



## International Covenant on Civil and Political Rights

Distr.: General  
26 April 2011  
English  
Original: French

---

### Human Rights Committee 100th session

#### Summary record of the 2745th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 12 October 2010, at 10 a.m.

*Chairperson:* Mr. Iwasawa

### Contents

Consideration of reports submitted by States parties under article 40 of the Covenant  
(*continued*)

*Sixth periodic report of El Salvador (continued)*

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

*The meeting was called to order at 10.05 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Sixth periodic report of El Salvador* (continued) (CCPR/C/SLV/6; CCPR/C/SLV/Q/6; CCPR/C/SLV/Q/6/Add.1; HRI/CORE/1/Add.34/Rev.2)

1. *At the invitation of the Chairperson, the members of the delegation of El Salvador returned to the Committee table.*

2. **The Chairperson** invited the delegation of El Salvador to continue answering the questions posed by the Committee during the preceding meeting.

3. **Mr. Morales Cruz** (El Salvador) said that, with regard to the subject of the murder of seven clergymen (question No. 3), the current Government viewed Monsignor Romero as the spiritual guide of the nation and the most fervent defender of human rights in the country's recent history. On 24 March 2010, the day of the thirtieth anniversary of his death, several events had been organized to honour his memory. The President of the Republic had publicly asked for pardon from the members of Monsignor Romero's family, his congregation, the Catholic Church, the Salvadoran people and the thousands of families who had been victims of the atrocities committed by the death squads during the civil war. Moreover, the United Nations Human Rights Council had adopted a resolution proposed by the Permanent Mission of El Salvador inviting the General Assembly to proclaim 24 March as the international day of the right to truth and dignity for the victims of serious human rights violations, in homage to Monsignor Romero. The delegation hoped that the resolution would be favourably received at the next meeting of the General Assembly. The delegation understood the Committee's concern regarding the impunity still enjoyed by the perpetrators of the murder of Monsignor Romero. The case had been shelved pursuant to the General Amnesty (Consolidation of the Peace) Act of 1993, but could be reopened if the competent authorities really wished to do so. That willingness was admittedly not forthcoming at that moment, however.

4. **Ms. Navas Umaña** (El Salvador) said that she would respond to the questions on the participation of women in public life and provide more specific information on the bill on equality, equity and non-discrimination against women and the bill on the right of women to a life free from violence. Although women made up over 54 per cent of the population of El Salvador, they were underrepresented at the higher levels of public administration. Within the executive branch, however, 18.5 per cent of decision-making positions were held by women, including two ministers and two deputy ministers. In addition, the National Council for Public Security was chaired by a woman. In the legislature, 19 per cent of posts were held by women, who occupied 23.7 per cent of municipal council seats. The purpose of the bill on equality, equity and non-discrimination against women, submitted to the Legislative Assembly on 8 March 2010, was to mainstream the principles of gender equality and non-discrimination against women in all public policies, through close collaboration between the Government and the Salvadoran Institute for the Advancement of Women (ISDEMU). Among other measures, the bill provided for national action plans to promote gender equality, the establishment of a specific budget for the implementation of the policy to advance the situation of women, and the obligation for all public agencies to gather, analyse and publish sex-disaggregated statistics. Special guarantees were included for women in vulnerable situations, such as elderly, indigent or marginalized women. The protection of women and children from trafficking and sexual exploitation was addressed, as were assistance for victims of such offences and prosecution of the perpetrators. The bill also made gender parity in public affairs obligatory. Government office had to be shared equally between men and women, and lists of candidates for elections that did not include as many women as men were to be

rejected. The bill also provided for the creation of an independent agency that would be responsible for monitoring gender equality and combating discrimination against women.

5. The bill on the right of women to a life free from violence aimed to protect women against all the forms of violence, including social, economic and sexual violence, they might be subjected to. The debate under way in the Legislative Assembly was already well advanced. Although it was still difficult to say when the bill might be enacted, the process was making headway. Under the national policy for the advancement of women, ISDEMU had drawn up several measures to protect women from violence, including the establishment of shelters for women victims and support for completing procedures with the police. The empowerment of women through education and employment was another important aspect of the Institute's work. A large-scale programme to address those issues, as well as women's health, was being prepared and was due to be implemented shortly.

6. **The Chairperson** thanked the delegation for its responses and invited members of the Committee to ask further questions.

