



EL SALVADOR:

Submission to the Committee on the Elimination of Discrimination Against Women

Information For Adoption Of List Of Issues Pre-Sessional Working Group 25-29 July 2016

By

The Advocates for Human Rights, a non-governmental organization in special consultative status since 1996,

1. **The Advocates for Human Rights** (“The Advocates”) is a volunteer-based non-governmental 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, and publications. The Advocates has published 23 reports on violence against women as a human rights issue, provides consultation and commentary on draft laws on domestic violence, and trains lawyers, police, prosecutors, and judges to effectively implement new and existing laws on domestic violence. Since 2014, a growing number of women fleeing gender-based violence in El Salvador have requested legal assistance from The Advocates in applying for asylum in the United States.
2. Domestic violence, rape, sexual assault, sexual harassment, and other forms of violence against women are forms of discrimination against women and violate women’s human rights. Domestic violence constitutes a violation of women’s rights under CEDAW. Domestic violence violates a woman’s rights to freedom from discrimination, equal protection and equality with men before the law, and equality in all matters relating to marriage and family relations. In addition, when a state fails to ensure that its criminal and civil laws adequately protect women and consistently hold abusers accountable, or that its agents—such as police and prosecutors—implement the laws that protect victims of domestic violence, that state has not acted with due diligence to prevent, investigate, and punish violations of women’s rights. This report focuses on El Salvador’s obligation under CEDAW, Articles 2, 3, 5, 14, 15, and 16.
3. Domestic violence and other crimes of violence against women are serious problems in El Salvador. The Ministry of Health reported that 4,686 women were victims of violence in the

The Advocates for Human Rights
330 Second Ave. South, #800
Minneapolis, MN 55401 USA
hrights@advrights.org | Tel. 001-612-341-3302
www.theadvocatesforhumanrights.org

first eleven months of 2015.¹ The Civil Chamber of the Supreme Court of El Salvador estimated that there were 5,007 reported cases of domestic violence in 2014.² In the first nine months of 2013, there were 4,826 reports of sexual assaults against women.³ El Salvador has one of the highest rates of femicide in the world, and the rate of impunity for femicide crimes is estimated to be as high as 77 per cent in El Salvador.⁴ The National Civil Police reported that there were 575 femicides in 2015, almost double the number of femicides in 2014.⁵ Yet these reported numbers are likely very low compared to the actual violence committed against women in El Salvador.

4. In the last review of El Salvador, CEDAW expressed concern over: 1) insufficient data on the situation of women in all areas covered by the Convention; 2) the existence of patriarchal attitudes and stereotypes on the roles of women; 3) high rates of domestic violence, sexual violence, rape and sexual harassment; and 4) insufficient investigations into the trafficking of women and girls, among other things.⁶
5. CEDAW further recommended that El Salvador: 1) include in its next report statistical data and analysis, disaggregated by sex and by rural and urban areas, indicating the impact of measures taken; 2) design and implement comprehensive awareness-raising programmes to foster a better understanding of and support for equality between women and men at all levels of society; 3) accord priority attention to the adoption of a comprehensive approach to address violence against women by criminalizing violence towards women, providing effective judicial redress, punishing perpetrators of sex-based violence, providing gender-sensitive training for public officials, particularly law enforcement personnel, and modifying sexist cultural and social attitudes; 4) collect and analyze data from the police and international sources, prosecute and punish traffickers, ensure the protection of the human rights of trafficked women and girls, and provide for their rehabilitation, as well as ensure

¹ United States Department of State, *El Salvador 2015 Human Rights Report* (hereinafter referred to as “2015 Department of State Human Rights Report”), p. 17 (accessed June 13, 2016).

² Corte Suprema de Justicia Sala de lo Civil, *Casos de Violencia Intrafamiliar por Departamento 2014*, <http://www.csj.gob.sv:88/?op=content&seccion=11&categoria=tru&id=95> (accessed June 13, 2016).

³ United States Department of State, *El Salvador 2013 Human Rights Report* (hereinafter referred to as “2013 Department of State Human Rights Report”), p. 15 (accessed June 13, 2016).

⁴ UN Women, *Femicide in Latin America* (quoting UN Deputy High Commissioner for Human Rights Kyung-wha Kang), April 4, 2013, <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america#sthash.WyDyzaZE.dpuf> (accessed June 13, 2016).

