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Responses to Information Requests

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15 September 2015

SLV105266.E

El Salvador: Violence against women, including non-domestic sexual violence, legislation, state protection and support services

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Situation

Freedom House states that violence against women in El Salvador is a "serious problem" (Freedom House 2013). Similarly, Reuters reports that violence against women is "widespread" (Reuters 13 Nov. 2014). According to Al Jazeera, El Salvador is "one of the most dangerous countries in the world" for women because of the "[e]ndemic levels of sexual abuse and gender based violence" (Al Jazeera 7 June 2013).

In a report on violence against women in El Salvador, based on a follow-up mission to the country, the UN Special Rapporteur pointed out that "[i]mpunity for crimes, socio-economic disparities and the *machista* [machismo] culture continue to foster a generalized state of violence, subjecting women to a continuum of multiple violent acts" (UN 14 Feb. 2011, para. 76). Amnesty International (AI) similarly states that "[h]igh rates of violence, low reporting, and impunity are factors" that impede progress in addressing violence against women in El Salvador (AI Sept. 2014, 14).

InSight Crime, a foundation that provides research and analysis on organized crime in Latin America and the Caribbean (InSight Crime n.d.), reports that members of gangs such as Mara Salvatrucha (MS-13) and Barrio 18 (M-18) "use rape to terrorize local communities" (ibid. 7 Nov. 2014). The same source cites an Associated Press (AP) investigation as stating that members of the two gangs "typically subject their girlfriends to gang rape and even killings" (ibid.). In a 2013 article, the BBC indicated that, according to the Minister of Justice and Public Security of El Salvador, the rise in femicide rates [translation] "in the past few years" coincided with the increasing entry of women into gangs (BBC 8 Mar. 2013). AP states that women and girls who are "[r]aped, battered and sometimes cut to pieces ... attest to the sadistic abuse committed by members of street gangs" (AP 6 Nov. 2014). In a 2014 interview with AP, a criminologist who digs up clandestine graves for the Office of the Attorney General (Fiscalía General de la República, FGR) stated that "more than half of the 90 sites he has excavated in the last 12 years have contained the remains of murdered women and girls" (ibid.). A report by the Advocates for Human Rights, a US-based NGO dedicated to the promotion and protection of "international human rights standards and the rule of law" through monitoring, legal representation and publications, among other means, similarly indicates that

[n]umerous women told [t]he Advocates of gang members using sexual assault and physical violence against women and girls as a means to extort money and silence political opposition. Moreover, girls who are as young as 14 are coerced or forced to become "girlfriends" for the gang members, subjecting them to violence including physical, sexual and emotional abuse. (The Advocates [July 2015], 1, 7)

InSight Crime reports that a woman who would try to leave a gang because of her pregnancy or other reasons would experience difficulties, "as this offense can be punishable by death" (InSight Crime 5 Sept. 2013). Moreover,

[i]f a woman does manage to leave the gang, she can rarely escape her gang identity. In addition to harassment from her former companions, she is likely to be socially excluded on the outside and to receive little help reintegrating into society. (ibid.)

According to InSight Crime, women and girls who are not affiliated with gangs are subjected to kidnappings and abuse by gang members (ibid. 7 Nov. 2014). Al Jazeera also reports that kidnappings of girls and women cause "huge anxiety among the population" (Al Jazeera 7 June 2013). The same source adds that, according to the National Civil Police (Policía Nacional Civil, PNC), approximately 500 kidnappings, 60 percent of which involved women and girls, were reported to the police in the first 4 months of 2013 (ibid.).

For more information on gangs in El Salvador, see Response to Information Request SLV104900.

