



EL SALVADOR:
Submission to the Human Rights Committee
for the 114th Session
(Information For Adoption Of List Of Issues Prior To Reporting)
29 June – 24 July 2015

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 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, 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. In 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. It violates a woman’s rights to life and security of person (Article 6), freedom from torture and ill-treatment (Article 7), equality before the courts (Article 14), equal protection before the law (Article 26), and protection of the family (Article 23), among others under the International Covenant of Civil and Political Rights (ICCPR).
3. Domestic violence and other crimes of violence against women are serious problems in El Salvador. The Civil Chamber of the Supreme Court of El Salvador estimated that there were 5,007 reported cases of domestic violence in 2014.¹ In the first nine months of 2013, there

¹ Corte Supreme 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 April 16, 2015).
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were 4,826 reports of sexual assaults against women.² 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.³ The National Civil Police reported that there were 292 femicides in 2014, an increase of 77 from 2013.⁴ Yet these reported numbers are likely very low compared to the actual violence committed against women in El Salvador.

4. In 2010, the Human Rights Committee expressed concern about the situation of women in El Salvador, including persistent stereotypes and prejudices, increasing violence against women and impunity, lack of statistical data, and high rates of domestic violence.⁵ The Human Rights Committee recommended that El Salvador: 1) “design and implement programmes aimed at eliminating gender stereotypes in society”; 2) “implement the right of women victims of violence to justice and reparation, including fair and adequate compensation”; 3) “investigate acts of violence against women, especially murders of women, identifying those responsible, prosecuting them and imposing appropriate penalties, and establishing a statistical system that can provide disaggregated data on gender violence”; 4) “improve coordination among the bodies responsible for preventing and punishing domestic violence, in order to make them more effective”; and 5) “ensure that those responsible for domestic violence are identified, prosecuted and duly punished.”⁶
5. The Human Rights Committee also expressed its concern that the Criminal Code criminalizes all forms of abortion, reiterating its recommendation that El Salvador amend its legislation on abortion to bring it into line with the Covenant and suspend the prosecution of women for the offence of abortion until the current legislation is amended.⁷ Further, the Human Rights Committee expressed concern about the situation with regard to trafficking in persons (particularly women) and recommended that El Salvador: 1) “effectively investigate

² *El Salvador 2013 Human Rights Report*, United States Department of State, p. 15 (hereinafter referred to as “2013 Department of State Human Rights Report”) (last accessed April 16, 2015)

³ Femicide in Latin America (quoting UN Deputy High Commissioner for Human Rights Kyung-wha Kang), April 4, 2013 at <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america#sthash.WyDyzaZE.dpuf> (accessed April 13, 2015).

⁴ El Observatorio de la Violencia de Género contra la Mujer (ORMUSA), *Indicadores de Violencia*, 2014 <http://observatoriodeviolencia.ormusa.org/feminicidios.php> (accessed April 16, 2015)

⁵ Human Rights Committee, *Concluding Observations: El Salvador*, November 18 2010, , UNDOC CCPR/C/SLV/CO/6, ¶9 (hereinafter referred to as 2010 Concluding Observations). “The Committee expresses its concern the State party, the persistence of stereotypes and prejudices regarding the role of women in society, reports that the number of murders of women has remained constant or even increased during the reporting period, impunity for these murders, the lack of disaggregated statistical data on crimes against the lives and integrity of women, the high rates of domestic violence in the State party, inadequate coordination among State bodies involved in preventing and punishing domestic violence, and the still sparse representation of women in public or elected office (articles 3, 6, 7 and 25 of the Covenant).”

⁶2010 Concluding Observations, ¶9.

⁷2010 Concluding Observations, ¶10.

trafficking in persons, identify and prosecute those responsible and apply penalties commensurate with the seriousness of the offence”; 2) “ensure the protection of the rights of victims of trafficking, including by providing an adequate number of shelters for them”; and 3) “compile reliable statistics in order to combat the problem effectively.”⁸

6. Other treaty monitoring bodies have expressed similar concerns about the serious problems of violence against women in El Salvador. In El Salvador’s last review by the Committee on the Elimination of Discrimination Against Women, the Committee 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.⁹
7. **Since its last review by the Human Rights Committee in 2010, El Salvador has taken some steps toward combating domestic violence in the fulfilment of its obligations under the ICCPR.** In 2012, El Salvador enacted the *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres* (2012 Law).¹⁰ The 2012 Law criminalizes domestic violence, sexual assault, psychological abuse and financial abuse and provides jail or prison sentences for violations. However, many serious problems remain with El Salvador’s domestic violence legislation and its implementation, resulting in a systemic failure to protect victim safety and promote offender accountability.
8. **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.** Domestic violence is considered socially acceptable by a large portion of the population.¹¹ Human rights reports document that domestic violence, sexual assault and 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.¹²

⁸ 2010 Concluding Observations, ¶13.

⁹ Committee on the Elimination of Discrimination Against Women, *Concluding Observations: El Salvador*, November 07, 2008, UNDOC CEDAW/C/SLV/CO/7, ¶¶ 17, 21, 23, 25,

¹⁰ Ley No. 520, , 4 January 2011 , *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres* [Law for a Life Free of Violence Against 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-violncia-para-las-mujeres> (accessed April 16, 2015).

¹¹ 2013 Department of State Human Rights Report at p. 15

¹² *Id.*

9. The Advocates has received information from women survivors who fled gender-based violence about their experiences in El Salvador.¹³ 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.
10. Many of the women reported violence and sexual assault against them by their intimate partners.¹⁴ 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.¹⁵
11. Women interviewed by The Advocates frequently reported that they did not go to police to report the violence because of the 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.”¹⁶ 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.¹⁷

Suggested Questions:

- What steps has the State Party taken since the last review to design and implement programmes 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?

