

# **Alternative Report Universal Periodic Review (UPR) El Salvador.**

Presented by:

**Network for Children and Adolescents  
of El Salvador**

*Red Para La Infancia y la Adolescencia de El Salvador  
(RIA)*

**Unto:**

United Nations Human Rights Council (UN)

2014



**R**ed para la  
**I**nfancia y la  
**A**dolescencia

EL SALVADOR, CENTRO AMERICA

**Red Para La Infancia y la Adolescencia de El Salvador (RIA)  
Alternative Report- Universal Periodic Review (UPR) of El Salvador.**

The second alternative report from RIA, in the frame of the Universal Periodic Review corresponding to the 2010 to 2013 period, has been a product of a widely open participative space of consultations oriented to the construction and validation of its content from various social sectors, specialists in human rights issues and valuations of girls, boys and adolescents; all key stakeholders for social accountability through monitoring and follow up of the compliance of the subscribed commitments and therefore the approval of the recommendations of the Salvadoran State identifying the progress and challenges for the guarantee of human rights.

## **I. Background and General Frame**

### **a. Progress and International Obligations**

1. Despite the Salvadoran State's acceptance of the recommendations issued by the Council on Human Rights, the recommendations are yet to be ratified: Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Rome Statute of the International Criminal Court; the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; in regards to the latter, it is worrisome that there is a lack of political will and intervention from the Episcopal Conference for its ratification. Nor has the Covenant N° 169 from the ILO regarding indigenous communities and tribes and III Optional Protocol to the Convention on the Rights of the Child related to a Communications proceeding.

**Recommendation:** The Salvadoran State is urged so that all the international instruments previously mentioned may be ratified as soon as possible, in order to guarantee the exercise and protection of human rights of all people in El Salvador.

### **b. Constitutional and Legislative Framework**

2. **The entry into force of the** Law of Comprehensive Protection of Children and Adolescents (LEPINA in Spanish), has represented a slow process, and the structure and institutionalism has been established in a phased manner. The National Council of Children and Adolescents, CONNA was installed in 2011 and began functioning until December of that same year, with half of its budget. The LEPINA establishes the installation of a National Protection System in which there have been government and civil society efforts to get the system into gear. Two key institutions are the Protection Boards (15 have been installed, one more than required by law) and 262 Local Rights Committees that are still pending its installation. In 2013, the National Policy of Comprehensive Protection of Children and Adolescents was presented. The debt of counting with a national plan with precise indicators of the System's implementation and child policies still remains.

With the LEPINA, the law from the Salvadoran Institute for Children Adolescents (ISNA in Spanish) is automatically cancelled and ISNA is assigned the ultimate responsibility of developing prevention and attention programs that service children and integrate these programs into the Comprehensive Protection System through the Shared Attention Network.<sup>1</sup> We acknowledge the progress to this date; nonetheless, El Salvador has been one of the last countries in Latin America to implement the adequacy of secondary norms to the CRC.

---

<sup>1</sup>

Art. 179. Continuity and Nature of the LEPINA.

The consulted sectors point out the lack of knowledge on the LEPINA and the role of the Protection Boards, as well as confusion on the ISNA and CONNA mandates among the population. On the other hand, there is no modern and digital record that enables the monitoring of Board services and the quality of their responses. It is worrisome that there is such a slow pace in the staff training process of the various units and that despite the workshops in the Doctrine of Comprehensive Protection, in practice the Irregular Situation Doctrine's vision is still in place. To this date, there is a programmatic level disparity, with a lack of programs of comprehensive and inclusive attention that allow for the optimal development of children and adolescents particularly in centers of social insertion.

### **Recommendations:**

- Develop a massive campaign to promote LEPINA and the mechanisms that offer Access to justice in favor of children and adolescents
- That CONNA may expedite the conformation of the Local Rights Committees for Children and Adolescents
- The definition of an action plan on a short, medium and long term that may guarantee the incorporation of children in various ministries and local entities with the function ability of the system as such, with specific budget guideline items.
- That ISNA designs the preventive plans and programs for the protection of girls, boys and adolescents in their family setting and provides them with services in state or municipal centers, or NGOs.
- Lastly, that the State assigns resources to comprehensive in Centers of Social Insertion and that the articulation of the National Protection System for children and adolescents is established.

3. The matter of an amendment to the Family Code to **increase the minimum age of marriage** to 18 years old is still pending.<sup>2</sup> Girls, boys, adolescents and interviewed individuals pointed out their total rejection for forced marriage, which is in many occasions a product of estupro or cases of abuse, which forces the girls to give up on their life Project and their comprehensive development as a future adult, with a violation to her right of development.