2. Statistics

The US Department of State's *Country Reports on Human Rights Practices* indicates that the Salvadoran Institute for the Development of Women (Instituto Salvadoreño para el Desarrollo de la Mujer, ISDEMU), the government agency responsible for implementing and monitoring national policies related to women, as well as for developing programs combatting violence against women (El Salvador n.d.c), reported the following numbers of cases of rape as well as sexual, physical and psychological abuse: 4,211 cases in 2012 (US 19 Apr. 2013, 15), 3,466 cases between January and 10 October 2013 (ibid. 21 Mar. 2014, 15) and 1,264 cases of violence against women between January and 10 October 2014 (ibid. 25 June 2015, 15). InSight Crime reports that, according to official figures, 239 women and girls were killed between January and the beginning of November 2014, 201 disappeared between January and mid-October 2014, and 361 women reported being raped between January and August 2014 (InSight Crime 7 Nov. 2014). According to the Salvadoran Women's Organization for Peace (Organización de Mujeres Salvadoreñas por la Paz, ORMUSA), a feminist non-profit organization established in 1985 that promotes gender equity and social, political and economic empowerment for women (ORMUSA n.d.), the PNC registered 215 cases of femicide in 2013, 292 in 2014 and 60 between January and 20 March 2015 (ibid. [2015]). ORMUSA reports that, according to data collected by the Institute of Forensic Medicine (Instituto de Medicina Legal, IML), 162 femicides were recorded in El Salvador between January and April 2015 and 45 femicides in May 2015 (ibid.).

ORMUSA indicates that, according to the IML, 72 percent of femicides between January and April 2015 took place in the following departments of El Salvador: San Salvador, La Paz, La Libertad and San Miguel (ibid.). In a 2013 article, BBC reported that the municipality of La Libertad, where approximately 80 women die each year, had one of the highest rates of violence against women in the country (BBC 8 Mar. 2013).

AI points out that "[o]fficial statistics on rape and other sexual violence are hard to find in El Salvador. This is due, in part, to the inconsistent criteria used by the various agencies who compile statistics" (AI Sept. 2014, 15). AP similarly reports that there are no reliable statistics on sexual violence in El Salvador, according to those who gather such data (AP 6 Nov. 2014). Al Jazeera indicates that "[i]t is widely believed that PNC figures represent only the 'tip of the iceberg' of actual crimes committed," because, among other reasons, fear and mistrust of authorities prevent women from reporting violence (Al Jazeera 7 June 2013).

Sources indicate that crimes against women are underreported (AI Sept. 2014, 15; Reuters 13 Nov. 2014) because "fear prevents more women from coming forward" (ibid.). A study published by the University Institute of Public Opinion (Instituto Universitario de Opinión Pública, IUDOP) of the Central American University "José Simeón Cañas" on the situation of security and justice in El Salvador between 2009 and 2014 similarly states that [translation] "many crimes" against women, including sexual abuse, are not reported by victims because of shame, fear of reprisal, the connection of the victims to their aggressors or due to the nature of El Salvador's patriarchal society (IUDOP Sept. 2014, 26). According to AI, the "societal stigma" associated with violence against women and the "widespread belief that the criminal law system will not deliver justice to survivors," prevent women from reporting violence to the authorities (AI Sept. 2014, 15). *Country Reports 2014* states that, in 2014, women did not report incidents of rape for reasons including "ineffective and unsupportive responses by authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted" (US 25 June 2015, 15).

3. Legislation

The Special Comprehensive Law for a Violence-free Life for Women (*Ley Especial Integral para una Vida Libre de Violencia para las Mujeres*), which addresses violence against women, was passed in 2011 (El Salvador 2011; *The Economist* 21 Sept. 2013). It came into effect on 1 January 2012 (Al Jazeera 7 June 2013; UN 8 May 2014, 10; FCJ Refugee Centre n.d.). According to a report of the UN Commission on Crime

Prevention and Criminal Justice entitled *Information on Gender-related Killings of Women and Girls Provided by Civil Society Organizations and Academia*, the Special Comprehensive Law for a Violence-free Life for Women

addresses crimes specifically related to gender-based violence and includes concrete steps for identification and prevention of violence, including the crime of femicide, establishing measures to protect and assist survivors and families of the victims. (UN 8 May 2014, 10)

Article 2 of the Law defines women's rights, and Article 57 outlines the procedural guarantees for women victims of violence (El Salvador 2011, Art. 2, 57). Articles 2 and 57 of the Law are attached to this Response.

