



# THE UPR PROJECT AT BCU

## **Submitted by:**

The UPR Project at BCU  
Centre for Human Rights, School of Law  
Birmingham City University

## **Submitted to:**

El Salvador's Universal Periodic Review  
Fourth Cycle  
48<sup>th</sup> Session of the UPR Working Group  
*Jan - Feb 2025*

## **About the UPR Project at BCU:**

Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. We seek to achieve this through leading research, education, and consultancy. We submit expert reports to international human rights regions, provide advisory services to governments and nongovernmental organisations, and draft legal opinions and file legal briefs in domestic courts and international human rights courts.

The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in offering support to the UPR Pre-sessions, providing capacity building for UPR stakeholders and National Human Rights Institutions, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights. The UPR Project at BCU engages with the UPR regularly as a stakeholder and is frequently cited by the OHCHR. You can read more about the UPR Project here: [www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu](http://www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu)

## **Compiled by:**

**Lead Author:** Dr. Rebecca Smyth, Dr. Rebecca Lawrence & Dr. Alice Storey **Contributing Authors:** Dr. Amna Nazir & Professor Jon Yorke **Thank you to:** Birmingham City University student, Anne-Alexa Stanica, for their research assistance.

## **Contact:**

**Dr. Alice Storey** (Lead Academic of the UPR Project at BCU) Email: [Alice.Storey@bcu.ac.uk](mailto:Alice.Storey@bcu.ac.uk)  
Address: Birmingham City University, School of Law, Curzon Building, 4 Cardigan Street, Birmingham, B4 7BD, UK.

## INTRODUCTION

1. There are nine core international human rights treaties<sup>1</sup> of which El Salvador is a party to eight.<sup>2</sup> We encourage El Salvador to commit to improving human rights protection and promotion by engaging meaningfully with the fourth cycle of the UPR in 2024. This includes giving full and practical consideration to all recommendations made by Member States, effectively implementing the recommendations El Salvador accepts, and actively engaging with civil society throughout the process.
2. This Stakeholder Report focuses upon two human rights issues of concern in El Salvador. (1) **Access to abortion** within the framework of sexual and reproductive health and rights (SRHRs), in line with Sustainable Development Goal 5 which aims for “gender equality and empowering all women and girls.” (2) **Prisoners’ rights**, in line with Sustainable Development Goal 16, “promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels.”<sup>3</sup>

## ACCESS TO ABORTION

### **A. El Salvador and International Law on Access to Abortion**

3. The Constitution of El Salvador defines life as beginning at conception<sup>4</sup> and abortion was completely criminalised in 1998. Self-inducing an abortion, or performing one with the person’s consent, is punishable by 2-8 years’ imprisonment.<sup>5</sup> Performing an abortion without consent is punishable by 4-10 years’ imprisonment (6-12 years for healthcare workers).<sup>6</sup>
4. Those suspected of having abortions are prosecuted: 181 women and girls were tried for abortion-related crimes between 2000 and 2019.<sup>7</sup> The charge of abortion is often increased to aggravated homicide, the murder of a close family member, which is punishable by up to 40 years’ imprisonment.<sup>8</sup> In 2021, 16 women were serving sentences of 30-40 years’ duration.<sup>9</sup> Those who have been prosecuted and imprisoned are mostly poor, rural, indigenous/*mestiza*, of African descent, and/or left education early.<sup>10</sup>
5. El Salvador’s medical confidentiality legislation requires medical professionals to maintain confidentiality and not present statements to police about patients, but also requires them to report suspected crimes.<sup>11</sup>
6. The UN and inter-American human rights systems have repeatedly criticised this situation.<sup>12</sup>

### *UN Human Rights Standards*

7. SRHRs entail “the right to make free and responsible decisions and choices, free of violence, coercion and discrimination, regarding matters concerning one’s body and sexual and reproductive health.”<sup>13</sup> SRHRs include the rights to health, equality, life, privacy, information, education, and freedom from torture and other forms of cruel, inhuman, or degrading treatment or punishment (CIDT).<sup>14</sup>
8. The World Health Organization recommends the full decriminalisation of abortion to guarantee these rights.<sup>15</sup> UN human rights bodies hold that states must provide abortion access at least in cases of a risk to life or health, rape or incest, and fatal foetal abnormality (‘FFA’).<sup>16</sup> The Committee on the Rights of the Child (CRC), the UN Special Rapporteur on Torture, and the Working Group on Discrimination against Women and Girls recommend full decriminalisation.<sup>17</sup>
9. UN human rights treaty monitoring bodies have found that denying abortion access violates the rights life, freedom from torture and CIDT, privacy, health, and information; the principles of equality and non-discrimination; and states’ obligations to eliminate discrimination against women and children.<sup>18</sup>
10. CCPR, CEDAW and CESCR’s most recent concluding observations on El Salvador recommended decriminalising abortion at least in cases of risk to the life and/or health, rape or incest, and FFA; a moratorium on prosecutions; a review of previous cases; and legislative/policy reform to ensure professional secrecy and medical confidentiality.<sup>19</sup> Moreover, the CRC’s 2018 concluding observations called for full decriminalisation.<sup>20</sup>

