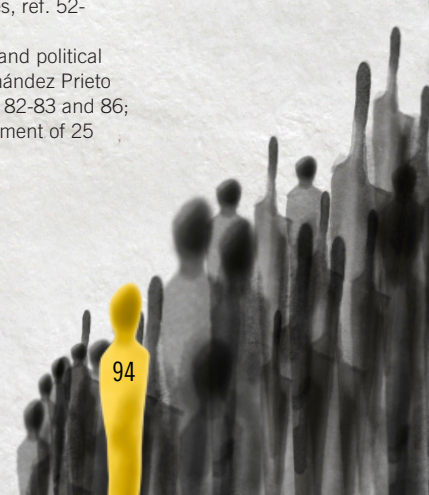


Public defence attorney, in an interview with Amnesty International. December 2024

Based on this, it is hardly surprising that an analysis of court rulings²¹⁹ shows that "employment ties" are usually dismissed because the economic activities carried out (farming, informal trading, domestic work, temporary trades) lack formal documentation,

²¹⁷ By way of example, recent jurisprudence has reinforced this restrictive standard in assessment of evidence of arraigo. Thus, the First Chamber Against Organized Crime has repeatedly ruled that notarial affidavits do not constitute suitable means to prove community ties, since the notary attests to the act itself and not to the content of the statement made (Art. 50 Law of Notaries). See: First Chamber Against Organized Crime, resolution on appeal of precautionary measures, ref. 50-APEMC-2025, Santa Tecla, 21 February 2025, para. 14. This Chamber has similarly emphasized that proof of arraigo is not automatically applied and requires the defence to present a case-by-case assessment and sufficient technical argumentation to challenge the risk of absconding. See First Chamber Against Organized Crime, resolution on appeal of precautionary measures, ref. 52-APEMC-2025, Santa Tecla, 26 February 2025; and ref. 46-APEMC-2025, Santa Tecla, 21 February 2025.

²¹⁸ Human Rights Commission (12 December 2005). Report of the Working Group on Arbitrary Detention: Civil and political rights, including the question of torture and detention. UN Doc. E/CN.4/2006/7, para. 66; IACtHR. Case of Fernández Prieto and Tumbeiro Vs. Argentina, Merits and Reparations, Judgment of 1 September 2020, Series C No. 411, paras 82-83 and 86; IACtHR. Case of García Rodríguez et al. v. Mexico. Preliminary Objections, Merits, Reparations and Costs. Judgment of 25 January 2023. Series C No. 482, paras 159-161.



while “financial ties” are rendered meaningless by the absence of property, a verifiable income or a bank account, and “family ties” because people have often not formalized and/or updated their family situation.

The public defence attorneys interviewed for this report state that, in practice, these requirements are unattainable for large sections of the detained population. Not only do these criteria fail to take into account the country’s socio-economic reality, they also penalize poverty by making the lack of formal documentation a critical factor in determining whether a person should be kept in detention.

Box 6 - Explainer

Assessment of arraigo by the courts CASE OF IVO VALLEJO MURIEL *

Family ties	Documents submitted: 1. Simple copy of partner's DUI (ID document) 2. Daughter's birth certificate 3. Son's birth certificate 4. Daughter's birth certificate 5. Son's birth certificate	Judge considers that this documentation does not prove the existence of a family unit "as there is no evidence to support cohabitation with the partner or children, or relatives and children, or of any relatives living with defendant".
Residential ties	Documents submitted: 1. Certified tenancy agreement (2019), in defendant's name 2. Claim submitted to the National Administration of Aqueducts and Sewers (ANDA) in a third person's name 3. ANDA Inspection work order (in a third person's name) 4. Two water bills (in a third person's name) 5. Electricity bill (in a third person's name)	Judge rejects residence ties because utilities are not in defendant's name and there is no peripheral evidence, such as sworn statements from neighbours, attesting to the fact that defendant lives at that address.
Employment ties	Documents submitted: 1. Statement signed by employer indicating that defendant works informally as a driver, \$15/day plus food	Judge rejects this document due to lack of details and informal employment.
Other	Documentos presentados: 1. Statement from an association indicating that defendant is a founding member 2. Statement from the Institute for Administering Benefits for Veterans and Ex- combatants (INABVE) indicating that defendant receives a 35% disability pension 3. Photographs submitted by defence attorney	Judge rejects these documents on grounds that “they are not consistent with relevant criminal profiles, and therefore lack credibility in terms of what is stated by those making the statements”.

*Nombre ficticio por razones de seguridad.

Fuente: Elaboración propia, a partir del análisis de una resolución judicial: Auto de imposición de medidas, dictado en noviembre 2023.

²¹⁹ Amnesty International analysed 7 court rulings issued between March 2022 and July 2024. In addition, it reviewed and analysed 10 resolutions of the Courts against Organized Crime, obtained from the public database of Salvadoran jurisprudence at: <https://www.jurisprudencia.gob.sv/busqueda/busquedaLibre.php?id=1>.

The case of Ivo Vallejo Muriel (not his real name) illustrates how the courts can dismiss documents proving family, employment and residential ties without considering individual circumstances. Despite providing birth certificates for his children, a statement regarding his employment, a tenancy agreement and community documents, the court rejected all of these based on formal criteria that are impossible for someone with limited resources to meet. Rulings of this kind, repeated uniformly across different courts, shape a judicial pattern that presumes lack of community ties or arraigo and dismisses any evidence that might challenge such presumption.

Discrimination is also reflected in the refusal to admit expert evidence requested by the defence. Amnesty International has documented cases in which social reports for verifying employment, family or community ties were initially authorized but later denied without technical justification, on grounds that they “are not relevant”. This practice deprives the defence of the basic tools needed for providing evidence to balance the process and therefore reinforces the presumption of guilt.

This finding is consistent with the observations of the Working Group on Arbitrary Detention, which has warned that excessive use of provisional detention may be influenced by social background, poverty and marginalization,²²⁰ which constitutes a form of discriminatory arbitrariness.²²¹

Similarly, documentary and testimonial evidence clearly shows that the current functioning of the Salvadoran judicial system is influenced by practices that perpetuate systematic bias based on a person's social and economic background, as this has a negative impact on every stage of the process, from the presentation of evidence to decisions on release.



In my opinion, this system is markedly 'aporophobic', it has a phobia of poverty. It is very easy to grab poor people and put them in jail: the defence has no way of proving arraigo. Look at the case of Agapito Ruano...²²² what they've done here is create lots of 'Agapito Ruanos'. They have systematized him, turned him into a product and now they're selling him every day. And it happens every day.



Defence attorney, in an interview with Amnesty International. December 2024

Discrimination in the application of provisional detention is not an incidental occurrence, but a deliberate and integral element of the state of exception. The uneven application of arraigo criteria, disproportionate demands and the dismissal of exonerating evidence particularly affect those with fewer economic resources, who are trapped in a system designed to exclude them and prolong their detention indefinitely.

²²⁰ Human Rights Commission (12 December 2005). Report of the Working Group on Arbitrary Detention: Civil and political rights, including the question of torture and detention. UN Doc. E/CN.4/2006/7, para. 66.

²²¹ 1 IACtHR. Case of Fernández Prieto and Tumbeiro Vs. Argentina, Merits and Reparations, Judgment of 1 September 2020, Series C No. 411, paras. 80-82.

²²² Agapito Ruano was a man of limited financial means who was arbitrarily detained in El Salvador as part of a criminal investigation into a kidnapping, although there was not enough evidence to justify his deprivation of liberty nor adequate guarantees of due process. His case became a prime example of criminalization based on socioeconomic vulnerability and the systematic erosion of the right to a defence. The IACtHR declared that El Salvador was responsible under international law for violations of the rights to personal freedom, judicial guarantees and judicial protection, among others. See IACtHR Case of Ruano Torres et al. v. El Salvador. Merits, Reparations and Costs. Judgment of 5 October 2015, Series C No. 303.



This deeply entrenched pattern, replicated across the country and reinforced by decisions taken by the police, prosecutors and the courts, contributes directly to the widespread and systematic nature of the state policy described in this report, which is targeted in particular at socially and economically vulnerable groups

5.2.5. DELIBERATE INEFFECTIVENESS OF JUDICIAL REMEDIES AND OVERSIGHT MECHANISMS

Based on the information analysed, the ineffectiveness of judicial remedies under the state of exception is not due only to institutional overload or administrative problems, as the state maintains, but to a deliberate decision aimed at preventing detainees from accessing effective mechanisms of judicial review. This is reflected not only in the systematic rejection of habeas corpus as previously discussed, but also in the fact that public defence attorneys rarely file appeals against decisions of provisional detention or other unfavourable rulings, even when there are sufficient grounds to challenge them. They also tend not to request review hearings.²²³

The interviews conducted show that the very structure of the state of exception severely limits the ability of defence attorneys to file appeals or request hearings to review measures. Whether as a result of administrative instructions, lack of access to essential documentation or the material impossibility of meeting all their obligations within their overburdened schedule, many are discouraged²²⁴ from filing ordinary appeals, habeas corpus petitions, or requesting the review of measures.

The evidence gathered shows that the very few release orders that are issued are either systematically ignored by the prison authorities or rendered ineffective through immediate re-arrests. This practice deprives judicial remedies of any useful purpose and is a direct violation of the state's duty to guarantee personal liberty and effective judicial protection.

Despite the gravity of this institutional failing, which involves contempt of court and hinders legal scrutiny, the judges whose decisions are ignored have not taken appropriate criminal action against the officials responsible.²²⁵ This judicial inaction is incompatible with international standards, which require judicial authorities to guarantee the effectiveness of their decisions and ensure judicial protection against human rights violations. In this context, failure to act contributes to the consolidation of a climate of structural impunity that allows arbitrary detentions to continue and undermines the rule of law.

5.2.6. INCONSISTENT USE OF CRIMINAL OFFENCES AND CHARGES ON INSUFFICIENT GROUNDS

The human rights violations and practices documented under the state of exception have had a direct and decisive impact on criminal proceedings and their outcomes for thousands of people now subject to this new regulatory and institutional framework. This impact is not limited to conditions of detention but affects the way criminal charges are constructed and sustained, seriously compromising due process guarantees and the right to a fair trial. The following testimony from a defence attorney sums up the situation:

²²³ Five of the attorneys interviewed in the context of this investigation expressly mentioned this issue.

²²⁴ Interview conducted by Amnesty International with a public defence attorney in December 2024.

²²⁵ Interview conducted by Amnesty International with private defence attorneys in December 2024

“

In my opinion, the law currently does not give judges the power to disregard the scope of the crimes or the criminal offences they are applying. There is currently no legal reform or amendment that allows a person to be kept in detention or proceedings to continue when there is no indication that a crime has been committed. What we are talking about, in the cases under this state of exception, are situations where police officers and prosecutors use reports that simply state: ‘we arrested this person on the street and people claimed he was a gang member’, or ‘this person has participated in or collaborated with a gang’. But they never give a date, never specify a time, a crime, or a place. They only say ‘collaborator’ in a generic way, but fail to mention what they collaborated on.

”

Defence attorney, in an Interview with Amnesty International. January 2025

The absence of verifiable evidence is exacerbated by the broad and ambiguous application of offences, in particular the offence of unlawful association and others linked to terrorism. In numerous documented cases, these offences have been applied without providing an accurate description of the alleged conduct or the specific actions of the accused person.²²⁶ This prevents proper individual attribution of criminal responsibility – a fundamental requirement of the principle of culpability – and allows charges to be brought based on assumptions or presumptions of dangerousness or of belonging to a group, rather than on specific and individualized evidence.

In this context, the application of offences to displace the requirement of individualized evidence towards the construction of accusations based on social profiling, which can include being from certain geographical areas or allegedly having links to criminal organizations, thus lowering the evidence thresholds required by criminal law. Instead of investigating concrete and attributable facts, the system constructs charges based on stereotypes and social characterizations, violating the presumption of innocence and the principles of legality, specificity and proportionality in criminal law.²²⁷

The manner in which these criminal offences are being applied therefore raises serious concerns from a human rights perspective. The vagueness of the offences and failure to specify what the criminal conduct is not only blurs the boundaries of criminal responsibility but also structurally undermines the requirement of individual criminal responsibility, a cornerstone of any criminal system that upholds the rule of law.

5.2.7. CONCLUSIONS

The practices documented in this section show that violations of due process under the state of exception are not the result of isolated failings or shortcomings caused by institutional overstretch, but rather constitute a structural pattern designed to sustain mass deprivation of liberty by undermining effective judicial safeguards.

²²⁶ A review of indictments and other procedural documents reviewed by Amnesty International, as well as testimonies from both public and private defence attorneys compiled between May 2022 and December 2025, evidenced a lack of individualized descriptions of the alleged criminal conduct and the use of generic charges in cases brought under the state of exception.

²²⁷ IACtHR. Case of Fernández Prieto and Tumbeiro Vs. Argentina, Merits and Reparations, Judgment of 1 September 2020, Series C No. 411, paras. 80-82.