⁵ El Observatorio de la Violencia de Género contra la Mujer (ORMUSA), *Indicadores de Violencia 2015*, <http://observatoriodeviolencia.ormusa.org/feminicidios.php> (accessed June 13, 2016). There were 292 femicides in 2014, an increase of 77 from 2013. El Observatorio de la Violencia de Género contra la Mujer (ORMUSA), *Indicadores de Violencia 2014*, <http://observatoriodeviolencia.ormusa.org/feminicidios.php> (accessed June 13, 2016).

⁶ Committee on the Elimination of Discrimination Against Women, *Concluding Observations: El Salvador*, November 7, 2008, UNDOC CEDAW/C/SLV/CO/7, para 17, 21, 23, 25.

that trafficked women and girls receive adequate support to be in a position to testify without fear against their traffickers.⁷

6. **Since its last review by CEDAW, El Salvador has taken some steps toward combating violence against women in the fulfilment of its obligations under the Convention.** In 2012, El Salvador enacted the Special Comprehensive Act on a Violence-Free Life for Women (2012 Law).⁸ The 2012 Law criminalizes domestic violence, sexual assault, psychological abuse, and financial abuse and provides jail or prison sentences for violations. After the law came into force in 2012, the Special Technical Commission was established in the same year to ensure the functioning of the law, and the National Policy on Women's Access to a Violence-Free Life was approved the following year.⁹ In 2015, legislators in El Salvador have proposed four initiatives to reform some articles, including a 2015 proposal to add an article about attempted femicide.¹⁰ None of these initiatives have been adopted, however, and many serious problems remain with El Salvador's violence against women legislation and its implementation, resulting in a systemic failure to protect victim safety and promote offender accountability.
7. **Persistent stereotypes and prejudices regarding the role of women in society perpetuate violence against women in El Salvador, contributing to underreporting of violence and sexual assault against women.** In response to CEDAW's previous recommendations, El Salvador reports that the Salvadoran Institute for the Advancement of Women (ISDEMU) has developed strategies to promote a social and institutional culture of equality, including organizing awareness campaigns and holding cultural events that highlight the role of women in the country's development.¹¹ It is unclear, however, whether these strategies have been successfully implemented, and sexist stereotypes remain pervasive in El Salvador. A serious consequence is that domestic violence is considered socially acceptable by a large portion of the population.¹² Human rights reports document that domestic violence, sexual assault, and

⁷ *Id.*

⁸ Ley No. 520, January 4, 2011, Ley Especial Integral para una Vida Libre de Violencia para las Mujeres [Special Comprehensive Act on a Violence-Free Life for Women] tit. II, ch. 390,

<http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/ley-especial-integral-para-una-vida-libre-de-violencia-para-las-mujeres> (accessed June 13, 2016).

⁹ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: El Salvador*, June 12, 2015, CEDAW/C/SLV/8-9, para 150.

¹⁰ Legislative Assembly of the Republic of El Salvador, *Iniciativa de Diputados de Arena, en el sentido se reforme la Ley Especial para una Vida Libre de Violencia para las Mujeres, File 100-7-2015-1*, July 9, 2015, <http://www.asamblea.gob.sv/comisiones-legislativas/permanentes/comision-de-la-mujer-y-la-igualdad-de-genero/legislatura-2015-2018/expedientes-en-estudio/exp.-100-7-2015-1/?searchterm=Ley%20especial%20integral%20para%20una%20vida%20libre%20de%20violencia%20para%20las%20mujeres> (accessed June 13, 2016).

¹¹ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: El Salvador*, June 12, 2015, CEDAW/C/SLV/8-9, para 49.

¹² 2013 Department of State Human Rights Report at p. 15.

other crimes of violence against women in El Salvador are underreported due to a number of factors: 1) societal and cultural pressures on victims; 2) fear of reprisal; 3) ineffective and unsupportive responses by authorities toward victims; 4) fear of publicity; and 5) a belief among victims that the laws will not be enforced.¹³

8. **The Advocates has received information from women survivors who fled gender-based violence about their experiences in El Salvador.**¹⁴ Each case is different, but their experiences confirm that the legal system and policies in place in El Salvador are not protecting women from gender-based violence or providing victims with the necessary support and services. Moreover, the legal system and policies fail to hold perpetrators accountable.
9. Many of the women reported violence and sexual assault against them by their intimate partners.¹⁵ One young woman, who left El Salvador in 2014 when she was 17, described years of physical and sexual abuse inflicted upon her by her boyfriend, who was a gang member. He hit her until she had bruises all over her body, kicked her in the head, and threw her into the wall. She has scars on her arms and head because of the abuse, as well as a scar on her shoulder from when he pushed her onto the ground so hard that a mirror broke and cut her. One time he choked her and beat her to the point where her “white pants became all red with blood.” He forced her to move in with him when she was 15. She missed many days of school because he often prevented her from going to school. He raped her repeatedly, telling her “You are my property” and that she could never leave because “You are mine.” When she tried to leave him, he stalked her and told her he would “cut her up into pieces and throw her remains in the dirt ditch.” Whenever her mother tried to defend her, he would attack her as well. Once he even broke her nose.¹⁶
10. Women interviewed by The Advocates frequently reported that they did not go to police to report the violence 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.”¹⁷ Many of the interviewees reported that the police were connected with the gangs and that information reported to the police was not kept confidential. Other women interviewed reported that they did not go to the police because they believed that the police would do nothing to investigate the crime.¹⁸

