Bogota, New York, October 1, 2018

**Working Group on the Issues of Discrimination Against Women in Law and in Practice**

Office of the United Nations High Commissioner for Human Rights

Palais Wilson   
52, rue des Pâquis  
CH-1201 Geneva 10  
Switzerland

**Re: Supplementary information on the situation in El Salvador, submitted to provide input for the thematic report on women deprived of liberty to the 41st session of the Human Rights Council in June 2019**

Distinguished members of the Working Group:

The Center for Reproductive Rights (the "**Center**") is an independent non-governmental organization that promotes gender equality and the fulfilment of women’s reproductive rights. The Center seeks to contribute to the Working Group work by providing independent information concerning El Salvador’s obligations in relation to the country’s total abortion and its harsh consequences on women unjustly deprived of liberty.

El Salvador prohibits abortion under any circumstances, even in cases of (a) adolescent girls' pregnancy, rape, or incest; (b) where abortion endangers the mother’s life; or (c) where the fetus is unviable. Therefore, in maintaining a total criminalization of abortion. As a result, women that have suffered obstetric emergencies or induced abortions might end up being prosecuted and imprisoned with sentences for up to 40 years in charges of aggravated homicide. Despite being innocent, once in prison, women live under degrading and unsanitary conditions.

This submission will respond to the questions made by the Working Group in the context of the justice system, namely:

**I. Justice system**

1. What are the main causes for women coming into conflict with the law and facing the associated deprivation of liberty, including pre-trial detention? Which are the groups of women who are most vulnerable and why? Please list the types of offenses for which women, or any particular group of women, are typically charged with, including administrative offenses.

2. Please indicate if there are cases of women facing detention in relation to civil law suits and identify the particular groups of women mostly affected.

3. What are the main challenges for women’s access to justice, including, for example, the availability and quality of legal representation, the ability to pay for bail, and the existence of gender stereotyping and bias in judicial proceedings?

4. What have been the main drivers for the increasing or decreasing of the female prison population in your country in the past decade? To what extent are non- custodial measures used, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)?

**I Underlying root causes of the problem: the absolute criminalization of abortion in El Salvador**

Before 1998, El Salvador allowed abortion (a) to save a woman’s life; (b) when abortion resulted from a crime; (c) when pregnancy resulted from rape; and (d) in case of serious fetal impairment.[[1]](#endnote-2) El Salvador enacted a new Criminal Code in 1998 criminalizing abortion under any circumstances.[[2]](#endnote-3) Under this law, health professionals who treat women experiencing obstetric emergencies or abortion-related complications believe that they are legally obligated to report their patients to the police to avoid criminal prosecution,[[3]](#endnote-4) in a clear breach of patients' confidentiality.[[4]](#endnote-5)

The dramatic effect of this provision is that women and girls who suffered obstetric emergencies and spontaneous abortions face serious risks of being prosecuted. Instead of receiving adequate medical attention, women are reported to the police while they are still bleeding or unconscious. In the hospital, handcuffed to their beds, women are interrogated without the presence of a public defender, facing serious violations of due process, including public defense and the presumption of innocence. In most cases, women are charged with the crime of abortion, however, in some cases, their charges have been converted into aggravated homicide, increasing their sentences from 30 to 50 years in prison.[[5]](#endnote-6)

The majority of these women are poor, uneducated and young. Once in prison, women live in conditions of extreme overcrowding, without medical assistance and without access to clean water.   
Some of the women have reported being victims of sexual harassment and abuse by prison staff. In cases where these have children they are separated from their families.

**II The impact of the total criminalization of abortion on women and girls in El Salvador**

Between 2000 and 2011, 129 women in El Salvador were prosecuted for abortion or homicide when the fetal deaths occurred in the last months of pregnancy.[[6]](#endnote-7) Of these, 129[[7]](#endnote-8) women, 26 were convicted of homicide[[8]](#endnote-9) and 23 were convicted of abortion.[[9]](#endnote-10)

Most of these 129 women were young, poor, with limited education, and from remote rural communities.[[10]](#endnote-11) Indeed, 68.2% of the incarcerated women were between 18 and 25 years old with limited education (6.98% were illiterate, 40.31% had only primary education, 11.63% had completed high school, and only 4.65% had progressed to higher education). Almost three-quarters were single.[[11]](#endnote-12)

Abortion-related investigations invariably lead to the prolonged, pre-trial detention of vulnerable women.[[12]](#endnote-13) They are held in unsuitable prisons[[13]](#endnote-14) without access to personal hygiene items.[[14]](#endnote-15) Many have been incarcerated while still suffering from complications or even haemorrhaging.[[15]](#endnote-16) The incarceration of sick and vulnerable women is unnecessary, disproportionate, and uniquely impacts upon women while in a particularly fragile state, thereby constituting a flagrant violation of rights under international human rights law.