Prolonged incommunicado detention, collective hearings, restricted access to legal counsel, the systematic dismissal of exculpatory evidence, ex post facto fabrication of charges and ineffective judicial remedies operate in a coordinated manner. Taken together, they strip of all substance the essential guarantees recognized in domestic law and in international human rights instruments, turning the criminal process into a mechanism for the formal validation of detentions already carried out.

These practices are not merely ancillary to the state of exception but constitute one of its operational pillars. Indeed, they are one of the pillars of the widespread and systematic attack described in this report and support the subsequent legal analysis of possible commission of crimes against humanity, specifically imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law, as established in Article 7(1)(e) of the Rome Statute.

5.3. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND DEATHS IN CUSTODY

The prohibition of torture is universally considered as a rule of *ius cogens*, and as such non-derogable, even in situations of emergency.²²⁸ The scale of the allegations of serious violations of the right to personal integrity committed against persons detained in the context of the state of exception is alarming. According to national organizations, torture and other ill-treatments constitute the third most reported human rights violation in the first three years of the state of exception.²²⁹

The Global Torture Index 2025 classified El Salvador as a country at “very high risk of torture and other cruel, inhuman or degrading treatment”, based on data for 2023 and 2024.²³⁰ The IACHR,²³¹ the Committee against Torture²³² and multiple national and international organizations²³³ have documented repeated practices that seriously violate the physical and psychological integrity of detainees and can be legally classified as torture or other ill-treatment.

Taken together, the information compiled makes it possible to affirm that these practices are not isolated incidents, but rather a widespread practice, exacerbated both by the structural conditions of the prison system and by the state policy of mass detention and almost total absence of safeguards.

²²⁸ ICJ, Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, of 20 July 2012, ICJ Reports 2012, para. 99 (“In the Court’s opinion, the prohibition of torture is part of customary international law and it has become a peremptory norm (ius cogens)”). Committee against Torture (24 January 2008). General Comment No. 2: Implementation of article 2 by States parties. UN Doc. CAT/C/GC/2, para 1.

²²⁹ AZO, AMATE, FESPAD, Idhuca, Salvadoran Network of Women Defenders and SSPAS (2025). Three years of the state of exception: Systematic torture in El Salvador’s prisons.

²³⁰ OMTC (2025). Global Torture Index 2025: El Salvador Factsheet. Accessed at: <https://www.omtc.org/en/global-torture-index>

²³¹ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24: paras. 291 et seq.

²³² UN Committee against Torture. (19 December 2022). Concluding observations on the third periodic report of El Salvador. UN Doc. CAT/C/SLV/CO/3.

²³³ Human Rights Council. (1 November 2024). Summary of stakeholders’ submissions on El Salvador. Report of the Office of the United Nations High Commissioner for Human Rights. UN Doc. A/HRC/WG.6/48/SLV/3, para. 17; Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception], pp. 22 et seq.; DPLF, CEJIL, CCPR, Cristosal, FESPAD, Idhuca, OMCT and SSPAS (November 2024). Arbitrary detentions in the state of emergency in El Salvador. Joint communication by civil society organizations to the UN Working Group on Arbitrary Detention (WGAD; IACHR (14 July 2023). 187 Period of Sessions of the IACHR. Public hearing: Human rights violations and states of exception in El Salvador, among others.

5.3.1. STRUCTURAL FACTORS THAT ENABLE A CONTEXT OF TORTURE AND ILL-TREATMENT

The first of these factors stems from the implementation of a policy of mass arbitrary detentions – described in the previous sections – which has resulted in El Salvador having one of the highest incarceration rates in the world, with 1,659 prisoners per 100,000 inhabitants and an official prison occupancy rate of 162%, although unofficial estimates place this figure at close to 300%.²³⁴

While the authorities systematically fail to provide official and updated information on the number of people deprived of their liberty and their conditions of detention, local organizations estimate that the prison population stands at approximately 114,000 people, compared to an installed capacity of 70,000 places, representing overcrowding levels of over 60%.²³⁵ The situation is even more critical when breaking down the analysis by prison facilities. According to Salvadoran organizations, the former prison system – prior to the building of the Centre for the Confinement of Terrorism (CECOT) –, with a capacity of 30,864 places, currently holds 99,410 people, equivalent to an overcrowding rate of 322%. In contrast, the CECOT, with an officially declared capacity of 40,000 people, held some 14,820 detainees as of March 2025, according to estimates from local organizations, representing an occupancy level of only 37%.²³⁶ In light of these figures, it is important to note that the majority of people detained under the state of exception are being held in detention centres other than CECOT, in other words, those with alarming overcrowding levels.

The conditions described to Amnesty International by individuals released from prison paint a picture of cells used at double or triple their capacity, in a structural context of inhuman treatment prohibited by international standards.²³⁷

The second factor concerns excessive use of force by state agents and violence in custody. Although these are historical problems in El Salvador,²³⁸ their severity and frequency have intensified under the state of exception. The absence of independent control mechanisms, the limitation of judicial oversight and barriers to accessing effective reporting channels have created an environment of impunity that facilitates the expansion and consolidation of abusive practices.

5.3.2. PATTERNS OF PHYSICAL AND PSYCHOLOGICAL TORTURE

The information collected by Amnesty International,²³⁹ which is consistent with that reported by international organizations,²⁴⁰ confirms the existence of patterns of physical and psychological torture, applied at different stages of the process: at the time of arrest, during transfers and in detention centres set up under the state of exception.

²³⁴ OMTC (2025). Global Torture Index 2025: El Salvador Factsheet. Accessed at: <https://www.omct.org/en/global-torture-index>

²³⁵ OUDH. Quarterly newsletter. April – June 2025, p. 7. Available at: <https://oudh.uca.edu.sv/cms/publicaciones>

²³⁶ OUDH. Quarterly newsletter. April – June 2025. P. 12.

²³⁷ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 30-32.

²³⁸ Human Rights Council (7 December 2018). Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador. UN Doc. A/HRC/38/44/Add.2 Accessed at: <https://docs.un.org/en/A/HRC/38/44/Add.2>; and Aguilar, Jeannette. Las políticas de seguridad pública en El Salvador, 2003-2018 [Public security policies in El Salvador 2003-2018]. San Salvador: Heinrich Böll, 2019.

²³⁹ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 33-36.

²⁴⁰ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24: paras. 291 et seq.; Committee against Torture (19 December 2022). Concluding observations on the third periodic report of El Salvador. UN Doc. CAT/C/SLV/CO/3.

The IACHR, for example, recognized that some of the most frequent complaints are “abuses in the disciplinary sanctions applied, and omissions in the face of acts of intra-prison violence”.²⁴¹ According to the documentation reviewed, these abuses committed by police officers, military personnel and prison staff typically take specific forms, the most common being physical punishment and beatings, and are widespread in prisons holding people detained during the state of exception, but more so in the detention centres of Izalco and La Esperanza (this latter known as Mariona),²⁴² where the highest number of deaths in custody are also reported.²⁴³



In Mariona, I saw 'Montaña' [a prison guard] forcing an inmate to kneel by the entrance gate to Sector II, interrogating him. I was standing in the middle of the yard, so I had a really good view. In these situations, when they do things like that, the inmates who work in other prison areas make sure that there are no witnesses, that no one is watching. That ordinary inmates, those who don't work, can't see [what's going on]. So the only witnesses of these situations are those of us who actually work in the prison.

And so I see that 'Montaña' is standing over this inmate, interrogating him, when he suddenly lifts his leg and kicks him in the chest with his boots. Montaña is a tall man, approximately 1m90, strongly built. Obviously, after a kick like that, all I can see is the inmate hitting the gate, bouncing off and falling to the ground. And there are no more questions, just 'Montaña' kicking and punching him. And the worst thing is that they were not soft, gentle kicks, but blows like when you kick a football.

After that, we never saw the boy again. He was taken out of the sector and towards the end of the day, at five in the afternoon, they sent another inmate, one of the ones who work in the prison, to take his things. And that was the last we heard of him. I know there are sectors within Mariona known as 'punishment sectors', I don't know if they moved him there or something, but we never heard anything more of him.



An individual who was deprived of liberty for more than a year, then acquitted and released, in an interview with Amnesty International. December 2024

Testimonies provided to Amnesty International by detainees between 2022 and 2024, together with hundreds of cases documented by national and international organizations and the media, show that the pattern includes beatings, waterboarding, forced nudity, and being forced to remain in painful positions, such as kneeling in the sun for hours, as well as insults, threats and verbal abuse aimed at breaking the psychological resistance of detainees. There are also reports of repeated use of pepper spray inside cells, extreme rationing of food and water, arbitrary restrictions on using toilet facilities, and extended periods of incommunicado detention or continuous confinement, involving the deprivation of sunlight, which accelerates physiological deterioration and deliberately worsens the conditions of detention.

²⁴¹ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.L/V/II Doc. 97/24, para. 300.

²⁴² AZO, AMATE, FESPAD, Idhuca, Salvadoran Network of Women Defenders and SSPAS (2025). Three years of the state of exception: Systematic torture in El Salvador's prisons, p. 39.

²⁴³ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, p. 33





I saw 'Sagitario,' a guard at Mariona. This happened in the shop sector. They justified their actions against the inmate in that he had supposedly missed his day shift at the shop. But it was an unjustified aggression, totally disproportionate. There is no law that says that 'if you miss your assigned shop day, you get three blows with a truncheon', 'if you skip your wash day because you obviously needed to, it will only be two kicks today'. For obvious reasons, the beating that 'Sagitario' gave the inmate was totally disproportionate. That instils fear, it puts you in a situation where you are on your own, and the worst thing is that it was for something so trivial.



An individual who was deprived of liberty for more than a year, then acquitted and released, in an interview with Amnesty International.
December 2024



The documentation reviewed also shows that psychological torture is a structural element of the state of exception, manifesting through systematic practices of prolonged solitary confinement, isolation in dark or constantly lit cells, sleep deprivation, threats of death or sexual assault, forced nudity, ritualized humiliation (including shouting, collective punishment and forced bodily positions of submission) and methods of dehumanization, such as being forced to walk hunched over and looking only at the ground, or a total ban on talking.²⁴⁴

These behaviours cannot, under any circumstances, be considered as “harsh conditions” to be expected in an overburdened prison system. They are deliberate techniques of subjugation aimed at the physical and psychological breakdown of prisoners, which are recognized as torture under specific international conventions, the Committee against Torture and the jurisprudence of the IACtHR. The reality is that all these practices create an environment of extreme suffering designed to control, intimidate and discipline detainees through the sustained degradation of their human dignity.

5.3.3. DEATHS IN CUSTODY: SCALE, CAUSES AND RESPONSIBILITIES

In November 2022, the authorities publicly acknowledged for the first time that 90 people had died while in custody.²⁴⁵ Since then, independent organizations have documented significantly higher numbers. The non-governmental organization Cristosal recorded 265 deaths as of July 2024,²⁴⁶ while Humanitarian Legal Aid (Socorro Jurídico Humanitario, SJH) estimates that there were approximately 470 deaths between March 2022 and December 2025.²⁴⁷

According to media reports and statements by civil society organizations, a significant proportion of these deaths show signs of violence or circumstances that have yet to be clarified, and nine out of ten of those who died were in pre-trial detention, meaning that they had not been convicted of any crime at the time of their death.²⁴⁸



Because of my academic degree, [as an inmate] I started to work in the prison within the area of statistics, which keeps track of the prison's accounts and records... that's why I know what goes on, because every day I had to report: how many [individuals] left the prison for court proceedings, how many returned from hearings, how many went to the prison clinic, how many were taken to hospital, how many had died. So having that first-hand information I realized how everything worked inside. I was able to register deaths for 5 months. We counted 5 in June, 6 in July, 7 or 8 in August, 6 in September, and 5 in October.

²⁴⁴ Information obtained from interviews with 23 people who were held in pretrial detention between March 2022 and January 2024.

²⁴⁵ LPG (7 November 2022). Ministro de Seguridad confirma 90 muertes en cárceles y más de 2,000 liberados durante régimen de excepción [Security minister confirms 90 deaths in prison and more than 2,000 released during the state of emergency]. Accessed at: <https://www.laprensagrafica.com/elsalvador/Ministro-de-Seguridad-confirma-90-muertes-en-carceles-y-mas-de-2000-liberados-duranteregimen-de-excepcion-20221107-0027.html>

²⁴⁶ Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception], pp. 22 et seq.

²⁴⁷ InformaTV (13 November 2025). [@InformaTV_]. #EncuentroTV IEI sistema carcelario de El Salvador tiene por lo menos hasta esta fecha 454 víctimas mortales en este régimen de excepción [El Salvador's prison system suffers at least 454 deaths during the state of exception to date] Post on X [formerly Twitter]. Accessed at https://x.com/InformaTV_/status/1988971236685226058.