### *Inter-American Human Rights Standards*

11. The Inter-American Commission on Human Rights (IACHR) criticised El Salvador’s abortion legislation in its 2021 country report.<sup>21</sup> It also condemned “the prevalence of misogynist, sexist and discriminatory social and cultural patterns that impact the right of women and LGBTI people to live free from violence and discrimination.”<sup>22</sup> It called on El Salvador to introduce a moratorium on abortion-related prosecutions, review previous convictions, and end the absolute criminalisation of abortion.<sup>23</sup> The IACHR has also expressed concerns about the harassment and intimidation faced by journalists, activists, and human rights defenders (HRDs) in El Salvador, particularly those working on SRHRs.<sup>24</sup>

### *IACHR Cases: Manuela v El Salvador*

12. *Manuela* concerned a woman who was prosecuted for aggravated homicide following an obstetric emergency that hospital staff reported to law enforcement as a suspected

abortion/infanticide. Manuela died two years into her 30-year prison sentence due to the prison failing to provide her with the consistent chemotherapy she required.<sup>25</sup>

13. The IACHR determined that El Salvador violated Manuela's rights to life, personal liberty, fair trial, privacy, equal protection, judicial protection, and health under the American Convention on Human Rights (ACHR), in conjunction with its non-discrimination and domestic effect obligations.<sup>26</sup> It also found a violation of the state's obligations to prevent violence against women under the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention).<sup>27</sup> Manuela's family's rights to a fair trial and judicial protection were violated by due process issues and the failure to investigate Manuela's death.<sup>28</sup>
14. Due to El Salvador failing to implement non-repetition guarantees, the case was referred to the Inter-American Court of Human Rights (IACtHR).<sup>29</sup> The IACtHR reiterated the IACHR's finding of multiple human rights violations regarding Manuela.<sup>30</sup> It also ruled that El Salvador was responsible for violating her parents' and children's rights to personal integrity due to the profound suffering they experienced.<sup>31</sup>
15. The Court required El Salvador to bring its legislation on pre-trial detention in line with inter-American standards, reform its infanticide penalties, and adopt clear medical confidentiality regulations and a protocol for women experiencing obstetric emergencies.<sup>32</sup> It has not done so.

#### *IACHR Cases: Beatriz v El Salvador*

16. Beatriz was forced to carry a non-viable pregnancy to term despite the risk to her life and health due to her having lupus.<sup>33</sup> The IACHR determined that Beatriz's rights to life, personal integrity, private life, judicial guarantees and protection, and health under the ACHR; freedom from gender-based violence under the Belém do Pará Convention; and freedom from CIDT under the Inter-American Convention to Prevent and Punish Torture were violated.<sup>34</sup> It found the state responsible for violating her family members' right to physical, mental, and moral integrity,<sup>35</sup> and determined that criminalising abortion in 1998 violated the principle of non-retrogression.<sup>36</sup>
17. The IACHR required El Salvador to permit abortion in cases of FFA, risk to life, and risk to health and personal integrity; ensure access to abortion in those circumstances; introduce a moratorium for abortion-related offences; and review previous abortion-related cases.<sup>37</sup> The Commission referred the case to the Court in January 2022 due to a lack of progress; hearings are ongoing.<sup>38</sup>

#### **B. Implementation of Recommendations from Cycle Three in 2019**

18. El Salvador received 207 recommendations in Cycle Three. Below is a consideration of the SRHR-related recommendations.

### *Decriminalise Abortion*

19. Sixteen recommendations asked El Salvador to decriminalise abortion.<sup>39</sup> All were noted by the government and **none have been implemented.**

### *Prohibit the Prosecution of Women Experiencing Obstetric Emergencies*

20. Eight recommendations<sup>40</sup> related to prohibiting the prosecution of women who have experienced obstetric emergencies. Only two of these were supported: **Uruguay's (103.113)** recommendation to introduce a protocol guaranteeing professional confidentiality for healthcare professionals treating women facing obstetric emergencies, and **Sweden's (103.166)** recommendation to “[e]nd the unjust imprisonment of women who have had obstetric emergencies.” **These recommendations have not been fully implemented.** Although some women have been released after having their sentences overturned,<sup>41</sup> many still remain in prison. No progress has been made on reforming professional confidentiality/medical confidentiality law and policy.