Between 2000 and 2011, 57.4% of formal complaints to the authorities regarding potential breaches of anti-abortion legislation came from staff in public hospitals and from the Salvadoran Social Security Institute.[[16]](#endnote-17) It is notable that there were no complaints at all made by *private* hospitals or *private* healthcare centers and physicians.[[17]](#endnote-18) This cannot be coincidental, and demonstrates that these laws operate in a way that discriminates against poor and rural women in particular. Women with obstetric complications have died from lack of medical treatment because they have been afraid to attend public hospitals.[[18]](#endnote-19) Women have also died from suicide and from unsafe backstreet abortions[[19]](#endnote-20) (typically involving unskilled providers often operating in unhygienic conditions), or self-inducement, whether by inserting an object or by ingesting inappropriate and lethal medication or substances*.*[[20]](#endnote-21)

The case of *Manuela v. El Salvador*, a case brought by CRR before the Inter-American Commission of Human Rights, and declared admissible before the IACHR[[21]](#endnote-22), illustrates the severity of the situation. Manuela, a Salvadoran woman of modest means, died on April 30, 2010 of Hodgkin’s lymphoma at the age of 33 while serving a 30-year prison sentence for aggravated homicide. She was imprisoned after suffering an obstetric emergency that led to the evacuation of a fetus which resulted from never receiving adequate care for the cancer from which she had been suffering. Manuela suffered numerous abuses and violations of her rights while in the hospital, during the police and criminal investigation, trial, and while in prison. Manuela’s parents, Carmen and Juan, who are elderly, rural, and illiterate, were also subjected to serious abuses at the hands of Salvadoran authorities in connection with what had happened to their daughter. The human rights violations suffered by Manuela and her family result from the criminalization and stigmatization of abortion in El Salvador, as well as discrimination in accessing health services and adequate legal defense.

Manuela was preventively detained, and the authorities, in an arbitrary manner, failed to respect even the minimum procedural guarantees. She lacked the financial resources to hire a private attorney and only met her public defenders on the day of her hearing. After being convicted, she could not appeal the ruling due to her defenders’ negligence and a lack of remedies. Finally, Manuela, isolated from her family, due to the humiliating searches that her family was forced to undergo in order to visit her, died of cancer in prison. Her death orphaned her two children, who were taken in by her parents.

**III. Prosecution and imprisonment of women based on gender stereotypes**

The Center has been acting on behalf of a group of women who were sentenced for up to 40 years in jail following reported miscarriages, mostly on charges of aggravated homicide.[[22]](#endnote-23)

The most common violations of this right relate to the use of evidence obtained illegally. The public defenders assigned to defend the cases, who have little knowledge of the case files, in many cases do not appeal the decisions, or do not invite the victim to testify during the trial stage. In other cases, the evidence from expert witnesses that establish the cause of fetal death is weak, and key testimonies or facts that support the innocence of women are deliberately ignored or dismissed. From the forensic medical point of view, the quality of autopsies does not meet international standards in the field. [[23]](#endnote-24)

That is the case of, Alba Lorena Rodriguez, who went into early labor at home and fainted while giving birth in December 2009. While in and out of consciousness, she was interrogated by police officers—and although the police report said she have read and understood her rights, Alba was illiterate and was not represented by a defender during the interrogation. Without any proof against her, she was sentenced to 30 years in prison on July 15, 2010 in charges of aggravated homicide. To date, Alba is serving a prison sentence until 2040.[[24]](#endnote-25)

Another case that illustrates due process violations based on gender stereotypes is the case of Maria Teresa Rivera[[25]](#endnote-26). In November 2011, without even realizing she was pregnant, Maria Teresa went into early labor, experiencing heavy bleeding and ultimately miscarrying in a public restroom. immediately after, her family called the emergency line. While at the hospital, the police was called since doctors suspected she has had an induced abortion. In her case, the Court stated:

*(…) it is expected of a pregnant woman to seek adequate and timely medical attention for her and her baby, condition that the defendant neglected, until the birth occurred in the septic tank, where she evidently endangered the life she carried.[[26]](#endnote-27)*

In the case of Manuela *supra* informed, the Criminal Court concluded that:

*the accused knew of her pregnancy and that it was a consequence of infidelity, because she was married […] She expected to give birth and then get rid of the baby; or is it possible affirm that she ignored everything, and that when she woke up, someone had thrown the child into the septic tank? The court believes that it is not possible to think of such a situation, because the maternal instinct is to protect the child.[[27]](#endnote-28)*

**IV. Harsh and unsanitary prison conditions**

El Salvador has one the highest incarceration figures in its history.[[28]](#endnote-29) Its rate of incarcerated population ranks second in the world,[[29]](#endnote-30) and despite the government’s efforts the prison overcrowding conditions reaches nearly 230%.[[30]](#endnote-31)

According to figures of the penitentiary system, in the years 2009, 2015 and 2018, the population deprived of liberty was of 21,032, 31,148 and 39,274 inmates[[31]](#endnote-32). Thus, there are constant and alarming increases in the number of people deprived of their liberty, resulting in a rate of 614 people imprisoned per 100,000 inhabitants[[32]](#endnote-33).Although 90% of the prison population are still men, in recent years the prison population of women has increased. This has led to the highest levels of overcrowding in female penitentiaries[[33]](#endnote-34).