²⁴⁸ LPG (2 November 2022). El 90 % de fallecidos durante el régimen no había sido condenado [90% of those who died during the state of exception had not been convicted]. Accessed at <https://www.laprensagrafica.com/elsalvador/El-90-de-fallecidos-durante-el-regimen-no-habia-sido-condenado-20251102-0043.html>



**At least 470 people
died while in state custody
between March 2022 and December 2025.
No authorities have been
prosecuted for these deaths.**



I don't know what happened in August, but most of those who died were people who were taken from the prison to hospital after being beaten, and then never returned. Two other deaths occurred, one was someone who was beaten inside the prison: at 10 in the morning, he walked out [with some guards] to the 'Esclusa' [buffer zone] section separating the actual prison from the guard quarters. Once there, he was apparently beaten up by 3 guards. He was brought back to the cell unconscious in a wheelchair by clinic staff. Once in the cell, his fellow inmates put him to bed. At five o'clock in the afternoon, when the headcount is carried out, the rule is that everyone must leave the cell and go out into the yard. He got permission from the guard not to go out; but they still counted him. The next day, at six in the morning when the cell doors are unlocked, they told us he had died and that we had to take him out.

”

Account by a person who was deprived of liberty for over a year, then acquitted of the charges against him and released in April 2023, in an interview with Amnesty International. December 2024

Apart from the sheer number of deaths, the qualitative analysis carried out by Salvadoran civil society organizations reveals a systematic pattern sharing common characteristics: unexplained visible injuries, signs of recent violence, delays in the handing over of the bodies, failure to provide information to relatives and absence of autopsies pursuant to the Minnesota Protocol.²⁴⁹ According to this analysis, the deaths repeatedly occur following periods of prolonged solitary confinement, collective punishment, lack of medical care and incidents of violence in overcrowded cells. This pattern, repeated in different prison centres and always under the custody of the state, means that they cannot be treated as isolated incidents.²⁵⁰

The profile of those who have died confirms the discriminatory nature of the state of exception. The information compiled by the media²⁵¹ is consistent with the findings in the 12 cases of deaths in custody documented by Amnesty International, which reveal that the majority of victims came from communities with high levels of poverty, worked in informal or precarious jobs, and faced structural barriers to accessing effective counsel, medical care, or legal remedies during their detention.

This profile matches the pattern observed in the mass detentions described in other sections of this report, where it has been shown that people with limited financial resources were disproportionately targeted. The concentration of deaths within this social group reveals that the most serious and lethal consequences of the state of exception disproportionately affect those who are already socially and economically vulnerable, reinforcing the conclusion that the impact of the system is not neutral, but reflects – and amplifies – already existing structural inequalities. In this regard, the socioeconomic factor acts as a cross-cutting element in the crackdown, introducing an additional dimension of selectivity that exacerbates the systematic nature of the documented repression.

The lack of thorough investigations and the recurring practice of closing cases, as occurred when the Attorney General's Office prematurely closed 142 cases of individuals who had died in custody, are indicative of a violation of the state's obligations. The combination of documented violence, torture, inhuman conditions, a lack of timely medical care and ineffective judicial oversight creates a pattern whereby deaths in custody appear to be a predictable outcome of systematic abuse, rather than isolated incidents.

²⁴⁹ United Nations (2017). The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016). The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. New York and Geneva: UN Office of the United Nations High Commissioner for Human Rights.

²⁵⁰ Cristosal. (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception], pp. 54 et seq.; AZO, AMATE, FESPAD, Idhuca, Salvadoran Network of Women Defenders and SSPAS (2025). Three years of the state of exception: Systematic torture in El Salvador's prisons; Cristosal, Idhuca, DPLF, Network of Women Defenders, SSPAS (July 2024). Muertes en cárceles durante el estado de excepción en El Salvador: presuntas ejecuciones extrajudiciales. Informe de organizaciones de sociedad civil ante el relator especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias de Naciones Unidas [Prison deaths during the state of exception in El Salvador: alleged extrajudicial executions. Report of civil society organizations to the United Nations Special Rapporteur on extra-judicial, summary or arbitrary executions], pp. 8 and 9.

²⁵¹ LPG (November 2025). Memorial del régimen: Fallecidos en las cárceles de El Salvador [Memorial for the state of exception for those who died in El Salvador's prisons]. Accessed at: <https://memoria.laprensagrafica.com/>



We have closed 142 cases involving individuals who were detained during the state of exception and who died in prison.

Our investigations have found that these deaths were not the result of criminal activity. With the help of the Institute of Legal Medicine, we have scientifically verified the causes of death.



Statement by the Attorney General of the Republic. 13 June 2023²⁵²

²⁵² AP News. (13 June 2023). Fiscalía archiva 142 muertes en las cárceles de El Salvador que atribuye a causas naturales [Attorney General's Office closes 142 cases involving deaths in prisons in El Salvador, attributing them to natural causes]. Accessed at: <https://apnews.com/world-news/general-news-d5b114d180b5cb24a6dc6a31e8650c23>.



In light of these factors, deaths in state custody could be classified as potential extrajudicial executions, which are considered a crime under international law. The recurrence of signs of unexplained violence, detention conditions incompatible with human dignity, incommunicado detention and deliberate omission of medical care, together with the absence of independent and impartial investigations, triggers the presumption of responsibility of the authorities, as established by the IACtHR in a number of different judgments. According to these, in cases where state agents – holders of the monopoly on the legitimate use of force – may be involved, the duty to investigate is heightened and must be aimed at establishing the truth and punishing those responsible. Failure to investigate not only perpetuates impunity, but also directly contravenes the international responsibility of the state in the face of potential arbitrary deprivation of life.²⁵³

In this context, it is also particularly relevant to recall that, in accordance with international law, any death that occurs in state custody triggers a heightened presumption of responsibility of the state authorities. The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions said, after her mission to El Salvador in 2018, that the significant increase in deaths in prison centres subjected to extraordinary security measures, together with detention conditions incompatible with human dignity, requires independent, prompt and effective investigation.²⁵⁴ Added to this is the standard developed by the UN Human Rights Committee, pursuant to which when a person dies while in state custody, the state must provide a satisfactory and convincing explanation of the circumstances of the death, given that the person was under its exclusive control.²⁵⁵ Failure to conduct a thorough, independent and impartial investigation is in itself an autonomous violation of the right to life enshrined in Article 6 of the ICCPR.

When deaths occur in an environment characterized by prolonged incommunicado detention, extreme overcrowding, deliberate deprivation of medical care, and repeated reports of institutional violence, as well as a practice of closing cases prematurely, the combination of exclusive state control, a recurring pattern of deaths, and the absence of effective investigations reinforces the presumption that the deprivation of life was arbitrary and therefore criminal in nature. In such circumstances, deaths in custody cease to be an incidental occurrence and become a predictable outcome within a structural framework of systematic abuse.

5.3.4. STATE POLICY OF TOLERANCE, DENIAL AND COVER-UP

The conduct of the authorities reveals that the use of torture and other forms of cruel, inhuman or degrading treatment does not stem from the excesses of a few guards or other prison staff, but from a policy that is tolerated, and even promoted, at the highest levels of the executive. In its 2023 report, Amnesty International warned that public statements made by the General Director of Centros Penales suggested the adoption of a systematic unwritten but operational policy of punishment for all those detained on suspicion of belonging to gangs, without making any distinctions between them.²⁵⁶

²⁵³ See: IACtHR. Case of the Miguel Castro-Castro Prison v. Peru: Merits, Reparations and Costs. Judgment of 25 November 2006. Series C No. 160, paras 234, 237 et seq.; and IACtHR. Case of Favela Nova Brasília v. Brazil Preliminary Objections, Merits, Reparations and Costs. Judgment of 16 February 2017. Series C No. 333, para. 177.

²⁵⁴ Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador, A/HRC/38/44/Add.2, 7 December 2018, paras. 51-59 and 62 (on deaths in detention, prison conditions and heightened duty of the state as guarantor of the right to life). Accessed at <https://docs.un.org/es/A/HRC/38/44/ADD.2>

²⁵⁵ Human Rights Committee. General Comment No. 36, Article 6: Right to life, CCPR/C/GC/36, 30 October 2018, paras. 25-29 (deaths in custody generate a heightened obligation of explanation and investigation by the state); see also Human Rights Committee, Lantsova v. Russian Federation, Communication No. 763/1997, CCPR/C/74/D/763/1997, 26 March 2002, para. 9.2 (presumption of state responsibility when a person dies in custody).

²⁵⁶ Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 34-35.



Such institutional views, put forward from the very beginning of the state of exception, paved the way for the emergence of a model that favours violence as a method of prison control and has been consistently replicated in the country's main prisons, such as Izalco, La Esperanza and others set up during the state of exception.²⁵⁷

At the same time, the official response to allegations of torture, deaths in custody and serious injuries reveals a systematic strategy of denial, dismissal and cover-up.²⁵⁸ Despite hundreds of testimonies and the patterns of conduct documented by Amnesty International, in November 2023 the Attorney General publicly stated that “no complaints had been received regarding torture or inhuman or degrading treatment”.²⁵⁹ Similarly, the then Presidential Commissioner for Human Rights went so far as to categorically affirm on a number of occasions that “torture does not exist in El Salvador”, only to later acknowledge that he had not visited any prisons, examined any case files, nor interviewed released persons.²⁶⁰ These institutional positions confirm a systematic pattern of denial and cover-up by the state that breaches international standards of heightened due diligence in contexts of detention.

Available records show that episodes of institutional violence in prisons have existed for many years.²⁶¹ However, the current situation described above shows a systematic pattern in which different state actors – police, army, prison officers and administrative authorities – act in a coordinated and/or tolerant manner in response to acts of torture and other cruel, inhuman or degrading treatment or punishment. And this affects not only people detained under the state of exception, but also those deprived of their liberty for other reasons, such as the group of Venezuelan nationals detained at CECOT, who have also reportedly suffered instances of torture and other ill-treatment.²⁶² The scale, recurrence, intensity and geographical scope of these abuses therefore indicate that they are not isolated incidents, but rather a standard operating procedure within the prison system.

This transformation is closely linked to the official rhetoric promoted by the President of the Republic and the most senior public security officials, whose black-and-white narrative is based simply on the idea of “good versus evil”.

²⁵⁷ See, among others, El País (29 May 2023). Inmates in [El Salvador tortured and strangled...](#); LPG (27 June 2024). [CECOT is the only prison not at full capacity](#); Associated Press (4 February 2025). [What to know about El Salvador's mega-prison](#); HRW (20 March 2025). [Human Rights Watch declaration on prison conditions in El Salvador for the J.G.G. v. Trump case](#); LPG (17 April 2025). [Abuse against babies and women in prison during state of exception documented](#).

FOCOS TV. (2024, 13 de julio). Gobierno negó ante la CIDH muertes y torturas del régimen pese a evidencias. Obtenido en: <https://focostv.com/gobierno-nego-ante-la-cidh-muertes-y-torturas-del-regimen-pese-a-evidencias/>

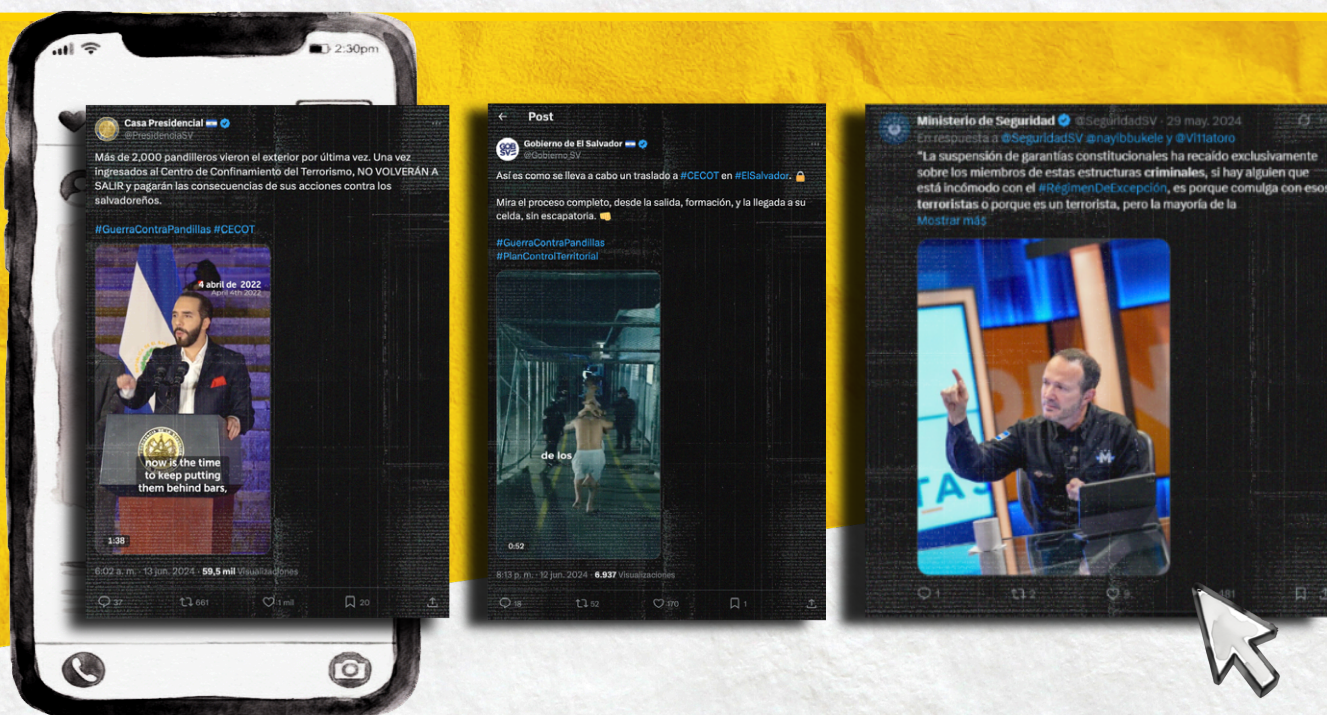
²⁵⁸ FOCOSTV (13 July 2024). Gobierno negó ante la CIDH muertes y torturas del régimen pese a evidencias [Government denied deaths and acts of torture before the IACHR despite evidence]. Accessed at <https://focostv.com/gobierno-nego-ante-la-cidh-muertes-y-torturas-del-regimen-pese-a-evidencias/>