### *Ensure Access to Healthcare including SRHRs*

21. Eight recommendations<sup>42</sup> referred to improving the healthcare system to ensure the enjoyment of SRHRs. These included **Angola (103.116)** suggesting “a strategy aimed at reducing adolescent pregnancies” and **Brazil (103.117)** recommending more support for “women in poor or rural areas.” **All of these recommendations were supported but have not been implemented.** The UNFPA has stated that “El Salvador has a legal, regulatory and policy framework that has allowed progress” in SRHRs but that “there are still gaps” in implementation,<sup>43</sup> as evidenced by El Salvador having one of the highest rates of child and adolescent pregnancies in the world.<sup>44</sup>
22. **Iceland (103.109), Mexico (103.110), and Honduras (103.118)** recommended providing access to contraception, emergency contraception, and comprehensive sexuality education. **These recommendations were supported but there are ongoing issues with implementation.** There is limited access to contraception and emergency oral contraception, particularly for adolescents and in rural areas, due to logistical and budgetary issues, “providers’ beliefs and cultural patterns,” and a “lack of knowledge in users about contraception.”<sup>45</sup> Although the Ministry of Education “has institutionalized a training process in comprehensive sexuality education”, it has yet “to reach all centres and students.”<sup>46</sup> Additionally, there are high rates of illiteracy and early school leaving, with an estimated four in ten adolescents leaving education before the end of high school, often “due to gender-based violence and early pregnancies.”<sup>47</sup>

### **C. Recommendations**

We recommend that, before the next review, the Government of El Salvador should:

- i. Fully implement the *Beatriz* and *Manuela* rulings by:
  - (1) Legalising abortion at a minimum in the cases of a risk to life, health, and/or personal integrity; FFA; and rape or incest.
  - (2) Ensuring implementation by designing policies and training for healthcare and legal professionals.
  - (3) Instating a moratorium on the prosecution of crimes relating to abortion and reviewing previous abortion-related cases.
  - (4) Reforming current legislation and policies on professional secrecy and medical confidentiality.
  - (5) Developing a protocol for providing comprehensive medical care to women experiencing obstetric emergencies.
  - (6) Revising legislation on pre-trial detention and infanticide/aggravated homicide.
  - (7) Designing and implementing a comprehensive sexuality education programme.
- ii. Implement recommendations by the inter-American and UN human rights systems on addressing systemic, intersectional violence and discrimination against women and LGBTQI persons.
- iii. Implement recommendations by these human rights systems regarding the human rights of activists, HRDs, and journalists working on SRHRs.

## **PRISONERS' RIGHTS**

### **D. El Salvador and International Law on Prisoners' Rights**

23. The Constitution of El Salvador explicitly recognises the right to habeas corpus (Article 11); fair trial rights (Article 12), including the presumption of innocence, the right to a public trial with all of the guarantees necessary for defence; and rights associated with arrest and pre-trial detention (Article 13).<sup>48</sup> Article 27 of the Constitution provides that the state shall organise penitentiary centres with the “objective of reforming offenders, educating them, and teaching them work habits, seeing to their re-adaptation [into society] and the prevention of crime”.<sup>49</sup>
24. Articles 29 and 30 of the Constitution set out the conditions for a regime of exception, in which the rights contained in the second paragraph of Articles 12 and 13, including the right to be clearly informed of the reasons for detention, the right to access a lawyer, and the 72-hour time limit on administrative detention, will be suspended.<sup>50</sup> Crucially,

Article 30 states that the period of suspension of constitutional guarantees should last no more than 30 days. After 30 days, a new decree must be issued to extend the suspension for another 30-day period.

### *The Current State of Emergency in El Salvador*

25. El Salvador declared a state of emergency in March 2022, through a measure passed by the Salvadoran Legislative Assembly in response to increasing gang violence.<sup>51</sup> The state of emergency measure has been repeatedly extended, most recently for the 27<sup>th</sup> time on 6<sup>th</sup> June 2024.<sup>52</sup> The state of emergency has therefore been continually in effect for over two years.
26. Procedural safeguards suspended as a result of the state of emergency have enabled widespread human rights violations to occur. In particular, the absence of the presumption of innocence and the right to a defence have led to record numbers of suspects arbitrarily detained and imprisoned.<sup>53</sup> Amnesty International reports that, as of February 2024, 327 cases of enforced disappearance and 78,000 arbitrary detentions have been registered since the beginning of the state of emergency.<sup>54</sup>
27. Conditions in prisons have further deteriorated as a result of overcrowding, and reports of torture and ill-treatment have increased.<sup>55</sup> Prisons in El Salvador are currently at approximately 148% capacity, and there have been at least 235 deaths in state custody since March 2022.<sup>56</sup>