The *Ilopango* prison, located in San Salvador, is the only penitentiary exclusively for women under closed regime[[34]](#endnote-35). It has an installed capacity of 550 places[[35]](#endnote-36) and reports one of the highest levels of overcrowding in the country (367%)[[36]](#endnote-37). In fact, in the years 2014, 2017 and 2018, respectively, it housed a total of 2,073, 2,444 and 2,462 inmates[[37]](#endnote-38), reflecting a continuous increase in its population.

One of the inmates described that:

*In the cell, there were sometimes 150 inmates in a space where capacity of 38, 40, 60, or 80 inmates. In the cell I entered, there were 85 inmates (…) there was only a space of bricks lined up to walk by, then there were beds, a cabin here, another here, another here, and everyone was in a line so I l slept like this and was in the middle, in the middle, yes, (…) until the beds were filled.[[38]](#endnote-39)*

These overcrowding conditions constitute serious and grave human rights violations to women’s right to life, health and integrity[[39]](#endnote-40).

The *Illopango* prison does not have an aqueduct that facilitates drinking water. Women also face serious difficulties in receiving basic medical care, particularly in relation to their reproductive health. In fact, this prison only arranges one gynecologist to provide care to more than 2,000 women[[40]](#endnote-41).

In addition, the medical unit of the prison is understaffed. During our last visit to the prison, CRR documented there were only two general doctors available operating for eight hours a day from Monday to Friday and a gynecologist that was available two times a week.

In la *Granja de Izalco*, a detention center for women with children under the age of five years old, CRR documented the cases of women living with their babies under appalling unsanitary conditions. In 2018, a total of 181 children were reported to live in this center,[[41]](#endnote-42) 75.2% of these children are between 0 to 3 years old requiring specialized medical care.[[42]](#endnote-43) During the visit, CRR found there was not enough medication stock available, and the water was not drinkable as it comes from a pipe adjacent to the prison, creating cruel and degrading detention conditions for these women and their babies. In 2017 alone, at least four babies had died at this center due to unhygienic conditions and child malnutrition, worsen by insufficient medicines and medical personnel available.[[43]](#endnote-44)

The Center documented the case of Silvia Beatriz Jimenez Ancheta who suffered an obstetric emergency and is currently under detention at this center, with her 1-year-old baby living under severe dangerous and unsanitary conditions.[[44]](#endnote-45) During visits from researchers to the prison, it was found that Silvia’s baby had been sick for several months and had not received adequate medical care.

Another case is the story of Maritza de Jesus Gonzalez, who had an obstetric emergency and was sentenced to 30 years in prison[[45]](#endnote-46). She was pregnant and had a twin pregnancy. While in prison at *Ilopango* one of her babies died. She was later transferred to “*Centro Penitenciario La Granja de Izalco*”, the maternal detention center with her other baby who is currently sick and is not receiving adequate medical care.

**IV International calls on El Salvador to end this situation**

In December 2017, the UN High Commissioner for Human Rights, Mr Zeid Ra’ad Al Hussein, issued a statement urging El Salvador "*to launch a moratorium on the application of article 133 of the Penal Code, and review all cases where women have been detained for abortion-related offences, with the aim of ensuring compliance with due process and fair trial standards*."[[46]](#endnote-47) Mr Al Hussein also stated that "*should it be found their cases were not compliant, I appeal for the immediate release of these women. To establish compliance, my Office has proposed that such a review could be established by presidential decree and be carried out by an expert executive committee composed of national and international members. I asked the Government to act on this proposal and indicated the readiness of my Office to assist. This is in line with the recommendations by the Committee on the Elimination of Discrimination against Women*."[[47]](#endnote-48)

In March 2017, the Committee on the Elimination of All Forms of Discrimination against Women (the "**CEDAW**") recommended that El Salvador overturn its legislation criminalizing abortion and enact legislation to prevent sexual harassment of girls at school, strengthen the capacity of teaching staff in comprehensive sexual education, and strengthen measures to ensure access to sexual and reproductive health services.[[48]](#endnote-49)

The European Union Parliament has also considered the dramatic situation caused by El Salvador's total criminalization of abortion. In December 2017, the European Union Parliament issued a joint motion for a resolution requesting "*the authorities of El Salvador to provide comprehensive sexual education to prevent an unwanted pregnancy and respond to the obstetric emergency. Call[ing] for women's access to family planning and the full range of sexual and reproductive public and universal health and rights services, including modern contraceptive methods and legal and safe interruption of pregnancy in order to aimed at reduce maternal and infant mortality; [c]all[ing] on the Legislative Assembly to follow the recommendations by the UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein and the CEDAW recommendation in order to improve the women rights;…*"[[49]](#endnote-50)

