

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing

on

NEW GOVERNMENT, ONGOING AGENDA:
HUMAN RIGHTS, CORRUPTION AND ACCOUNTABILITY IN EL SALVADOR

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Members of the Tom Lantos Human Rights Commission, Chairman McGovern, Members of Congress, congressional staff, colleagues. On behalf of the Human Rights Institute of the Central American University of El Salvador, a Jesuit institution, I want to thank you for the invitation to speak today to you as part of this important and timely hearing on recognizing the current Human Rights situation in El Salvador.

2018 cannot be considered a positive year for human rights in El Salvador, even having on mind that some important statistics numbers are inferior than previous years.

One of the important steps that the state made this year was the sentencing of important cases against high public officials like the ex-president and the ex-general attorney. For the first time since the peace agreements, the Office of the General Attorney was able to “touch” interests that were historically perceived as untouchables by the government, the militaries and some private actors. Despite of this and other small achievements in the last 3 years by the Office of the General Attorney, the Legislative Assembly decided to change the general attorney electing a lawyer whom

is really close to the dominant party of the Assembly in contravention of the judicial precedent that forbidden the nomination of candidates related to any political party.

The new Legislative Assembly did not only jeopardized the Office of the General Attorney but also dropped the previous agreements about the general Law for water rights, passed a bill that adopted some of the extraordinary measures for the prison system, adding them to the ordinary law; and finally delayed the election of the new member of the Constitutional Chamber of the supreme court in a clear effort to elect people that could restore the rules that favored historical impunity. All those measures adopted by the Legislative Assembly are in clear opposition of the general principle of the progressiveness of Human Rights.

On the other hand, the government continues mistaking subsidies with social justice, and relevant problems like violence, inequality and poverty remain strong as always. Education and Health are clear evidence of present social injustice and authentic mechanisms to perpetuate the unjust inequity in the country. The judicial branch does it is part systematically mistreating to the poorest one and ruling the cases without any international standard of human rights.

The committee on the International Convention on Civil and Political Rights, on its report CCPR/C/SLV/CO/07, clearly states its concern on how the state weakens institutions like the Procurator Office for the Defense of Human Rights not providing enough resources to ensure its mission of accountability for all the states agencies in Human Rights Standards.

Our Institute on 2018, its 33rd year of active action in defense of the Human Rights, received around 370 requests of assistance, from which we were able to support only 279 cases of human rights violation, being 2/3 of those cases related to Humanitarian Protection assistance.

The year 2018 according to the Institute of Legal Medicine El Salvador, the country closed the year with 3341 homicides in total, with an annual rate of 53.98 murders for each hundred thousand people, a rate inferior to the ones years before.

Not less important is the high number of femicide of the country, which is also one of the countries with the highest rate of feminicides per hundred thousand habitants, reason why it is necessary to have public policies and criminal justice policies with a gender perspective that can be effective in approaching these crimes as well the crimes against the LGBTQ community. In addition, another hard reality is the high rates of sexual offenses that are committed in El Salvador against women with a rate of 54 severe crimes of sexual nature against women per every hundred thousand people in the country

One of the other things that have called the attention of civil society and the international community is the existence of extrajudicial killings. Actually, the Special Rapporteur on extrajudicial, summary or arbitrary execution on her report to the Human Rights Council A/HRC/38/44/Add.2 stated “The Special Rapporteur learned of a large number of alleged extrajudicial killings or deaths resulting from excessive use of force by security agents. While officials acknowledged there may be some cases of extrajudicial killings they insisted that these were isolated incidents. However, the Special Rapporteur finds that the above-mentioned pattern of behavior by security personnel points to extrajudicial executions facilitated by inadequate investigations and judicial responses”. The reality is that we cannot provide an exact number of how many extrajudicial killings might have happened in 2018, but according to the National Civil Police Data on 2018 the rate of people dead on the so-called “illegitimate aggressions” was of 125 people dead by 1 police dead, a number out of any international rank for these kinds of events.