### *UN Human Rights Standards*

28. General Comment 29 on Article 4 ICCPR sets out that state parties may unilaterally and temporarily derogate from obligations under the Covenant during a state of emergency.<sup>57</sup> However, states doing so must ensure safeguards are in place during the state of emergency, and the predominant objective must be a return to normalcy.
29. The General Comment confirms that derogation from the provisions of the ICCPR must be exceptional and temporary.<sup>58</sup> The state of emergency must be officially proclaimed, and the relevant state must act within their Constitutional provisions which govern such a proclamation. Measures must also be limited to those strictly required by the exigencies of the situation.<sup>59</sup>
30. The most recent CAT concluding observations on El Salvador express “deep” concern at the human rights consequences of the emergency measures taken by authorities since March 2022.<sup>60</sup> The report recommended El Salvador to ensure that its emergency legislation complies with international human rights standards.<sup>61</sup>
31. Even prior to the state of emergency declared in March 2022, treaty bodies were concerned about an increase in state violence and the lack of impunity for offences such

as torture.<sup>62</sup> CCPR’s concluding observations from 2018 highlight the increase in the number of people killed by state authorities, alongside reports of arbitrary detention, extrajudicial executions, and enforced disappearances.<sup>63</sup>

32. Treaty bodies have also expressed concerns about levels of prison overcrowding in El Salvador prior to March 2022.<sup>64</sup> The most recent CCPR concluding observations also note the high levels of overcrowding in prisons, resulting in “cruel and inhuman living conditions.”<sup>65</sup> The report recommended El Salvador redouble efforts to improve detention conditions and reduce overcrowding.<sup>66</sup>

### **E. Implementation of Recommendations from Cycle Three in 2019**

33. Below is a consideration of recommendations made in 2019 that relate to prisoners’ rights. There were also recommendations relating to the detention of women who have experienced miscarriages, which have been examined above.

#### *Conditions of Detention*

34. Three recommendations focused on the poor detention conditions and all were supported by the government.<sup>67</sup> The **Bolivarian Republic of Venezuela (103.47)** asked El Salvador to “improve poor prison conditions.” **This has not been implemented.** Prison conditions in El Salvador have deteriorated since March 2022 as a result of extreme overcrowding and the UN High Commissioner for Human Rights described them as “unacceptable” in September 2023.<sup>68</sup>
35. **Denmark (103.55)** suggested to “[i]mprove its prison conditions by ceasing the extraordinary security measures in detention facilities.” **This has not been implemented.** Amnesty International report that torture and cruel, inhuman and degrading treatment of prisoners suspected of being gang members have become habitual practice in prisons.<sup>69</sup>

#### *Ratify the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OP-CAT)*

36. Four recommendations made by nine Member States<sup>70</sup> asked El Salvador to ratify the OP-CAT. However, **all three recommendations were noted, and no action has been taken by El Salvador** to sign or ratify the OP-CAT. Ratification of the OP-CAT would improve transparency and enable better international oversight of prison conditions. This is of particular concern given the issues in accessing up-to-date and accurate data on prison numbers and deaths in custody highlighted in the most recent UNCAT observations.<sup>71</sup>

#### *Supporting Rehabilitation of Prisoners*



37. The **Republic of Korea (103.57)** asked El Salvador to “[f]urther strengthen its preventive and rehabilitative measures in combating crimes, in particular through campaigns targeting youth and the reintegration of former gang members.” **This was supported by the government but has not been implemented.** The government’s 2024 budget proposal does not include any reintegration or rehabilitation programmes, and instead focuses on increasing repressive security measures.<sup>72</sup>

## **F. Recommendations**

We recommend that, before the next review, the Government of El Salvador should:

- i. End the state of emergency regime and restore constitutional due process and criminal justice protections.
- ii. Ensure that, once the state of emergency regime has ended, the government fully complies with relevant international human rights standards. In particular, Article 4 ICCPR on times of public emergency; Article 7 ICCPR and Article 2 UNCAT on torture and cruel, inhuman or degrading treatment or punishment; and Article 10 ICCPR on the treatment of persons deprived of their liberty.
- iii. Ratify the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.
- iv. Create a national, comprehensive database of people in prisons, as well as deaths in custody.

---

<sup>1</sup> UN OHCHR, ‘The Core International Human Rights Instruments and their Monitoring Bodies’ <[www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx)>.

<sup>2</sup> See, Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force on 27 January 1980) 1155 UNTS 331; 8 ILM 679 (1969) Article 2(1)(d).