**Recommendation:** Reform the pertinent secondary legislation, so that girls and adolescents are not exposed to forceful marriages.

4. The creation of the program Ciudad Mujer is definitely highlighted; it has been installed in some departments of the country. The approval of the Law of Equality, Equity and the Eradication of Violence against Women (2011) and the Special Comprehensive Law for a life free of Violence for women (2012, LEIV in Spanish), and the creation of attention units with specialization in women. What is concerning is that there is still no Policy for this law, there is an insufficient allocated budget, also because of the decrease in political Advocacy of some

---

<sup>2</sup> Código de Familia Art. 14.- No podrán contraer matrimonio: 1o) Los menores de dieciocho años de edad; 2o) Los ligados por vínculo matrimonial; y3o) Los que no se hallaren en el pleno uso de su razón y los que no puedan expresar su consentimiento de manera inequívoca. No obstante lo dispuesto en el ordinal primero de este artículo, los menores de dieciocho años podrán casarse si siendo púberes, tuvieren ya un hijo en común, o si la mujer estuviere embarazada.

civil society organizations, that has affected the monitoring and citizen oversight; the lack of awareness of some justice operators for the LEIV affects the issue of the judicial process of these cases.

### **Recommendations:**

- That the LEIV is homologue with the Criminal Code, so that crimes such as femicide are not subject to a judge's sentence interpretation.
- Enhance the prevention and follow-up actions to complaints of violence against women so that the cases do not end up in femicide.
- Strengthen the Child, Adolescent and Women's Protection system, and the institutionalism of CONNA, and ISDEMU to guarantee Access to justice, and the promotion and protection of girls, adolescents and women's rights.

### **c. Institutional infrastructure and Policies in the Human Rights framework.**

5. According to the Central American Institute of Fiscal Studies, ICEFI, El Salvador invests less than a dollar a day to cover education, health, social protection, culture and sports, among others. <sup>3</sup> For 2013, CONNA counted \$6,400,865 USD from the State's budget. A total of \$1,482,660 USD are assigned for institutional administration and the remaining \$4,918,205 USD for the Defense and Comprehensive Protection of Children and Adolescents.

6. ISNA had a budget in 2013 of \$17, 584,030 USD from which \$13, 475,865 USD are designated for the comprehensive attention of children. In practice, these funds were insufficient and there was a request of an additional \$6M USD to cover child center expenses, among others. With \$1,070,304.35 USD, 5700 Child Wellbeing Centers are supported with the payment of its educators (\$68.57 per month) and food services for children (\$0.74 for food per day). This generated a legal action from the facilitators upon the Attorney General's Office to demand that they are paid the minimum wage.<sup>4</sup> With this situation, it is expected for ISNA to take full control of its role that LEPINA assigns in terms of the development of prevention programs and services for children.

### **Recommendations:**

- That the National Budget is defined with clarity and specific amounts are designated for the contribution of child wellbeing from every State's portfolios.
- That a minimum of public investment is established and that it is proportionate to the population demand.

**7. Participation of Women's Policy:** On the first round of the 2014 Presidential Elections, from 10 candidates only one woman was nominated for the Vice-Presidential slot in a minority party. The percentage of female members of parliament in the Legislative Assembly went from 19% to 27% in the 2012 elections; in the current

<sup>3</sup> LPG. El Salvador invierte menos de \$1.00 al día para cada niño. 1 de noviembre 2013.

<sup>4</sup> LPG. ISNA con poco dinero para centros infantiles. Entidad ha solicitado refuerzo presupuestario, de hasta \$6 millones, para fortalecer los centros de atención. . 4 de Septiembre de 2013. <http://www.laprensagrafica.com/2013/09/04/isna-con-poco-dinero-para-centros-infantiles>

legislature, there are 22 female members of parliament among a total of 84 members. In the 262 municipalities, the representation of women among the mayors is of 11%. In February 2013, the Law of Political Parties came into force and among other things the Law calls for a minimum of 30% of female participation in the electoral lists (Art. 37.) Nonetheless, there is progress in the legislative power towards female participation that is restricted by the patriarchal culture of the country.

**Recommendation:**

- That the Salvadoran State may guarantee an effective compliance of the Law of Political Parties and promotes the political participation of women.
- Develop affirmative actions for the training of an industry or field historically dominated by men.