In January 2015, six U.N. Chair-Rapporteurs and Special Rapporteurs called on El Salvador to repeal its anti-abortion legislation, release the women who remain incarcerated without due process under those laws, stop the prosecution and imprisonment of women who arrive at hospitals seeking medical care for obstetric emergencies, and “*ensure access to sexual and reproductive health and rights, including maternal health care and access to all methods of modern contraception*”.[[50]](#endnote-51)

At El Salvador’s last Universal Periodic Review in November 2014, twelve States expressed concern and called on El Salvador to amend or repeal its severe and punitive anti-abortion laws.[[51]](#endnote-52)

In 2014, the U.N. Committee on Economic, Social and Cultural Rights recommended that El Salvador redouble its efforts to reduce the high rate of teenage pregnancies and ensure access to readily available sexual and reproductive health services, particularly in rural areas.[[52]](#endnote-53)

In 2010, the U.N. Committee on the Rights of the Child expressed its concern at El Salvador’s high number of teenage pregnancies, and at the fact that the criminalization of abortion may lead girls to resort to unsafe and clandestine abortion practices, sometimes with fatal consequences,[[53]](#endnote-54) in violation of El Salvador’s obligations under the Convention on the Rights of the Child.[[54]](#endnote-55)

And in 2007, the U.N. Committee on Economic, Social and Cultural Rights expressed concern at the ongoing discrimination faced by women in El Salvador and urged El Salvador to reform its abortion legislation and to consider exceptions to the total ban.[[55]](#endnote-56)

Despite the international clamor for change, El Salvador’s abusive and discriminatory laws remain in place.

**VI Conclusion**

We applaud this Working Group for its commitment to women’s rights, and the strong recommendations issued to El Salvador in the past, stressing the need to enact, implement and monitor effective policies towards increasing these rights.

El Salvador's commitment, however, does not adequately address the key source of discrimination against women, particularly those in imprisoned. El Salvador's total criminalization of abortion distinguishes, excludes and restricts adolescent girls' rights in breach of El Salvador’s international legal obligations.

We respectfully request this Working Group to address the following recommendations to the Salvadoran government:

* *urgently* repeal El Salvador’s highly restrictive anti-abortion legislation;[[56]](#endnote-57)
* alternatively,*urgently* amendEl Salvador’santi-abortion legislation to permit exceptions for pregnancy resulting from sexual violence, rape or incest, particularly of adolescent girls, where there is a threat to the mother’s life or health, or where the fetus is unviable;[[57]](#endnote-58) and
* *urgently* amendEl Salvador’santi-abortion legislation to remove the obligation of health professionals and public officials to report women to the police based merely on a *suspicion* of abortion.
* *urgently* address the unsanitary and appalling conditions at the prisons of *Ilopango* and *Centro Penitenciario La Granja de Izalco.*
* *Urgently* review and adapt the domestic legislation (and its implementation) for the treatment of women in prison to international human rights standards as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women (the Bangkok Rules);
* *urgently* adopt all possible alternatives to measures depriving mothers of their freedom;
* *urgently* adopt all the necessary guidelines related to children who live with their parents in prison, to ensure that the living conditions, including access to food, hygiene and health care are adequate for the physical, mental and social development of children.

If you have any questions, or would like further information, please do not hesitate to contact the undersigned.

Respectfully,

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| |  |  | | --- | --- | | **Carmen Cecilia Martínez**  Regional Manager for Latin America and the Caribbean, Global Legal Program  Center for Reproductive Rights  Martinezc@reprorights.org  Calle 73 N° 7 – 31, Piso 8.  Bogotá, Colombia | **Sebastián Rodríguez Alarcón**  Program Manager for Latin America and the Caribbean, Global Legal Program  Center for Reproductive Rights  Srodriguez@reprorights.org  199 Water St. 22nd Floor  New York, NY, 10038 | | **Marta Gonzalez**  Legal Advisor Latin America and the Caribbean, Global Legal Program  Center for Reproductive Rights  mgonzalez@reprorights.org  Calle 73 N° 7 – 31, Piso 8.  Bogotá, Colombia |  | |  |

**Annex: Extracts from the 1998 Criminal Code and the 1999 Constitution**

**1. El Salvador Criminal Code (1998)**

Article 133: One who performs an abortion with a woman’s consent or a woman who performs her own abortion or consents to another performing it will be sanctioned by prison for two to eight years.

Article 134: One who performs an abortion without a woman’s consent will be sanctioned by prison for four to ten years.

The same penalty will apply to one who performs an abortion on a woman having secured her consent by way of violence or deception.