²⁵⁹ EDH (2023, July 15). Estado salvadoreño niega ante la CIDH torturas y abusos durante régimen de excepción [Salvadoran state denies torture and abuse during the state of exception before the IACHR]. Accessed at: [https://www.elsalvador.com/h-noticias/h-nacional/cidh-estado-de-excepcion-oea-el-salvador-regimen/1075803/2023/#:~:text=Funcionarios%20del%20gobierno%20de%20Nayib,vigente%20desde%20marzo%20de%202022;El%20Mundo%20\(14%20julio\).Fiscal%20general%20dice%20no%20tiene%20denuncias%20por%20tortura%20y%20se%C3%B1ala%20reducci%C3%B3n%20de%20muertes%20de%20reos](https://www.elsalvador.com/h-noticias/h-nacional/cidh-estado-de-excepcion-oea-el-salvador-regimen/1075803/2023/#:~:text=Funcionarios%20del%20gobierno%20de%20Nayib,vigente%20desde%20marzo%20de%202022;El%20Mundo%20(14%20julio).Fiscal%20general%20dice%20no%20tiene%20denuncias%20por%20tortura%20y%20se%C3%B1ala%20reducci%C3%B3n%20de%20muertes%20de%20reos) [Attorney General says he has no complaints of torture and points to a “drop” in prisoner deaths]. Accessed at <https://diario.elmundo.sv/nacionales/fiscal-general-dice-no-tiene-denuncias-por-tortura-y-senala-reduccion-de-muertes-de-reos>.

²⁶⁰ IACHR (14 July 2023). Public hearing: Human rights violations and states of emergency in El Salvador. 187 Period of Sessions; El Faro (7 August 2023). Comisionado Guzmán: ‘No he hablado con nadie que haya salido de las cárceles del régimen de excepción’ [Commissioner Guzmán: ‘I have not spoken to anyone released from the prisons of the state of emergency’]. Accessed at: https://elfaro.net/es/202308/ef_tv/26971/comisionado-guzman-no-he-hablado-con-nadie-que-haya-salido-de-las-carceles-del-regimen-de-excepcion.

²⁶¹ PDDH (July 2015). Situational analysis of Human Rights and report on the work of the PDDH, pp. 19-21 <https://www.pddh.gob.sv/portal/wp-content/uploads/2020/02/anexo-iii.pdf>; Platform for Citizen Security. (November 2022). Report on citizen security in El Salvador Measurement of indicators 2021 <https://ormusa.org/wp-content/uploads/2023/06/PSC-Informe-sobre-seguridad-ciudadana-2021.pdf>; IACHR (June 2024). Monitoring report. Recommendations on persons deprived of their liberty (in Spanish), pp. 144-196. https://www.oas.org/es/cidh/informes/pdfs/2024/informe_seguimiento_recomendaciones_ppl_guatemala_honduras_elsalvador.pdf

²⁶² Human Rights Watch and Cristosal (12 November 2025). “You Have Arrived in Hell”. Torture and Other Abuses Against Venezuelans in El Salvador’s Mega-Prison. Accessed at: <https://www.hrw.org/es/report/2025/11/12/llegaron-al-infierno/tortura-y-otros-abusos-contra-venezolanos-en-el-centro-de>



In line with this narrative, those detained under the state of exception are treated not as individuals with rights, but as sworn enemies of the state. Culpability is presumed from the very moment of their arrest. As one of the defence attorneys interviewed pointed out, under the state of exception “there is a regression from a mixed adversarial system to a purely inquisitorial one”,²⁶³ where all guarantees can be dispensed with.

This narrative provides social and institutional legitimacy to the idea that detainees “deserve to be punished”, including by being denied daylight and food and being kept in permanent confinement, and that the restrictions on liberty allowed under international law are not enough, as punishment must involve extreme physical and psychological suffering, and even death.

The result is an environment in which abuse of power is not only tolerated, but normalized, promoted and integrated into the day-to-day functioning of institutions. Torture, ill-treatment and deaths in custody are conceived, implicitly or explicitly, as legitimate tools – or consequences – within security policy. Torture is even broadcast by the authorities and promoted as an effective tool to combat crime and criminality, and therefore subject to replication and export to other countries.²⁶⁴

²⁶³ This expression refers to a shift away from an adversarial model – which requires judicial impartiality, contradiction, publicity and respect for procedural safeguards – to an inquisitorial system, in which investigative and decision-making powers are concentrated in the hands of the authorities, judicial oversight is weakened and safeguards can be dispensed with or become a mere formality.

²⁶⁴ Así viven criminales en la prisión más estricta del mundo [Life as a prisoner in the world's strictest prison] | El Salvador CECOT. (n.d.). YouTube. Video presentation of life in the Centre for the Confinement of Terrorism (CECOT) in El Salvador, with footage released by the president's Press Office and media. Accessed at <https://www.youtube.com/watch?v=69qKUoGhoQo>; Una noche en la cárcel de Bukele [A night in Bukele's Prison] | Especiales Milenio (8 December 2024). A report offering a glimpse inside CECOT in El Salvador, including cells, detention conditions and visual testimonies. Accessed at: <https://www.youtube.com/watch?v=3x-LWV8445E>; and La cárcel con los prisioneros más peligrosos del mundo. Centro contra Terrorismo, El Salvador [The prison with the world's most dangerous prisoners. El Salvador Counter-Terrorism Centre (25 May 2024). YouTube. Video from the BERTH-OH channel, presenting images and commentary on CECOT in El Salvador, showing both inside and outside scenes, with a focus on the security and dangerousness of the prison. Accessed at: <https://www.youtube.com/watch?v=3VZAPVQq2tM>.

In this context, state agents act in the belief that they enjoy immunity, which reinforces structural impunity and exacerbates the systematic nature of these violations. Under the state of exception, the official narrative not only accompanies the practice of torture: it enables and justifies it and makes it an integral part of the system of repression.

In short, the evidence shows that torture, ill-treatment and deaths in custody are not marginal occurrences within the state of exception. These are not isolated incidents or administrative failures, but rather sustained practices, replicated in different prisons, shielded by the inaction of the judicial system and reinforced by official messages that promote, deny or downplay their existence. The recurrence of these patterns, the absence of effective investigations and the explicit or implicit endorsement of senior authorities paint a picture of a system that allows and normalizes the infliction of suffering on detainees, which points to the need for an analysis of whether these serious violations, due to their scale, recurrence and level of institutional coordination, form part of a widespread and systematic attack against the civilian population

5.4. ENFORCED DISAPPEARANCES

The policy of mass detentions applied during the state of exception has led to a wave of enforced disappearances, due to arrests and detainee transfers not being recorded, followed by a failure to inform relatives, defence attorneys or oversight bodies of the fate of those deprived of their liberty or the whereabouts of detainees. This is a crime under international law that was virtually non-existent at the state level in recent decades but has now emerged as a direct consequence of the manner in which the current government operates and the lack of transparency within its institutions.

Prior to March 2022, enforced disappearances attributable to the state were not a significant issue in El Salvador. While there were still some unresolved cases dating back to the armed conflict, most of the more recent complaints concerned disappearances committed by gangs or criminal networks. However, the prolongation of the state of exception drastically altered this situation. According to national organizations, there were 193 enforced disappearances in the first year of the state of exception,²⁶⁵ rising to 540 cases by the end of the third year,²⁶⁶ which represents an increase of 178%. This escalation is directly related to the scale of arbitrary detentions, the lack of a public register of detainees, and the implementation of a system of structural incommunicado detention.

5.4.1. DOCUMENTED MODALITIES AND CIRCUMSTANCES OF ENFORCED DISAPPEARANCES

One of the modalities identified are what some human rights mechanisms have called “shortterm” disappearances, which occur when the enforced disappearance lasts for only a short period of time.²⁶⁷ In these cases, one or more of the following circumstances has been documented: i) the detention is not formally registered; ii) the authorities deny that the deprivation of liberty has taken place or, whilst acknowledging it, refuse to provide information on the place of detention; iii) the person remains in incommunicado detention without any judicial protection.

²⁶⁵ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24, para. 143

²⁶⁶ AZO, AMATE, FESPAD, Idhuca, Salvadoran Network of Women Defenders and SSPAS (2025). Three years of the state of exception: Systematic torture in El Salvador's prisons, p. 39. Accessed at: <https://sspas.org.sv/sspas/wp-content/uploads/2025/03/3er-informe-regimen-de-excepcion.pdf>

²⁶⁷ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24, para. 266; Cristosal, FESPAD, DPLF, Idhuca, ORMUSA and SSPAS (April 2024). Report of civil society organizations from El Salvador to the United Nations Working Group on Enforced or Involuntary Disappearances. Accessed at: <https://cristosal.org/informe-de-organizaciones-de-sociedad-civil-de-el-salvador-al-grupo-de-trabajo-de-naciones-unidas-wgeid-sobre-desapariciones-forzadas-o-involuntarias/>; and Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, p. 29.

However, on some occasions, following numerous search efforts and a period of uncertainty caused by the state's refusal or failure to provide information, families eventually manage to locate the detained person.

In September 2022, within the first six months of the state of exception alone, several United Nations Special Procedures mandate holders identified 12 cases of short-term enforced disappearances.²⁶⁸ Amnesty International believes that this form of enforced disappearance is facilitated, in part, by the absence of an official public register of detainees, in contravention of international standards.

The cases documented by Amnesty International show that enforced disappearances mainly occur in two circumstances. The first is when arrests are made in public spaces, without a court order, with no official record of the detention, and without family members or witnesses present to immediately follow up on the detainee's whereabouts. This forces family members to search police stations, hospitals and mortuaries until they locate the place where the detained person is being held. The concern here is that these initial periods of disappearance place people outside the protection of legal safeguards, significantly increasing the risk of torture and ill-treatment, as the United Nations Working Group on Enforced Disappearances has warned.²⁶⁹

The second modality involves transfers between prisons or places of detention without prior, adequate or timely notification to relatives or legal representatives. Amnesty International has documented numerous cases in which detainees are transferred several times between different facilities and their families only find out about the change when they try to deliver a prison parcel²⁷⁰ and are told that "they are no longer here", without any official information being provided regarding their whereabouts. This lack of communication leads to periods – sometimes weeks or even months – during which families do not know where the detainee is. In some cases, the search ends with the belated notification of the detainee's death in state custody, often showing signs of violence or possible torture.²⁷¹ This sequence, as revealed through testimonies and case files, highlights a critical period of opacity during which individuals are deprived of legal protection and the state fails to fulfil its heightened duty of care towards those in its custody, in accordance with inter-American and universal human rights standards.

A pattern has also been identified that replicates the typical modality of enforced disappearances. Through interviews and documentary analyses, Amnesty International has documented cases in which individuals were detained by police or military agents in public places and in the presence of witnesses, but the authorities refused to acknowledge the detention. In their search efforts, family members tour police stations, hospitals and morgues without receiving any official information and activate all judicial protection mechanisms available, such as habeas corpus. However, despite exhausting every possible remedy, official information on the whereabouts of the detained person remains elusive.

²⁶⁸ United Nations (17 May 2023). Mandates of the Special Rapporteur on the independence of judges and lawyers; of the Working Group on Arbitrary Detention; of the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. UN Doc. AL SLV 2/2023, communication. p. 3. Accessed at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28068>.

²⁶⁹ CHuman Rights Council (19 December 2023). Opinions adopted by the Working Group on Arbitrary Detention at its 95th session, 14-18 November 2022. Opinion No. 67/2022, relating to John Jairo Gasparini Ferbans (Bolivarian Republic of Venezuela). UN Doc. A/HRC/WGAD/2022/67, para. 99.

