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## **Human Rights Council**

Office of the United Nations High Commissioner for Human Rights  
Palais des Nations  
CH-1211 Geneva 10, Switzerland

### **Ref: Report of the Second Universal Periodic Review (UPR) on El Salvador, 20<sup>th</sup> Session of the Human Rights Council's Universal Periodic Review (UPR) Working Group (October-November 2014).**

1. The Center for Reproductive Rights (CRR) is a NGO dedicated to promoting women's equality worldwide by guaranteeing reproductive rights as human rights. Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico (hereinafter Agrupación Ciudadana) is a multidisciplinary organization working for the sexual and reproductive health and rights of Salvadoran women, notably by creating awareness of the need to amend legislation criminalizing termination of pregnancy in El Salvador.

2. Pursuant to HRC Resolution 5/1 (2007) issued by the Human Rights Council,<sup>1</sup> CRR and Agrupación Ciudadana hereby report El Salvador's noncompliance with the following international commitments : i) implementation of the 13 recommendations accepted at the first UPR (2010) , that imply the revision of its criminal legislation on abortion; and ii) continuance of State policies that infringe the right to health, equality, due process and sexual and reproductive rights by completely criminalizing abortion, contrary to obligations under the Universal Declaration of Human Rights, the ICESCR, the ICCPR and CEDAW.<sup>2</sup>

#### **I. Failure to comply with the commitments made at the 2010 UPR.**

3. At the first UPR held during the 7<sup>th</sup> Session of the Human Rights Council (8-19 February 2010), participating States made 118 recommendations. El Salvador accepted 78 and "40 were submitted to a consultation process for consideration by various State institutions".<sup>3</sup>

4. During the interactive dialogue with participating States, El Salvador **accepted** the following recommendations on sexual and reproductive health and rights, equality rights, and due process:

"(...) 2. To enhance its implementation of laws to protect women's rights (Canada);"

"(...) 3. To reinforce the legal and implementation infrastructure aimed at upholding the rights of women (Egypt);

"(...) 4. To adopt specific criminal legislation to protect the rights of women (Brazil);

"(...) 15. To develop targeted strategies, policies and programmes to support women in claiming their rights, in accordance with its obligations under CEDAW (Canada);



*“(...) 28. To take measures to change social and cultural attitudes that are the root cause of most forms of violence against women (Netherlands);*

*“(...) 30. To intensify awareness campaigns aimed at changing social attitudes and behaviour patterns that form the basis for violence against women, including homicides motivated by prejudice against women (Spain);*

*“(...) 63. To take the measures necessary, in accordance with the recommendation made by CESCR, to strengthen the national health system on the basis of equity and accessibility, guaranteeing essential health services for the entire population, in particular vulnerable groups (Ukraine);*

*“(...) 64. To improve access for women to sexual and reproductive health rights and services (Luxembourg)”.*<sup>4</sup>

5. El Salvador submitted four additional recommendations on protecting sexual and reproductive rights and one recommendation on preventing criminal investigations that violate human rights to an internal consultation process. An Addendum to the Report of the UPR Working Group notes that as a result El Salvador accepted all five recommendations.<sup>5</sup> These were:

*“(...) 22. To identify concrete measures to combat social and cultural attitudes leading to discrimination and to specifically promote the sexual and reproductive rights of women and girls; (...) (United Kingdom)”;*

*“(...) 29. To adopt and implement reforms aimed at facilitating credible and responsible criminal investigations that respect human rights and at eliminating judicial corruption in order to ensure that persons suspected of breaking the law are apprehended, tried and sentenced in an efficient, accountable and transparent manner (United States of America)”;*

*“(...) 35. To redouble efforts to reduce the maternal mortality rate and increase the health budget in order to guarantee a national health system based on equity and accessibility (...) (Luxembourg)”;*

*“(...) 36. To adopt and implement all measures necessary to encourage and ensure access for girls, adolescents and women to adequate sexual and reproductive health services, including the provision of adequate contraceptive, family planning and obstetric information and facilities, according special attention to the prevention of early pregnancies and unsafe abortions (Germany)”;*

*“(...) 37. To initiate a national dialogue on the right of women to reproductive health, including with respect to the consequences of restrictive laws on abortion, including the criminalization of abortion (Luxembourg)”.*

6. These recommendations included measures intended to: i) enhance substantive equality in the legislation, policies and programs of the State under review (No. 3, 4, 15, 28 and 30); ii) help guarantee the right to health and sexual and reproductive rights as human rights by requiring the State to revise and amend its laws, notably its absolute abortion ban (No. 22, 35, 36, 37, 63 and 64); and (iii) safeguard due process by revamping a criminal justice system that violates human rights, particularly the rights of women sentenced on abortion charges (No. 4 and 29).