¹³The 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.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

- What training, if any, 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?
- What resources and support are available to women survivors of violence to get aid from the police and relief from the justice system?

12. 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 Civil Chamber of the Supreme Court of El Salvador estimated that there were 5,007 reported cases of domestic violence in 2014.¹⁸ Rape and other sexual crimes against women are widespread. In the first nine months of 2013 alone, the Office of the Attorney General (FGR) of El Salvador reported 4,826 of alleged sexual crimes resulting in 392 convictions.¹⁹ A female victim's statements are often given little credibility, resulting in a low conviction rate and impunity for offenders.²⁰ Similarly, statistics from the first nine months of 2013 show that of 552 cases of alleged sexual harassment, only 33 resulted in convictions.²¹ 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.²²

13. The experiences of individuals interviewed by The Advocates corroborate the ineffectiveness of the police and judicial system in dealing with violence against women in El Salvador.²³ 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.²⁴ 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.

¹⁸ Corte Supreme 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 April 6, 2015).

¹⁹2013 Department of State Human Rights Report at p. 15

²⁰ 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, ¶ 150. <http://www.oas.org/en/iachr/women/docs/pdf/SEXUALVIOLENCEEducHealth.pdf> (last accessed April 16, 2015).

²¹ *Id.* at p. 16.

²² UN Women, *Femicide in Latin America* (hereinafter referred to as Femicide in Latin America report), April 4, 2013 at <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america#sthash.WyDyzaZE.dpuf> (accessed April 13, 2015).

²³Interviews conducted by The Advocates (January 2014-February 2015).

²⁴*Id.*

- 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 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?

14. El Salvador has failed to create and maintain shelters for women fleeing domestic violence. While El Salvador’s 2012 Law included provisions for opening shelters for women fleeing domestic violence,²⁵ they have not been implemented. At the time of this report, only one shelter exists, and it can only accommodate 35 women and children.²⁶

Suggested Questions:

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

15. El Salvador still lacks a statistical system that can provide disaggregated data violence against women across all relevant agencies. While the 2012 Law provides for the creation of a unified database and criteria for reporting violence against women,²⁷ that database was still not operational as of September 2014.²⁸ Reliable statistics on violence against women remain difficult to find in El Salvador.

Suggested Questions:

- What steps are being taken to establish the unified database and criteria for reporting violence against women as outlined in the 2012 Law?
- When is the estimated completion date for the unified database and criteria for reporting violence against women?

16. Increasing violence by and impunity for gang members creates 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

²⁵ Amnesty International, *On the Brink of Death: Violence Against Women and the Abortion Ban in El Salvador*, September 25, 2014, p. 15, n.30 (hereinafter referred to as “Amnesty International Report”). <https://www.amnesty.org/en/documents/amr29/003/2014/en/> (last accessed April 16, 2015).

²⁶ *Id.*

²⁷ Amnesty International Report at p. 15.

²⁸ *Id.*

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?

17. Police violence against LGBT individuals is common and violence against LGBT individuals is ineffectively investigated and prosecuted. As of September 20, 2013, the

²⁹The World Bank, *El Salvador: Estudio Institucional Y De Gasto Público En Seguridad Y Justicia*, 14 junio 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> (last accessed April 15, 2015).

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> (last accessed April 15, 2015).

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> (last accessed April 10, 2015).

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 (last accessed April 16, 2015).

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 April 16, 2015) (collecting numerous reports of women from El Salvador who were sexually assaulted by gang members).

Procuraduría para la Defensa de los Derechos Humanos de El Salvador (Ombudsman for Human Rights or PDDH) in El Salvador investigated nine 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

18. 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 only one of the accused perpetrators was sanctioned.⁴²
19. 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. One LGBT interviewee, who reported being targeted based on sexual orientation, was attacked and beaten by three gang members. He was threatened with death if he reported the attack to anyone. He did not go to the police because the police do not help LGBT persons and often just tell them they were “asking for it.” He also reported that he knew many LGBT individuals in El Salvador who had been murdered.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?

20. **Trafficking in persons remains a significant problem that must be addressed.** Due to the large amount of gang activity, El Salvador is a “source, transit, and destination country

³⁷ 2013 Department of State Human Rights Report at p. 21.

³⁸ *Id.*

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/> (last accessed April 9, 2015).

⁴¹ *Id.*

⁴² *Id.*

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

for women, men, and children subjected to sex trafficking and forced labor.”⁴⁴ While the government does not fully comply with minimum standards for the elimination of trafficking, it is making some efforts to investigate and prosecute child sex trafficking cases.⁴⁵ The government of El Salvador needs to do much more to strengthen efforts to investigate and prosecute all trafficking offenses; authorities have never prosecuted or convicted labor trafficking offenses, including forced domestic labor.⁴⁶ Services for most trafficking victims remain grossly inadequate. Moreover, training on human trafficking has decreased compared to the previous year, data collection remains a challenge, and official corruption continues to be a problem.⁴⁷

Suggested Questions:

- What steps is the State Party taking to prosecute convicted labor traffickers?
- What steps is the State Party taking to increase public official training on human trafficking?
- 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 2014*, June, 2014, p. 165-166. <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm> (last accessed April 16, 2015).

⁴⁵ *Id.* at p. 165.

⁴⁶ *Id.*

⁴⁷ *Id.* at pp. 165-166.