Country Reports 2014 indicates that the criminal code criminalizes rape:

The law requires the FGR to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to nullify the criminal charge. Generally, the penalty for rape is six to 10 years' imprisonment, but the law provides for a maximum sentence of 20 years for raping certain classes of victims, including children and persons with disabilities. (US 25 June 2015, 15)

In a 2013 interview with Al Jazeera, an ORMUSA lawyer indicated that the Special Comprehensive Law for a Violence-free Life for Women recognizes that "gender based violence exists and that it violates the human rights of women"; the Law "also obliges every state institution to tackle violence against women" (Al Jazeera 7 June 2013). In a 2013 interview with UN Women, the same lawyer stated that "[w]e are still coming across ignorance of the existence of the law, and resistance in applying it" (UN 4 Apr. 2013). Al Jazeera also reported in 2013 that the implementation of the Law was "slow" (Al Jazeera 7 June 2013). According to the *Economist*, in the first 16 months after the new law came into effect, "only 16 of 63 reported cases [of violence against women] were followed up" (*The Economist* 21 Sept. 2013). *Country Reports 2014* states that the laws against rape "were not effectively enforced" in 2014 (US 25 June 2015, 15).

4. State Protection

4.1. Police and Judiciary

According to the website of the FGR, sexual violence can be reported to the PNC, the FGR or a justice of the peace (El Salvador n.d.a).

Sources report that in 2011 the government opened its first police unit specialized in helping women victims of violence in the municipality of La Libertad (BBC 8 Mar. 2013; UN 13 Mar. 2013); the unit is called UNIMUJER (ibid.). According to a UN Women report, UNIMUJER "offers a designated space for reporting acts of violence against women, legal advice and information, and follow-up and support for cases filed" (ibid.). Moreover, the UNIMUJER pilot scheme was replicated in other municipalities, with "over 100 police officers trained" as of March 2013 (ibid.). In a telephone interview with the Research Directorate, the Director of the Specialized Assistance Unit to Women Victims of Violence of the Office of the Ombudsman for Human Rights (Jefa de la Unidad de Atención Especializada a Mujeres Víctimas de la Violencia, Procuraduría para la Defensa de los Derechos Humanos, PDDH) stated that special police units to help victims of violence exist in various departments of El Salvador (Director 11 Aug. 2015). In correspondence with the Research Directorate, a lawyer working for ORMUSA indicated that UNIMUJER units are present in the following departments of El Salvador: La Libertad, La Paz, Cuscatlán, San Salvador, Cabañas, Santa Ana, Usulután, Ahuachapán, Chalatenango and San Vicente (Lawyer 13 Aug. 2015). These units provide services 24 hours a day (ibid.). Further information on the special police units could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2012 states that, according to the FGR, there were 3,061 cases of sexual crimes reported in 2012, resulting in 246 convictions (US 19 Apr. 2013, 15). *Country Reports 2013 and 2014* indicate that there were 4,826 cases of sexual crimes between January and 28 August 2013, resulting in 392 convictions (ibid. 21 Mar. 2014, 15), and 1,793 cases between January and 3 September 2014, resulting in 24 convictions (ibid. 25 June 2015, 15). However, AI states that "[d]espite some welcome progress in the implementation" of the Special Comprehensive Law for a Violence-free Life for Women, "few cases of killings were prosecuted as the gender-based crime of femicide" (AI 25 Feb. 2015, 142). Al Jazeera similarly states that "[a] prevailing machismo attitude among the police, prosecutors and judiciary in particular continues to be a huge obstacle to justice for women" (Al Jazeera 7 June 2013). The ORMUSA lawyer interviewed by Al Jazeera indicated that "[s]everal senior judges have denounced the Special Comprehensive Law for a Violence-free Life for Women as 'unconstitutional,' insisting they would not implement it in their courts" (ibid.).