<sup>3</sup> United Nations Department of Economic and Social Affairs, ‘The 17 Goals’ <<https://sdgs.un.org/goals>>

<sup>4</sup> Asamblea Legislativa de la República de El Salvador, Constitución de la República de El Salvador, art 1 chrome- <[https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117\\_072857074\\_archivo\\_documento\\_legislativo.pdf](https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117_072857074_archivo_documento_legislativo.pdf)>

<sup>5</sup> Asamblea Legislativa de la República de El Salvador, Código Penal, arts 133-137, <<https://www.asamblea.gob.sv/sites/default/files/documents/decretos/A2598AEF-FBC2-4D3E-A855-2C12EA7A4D52.pdf>>

<sup>6</sup> *ibid*

<sup>7</sup> Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico (Agrupación Ciudadana), ‘Del hospital a la cárcel: Consecuencias para las mujeres por la penalización sin excepciones de la interrupción del embarazo en El Salvador’ [From hospital to prison: Consequences for women due to the criminalization of pregnancy termination without exceptions in El Salvador] (San Salvador, Agrupación Ciudadana 2019), 15 <<https://clacaidigital.info/bitstream/handle/123456789/487/Del-hospital-a-la-carcel-ElSalvador2013.pdf?sequence=5&isAllowed=y>>; Amnesty International, *On the Brink of Death: Violence against Women and the Abortion Ban in El Salvador* (London, Amnesty International 2014) 36, 38

<sup>8</sup> Agrupación Ciudadana, *Del hospital a la cárcel*, 27; Amnesty, *On the Brink of Death*, 36, 38

<sup>9</sup> BBC News, “Sara Rogel: El Salvador frees woman accused of abortion.” (BBC News, 8 June 2021) <<https://www.bbc.co.uk/news/world-latin-america-57384064>>

<sup>10</sup> Agrupación Ciudadana, *Del hospital a la cárcel*, 16-26; CERD, ‘Concluding observations on the combined eighteenth and nineteenth periodic reports of El Salvador’ (CERD/C/SLV/CO/18-19, 13 September 2019), paras

---

26, 27(c); CESCR, ‘Concluding Observations on the sixth periodic report of El Salvador’ (E/C.12/SLV/CO/6, 9 November 2022) paras 58-9

<sup>11</sup> Inter-American Court of Human Rights (IACtHR), *Caso Manuela y otros v El Salvador*, sentencia de 2 de noviembre de 2021 (excepciones preliminares, fondo, reparaciones y costas), Series C No. 441, para 213

<sup>12</sup> CAT, ‘Concluding Observations on the second periodic report of El Salvador’ (CAT/C/SLV/CO/2, 9 December 2009) para 23; CCPR, ‘Concluding Observations on the combined third, fourth and fifth periodic reports of El Salvador’ (CCPR/CO/78/SLV, 22 August 2003) para 14; CCPR, ‘Concluding Observations on the sixth periodic report of El Salvador’ (CCPR/C/SLV/CO/6, 18 November 2010) para 10; CCPR, ‘Concluding Observations on the seventh periodic report of El Salvador’ (CCPR/C/SLV/CO/7, 9 May 2018) paras 15-6; CEDAW Committee, ‘Concluding Observations on the seventh periodic report of El Salvador’ (CEDAW/C/SLV/CO/7, 7 November 2008) paras 35-6; CEDAW, ‘Concluding Observations on the combined eighth and ninth periodic reports of El Salvador’ (CEDAW/C/SLV/CO/8-9, 9 March 2017) paras 38-9; CERD Committee, ‘Concluding Observations on the combined eighteenth and nineteenth periodic reports of El Salvador’ (CERD/C/SLV/CO/18-19, 13 September 2019) paras 26-7; CESCR, ‘Concluding Observations on the second periodic report of El Salvador’ (E/C.12/SLV/CO/2, 27 June 2007) paras 25, 44; CESCR, ‘Concluding Observations on the combined third, fourth and fifth periodic reports of El Salvador’ (E/C.12/SLV/CO/3-5, 19 June 2014) para 22; CESCR, ‘Concluding Observations on the sixth periodic report of El Salvador’ (E/C.12/SLV/CO/6, 9 November 2022) paras 58-9; CRC Committee, ‘Concluding Observations on the combined third and fourth periodic reports of El Salvador’ (CRC/C/SLV/CO/3-4, 17 February 2010) paras 60-61; CRC, ‘Concluding Observations on the combined fifth and sixth periodic reports of El Salvador’ (CRC/C/SLV/CO/5-6, 29 November 2018) paras 35-6; Inter-American Commission on Human Rights (IACHR), *Beatriz v El Salvador* (Informe No. 9/20, Caso 13.378, OEA/SER.L/V/II.175 doc. 15, 3 March 2020; IACHR *Manuela and Family v El Salvador* (Report No. 153/18, Case 13.069, OEA/SER.L/V/II.170 Doc. 175, 7 December 2018); IACHR, ‘Conclusions and Observations on the IACHR’s working Visit to El Salvador’ (No. 011A/18, 29 January 2018); IACHR, ‘Preliminary Observations following the IACHR in loco visit to El Salvador’ (No. 335/19, 27 December 2019); IACHR, Situation of human rights in El Salvador (OEA/Ser.L/V/II. Doc. 278 14 October 2021), paras 198-205; IACtHR, *Caso Manuela y otros v El Salvador*, sentencia de 2 de noviembre de 2021 (excepciones preliminares, fondo, reparaciones y costas), Series C No. 441; Special Rapporteur on extrajudicial, summary or arbitrary executions (SR summary executions), ‘Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador’ (A/HRC/38/44/Add.2, 7 December 2018) paras 87-92, 108; Special Rapporteur on violence against women, its causes and consequences (SR VAW), ‘Mission to El Salvador’ (E/CN.4/2005/72/Add.2, 20 December 2004) paras 73-76, 79; SR VAW, ‘Report of the Special Rapporteur on violence against women, its causes and consequences, on her follow-up mission to El Salvador (17-19 March 2010)’ (A/HRC/17/26/Add.2, 14 February 2011) paras 65-68