**8. Crime Prevention.** There is a National Justice, Public Safety and Coexistence Policy, that integrates the control axes and crime repression, social violence prevention, execution of measurements and sentences, rehabilitation and social reinsertion, attention to victims and institutional and legal reforms. These axes have not been translated into a prevention matter since they have been adopted as an immediate measure, reactive and improvised, just as the General Attorney's Office points out (2013). The levels of violence go beyond the prevention and attention actions, and the emerging measures have not been effective. Strategies such as the militarization of the Ministry of Justice and Security have proven ineffective since the soldiers are not prepared to manage public safety duties, and have in various occasions forced violence upon adolescents and youth. In March 2012, a truce was established between leaders of the 18 and Mara Salvatrucha, MS13, gangs in which they agreed to cease to attack each other. As a result, the homicides were reduced by a 40% compared to 2011; the country went from 13 and 14 daily homicides to 5.6 by January 2013. Nonetheless, this measure was questioned by various social and political sectors, since it granted political leverage to the groups that are on the outskirts of the law. Just as foreseen, the truce was not sustainable and by the beginning of 2014 violence rose to 8.11 daily homicides. Up to March 10<sup>th</sup>, there were a total of 552 registered homicides.<sup>5</sup> Under this scope, the inefficiency of the Salvadoran State in regards to setting a Comprehensive Safety Policy that is effective and under the framework of Human Rights is a major concern.

**Recommendation:** That the Salvadoran State may strategically define its Criminal Policy in a clear and articulated manner with a multi-sectorial participation that leads to advocating effectively towards the phenomenon of violence and its consequences.

## **II. Implementation of International Duties and Human Rights**

### **a. Equality and no discrimination.**

**9. Indigenous Peoples** – The Salvadoran State recognized in 2010 the existence of the indigenous peoples upon the Committee on the Elimination of Racial Discrimination and creates within the Secretariat of Social Inclusion the National Direction of Indigenous Peoples. Nonetheless, an invisibility and discrimination pattern persists in this sector due to their customs, language, features, etc. additional to an absence of a precise diagnostics about this population that evidences how many people, their origin and language, among others; in this sense the National Coordination Council for Salvadoran Indigenous Peoples has promoted the process of reform to Art. 63 of the Constitution and the signing and ratification of the Covenant 169 of the ILO, with accompaniment from the General Attorney's Office.

---

<sup>5</sup> La Prensa Gráfica. PNC reported 11 homicides over the weekend. March 10<sup>th</sup> 2014.

## Recommendations:

- Modification of Art. 63 of the Constitution.
- Ratify the Covenant 169 of the ILO. In order to achieve the recognition of the rights of the Indigenous Peoples and strengthen the identity through the preservation and promotion of their customs and opening spaces of participation with indigenous peoples in actions that have been assigned under the informed and free consent.
- Respect and protect the culture, language and strengthen the national identity as well as safeguarding its transmission from generation to generation through MINED and SECULTURA.

**10. LGBT population.** The strength of the associative movement and the realization of studies that make the discrimination this group faces visible due to their sexual orientation, has to be recognized. Furthermore, there are strong advocacy actions to be able to exercise their economic, social, cultural, civil and political rights. In the recent Presidential Elections of El Salvador, the majority was able to exercise their right of suffrage, but a few members of the LGBT community were not allowed to do so. <sup>6</sup>In 2003, the Economic, Social and Cultural Rights Committee made observations to the Salvadoran State, expressing its concern for the cases of gay men and Trans women who had been attacked and murdered. Upon this violation of human rights, there have been legal actions presented to the adequate entities, but some have resulted in mockery and aggressions from behalf of personnel from the National Civilian Police and the Attorney's Office. In terms of what the LGBT community is seeking, is the standardization of **hate crimes due to sexual orientation and gender identity**.

**Recommendation:** That the governmental entities investigate the murders, discriminatory and homophobic practices on citizens due to his or her diverse sexual orientation and that his or her social and legal protection is strengthened.