According to the Advocates for Human Rights,

[t]he experience of individuals interviewed by [t]he Advocates corroborate the ineffectiveness of the police and judicial system in dealing with violence against women in El Salvador. Of the women who suffered sexual assault and did report it to the police, many described to [t]he Advocates how the police did not follow up on

the investigation. ... Moreover, an ineffective court system puts the victim in more danger since the perpetrator is aware the victim went to the police and the perpetrator is free to extract revenge. (The Advocates [July 2015], 5)

According to the ORMUSA lawyer interviewed by UN Women in 2013, the rate of impunity for femicide crimes in El Salvador is estimated at 77 percent (UN 4 Apr. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2014 indicates that on 24 November 2014, an agreement was signed between the Supreme Court of Justice and the Legislative Assembly to create specialized courts responsible for prosecuting crimes related to violence against women and gender discrimination (US 25 June 2015, 16). Further information on such courts could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. Support Services

The World Bank reports that a program created in 2011 by the Social Inclusion Secretariat (Secretaría de Inclusión Social), a government institution whose mission is [translation] "to create favourable conditions for the social protection, development, and full realization of the rights of the population ... with a focus on human rights and gender" (El Salvador n.d.l), opened centres for women called Women City (Ciudad Mujer) (World Bank 28 May 2013). Sources report that there are centres in the following cities:

- Colón (ibid.; El Salvador 24 Sept. 2014; ibid. n.d.j);
- Usulután (ibid. 24 Sept. 2014; ibid. n.d.k; World Bank 28 May 2013);
- Santa Ana (ibid.; El Salvador n.d.e; ibid. 24 Sept. 2014);
- San Martín (ibid.; World Bank 28 May 2013; El Salvador n.d.f);
- San Miguel (ibid. n.d.g);
- Morazán (ibid. n.d.i).

According to the website of Women City, the centres provide services for women in the following areas: sexual and reproductive health, violence against women, economic empowerment and promotion of women's rights (ibid. n.d.h). According to the World Bank, the centres provide psychological, legal, medical and financial counselling to women (World Bank 28 May 2013). BBC reports that Women City provides training, counselling and medical assistance to women (BBC 8 Mar. 2013). The same source adds that Women City

has become a successful model because 16 government agencies are concentrated in a single space, ranging from police offices to report abuses to legal and psychological counseling services. The centers are staffed by female personnel exclusively to encourage a trusting environment. (World Bank 28 May 2013)

According to the website of the Social Inclusion Secretariat, between 2011 and September 2014, the centres provided assistance to 575,747 individuals (El Salvador 24 Sept. 2014). Two sources indicated that Women City centres do not provide shelters for women escaping violence (Director 11 Aug. 2015; CGRS 14 Aug. 2015, 11).

Article 26 of the Special Comprehensive Law for a Violence-free Life for Women indicates that shelters for women victims of violence should be created and coordinated by ISDEMU (El Salvador 2011, Art. 26). According to ISDEMU's website, the organization runs a temporary shelter for women victims of domestic and sexual violence and their children (ibid. n.d.d). The shelter provides psychological, medical, legal and social assistance, among other services (ibid.). The Director of the Specialized Assistance Unit to Women Victims of Violence of the PDDH stated that the shelter run by ISDEMU is the only government shelter in the country; it is a temporary shelter and it can accommodate [translation] "only a small number of women victims of violence" (Director 11 Aug. 2015). AI similarly states that at the end of 2014, there was only one state shelter for women fleeing domestic violence (AI 25 Feb. 2015, 142). According to AI, the shelter can accommodate 35 women and children (ibid. Sept. 2014, 55 (Note 30)). In correspondence with the Research Directorate, the Director of the Center for Gender & Refugee Studies (CGRS) at the University of California's Hastings College of Law, who has conducted four fact-finding trips to El Salvador on gender-based violence, indicated that the shelter is located in San Salvador and that, according to a Salvadoran judicial official, women are allowed to stay there for one to three months at a time (CGRS 14 Aug. 2015, 1, 15-16). According to the Director of the Specialized Assistance Unit to Women Victims of Violence of the PDDH, the admission process into the shelter is [translation] "very strict" (Director 11 Aug. 2015). For example, if a victim of violence is a gang member, she will not be admitted into the shelter if another gang member has already been admitted, so as to prevent conflict between them (ibid.). The lawyer working for ORMUSA indicated that women victims of violence who want to be admitted into the shelter [translation] "cannot be victims of abuse by gang members, cannot be younger than 18 years old, cannot bring [their] children into the shelter [and] cannot have health problems" (Lawyer 12 Aug. 2015, 62). The Director of CGRS indicated that, according to a Salvadoran judicial official interviewed by CGRS,

