



El Salvador's Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

Shadow Report Relating to o Reporting Relating to Women's Rights

for the 75th Session of the Committee against Torture

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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims of human rights violations from El Salvador have requested legal assistance from The Advocates in applying for asylum. First-hand information from asylum-seekers about the human rights violations that they experienced in El Salvador since the last review in 2009 has been used with their permission in this submission.

I. EXECUTIVE SUMMARY

1. This report addresses issues related to violence against women and discrimination against LGBTI persons, as well as related gang violence.
2. Despite the implementation of legislative and societal reforms, violence against women remains a severe problem in El Salvador. Gender-based violence includes domestic violence, sexual assault, and even femicide. Moreover, police in El Salvador consistently fails to adequately protect women victims of violence.
3. LGBTIQ+ persons in El Salvador also continue to face threats and assaults based upon their sexual orientation. With respect to this issue as well, police in El Salvador have failed to take adequate steps to protect those at risk.
4. The Advocates has received firsthand information from women and LGBTI survivors who fled violence and discrimination about their experiences in El Salvador. Their experiences confirm that the legal system and policies in place in El Salvador are not protecting women and LGBTI persons from violence or providing victims with the necessary support and services. The El Salvador legal system and policies fail to hold perpetrators accountable.

El Salvador fails to uphold its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

I. El Salvador systemic failure to protect women (article 2)

5. In its 2012 List of Issues prior to reporting (LOIPR, the Committee against Torture (“the CAT Committee”) required El Salvador to provide information about “the steps taken to establish an independent body to safeguard the independence of the judiciary.”¹
6. In its 2012 LOIPR, the CAT Committee requested El Salvador to indicate “whether the Convention takes precedence over domestic law, and whether there are procedures for ensuring that draft legislation is in line with the Convention.”² In this regard, The Committee required deeper information about the number of complaints, investigations, prosecutions, and convictions in cases of violence against women and domestic violence. The Committee was particularly interested in impartial and effective investigations, protection measures, and awareness-raising campaigns, among others.³
7. In its 2020 State Report, El Salvador stated that the judges in the country are independent and “subject solely to the Constitution”.⁴ The State party asserted that “in February 2016,

¹ United Nations Committee against Torture, *List of issues prior to the submission of the third periodic report of El Salvador*, (12 July 2012). U.N. Doc. CAT/C/SLV/Q/3, ¶ 2.

² United Nations Committee against Torture, *List of issues prior to the submission of the third periodic report of El Salvador*, (12 July 2012). U.N. Doc. CAT/C/SLV/Q/3, ¶ 7.

³ United Nations Committee against Torture, *List of issues prior to the submission of the third periodic report of El Salvador*, (12 July 2012). U.N. Doc. CAT/C/SLV/Q/3, ¶ 7.

⁴ United Nations Committee against Torture, *List of issues prior to the submission of the third periodic report of El Salvador*, (12 July 2012). U.N. Doc. CAT/C/SLV/Q/3, ¶ 9.

the Legislative Assembly approved the creation of a specialized court system with a remit to guarantee a life free from violence and discrimination for women. There are now three specialized courts of investigation, three specialized trial courts and a specialized chamber. These courts are competent to: try offences set out in the Special Comprehensive Act on a Life Free from Violence for Women; hear complaints under the Domestic Violence Act; monitor interim and protective measures under the aforementioned Special Comprehensive Act and the Act on Equality, Equity and the Elimination of Discrimination against Women; and hear cases concerning labour discrimination and violations of the right to equality.”⁵

