

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN IN EL SALVADOR

Alternative Report, prepared by FEMINIST CONCERTATION "PRUDENCIA AYALA"
EL SALVADOR

Executive Summary

Compliance with State commitments

On October 31st, 2008, the Committee on the Elimination of Discrimination against Women, assessed the seventh periodic report of El Salvador in their 862nd and 863rd sessions, issued on November 7th of that year, the respective recommendations among which, requests the State to disseminate the importance of temporary special measures to streamline the process of achieving gender equality; the adoption of special temporary measures in the field of employment and politics must have objectives, goals and deadlines to allow effective supervision.

With regard to health, the Committee was concerned about the "contradictory statistics about maternal mortality, due to the high incidence of adolescent death in childbirth, as well as the high number of illegal abortions, even among very young people, which have negative consequences on the physical and mental health of women. It also regrets the lack of information on HIV, as well as on the apparent feminization of the phenomenon in the State Party. "¹

The Committee requested El Salvador to provide, within two years, written information on the measures taken to implement the recommendations relating to the adoption of a global approach designed to address violence against women and girls, based on their General Recommendation No. 19 on violence against women. It also urged the State to **have equality/parity** in the electoral process and the results, especially to foster the presence of women and men on **equal terms/conditions** in the electoral list.²

The Committee also proposed that the State Party implement leadership training programs intended for women and provide awareness-raising campaigns on the importance of women in the decision-making as a democratic requirement and to assess the measures and report to the Committee on the results of that evaluation.

¹ The United Nations. *Final observations of the Committee on the Elimination of Discrimination against Women: El Salvador, November 7, 2008*

²The United Nations. *Committee on the Elimination of Discrimination against Women. 42° session period. October 20th to November, 2008*

Articles 1, 2 and 3

Policy and legal regulations to eliminate discrimination and to ensure women's advance and full development

Public Policies

The Equality, Equity and Eradication of Discrimination against Women Law ³ has not been effectively applied. One of the most severe problems facing the Law, is that a regulation establishing effective control mechanisms that guarantee equality and not discrimination for the rights of women, a power that is granted in article 38 to the Office of the General Attorney of the Republic, which shall create and establish the relevant unit within its structure and organization does not exist.

For the effective application of the law with respect to the violation of the norms, establish in the internal regulations of each of the institutions of the State, indicates that they should reconcile to establish the sanctions. Although it is necessary to recognize the efforts of the State to put in place institutions and mechanisms to implement these laws, those efforts were insufficient. It takes political will, budget and interinstitutional coordination, so that reality reflects what the norm establishes.⁴

One aspect that continues to mark women in the realm of their identity is referred to in the Law of the Name of the Natural Person with respect to the surname, where stated that "the woman may continue to use her surnames or add right after her first surname the first surname of the spouse, preceded or not by "de ". These are provisions that reinforce the androcentric spirit of the referred law, which unilaterally regulates an act in which the two parties incur obligations. The Constitutional Chamber of the Supreme Court of Justice issued a judgment in relation to an unconstitutionality process promoted by a citizen stating that, "with the current articulation of economic relations in the family and the obligations of the State in relation to the equality of women's rights, the preference of the paternal surname can no longer be seen as a vestige of a patriarchal system or a reflection of an economic and social predominance of men to women. It is true that the right as the channel of social dominant assessment on the role of men and women has a symbolic dimension that should not be underestimated, because it is precisely the baseline the start point of some of the most important changes in the field of sex equality. But in the context of the current reality, where the constitutional regulation, international and secondary recognizes the legal equality between women and men, the regulation on the family surname, in order to guarantee safety and legal certainty, should not imply in any means, discrimination, hierarchy or subordination based on sex. "⁵

³ *The Justice Sector Executive Technical Unit of. Compilation of Specialized Regulations on Women's Rights. El Salvador, 2012*

⁴ *The Justice Sector Executive Technical Unit. Compilation of Specialized Regulations on Women's Rights. El Salvador, 2012*

⁵ *Constitutional Chamber, Supreme Court of Justice. Judgment of July 22, 2015, p. 7. Reference inc. 45-2012.*

II. Article 4 and 15

Temporary measures to accelerate equality between men and women and equality under the law

The Constitution of the Republic of El Salvador in article 3 recognizes equality before the law of all persons, pointing out that differences cannot be established based on nationality, race, sex or religion.

El Salvador is part of international conventions and treaties regarding human rights. There are various laws that seek to guarantee the rights of women, though the implementation of these regulations is a major challenge

In that sense, it can be added that El Salvador does not have a frequent practice of adopting temporary measures to accelerate equality between men and women to guarantee of the established within the Law on Equality, Equity and Eradication of Discrimination against Women and which was also stipulated in CEDAW, in Article 4.1, which allows temporal special measures to accelerate the achievement of equality. It is important to keep in mind that from a human rights framework, equality is not the requirement of equal treatment, but is achieved with the elimination of all forms of discrimination against women through actions, plans and programs.⁶

III. Article 7

Women's participation in politics and public life.

The provisions of this article are closely linked to the previous articles referred to in a women's right to non-discrimination, which implies that the State has the obligation to eliminate all manifestations of exclusion which are translated into discrimination against any woman.