Article 135: If the abortion is performed by a doctor, pharmacist or by any person who undertakes auxiliary activities to those professions, when such a practice occurs, it will be sanctioned by prison for six to twelve years. The penalty of disqualification from the practice of the profession or activity for the same period shall also be applied.

Article 136: One who induces a woman or helps her by way of economic or other means to obtain an abortion, will be sanctioned by prison for two to five years.

If the person who helped or induced the abortion is the parent, the sanction will be increased by a third of the maximum penalty indicated in the previous paragraph.

Article 137: One who negligently causes an abortion will be sanctioned with prison for six months to two years.

Culpable abortion caused by the pregnant woman herself, by her own attempt, will not be punishable.

Article 312: An official or public employee, agent of an authority or public authority who, in the exercise of his/her functions or during them, comes to know that a punishable crime has been committed and omits to give notice within twenty-four hours to the competent authority, will be sanctioned with a fine of fifty to one hundred days.

The same sanction will be imposed on the boss or person in charge of a hospital, clinic or other such establishment, public or private, who does not notify the competent authority of the admission of injured people, within eight hours following the same, in cases where it could be realistically considered that such is the result of a crime.

**2. El Salvador Constitution (1999)**

Article 1:

El Salvador recognizes the human person as the origin and the end of the activity of the State, which is organized to attain justice, judicial security, and the common good.

In that same manner, it recognizes as a human person every human being since the moment of conception.

In consequence, it is the obligation of the State to secure for the inhabitants of the Republic, the enjoyment of liberty, health, culture, economic well-being and social justice.