8. El Salvador has adopted legislation to address violence against women. In 2012, El Salvador enacted the *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres*. The goal of this law is to recognize and prevent all forms of violence against women, including physical violence, economic violence, femicide, emotional and mental violence, sexual violence, community violence, and workplace violence.⁶ Civil Society organizations such as the *Organización de Mujeres Salvadoreñas por la Paz* (ORMUSA) have helped create and promote many of the country’s domestic violence laws.⁷
9. Despite efforts, El Salvador keeps unfulfilling its protection obligation regarding women and girls. The Inter-American Commission of Human Rights (IACHR) has reported a high prevalence of sexual violence against women and girls and adolescents in the country.⁸ Likewise, data indicates an overwhelmingly violent environment for women. Information from 2019 presented that women and girls suffer from systemic violence, with sixty-three (63) percent of girls ages 15 to 19 and seventy-two (72) percent of women ages 30 to 34 reporting having suffered sexual violence.⁹ The rates are six out of ten Salvadoran women over the age of 15 have experienced some type of sexual violence in their lifetime.¹⁰
10. These elevated numbers of violence on women might be higher, due to the only around five percent of women who experienced sexual violence in 2019 sought help as women report strong distrust of institutions persists among women.¹¹

⁵ United Nations Committee against Torture, *List of issues prior to the submission of the third periodic report of El Salvador*, (12 July 2012). U.N. Doc. CAT/C/SLV/Q/3, ¶ 27.

⁶ Instituto Salvadoreño para el Desarrollo de La Mujer & Organización de Mujeres Salvadoreñas por la Paz, *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres*, 2011, Art. 9. Also available at <https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/americas/ley%20especial%20integral%20vida%20libre%20violencia%20mujeres%20-%202011/ley%20especial%20integral%20vida%20libre%20violencia%20mujeres%20-%202011.pdf?vs=523>.

⁷ Donor Direct Action, Organización de Mujeres Salvadoreñas por la Paz (ORMUSA): About, <https://donordirectaction.org/who-we-are/>.

⁸ Inter-American System of Human Rights, *Situación de derechos humanos en El Salvador*, (14 October 2021) http://www.oas.org/es/cidh/informes/pdfs/2021_ElSalvador-ES.pdf, ¶ 180.

⁹ United States Department of State, *El Salvador 2021 Human Rights Report*, (Apr. 12, 2022), https://sv.usembassy.gov/our-relationship/official-reports/hrr_2021/.

¹⁰ Women and Girls Empowered, *Women’s Economic Empowerment in El Salvador: Barriers, Opportunities, and a Path Forward*, by Women and Girls Empowered (Washington D.C.: American Bar Association, 2019), xii. Also available online at <https://grameenfoundation.org/documents/elsalvador-women-economic-empowerment-barriers-opportunities-path-forward-full-10-2019.pdf>.

¹¹ Ibid.

11. In particular sexual abuse¹², which results in teen or childhood pregnancy, often goes unreported as perpetrators are often related to victims, and the families of both perpetrators and victims are too ashamed to report the conduct.¹³ In the matter, The Advocates has found that multiple clients reported a lack of accountability for perpetrators who have raped women and threatened their families, even when the police get the reports from the victims.¹⁴

Femicides

12. In 2019, El Salvador had the highest rate of femicide in Latin America.¹⁵ Likewise, The onset of the COVID-19 pandemic and El Salvador's lockdowns presented many challenges for women. By early June 2020, the Salvadoran feminist organization *Colectiva Feminista para el Desarrollo Local* (Colective Feminista) documented 26 femicides during the lockdown.¹⁶ In the first six months of the COVID-19 pandemic, *Colectiva Feminista* received more reports of gender-based violence against women than in the year before 2019.¹⁷

Lack of prosecution and convictions

13. Women interviewed¹⁸ by The Advocates frequently reported that they did not report violence to police because of fear of retribution, as well as the lack of protection from the police. One woman reported that she feared that if she went to the police, her intimate partner would “have the gangs do something horrible to her.”¹⁹ Many clients reported that police were connected with gangs and that information reported to the police was not kept confidential.²⁰ Other women reported that they did not go to the police because they believed that the police would do nothing. Another woman described years of domestic abuse, noting that her partner threatened to kill her if she stepped outside the home, and that he knew authorities would not act because she had previously called the police but they did not do anything. Yet another client experienced physical abuse as well as threats against her and her infant daughter's life. Her partner strangled her and held a knife against her throat, and he later told her that if she wanted to leave she would have to leave her

¹² Interview by the Advocates (2018-2022)

¹³ Ibid.