7. **Mr. O'Flaherty** said that he did not understand how the State party could lobby for increased homage to be paid to the memory of Monsignor Romero while at the same time allowing his murderers to go unpunished. What was the point of setting him up as a national hero and making his death a symbol of all the crimes committed during the internal conflict if justice was not going to be served? El Salvador's decision not to prosecute the perpetrators was in flagrant violation of the Covenant. By opting to forget rather than to seek justice, the State party was following a dangerous path, one that the Committee strongly urged it to reconsider.

8. **Ms. Majodina** noted that most of the police officers accused of serious human rights violations and brought to trial between 2002 and 2007 had been acquitted. She asked whether the delegation could explain why there had not been more convictions.

9. **Mr. Salvioli** said that several amnesty laws such as the one adopted by El Salvador in 1993 had been declared without effect by the Inter-American Court of Human Rights and that maintaining such laws contravened international law. Several Latin American countries had at one point in time adopted amnesty laws, but had then ended up repealing them and bringing perpetrators to justice in accordance with their international obligations. The Committee hoped that El Salvador would find the political will to do the same. The increase in female school attendance rates, including in rural areas, was encouraging, but the drop-out rate was still high. He wished to know how the State party intended to address the problem. On the subject of abortion, he had taken note of the explanations given by the delegation, but the legislation in force still contravened international norms. The penalties incurred and the prospect of certain conviction were forcing women to undergo life-threatening clandestine abortions. The State party must amend its legislation to end that situation.

10. **Mr. Amor** welcomed the State party's initiatives to honour Monsignor Romero but noted with concern that the problem of impunity had still not been resolved. He wished to know whether the State party planned to revise its amnesty provisions and statutes of limitations with a view to excluding certain offences from their field of application. He also requested detailed information on the procedure for implementing the Committee's concluding observations. Was there a mechanism specifically responsible for implementing those observations, and if so, what was its legal status?

11. **Mr. Morales Cruz** (El Salvador) said that the delegation understood the concerns voiced by the members of the Committee regarding the ongoing impunity surrounding the murder of Monsignor Romero. It was true that for over 20 years the State had denied history and honoured criminals. The new Government, however, had taken it upon itself to break with that attitude of denial and to acknowledge the truth. Certainly, it would take

more than good intentions to end the impunity, and there was still a long way to go for that to happen, but the Committee's recommendations were sure to help the Government advance in that direction.

12. **Ms. Navas Umaña** (El Salvador) said that the high acquittal rate of members of the National Civil Police accused of serious human rights violations was due to the fact that the Inspectorate-General of the National Civil Police had still not conducted sufficiently independent or impartial inquiries and had instead kept quiet about and even justified a number of violations committed by police officers. The current Government had undertaken to change that state of affairs and to reinstate the Inspectorate-General in its supervisory role. Measures had also been taken to ensure that accusations of human rights violations made against police officers that had resulted in court cases, together with any convictions, were systematically recorded, with a view to gathering detailed statistics on the subject. Meanwhile human rights instruction had become a major component of the continuous training given to the police.

13. **Ms. Hernández de Espinoza** (El Salvador) said that, admittedly, although female school-attendance rates had increased in the past few years, girls often dropped out before completing secondary school. The Ministry of Education was actively implementing a policy to combat traditional practices that prevented girls from exercising their right to education to the same extent as boys. Girls, for instance, were often taken out of school to perform domestic chores or work in the informal sector to earn money for the family. Grants and other forms of financial support had been introduced to help girls stay at school. Awareness-raising campaigns had also been conducted to help change attitudes.

14. As to abortion, the Constitutional Division of the Supreme Court had ruled that the constitutional provisions that established that human life began at the time of conception were in accordance with the preamble to the Declaration of the Rights of the Child, adopted by the General Assembly in 1959, according to which children, by reason of their physical and mental immaturity, needed special safeguards and care both before and after birth. Consequently, any recommendation from the Committee on the scope of the legal protection that should be accorded to unborn children on the one hand and the respect that should be accorded to women's rights on the other would be very useful for helping El Salvador further the debate on abortion and reach a solution that would be compatible with all international human rights instruments.

