



Plenary sitting

B8-0701/2017

12.12.2017

MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 135 of the Rules of Procedure

on El Salvador: the cases of women prosecuted for miscarriage
(2017/3003(RSP))

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on behalf of the S&D Group

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**European Parliament resolution on El Salvador: the cases of women prosecuted for miscarriage
(2017/3003(RSP))**

The European Parliament,

- having regard to Article 2 and Article 3 of the Treaty on European Union (TEU),
- having regard to the Treaty on the Functioning of the European Union (TFEU), and in particular to its Articles 8, 19, 157, 216 and 218(6), second subparagraph, point (a),
- having regard to the EU-CELAC Action Plan 2015-2017 Chapter 7 on Gender;
- having regard to the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995, and to the subsequent outcome documents adopted at the United Nations Beijing +5 (2000), Beijing +10 (2005), Beijing +15 (2010) and Beijing +20 (2015) special sessions,
- having regard to the EU Presidency Trio declaration of July 2017 by Estonia, Bulgaria and Austria on equality between women and men,
- having regards to the European Parliament resolution of 14 December 2016 on the Annual Report on human rights and democracy in the world and the European Union’s policy on the matter 2015
- having regard to Regulation (EC) No 1567/2003 of the European Parliament and of the Council of 15 July 2003 on aid for policies and actions on reproductive and sexual health and rights in developing countries,
- having regard to the fifth Millennium Development Goal (improving maternal health)
- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),
- having regard to the statement of 11 May 2015 by the UN Working Group on the issue of discrimination against women in law and in practice,
- having regard to the Inter American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belem do Para”)
- having regard to the Salvadorian Legislative Decree N° 520 (“Special Comprehensive law for a Violence-free Life for Women”)
- having regards to the UN Committee review on El Salvador’s record on women’s rights, of 06 March 2017

- having regard to Rules 135(5) and 123(4) of its Rules of Procedure,
- A. whereas gender equality is a core value of the EU; whereas the right to equal treatment and non-discrimination is a fundamental right enshrined in the Treaties and in the Charter of Fundamental Rights and should be fully respected, promoted and applied in legislation, practice, case law and daily life;
 - B. whereas in its articles 36 and 37 of its Concluding Observations, UN Committee review on El Salvador’s record on women’s rights calls to repeal El Salvador’s punitive abortion laws ;
 - C. whereas since 2000, more than a hundred women in El Salvador were prosecuted for abortion or homicide when the fetal deaths occurred in the last months of pregnancy; of these 129 women, 26 were convicted of homicide and 23 were convicted of abortion; most of these women were young, poor, with limited education, and from remote communities; whereas there are currently two pending cases under prosecution;
 - D. whereas in 1998, El Salvador criminalized abortion *under any circumstances*, and in 1999 passed a constitutional amendment recognizing an embryo as a human being from “*the moment of conception*”; whereas thus a person who performs or self-induces an abortion, even before the foetal stage, is liable to be prosecuted with a sentence of between 2 and 8 years, but in many of the cases prosecutors have increased the charge to “*aggravated homicide*”, which carries up to 50 years’ imprisonment;
 - E. whereas it is a blanket offence in El Salvador for public employees or officials of any public authority (including hospitals and clinics) to fail to report crime, including failing to report abortion;
 - F. whereas in Latin America the risk of maternal death is four times higher among adolescents under the age of 16, and whereas 65 % of cases of obstetric fistula occur in the pregnancies of adolescents, with serious consequences for their lives, including severe health problems and social exclusion; whereas early pregnancies are also dangerous for the baby, with a mortality rate 50 % higher than average; whereas up to 40 % of women in the region have been victims of sexual violence, and whereas 95 % of abortions carried out in Latin America are unsafe;
 - G. whereas this case is only one of many in El Salvador; whereas El Salvador continues, on grounds of religion, to deny the girl access to a safe and legal abortion, thereby violating her rights to health, life and physical and psychological integrity;
 - H. whereas according in El Salvador abortion is banned in all cases including where the pregnancy has life-threatening complications for the woman or girl, in cases of rape, incest or an unviable foetus;