<sup>13</sup> CESCR, ‘General Comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)’ (E/C.12/GC/22, 1 May 2016) para 5.

<sup>14</sup> WHO, ‘Abortion Care Guideline’ (Geneva: WHO 2022) 8-9

<sup>15</sup> *ibid.*, 24

<sup>16</sup> CAT, ‘General Comment No. 2 (2007) on the implementation of article 2 by States parties’ (CAT/C/GC/2, 24 January 2008) para 22; CCPR, *Amanda Mellet v Ireland* (CCPR/C/116/D/2324/2013, 9 June 2016; CCPR, *KL v Peru* (CCPR/C/85/D/1153/2003, 22 November 2005); CCPR, ‘General Comment No. 36 — article 6: right to life’ (CCPR/C/GC/36, 3 September 2019) para 8; CCPR, *LMR v Argentina* (CCPR/C/101/D/1608/2007, 28 April 2011); CCPR, *Siobhán Whelan v Ireland* (CCPR/C/119/D/2425/2014, 12 June 2017); CEDAW, *LC v Peru* (CEDAW/C/50/D/22/2009, 25 November 2011); CRC, *Camila v Peru* (CRC/C/93/D/136/2021, 13 June 2023); CRC, ‘General Comment No 20: the implementation of the rights of the child during adolescence’ (CRC/C/GC/20, 6 December 2016) para 60; CRPD, ‘Joint statement by the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of All Forms of Discrimination against Women: guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities’ (29 August 2018) <<https://www.ohchr.org/en/treaty-bodies/crpd/statements-declarations-and-observations>>; UN Special Rapporteur on the right to health, ‘Criminal laws and other legal restrictions relating to sexual and reproductive health’ (A/66/254, 3 August 2011) paras 15, 16, 21-36, 65 (e), (h)-(m); UN Special Rapporteur on the rights of persons with disabilities, ‘Challenges experienced by girls and young women with disabilities in relation to their sexual and reproductive health and rights’ (A/72/133, 14 July 2017) para 11; UN Special Rapporteur on torture (UN SR Torture), ‘Gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment’ (A/HRC/31/57, 5 January 2016) paras 5, 8, 10-11, 14, 43-44, 72(b)-(d)

<sup>17</sup> CRC, ‘Concluding observations on the combined fifth and sixth periodic reports of El Salvador’ (CRC/C/SLV/CO/5-6, 29 November 2018) paras 35(e) and 36(d); UN SR Torture, ‘Applying the torture and ill-treatment protection framework in health-care settings’ (A/HRC/22/53, 1 February 2013), paras 46-50, para 90; UN SR Torture, ‘Gender Perspectives’ (2016), paras 14, 42, 43-4, 51; UN Working Group on the issue of discrimination against women in law and in practice (UN WG Women), ‘Report of the Working Group on the

---

issue of discrimination against women in law and practice: eliminating discrimination against women with regard to health and safety' (A/HRC/32/44, 8 April 2016) paras 76, 79, 105(d), 106(e)

<sup>18</sup> CCPR, *KL v Peru*, para 7; CCPR, *LMR v Argentina*, para 10; CCPR, *Amanda Mellet v Ireland*, para 8; CCPR, *Siobhán Whelan v Ireland*, para 8; CEDAW, *LC v Peru*, paras 8-9; CRC, *Camila v Peru*, para 8.18