15. **Mr. Morales Cruz** (El Salvador) said that El Salvador did not have a national mechanism for coordinating follow-up to the recommendations issued by international human rights bodies. The Government was planning, however, to set up, by 2014, a permanent coordination mechanism for public agencies that would establish links with civil society, human rights and victims' organizations. El Salvador had already assumed the commitment with the Committee on the Rights of the Child to establish a follow-up mechanism for the Inter-American Court of Human Rights' recommendations on individual cases. That mechanism could also monitor follow-up of the recommendations made by United Nations bodies.

16. **The Chairperson** invited Committee members to ask the delegation additional questions.

17. **Mr. Salvioli** noted that the *maras* (youth gangs) posed serious public security problems in El Salvador as in other Latin American countries. It was right to take measures to protect the population as a whole because public security was a fundamental right. Such measures should not, however, infringe on the rights set out in international instruments. The Committee against Torture and the Committee on the Rights of the Child had recently made a number of observations in that respect. The issue of the methods used by El Salvador to combat the *maras* problem, particularly the powers granted to the police to

arrest gang members and the treatment they received in detention centres and during court proceedings, had been raised in the framework of the universal periodic review. It would be interesting to know how the corresponding legislation, some of which might contravene the provisions of the Covenant, was applied in practice.

18. Regarding freedom of expression, the State party had merely indicated in its written replies that the legislature had not considered that the amendment to article 296 of the Criminal Code, which increased the prison term incurred by anyone who repeatedly and publicly offended religious beliefs or sentiments, was incompatible with the provisions of the Covenant. He wished to know on what grounds that opinion could be justified. Pursuant to article 19 of the Covenant and article 13 of the Pact of San Jose, Costa Rica, an instrument to which El Salvador was also party and whose scope was even broader, a certain number of conditions needed to be met in order to be able to curtail freedom of expression. In its written replies, the State party had stated that the constitutionality of a norm suspected of contravening the provisions of an international instrument could always be contested. Nevertheless, all public bodies were bound by the obligations derived from international treaties and such matters should not be left solely to the judiciary.

19. **Ms. Majodina** said that she noted with pleasure the measures taken by the State party to combat the scourge of domestic violence, the important tasks assigned to ISDEMU in that effort, as well as the implementation of a programme to improve family relations, the amendments made to improve the effectiveness of the Act against Domestic Violence and the opening of new shelters for victims. Complaints of domestic violence were still very numerous, however, reflecting the persistence of sexist stereotypes and imbalances in relations between men and women throughout Salvadoran society. Although it was good that many institutions were addressing domestic violence issues, it seemed that their actions were not properly coordinated either in the public sector or in civil society. Was there a central mechanism for monitoring the implementation of the various anti-domestic violence programmes? Information on the suits filed against perpetrators of domestic violence, the legal assistance provided to victims and the remedies available to them would be welcome. According to the information available to the Committee, the number of women who had died as a result of domestic violence had risen from 227 in 2002 to 437 in 2007, which was a significant increase. According to some sources, 1,754 children and adolescents had been murdered between 2004 and 2009. Despite all its efforts, then, the State party was apparently not making any progress in reducing domestic violence. It was particularly worrying that 68 per cent of the cases of harassment and violence against women working in the public sector involved the National Civil Police.

20. As to trafficking in persons, which was a serious concern given El Salvador's porous borders, the information provided referred only to the trafficking of women, although men were also victims of trafficking. The State party had indeed taken steps to tackle the problem, but it was regrettable that cases of trafficking of women were not systematically investigated. Between 2004 and 2010, only 16 convictions had been handed down for trafficking, which was very few. The fact that there was only one shelter for victims of trafficking and that it was reserved for young girls was also worrying.

21. The State party had not fully explained what provisions governed the mandate and removal of judges or which disciplinary measures could be applied to them. Nor had the State party specified the number of judges and magistrates who had been prosecuted and, in the event, convicted for corruption. The Committee needed more information on the measures taken by El Salvador to ensure the proper administration of justice and the proper functioning of the judicial machinery, which meant having competent, independent and impartial judges. Lastly, the adoption of a national plan of action to eradicate child labour, particularly in the sugar cane and fishing sectors, and the performance of work-site inspections were welcome developments, but no information had been provided on the

situation of young girls who were employed as domestic helpers. She asked the delegation to provide data on the subject.