**11. HIV positive community.** There has been progress in the regulations: Sexual and Reproductive Health Policy <sup>7</sup>, and the reforms to the Labor Code Art. 30, reform to the DL N° 300 of the Law of Civil Service and the 301 of the Law of Administrative Careers in which under no circumstance will the HIV test be requested to candidates for an opening nor to employees of these institutions. <sup>8</sup> The Decree 345 was issued, in solidarity to HIV positive citizens. Through diverse NGOs, a proposal of a Comprehensive Response Law to the HIV epidemic was formulated; this proposal has a preventive approach and compliance guarantees, as well as a new functioning structure: governing and non-consultative, to substitute the current Law. Nonetheless, the reversion process has been going on for three years already. There is progress evidenced in the creation of the Infectious Diseases Ward at the Hospital Rosales, the decentralization of anti-retroviral therapy administration and prevention programs for maternal and newborn patients, as well as programs for citizens deprived of their freedom. As far as distribution based on sex, there are still a higher percentage of cases in men, primarily between the ages of 19 and 39. There is a registered average of 4 cases per day. <sup>9</sup> Up to January 2014, a total of

<sup>6</sup> ASPIDH (2014) Presidential Elections Observant Report February 2<sup>nd</sup>. For the righting vote without discrimination over sexual orientation, gender identity or gender expression.

<sup>7</sup> Diario Oficial, Tomo 396. Acuerdo 1181. Política de Salud Sexual y Reproductiva. 12 de agosto del 2012

<sup>8</sup> Diario Oficial, Tomo 398. Decreto N° 300 Reforma Ley del Servicio Civil; Decreto N° 301 Ley de la Carrera Administrativa Ley de la Carrera Administrativa. 26 febrero 2013.

<sup>9</sup> Diario el Mundo. Registran 1,230 nuevos casos de vih en 2013. 26 de noviembre 2013. Cada día se registran cuatro casos nuevos de vih, según datos del ministerio de salud. Instituciones reforzarán la prevención en los grupos de riesgo.

30,787 cases had been registered.<sup>10</sup> The preoccupation remains since there is not a comprehensive care center for the adolescents in El Salvador, including HIV positive adolescents. The concern remains for the prevailing stigma and discrimination, the recurrent cases of HIV positive housewives, the reduction on a national level of the allocated budget, and the lack of access to the total of HIV positive patients to anti-retroviral aid.

### **Recommendations:**

- Strengthen the resources for HIV prevention so that the programs on a national level are intensified and the quality and warmth of friendly spaces for children, adolescents and families is guaranteed.
- Access of anti-retroviral aid to 100% of patients in need.

**12. People with disabilities** - There is no national census that states the number of people with disabilities in the country. The people with disabilities organizations point out the lack of reasonable adjustments<sup>11</sup> that guarantee the universal Access to health, education, cultural and recreational spaces and establishments that allow them to participate in society in an equal manner. There is also a lack of quality and warmth in the sexual and reproductive health field for women with disabilities, lack of preparation from justice professionals that oversee cases of violence to children, adolescents and youth with disabilities. The Law of Equal Opportunities (LEO in Spanish) is not homologous to the Convention of People with Disabilities, so there are still framed visions of the medical model and not on a human rights approach.

There is progress with the Executive Decree N° 80 related to CONAIPD, The Inclusive Education Policy of MINED, projects to promote Access to labor and employment for people with disabilities under equal conditions. The CAY have reduced opportunities of comprehensive development due to the attitude barriers, as well as physical impediments that prevent them from regularly going to school and participate in activities in their communities. A major concern is that social exclusion and discrimination remains because of the condition of the disability, since there are no programs that promote social inclusion of this community.

### **Recommendations:**

- That the Salvadoran State may identify clearly the number of citizens with disabilities so they may take the necessary measures in regards to public policies.
- Investment and program designs that decrease the gaps of inequality in the country.
- That the hold on Art. 12 of the Convention for the Full Exercise of the Rights of the Disabled and that the ILO is homologous to the precepts of the Convention.

**13. Disappeared Children**- Pro Búsqueda has been able to drive international attention to emblematic cases of disappeared children and has followed up on the sentencing of funds, repair and costs in the case of the Serrano sisters issued by the Inter-American Human Rights Court in 2005. The National Search Commission or Comisión Nacional de Búsqueda (CNB) in Spanish was created through the Decree N° 5 in 2010. Up to December 2013, 239 reunions, 96 pending cases and 54 cases were identified as deceased. On their side, the CNB has worked with 121 cases thus far; 93 of these from the Armed Forces, 7 from the FMLN party, and 21 unknown (57 missing girls and 63 missing boys). There are 80 pending cases, 20 new cases, 4 closed cases, 4 cases identified as deceased, 5 other cases have been located and 8 reunions have been coordinated. The issue

<sup>10</sup> MINSAL (2014) Boletín epidemiológico (semana 08 2014).