Suggested Questions:

¹³ *Id.*

¹⁴ 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 February 2015 (hereinafter referred to as “Interviews conducted by The Advocates (January 2014-February 2015)”). Some details of the cases have been removed to maintain confidentiality and to protect the identities of the women and their families.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

- What steps has the State Party taken since its last report to CEDAW to put into practice strategies aimed at eliminating gender stereotypes in society?
- What steps is the State Party taking to address the societal and cultural pressures on victims and increase the reporting of crimes of violence against women, including sexual assault and domestic violence?
- What specific training is given to police and prosecutors in interviewing and counseling victims of sexual assault and domestic violence?
- What steps is the State Party taking to alleviate fear of reprisal of victims of sexual assault and domestic violence?
- Please provide additional information about resources and support that are available to women survivors of violence to get aid from the police and relief through the justice system, as well as detailed statistical data about assistance that has been provided.

11. Domestic violence, rape and sexual assault, sexual harassment, and other crimes of violence against women are widespread and are ineffectively investigated, prosecuted and adjudicated. The Ministry of Health reported that 4,686 women were victims of violence in the first eleven months of 2015.¹⁹ The Civil Chamber of the Supreme Court of El Salvador estimated that there were 5,007 reported cases of domestic violence in 2014.²⁰ Rape and other sexual crimes against women are widespread. A female victim's statements are often given little credibility, resulting in a low conviction rate and impunity for offenders.²¹ In the first eight months of 2014 alone, the Office of the Attorney General (FGR) of El Salvador reported 1,793 cases of alleged sexual crimes resulting in only 24 convictions.²² Similarly, statistics from the first nine months of 2013 show that of 552 cases of alleged sexual harassment, only 33 resulted in convictions.²³ In addition to one of the highest femicide rates in the world, the rate of impunity for femicide crimes is estimated to be as high as 77 per cent in El Salvador.²⁴

12. The experiences of individuals interviewed by The Advocates corroborate the ineffectiveness of the police and judicial system in dealing with violence against women

¹⁹ 2015 Department of State Human Rights Report at p. 17.

²⁰ Corte Suprema de Justicia Sala de lo Civil, *Casos de Violencia Intrafamiliar por Departamento 2014*, <http://www.csj.gob.sv:88/?op=content&seccion=11&categoria=tru&id=95> (accessed June 13, 2016).

²¹ Inter-American Commission on Human Rights, *Access to Justice for Women Victims of Sexual Violence: Education and Health*, December 28, 2011, OAS/Ser.L./V/II. doc 65, p. 50, para 150, <http://www.oas.org/en/iachr/women/docs/pdf/SEXUALVIOLENCEEducHealth.pdf> (accessed June 13, 2016).

²² United States Department of State, *El Salvador 2014 Human Rights Report* (hereinafter referred to as "2014 Department of State Human Rights Report"), p. 15 (accessed June 13, 2016).

²³ *Id.* at p. 16.

²⁴ UN Women, *Femicide in Latin America*, April 4, 2013, <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america#sthash.WyDyzaZE.dpuf> (accessed June 13, 2016).

in El Salvador.²⁵ Of the women who suffered sexual assault and did report it to the police, many described to The Advocates how the police did not follow up on the investigation.²⁶ Ineffective investigation and low conviction rates discourage victims of domestic violence to seek help from the state authorities since victims feel like they are not protected. Moreover, an ineffective court system puts the victim in more danger since the perpetrator is aware the victim went to the police and the perpetrator is free to extract revenge.

Suggested Questions:

- What steps is the State party taking to establish a comprehensive program to protect women from violence, including public education, effective prosecutions, and training for law enforcement, investigators, prosecutors, and judges?
- What steps is the State party taking to end impunity for femicide, domestic violence, rape and sexual assault by ensuring accountability and punishing perpetrators of those crimes against women?
- What steps is the State party taking to strengthen the criminal justice response to gender-related killings of women and girls, in particular measures to support its capacity to investigate, prosecute, and punish all forms of such crimes and provide reparation and/or compensation to victims and their families or dependents, as appropriate?
- What specific training is given to police, prosecutors, and judges relating to the adjudication and investigation of cases involving violence against women?
- How does the State party monitor and review the performance of police, prosecutors, and judges relating to the adjudication of cases involving violence against women?