<sup>19</sup> CCPR, 'Concluding observations on the seventh periodic report of El Salvador' (CCPR/C/SLV/CO/7, 9 May 2018) para 16; CEDAW, 'Concluding observations on the combined eighth and ninth periodic reports of El Salvador' (CEDAW/C/SLV/CO/8-9, 9 March 2017), paras 38-9; CESCR, 'Concluding Observations on the sixth periodic report of El Salvador' (E/C.12/SLV/CO/6, 9 November 2022) paras 58-9

<sup>20</sup> CRC, 'Concluding observations on the combined fifth and sixth periodic reports of El Salvador' (CRC/C/SLV/CO/5-6, 29 November 2018) paras 35(e) and 36(d)

<sup>21</sup> IACHR, 'Situation of human rights in El Salvador' (2021), paras 198-202

<sup>22</sup> *ibid*, para 23

<sup>23</sup> *ibid*, para 203

<sup>24</sup> IACHR, 'Criminalization of the Work of Human Rights Defenders' (OEA/Ser.L/V/II. Doc. 49/15, 31 December 2015) paras 52-3; IACHR, 'Second Report on the Situation of Human Rights Defenders in the Americas' (OEA/Ser.L/V/II. Doc. 66, 31 December 2011) paras 30, 33, 38, 271, 287; IACHR, 'Situation of human rights in El Salvador' (OEA/Ser.L/V/II. Doc. 278 14 October 2021), para 185, paras 312-315

<sup>25</sup> IACHR, *Manuela and Family v El Salvador*, paras 44-87

<sup>26</sup> *ibid*, para 159

<sup>27</sup> *ibid*

<sup>28</sup> *ibid*, para 145

<sup>29</sup> IACtHR, *Caso Manuela y otros v El Salvador*, paras 2-3

<sup>30</sup> *ibid*, para 326

<sup>31</sup> *ibid*, 326

<sup>32</sup> *ibid*, paras 170, 288, 286-7, 295

<sup>33</sup> IACHR, *Beatriz v El Salvador*, paras 37-84

<sup>34</sup> *ibid*, para 215

<sup>35</sup> *ibid*, paras 211-214

<sup>36</sup> *ibid*, paras 163-169

<sup>37</sup> *ibid*, para 216

<sup>38</sup> IACHR, 'IACHR Takes Case Involving El Salvador's Absolute Ban on Abortion to the Inter-American Court of Human Rights' (IACHR, 11 January 2022) <[https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2022/011.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2022/011.asp)>

<sup>39</sup> (Canada (103.94); Norway (103.111); Italy (103.138; France (103.152); Germany (103.152; Sweden (103.155); Iceland (103.156); Lithuania (103.157); Mexico (103.158); Netherlands (103.159); New Zealand (103.160) and (103.161); Slovenia (103.162); UK (103.163); Spain (103.164); Australia (103.165)).

<sup>40</sup> Uruguay (103.113); Sweden (103.116); Iceland (103.156); Belgium (103.167); Denmark (103.169); Colombia (103.168); Panama (103.170); Chile (103.171).

<sup>41</sup> Leonardo Rocha, 'El Salvador woman freed after abortion conviction' (BBC News, 18 January 2024) <<https://www.bbc.co.uk/news/world-latin-america-68014699>>

<sup>42</sup> Holy See (103.108); Sweden (103.112); Angola (103.116); Brazil (103.117); New Zealand (103.118); Cuba (103.120); Timor-Leste (103.179); Tunisia (103.180).

<sup>43</sup> UNFPA, 'Country programme document for El Salvador' (DP/FPA/CPD/SLV/9, 1 December 2020) para 7

<sup>44</sup> UNICEF, 'Country Office Annual Report 2023: El Salvador', 1 <<https://www.unicef.org/media/152396/file/El-Salvador-2023-COAR.pdf>>

<sup>45</sup> UNFPA, 'Country programme document for El Salvador', para 10

<sup>46</sup> *ibid*, para 9

<sup>47</sup> *ibid*, para 5

<sup>48</sup> Asamblea Legislativa de la República de El Salvador, Constitución de la República de El Salvador, art 11, 12, 13

<[https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117\\_072857074\\_archivo\\_documento\\_legislativo.pdf](https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117_072857074_archivo_documento_legislativo.pdf)>

<sup>49</sup> *ibid*, art 27

<sup>50</sup> *ibid*, art 29, 30.