7. These recommendations determine that safeguarding women’s sexual and reproductive rights, the right to health, personal integrity and autonomy, as well as its positive obligations regarding substantive equality, required El Salvador to revise its total ban on abortion in order to allow for exceptions.

8. The significance of these recommendations for respect of women’s human rights is also supported by El Salvador’s obligations under the *corpus iuris* of the universal human rights system.

## II. Legal Framework

9. El Salvador has ratified international human rights instruments recognizing and protecting the right to substantive equality, health, sexual and reproductive rights, and due process. Yet, over the past 16 years El Salvador has criminalized all forms of abortion and incarcerated hundreds of women, including some who merely miscarried, without benefit of due process.

10. CEDAW asserts that under the principles of non-discrimination, whereof substantive equality derives, men and women must enjoy equal access to “...*human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.*”<sup>6</sup> The ICCPR<sup>7</sup> provides that all people have an equal right to the enjoyment of civil and political rights, while States Parties to the ICESCR undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights,<sup>8</sup> which implies measures guaranteeing formal and substantive equality.<sup>9</sup> Substantive equality “...*is concerned [...] with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience*”.<sup>10</sup>

11. States Parties to the ICESCR have an obligation to take steps to guarantee the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,<sup>11</sup> including access to the necessary goods, services, and conditions.<sup>12</sup> The ESCR Committee has interpreted the right to health as being inclusive of freedoms such as “...*the right to control one’s health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture and non-consensual medical treatment and experimentation*”.<sup>13</sup>

12. The ESCR Committee further holds that States have a positive obligation to offer a wide range of accessible, quality health services, including sexual and reproductive health services.<sup>14</sup> The obligation to guarantee access to sexual and reproductive health services, understood as the guarantee to access health services without discrimination, is immediate, as opposed to obligations whose nature requires progressive compliance.<sup>15</sup>

13. General Recommendation No. 24 of the Committee on the Elimination of Discrimination against Women asserts that States Parties have both positive and negative obligations as regards health rights. States are required to refrain “...*from obstructing action taken by women in pursuit of their health goals*”<sup>16</sup> and to “*take action to prevent and impose sanctions for violations of rights by private persons and organizations*”.<sup>17</sup>



14. Sexual and reproductive rights include a range of human rights that enable reproductive autonomy, including the right to determine without discrimination whether to have children and their number and spacing, which in turn requires access to information and to the benefits of scientific progress on matters of health and family planning.<sup>18</sup> Sexual and reproductive rights include the right to life, health, autonomy, and personal integrity; to be free from cruel, inhuman or degrading treatment, to form a family and to be free from arbitrary interference.<sup>19</sup>

15. Per the Universal Declaration of Human Rights and the ICCPR, due process requires affording everyone charged with an offence, protection against arbitrary deprivation of liberty and other acts that may violate their fundamental rights. This includes that everyone must be guaranteed the means to appear in court freely, to be heard without coercion, to collect and present the evidence required to ensure a fair trial, and to be presumed innocent until proven guilty.<sup>20</sup>

16. The right to substantive equality, sexual and reproductive rights, the right to health and due process entail positive and negative obligations for the State. Regarding El Salvador's total abortion ban and the prosecution of women on related charges, the Human Rights Committee recommended that:

*“10. (...) the State party should amend its legislation on abortion to bring it into line with the Covenant. The State party should take measures to prevent women treated in public hospitals from being reported by the medical or administrative staff for the offence of abortion. Furthermore, until the current legislation is amended, the State party should suspend the prosecution of women for the offence of abortion. The State party should open a national dialogue on the rights of women to sexual and reproductive health”.*<sup>21</sup>

17. This report aims at evidencing that the total ban on abortion has placed El Salvador in noncompliance with i) its international obligations concerning the right to substantive equality, health, sexual and reproductive rights, and due process; and ii) the 13 recommendations made at the 2010 UPR. As such, we ask UPR Working Group States to reiterate the recommendations made to El Salvador in order to revise its legislation to allow abortion in cases of rape, risk to a woman's life or health, or fetal impairment incompatible with life outside the womb, and implement effective steps to guarantee sexual and reproductive rights, the right to health, substantive equality, and due process.