22. **Mr. Rivas Posada** noted that in the written replies to question No. 18, on the maximum duration of pretrial detention prescribed by law, the State party said that the term “preventive detention” was not used in Salvadoran legislation; instead reference was made to “administrative” or “provisional” detention. He wished to know whether those two terms were synonymous or not. The State party also stated that all persons placed in “administrative” detention had to be brought before a judge within 72 hours of arrest and that the judge was then allowed the same delay after the hearing to order the provisional detention or release of the detainee. That meant that the normal time allowed for police custody would be exceeded. The duration of “provisional” detention varied according to the severity of the charges and could range from 12 to 24 months. According to article 9 of the Covenant, anyone arrested or detained on a criminal charge must be brought “promptly” before a judge or other officer authorized by law to exercise judicial power and be entitled to trial “within a reasonable time” or to release. He wished to know how the procedure worked in practice. Figures on the number of people charged and on the recourses available to people held in custody would also be useful.

23. With regard to the problem of prison overcrowding, which was exacerbated by the presence of the *maras*, he asked whether the State party had considered the possibility of imposing alternative sentences to incarceration, such as electronic bracelets, or taking other measures, such as release on probation or early release. States were increasingly using such methods to halt the increase in the prison population, which led to abuses of fundamental rights.

24. With regard to the expulsion of aliens, he wished to know the guarantees that were accorded to aliens who could be expelled under Salvadoran law. The information provided by the State party in its written replies revealed its desire to overcome the difficulties it had in complying with the provisions of international instruments on the treatment of aliens. Information was needed, however, on the number of aliens who had been expelled as well as information on complaints of violations of aliens’ rights, to obtain a clear idea of the scope and seriousness of the problem in the light of article 13 of the Covenant.

25. As to the right of public officials to form associations, a topic that had been the subject of much debate in Latin America, the State party was to be commended for its efforts to bring its legislation into line with international law. The new provisions in that area complied with International Labour Organization (ILO) Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize.

26. **Mr. O’Flaherty** said that he had been struck by the statement made by the Procurator for the Protection of Human Rights to the Committee on the Elimination of Racial Discrimination at its session in August 2010, to the effect that the situation of indigenous peoples in El Salvador was particularly worrying and posed a serious social problem. While the Government had implemented strategies to promote indigenous peoples’ rights and address their needs, much still remained to be done, as noted by the Committee on the Elimination of Racial Discrimination in its concluding observations on the fourteenth and fifteenth periodic reports of El Salvador (CERD/C/SLV/CO/14-15). He wished to know the follow-up given to the recommendation that the State party should improve its survey methods so that the complex ethnic composition of Salvadoran society could be properly assessed. He also asked whether the proposed constitutional reform to recognize indigenous peoples, submitted to the legislative Assembly in December 2008, had been adopted. El Salvador was committed to ratifying ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and he wished to know the Government’s position on that particularly important matter. As to the economic, social and cultural rights of indigenous peoples, he asked what measures had been taken to

improve their access to potable water and to their ancestral lands and urged the State party to ensure the preservation of all indigenous languages and not just Nahuatl-Pipil.

27. The State party's report and the Committee's corresponding concluding observations should be widely disseminated. They should be posted on all the relevant websites of the Government and the agencies involved in human rights protection, including the Office of the Procurator for the Protection of Human Rights. Hard copies should also be distributed to NGOs, representatives of the most vulnerable groups, particularly indigenous peoples, and all public libraries. If the rules of parliamentary debate permitted it, the concluding observations should be discussed by Parliament; at the very least they should be deposited in the Parliament's library.

28. **Mr. Bhagwati** said that the independence of the judiciary was one of the fundamental principles enshrined in the Covenant. He asked whether judges were appointed by the executive or by an independent body and whether the promotion of judges to higher positions was decided by the executive or by a superior body within the judiciary or even the Supreme Court. He wished to know whether there was a special procedure for removing judges and who took the decision in such cases. He requested information on the composition of the national commission to compensate the victims of the serious human rights abuses committed during the internal armed conflict, the terms of reference of the commission, how its independence was guaranteed and how it functioned. He also requested information on the status, composition and functions of the National Council of the Judiciary.

29. More information was needed on the mechanism to compensate judicial errors, mentioned in paragraph 162 of the report. He wished to know whether the mechanism was under the control of the executive or the judiciary and whether it was compatible with the principle of the independence of the judiciary. Finally he asked what new offences had been listed in the new Criminal Code.