²⁷⁰ A set of goods provided by the family to guarantee food, hygiene and clothing for persons deprived of their liberty, as the prison system does not supply them

²⁷¹ Amnesty International (April 2023). El Salvador: One year into the state of emergency, authorities systematically committing human rights violations; Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, p. 34.

In some cases, families eventually manage to locate the detained person in state custody through informal and persistent search efforts, rather than as a result of formal protection mechanisms. This late discovery confirms that the initial refusal to acknowledge detention is not due to administrative failures, but to a state policy of concealment that places individuals outside the protection of the law for a certain period of time.

As detailed in previous sections of this report, Amnesty International has also documented particularly serious cases in which, despite a court ordering the release of a detainee, the prison authorities fail to comply with the ruling and continue to hold the person in detention, during which period their whereabouts are unknown. While these detentions are formally acknowledged, unverifiable transfers are reported and no information provided on the detainee's location or condition. Families have reported that, despite submitting formal requests for information, visiting prisons and exhausting all available legal remedies, they have been unable to obtain confirmation of the person's whereabouts or their physical condition.²⁷²

5.4.2. DELIBERATE OBSTRUCTION OF SEARCH MECHANISMS AND CONSEQUENCES

The state's involvement in enforced disappearances is also evident through the deliberate obstruction of verification mechanisms. Authorities withhold information even when there is a formal record of the detention in administrative documents such as police records, using evasive answers such as “not on the list” or “not registered”, and block access to family members, defence attorneys and even the Procurator for the Defence of Human Rights.²⁷³

According to reports from civil society organizations and the testimonies of defence attorneys interviewed by Amnesty International between 2023 and 2025, several habeas corpus petitions filed in an attempt to locate detained individuals were rejected on grounds contrary to constitutional case law,²⁷⁴ confirming a lack of protection in such cases due to the absence of independent oversight.²⁷⁵ Similarly, national organizations have submitted criminal complaints to the Attorney General's Office regarding cases of enforced disappearance, but there is no information on the progress of such complaints.²⁷⁶

²⁷² DPLF, ORMUSA, Idhuca, Cristosal, SSPAS, FESPAD (April 2024) [Report by civil society organizations in El Salvador for the United Nations Working Group on Enforced or Involuntary Disappearances]. Accessed at: https://cristosal.org/ES/wpcontent/uploads/2024/05/informe_al_grupo_de_trabajo_de_onu_sobre_desapariciones_forzadas_e_in_voluntarias_wgeid_sobre_el_salvador.pdf ; El Diario de Hoy (31 December 2024). Legal Aid reports 12,000 short-term enforced disappearances; IACHR (November 2025). IACHR grants precautionary measures in favor of three Salvadoran citizens deported from the United States to El Salvador. Accessed at: https://www.oas.org/en/iachr/jsForm/File=en/iachr/media_center/preleases/2025/234.asp ; HRW (March 2026). US/El Salvador: Deportees Forcibly Disappeared. Accessed at: <https://www.hrw.org/news/2026/03/16/us/elsalvador-deportees-forcibly-disappeared> ; Diario CoLatino (April 2026). Familiares denuncian que órdenes de libertad no se cumplen en casos de detenidos bajo el régimen de excepción [Family members report that release orders are not complied with in cases of detainees under the state of exception]. <https://www.diariocolatino.com/familiares-denuncian-ordenes-libertad-no-se-cumplen-casos-detenidos-bajo-regimen-excepcion/> ; LPG (27 March 2026). Piden investigar a directores de centros penales de El Salvador por no obedecer órdenes de libertad [Calls to investigate prison directors in El Salvador for failure to obey release orders]. Accessed at: <https://www.laprensagrafica.com/elsalvador/piden-investigar-a-directores-de-centros-penales-de-el-salvador-porno-obedecer-ordenes-de-libertad-20260327-0053.html>

²⁷³ LPG (29 November 2029). PDDH no puede verificar la situación en las cárceles [PDDH unable to verify situation in prisons]. Accessed at: <https://www.laprensagrafica.com/elsalvador/PDDH-no-puede-verificar-la-situacion-en-las-carceles-20221128-0085.html> ; IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24, para. 173; Amnesty International (December 2023). Behind the veil of popularity: Repression and regression of human rights in El Salvador. AMR 29/7423/2023, pp. 29 and 36; PDDH (June 2023). Memoria de Labores [PDDH work report] 2022-2023, pp. 74-76. Accessed at: <https://www.pddh.gob.sv/portal/wp-content/uploads/2023/09/memoria-de-labores-22-23.pdf>

²⁷⁴ See DPLF (June 2024). (Lack of) Judicial Protection. The response of the Constitutional Chamber during the state of emergency in El Salvador, p. 22.

²⁷⁵ IACHR (28 June 2024). Report: State of emergency and human rights in El Salvador. OAS/Ser.LV/II Doc. 97/24, para. 187; Cristosal (2024). El silencio no es opción. Investigación sobre las prácticas de tortura, muerte y justicia fallida en el régimen de excepción [Silence is not an option. Investigation into the practices of torture, deaths and absence of justice under the state of exception]; DPLF (June 2024). (Lack of) Judicial Protection. The response of the Constitutional Chamber during the state of emergency in El Salvador, pp. 5 -7 and 22; among others.

²⁷⁶ Interviews with civil society organizations and spokespersons of victims' movements, as well as cases documented by Amnesty International. See also: DW. (5 September 2024). El Salvador: denuncian desaparición forzada de sindicalista [El Salvador: enforced disappearance of trade unionist denounced]. Accessed at: <https://www.dw.com/es/el-salvador-denuncian-desapari%C3%B3n-forzada-de-sindicalista/a-70137766>

The most extreme consequence of this situation is reflected in cases where people reported as disappeared were found days or weeks later in a critical health condition, in hospitals or prisons, with no information having been provided about their condition during the period of their disappearance.²⁷⁷ In other cases, as has already been mentioned, disappeared persons were found dead in state custody. According to the available information, in many of these cases, the authorities have yet to provide details on the exact dates of entry into the detention centres, the locations at which they were held, and whether they received medical attention or were subjected to violence.

These elements lead to the conclusion that enforced disappearances constitute a recurring pattern under the state of exception. Far from being isolated incidents, these disappearances occur in a context of mass arbitrary detention, prolonged incommunicado detention, institutional opacity, and a deliberate absence of judicial oversight. The scale of the cases, the coordination between different state institutions and the impact on thousands of detainees reinforce the need to assess, as will be done in the following chapter, whether these disappearances form part of a widespread and systematic attack against the civilian population.

²⁷⁷ AZO, AMATE, FESPAD, IDHUCA, Red Salvadoreña de Defensoras de Derechos Humanos y SSPAS. (2025). Tres años de régimen de excepción: Tortura sistemática en las cárceles de El Salvador. Obtenido: <https://sspas.org.sv/sspas/wp-content/uploads/2026/02/THREE-YEARS-OF-THE-STATE-OF-EXCEPTION-Systematic-torture-in-El-Salvadors-prisons.pdf>; Cristosal, FESPAD, DPLF, Idhuca, ORMUSA y SSPAS. (2024, abril). Informe de organizaciones de sociedad civil de El Salvador al Grupo de Trabajo de Naciones Unidas sobre Desapariciones Forzadas o Involuntarias.

FROM SERIOUS HUMAN RIGHTS VIOLATIONS TO POTENTIAL CRIMES AGAINST HUMANITY



FROM SERIOUS HUMAN RIGHTS VIOLATIONS TO POTENTIAL CRIMES AGAINST HUMANITY

Crimes against humanity are one of the four broad categories of crimes recognized in international criminal law. The most widely accepted definition is that set out in Article 7 of the Rome Statute of the International Criminal Court, although other instruments, both conventional²⁷⁸ and non conventional,²⁷⁹ already covered them. The threshold depends not only on the severity of the specific acts (murder, torture, enforced disappearance, imprisonment, among others), but also on whether they are part of a widespread or systematic attack against the civilian population, carried out in accordance with a state or organizational policy. It is this organizational dimension and scale that distinguishes them from human rights violations.

The critical difference therefore lies in the constituent elements of the crime and in the nature of the perpetrator. The commentary on Article 2 of the Articles on Prevention and Punishment of Crimes against Humanity adopted by the International Law Commission in 2019 clarifies that the contextual element – meaning an attack on a civilian population pursuant to a policy, and knowledge of such framework – is the defining factor that elevates a serious human rights violation to the level of a crime against humanity. Thus, for the serious violations documented here to be classified as crimes against humanity, the specific conditions required by international criminal law must be met, namely that such acts are committed as part of a widespread or systematic attack against a civilian population, that the attack is in compliance with or in promotion of a state policy or that of an organization, and that the perpetrator is aware of the attack.

This distinction also determines the response mechanisms. Serious violations trigger the involvement of treaty bodies, special procedures and regional human rights systems. Additionally, crimes against humanity enable international criminal prosecution through national or special jurisdictions and, in certain cases, before the International Criminal Court.

Thus, what raises an act to the threshold of Article 7 of the Rome Statute is not only its severity, but its connection to an organized attack: scale, recurrence, systematic nature, existence of a (formal or tolerated) policy, and awareness of this context by the perpetrators.

In the context of the state of exception in El Salvador, the violations documented by Amnesty International – mass arbitrary detentions, violations of due process, torture and other cruel, inhuman or degrading treatment, deaths in custody and enforced disappearances – constitute, in themselves, serious human rights violations. However, their widespread nature, their recurrence, the coordinated involvement of multiple state bodies and the absence of effective controls lead to the reasonable conclusion that the conditions of Article 7 of the Rome Statute are also met.

²⁷⁸ Charter of the International Military Tribunal at Nuremberg, annexed to the London Agreement of 8 August 1945; Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted by the United Nations General Assembly through resolution 2391 (XXIII) of 26 November 1968; and Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and Other International Crimes, adopted on 26 May 2023.

²⁷⁹ Statute of the International Criminal Tribunal for the former Yugoslavia, adopted by the United Nations Security Council through resolution 827 (1993) of 25 May 1993; and Statute of the International Criminal Tribunal for Rwanda, adopted by the United Nations Security Council through resolution 955 (1994) of 8 November 1994.

On this basis, this section examines from a legal perspective the extent to which the patterns described fall within the scope of crimes against humanity, in light of Article 7(1) and jurisprudence on international criminal law.

6.1. ESSENTIAL ELEMENTS OF CRIMES AGAINST HUMANITY

As mentioned previously, crimes against humanity require more than the commission of any of the acts prohibited under Article 7(1) of the Rome Statute (murder, torture, imprisonment, enforced disappearance and others). They require that such acts be committed as part of a widespread or systematic attack against a civilian population and carried out in accordance with a state or organizational policy. In other words, they are not isolated acts or specific episodes, but crimes that take on an international dimension due to their collective nature and scale.

6.1.1. OBJECTIVE ELEMENT (ACTUS REUS)

Actus reus comprises two inseparable elements:

- the actual prohibited act, and
- the context that transforms such act into a crime against humanity.

The individual act is any of the acts defined in Article 7(1). These are analysed in more detail in the following section; here it suffices to note that any of these acts may constitute a crime against humanity if they are carried out in the context described.

The contextual dimension is what elevates the criminal threshold. According to the Rome Statute and the Elements of Crimes, four conditions must be proven: a) an attack against a civilian population, b) that is widespread or systematic, c) that responds to a state or organizational policy, and d) that the individual act is committed as part of the attack.

a) Attack against a civilian population

The International Criminal Court has defined an attack as a “course of conduct” involving the multiple commission of acts – which may or may not be violent – that entail serious violations of rights. This excludes isolated or random acts and requires a series of interrelated events. Case law has recognized that even a single operation can constitute a crime against humanity if multiple crimes are committed and the relevant contextual elements are met.²⁸⁰

The attack does not require the acts to be homogeneous, but rather that they are part of the same pattern. The concept of civilian population is interpreted broadly and functionally. What is relevant is that the attack is directed principally against civilians, even if there are individuals within the group who are not civilians. Some disagree, stating that

²⁸⁰ International Criminal Court (26 June 2024). The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18, Public redacted version of Trial Judgment, para. 1105; International Criminal Court (15 June 2009). The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08-424, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor against Jean-Pierre Bemba Gombo, para. 150.

the attack may be targeted against any person, not just civilians.²⁸¹ Given that crimes against humanity can be committed in times of peace or armed conflict, jurisprudence has reiterated that this concept protects not only enemy populations, but also a state's own population when it is the target of such crime.²⁸²

b) Widespread or systematic

The “widespread” and “systematic” requirements are alternatives.²⁸³ The ICC has pointed out that both requirements are alternative and not conjunctive, one of them being sufficient to prove the existence of a crime against humanity.²⁸⁴

As for the term “widespread”, the ICC has held that this term “connotes the large-scale nature of the attack and the number of targeted persons.”²⁸⁵ Although it is usually associated with a predominantly quantitative criterion, the ICC has reiterated that its assessment is neither exclusively quantitative nor geographical, but must be based on all the relevant circumstances of the case.²⁸⁶ The final decision, therefore, requires a joint assessment of the scope of the attack, the number of victims, the extent of the affected territory and the overall impact of the documented acts.