- I. whereas UN experts have warned that the Salvadorian authorities' decision is resulting in grave violations of the women and girl's rights to life, health and physical and mental integrity, thereby jeopardising their economic and social opportunities;
- J. whereas in March 2015 the UN Committee on Economic, Social and Cultural Rights asked El Salvador to revise and amend its abortion legislation to ensure its compatibility with other rights such as those to health and life; whereas physical, sexual and psychological violence against women is an extensive human rights violation;
- K. whereas El Salvador participated actively in the 61th session of the UN Commission on the Status of Women, and whereas all parties should continue to promote the UN Beijing Platform for Action as regards, among other elements, access to education and health as basic human rights, and sexual and reproductive rights;
- L. whereas UN treaty monitoring bodies, including the Human Rights Committee (HRC) and the Committee on the Elimination of Discrimination against Women (CEDAW), have called on various Latin American states to establish exceptions to restrictive abortion laws in instances where a pregnancy poses a risk to a woman's life or health, where there is severe foetal impairment, and where pregnancy is the result of rape or incest;
- N. whereas the Committee against Torture has found that several restrictions on access to reproductive health services, together with the abuses that occur when women seek these services, may constitute violations of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – which has been ratified by El Salvador and all the EU Member States – on the grounds that they put women's health and lives at risk or may otherwise cause them severe physical or mental pain or suffering;
- O. whereas violence against women and girls, whether physical, sexual or psychological, remains the most widespread human rights violation, affecting all levels of society, but is one of the least-reported crimes;
- P. whereas “The term ‘victim’ also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.
- Q. whereas according to the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), women who have childcare responsibilities and pregnant women should, wherever possible and appropriate, receive non-custodial sentences;
- R. whereas after spending the last ten years in prison, Teodora del Carmen Vásquez' case will be reviewed by the Second Sentencing Tribunal in December 2017 and Evelyn Beatriz Hernandez Cruz is still waiting for her appeal trial; whereas other women are convicted of abortion and currently are serving sentences up to 35 years;

1. Expresses its deep concern over the situation of girls and women's human rights, including sexual and reproductive health and rights, in El Salvador;
2. Condemns all forms of violence against women, and deplores the fact that women and girls are often exposed to sexual harassment and sexual abuse which constitute a serious violation of their human rights and dignity;
3. Condemns the absolute criminalization of abortion, according to article 133 of the Penal Code and about women often resorting to unsafe methods of abortion, thus facing serious risk to health and life;
4. Condemns the prosecution of women for abortion, long periods in pre-trial detention and disproportionate criminal penalties applied to women seeking abortion, but also to women having had a miscarriage; as well as the incarceration of women just after having gone to the hospital in need of care due to health personnel reporting them to authorities due to a fear of being themselves penalized;
5. Calls on the Legislative Assembly of El Salvador to follow the recommendations by the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein and the CEDAW recommendation to put a moratorium on the application of Article 133;
6. Calls on El Salvador to ensure that women and girls have access to safe and legal abortion, at a minimum, in cases of rape, incest, threats to the life and/or health of the pregnant woman, or severe foetal impairment;
7. Calls on El Salvador to introduce a moratorium on the enforcement of the current law and review the detention of women for abortion-related offenses, with the aim of ensuring their release and upholding the presumption of innocence and due process in abortion-related proceedings, and to ensure that professional secrecy for all health personnel and confidentiality for patients are guaranteed;
8. Calls on the Legislative Assembly of El Salvador to change Article 133 of the Penal Code in order to decriminalize abortion and in this regard supports the legislative initiative presented in October 2016 to decriminalize abortion in cases where pregnancy poses a risk to the life or the physical or mental health of a pregnant woman or girl, where there is severe and fatal impairment of the fetus, or where the pregnancy is the result of rape or incest
9. Supports the draft bill, introducing a reform of article 133 of the Salvadoran Criminal Code in order to allow abortion in the specific cases: (i) therapeutic abortion, thus when there is risk of substantial harm to the mother; (ii) when the pregnancy is a result of sexual violence or human trafficking; (iii) when the life of the foetus is not viable; and/or (iv) when the pregnancy is a result of sexual violence, including rape;
10. Expresses solidarity with the campaign *Las 17*, calling for the pardon of these 17 women unjustly imprisoned for up to 40 years for what amount to miscarriages, stillbirths, and other obstetric complications; extends its solidarity to each and every Salvadoran woman being prosecuted under similar grounds, such as Teodora del