30. **Mr. Thelin** said that the new Code of Criminal Procedure seemed to take full account of victims. He encouraged the State party as soon as possible to adopt an accusatory criminal trial system, which, in his opinion, ensured a better balance between effective public action and the legal security of defendants. With reference to question No. 16, he said it was important to strike a balance between the need to guarantee the independence of judges and the need to combat corruption in the judiciary. Given that in some systems different treatment was accorded to tenured and non-tenured judges, he wished to know whether the 75 judicial officials dismissed for corruption mentioned in paragraph 111 of the State party's written replies had all been judges or whether they had been other types of judicial officials. As to the penalties imposed, it was absolutely imperative that the executive should not be involved in any way: judges, even those accused of corruption, had to appear before judicial bodies. He asked whether the competence of the government ethics court, mentioned in paragraph 112 of the written replies, extended to the judiciary, which it should not. He requested more information on those matters.

31. **Mr. Amor** referred to the incidents mentioned in paragraph 178 of the State party report, which, as portrayed, were unacceptable and which had been blamed on a sect. The term "sect" was often used to refer to religious or pseudo-religious movements and communities that did not conform to tradition, and in some countries the notion of a "sect" was used as a pretext for curbing freedom of religion or belief. He asked what the authorities understood by the word "sect", whether sects had to be registered and whether under the law sects were permitted to carry on their activities. He wished to know whether the presence of sects was a new phenomenon in El Salvador, how widespread they were, whether they originated in the country or abroad and whether they constituted a form of dissidence with respect to the Catholic Church and a reaction against its dogma.

32. **Ms. Motoc** said that a large proportion of the indigenous population in El Salvador had vanished and an equally large proportion was in danger of disappearing. She asked how the State party intended to restore the rights of the country's indigenous peoples. Given the resettlement of indigenous peoples in certain regions, a new phenomenon in El Salvador, she wished to know the Government's position regarding the basic rights listed in the United Nations Declaration on the Rights of Indigenous Peoples, such as the right to land, the right to be recognized as indigenous peoples and the right to be consulted on projects that the Government intended to carry out in the regions concerned. She also wished to know about the rights of indigenous women, the situation of indigenous children and youths, especially regarding any difficulties they might encounter with their schooling, and the existence of programmes to promote their rights.

33. **Mr. El-Haiba** said that he was concerned that each day a young person under the age of 18 was killed in El Salvador and he wished to know what measures had been taken to improve child welfare since the Committee on the Rights of the Child's consideration of the country's third and fourth periodic reports in January 2010. He asked for details on the human rights awareness-raising programme directed at the police and others working in the justice system. To what extent was the programme changing attitudes and behaviour? Were universities involved in the human rights education programmes?

*The meeting was suspended at 11.50 a.m. and resumed at noon.*

34. **Ms. Navas Umaña** (El Salvador) said that the policy of repression implemented by the previous Government to combat criminal gang activity had not worked and had merely aggravated the problem. The new Government's security, justice and coexistence policy and the strategic plan of the National Civil Police focused on crime prevention as much as on repression. There were many factors underlying the *maras* gang phenomenon, and preventive measures must urgently be taken to stop children and adolescents, girls and boys alike, from joining the gangs. The Government's current priority was to guarantee the population's right to security. The National Civil Police was under orders not to systematically arrest young people suspected of belonging to a *mara* gang and to focus rather on conducting investigations.

35. Although men were more often the victims of murder than women, femicide was a very serious problem: mostly knives were used, following acts of extreme violence. The police were making every effort to understand the phenomenon and to collect statistical data. Gender-based violence was prevalent in El Salvador and it affected in particular the women directly or indirectly linked to criminal gangs, who were sometimes killed just because they were women. The Government was aiming to eradicate that type of crime.

36. The National Public Security Academy imparted human rights training to the police. The Inspectorate-General of the National Civil Police was in charge of investigating any human rights violations committed by members of the police force and of raising awareness of human rights among police personnel. In 2010, the Government had devoted considerable efforts to increasing awareness of the international commitments that El Salvador had assumed in the field of human rights, and the emphasis of training programmes had been on the situation of HIV/AIDS victims and respect for people with different sexual orientations.