In short, a “widespread” attack implies acts of considerable gravity targeted against a large number of victims. However, it can also be the effect of a single inhuman act of particular gravity, or the product of an attack over a wide geographical area, or of limited geographical scope but targeted at a large number of civilians.²⁸⁷

With regard to the “systematic” nature of the attack, the ICC has developed a qualitative criterion focusing on the organization, regularity and pattern of behaviours. It does not refer to the scale of the attack, but to its structure. International jurisprudence has described systematicity as the existence of a regular pattern of conduct, reflected in the organized nature of violent acts and the improbability of such acts occurring randomly. For the ICC, it “reflects the organized nature of the violent acts, referring often to the existence of ‘patterns of crime’ and the improbability of their random or accidental occurrence”²⁸⁸

This approach is supported by the practice of ad hoc courts,²⁸⁹ which have linked systematic conduct to the presence of a plan, the continued commission of related crimes, the use of significant resources, coordination between actors and, in some cases, the involvement of authorities or organized structures in conducting the attack.

²⁸¹ International Criminal Court (4 February 2021). The Prosecutor v. Dominic Ongwen, ICC-02/04-01/15, Trial Judgment, para. 2675. International Criminal Tribunal for the former Yugoslavia (3 March 2000). The Prosecutor v. Tihomir Blaškić, IT-95-14-T, Trial Judgment, para. 214.

²⁸² International Criminal Court (15 June 2009). The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08-424, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, paras. 153 et seq.; International Criminal Court (6 October 2025). The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’), ICC-02/05-01/20, Trial Judgment, para. 694; International Criminal Court (4 February 2021). The Prosecutor v. Dominic Ongwen, ICC-02/04-01/15-1762-Red, Trial Judgment, para. 2675.

²⁸³ International Criminal Court (26 June 2024). The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18, Public redacted version of Trial Judgment, para. 1112.

²⁸⁴ International Criminal Court (15 June 2009). The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08-424, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor, para. 162.

²⁸⁵ International Criminal Court (26 June 2024). The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18, Public redacted version of Trial Judgment, para. 1113.

²⁸⁶ International Criminal Court (26 June 2024). The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18, Public redacted version of Trial Judgment, para. 1113.

²⁸⁷ International Criminal Court (31 March 2010). Situation in the Republic of Kenya, ICC-01/09, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation. Pre-Trial Chamber II, para. 131.

²⁸⁸ International Criminal Court (6 October 2025). The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’), ICC-02/05-01/20, Trial Judgment, para. 701.

²⁸⁹ International Criminal Court (31 March 2010). Situation in the Republic of Kenya, ICC-01/09, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation. Pre-Trial Chamber II, para. 96.



ICC jurisprudence states that to examine whether an attack was systematic, it is necessary to assess whether a series of repeated acts were intended to have the same effect on a civilian population and, therefore, to consider whether “(i) identical or similar criminal practices can be identified; (ii) the same *modus operandi* was used; or (iii) victims were treated in a similar manner across a wide geographical area.”²⁹⁰

Accordingly, the assessment must consider whether the events show characteristics such as regularity, recurrence, patterns of conduct or organizational elements that imply an organized plan rather than isolated incidents. In short, a systematic attack points to the presence of a recognizable structure or method, giving the attack internal coherence and distinguishing it from occasional, unplanned or unrelated actions.

c) State or organizational policy

The attack must respond to a state or organizational policy. A written document or single plan is not necessary, but rather evidence of coordination, acquiescence, or institutional tolerance. The policy can be inferred from factors such as the scale of the attack, the use of public resources, involvement of the authorities or the recurrence of criminal patterns. In exceptional cases, it can manifest through deliberate omissions that facilitate the attack.

ICC jurisprudence has clarified that this requirement presupposes the existence of a “state” or an “organization” capable of promoting or facilitating an attack.²⁹¹ An “organization” is “an organized body of persons with a particular purpose”,²⁹² and it is sufficient that it has structures or mechanisms “sufficiently efficient to ensure the coordination necessary to carry out an attack directed against a civilian population,”²⁹³ without requiring a formal state or quasi-state structure.

With regard to the concept of “policy”, the Elements of Crimes provides that it requires the active promotion or encouragement of an attack against a civilian population. The ICC has added that, in exceptional circumstances, a policy can be manifested by a deliberate failure to act, provided it is consciously aimed at facilitating the attack.²⁹⁴ The policy need not be formalized and may be inferred from various factors, such as (i) recurrent patterns of violence, (ii) collective preparations or organization, (iii) the use of public or private resources, (iv) the involvement of state or organizational forces, (v) instructions or documentation condoning the crimes, or (vi) an underlying motivation.²⁹⁵

d) Link between an individual act and an attack

Finally, the fourth condition that must be demonstrated is that the individual conduct (prohibited act) was part of the attack.²⁹⁶ This implies that there must be a link between the attack and the policy, thereby excluding acts perpetrated by isolated individuals acting randomly on their own.²⁹⁷ This link is met both when the perpetrator acts deliberately to promote the policy and when their conduct falls within the scope of the behaviours foreseen by it, provided they are aware of its existence..

²⁹⁰ International Criminal Court (6 October 2025). The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’), ICC-02/05-01/20, Trial Judgment, para. 701.

²⁹¹ International Criminal Court. (2017, October 25). Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi” (ICC-01/17-9-Red). Párr. 142.

²⁹² International Criminal Court. (2017, October 25). Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi” (ICC-01/17-9-Red). Párr. 143.

²⁹³ International Criminal Court. (2017, October 25). Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi” (ICC-01/17-9-Red). Párr. 143.

²⁹⁴ International Criminal Court. (2017, October 25). Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi” (ICC-01/17-9-Red). Párr. 147.

²⁹⁵ International Criminal Court. (2017, October 25). Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi” (ICC-01/17-9-Red). Párr. 146.

²⁹⁶ International Criminal Court. (2017, October 25). Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi” (ICC-01/17-9-Red). Párr. 145.

²⁹⁷ International Criminal Court. (2017, October 25). Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi” (ICC-01/17-9-Red). Párr. 145.



The jurisprudence has clarified that it is not enough for the act to occur during the period of the attack: it must be established that the conduct contributed to, facilitated or formed part of the course of behaviour that defines it. This link may be inferred from objective factors (such as recurrent patterns, a similar *modus operandi*, geographical overlap, involvement of actors linked to the responsible policy or organization, or the inability to explain the incident as an isolated act) and does not require the perpetrator to be aware of all the details of the attack or of the structure driving it. The essential point is that the conduct is not a random or unrelated episode, but is functionally related to the attack directed against a civilian population.

6.1.2. SUBJECTIVE ELEMENT (MENS REA)

From a subjective perspective, crimes against humanity require the perpetrator to act with the knowledge that their conduct forms part of the attack. Specifically, the ICC has interpreted this mental element to mean that the perpetrator had “known that the conduct was part of, or intended it to be part of, a widespread or systematic attack directed against a civilian population”.²⁹⁸ However, as previously mentioned, it does not require that the perpetrator be aware of all the details of the plan, the full extent of the attack, or the identity of all the victims.²⁹⁹ It is sufficient that they know, or that the circumstances allow them to reasonably infer, that they are acting within a systematic or widespread practice directed against a civilian population.

Based on this reasoning, such knowledge can be inferred from various circumstances: the perpetrator’s position within the state or organizational apparatus, the recurring or obvious nature of the acts, the visibility of repressive practices, or the perpetrator’s access to institutional information. This standard avoids disproportionate burdens of proof and reflects the collective nature of these crimes.

In addition to knowledge of the attack, the perpetrator’s conduct must fall under the provisions on criminal responsibility established in Article 30 of the Rome Statute, meaning that they must act with intent and knowledge regarding the underlying conduct. This requirement applies uniformly, except for crimes that require a specific purpose, such as persecution. Its inclusion ensures consistency between the contextual and material elements of the crime.

It has been established that the perpetrator must be aware of the factual circumstances constituting the crime (the victim’s status or the nature of the conduct), but it is not required that they make a value judgment as to the severity of their acts or have a specific or discriminatory motive, unless required by the nature of the crime.³⁰⁰

In summary, crimes against humanity are constituted when an act prohibited under Article 7(1) of the Rome Statute is committed as part of a widespread or systematic attack against a civilian population, executed in accordance with a state or organizational policy and with the perpetrators’ knowledge that their acts are contributing to that attack.

²⁹⁸ International Criminal Court. (2025, October 6). *Prosecutor v Ali Muhammad Ali Abd-Al-Rahman* (‘Ali Kushayb’), ICC-02/05-01/20, Trial Judgment. Párr. 704; International Criminal Court. (2024, June 26). *Prosecutor v Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, ICC-01/12-01/18, Public redacted version of Trial Judgment. Párr. 1103.

²⁹⁹ International Criminal Court. (2025, October 6). *Prosecutor v Ali Muhammad Ali Abd-Al-Rahman* (‘Ali Kushayb’), ICC-02/05-01/20, Trial Judgment. Párr. 704.

³⁰⁰ International Criminal Court. (2024, June 26). *Prosecutor v. Al Hassan*, ICC-01/12-01/18.

CONCLUSIONS



7

CONCLUSIONS

The evidence gathered by Amnesty International over the last four years and presented in this report shows that, since March 2022, the Salvadoran state has implemented a set of repressive measures that go far beyond the scope of a state of exception compatible with the rule of law under international law. The evidence documented here reveals the existence of a targeted, widespread and systematic attack against the civilian population, carried out through a restructured state apparatus, devoid of checks and balances and coordinated by the most senior state authorities, thus meeting the contextual elements required by Article 7 of the Rome Statute.

During this period, the authorities have continued the practice of arbitrary detentions without a warrant based on vague suspicions, such as having tattoos, territorial profiling and institutional guidelines that prioritize numbers over legality. These methods have gone together with the application of periods of administrative detention of up to 15 days with no judicial oversight, and the consolidation of a system of mass hearings, many of which are virtual, without adequate legal representation or individualization of responsibility, and with judges whose identity is concealed. Such measures effectively nullify the presumption of innocence, the right to defence and minimum guarantees of due process, in contravention of articles 7, 8 and 25 of the American Convention on Human Rights (ACHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

Amnesty International has documented the systematic use of torture and other cruel, inhuman or degrading treatment or punishment in prisons, including beatings, forced positions, deprivation of food and water, physical and psychological violence, and deliberately inhumane conditions of detention. These practices, which are prohibited by international law, have been facilitated by holding detainees in prolonged incommunicado detention, the withholding of information, a lack of independent supervision and the active participation or tolerance of state agents, in violation of the Convention against Torture and of inter-American standards that have been repeatedly upheld by the Inter-American Court of Human Rights.

Amnesty International has also recorded numerous deaths in state custody in circumstances that reveal patterns of gross negligence, excessive use of force, torture, lack of timely medical attention and the withholding of information. Failure to conduct immediate, thorough and impartial investigations into these deaths constitutes a direct violation of the state's duty to guarantee the life and integrity of persons in its custody (articles 6 of the ICCPR and 4 of the ACHR) and reinforces the existence of a structural policy of impunity.

Additionally, enforced disappearances were identified, characterized by the absence of information on the whereabouts of detainees, denial of official records, prolonged incommunicado detention, and lack of access to effective judicial protection. These characteristics are consistent with the elements of enforced disappearance as defined by United Nations standards and the jurisprudence of the Inter-American Court of Human Rights.

The patterns described have disproportionately affected individuals from historically impoverished and stigmatized communities, highlighting the selective and discriminatory nature of this repressive system. The use of criteria such as residence in certain areas, physical appearance or membership of impoverished social groups is not incidental, but rather constitutes one of the operational pillars of the security policy, reinforcing the systematic nature of the crackdown.

A joint analysis of these factors leads to the reasonable conclusion that the documented violations are neither isolated incidents nor abuses committed by individual agents. On the contrary, they stem from a deliberate state policy, enabled by the concentration of power in the executive branch, the lack of independence of the judiciary and the legislature, the militarization of public security, the instrumentalization of the Attorney General's Office and the lack of independent supervision of detention centres. Coordination between state institutions in the adoption, implementation and legitimization of these measures confirms the existence of an organized power structure that sustains and perpetuates such practices.