¹⁴ Interview by the Advocates (2018-2022)

¹⁵ Kristina Zanzinger, *Underreported and Unpunished, Femicides in El Salvador Continue*, nacla, Mar. 5, 2021, <https://nacla.org/news/2021/03/04/femicides-el-salvador-pandemic>.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ The case information presented in this submission is compiled from intake and other interviews conducted by The Advocates for Human Rights with asylum seekers from El Salvador between January 2014 and January 2019 (hereinafter referred to as “Interviews conducted by The Advocates”). Some details of the cases have been removed to maintain confidentiality and to protect the identities of the individuals and their families. Information is used with the express permission of the clients.

¹⁹ Interview by the Advocates (2018-2022)

²⁰ Interview by the Advocates (2018-2022)

daughter with him. The police refused to intervene, stating that they did not get involved with marital relations.²¹

14. Of the women who suffered sexual assault and did report it to the police, many discussed how the police did not follow up on investigations.²² Ineffective investigation and low conviction rates discouraged victims of domestic violence to seek help from the state authorities. Further, ineffective court systems endanger victims as the perpetrator is aware the victim went to the police and is free to extract revenge.²³
15. El Salvador continually fails to hold perpetrators of gender-based violence against women accountable for their crimes. Organizations such as ORMUSA²⁴ have reported that women face multiple barriers to accessing justice such as the institutional bureaucracy and lack of judicial guarantees. Without institutional support, women face onerous expenses that impede their access to justice such as transportation, food, and childcare. Many of these women lost their access to income due to the high amount of administrative or judicial procedures women have to meet to access justice.²⁵ El Salvador also failed to prosecute seventy-five (75) percent of femicide cases.²⁶
16. High rates of child and teen pregnancy in El Salvador are driven by a combination of factors including lack of access to adequate reproductive healthcare and sexual education, lack of access to safe abortion, and high rates of violence against women and girls. In the first six months of 2021, the Ministry of Health registered 6,938 pregnant girls or adolescents, including 156 girls aged 10 and 11 who were raped and became pregnant.²⁷ During the first half of 2021, the number of pregnancies among girls ages 10-14 increased 9 percent from the number of pregnant girls reported during the same period in 2020.²⁸

El Salvador continues to prohibit abortion for women and birthing people.

17. El Salvador maintains a total ban on abortion.²⁹ Women and birthing people convicted of having an abortion face two to eight years in prison; abortion providers face six months to 12 years in prison.³⁰ The State Party's total ban on abortion contravenes the Convention,

²¹ Interview by the Advocates (2018-2022)

²³ Interview by the Advocates (2018-2022)

²⁴ Donor Direct Action, Organización de Mujeres Salvadoreñas por la Paz (ORMUSA): About, <https://donordirectaction.org/who-we-are/>.

²⁵ ORMUSA, *REDFEM presentó informe sobre la situación de violencia contra las mujeres incluyendo a las que enfrentan discapacidad*, (Aug. 15, 2022), available at <https://ormusa.org/redfem-presento-informe-sobre-la-situacion-de-violencia-contra-las-mujeres-incluyendo-a-las-que-enfrentan-discapacidad/>.

²⁶ Women and Girls Empowered, *Women's Economic Empowerment in El Salvador: Barriers, Opportunities, and a Path Forward*, by Women and Girls Empowered (Washington D.C.: American Bar Association, 2019), 20. Also available online at <https://grameenfoundation.org/documents/elsalvador-women-economic-empowerment-barriers-opportunities-path-forward-full-10-2019.pdf>.

²⁷ United States Department of State, El Salvador 2021 Human Rights Report, (Apr. 12, 2022), https://sv.usembassy.gov/our-relationship/official-reports/hrr_2021/.

²⁸ Ibid.

²⁹ Human Rights Watch, *World Report 2022: Rights Trends in El Salvador*, (Jan. 13, 2022), <https://www.hrw.org/world-report/2022/country-chapters/el-salvador>.

