

CENTER
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RIGHTS

Justice
Geo Nelson

(2)

Human Rights Council
Adoption of UPR outcome on ~~El Salvador~~

Mr. President,

During the review of El Salvador; Australia, Canada, the Czech Republic, France, Germany, Iceland, Luxembourg, Norway, Slovenia, Spain, Sweden and the United Kingdom, recommended El Salvador take steps to guarantee full and effective recognition of sexual and reproductive rights, particularly, to amend its law that criminalizes abortion without exception.

On El Salvador's last review, the State committed to review the recommendations and provide responses in due time by no later than the 28th session of the Human Rights Council in March 2015.

For nearly 17 years, El Salvador has enforced one of the most extreme abortion bans in the world – criminalizing abortion in all circumstances, even when necessary to save a woman's life in cases of rape and imposing severe criminal penalties on both women and physicians. Under current Salvadoran law, anyone who performs an abortion with the woman's consent, or a woman who self-induces or consents to someone else inducing her abortion, can be imprisoned for up to 8 years, though in reality most women end up being prosecuted and sentenced for aggravated homicide, which is punishable up to 30 years in prison. This means, the ban has also resulted in the wrongful imprisonment of countless women who have suffered pregnancy-related complications and miscarriages.

17 women have been imprisoned for pregnancies that ended due to natural causes. All of them were sentenced with up to 40 years in prison. In January 2015, El Salvador's Congress approved a pardon for "Guadalupe," a Salvadoran rape survivor wrongfully imprisoned for homicide after suffering a pregnancy-related complication. A week after, six U.N. human rights experts¹ urged El Salvador to pardon all women jailed for pregnancy complications and repeal the restrictive abortion law. To date, 15 women are still wrongfully in prison and will remain there as their pardons have been denied.

El Salvador's total abortion ban violates the right to health and the right to life without discrimination, specifically women's reproductive rights. The criminalization of abortion in El Salvador further generates other violations to human rights, including: arbitrary detentions, the right to due process, privacy, and freedom from violence and cruel or inhuman treatment of imprisoned women.

¹ **Emna Aouij**, Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; **Mads Andenas**, Chair- Rapporteur on the Working Group on arbitrary detention; **Dainius Pūras**, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; **Juan Ernesto Mendez**, Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment; **Rashida Manjoo**, Special Rapporteur on violence against women, its causes and consequences; **Gabriela Knaut**, Special Rapporteur on the independence of judges and lawyers.

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A: The Center for Reproductive Rights welcomes El Salvador's commitment in accepting the twelve UPR recommendations on reproductive health and rights. It is critical that El Salvador takes urgent steps to implement those recommendations by taking all the necessary measures to guarantee reproductive rights. We also request that the State address the following reproductive rights issues that remain of concern:

B: The Center for Reproductive Rights regrets that El Salvador has rejected the recommendations made on reproductive health and rights. We request the State to take decisive action to:

- First, revise laws imposing a total abortion ban to allow for exceptions when: (a) Pregnancy endangers a woman's life or health; (b) Pregnancy is the result of rape or artificial insemination without the woman's consent; and (c) Fetal anomaly incompatible with life outside the womb.
- Second, take steps to prevent women seeking emergency obstetric care from being reported to the authorities on suspicion of abortion.
- Third, stop the prosecution of women on charges of abortion until the legislation is revised.
- Fourth, adopt all relevant measures to ensure that judicial investigations and prosecutions adhere at all times to the tenets of due process.
- Fifth, release every of the remaining 15 women wrongfully imprisoned.

Thank you very much for your attention.