<sup>11</sup> Art. 2. Definiciones: Por ajustes razonables se entenderán las modificaciones y adaptaciones necesarias y adecuadas...Convención sobre los Derechos de las Personas con Discapacidad.

remains: Access to the Armed Forces files has been denied and the CNB will be active up to May 31st, 2014. There is no articulated work between Pro Búsqueda and the CNB. Impunity remains on the violating acts to the human rights of the families that lived through the forced disappearance of its sons and daughters.

#### **Recommendations:**

- That the CNB continues its work through a Law initiative and taking a higher responsibility over its legal mandate and guarantees to resolve 100% of the registered cases.
- The design and implementation of attention and comprehensive repair programs on behalf of the State with measures and resolutions of the Commission and Human Rights Inter-American Court in articulation with civil society and other State entities.

#### **b. The right to life, liberty and one's security**

**14. Violence against women-** ORMUSA's observatory reports that by 2011, a total of 4,925 police reports of domestic violence were filed; in 2012, 1,719 complaints. By January 2013, the Police registered 2,107 domestic violence cases. San Salvador and Usulután are the two departments in which the most complaints and police reports are presented.

The LEIV establishes the different kinds of violence against women. In 2012, 329 women were murdered, according to PNC records. Compared to 2011, **femicide** decreased 47.6 percent. In 2013, the PNC registered a total of 215 murders with women victims. Out of the 215 cases, 40 were girls and adolescents under the age of 17. By department, San Salvador, La Libertad and Usulután are the ones with the highest rate of domestic violence cases filed. Firearms are the most common weapon, followed by knives, strangulation and stoning.<sup>12</sup> A big concern is the resistance on behalf of some judges to define the crime as femicide and instead use different classifications because they are not familiar with the established in the LEIV, Additional to the minimum knowledge of the population on legislation that regulates and protects women's rights and that impunity prevails in some cases in which the aggressors do not receive the weight of the law when the crime is evidenced.

#### **Recommendations:**

- That the State may strengthen the diffusion of the norm on a massive level and creates the conditions for the faithful compliance of the norm, as well as proper follow up of the responsible parties who will execute it
- That safety for women who choose to file complaints and police reports is guaranteed

**15. Physical abuse, domestic and sexual violence-** According to data from ISNA, 1794 boys and girls received professional attention between January and August 2013. 375 of these children were abandoned and 233 were victims of sexual assault.<sup>13</sup> CONNA, processed a total of 6529 reports in 2012 from complaints and warnings received in the Protection Boards, due to allegations of threats and rights violations. From these complaints, 55 percent correspond to threats or the violation of the personal integrity of a child, 12 percent for threats to their right of protection upon abuse or sexual exploitation.<sup>14</sup> The sexual aggressions affect predominantly children under the age of 14, with an average of two aggressions per day; 89.1 percent girls and

<sup>12</sup> FUENTE <http://observatoriodeviolencia.ormusa.org/femicidios.php>

<sup>13</sup> LPG. Cinco niños son maltratados cada día en El Salvador. 8 de enero de 2014. Página 22.

<sup>14</sup> CONNA (2013) Política Nacional de Protección Integral de la niñez y Adolescencia



11.9 percent boys.<sup>15</sup> By department, San Salvador has the highest police reports filed.<sup>16</sup> It is preoccupying to observe the continued naturalization of violence and abuse towards children; the proper attention route is not followed and therefore there is a lack of credibility on the system due to this impunity that generates fear among the citizens and prevents them to file reports.

### **Recommendations:**

- The State must guarantee that the Comprehensive Protection System for Children functions properly in an articulated manner with priority on the attention of children and women, providing attention with warmth and quality and that the preventive measures to protect and establish justice are taken.
- That the National Protection Policy for Children and Adolescents is implemented with clear mechanisms in terms of investment, design of programs and projects with a rights approach that prevent and attend to the needs of violence victims in a holistic manner.
- That the LEPINA article in regards to physical punishment is amended so that it is criminalized.

**16. Economic exploitation included in child labor-** According to data from MINTRAB, more than 191 thousand children work in El Salvador. 28,022 of these children have work permits and 110,626 are under conditions of "dangerous work". LEPINA defines the minimum working age as 14. El Salvador has established an Action Plan, setting 2015 as a goal in which the worse forms of child labor are eradicated and that by 2020 child labor as a whole may be eliminated completely. According to data from DIGESTYC, 72.7% of children who work are boys and 27.3% are girls. Child labor is highest in the rural areas (62.6%) and (37.4%) in the urban areas.<sup>17</sup> Sources from the Inter-American Development Bank, an estimated 20% of the income in poverty households comes from the work of boys, girls, and adolescents.<sup>18</sup> A part of civil society's concerns, is the invisibility of "labor integration" of girls and boys to organized crime (drugs, drug trafficking and dealing in schools, human trafficking). The economic exploitation in the rural areas exposes children to dangerous conditions for the health of boys and girls because of their exposure to agricultural chemicals). The domestic work of girls as service maids is also invisible whether it is in their own homes or for another family.

