El Salvador: Laws regarding rape of minors by police and rape in general, and their effectiveness; whether police officers are provided with gender sensitivity training (2001 to January 2003)

Research Directorate, Immigration and Refugee Board, Ottawa

The following information is additional to that already found in Country Reports 2001, and SLV40040.E of 26 September 2002 and SLV40289.E of 4 October 2002 on the effectiveness of legislation on violence against women.

In a 28 January 2003 telephone interview, the ombudsman of children's rights at the Office of the Human Rights Defence Attorney (Procuraduría para la Defensa de los Derechos Humanos, PDDH) in San Salvador stated that the rape of minors is punishable under the relevant articles in the Salvadoran Penal Code, which was modified in 1997 and whose amended version came into force in 1998 (El Salvador). Please consult SLV33792.E of 23 February 2000 for information on these articles. The ombudsman stated that the penalties imposed in cases involving the rape of a minor by police are stipulated in the Penal Code and that there is no specific legislation outside the Penal Code or special protection accorded to such a victim (El Salvador 28 Jan. 2003). He added that Article 162 makes specific reference to the penalties imposed when rape is committed by a public authority (ibid.). According to Article 162(2) of the Penal Code, aggravated rape or sexual assault is punishable by increasing the maximum sentences stipulated in Articles 158, 159, 160 and 161, by one-third, in cases when the crime is committed by [translation] "a public authority or any other person who has the victim under his or her custody" (ibid. 25 Aug. 1998).

In addition to Article 162, Article 158 sanctions rape (ibid.). According to Article 158, individuals who by violent means engage in vaginal or anal intercourse with another person are liable to a sentence of six to ten years of imprisonment (ibid.).

The changes made to the Penal Code in 1998 also included the recriminalization of abortion in all instances, including when women's lives are endangered or when they become pregnant after being raped (CRLP 15 Nov. 2000). The Penal Code stipulates possible imprisonment sentences of two to 12 years for women who seek abortions and for those who assist them in obtaining them (ibid.).

Sources report that there were 600 persons detained nation-wide for the crime of rape (El Salvador 12 Nov. 2002; La Prensa Gráfica 2 Dec. 2002), many of whom were accused of aggravated rape of minors (ibid.).

The following information was provided by the director of the Women's Studies Institute (Instituto de Estudios de la Mujer "Norma Virginia Guirola de Herrera," CEMUJER) in 28 January 2003 correspondence sent to the Research Directorate. CEMUJER manages a clinic in San Salvador to assist women and children victims of sexual violence, as well as the aggressors, and hosts a help line.

Regarding the application of rape legislation, the administration of justice is "considerably lacking." According to the director, although the Salvadoran rape legislation is quite advanced in theory, there is an
urgent need to sensitize the administrators of justice in light of the impunity that reigns with regard to the prosecution of rape cases involving children and women. In other words, the laws are insufficient.

The ombudsman of children's rights at the PDDH stated similarly that although the judicial authorities had shown "considerable interest" in cases involving rape of minors and had provided better assistance for their needs, there remained serious procedural obstacles within the justice system to prosecute rape crimes against minors (El Salvador 28 Jan. 2003). The ombudsman could not elaborate on these obstacles within the time constraints of this Response.

Regarding training for the National Civil Police (Policía Nacional Civil, PNC), the United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders (Instituto Latinoamericano de las Naciones Unidas para la Prevención del Delito y el Tratamiento del Delincuente, ILANUD) has occasionally offered some gender sensitivity programs (CEMUJER 28 Jan. 2003). This institute has published manuals and has offered some follow-up to training sessions (ibid.). CEMUJER and the Women's Institute for Human Rights (Instituto de Derechos Humanos de las Mujeres) have also provided gender training to the police and are in the process of signing an agreement with the PNC to carry out a permanent training program (ibid.). ISDEMU has also provided similar training sessions to the police (ibid.).

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 to refugee status or asylum. Please find below the list of additional sources consulted in researching this Information Request.

References


Instituto de Estudios de la Mujer "Norma Virgina Guirola de Herrera" (CEMUJER), San Salvador. 28 January 2003. Correspondence sent by the director.


Additional Sources Consulted

IRB Databases


LEXIS/NEXIS

World News Connection (WNC)

One oral source consulted did not provide information on the requested subject.

Internet sites including:

Amnesty International

Boletín Electrónico de la Red Feminista Latinoamericana y del Caribe contra la Violencia Doméstica y Sexual. 2000-2002
El Diario de Hoy [San Salvador]. Search engine
Fempress [Santiago]. Search engine. 2000-2002
Instituto Interamericano de Derechos Humanos
Interpol
La Nación [San José]. Search engine
United Nations
Search engine:
Google
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