<sup>51</sup> EFE, 'Bukele Extends State of Emergency in El Salvador' (Havana Times, 6 June 2024) <<https://havanatimes.org/news/bukele-extends-state-of-emergency-in-el-salvador/>>

<sup>52</sup> Human Rights Watch, *World Report 2024* (New York, Human Rights Watch, 2024) 197; Maite Fernández Simon, 'El Salvador Declares 'State of Emergency' as Homicides Soar. Rights Groups Sound Alarms' (The Washington Post, 30 March 2022). <<https://www.washingtonpost.com/world/2022/03/30/el-salvador-bukele-state-emergency-homicides/>>; BBC News, 'El Salvador: State of Emergency After 62 Gang

---

Killings in a Day’ (BBC News, 27 March 2022) <<https://www.bbc.co.uk/news/world-latin-america-60893048>>

<sup>53</sup> Human Rights Watch, *World Report* 197-198; Amnesty International, ‘One Year Into State of Emergency, Authorities are Systematically Committing Human Rights Violations’ (Amnesty International, April 3 2023) <<https://www.amnesty.org/en/latest/news/2023/04/el-salvador-state-emergency-systematic-human-rights-violations/>>

<sup>54</sup> Amnesty International, ‘El Salvador: The Institutionalization of Human Rights Violations after Two Years of Emergency Rule’ (Amnesty International, 27 March 2024) <<https://www.amnesty.org/en/latest/news/2024/03/el-salvador-two-years-emergency-rule/>>

<sup>55</sup> Human Rights Watch, *World Report* 197-198; Amnesty International, *Behind the Veil of Popularity: Repression and Regression of Human Rights in El Salvador* (London, Amnesty International 2023) 30-36.

<sup>56</sup> Amnesty International, ‘El Salvador: The Institutionalization of Human Rights Violations after Two Years of Emergency Rule’ (Amnesty International, 27 March 2024) <<https://www.amnesty.org/en/latest/news/2024/03/el-salvador-two-years-emergency-rule/>>

<sup>57</sup> CCPR, ‘General Comment No.29 (2001) on Article 4’ (CCPR/C/21/Rev.1/Add.11, 31 August 2001) para 1

<sup>58</sup> *ibid.*, para 2

<sup>59</sup> *ibid.*, para 4

<sup>60</sup> CAT, ‘Concluding observations on the third periodic report of El Salvador (CAT/C/SLV/CO/3, 19 December 2022), para 10

<sup>61</sup> *ibid.*, para 11

<sup>62</sup> CCPR, ‘Concluding observations on the seventh periodic report of El Salvador’ (CCPR/C/SLV/CO/7 9 May 2018), paras 27-30; CAT, ‘Concluding observations of the Committee against Torture’ (CAT/C/SLV/CO/2, 9 December 2009) paras 11-12; CCPR, ‘Concluding observations of the Human Rights Committee’ (CCPR/CO/78/SLV 22 August 2003), para 12

<sup>63</sup> CCPR, ‘Concluding observations on the seventh periodic report of El Salvador’ (CCPR/C/SLV/CO/7 9 May 2018), para 21

<sup>64</sup> CCPR, ‘Concluding observations on the seventh periodic report of El Salvador’ (CCPR/C/SLV/CO/7 9 May 2018), paras 29-30; CCPR, ‘Concluding observations of the Human Rights Committee’ (CCPR/C/SLV/CO/6, 18 November 2010) para 16; CAT, ‘Concluding observations of the Committee against Torture’ (CAT/C/SLV/CO/2, 9 December 2009) paras 16-20; CCPR, ‘Concluding observations of the Human Rights Committee’ (CCPR/CO/78/SLV 22 August 2003), paras 17-18.

<sup>65</sup> *ibid.*, para 29

<sup>66</sup> *ibid.*, para 30

<sup>67</sup> Bolivarian Republic of Venezuela (103.47); Russian Federation (103.53); Denmark (103.55).

<sup>68</sup> OHCHR ‘Türk: Human rights are antidote to prevailing politics of distraction, deception, indifference and repression’ (OHCHR, 11 September 2023) <<https://www.ohchr.org/en/statements/2023/09/turk-human-rights-are-antidote-prevailing-politics-distraction-deception>>; Amnesty, *Behind the Veil of Popularity* (n 55).

<sup>69</sup> Amnesty, *Behind the Veil of Popularity* (n 55) 34.

<sup>70</sup> Georgia (103.4); Chile, Tunisia (103.5); Denmark, Lithuania, Luxembourg, Ukraine, Spain (103.6); Italy (103.7).

<sup>71</sup> CAT, ‘Concluding observations on the third periodic report of El Salvador (CAT/C/SLV/CO/3, 19 December 2022), paras 22, 24.

<sup>72</sup> Amnesty, *Behind the Veil of Popularity* (n 55) 14.