



“SECURITY” WITHOUT RIGHTS

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

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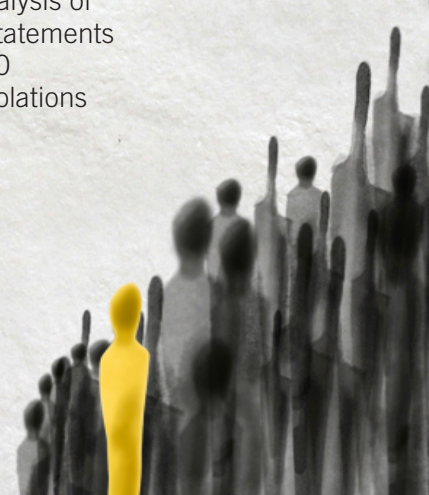
EXECUTIVE SUMMARY

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.



RECOMMENDATIONS

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,²
 - 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.

² 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,³ 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.

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:

³ 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*.⁴
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.

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.

⁴ 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.



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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.



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