### **Recommendation:**

That the Salvadoran State may strengthen the surveillance actions on the population experiencing child labor with programs that contribute to providing options that strengthen families' economy.

**17. Human trafficking in El Salvador** - In El Salvador the crime of human trafficking is committed mainly for commercial and sexual, labor and sexual tourism exploitation purposes. El Salvador is considered a capturing, transit and destination for trafficking victims who are mostly women, girls, boys and adolescents. Approximately half of the victims are Salvadoran and the rest come from neighboring countries, particularly

<sup>15</sup> PDDH (2013) Special report on the impact of Violence in the rights of girls, boys, and adolescents in El Salvador.

<sup>16</sup> Source: Information and Responses Office. PNC. <http://observatoriodeviolencia.ormusa.org/femicidios.php>

<sup>17</sup> (DIGESTYC) "Situación del Trabajo Infantil en El Salvador",

<sup>18</sup> Digital newspaper El Faro. Trabajo infantil en los basureros de San Miguel. | Faro Académico | Temporada 2014. <http://www.elfaro.net/es/201402/academico/14791/>

Honduras and Nicaragua. Victims who are Salvadoran citizens are exploited in different countries of the region, particularly Guatemala, Mexico, Belize, Costa Rica, the United States and some European countries.

According to a study from Save the Children (2012), the little to none information available, the low index of police reports, the lack of an effective data conciliation system and follow up on all the Central American countries are among some of the most challenging circumstances facing the definition of intervention actions.<sup>19</sup> In said study, 74 cases of human trafficking were reported, between ages 12 to 17 in 2011. According to data from the National Council against Human Trafficking of El Salvador, 80 individuals began a formal process with the Attorney General's Office and the Justice system in 2012 on suspicion of human trafficking. In the first six months of 2013, according to the Attorney General's Office, 50 cases had already been identified.<sup>20</sup> The PNC data indicates that there are 654 cases from 2000 to October 2013; from these cases, 572 of the cases victims are women and 82 are men.<sup>21</sup> The Department of State's world report on Human Trafficking of June 2013 qualifies El Salvador as one of the countries that does not comply in full to the minimum norms for the elimination of human trafficking that are currently regulated in Art. 367 B of the Criminal Code.<sup>22</sup>

### Recommendations:

- That the State may foster the amplification of prevention and attention programs in a coordinated manner and inform the population on the trafficking issues so they may identify and file complaints.
- The Institutions are urged to quicken the investigation and processing of the open cases.

**18. Disappearances under Violent Contexts in El Salvador.** ORMUSA registers more than a thousand disappearances up to December 2013, according to the PNC data. Until September of the same year, 145 male adolescents and 145 females had not been located by family members. This age group constitutes 40% of the total of disappeared individuals of that month.<sup>23</sup> In 2012, the Legal Medicine Institute registered 1601 notices of missing people; 273 women and 1,328 men- lower than the data from the PNC. Most of these missing persons are between the ages of 10 and 29. Many of the reported cases were students who were later found dead or buried in clandestine cemeteries in which gangs have had some kind of participation in the act. This situation added to the massacres of entire families, including children and adolescents, represent an environment full of violence in its most severe manifestations. The right of life, **participation, education** and the right to move freely around one's territory and choose your place of residence is violated since the gangs have under their power many sectors of El Salvador and they set the transit boundaries of the citizens.

### Recommendations:

- Investigation of the cases and clarification of the facts until the instigators have been criminally processed.
- Strengthening of the PNC's preventive and surveillance measures in the most vulnerable sectors.

<sup>19</sup> Save the Children (2012). Violence and Human Trafficking in Central America: Regional Intervention Opportunities. – 1st ed. -- Managua: Save the Children.

<sup>20</sup> LPG. Poco avance para combatir la trata de personas: EUA. Por Jessel Santos. August 30 2013. <http://www.laprensagrafica.com/2013/08/30/poco-avance-para-combatir-la-trata-de-personas-eua>

<sup>21</sup> Oficina de investigación, Tráfico Ilegal y Trata de Personas. Policía Nacional Civil 2000 -2013.