13. El Salvador has failed to create and maintain adequate shelters for women fleeing domestic violence. The State Party reports that in accordance with the 2012 Law, ISDEMU has formulated guidelines for approval and operation of intake shelters and that female social workers provide protection services and temporary shelter for women in extreme danger.²⁷ At the time of this report, however, just one shelter exists, and it can accommodate only 35 women and children.²⁸

Suggested Questions:

- What steps is the State Party taking to open and maintain shelters for women fleeing domestic violence pursuant to the 2012 Law?

²⁵Interviews conducted by The Advocates (January 2014-February 2015).

²⁶*Id.*

²⁷Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: El Salvador*, June 12, 2015, CEDAW/C/SLV/8-9, para 152, 154.

²⁸Amnesty International, *On the Brink of Death: Violence Against Women and the Abortion Ban in El Salvador* (hereinafter referred to as “Amnesty International Report”), September 25, 2014, p. 15, n.30, <https://www.amnesty.org/en/documents/amr29/003/2014/en/> (accessed June 13, 2016).

14. **Increasing violence by and impunity for gang members create an unsafe and violent environment for women.** In 2012, the PNC and the Ministerio de Justicia y Seguridad Pública (Ministry of Justice and Public Security) estimated that nearly 100,000 people were members of gangs but that the number could be as high as 160,000 if immediate relatives of members were also counted.²⁹ As of 2012, there were around 20,000 gang members in El Salvador, roughly 323 gang members per 100,000 citizens.³⁰ This is the highest concentration in Central America.³¹ Gang violence has contributed to El Salvador's record as the country with the highest murder rate of women in the world.³² Women who come into contact with gangs are subject to kidnapping, extortion, sexual assault, and murder.³³ News and human rights reports corroborate the experiences of individuals fleeing the violence who were interviewed by The Advocates.³⁴ Families are extorted and intimidated by gangs for numerous reasons including money, the refusal of family members to join the gang, and participation in opposition political parties.³⁵ Numerous women told The Advocates of gang members using sexual assault and physical violence against women and girls as a means to extort money and silence political opposition.³⁶ Moreover, girls who are as young as 14 are coerced or forced to become "girlfriends" for the gang members, subjecting them to violence including physical, sexual, and emotional abuse.

Suggested Questions:

- What steps has the State Party undertaken to prevent the spread of gang violence against women?
- What steps are being taken to protect women who flee gang violence and sexual assault?
- Does the State Party provide training for police to counsel and aid victims fleeing gang violence?

²⁹The World Bank, *El Salvador: Estudio Institucional Y De Gasto Público En Seguridad Y Justicia*, June 14, 2012, p. 30, <http://www.transparenciaactiva.gob.sv/wp-content/uploads/2013/05/Estudio-Institucional-y-sobre-Gasto-Publico-en-Seguridad-y-Justicia-El-Salvador-Banco-Mundial.pdf> (accessed June 13, 2016).

³⁰ United Nations Office on Drugs and Crime, *Transnational Organized Crime in Central America and the Caribbean: Threat Assessment*, September 2012, p. 29, <http://www.unodc.org/toc/en/reports/TOCTACentralAmerica-Caribbean.html> (accessed June 13, 2016).

³¹ *Id.*

³² UN Women, *Femicide in Latin America*, April 4, 2013 (citing statistics for 2004-2009 in Small Arms Survey, *Femicide: A Global Problem*, Number 14, February 2012, p. 3), <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america> (accessed June 13, 2016).

³³ *See Generally*, The New York Times, *El Salvador's Gangs Target Women and Girls*, November 6, 2014, http://www.nytimes.com/aponline/2014/11/06/world/americas/ap-lt-salvador-violence-against-women-abridged.html?_r=0 (accessed June 13, 2016).

³⁴ Interviews conducted by The Advocates (January 2014-February 2015).

³⁵ *Id.*

³⁶ *Id.* *See also* University of California, Hastings School of Law, *Thousands of Girls and Women are Fleeing Rape, Sexual Violence and Torture in Honduras, El Salvador and Guatemala*, 2015, http://cgrs.uchastings.edu/talking_points_and_stories (accessed June 13, 2016) (collecting numerous reports of women from El Salvador who were sexually assaulted by gang members).