Under international criminal law, the facts documented could constitute several crimes against humanity, including imprisonment or other severe deprivation of physical liberty, Art. 7(1)(e), torture, Art. 7(1)(f), enforced disappearances, Art. 7(1)(i), and other intentional inhumane acts, Art. 7(1)(k), such as the deliberate imposition of conditions of detention incompatible with human dignity, prolonged incommunicado detention and denial of adequate medical care, committed as part of a widespread and systematic attack against the civilian population, with knowledge of such attack. The scale of the detentions, the number of deaths in custody, the repeated use of torture and the prolonged suspension of judicial guarantees, combined with the pattern of social and economic discrimination, fulfil the objective and subjective elements set out in the Rome Statute to allow these crimes to be recognized.

Consequently, the findings contained in this report point to an unprecedented human rights crisis in El Salvador, characterized by the institutionalization of authoritarian and repressive practices that erode the rule of law and violate non-derogable obligations of international law.

RECOMMENDATIONS



RECOMMENDATIONS

8.1. RECOMMENDATIONS TO THE AUTHORITIES OF EL SALVADOR

Amnesty International urges the Salvadoran authorities to adopt urgent, verifiable measures in accordance with international standards to stop the widespread and systematic attack documented during the period of the state of exception, restore the guarantees of due process and the rule of law, and ensure truth, justice and reparation for victims. In particular, the state must:

a) Immediately end practices that result in serious human rights violations

1. Repeal the prolonged suspension of judicial guarantees and restore without delay all rights and remedies indispensable for protection against arbitrary detention, including:
 - a. the right to be brought promptly before a judge (Art. 9(3) ICCPR, Art. 7(5) ACHR).
 - b. effective habeas corpus (pursuant to advisory opinions OC-8/87 and OC-9/87 of the Inter-American Court of Human Rights).
2. Cease arbitrary detentions and ensure that any deprivation of liberty strictly complies with the principles of legality, necessity, proportionality and non-discrimination.
3. End the systematic use of torture and other cruel, inhuman or degrading treatment or punishment, and ensure immediate access to medical care, water, hygiene, adequate food and decent conditions in all prisons, in accordance with the Mandela Rules.

b) Restore due process guarantees and ensure judicial proceedings are compatible with international standards

4. Repeal legal reforms that:
 - a. impose automatic and indefinite provisional detention,
 - b. allow mass hearings without individualization,
 - c. authorize the use of reserved identity judges in contravention of the principle of publicity,
 - d. reduce guarantees for children and adolescents.
5. Ensure that all detainees have immediate, confidential and effective access to adequate legal counsel, regardless of their socio-economic status.
6. Immediately eliminate the practice of restricting or denying public and private defence attorneys' access to essential case documents, including the prosecution's indictment, court rulings, initial evidence and any other necessary documentation, ensuring that complete, timely and legible copies are provided, as required by the right to properly prepare the defence.



7. Ensure that public and private defence attorneys can meet with their defendants immediately, in private and on a regular basis, under conditions that allow for an effective legal representation. The state must eliminate practices that prevent or hinder such meetings, including arbitrary restrictions in prisons, lack of suitable spaces, administrative barriers or the exclusive use of virtual interviews without confidentiality.
8. Ensure court rulings are based on individualized evidence and prohibit the use of generic accusations that shift the burden of proof or presume guilt.

c) Strengthen transparency, oversight and accountability

9. Create a public, up-to-date and verifiable register of all persons detained since March 2022, indicating their location, procedural status and health situation, guaranteeing the right of their families to access this information.
10. Establish independent oversight mechanisms in detention facilities, with unrestricted access for international agencies, civil society organizations and special rapporteurs.
11. Ensure immediate and effective enforcement of court orders, including those ordering the release of arbitrarily detained persons.
12. Ensure full, unrestricted and independent access for international and regional human rights mechanisms, including the special procedures of the United Nations and the Inter-American Commission on Human Rights, to monitor, gather information and make recommendations on the situation of persons deprived of their liberty and the criminal justice system in the context of the state of exception.
13. Accept international technical assistance to strengthen due process, judicial oversight of detention and conditions of detention in accordance with international standards.

d) Ensure impartial, thorough and independent investigations

12. Investigate all deaths in state custody, reports of torture, short-term enforced disappearances and cases of arbitrary detention, following:
 - a. the Minnesota Protocol,
 - b. the Istanbul Protocol,³⁰¹
 - c. the jurisprudence of the Inter-American Court of Human Rights on state violence and duty of due diligence.
13. Bring to justice all those suspected of responsibility, including police, military, prison officers, prosecutors, judges and other officials involved, regardless of their rank.
14. Guarantee protection and non-retaliation measures for victims, family members, journalists and human rights defenders who report abuses to national and international bodies.

³⁰¹ United Nations (2022). Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Revised Edition). New York and Geneva: United Nations.

e) Ensure the rights of victims

15. Implement reforms to ensure real independence of the judiciary and the Attorney General's Office, in accordance with the Bangalore Principles of Judicial Conduct,³⁰² the UN Basic Principles on the Independence of the Judiciary, and applicable interAmerican standards. These reforms must reverse previous political interventions and ensure that judges and prosecutors can exercise their duties without external pressure, reprisals or undue interference.
16. Ensure that procedures for the appointment, tenure, transfer and removal of judges, magistrates and prosecutors are based on objective, transparent and publicly available criteria that are consistent with international human rights law, avoiding discretionary or politically motivated appointments that compromise institutional impartiality.
17. Strengthen the Procuraduría General de la República (PGR) – the state institution responsible for providing legal aid and public defense services –, and the public defence system by providing sufficient human, budgetary and technical resources, as well as working conditions and specialized training, to allow the high demand for legal representation generated by the state of exception to be met in a personalized, diligent and effective manner.
18. Ensure that the Office of the Procurator for the Defence of Human Rights (PDDH) fulfils its constitutional mandate and the Paris Principles fully, independently and effectively. In particular, it must exercise its powers to prevent, monitor, report and remedy human rights violations without interference. It must also immediately resume systematic monitoring of all detention facilities, verify the situation of every individual deprived of their liberty, receive and investigate complaints, document abuses, issue public recommendations and adopt protection measures for victims, family members, journalists and detained defenders. The state must guarantee its functional autonomy, unrestricted access to information and places of detention, and the resources necessary for it to operate effectively and independently.

f) Ensure the rights of victims

19. Implement comprehensive reparation measures, including rehabilitation, restitution, compensation and guarantees of non-repetition.
20. Establish timely mechanisms for the return of bodies in cases of death in custody, accompanied by psychosocial support and economic assistance for families.
21. Ensure full access to information on investigations, judicial proceedings and the whereabouts of disappeared persons.

8.2. RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

Given that the state of El Salvador has shown no willingness to cease violations or ensure justice, Amnesty International calls on the international community – including states, multilateral bodies and regional and universal protection mechanisms – to use the tools available to prevent further violations and address existing impunity. Specifically:

³⁰² United Nations, Bangalore Principles of Judicial Conduct, adopted by the Judicial Group on Strengthening Judicial Integrity (2002) and recognized by the Economic and Social Council through Resolution 2006/23, 27 July 2006. Accessed at: https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf



a) Activate international accountability mechanisms

1. Consider initiating the necessary mechanisms to assess the possible commission of crimes against humanity. This includes:
 - a. a preliminary analysis by the Office of the Prosecutor of the International Criminal Court (ICC), in accordance with the Rome Statute,
 - b. referrals from States parties,
 - c. communications submitted pursuant to Article 15 of the Statute.
2. Advocate for the exercise of universal criminal jurisdiction over those suspected of responsibility for crimes under international law. This includes, where appropriate, the principle *aut dedere aut judicare*.³⁰³
3. Call for the creation or strengthening of independent regional or UN-based international investigative bodies to help document violations, preserve evidence and support future legal proceedings.

b) Strengthen diplomatic pressure and technical support

4. Maintain continued international scrutiny in multilateral forums, promoting resolutions condemning violations and calling for structural reforms.
5. Condition cooperation and technical assistance on issues of security and justice on compliance with human rights standards and judicial guarantees.
6. Support Salvadoran human rights organizations, journalists, defenders and families of victims through protection programmes, psychosocial support, legal assistance and sustainable financing.

8.3. RECOMMENDATIONS TO REGIONAL AND UNIVERSAL HUMAN RIGHTS PROTECTION MECHANISMS

In view of the serious and systematic nature of the violations documented, Amnesty International recommends that they:

1. Strengthen independent monitoring and documentation of the situation in El Salvador, including through country visits, publication of periodic reports and increased coordination with special procedures.
2. Assess the feasibility of establishing an independent international commission of inquiry, with a mandate to:
 - a. document arbitrary arrests, torture and deaths in custody,
 - b. identify persons suspected of criminal responsibility,
 - c. preserve evidence for future national or international proceedings.
3. Provide structural technical assistance to the Salvadoran state in matters of institutional strengthening, judicial independence, fight against impunity and respect for human rights.
4. Continue to raise awareness of the situation in El Salvador within the international community, driving joint action to prevent further violations and support the legitimate demands of victims.

³⁰³ This refers to the legal obligation of a state under international law to prosecute those suspected of a serious international crime (such as a crime against humanity) within its own judicial system where no other state has requested extradition, in order to avoid impunity. It is closely linked to universal jurisdiction and treaties against transnational crimes.

ANNEXES



Annex 1

Summary table: Major legal reforms that dismantled institutional oversight and checks and balances on power in El Salvador
Period 2021-2025

Date	Legislation	What changed?	Effects on oversight mechanisms and checks and balances
01/05/2021	Legislative Decree No 2 Legislative Decree No 4	Dismissal of 5 magistrates from the Constitutional Chamber and the Attorney General, with replacements appointed in the same session.	Immediate capture of constitutional control and the Public Ministry.
31/08/2021	Legislative Decree No 144	Reform of the Judicial Career Law establishing forced retirement of judges at age 60 or 30 years of service. Powers to transfer/dismiss judges and magistrates were also modified.	Extensive purging and weakening of judicial independence.
03/07/2021	Resolution of the Constitutional Chamber	Constitutional Chamber enabled immediate consecutive presidential re-election.	Removes limits on the power of the executive through case law.
03/27/2022 (and extensions)	Legislative Decree No 333	Suspension of freedoms (association, defence, communications) and successive extensions.	Increased punitive powers with weakened oversight for years.
Mar–Apr 2022	Legislative Decree No 339 Legislative Decree No 341 Legislative Decree No 342 Legislative Decree No 343 Legislative Decree No 344 Legislative Decree No 349 Legislative Decree No 350	Package of reforms of criminal law and criminal procedure including, among others, harsher penalties, restrictions on right to legal representation, and extension of pre-trial detention.	Erodes due process guarantees and facilitates mass detention.

14/10/2022	Legislative Decree No 541	Online voting from abroad introduced and allocation rules for general elections enabled.	Electoral engineering with scarce independent auditing.
07/06/2023	Legislative Decree No 755	Legislative Assembly reduced from 84 to 60 seats; remainders system in elections eliminated.	Overrepresentation of the ruling party and erosion of legislative pluralism.
14/06/2023	Legislative Decree No 762	Reduced number of municipalities from 262 to 44.	Territorial reconfiguration that concentrates power and reduces local checks and balances.
26/07/2023	Legislative Decree No 803	Allows grouping of defendants by 'structure', authorizes single hearings and provides up to 24 months to indict.	Normalizes mass trials and extends pretrial detention.
03/11/2023	Resolution of the Supreme Electoral Tribunal (TSE)	TSE resolutions on Bukele registration, which maintains his candidacy despite a constitutional prohibition.	Electoral validation of immediate re-election.
20/05/2025	Legislative Decree No 308	Mandatory registration of NGOs and 30% tax on external funds; NGO/media restrictions.	Closure of civic space and greater control of the executive over civil society.
15/08/2025	Legislative Decree No 383	Enables single open hearing, extension of deadlines for investigation of cases by the Office of the Attorney General, consolidates mass proceedings.	Processes without effective oversight and extension of pretrial detention.
31/07/2025	Legislative Decree No 371	Enables indefinite presidential re-election and modifies electoral rules.	Removes time limit on presidential power; eliminates practice of presidential alternation.

