

UA 98/17, **UPDATE 1**, AI Index: AMR 29/6727/2017 of 13 July 2017.
The original index number is: AMR 29/6129/2017 of 28 April 2017.

EL SALVADOR: WOMAN CONVICTED UNDER UNFAIR ANTI-ABORTION LAW

While Salvadoran legislators have, for months, been postponing the debate on the Criminal Code reform that would decriminalize abortion, another rape survivor has been sentenced to 30 years' imprisonment for having suffered pregnancy-related complications.

On 5 July, Evelyn Beatriz Hernández Cruz, 19, was sentenced to 30 years' imprisonment for "aggravated homicide". According to reports from local organizations, Evelyn Hernández was raped but had not reported the incident out of fear. On 6 April 2016, she was admitted to a hospital in Cojutepeque, in the north of El Salvador, after having fainted at home. She had gone into labour without realizing she was pregnant. The hospital staff reported Evelyn Hernández to the authorities. This is the most recent case tried under the unfair current law and underlines the urgency of changing the anti-abortion legislation that violates the human rights of Salvadoran women and girls.

Since 1998, abortion has been criminalized in all circumstances in El Salvador. Many women and girls, like Evelyn Hernández, have lost their lives or been imprisoned because of this total ban. The legal framework criminalizes any woman who undergoes an induced termination of her pregnancy. It also creates an atmosphere of suspicion around women who are not receiving medical care or who receive limited care when they experience obstetric emergencies. The case of Evelyn Hernández is an example of this as it was the hospital staff where she was admitted who reported her to the authorities. In this context, women like her who experience obstetric complications have been accused of aggravated homicide and sentenced to up to 40 years, severely affecting their lives and those of their families.

In October 2016, the Farabundo Martí National Liberation Front (Frente Farabundo Martí para la Liberación Nacional, FMLN) presented a proposal to reform the Criminal Code to decriminalize abortion where the pregnancy poses a risk to the life of a pregnant woman or girl, where the pregnancy is the result of rape and where the foetus would be unable to survive outside the womb. The debate will take place in two phases: first in a Commission of the Legislative Assembly (Comisión de Legislación y Puntos Constitucionales) and then in the Legislative Assembly itself. The debate has not yet begun in the Commission of the Legislative Assembly, but the recent sentencing of Evelyn Hernández highlights the urgency of debating the proposed reform. **This is a crucial moment to call on legislators to support the proposal that will respect, protect and fulfil the rights of women and girls.**

Please send a letter, email or fax without delay.

- * Urge the legislators to support the proposal that ends the total ban on abortion.
- * Express your profound concern that women and girls in El Salvador are at risk of having their rights to life and health, and their right not to be subjected to discrimination, torture or ill-treatment violated if the criminalization of abortion is maintained.
- * Call for access to abortion to be guaranteed both in law and in practice, at a minimum, in cases where pregnancy poses a risk to the life or the physical or mental health of a pregnant woman or girl, in cases where the foetus will be unable to survive outside the womb, and in cases where the pregnancy is the result of rape or incest.

Here is the contact information you will need:

President of the Commission of the Legislative Assembly

Mario Alberto Tenorio

Presidente de la Comisión de Legislación y Puntos Constitucionales

Email: mtenorio@asamblea.gob.sv

Twitter: @mtenoriosv

Salutation: Dear Mr. President/ Estimado Sr. Presidente

President of the Legislative Assembly

Guillermo Gallegos

Presidente de la Asamblea Legislativa

Email: ggallegos@asamblea.gob.sv

Twitter: @GGallegos24

Salutation: Dear Mr. President/ Estimado Sr. Presidente

Please send a copy to:

Amnesty International Central America team

Email: equipoca@amnesty.org

His Excellency Edgar Fermán Palacios Bermúdez

Ambassador for El Salvador

209 Kent Street

Ottawa, Ontario K2P 1Z8

Fax: 1 (613) 238-6940

Email: elsalvadorottawa@rree.gob.sv

ADDITIONAL INFORMATION

1998 was a watershed moment for women's human rights in El Salvador. That was the year the government decided to take a retrograde step. While most countries around the world were moving towards a liberalization of restrictive laws on abortion, El Salvador decided to criminalize abortion in all circumstances. Legislation that had previously allowed access to abortion in certain circumstances – namely, when the woman's life was in danger, when the pregnancy was the result of rape or incest, or in cases of severe foetal impairment – was amended. From then on abortion was considered a crime in all circumstances, without exception.

Evidence shows that total bans on abortion do not reduce the number of abortions but instead increase the risk of women dying due to illegal, unsafe abortions. The World Health Organization has warned that restrictive abortion laws put women and girls living in poverty, and those living in rural and more isolated areas at particular risk of unsafe abortions. Criminalization of abortion in all circumstances deters women from seeking medical care and creates a 'chilling effect' on doctors who are fearful of providing life-saving treatment to women whose life or health are at risk by pregnancy, or who suffer complications from an unsafe abortion.

In recent years, at least 17 Salvadoran women from poor and disadvantaged backgrounds have been unjustly imprisoned after unfair trials, which included unreliable and weak evidence, and poor legal defence. All suffered pregnancy-related complications outside a hospital setting, and were initially charged with abortion. They were subsequently sentenced to up to 40 years' imprisonment for aggravated homicide. For more information, see the report *Separated families, broken ties: Women imprisoned for obstetric emergencies and the impact on their families* (<https://www.amnesty.org/en/documents/amr29/2873/2015/en/>).