18. Failure to implement these recommendations stands in violation of health rights, notably women's sexual and reproductive rights. The sections below provide factual details on the total abortion ban's impact on the lives of Salvadoran women. These include the Beatriz case, where pregnancy endangered a woman's life and health, and the Manuela case, a violation of due process in connection with the right to health and sexual and reproductive rights, that is also evidenced by data of women prosecuted for abortion. Both types of violation reflect discrimination against women, whereof implies violations of their right to substantive equality.



**a. El Salvador’s total abortion ban violates the right to health without discrimination, specifically women’s sexual and reproductive rights, contrary to UPR recommendations 2, 3, 4, 15, 22, 28, 30, 35, 36, 37, 63 and 64.**

19. Under the 1973 Criminal Code, El Salvador allowed abortion: i) to save a woman’s life; ii) when abortion resulted from a crime; iii) when pregnancy resulted from rape or statutory rape; and iv) in cases of serious fetal impairment.<sup>22</sup> In 1998 El Salvador enacted a new Criminal Code banning abortion under all circumstances,<sup>23</sup> and in 1999 it amended its Constitution to recognize personhood rights since the moment of conception (Art. 1).<sup>24</sup> These amendments had a major negative impact on women’s lives and reproductive rights, as well as the right to health

20. The report *Marginalized, Persecuted and Imprisoned* estimates that “(f)rom 1995 to 2000, an estimated 246,275 abortions took place in El Salvador, with 11.1% of them resulting in maternal deaths”.<sup>25</sup> The Information, Monitoring and Evaluation Unit of the Salvadoran Ministry of Health reported 19,290 miscarriages from January 2005 to December 2008, 27.6 percent in adolescents.<sup>26</sup> The Ministry’s Maternal Mortality Monitoring System listed suicide by pregnant women as the third leading cause of maternal death in 2011.<sup>27</sup> Suicide accounted for 57 percent of deaths among pregnant girls and teens aged 10 to 19.<sup>28</sup> Importantly, as long as abortion remains illegal, no figure can be expected to accurately reflect the real extent of this situation.

21. The Beatriz case below is but one example of the obstacles that Salvadoran women who seek an abortion face. Beatriz suffers from discoid lupus erythematosus, complicated by lupus nephritis. In April 2013, when she was on the 20<sup>th</sup> week of her second pregnancy, three ultrasounds confirmed that her fetus was anencephalic (lack of brain) —an anomaly incompatible with life. Doctors concluded that her pregnancy was endangering Beatriz’s life and needed to be terminated. El Salvador’s total ban on abortion forced Beatriz to launch a legal challenge at home and abroad that took months, while her physical and mental health deteriorated. The Inter-American Court of Human Rights eventually ordered El Salvador to take all steps necessary to guarantee the life and health of Beatriz, which helped her terminate her pregnancy.<sup>29</sup>

22. This case and the data cited illustrate the severe effects of a total abortion ban on enjoyment of Salvadoran women’s human rights, especially their right to health without discrimination, and their sexual and reproductive rights, as the ban i) Prevents access to therapeutic abortion, impacting women who require it for medical reasons; ii) Denies the rights to autonomy and health, which are closely intertwined with reproductive rights, by preventing women from making decisions affecting their bodies and health. This is especially difficult in cases of sexual assault, whose victims often do not wish to carry to term the pregnancies. As such, a ban affects women’s physical and mental health; iii) leads women to seek unsafe abortions, which increases maternal mortality rates; and iv) by stigmatizing abortion, it may cause it to cease being considered a necessary medical procedure in certain cases, disengaging women from scientific processes.<sup>30</sup>

23. The foregoing stands as evidence of El Salvador’s failure to comply with recommendations No. 2, 3, 4, 15, 28, 30 on the substantive equality of women; No. 63, and 64 accepted by El Salvador, and No. 22, 35, 36 and 37 examined and subsequently accepted<sup>31</sup> by El Salvador on the





right to health and sexual and reproductive rights. In doing so, El Salvador also infringed its international human rights obligations on substantive equality, health and sexual and reproductive rights.

**b. El Salvador has implemented legal measures that disproportionately encourage prosecuting cases of abortion, thereby violating the right of women to due process and failing to comply with 13 UPR recommendations.**

24. Article 312 of the 1998 Criminal Code that reformed abortion imposes fines on public employees or officials who having known of the commission of a crime, fail to report it to an authority.<sup>32</sup> As a result, health care providers now report to a criminal authority patients seeking emergency obstetric care and those showing signs of hemorrhage.