37. **Mr. Morales Cruz** (El Salvador) said that the Inspectorate-General of the National Civil Police had been repeatedly criticized by the Office of the Procurator for the Protection of Human Rights for failing in its duties. The Inspectorate-General had recently undergone a rigorous audit, however, and its powers had been expanded, despite the death threats and various types of political pressure to which the head of the institution had been exposed.

38. The amendment of article 296 of the Criminal Code, which had increased the penalty for infringing freedom of religion, introduced in the wake of the acts and rites



carried out in public by members of the sect International Ministry Growing in Grace, reflected the State's position on freedom of religion and freedom of expression, a position which the Legislative Assembly had not found to be incompatible with the Covenant. Sects were not a particularly widespread phenomenon in El Salvador. Some movements, such as the Evangelical Church, which had been regarded as "religious sects" in the 1980s and 1990s, were currently recognized as religious organizations. It was true that the use of the term "sect" in the report could have caused confusion, and the Salvadoran authorities would be careful in future to avoid terminology that carried discriminatory connotations.

39. The national commission to compensate the victims of the serious human rights abuses committed during the internal armed conflict would be coordinated by the Secretariat for Social Inclusion and the Ministry of Health and Social Welfare, the Ministry of Foreign Affairs and the Ministry of Defence. The commission would function for four months and would seek to establish a dialogue with human rights organizations and the victims of human rights abuses. It would subsequently propose a compensation programme with specific budget lines for the victims of the conflict. It was the authorities' hope that the commission would start operating in the following few months and would work efficiently.

40. The law on the determination of refugee status offered protection only to those who applied for that status. Other aliens were covered by the law on migration and foreigners, which dated back to the 1950s and was therefore obsolete. It provided very little protection and left the door open to arbitrary practices. Efforts were under way to draw up a new bill on immigration and aliens that would comply with the Constitution and international standards, and the Committee's observations would be taken into account in its drafting. Salvadorans abroad represented approximately a third of the national population and many of them were victims of serious violations of their fundamental rights, particularly those who were heading north. For its part, El Salvador received many economic migrants, who were either looking for work in the country or passing through. Faced with those two situations, the Government was trying to improve consular protection through the action of the Vice-Ministry for Salvadorans Abroad, on the one hand, and to implement a coordinated inter-institutional policy to protect migrants' rights, on the other.

41. **Mr. Rauda Portillo** (El Salvador) said that on 5 October 2010, 8,286 persons had been held in provisional detention. Such detention lasted from 6 months for minor offences to 12 months for serious ones, and could be renewed once under certain circumstances specified in the law. Pursuant to article 6 of the Code of Criminal Procedure, provisional detention could not last more than 2 years. In a recent case, the Constitutional Division of the Supreme Court had granted a petition for a writ of habeas corpus that had been introduced by someone who had spent over 2 years in provisional detention, after which the Court had ordered the person's immediate release.

42. The current appointment system for judges dated back to the constitutional reform carried out at the time of the signing of the Chapultepec Peace Accords. Jurisdictions selected judges from the list of candidates proposed by the National Council of the Judiciary. The law on the judicial profession contained several types of sanction for judges who broke the law, which varied according to the severity of the offence committed. The 75 persons referred to in the written replies were all judges who had been removed from their posts pursuant to that law. The independence of the judiciary was guaranteed, and the executive in no manner influenced judges' decisions.

43. For civil offences, the law provided for several alternative penalties to imprisonment, such as fines, weekend detention house arrest and community service. For criminal offences, the only available alternative was release on probation after completion of one half or two thirds of the sentence. The Government was nevertheless studying the possibility of non-custodial measures, such as the use of electronic bracelets. Prison overcrowding was a serious issue, with 24,700 prisoners in facilities built for 8,100

inmates. To tackle the issue, the Ministry of Justice and Public Security had implemented a prison overcrowding reduction plan, aimed at the release on probation of 10 per cent of the current prison population by court order. Gangs (*pandillas*) were detained separately from each other and from other prisoners to prevent fights and violence between rival gangs. Over 8,000 detainees had been identified as active gang members, and other prisoners often maintained close ties to the *pandillas*. The prison population consisted of 15,742 convicts, of whom 690 were held in open prisons (513 “on trust” and 177 in semi-freedom). The Government intended to extend the use of the progressive sentence completion scheme established in penitentiary law, which allowed such arrangements.