Carmen Vasquez, Evelyn Hernandez and others who are being convicted of ‘aggravated homicide’;

11. Calls on the judicial system to ensure a fair trial with all guarantees for Teodora del Carmen Vásquez and Evelyn Beatriz Hernandez Cruz and to set aside their judgments as well as to review the cases of all women imprisoned for similar charges with the view of granting them a pardon;
12. Expresses its strong concern about the high number of child pregnancies in El Salvador; urges the Salvadorian authorities to meet their international obligations and to protect human rights by ensuring that all girls have access to all possible information and medical services for the management of high-risk pregnancies resulting from rape;
13. Calls on El Salvador, as enshrined in its Constitution and the Law for the Comprehensive Protection of Children and Adolescents, to respect the principal international human rights instruments, such as the Convention on the Rights of the Child, the American Convention on Human Rights, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) and the International Convention on Economic, Social and Cultural Rights;
14. Deplores that women’s and girls’ bodies, specifically with respect to their sexual health and reproductive rights, still remain an ideological battleground, and calls on El Salvador to recognise the inalienable rights of women and girls to bodily integrity and autonomous decision-making as regards, inter alia, the right to access voluntary family planning and safe and legal abortion; believes that the general prohibition on therapeutic abortion and abortion of pregnancies resulting from rape and incest, and the refusal to provide free health cover in cases of rape, amounts to torture;
15. Denounces governments turning a blind eye to inhumane cases of child pregnancy and sexual abuse of women, at a time when one in three women worldwide experience violence in their lives;
16. Welcomes the recent formalization of El Salvador policy on sexual and reproductive health and the new Program “Ciudad Mujer” which developed services to 1.5 million women across the country, especially raising awareness and information on sexual and reproductive health and rights and supports its endeavour;
17. Urges the Council to speed up its work for the EU to ratify and implement the Istanbul Convention, so as to ensure coherence between EU internal and external action on violence against children, women and girls;
18. Calls on the Council to include the issue of safe and legal abortion in the EU Guidelines on rape and violence against women and girls; asks the Commission to ensure that European development cooperation follows an approach that is based on human rights, with a particular emphasis on gender equality and combating all forms of sexual violence against women and girls; underscores the fact that universal access to health, in particular sexual and reproductive health and the associated rights, is a

fundamental human right, and emphasises the right to voluntarily access family planning services, including safe and legal abortion-related care, and the need for information and education aimed at reducing maternal and infant mortality and eliminating all forms of gender-based violence, including female genital mutilation, child, early and forced marriage, gendercide, forced sterilisation and marital rape;

19. Calls on the EU-CELAC (Community of Latin American and Caribbean States) Heads of State or Government, at their summit, to augment the chapter on gender-based violence in the EU-CELAC Action Plan with a view to establishing a clear calendar of action and implementing measures intended to guarantee due diligence as regards the prevention and investigation of, and sanctions for, all acts of violence against women and to offer adequate compensation to victims;
20. Condemns the reinstatement and expansion of the Global Gag Rule and its impact on women's and girls' global health care and rights; reiterates its call on the EU and its Member States to fill the financing gap left by the US in the area of sexual and reproductive health and rights, using both national as well as EU development funding, especially as regards Latin America;
21. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Government and Congress of the Republic of Paraguay, the Office of the UN High Commissioner for Human Rights, Parlatur, the the Euro-Latin American Parliamentary Assembly and the Secretary-General of the Organisation of American States.