25. The total abortion ban has a special impact on young, poor, socially-excluded women who deserve especial protection. According to the 2013 report *Marginalized, Persecuted and Imprisoned*, from 2000 through the first quarter of 2011 some 129 Salvadoran women were prosecuted on charges of abortion or aggravated murder, including 23 who were convicted on abortion charges and 26 on murder charges.<sup>33</sup> Of these, 68.22 percent were 18 to 25 years old, 3.1 percent had a higher education, 1.55 percent had technical training, 11.63 percent had attended high school, 6.98 percent were illiterate, 73.64 percent were single and unattached, 51.16 percent did not hold a paid job and 31.78 percent were underemployed.<sup>34</sup> The report also notes that 57.36 percent of reports to the authorities were filed by health professionals.<sup>35</sup>

26. The Manuela case provides a stark example of the above. Manuela was a young Salvadoran woman who suffered from lymphoma. She sought medical attention after first becoming ill in 2006, but was not diagnosed. In February 2008 her health deteriorated rapidly. One day, overtaken by acute abdominal pain, she went to the outhouse, had what she thought was a bowel movement, then passed out. Her relatives drove her to hospital, where she was promptly reported on suspicion of abortion. The next day, in poor health and without benefit of a lawyer, Manuela was questioned by police. She was detained arbitrarily and refused all legal guarantees. She could not afford a private lawyer and met her court-appointed counsel at her trial. Manuela was found guilty of aggravated murder and sentenced to 30 years,<sup>36</sup> a ruling that a negligent lawyer chose not to appeal. Arrested, tried and sentenced under mere presumptions, Manuela died of cancer in jail without ever having received proper health care.<sup>37</sup>

27. As the data and the story of Manuela show, Salvadoran women who seek abortions or emergency obstetric care face incarceration after being reported by the medical practitioners required to provide emergency care. This shows wanton disregard for their right to substantive equality, the right to health, and their sexual and reproductive rights and stands as a serious violation of due process, as follows:

(i) Criminal reporting of women by health professionals contradicts codes of medical ethics providing for patient confidentiality and privacy. These actions flout the right to health and sexual and reproductive rights by discounting confidentiality provisions which are connected to the right to



privacy—a fundamental component of these rights—that preclude health care personnel from disclosing patient information.<sup>38</sup>

(ii) Punitive abortion laws reinforce gender stereotypes holding reproduction as a woman’s main role, which often results in unwarranted prosecution of women seeking emergency obstetric care for reasons unrelated to induced abortions.<sup>39</sup> Health care professionals who assume that obstetric emergencies must be the result of induced abortions negate the presumption of innocence.

(iii) Investigation and prosecution of women often violate due process. Many such women get to meet their defense attorneys during court hearings, effectively preventing them from collecting evidence and preparing a proper defense. Moreover, many are interrogated or arrested while under the effects of anesthetics or while still recovering from treatment.

(iv) Sentencing women on abortion charges to terms of up to 30 years violates due process, notably the principle that the punishment should fit the crime.

(v) Since obstetric emergencies infringe no law, prosecuting women who have them as having murdered their children is a gross violation of due process and leads women to shun emergency obstetric care for fear of prosecution.

(vi) The total abortion ban is compounded by legal uncertainty concerning health protocols and regulations, especially in extreme cases where termination of pregnancy may be required. Laws banning all abortion run counter to the constitutional principle of legal certainty and lead to inequality, injustice, and discrimination against women.

The evidence shows that El Salvador, in addition to the recommendations on substantive equality, the right to health and sexual and reproductive rights described in the Beatriz case, also failed to comply with recommendations No. 4 and 29 on due process, and consequently with its international obligations to guarantee and fulfill human rights.

### **c. Conclusions**

28. As the facts show, the total ban on abortion is placing the lives and health of Salvadoran women in dire danger. Faced with an overriding need to terminate a pregnancy, women are forced to seek clandestine, unsafe abortions that all too often end in serious health complications. In addition, criminalization has encouraged medical personnel to treat most obstetric emergencies as linked to induced abortion. This negates the right of women seeking hospital care<sup>40</sup> to be presumed innocent and has led to the conviction of scores of innocent women.