Annex 2

Summary table: Appointment of second-degree officials
Period 2021- 2025

Date	Legislation	Act	Postholders appointed	Impact on oversight mechanisms	State body affected
01/05/2021	Legislative Decree No 2	Dismissal of 5 magistrates from the Constitutional Chamber and appointment of replacements in the same session.	---	Removes key judicial oversight; Chamber now aligned with ruling party.	Supreme Court of Justice Constitutional Chamber (Judicial body)
01/05/2021	Legislative Decree No 4	Removal of the Attorney General and appointment of substitute in same session.	---	Office of the Attorney General aligned with legislative majority.	Office of the Attorney General (Public Ministry)
21/09/2021	Legislative Decree No 158	Appointment of 7 proprietary councillors and reserves (2021–2026).	Pleno del CNJ (7 propietarios y 7 suplentes)	Key body for proposing lists of magistrates; expected alignment with ruling party.	National Council of the Judiciary (Judicial body)
22/12/2021	Legislative Decree No 254	Appointment of Attorney General (2022–2025).	Rodolfo Delgado	Office of Attorney General aligned with legislative majority.	Office of the Attorney General (Public Ministry)
04/26/2022	Legislative Decree No 362	Appointment/re-appt. of Governmental Ethics Tribunal (TEG) Chair (2022–2027).	José Néstor Castaneda Soto (presidente)	Oversight of body in charge of ethics sanctions closely aligned with ruling party.	Governmental Ethics Tribunal (Supervisory and audit body)

14/10/2022	Legislative Decree No 529	Appointment of Procurator for the Defence of Human Rights.	Raquel Caballero de Guevara	Key human rights body now led by a Chair whose independence is in question.	Office of the Procurator for the Defence of Human Rights (Ombudsperson)
04/26/2022	Legislative Decree No 363	Appointment of Public Prosecutor.	René Gustavo Escobar Álvarez	Further alignment of advisory and public defence bodies.	Public Prosecutor's Office (Public Ministry)
23/08/2023	Legislative Decree No 829	Court of Accounts, Appointment of the President and Judges (2023–2026).	Roxana Soriano (president), Julio Bendek, José R. Flores	Control body led by former candidate of the ruling NI party.	Court of Accounts of the Republic (Supervisory and auditing body)
09/23/2024	Legislative Decree No 99	Appointment of president and magistrates of the Supreme Court (CSJ).	Henry Alexander Mejia (president); several magistrates	Consolidation of control over leadership of the Judiciary.	Supreme Court of Justice (Judicial branch)
26/09/2024	Legislative Decree No 104	Appointment of magistrates (2024–2029) and President of the Supreme Electoral Tribunal (TSE).	Roxana Soriano (presidenta)	Electoral oversight led by person previously linked to the ruling party.	Supreme Electoral Tribunal (Highest electoral authority)
23/12/2024	Legislative Decree No 188	Re-appointment of Attorney General (2025– 2028).	Rodolfo Delgado	Continued control of the Public Ministry.	Office of the Attorney General (Public Ministry)
04/30/2025	Legislative Decree No 290	Re-appointment of Public Prosecutor (2025–2028).	René Gustavo Escobar Álvarez	Further alignment of advisory and public defence body.	Public Prosecutor's Office (Public Ministry)
15/10/2025	Legislative Decree No 431	Re-appointment of the Procurator for the Defence of Human Rights (2025-2028).	Raquel Caballero de Guevara	Key human rights body led by a Chair whose independence is in question.	Office of the Procurator for the Defence of Human Rights (Ombudsperson)

Annex 3

Summary table: Use of military fences under the state of exception
Period 2022- 2025

Fecha	Instrumentos	Acto	Titulares designados	Impacto en mecanismos de control	Poder del Estado afectado	
02/10/2022	Comasagua (La Libertad Sur)	Homicide of a farm worker attributed to gangs; mass operations.	2.000	First territorial fence under the state of exception.	President of the Republic post on X	• Revista Gato Encerrado • La Prensa Gráfica • El País
03/12/2022	Soyapango (San Salvador)	Control operation in a district with historical gang presence.	8,500 soldiers 1,500 police	Large-scale urban fence.	Press release	La Prensa Gráfica
24/12/2022	Tutunichapa (San Salvador)	Operation focused in area associated with drug dealing.	1,000 soldiers 100 police	Colony fence.	President of the Republic post on X	Diario El Mundo
24/12/2022	La Granjita (San Salvador)	Extension of fence to adjacent sectors.	1,000 soldiers 100 police	Colony fence.	Press release. Ministry of Defence	Diario El Mundo
17/05/2023	Nueva Concepción (Chalatenango)	Fence following the murder of a police officer.	5,000 soldiers 500 police	Municipal fence.	President of the Republic post on X	• El País • SWI

01/08/2023	Departamento de Cabañas	Mass deployment after ambush of police officers in Ilobasco.	7,000 soldiers 1,000 police	Department fence.	President of the Republic post on X	- La Prensa Gráfica - Infobae - El País
11/10/2023	Colonias Popotlán y Valle Verde (Apopa)	Reports of alleged gang regrouping.	3,500 soldiers 500 police	Colony fence.	President of the Republic post on X Press release. Ministry of Justice and Security	- AP - France24
24/03/2024	San José Cancasque, San Antonio Los Ranchos, Potonico y San Isidro Labrador (Chalatenango)	Fence following two reported homicides.	5,000 soldiers 1,000 police	Intermunicipal fence.	President of the Republic post on X	La Prensa Gráfica
25/05/2024	Apopa	New fence due to citizen reports of gang presence.	2,000 soldiers 1,000 police	Municipal fence.	President of the Republic post on X	
28/10/2024	Colonia 10 de Octubre (San Marcos, San Salvador)	Operation following alleged detection of a group of gang members.	2,000 soldiers 500 police	Colony fence.	President of the Republic post on X Press release. Ministry of Justice and Security	- Diario El Mundo - Revista Gato Encerrado - YSUCA - DW

21/06/2025

San Bartolo
(Ilopango)

Deployment due to alleged
signs of gang
reorganization.

1,500 soldiers
500 police

Authorities reported
approx. 2,000
personnel (police +
army).

President of the
Republic post on X

Minister of Justice and
Security post on X

- La Prensa Gráfica
- Diario El Mundo
- DW

Annex 4

Infographic: Erosion of the Rule of Law Enabling Framework for Crimes Against Humanity under the State of Exception

TIMELINE OF THE DISMANTLING OF CHECKS AND BALANCES (2021-2025)

Visualizing the systematic erosion of the rule of law in El Salvador
through legal reforms and the capture of key institutions

2021-2022 | INSTITUTIONAL CAPTURE AND SUSPENSION OF RIGHTS

2021

Capture of the Arbiters

Dismissal of the Constitutional Chamber and Attorney General, and mass purge of judges.

DECREE 2



2022

Suspension of Guarantees

Implementation of the State of Exception and reforms limiting technical defense.

EROSION OF DUE PROCESS

Decrees 339 through 350 facilitated mass detentions and expanded pretrial detention.



2023-2025 | INSTITUTIONAL REDESIGN AND CONSOLIDATION OF POWER

2023
2024

Institutional Redesign

Drastic reduction of legislators and municipalities to concentrate power and reduce oversight.

DECREE 144

DECREE 333



2025

Final Weakening of the Rule of Law

Control over NGOs, mass trials, and the legal enabling of indefinite reelection.

RUPTURE OF ALTERNATION IN POWER

Decree 371 permanently eliminates term limits on presidential power.



SUMMARY: CAPTURE OF SECOND-DEGREE OFFICIALS

CONSTITUTIONAL CHAMBER

Total dismissal and appointment of aligned justices (05/01/2021).

ATTORNEY GENERAL'S OFFICE (FGR)

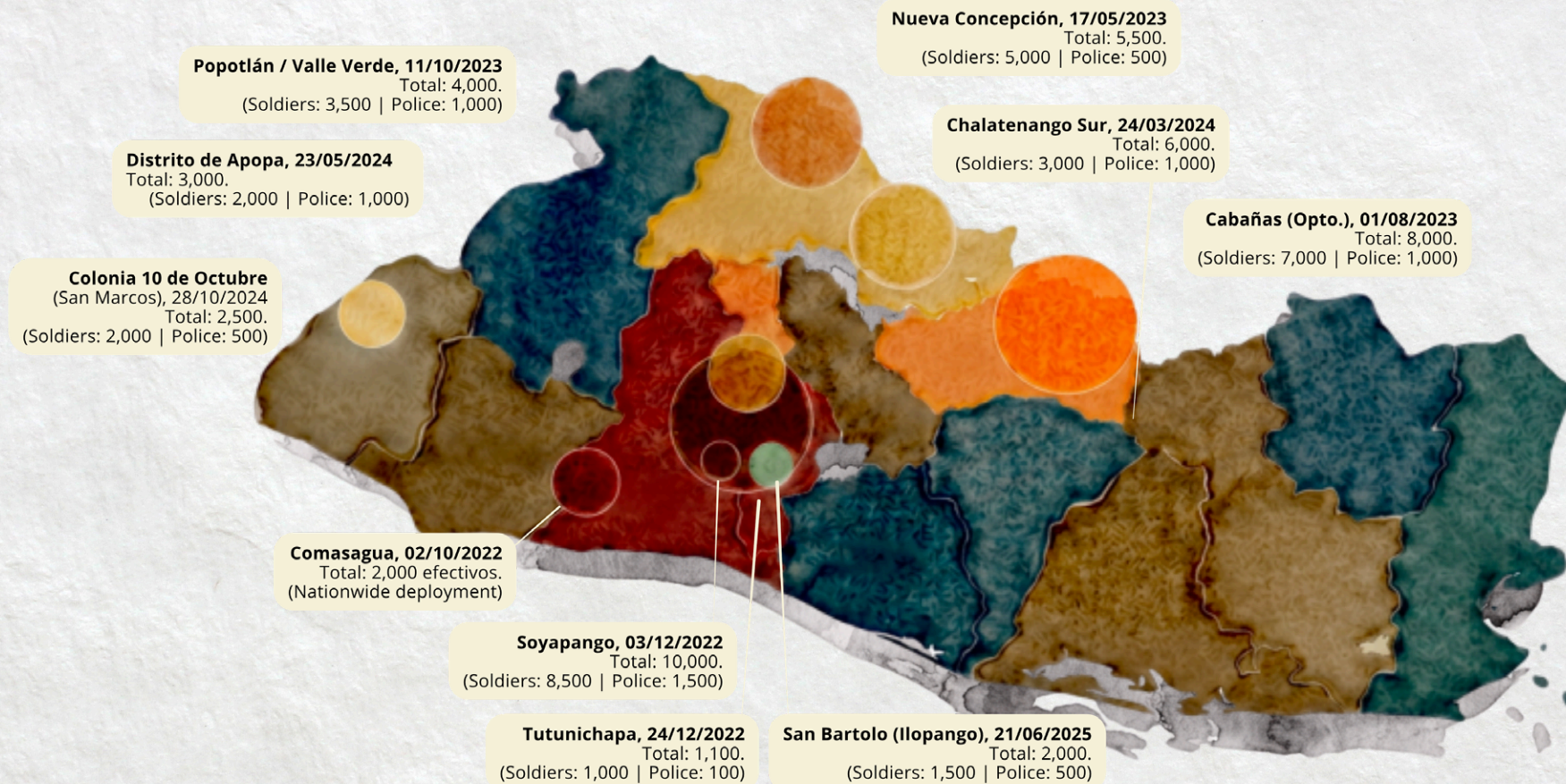
Reelection of aligned incumbent for the 2025-2028 term.

SUPREME ELECTORAL TRIBUNAL

Presidency assumed by a former pre-candidate of the ruling party (2024).

Annex 5

Infographic: Architecture of Control: Military Deployments under the State of Exception



Context: Since October 2022, the Government has implemented "military cordons" under the state of exception, evolving from targeted interventions to department-wide closures, with massive deployments of soldiers and police to isolate and extract members of criminal structures.

MAP LEGEND



“SECURITY” WITHOUT RIGHTS

IMPACT OF MASS ARRESTS AND DENIAL OF DUE PROCESS IN THE POTENTIAL COMMISSION OF CRIMES AGAINST HUMANITY IN EL SALVADOR

Since March 2022, El Salvador has been under a state of exception implemented by the authorities in response to gang violence. While the state has an obligation to protect the population from criminality, the prolonged implementation of this measure has profoundly altered the criminal justice system, steadily expanding the coercive power of the state and undermining essential control and accountability mechanisms.

This report documents patterns of mass arbitrary detention, violations of due process, torture and other ill-treatment, enforced disappearances and deaths in state custody. It also analyses how the erosion of judicial independence, the militarization of public security and the approval of reforms that are incompatible with international human rights standards have facilitated the commission of serious human rights violations, many of them affecting individuals with no proven links to criminal activity and historically impoverished communities.

The investigation concludes that the documented violations are not isolated incidents, but rather practices that are sustained and facilitated by the country’s institutional and legal reconfiguration. Given their scale, persistence, and systematic nature, the findings raise serious concerns about the possible commission of crimes against humanity and the risks of normalizing security policies that are inconsistent with the rule of law and international human rights obligations.



Index: AMR 29/0967/2026
JULY 2026
LANGUAGE: ENGLISH

[amnesty.org](https://www.amnesty.org)

AMNESTY
INTERNATIONAL





**AMNESTY INTERNATIONAL IS A
GLOBAL HUMAN RIGHTS
MOVEMENT.**

**WHEN AN INJUSTICE HAPPENS
TO ONE PERSON, IT MATTERS
TO US ALL.**

CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

JOIN THE CONVERSATION



www.facebook.com/AmnistiaAmericas



[@AmnistiaOnline](https://twitter.com/AmnistiaOnline)



[@AmnistiaAmericas](https://www.instagram.com/AmnistiaAmericas)