

Human Rights Watch submission to the Committee on the Elimination of Discrimination against Women concerning the combined eighth and ninth periodic report of El Salvador

We write in advance of the Committee on the Elimination of Discrimination Against Women’s upcoming review of El Salvador to highlight a key area of concern regarding the government of El Salvador’s compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This submission focuses specifically on violations of the right to health under Article 12 of the Convention and of the right to decide on the number and spacing of children under Article 16(1)(e).

Abortion is a crime in El Salvador, with no exceptions under any circumstances, even in cases of rape or incest, where the pregnancy endangers the pregnant woman’s life or health, or in cases of severe fetal impairment. Anyone who has an abortion, and the medical providers who perform or induce, them can face prison sentences. Women have been convicted of murder after being accused of having had an abortion, sometimes resulting in prison terms for up to 40 years. For some of these women, having a miscarriage or stillbirth was used as evidence to convict them.

El Salvador’s extreme, punitive abortion ban poses risks to women’s life and health. As an example, in 2013, there was international attention to the case of “Beatriz,” a 22-year-old woman whose life was put in grave danger as a result of her pregnancy.¹ El Salvador’s Supreme Court ruled that she could not have an abortion that her doctors deemed necessary to save her life. The Inter-American Commission on Human Rights (IACHR) granted her precautionary measures to ensure that she would get a life-saving abortion. Despite Beatriz’s deteriorating medical condition, the government delayed. Finally, Beatriz underwent an emergency Caesarean section, and the baby died several hours later. Beatriz continues to have serious medical repercussions from the experience.

United Nations treaty bodies have repeatedly expressed concern about El Salvador’s restrictive abortion laws and the detrimental consequences for women’s lives, health and well-being. To remedy the effects of the criminalization of abortion on women’s right to life, the committees have recommended the review or amendment of restrictive abortion laws, and in particular have recommended the removal of punitive aspects of these laws.

UN human rights experts have also underscored how El Salvador’s abortion law violates international human rights, and has urged pardons for women who faced prison due to the law. In a 2015 joint statement, representatives of the Working Group on the issue of discrimination against women in law and in practice and the Working Group on arbitrary detention, as well as the Special Rapporteurs on the health, torture and other cruel, inhuman or degrading treatment or punishment, violence against women, and the independence of judges and lawyers urged El Salvador to “pardon all women jailed for pregnancy complications and repeal restrictive abortion law.”²

¹ “17 Women in El Salvador Need Help This Holiday Season” Human Rights Watch dispatch, December 11, 2014 <https://www.hrw.org/news/2014/12/11/dispatches-17-women-el-salvador-need-help-holiday-season>

Letter from Human Rights Watch to President Funes, “Authorize Abortion for Woman at Risk of Dying”, May 14, 2013

“El Salvador’s total abortion ban and its harmful impact on women”, Center for Reproductive Rights, April 11, 2016,

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SLV/INT_CEDAW_NGO_SLV_23805_E.pdf (accessed January 20 2017)

² “Guadalupe’s pardon: UN experts urge El Salvador to pardon all women jailed for pregnancy complications and repeal restrictive abortion law”, UN Office of the High Commissioner for Human Rights press release, January 28, 2015 (accessed January 20, 2017)

In your upcoming review of El Salvador, Human Rights Watch encourages the Committee to ask the El Salvador government delegation questions about its highly restrictive abortion law, and recommend that the State party fully implement the following:

- Call on the El Salvador government to repeal the total ban on abortion.
- Pardon and release the women who remain in prison due to these regressive laws.
- Establish protocols to ensure access to safe, legal abortions.

We hope you will find these comments relevant to your examination of the El Salvador government's compliance with CEDAW, and would welcome an opportunity to discuss them further with you.