1. Decreto N° 270, Código Penal (1973), Art. 169, available at <http://es.scribd.com/doc/60806391/Codigo-Penal-1973>. [↑](#endnote-ref-2)
2. Performing an abortion on another carries a penalty of imprisonment of up to twelve years, and self-inducing an abortion carries a penalty of imprisonment of up to eight years, see Decreto N° 1030, Código Penal (1998) (hereinafter "1998 Criminal Code"), Arts. 133-137. *See* also Código de Ética y Deontología Médica (2015) (hereinafter "2015 El Salvador Doctors’ Code of Ethics and Deontology"), Art. 87, which provides that “*performing abortion constitutes serious misconduct according to the Criminal Code*”. [↑](#endnote-ref-3)
3. The text of article 312 of the Salvadoran Penal Code, which classifies the failure to report an abortion as a criminal offense, together with the absolute criminalization of abortion and the protection of life and recognition of the human person from conception, creates the context that leads doctors to report women in order to avoid being fined or reported themselves for complicity or for failing to alert authorities under the terms established by law. Penal Code of El Salvador, art. 312 (1998), available at [http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscadorde-documentos-legislativos/codigo-penal.*Cfr*](http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscadorde-documentos-legislativos/codigo-penal.Cfr)*.* CRR, *Marginalized, persecuted, and imprisoned – The effects of El Salvador's total criminalization of abortion*,2014, p. 8 available at <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/El-Salvador-CriminalizationOfAbortion-Report.pdf> [↑](#endnote-ref-4)
4. The obligation of doctor-patient confidentiality is set out in 2015 El Salvador Doctors’ Code of Ethics and Deontology, Articles 64 and 65. Decreto N° 955, Código de Salud (1988), Art. 38(2) however, provides that this obligation is “*inviolable, except in the case where complying with it would breach the existing laws*”. [↑](#endnote-ref-5)
5. CRR, Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico *Marginalized, persecuted, and imprisoned – The effects of El Salvador's total criminalization of abortion*,2014, p. 44 *available at* <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/El-Salvador-CriminalizationOfAbortion-Report.pdf> [↑](#endnote-ref-6)
6. *From Hospital to Jail Report*,pp. 53-55. [↑](#endnote-ref-7)
7. Of the 80 remaining cases, 67 were ultimately dismissed or acquitted, and nine were subject to default judgment. No information is available about four cases. *From Hospital to Jail Report*,p. 55. [↑](#endnote-ref-8)
8. Of these 26 convictions, 19 were for aggravated homicide, 4 were for attempted homicide and 3 were for manslaughter. [↑](#endnote-ref-9)
9. It is not entirely clear the basis upon which El Salvador distinguishes between homicide and abortion. In many cases, there would be a crossover between the two. *From Hospital to Jail Report*,p. 55. [↑](#endnote-ref-10)
10. Of the accused women, 43.4% were aged 21–25 years, 24.8% were aged 18–20 and 16.3% were aged 26–30. Thus, some 85% were women younger than 30.  These women had very low levels of education: 46.3% were illiterate or had at most finished two years of primary school.  Only 25.6% had attended secondary school, a technical school or university. *From Hospital to Jail Report*,pp. 53-54. [↑](#endnote-ref-11)
11. CRR, *Marginalized, Persecuted, and Imprisoned*, p. 13. [↑](#endnote-ref-12)
12. Women are imprisoned pursuant to Articles 329 or 330 of the Code of Criminal Procedure, which permits pre-trial detention if there are elements that support (i) the existence of a crime and the likelihood of participation of the accused and (ii) the seriousness of the crime (Article 329); other factors include, *inter alia*, the risk of escape (Article 330). Being charged with homicide – clearly a serious crime – invariably leads to extended pre-trial detention. [↑](#endnote-ref-13)
13. *Cfr.* HRC, *Report of the Working Group on Arbitrary Detention – Addendum – Mission to El Salvador*, A/HRC/22/44/Add.2, ¶ 96. [↑](#endnote-ref-14)
14. Ibid. ¶ 96. [↑](#endnote-ref-15)
15. HRC, *Report of the Special Rapporteur on torture and other cruel and inhuman or degrading treatment or punishment*, A/HRC/31/57 (January 5, 2016), ¶ 26. See also CRR, *Marginalized, Persecuted, and Imprisoned*, pp. 56 and 62. See also Isabel Cristina’s testimony, *Ibid*., p. 29. [↑](#endnote-ref-16)
16. Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico, *Del hospital a la cárcel: consecuencias para las mujeres por la penalización sin excepciones, de la interupción del embarazo en El Salvador*, 2013 (“Citizen’s Coalition for the Decriminalisation of Abortion on Grounds of Health, Ethics and Fetal Anomaly, *From Hospital to Jail: the Impact on Women of El Salvador’s Total Criminalisation of Abortion’, Reproductive Health Matters*, Vol. 22 (44) (November 2014)”), p. 54 (hereinafter “*From Hospital to Jail Report*”). [↑](#endnote-ref-17)
17. CCPR, *Report on Violation of Women’s Human Rights due to the Complete Criminalisation of Abortion – In Response to the Periodic Report of El Salvador*, (99th Session) (2010), Annex A, p. 1. See also CEDAW, *Concluding Observations*, U.N. Doc. A/54/38/Rev.1 (1999) (Ireland), ¶ 185. [↑](#endnote-ref-18)
18. *From Hospital to Jail Report*,pp. 53-55 (noting that it is impossible to state the number of deaths: as long as abortion remains illegal, statistics cannot be expected to reflect the true position). [↑](#endnote-ref-19)
19. *From Hospital to Jail Report*,p. 53, citing research from the Guttmacher Institute and the International Family Planning Federation Western Hemisphere Region, which estimates that the rate of unsafe abortions in El Salvador is about 25 per 1,000 women of childbearing age, such that over 35,000 unsafe abortions take place in El Salvador every year. Additionally, according to the Maternal Death Surveillance System of the Ministry of Health of El Salvador, the suicide rate among pregnant women was the third largest cause of maternal deaths in 2011, after hypertensive disorders and obstetric hemorrhage. [↑](#endnote-ref-20)
20. World Health Organisation, *Unsafe Abortion – Global and regional estimates of the incidence of unsafe abortion and associated mortality in 2008*, (2008 6th ed.), pp. 2 and 7. [↑](#endnote-ref-21)
21. IACHR. Report N° 24/17, Petition 425-12, Manuela and Family v. El Salvador, OEA/Ser.L./V/ll.161 Doc. 36, 18 March 2017 [↑](#endnote-ref-22)
22. See Las 17, *No Dejemos que sus vidas se marchiten*, available at http://www.las17.org/ (last accessed March 30, 2016). See also E. Guevara-Rosas, *El Salvador and Las 17*, New York Times (March 2, 2015), available at http://www.nytimes.com/2015/03/03/opinion/el-salvador-and-las 17.html?\_r=0