³⁰ Ibid.

as it places women and birthing people in severe physical and mental suffering.³¹ Forcing survivors of rape, incest, and those facing life-threatening pregnancies to carry their pregnancies to term endangers the physical and mental health of women and violates their fundamental rights to health, life, and liberty.³²

18. Information presents that until December 2021, at least 11 women were in prison on charges related to obstetric emergencies.³³ In June 2021, 17 women who claimed they suffered obstetric emergencies were still in prison on charges of abortion, homicide, or aggravated homicide.³⁴ The Inter-American Court on Human Rights (Inter-Am. Ct. H.R.) ruled the case of *Manuela v. El Salvador*, holding the State Party responsible for Manuela's death.³⁵ Manuela died from cancer after receiving inadequate treatment and diagnosis while in prison.³⁶ At the time of her death, Manuela was serving a 30-year prison sentence for aggravated homicide after suffering an obstetric emergency that resulted in the loss of her pregnancy.³⁷
19. In May 2022, the Legislative Assembly shelved a proposed reform to decriminalize abortion on four grounds.³⁸ President Bukele has stated that he will not propose any constitutional reform to decriminalize abortion.³⁹

Discrimination and Violence based on Sexual Orientation and Gender Identity

1. The experiences of individuals interviewed by The Advocates demonstrate that LGBTQI+ individuals often face discrimination and violence from gangs, the police, and other members of society. A gang attacked one gay man for his sexual orientation, cutting off his long hair and threatening to kill him. The client denounced that the police took no action because of the victim's sexual orientation. Another young man perceived as gay faced bullying and physical violence from an early age. He later joined an LGBT group that received threats and violent attacks from gangs.⁴⁰

³¹ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, Art. 1. Also available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

³² Office of the High Commissioner of Human Rights, El Salvador must amend reproductive health care laws after top Americas court ruling (Dec. 6, 2021), <https://www.ohchr.org/en/press-releases/2021/12/el-salvador-must-amend-reproductive-health-care-laws-after-top-americas>.

³³ Amnesty International, El Salvador 2021 (2021), <https://www.amnesty.org/en/location/americas/central-america-and-the-caribbean/el-salvador/report-el-salvador/>.

³⁴ Human Rights Watch, *World Report 2022: Rights Trends in El Salvador*, (Jan. 13, 2022), <https://www.hrw.org/world-report/2022/country-chapters/el-salvador>.

³⁵ Center for Reproductive Rights, *Inter-American Court of Human Rights Ruling Will Help Protect Women Seeking Reproductive Health Care, Including Abortion*, (Dec. 2, 2021), <https://reproductiverights.org/inter-american-court-human-rights-el-salvador-manuela-ruling/>.

³⁶ Center for Reproductive Rights, *Inter-American Court of Human Rights Ruling Will Help Protect Women Seeking Reproductive Health Care, Including Abortion*, (Dec. 2, 2021), <https://reproductiverights.org/inter-american-court-human-rights-el-salvador-manuela-ruling/>.

³⁷ Ibid.

³⁸ Amnesty International, El Salvador 2021 (2021), <https://www.amnesty.org/en/location/americas/central-america-and-the-caribbean/el-salvador/report-el-salvador/>.

³⁹ Ibid.

⁴⁰ Interview by The Advocates.

I. RECOMMENDATIONS

2. This submission suggests the following recommendations for the Government of El Salvador:

- Ensure that all acts of domestic violence and gender-based violence are effectively investigated, prosecuted, and perpetrators punished.
- Establish comprehensive policies to protect women from violence, including public education, effective prosecutions, and training for police, investigators, prosecutors, and judges.
- Ensure that laws and budgets provide adequate reparation to victims and their families or dependents, as appropriate.
- ensure women do not experience cruel, unusual, or inhumane treatment amounting to torture when accessing abortion care.
- Ensure doctors and other medical professionals provide access to safe abortion for women whose lives or health are in danger as a result of pregnancy.
- Ensure doctors do not face criminal sanctions for providing abortion care.
- Remove stigma and barriers around abortion access to prevent discrimination and violence against women.