29. The Beatriz and Manuela cases are but two examples of how El Salvador’s total abortion ban and its consequences have resulted in serious violations of the Universal Declaration of Human Rights, the ICESCR, the ICCPR and the CEDAW, notably with respect to the right to health, sexual and reproductive rights, substantive equality, and due process. They further show that El Salvador has failed to comply with the 13 UPR recommendations intended to safeguard these fundamental rights.

## **III. Recommendations**



30. In view of the recommendations El Salvador accepted but failed to implement, we respectfully request member States to present the following recommendations at the upcoming Universal Periodic Review of El Salvador:

- (i) Revise laws imposing a total abortion ban to allow for exceptions when: (a) Pregnancy endangers a woman's life or health; (b) Pregnancy is the result of rape or artificial insemination without the woman's consent; and (c) Fetal anomaly incompatible with life outside the womb.
- (ii) Take steps to prevent women seeking emergency obstetric care from being reported to the authorities on suspicion of abortion.
- (iii) Adopt all relevant measures to ensure that judicial investigations and prosecutions adhere at all times to the tenets of due process.
- (iv) Stop prosecution of women on charges of abortion until the legislation is revised.

Sincerely,

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<sup>1</sup>Human Rights Council, Institution-building of the United Nations Human Rights Council, *adopted* Jun. 18, 2007, A/HRC/Res. 5/1.

<sup>2</sup> El Salvador has ratified the following instruments: Universal Declaration of Human Rights, *adopted* Dec. 10, 1948, G.A. Res. 217 (III); International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200 A (XXI) (hereinafter ICESCR) ratified Nov. 30, 1979; International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200 A (XXI) (hereinafter ICCPR), ratified Nov. 30, 1979; Optional Protocol to the ICCPR, *adopted* Dec. 16, 1966 G.A. Res. 2200 A (XXI), ratified Jun. 6, 1995; Optional Protocol to the ICESCR, ratified Sept. 20, 2011; Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* Dec. 18, 1979, G.A. Res. 34/80 (hereinafter CEDAW), ratified Aug. 19, 1981; Optional Protocol to the CEDAW, signed Apr. 4, 2001.

<sup>3</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review- El Salvador. Addendum Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, U.N. Doc. A/HRC/14/5/Add.1, Jun. 8, 2010, para. 1.

<sup>4</sup> Human Rights Council. Report of the Working Group on the Universal Periodic Review\* El Salvador. UN Doc. A/HRC/14/5 (Mar. 18, 2010), para. 81.

<sup>5</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review. El Salvador. Addendum, *supra* note 3.

<sup>6</sup> CEDAW, *supra* note 2, Art. 1.





<sup>7</sup> ICCPR, *supra* note 2, Art. 3.

<sup>8</sup> ICESCR, *supra* note 2, Art. 3.

<sup>9</sup> ESCR Committee. *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights*, General Comment No. 16 (2005). U.N. Doc. E/C.12/2005/4 (Aug. 11, 2005), para. 8, p. 4. “Substantive equality for men and women will not be achieved simply through the enactment of laws or the adoption of policies that are, prima facie, gender-neutral. In implementing article 3, States parties should take into account that such laws, policies and practice can fail to address or even perpetuate inequality between men and women because they do not take account of existing economic, social and cultural inequalities, particularly those experienced by women.”

<sup>10</sup> *Ibid.*, para. 7, p. 3.

<sup>11</sup> ICESCR, *supra* note 2, “Art. 12: 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”

<sup>12</sup> Committee on Economic, Social and Cultural Rights [hereinafter CESCR], General Comment No. 14: *The right to the highest attainable standard of health* (Article 12 of the Covenant), para. 9. U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).

<sup>13</sup> *Ibid.*, para. 8.

<sup>14</sup> ICESCR, *supra* note 2. Article 12.1; ESCR Committee, General Comment No.14, *supra* note 12, para. 11.

<sup>15</sup> CESCR, General Comment No.14, *supra* note 12.

<sup>16</sup> Committee on the Elimination of Discrimination against Women. General Recommendation No. 24 (Article 12): *Women and Health*, Chapter I, paras. 14 and 15, U.N. Doc. A/54/38/Rev.1 (Jan. 19-Feb. 5, 1999) [hereinafter CEDAW Committee, General Recommendation No. 24].

<sup>17</sup> *Ibid.*

<sup>18</sup> Programme of Action of the International Conference on Population and Development A/CONF.171/13/Rev.1 (Sep. 5-13, 1994) (hereinafter ICPD).