- 15. Police violence against LGBT individuals is common, and violence against LGBT individuals is ineffectively investigated and prosecuted.** As of July 2014, the Procuraduría para la Defensa de los Derechos Humanos de El Salvador (Ombudsman for Human Rights or PDDH) in El Salvador had investigated 16 cases of possible human rights violations committed against LGBT persons, two of which involved abuses committed by the Policía Nacional Civil (National Police of El Salvador or PNC) and two others by municipal police.³⁷ The PDDH received two reports of killings of transgender persons that had occurred in prior years.³⁸
16. LGBT individuals are also subject to harassment by state officials. Many individuals reported mockery and ridicule when applying for identification cards and reporting crimes.³⁹ On April 22, 2013, the UN Development Programme (UNDP) and the PDDH published a report on transgender women in El Salvador.⁴⁰ The report stated that transgender women experienced violations of rights including access to education, employment, health care, and justice.⁴¹ Only 23.9 percent of the transgender women who suffered violence reported it to the authorities, and just one of the accused perpetrators was sanctioned.⁴²
17. Interviews done by The Advocates corroborate the violence and discrimination experienced by LGBT individuals in El Salvador. LGBT individuals reported experiencing harassment and ostracism, as well as physical and sexual abuse, both at home and in public. They also report being targeted by gang members for their sexual orientation or gender identity. LGBT interviewees reported to The Advocates that they did not go to the police because the police do not help LGBT persons and often just tell them they were “asking for it.”⁴³
- Suggested Questions:*
- What steps is the State Party taking to curb police violence against LGBT individuals?
 - What training do police receive in counseling and investigating cases involving LGBT individuals?
 - What steps is the State Party taking to protect LGBT individuals from gang violence?
- 18. Trafficking in persons remains a significant problem that must be addressed more rigorously.** Due to the large amount of gang activity, El Salvador is a “source, transit, and destination country for women, men, and children subjected to sex trafficking and forced

³⁷ 2014 Department of State Human Rights Report at p. 22.

³⁸ 2013 Department of State Human Rights Report at p. 21.

³⁹ *Id.*

⁴⁰ UNDP, *Estudio sobre los derechos de las mujeres trans en El Salvador*, April 21, 2013, <http://www.pnud.org/sv/2007/content/view/1619/> (accessed June 13, 2016).

⁴¹ *Id.*

⁴² *Id.*

⁴³ Interviews conducted by The Advocates (January 2014-February 2015).

labor.”⁴⁴ While the government does not fully comply with minimum standards for the elimination of trafficking, it is making some efforts to do so.⁴⁵ In October 2014, the legislature adopted the Special Act against Trafficking in Persons, which replaced the Penal Code article dealing with trafficking and increased penalties for trafficking crimes from four to eight years of imprisonment to 10 to 14 years.⁴⁶ The government, however, almost exclusively investigated and prosecuted child sex trafficking crimes.⁴⁷ El Salvador needs to strengthen efforts to investigate and prosecute all sex trafficking offenses. Further, authorities have never prosecuted or convicted labor trafficking offenses, including forced domestic labor.⁴⁸

19. In addition to weaknesses in law enforcement, services for trafficking victims are grossly inadequate. According to the State Party’s report, ISDEMU opened the first specialized shelter for women faced with trafficking in 2013, and the Salvadoran Institute for Child and Adolescent Development (ISNA) currently operates one shelter for girls who are victims of trafficking.⁴⁹ As of early 2015, the ISNA shelter housed only 13 victims, the maximum it could accommodate.⁵⁰ Moreover, corruption among public officials is a serious obstacle to law enforcement efforts.⁵¹ Despite media reports of several officials purchasing commercial sex acts from trafficking victims in 2014, the government failed to conduct thorough, transparent investigations into such allegations and did not prosecute or convict any government employees complicit in trafficking offenses.⁵²

Suggested Questions:

- What steps is the State Party taking to prosecute labor traffickers?
- What steps is the State Party taking to increase protection and shelter services for trafficking victims?
- What steps is the State party taking to combat public official corruption related to human trafficking?

⁴⁴ United States Department of State, *Trafficking in Persons Report 2015* (hereinafter referred to as “Trafficking in Persons Report”), July 27, 2015, p. 149,

<http://www.state.gov/documents/organization/245365.pdf> (accessed June 13, 2016).

⁴⁵ *Id.* at p. 150.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: El Salvador*, June 12, 2015, CEDAW/C/SLV/8-9, para 74.

⁵⁰ Trafficking in Persons Report at p. 150-151.

⁵¹ *Id.* at p. 150.

⁵² *Id.*