It is in the positions of political representation where gender inequalities are most evident. In addition, the percentage of women participation which was approved on February 24th, 2013, as part of the Political Parties Act, established that each party must include in its template at least 30% participation by women, but at this point, this is not being achieved.⁷

The participation of women in positions of popular elections and in instances of the State continues to be disproportionate in relation to that of men. Nor is it kept constant in the time, reflected mainly in the local governments, where out of the total of 262 Municipal governments in the 2009 -2012 period only 29 female mayors were elected, and this being reduced to 28 women mayors in the current period of 2012-2015. This means that there is only an 11% participation of women.

⁶ Alda Facio. *Equality in CEDAW; 30 years of development of a key right for women.* November 2009. Pag. 3

⁷ *Legislative decree N° 307 of February 24th, 2013.*

IV. Article 11

Elimination of employment discrimination against women

"The participation of women in the labor market presents significant differences with respect to men. It shows the tendency that women find employment opportunities in the tertiary sector and the informal sector of the economy, in contrast to men which are predominantly within the formal sector of industry and agriculture. The rate of labor participation of women, which measures the degree of participation of the population in the labor market, has had an increasing tendency from 2008 to 2012, being 47.3% in 2008, and 47.9% in 2012; although the rate has been increasing, it is lower in relation to the men.

This occupational segmentation, which generates unequal participation of women and men in the productive sector of the economy, is determined by gender conditioning factors related with the sexual division of labor, with a direct impact on differences in equal treatment for access to opportunities and work spaces. "⁸

The open unemployment rate, which refers to the percentage of women and men who are seeking active employment and do not find it, will be understood as the part of the population of economically active people who are unemployed and who, during the five-year period, has maintained a downward trend. This indicator goes from a rate of 7.3 in 2009 to a rate From 6.1 in 2012. In the case of women during the same period, the rate became from 4.9 in 2009 to 4.2 in 2012.⁹

V. Article 12 and 16

Women's rights to health and reproductive health within inside or outside the marriage and in equal rights with men.

The National Policy of Women defines as a priority commitment in the field of integral health, that the national health system is capable of providing the conditions and institutional responses that guarantee access to health services for women, including in particular the reproductive health of women throughout their life cycle with a focus on gender and rights. The World Health Organization (WHO) notes in 2009 that adolescent's pregnancy has high personal and psychosocial costs, because children under the age of 16 are 4 times in a greater risk of maternal mortality than adult women and the mortality rate of their infants are approaching 50%, greater than that of adult women.

⁸ ISDEMU. *Report on the Situation and Status of Salvadorian Women 2009-2014*. Page 33

⁹ *Idem* Page 34

The number of deliveries of girls and adolescents has increased, from 21,693 at public hospitals in 2005, to 25,003 girls and adolescents in 2013, which represents an increase of 15% in deliveries in 2013 in relation with 2005.¹⁰

VI. Violence against women

Femicide is characterized as an offense in article 45 of the Special Integral Law for A Life Free of Violence for Women, which came into force in 2012. In the Law, Regulate 11 new illicit ones that add to those contemplated in the Salvadoran Criminal Code, among them feminicide and other revictimizing behaviors that are manifested in the exercise of the public function.¹¹

The Institute of Legal Medicine reports that there were 2,330 violent deaths of women during the five-year period between 2009 and 2013. In 2009, the largest number was registered at 592, and in 2013 the number dropped by 375 to 217 violent deaths to women. This data indicates that in 2013 there were fewer violent deaths compared to 2009.¹²

In 2012, the year of the entry into force of the Special Integral Law for a Free Life of Violence for Women, the Supreme Court of Justice reports as admitted to its system, 150 violent deaths of women, qualified as follows: 6 femicides and 144 Homicides of women.

Of the murders of women, 110 correspond to the aggravated homicide and 34 to simple homicide. In addition, the CSJ reports an attempted aggravated femicide.

Within this security framework, it has been identified that women continue to be victims of military conflict that culminated in 1992 with the Peace Agreements. At present they are suffering various psychological and psychiatric disorders as a result of their participation in the civil war. This issue has not yet been addressed by the government, which is one of the main problems related to the search for peace and security in the country.¹³

¹⁰ Enma Sofía Hernández. *Feminist Concertation Prudencia Ayala. European Union, MUNDUBAT, ONU MUJERES. Report on compliance with the State's commitments in the advancement of women's rights. Balance of the advances of the 20 years of "Beijing". 2015. pgs. 12-13*

¹¹ Legislative Assembly of El Salvador. *Special Integral Law for a Life Free of Violence for Women. Decree No. 520 of 11/25/2010. Official Journal No. 02, Volume 390 of 04/01/2011. P. 35-39*

¹² ISDEMU. *Report Situation and conditions of the Salvadoran Women 2009-2014. Analysis from the PNM. Salvadoran Institute for the Development of Women, ISDEMU, April 2014. Page 81.*

¹³ *Feminist Concertation Prudencia Ayala. CFFPA. Exposition of America Romualdo, at the opening of consultation on the Resolution 1325.*

In April 2015, a Declaration of the Consultation was submitted on the implementation of Resolution 1325 in El Salvador. It was issued within the framework of the National Consultation on Advances and Compliance with Resolution 1325 on Peace, Women and Security, of the United Nations security council, having stated that "to date women continue to be excluded in decision-making positions in the area of peace and security. There is little compliance with Resolution 1325 as it us one of the most important international mandates signed by El Salvador, because it advocates for full and equal participation of women in all peace initiatives and security and gender mainstreaming in these areas."¹⁴

¹⁴ PCS Project Counseling. *Security, Peace and Justice for Women. (Reflections on Resolution 1325 in Mesoamérica)*. September 2015.