<sup>19</sup> Center for Reproductive Rights, *Reproductive Rights Are Human Rights*. October 2006.

<sup>20</sup> Universal Declaration of Human Rights, *supra* note 2, articles 8, 10 and 11, *see also* ICCPR articles 9, 10 and 14.

<sup>21</sup> Consideration of reports submitted by States parties under article 40 of the Covenant – *Concluding Observations of the Human Rights Committee* – El Salvador, U.N. Doc CCPR/C/SLV/CO/6, Nov. 18, 2010.

<sup>22</sup> El Salvador Criminal Code (1973), art 169. Available at <http://es.scribd.com/doc/60806391/Codigo-Penal-1973>.

<sup>23</sup> El Salvador Criminal Code (1997), arts. 133-137. Available at [www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/codigo-penal](http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/codigo-penal).

<sup>24</sup> Constitution of El Salvador, art. 1. Available at <http://asamblea.gob.sv/asamblea-legislativa/archivos/constitucionVigente.pdf/view?searchterm=constitucion>.

<sup>25</sup> *Global Health Council, Promises to Keep: The Toll of Unintended Pregnancies on Women’s Lives in the Developing World*. 2002, p. 43. As cited in *Marginalized, Persecuted and Imprisoned. The Effects of El Salvador’s Total Criminalization of Abortion* (hereinafter *Marginalized, Persecuted and Imprisoned*). Center for Reproductive Rights and Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico (2014), p. 21.

<sup>26</sup> As cited in *Marginalized, Persecuted and Imprisoned. Ibid.*, p. 21.

<sup>27</sup> Carlos Ayala Ramírez, *Suicidio en el embarazo*. As cited in *Marginalized, Persecuted and Imprisoned supra* note 25, p. 22.

<sup>28</sup> *Inicia una investigación regional para prevenir suicidios en el embarazo (Regional review on preventing suicide among pregnant women begins)*, UNFPA El Salvador, April 16, 2012. Cited in *Excluidas, Perseguidas, Encarceladas. supra* note 25, p. 22.

<sup>29</sup> *Matter of B v. El Salvador*, Provisional measures with regard to El Salvador, Inter-Am. Ct. H.R. (May 29, 2013) available at [www.corteidh.or.cr/docs/medidas/B\\_se\\_01\\_ing.pdf](http://www.corteidh.or.cr/docs/medidas/B_se_01_ing.pdf).

<sup>30</sup> Interview with Coordinating Community and Family Health Physician, cited in *Marginalized, Persecuted and Imprisoned, supra* note 25, p. 10.

<sup>31</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review. El Salvador, *supra* note 4.

<sup>32</sup> El Salvador Criminal Code (1997) “Art. 312: Public servants who learn of unlawful acts in the performance of public duties or on occasion of them and fail to advise the competent authorities within 24 hours shall be liable to a fine of 50 to 100 net income/days. Directors or administrators of public or private health care facilities who fail to advise the competent authorities within 8 hours of admission of patients injured as a result of what can reasonably be construed as a crime shall also be liable to the said fines.”

<sup>33</sup> *Marginalized, Persecuted and Imprisoned, supra* note 25, p. 13.

<sup>34</sup> *Ibid.*, p. 51.

<sup>35</sup> *Ibid.*, p. 51.



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<sup>36</sup> As the Criminal Code does not include a clear definition of abortion, legislators applied PAHO criteria on fetal death before the 22<sup>nd</sup> week. As such, all deaths occurring thereafter are deemed homicides rather than abortions. Kinship between the woman and the dead fetus is considered an aggravating circumstance.

<sup>37</sup> *Ibid.* pp. 37-39.

<sup>38</sup> The Inter-American Court of Human Rights has ruled that “...physicians have a right and an obligation to protect the confidentiality of the information to which, as physicians, they have access”. *De la Cruz Flores v. Peru*. Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (Ser. C) No. 115, para. 101 (Nov. 18, 2004).

<sup>39</sup> *Ibid.* p. 61.

<sup>40</sup> The United Nations Special Rapporteur on violence against women, its causes and consequences has noted that the absolute prohibition of abortion forces women and girls to resort to unsafe and clandestine abortion practices. *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo - Addendum - Follow-up mission to El Salvador*, U.N. Doc. A/HRC/17/26/Add.2 (Feb. 14, 2011), para. 66.