While is true that the numbers of murders in the country decrease in the last year, one of the biggest concerns is that the number of disappearances continues to increase. According to the Office of the General Attorney on 2018 were 3514 complaints about missing people, the double in comparison to the year 2017; and there are many that suspects that those disappearances are a way to cover some murder and even extrajudicial killings. Example of this was the case of the agent Carla Ayala, a policewoman that was killed by other members of the police, which body was missing for a long time after the crime.

A recent investigation documented different cases of human rights violation from agents of security in the country and one the conclusion is the continued practice of criminalizing young

people, mostly between 15 to 28 years old, and from low incomes community as member of the organized crime in the country, without any reasonable evidence to make those assumptions. This behavior produces that mistreatment, torture, cruel, inhuman and degrading treatment, are common against this population.

The General Inspectors of Public Security reported that open 111 investigations, until July 2018, against police members accused of committing crimes as murder, torture, injuries, threats, liberty privation, robbery, arbitrary detention, extortion, femicide, illegal trespassing. At the same time, the Office of the General Attorney reported 387 investigations where police member was investigated for crimes against life, personal integrity, liberty and property. And finally, the Procurator Office for the Defense of Human rights reported that between June 2017 to June 2018 they registered 111 complaints against police member for the same crimes.

The situation is not different in the prisons, with overcrowding that has decreased to a 300% on 2018, but still, have the problem of not enforcing the law at keeping the convicted intern separated with those are still under investigation.

Another important issue is that after more than 2 years since the Constitutional Chamber declared the unconstitutionality of the amnesty law, there is no significant progress in the fight against impunity in the country. Only the Office of the General Attorney took some steps in that direction creating a special unit to investigate those cases, but until today, the only cases that are at court today, are the ones that have been impuled by private actors and no the office work. The Legislative Assembly created an ad-hoc committee to discuss what they called “national reconciliation”, and so far the only proposal they have is to create a new Amnesty Law, “extensive and general” for everyone involved on the crimes of the armed conflict, against all the rules of international law that mandate that there is not possible to amnesty the crimes against humanity and war crimes.

We as Idhuca go through what impunity looks like, because on 2017 we file a requirement at courts to re-open the case for the massacre of the Jesuits on 1989 (the founder of our Institution father Segundo Montes was one of the victims of this cruel crime), and just yesterday the third Chamber

of Criminal Law of San Salvador finally ordered the re-opening of the case, and after almost 30 years after there is a real chance of achieving justice against the intellectual authors of this crime.

At last, I would like to share the recommendations we did in our annual report of the human right situation for 2018:

- To evaluate the national tax system. Increasing the investment in public education, public health, public security and to create job opportunities for young people.
- To evaluate the current national system of pensions. Taking measures to correct the inequity that affect the poorest and women of the country; moving to a universal cover system.
- To approach the problem of public transportation as a national issue.
- To pass a law on water rights that recognizes it as a public good, prioritizing potable water and sanitization for the full country.
- To ratify the Indigenous and Tribal peoples Convention number 169 of ILO.
- To increase the national investment in favor of a more efficient and professional investigation and prosecution of crimes, including all the actors of this process: National Civil Police, Attorney General Office and the General Procurator of the Republic.
- To strengthen the salaries of the base agents of the National Civil Police, as well the staff of the General Attorney Office and Judicial Branch.
- To create a national policy to fight sexism and gender violence.
- To introduce the necessary changes in the criminal law to include the felonies of Extrajudicial Killings and hate crimes against LGBTQ community.
- To review the ordinary measures of penitentiary control approved in 2018 by the National Assembly.
- To improve the implementation of the protocol against the abuse of force is the National Civil Police.
- To ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
- To pass a law for the protection of victims of internal forced displacement.

- To finally pass a law of Transitional Justice to find justice on the crimes against humanity and war crimes during the armed conflict, with no application of the statute of limitation like the international law demand for these crimes.

Thanks again Mr. Chairman for your invitation and the opportunity to put El Salvador back in the center of the discussion of Human Rights.