

CSOs and WHRDs Worldwide Condemn the ARENA Proposal for Longer Abortion-Related Criminal Sentences in El Salvador

July 14, 2016

We the undersigned civil society and women human rights defender (WHRD) organizations worldwide strongly condemn the proposal of the ARENA party to reform the Penal Code in El Salvador. In particular, we denounce the deplorable proposal to increase the criminal sentence for induced abortion to 30-50 years in prison; as well as the proposal to increase sanctions and prison sentences for healthcare providers and others who are suspected of inflicting injury on prenatal life while providing medical services, or of promoting procedures, medication, substances or objects intended to induce an abortion.

Numbers of evidence-based studies have shown that criminalizing and/or restricting access to abortion does not reduce the number of abortions.¹ Moreover, in countries such as El Salvador where abortion is highly restricted, it is typically unsafe, where women seeking abortions are forced to compromise their health and often risk their lives.² Research from the World Health Organization (WHO) has similarly indicated that the rate of unsafe abortion worldwide is likely to increase unless women are provided access to comprehensive sexual and reproductive health services, including access to contraceptives and access to safe and legal abortion.³ In the case of El Salvador, the United Nations Special Rapporteur on Violence against Women has in fact identified the complete ban on abortion as being a direct contributor to the current high rates of maternal mortality in the country.⁴ Furthermore, young, poor and unmarried women are those who are most likely to resort to unsafe abortion, highlighting the impact of restrictive abortion laws in perpetuating social injustice and inequality. Restrictive laws and the threat of criminal sentences may also result in service providers being afraid to provide the necessary care and treatment to women experiencing obstetrical and/or post-abortion care emergencies, for fear of being accused of facilitating access to abortion, thereby further endangering women's health and lives.

One of the most serious consequences of the complete ban on abortion in El Salvador is the incarceration and wrongful imprisonment of numbers of women who have suffered pregnancy-related complications and miscarriages. As noted by the United Nations Committee on Economic, Social and Cultural Rights (CESCR), the complete ban on abortion in El Salvador has led to "serious cases of suffering and injustice," allowing for women to be prosecuted for pregnancy losses under any circumstance, and particularly affecting women of lower socioeconomic status.⁵ The CESCR has also noted the particular cases of women such as *Las 17*, a group of women who accessed health services as a result of serious threats to their health, and who then received grossly disproportionate

¹ Guttmacher Institute (2016), [Induced Abortion Worldwide : Global Incidence and Trends](#).

² Guttmacher Institute (2015), [Each Year, 6.9 Million Women in Developing Countries Are Treated For Complications From Unsafe Abortion](#).

³ World Health Organization (2011), [Unsafe Abortion: Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008](#).

⁴ Report of the Special Rapporteur on violence against women, its causes and consequences, [A/HRC/17/26/Add.2](#) para. 65.

⁵ E/C.12/SLV/CO/3-5 para. 22.

criminal sentences on suspicion of having an abortion, without being afforded their right to due process.⁶ A group of United Nations' Special Rapporteurs have similarly urged El Salvador to pardon all women jailed for pregnancy complications and repeal the country's restrictive abortion laws.⁷

As asserted by the Committee Against Torture, punitive abortion laws violate women's right to be free from inhuman and cruel treatment.⁸ And as established in the Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, criminal laws which penalize and restrict induced abortion:

*"[...] consistently generate poor physical health outcomes, resulting in deaths that could have been prevented, morbidity and ill-health, as well as negative mental health outcomes, not least because affected women risk being thrust into the criminal justice system. Creation or maintenance of criminal laws with respect to abortion may amount to violations of the obligations of States to respect, protect and fulfil the right to health."*⁹

There is still much change needed in El Salvador for women to be able to exercise meaningful decision-making power in their lives, and have access to comprehensive health services, as part of the State's obligation to guarantee the protection of the rights of all people, including women. We the undersigned organizations stand in solidarity with women in El Salvador. We urge the Salvadoran Congress to dismiss the ARENA proposal, and we echo Human Rights Bodies in urging the Salvadoran government to review its legislation concerning abortion, and amend Salvadoran laws in accordance with women's fundamental human rights to health and dignity.¹⁰

The international community is watching El Salvador, and we trust that the Salvadoran Congress will take all measures necessary to ensure that Salvadoran laws and practices conform with the international treaties and human rights standards to which El Salvador has committed.

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⁶ Ibid.

⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR) 2015, [Guadalupe's pardon: UN experts urge El Salvador to pardon all women jailed for pregnancy complications and repeal restrictive abortion law](#).

⁸ CAT/C/PER/CO/4, para. 23; CAT/C/NIC/CO/1, para. 16; and CAT/C/CR/32/5, para. 7.

⁹ Interim Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, [A/66/254](#) para. 21.

¹⁰ E/C.12/SLV/CO/3-5 para. 22; Office of the United Nations High Commissioner for Human Rights (OHCHR) 2015, [Guadalupe's pardon: UN experts urge El Salvador to pardon all women jailed for pregnancy complications and repeal restrictive abortion law](#).

Organizational Signatories:

Action Canada for Sexual Health and Rights, Canada
Alianza por la Solidaridad, Spain
Amnesty International
Anis - Instituto de Bioética, Brasil
Association for Progressive Communications (APC)
Association for Women's Rights in Development (AWID)
Association PaRiter, Croatia
ASTRA Central and Eastern European Women's Network for Sexual and Reproductive Rights and Health
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Asociación Sinaloense de Universitarias AC
Cátedra UNESCO de Derechos Humanos de la UNAM
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Centro de Mujeres, AC
Colectiva Ciudad y Género, AC
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Center for Reproductive Rights (CRR)
CHOICE for Youth and Sexuality, Netherlands
Coalition of African Lesbians
Dandelion Kenya, Kenya
DSW (Deutsche Stiftung Weltbevölkerung), Germany
Espolea, A.C., Mexico
Federation for Women and Family Planning, Poland
FIDH, International
Fondo de Aborto para la Justicia Social MARIA, México
Global Health Justice Partnership at Yale Law School / Yale School of Public Health, USA
International Campaign for Women's Right to Safe Abortion
International Solidarity Network of Women Living under Muslim Laws
International Women's Health Coalition (IWHC)
Instituto de Liderazgo Simone de Beauvoir, México
International Planned Parenthood Federation/Western Hemisphere Region (IPPF/WHR)
JASS (Just Associates)
Le Planning Familial, France
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Planned Parenthood Federation of America, USA
Population Council, Global
REDefine México, México
Red de Salud de las Mujeres Latinoamericanas y del Caribe (RSMLAC)
Red Latinoamericana y Caribeña de Jóvenes por los Derechos Sexuales y Reproductivos
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Secularism Is A Women's Issue (siawi), International network
Urgent Action Fund (UAF) – Latin America
Vecinas Feministas por la Justicia Sexual y Reproductiva en América Latina y el Caribe
Vietnam Public Health Association, Vietnam
Women's Global Network for Reproductive Rights (WGNRR)
YouAct, European Youth network on SRHR