    (last accessed March 30, 2016). [↑](#endnote-ref-23)
23. CRR, Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico *Marginalized, persecuted, and imprisoned – The effects of El Salvador's total criminalization of abortion*,2014, p. 51 *available at* <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/El-Salvador-CriminalizationOfAbortion-Report.pdf> [↑](#endnote-ref-24)
24. CRR, *El Salvador: Free the Women Behind Bars for Pregnancy Complications, available at* [*https://www.reproductiverights.org/justice-in-el-salvador*](https://www.reproductiverights.org/justice-in-el-salvador) [↑](#endnote-ref-25)
25. Maria Teresa was granted asylum by the Swedish Migration Agency, case 50858071. This decision is based on the provisions of the Aliens Act (2005:716) and the Act (2016:752) concerning temporary restrictions on the ability to obtain a residence permit in Sweden. [↑](#endnote-ref-26)
26. Information available in the case file submitted as an Annex of the Case 9 Women vs El Salvador, before the Inter-American Commission of Human Rights. [↑](#endnote-ref-27)
27. Information available in the case file submitted as an Annex of the Case 9 Women vs El Salvador, before the Inter-American Commission of Human Rights. [↑](#endnote-ref-28)
28. Laura Andrade y Adilio Carrillo, El sistema penitenciario salvadoreño y sus prisiones, Instituto Universitario de Opinión Pública, Universidad Centroamericana “José Simeón Cañas” 14 (2015) disponible en <http://www.uca.edu.sv/iudop/wp-content/uploads/El-Sistema-penitenciario-salvadore%C3%B1o-y-sus-prisiones.pdf> [↑](#endnote-ref-29)
29. BBC. *Qué país tiene la tasa de presos más alta del mundo y cuál es el de América Latina*, 9 de mayo de 2018 disponible en https://www.bbc.com/mundo/noticias-internacional-44047889 [↑](#endnote-ref-30)
30. CIDH, 168 Periodo de Sesiones. *El Salvador: privados de libertad*, 15 de mayo de 2018, minuto 03:26- 03:44 disponible en https://www.youtube.com/watch?v=kq-kmSnLTFY [↑](#endnote-ref-31)
31. CIDH, 168 Periodo de Sesiones. *El Salvador: privados de libertad*, 15 de mayo de 2018, minuto 03:05 *disponible en* <https://www.youtube.com/watch?v=kq-kmSnLTFY> [↑](#endnote-ref-32)
32. Laura Andrade y Adilio Carrillo, *El sistema penitenciario salvadoreño y sus prisiones,* Instituto Universitario de Opinión Pública, Universidad Centroamericana “José Simeón Cañas” 22 y 53 (2015) *disponible en* <http://www.uca.edu.sv/iudop/wp-content/uploads/El-Sistema-penitenciario-salvadore%C3%B1o-y-sus-prisiones.pdf> [en adelante Andrade] *ver también* BBC. *Qué país tiene la tasa de presos más alta del mundo y cuál es el de América Latina,* 9 de mayo de 2018 *disponible en* <https://www.bbc.com/mundo/noticias-internacional-44047889> *ver también* World Prison Brief. Data about El Salvador, *disponible en* <http://www.prisonstudies.org/country/el-salvador> [↑](#endnote-ref-33)
33. Laura Andrade y Adilio Carrillo, *El sistema penitenciario salvadoreño y sus prisiones,* Instituto Universitario de Opinión Pública, Universidad Centroamericana “José Simeón Cañas” 58 (2015) *disponible en* <http://www.uca.edu.sv/iudop/wp-content/uploads/El-Sistema-penitenciario-salvadore%C3%B1o-y-sus-prisiones.pdf> [en adelante Andrade]. [↑](#endnote-ref-34)
34. La fase de confianza tiene el objetivo de que las personas privadas de su libertad comiencen una relación con la comunidad externa que facilite su reinserción social y familiar e implica un régimen más flexible de privación de libertad en el que las personas cuentan con permisos de salida, pueden optar a un puesto de trabajo, etc. *Cfr.* Laura Andrade y Adilio Carrillo, *El sistema penitenciario salvadoreño y sus prisiones,* Instituto Universitario de Opinión Pública, Universidad Centroamericana “José Simeón Cañas” 15 (2015) *disponible en* <http://www.uca.edu.sv/iudop/wp-content/uploads/El-Sistema-penitenciario-salvadore%C3%B1o-y-sus-prisiones.pdf> [en adelante Andrade]. [↑](#endnote-ref-35)
35. Laura Andrade y Adilio Carrillo, *El sistema penitenciario salvadoreño y sus prisiones,* Instituto Universitario de Opinión Pública, Universidad Centroamericana “José Simeón Cañas” 44 (2015) *disponible en* <http://www.uca.edu.sv/iudop/wp-content/uploads/El-Sistema-penitenciario-salvadore%C3%B1o-y-sus-prisiones.pdf> [en adelante Andrade]. [↑](#endnote-ref-36)
36. Instituto Universitario de Opinión Pública (Iudop) de la Universidad Centroamericana “José Simeón Cañas” (UCA). Laura Andrade y Adilio Carrillo. *El sistema penitenciario salvadoreño y sus prisiones* (2015), pág. xxii, 71-74. [↑](#endnote-ref-37)
37. Laura Andrade y Adilio Carrillo, *El sistema penitenciario salvadoreño y sus prisiones,* Instituto Universitario de Opinión Pública, Universidad Centroamericana “José Simeón Cañas” 15 (2015) *disponible en* <http://www.uca.edu.sv/iudop/wp-content/uploads/El-Sistema-penitenciario-salvadore%C3%B1o-y-sus-prisiones.pdf> [en adelante Andrade]. [↑](#endnote-ref-38)