44. **Ms. Hernández de Espinoza** (El Salvador) said that the age of criminal responsibility was indeed 12 years. Delinquents aged between 12 and 17 years were subject to special treatment, which involved education and readaptation. The “anti-gang” decree, passed in 2003 under the “iron-fist” policy then in place, which in its article 2 had authorized judges to call for expert opinion to determine whether a young offender aged over 12 years was aware of his acts and could thus be judged as an adult, had subsequently been declared anti-constitutional and repealed.

45. The Government was aware of the gravity of the problem of domestic violence, which affected a great many women and girls. The situation was all the more worrying in that the figures available were obviously well below the real ones because many victims did not have access to complaints mechanisms and domestic violence incidents reported to the police were often recorded under other headings, such as bodily harm or sexual assault. One action that needed to be taken urgently was to collect reliable data that could be used to develop appropriate policies. The lack of coordinated action conducted by the different State agencies was a structural problem stemming basically from the fact that for many years the Salvadoran Women’s Welfare Institute had concerned itself only with welfare programmes and had never performed the leading role that it was supposed to play. Efforts would be undertaken to ensure that the Institute assumed its rightful place. Moreover, the Government had started a project to set up integrated justice centres to make it easier for women victims of violence to seek justice and to provide them with assistance and protection.

46. The fight against child labour, particularly the worst forms of child labour, was another major priority. The number of children engaged in work was still high, even if it had declined in recent years. The goal was to accelerate that trend. The current Government had undertaken to revise the list of the worst forms of child labour to bring it closer into line with reality. Domestic work, which the Ministry of Labour had recently officially recognized as one of the worst forms of child labour, was to be included in the revised list.

47. Steps had been taken since the consideration of the periodic report of El Salvador by the Committee on the Rights of the Child in January 2010 to set up a comprehensive child and adolescent welfare system. The first stage had consisted of estimating budget needs and reviewing existing mechanisms to adapt them and supplement them with new ones. The new system was due to be functioning as of January 2011.

48. Several State and non-State agencies were involved in the fight against human trafficking and in improving the care provided to victims of trafficking. Few investigations had been opened and few cases had been brought against traffickers, however, essentially owing to the lack of coordination between the national police force and the courts. To rectify that situation, the National Committee on Trafficking in Persons was preparing an inter-institutional coordination protocol for bringing trafficking cases before the courts. Steps had also been taken to make comprehensive care arrangements for victims and to set up more shelters for them.

49. The holding of the first National Indigenous Congress on that very day signalled the adoption of a new approach in the handling of indigenous affairs. The Government was determined to endow indigenous peoples with the means to participate fully in decisions that affected them within a spirit of dialogue and consensus. It also emphasized the importance of promoting the culture and languages of the Nahua-Pipil, Lenca and Cacaopera indigenous groups.

50. **Mr. Rauda Portillo** (El Salvador) said that access to a lawyer, whether appointed by the detainee or the court, was guaranteed from the moment a person was taken into custody.

51. **The Chairperson** thanked the delegation and invited the members of the Committee to ask further questions.

52. **Mr. Rivas Posada** wished to know from which precise moment people placed in detention had access to legal counsel.

53. **Mr. Thelin** said that it would be useful to have details and additional observations from the State party in writing on the independence of the judiciary.

54. **Mr. O'Flaherty** asked the delegation to provide the Committee with a written reply to the question on the implementation of the recommendations of the Committee on the Elimination of Racial Discrimination.

55. **Mr. Morales Cruz** (El Salvador) said that the Salvadoran delegation would gather the additional information requested by the Committee, including information on the entry and expulsion of aliens. The matter of the independence of the judiciary deserved particularly careful follow-up and would have to be examined in terms of the judiciary's internal workings, since the Supreme Court played a key role in all decisions surrounding the appointment of judges.

56. **Mr. Arene Guerra** (El Salvador) thanked the Committee for the productive dialogue that had taken place and assured its members that all the issues raised and observations made would be forwarded to the Government so that it could expand its action to promote and protect human rights.

57. **The Chairperson** thanked the delegation for its frankness and collaborative spirit, which had made it possible to engage in a fruitful exchange. He asked the delegation to provide the additional information requested by 1 p.m. on Thursday, 14 October so that it could be taken into account in the Committee's concluding observations.

*The meeting rose at 6 p.m.*