NGO-run shelters in El Salvador are extremely limited. The Center for Women's Studies (CEMUJER), located in San Salvador[,] has one shelter for just 2 or 3 women at a time, and only in circumstances of extreme crisis. ... the extreme lack of shelter space poses difficulties for judges in their courtrooms, as they are unable to offer viable recommendations even to victims clearly in need of shelter. (CGRS 14 Aug. 2015, 16)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Director of CGRS also reported on an interview with the director of an NGO, who provided the following information: "the Organization of Women Melida Anaya Montes (Mélidas) previously ran a shelter for victims of domestic violence, which was supported by international funding. When the funding ended in 2013, Melidas had to close its shelter" (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to *Country Reports* for each of the three years, the following numbers of women victims of sexual abuse, domestic violence, trafficking in persons, sexual and labour harassment, among others, were provided with medical and psychological assistance from ISDEMU: 5,083 in 2012 (US 19 Apr. 2013, 15); 5,535 in 2013 (ibid. 21 Mar. 2014, 15); and 925 from January to October 2014 (ibid. 25 June 2015, 15). In addition, according to ISDEMU, it provides a 24/7 free telephone help line (El Salvador n.d.b).

In contrast, two sources indicate that government initiatives, such as Women City and ISDEMU, lack funds to provide services all over the country (CGRS 14 Aug. 2015, 11; FESPAD 19 Aug. 2015, 3). According to the Director of CGRS, services are concentrated in San Salvador and some services are extended to capitals of the departments, with "rural areas ... almost entirely neglected" (CGRS 14 Aug. 2015, 11). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

6. Lack of Access to Abortion

AI states that women and girls in El Salvador who seek an abortion because they are experiencing life-threatening pregnancy complications or because they have become pregnant as a result of rape "ris[k] lengthy imprisonment" (AI 25 Feb. 2015, 20). Media sources report that El Salvador has one of the strictest anti-abortion laws (*The Guardian* 17 Apr. 2014; BBC 18 Oct. 2013). The BBC explains that "women who suffer miscarriages or stillbirths are sometimes suspected of inducing an abortion - and can even be jailed for murder" (ibid.). AI states that the "total ban on abortion" puts women and girls "at risk of losing their lives or freedom" (AI 25 Feb. 2015, 16). AI indicates that

[i]n 1998, a new [p]enal code became effective in El Salvador, which bans abortion in all circumstances, without exception. The penalties for women accused of having an abortion are severe. If found guilty of having had an abortion, a woman faces from two to eight years in prison. Those found guilty of assisting a woman to terminate a pregnancy, with her consent, face the same sentence. Health professionals who assist women face a heavier sentence of between six and 12 years. ... the Legislative Assembly also passed an amendment to the El Salvador constitution recognizing the right to life from the moment of conception, making future liberalization of the law more challenging. (ibid. Sept. 2014, 11)

According to a report published by the Citizens' Coalition for the Decriminalization of Therapeutic, Ethical and Eugenic Abortion (Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico), a Salvadoran organization of women and men who provide assistance to women accused of abortion and promote changes in the legislation (Agrupación Ciudadana 7 Sept. 2014), women who hemorrhage as a result of miscarriage or after going into spontaneous labour without medical assistance are [translation] "treated as criminals, initially prosecuted for abortion and later convicted for aggravated murder," with sentences ranging from 30 to 50 years of imprisonment (ibid. Feb. 2013, 8).

The Guardian reports that, according to the Citizens' Coalition for the Decriminalization of Therapeutic, Ethical and Eugenic Abortion, between 2000 and 2011, 129 women were prosecuted for abortion-related crimes; 23 of them were convicted for abortion and 26 for homicide (*The Guardian* 17 Apr. 2014). Media sources report that in 2014, activists launched a campaign demanding that the state pardon 17 women condemned on abortion charges (ibid.; *ContraPunto* 25 Nov. 2014). *The Guardian* indicates that most of the women were reportedly "prosecuted after suffering obstetric complications away from medical care" (*The Guardian* 17 Apr. 2014). AI indicates that a state decision in relation to the request for pardon for 17 women who were sentenced to up to 40 years in prison for "pregnancy-related issues" was pending at the end of 2014 (AI 25 Feb. 2015, 16). Further information on the decision for pardon could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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