38. CRR, Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico *Marginalized, persecuted, and imprisoned – The effects of El Salvador's total criminalization of abortion*,2014, p. 32 *available at* <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/El-Salvador-CriminalizationOfAbortion-Report.pdf> [↑](#endnote-ref-39)
39. CIDH. 156 Periodo de Sesiones. *El Salvador: Mujeres privadas de libertad por emergencias obstétricas,* minutos 09:45-10:00, 19 de octubre de 2015 *disponible en* <https://www.youtube.com/watch?v=h9Op-28nM2U> [↑](#endnote-ref-40)
40. Anexo XX. Reporte oficial proporcionado por la Dirección General de Centros Penales de El Salvador con datos de enero a junio de 2017. [↑](#endnote-ref-41)
41. Anexo X. Solicitud de información y respuesta, pág. 5 *disponible en* <https://www.transparencia.gob.sv/institutions/dgcp/documents/resoluciones-de-solicitudes?utf8=%E2%9C%93&q%5Bname_or_description_cont%5D=izalco&q%5Byear_cont%5D=&q%5Bdocument_category_id_eq%5D>= [↑](#endnote-ref-42)
42. Laura Andrade y Adilio Carrillo, *El sistema penitenciario salvadoreño y sus prisiones,* Instituto Universitario de Opinión Pública, Universidad Centroamericana “José Simeón Cañas” 75 (2015) *disponible en* <http://www.uca.edu.sv/iudop/wp-content/uploads/El-Sistema-penitenciario-salvadore%C3%B1o-y-sus-prisiones.pdf> [↑](#endnote-ref-43)
43. Visit by CRR researcher to “La Granja”, June 27, 2018. [↑](#endnote-ref-44)
44. Visit by CRR researcher to “La Granja”, June 27, 2018. [↑](#endnote-ref-45)
45. CRR, New Human Rights Case Filed on Behalf of Salvadoran Women Who Miscarried and Are Wrongfully Imprisoned, December 3, 2015. available at  [https://www.reproductiverights.org/press-room/new-human-rights-case-filed-on-behalf-of-salvadoran-women-who-miscarried-and-are-wrongful](https://www.camara.cl/pdf.aspx?prmID=117002&prmTIPO=DOCUMENTOCOMISION) [↑](#endnote-ref-46)
46. UNHROHC, Statement by UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein at the end of his mission to El Salvador, 17 November 2017, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22412&LangID=E> [↑](#endnote-ref-47)
47. [↑](#endnote-ref-48)
48. CEDAW, *Concluding observations on the combined eighth and ninth periodic reports of El Salvador,* UN Doc CEDAW/C/SLV/CO/8-9, 3 March 2017, ¶¶ 22(a), 30(a) and (b), 31, 34, 35, 36 and 37. [↑](#endnote-ref-49)
49. European Parliament, Motion for Resolution on El Salvador: the case of women prosecuted for miscarriage, 14 December 2017, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2017-0498+0+DOC+PDF+V0//EN> [↑](#endnote-ref-50)
50. OHCHR, *Guadalupe’s pardon*. [↑](#endnote-ref-51)
51. These countries were Australia, Canada, the Czech Republic, France, Germany, Iceland, Luxembourg, Norway, Slovenia, Spain, Sweden and the United Kingdom. See Center for Reproductive Rights, *12 Countries Call on El Salvador to Decriminalize Abortion* (November 10, 2014), available at http://www.reproductiverights.org/press-room/12-countries-call-on-el-salvador-to-decriminalize-abortion (last accessed March 27, 2016). See also HRC, *Report of the Working Group on the Universal Periodic Review: El Salvador*, A/HRC/28/5 (December 17, 2014). [↑](#endnote-ref-52)
52. CESCR, *Concluding Observations on the combined third, fourth and fifth period reports of El Salvador*, E/C.12/SLV/CO/3-5 (June 19, 2014), ¶ 23. [↑](#endnote-ref-53)
53. CRC*, Consideration of reports submitted by States parties under article 44 of the Convention*, *Concluding Observations – El Salvado*r, CRC/C/SLV/CO/3-4 (January 29, 2010). [↑](#endnote-ref-54)
54. Rights violated include the right to privacy (CEDAW, Article 16(1)), the right to a full and decent life in conditions which ensure dignity, promote self-reliance, and facilitate the child’s active participation in the community (CEDAW, Article 23(1)), the right to health, including access to reproductive health services (CEDAW, Article 24), the right to education (CEDAW, Article 28), and the right to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and arts (CEDAW, Article 31). [↑](#endnote-ref-55)
55. CESCR, *Concluding Observations: El Salvador,* E/C.12/SLV/CO/2, (June 27, 2007), ¶¶ 10, 22, 25 and 44. [↑](#endnote-ref-56)
56. 1998 Criminal Code, Arts. 132-137; Constitution, Article 1; 2015 El Salvador Doctors’ Code of Ethics and Deontology, Art. 87. [↑](#endnote-ref-57)
57. This will require amendments to (at least) Arts. 132-137 of the 1998 Criminal Code, along with consequential amendments to Art.1 of the Constitution and Art. 87 of Doctors’ Code of Ethics and Deontology. [↑](#endnote-ref-58)