<sup>22</sup> LPG. Poco avance para combatir la trata de personas: EUA. Por Jessel Santos. August 30 2013. <http://www.laprensagrafica.com/2013/08/30/poco-avance-para-combatir-la-trata-de-personas-eua>

<sup>23</sup> **Source:** Alliance on the Rights of Girls, Boys, Adolescents and Youth of El Salvador. Observatory on the Rights of Children and Adolescents "Child Abuse". 2013. [http://www.observatoriodelosderechosdelaninezylaadolescencia.org/Maltrato\\_Infantil.php](http://www.observatoriodelosderechosdelaninezylaadolescencia.org/Maltrato_Infantil.php)

**19. Migration** - According to data from UNPF (2012), approximately 145,000 people migrate illegally from El Salvador every year.<sup>24</sup> Each month, approximately, 600 children and adolescents under the age of 18 migrated illegally to the United States. 1692 of these children were detained and deported to El Salvador from January to November 2013. This means that CAY represent 5% of the 34, 126 Salvadorans that re-entered the country during this period.<sup>25</sup> Between 2008 and 2012, the amount of children who migrated has tripled and now rises to 25,000 annually. The study "Hope Travels without Visa" (UNPF -UCA, 2012)<sup>26</sup> señala que en la decisión de migrar se ven afectados los derechos de autodeterminación, a la educación, a la seguridad y a la protección. Es preocupante que en afán unificar la familia en otro país, se expone a las niñas y niños a situaciones de violencia y riesgo extremo, entre ellos abuso sexual y trata de personas<sup>27</sup>. Investigadores de la UCA señalaron que la niñez es la más vulnerable y un blanco perfecto para el crimen organizado, "debido a que se sabe que detrás de los niños y niñas hay alguien pagando de 4.000 hasta 11.000 dólares para que ellos lleguen a su destino"<sup>28</sup>.

### Recommendations:

- The State is urged to generate social and economic opportunities that favor the development of families, and generates employment.
- Foster entrepreneurship, rooting, and quality education.
- Strengthening of high-level arrangements (political lobbying) with countries in which there is a Salvadoran population that facilitates family reunion with first generation members and risk is reduced for children and adolescents.

**20. Juvenile Criminal Justice and Justice Management-** Starting in 2010 there was an over saturation of detention centers that reached a 700% of overpopulation.<sup>29</sup> The Juvenile Criminal Law was reformed with more punitive and repressive measures. The minimum age was heightened, and from 7 to 15 years of maximum length for detention measures for under aged adolescents who were declared responsible of certain crimes. In the first semester of 2012, 1641 crimes were committed by under aged adolescents (homicide, illegal possession, grand theft, criminal groups, and others.) Just as highlighted before, there are no reinsertion programs, there can be minimal applications and measures in an open space and detention centers or facilities lack the necessary infrastructure to provide attention to inmates.

### Recommendations:

- That the State implements the restorative Justice Approach, not just punitive.
- The design of ad hoc comprehensive programs keeping in mind the characteristics of the inmate population and the violent environment that tends to prevail in these centers.

<sup>24</sup> UNFPA-UCA (2012) Hope travels without visa: Youth and undocumented migration of El Salvador.. Mauricio Gaborit, Mario Zetino Duarte, Larissa Brioso, Nelson Portillo. Serie de investigaciones 01. Fondo de Población de Naciones Unidas, Universidad Centroamericana «José Simeón Cañas» San Salvador, UNFPA-UCA © 2012.

<sup>25</sup> Diario Colatino. Niños, niñas y adolescentes siguen siendo blanco fácil de la emigración ilegal. Miércoles, 11 de Diciembre de 2013.

<sup>26</sup> Ibid

<sup>27</sup> UNFPA-UCA(2012).. La esperanza viaja sin visa: Jóvenes y migración indocumentada de El Salvador. Mauricio Gaborit, Mario Zetino Duarte, Larissa Brioso, Nelson Portillo. Serie de investigaciones 01. Fondo de Población de Naciones Unidas, Universidad Centroamericana «José Simeón Cañas» San Salvador,

<sup>28</sup> <http://www.contrapunto.com.sv/reportajes/ninez-salvadorena-migrante-es-mas-vulnerable-ante-crimen-organizado>

<sup>29</sup> PDDH (2013) ,

### c. Right to Health.

**21.** Despite the existence of a Sexual and Reproductive Health Policy, health personnel provides attention to adolescents with prejudice. There is a high risk of abuse due to lack of information. This is preoccupying since there are high risk levels in youth and adolescents to contract STIs. El Salvador has a level of epidemic in teen pregnancies. According to conservative sectors, the programs must be restricted to abstinence. In 2012, a total of 25,068 girls and adolescents, between the ages of 10 and 19, gave birth in the public health centers of the country, according to the Annual Report of the MINSAL 2012-2013. Every day, 69 deliveries were attended to with adolescents.<sup>30</sup> From these deliveries, 155 newborns of adolescent mothers, equivalent to 6%, were born to an adolescent of 15 years of age or younger.

#### Recommendations:

- Improve the quality of attention services.
- Establish a surveillance system that monitors congenital malformations so that the main malformations can be identified and the preventive measures applied.
- Strengthen the prematurity prevention program and monitoring of the girls' and boys' premature health.
- Support the implementation of the Prevention and Promotion of Breastfeeding Law.

### e. Right to education

**22. Investment in education** -. According to data from the study for the Foundation for Innovative Education in Central America (FIECA, Salvadoran), the investment in education represents 3.3% of the GDP, classifying as one of the lowest in the region. This leads to low levels of coverage and the deficient quality of education. The investment in education has been more concentrated on the level of elementary education, which represents the highest coverage levels in education, 93.75%. Access to education in children under the age of three is lower than 3%; from children from the ages of four to six, it was 54.2%. Enrollment from seventh grade to high school reaches a 61.6%; while in the case of adolescents between 16 to 17 years of age, 35.4%<sup>31</sup> (the School Census of 2011). As students reach education levels in elementary and high school, enrollment decreases significantly which constitutes a risk factor since their development opportunities are also diminished.

#### Recommendations:

- That the State increments the budget for education in relation to 6% of the GD.
- That there is ample comprehension on the guarantee of the right of education so that it is inclusive, with warmth, quality, participative, respectful and with an approach based in rights.
- All the necessary measures so that the school environment is safe of any kind of violence are urged to be implemented.

<sup>30</sup> LPG. En El Salvador cada 30 minutos una adolescente da a luz. 30 de Octubre de 2013.

<http://www.laprensagrafica.com/2013/10/30/en-el-salvador-cada-30-minutos-una-adolescente-da-a-luz>

<sup>31</sup> <https://www.mined.gob.sv/index.php/novedades/noticias/item/6431-mined-fieca-y-unicef-instan-a-el-salvador-a-duplicar-la-inversi%C3%B3n-en-educaci%C3%B3n.html> MINED, FIECA Y UNICEF instan a El Salvador a duplicar la inversión en educación a través del estudio “El financiamiento de la educación en El Salvador”

**23. Violence in schools** – According to the Special Report of the PDDH (2013) many schools are located in communities in which delinquent activities are dominant, there is drug commercialization and gang control. In said report, there are alarming figures of violence levels that has taken the lives of over 200 students over the last four years. According to data from La Prensa Gráfica, in 2011 there were 139 reports of homicides of girls, boys or adolescent students in various education levels. In 2012, cases reduced to 67 and the decreasing trend remained in 2013 with 28 cases. MINED identified 400 schools that report some level of violence.

In 2014, there were 7 murders of students, two adolescent women among them. There are speculations that these cases may be linked to gang activity. The UNDP (2013), points out that the presence of gangs threatens the role that schools have, primarily the public system in terms of deterioration of authority of the professors in the schoolroom as a conversion factor.<sup>32</sup> In light of this situation, 1,200 teachers have requested transfers from the education centers because they have received threats and extorsions from the gangs. PNC records indicate that in 2013, there were 28 murders of students and teachers. The extorsions circle between 30 to 50 USD per month. The communities fear that many of the children going to schools are gang members' children.<sup>33</sup>

**Recommendation:**

Effective and comprehensive applications of measures is required in regards to violence in El Salvador that has attacked the causes that generate it and prompts that girls, boys and adolescents may exercise their right of education, to move freely, develop in a comprehensive manner and attend school without it representing a risk on their lives.

---

<sup>32</sup> PNUD (2013). Informe sobre desarrollo humano El Salvador 2013. Imaginar un nuevo país. Hacerlo posible. Diagnóstico y propuesta. San Salvador. Programas de Naciones Unidas para el Desarrollo.

<sup>33</sup> Contra Punto. En El Salvador más de 1200 amenazados y extorsionados. 29 de noviembre 2013.