



Plenary sitting

B8-0695/2017

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

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B8-0695/2017

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

The European Parliament,

- having regard to Article 2 and 3 of the Treaty of the European Union;
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence;;
- -having regard to the EU-CELAC Action Plan 2015-2017 Chapter 7 on Gender,
- having regard to the Inter American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belem do Para”;
- having regard the American Convention on Human Rights;
- having regard to the Salvadorian Law for Equality, Fairness and the Elimination of Discrimination against Women, and of a Special Comprehensive Law for a Violence-free Life for Women;
- having regard to the provisions of the legal instruments of the United Nations in the field of human rights, in particular those relating to the rights of women, such as the Charter of the United Nations, the Universal Declaration of Human Rights, the Covenant International Civil and Political Rights as well as the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the United Nations Convention on the Rights of the Child;
- 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 recommendations contained in the Statement by UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein at the end of his mission to El Salvador on femicide and Violence against Women;
- having regard to the 2017 Concluding observations on the combined eighth and ninth periodic reports of El Salvador;
- having regard to Rule 135 of its Rules of Procedure;

- A. Whereas the sexual and reproductive health and rights of women is related to several human rights, including the right to life and dignity, freedom from inhuman and degrading treatment, the right to access to health care, the right to privacy, the right to education and the prohibition of discrimination. Whereas gender equality can not be achieved without ensuring that women can take their own decisions about their bodies;
- B. Whereas since 1998, El Salvador has one of the most restrictive abortion laws worldwide (the other countries with similar laws are: Nicaragua, Honduras, Dominican Republic, Malta and The Vatican), which prohibits abortion even in the case of rape, incest, danger to the mother's life or non-viability of the foetus. Whereas the Constitution of El Salvador recognises human life from the moment of conception; whereas this restrictive law puts women and girls at serious risk to life and health;
- C. Whereas the UN Committee against Torture has expressed concern about blanket restrictions on access to abortion, especially for rape victims, minors and when the mother or baby's health is at risk, and has recommended states to ensure that all women who voluntarily decide to terminate their pregnancy have access to safe, legal abortions, the contrary (forced pregnancy) may amount to a breach of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, when it entails mental and/or physical suffering and in life-threatening circumstances;
- D. Whereas, a high rate of gender-based killings of women and girls. Whereas 1,097 women were murdered during 2015 and 2016 and 201 between January and June 2017. Whereas last year the National Civil Police of El Salvador, registered 3,947 complaints of sexual assault, of which 1,049 were cases of rape and 1,873 of the victims were minors or classified as "incapacitated", according to the Salvadoran Women's Organization for Peace (ORMUSA);
- E. Whereas El Salvador has a high adolescent pregnancy rates, which is also driven by the lack of sexual education in schools. Whereas sexual abuse and rape are the main factors of early pregnancy. Whereas according to Ministry of Health in 2015 there were 1,445 cases of pregnancies of children between 10 and 14 years old;
- F. Whereas, according to the World Health Organization, 4.2 million unsafe abortions occur every year in Latin America and the Caribbean. Whereas, according to the World Health Organization, unsafe abortion is responsible for 13% of maternal mortality, which makes it the third cause of maternal mortality in the world. Whereas United Nations Treaty Monitoring bodies, have elucidated the connection between restrictive abortion laws, unsafe abortion, and high rates of maternal mortality and morbidity;
- G. Whereas according to Ministry of Health, between 2005 and 2008 there were at least 19,290 abortions in El Salvador, 27.6% of them was young girls. Whereas some of the most common methods used by women and girls to end a pregnancy are: the ingestion of rat poison and other pesticides; the introduction of knitting needles, pieces of wood and other pointed objects into the cervix; and the ingestion of a medication used to treat stomach ulcers;

- H. Whereas women with the least economic resources, are the most "prone" to have their life "in danger" due to complications in childbirth due to the conditions in which they live and the lack of sexual and reproductive health and rights services. Considering that those with limited economic resources can not access quality reproductive health information or maternal health care. Whereas sexual education and contraceptive methods for girls and young women are non-existent;
- I. Whereas the Minister of Health ensure that between 2011 and 2015, 14 women died of complications related to abortion, 13 women died of ectopic pregnancy and 63 women died under current abortion legislation. Whereas suicide is the cause of 57% of deaths of pregnant women between 10 and 19 years old. Whereas many women are afraid to ask for medical assistance when they suffer complications related to pregnancy, which causes more deaths that could be prevented;
- J. Whereas, according to Amnesty International, the current legal framework in El Salvador, criminalize all women who undergo induced abortion, and creates an atmosphere of suspicion against who suffer spontaneous abortions or other obstetric emergencies without attention medical. Whereas several women who had an abortion and/or miscarriage and/or stillborn have been prosecuted and accused of abortion or, in the worst case, of aggravated homicide. Whereas that many of these convictions have been based on inconclusive evidence, and have taken place in trials without the minimum procedural guarantees;
- K. Whereas according to the Article 135 of the Penal Code, the doctor who practices an abortion can be sentenced to a penalty of between 6 and 12 years in prison. Whereas this legal context also generates a significant degree of legal insecurity for medical staff and doctors who may wait until the mother's life is at imminent risk to interrupt a pregnancy. Whereas public employees report to the authorities about patients with experiencing obstetric emergencies, violating the right to patient's confidentiality; whereas the obligation to report patients means that women who suffer serious complications in pregnancy opt to not seek healthcare assistance due to fear of prosecution and imprisonment;
- L. Whereas El Salvador's criminal code states that abortion carries a sentence of between 2 and 8 years in prison both for the woman who aborts and for those who help her. Whereas in many cases, women have been accused of aggravated homicide and have been imprisoned, between 30 and 50 years;
- M. Whereas, according to an investigation by the Grupo de Ciudadanos Salvadoreños para la Despenalización del Aborto (Group of Salvadoran Citizens for the Decriminalization of Abortion), more than 250 women were reported to the police between 2000 and 2014, 147 of them were prosecuted and 49 were convicted: 26 for murder and 23 for abortion;
- N. Whereas currently at least 30 women who suffered complications related to pregnancy or obstetric emergencies are imprisoned accused of homicide. Whereas according to OHCHR, at the time of arrest all these women were young and without economic resources. Whereas Teodora del Carmen Vásquez has been imprisoned for almost 10

years, based on inconclusive evidence and her case will be reviewed by the Second Sentencing Tribunal in 13 December 2017; Whereas Evelyn Beatriz Hernandez Cruz has been accused on July 2017 of aggravated homicide and she is still waiting for her appeal trial;

- O. Whereas the Government is doing considerable efforts to protect and promote the rights of women when it comes to gender-based violence. Whereas the Law for Equality, Fairness and the Elimination of Discrimination against Women, and of a Special Comprehensive Law for a Violence-free Life for Women, provides a modern legal framework for the recognition of women's rights and the fight against gender-based violence. Whereas the programme "Ciudad Mujer" (Women City), created in 2011, has allowed the provision of specialised services for the prevention of gender-based violence and also provides sexual and reproductive health services, comprehensive mother and childcare, as well as economic empowerment. Whereas in 2014, the Ministry of Health started providing training courses in some hospitals for the safe management of abortions and in post-abortion assistance;
- P. Whereas in October 2016 the Government proposed an initiative to amend the criminal code in order to re-introduce exceptions to abortion proposal that addressed the decriminalization of abortion in several cases. Whereas the opposition led by Arena party, presented another proposal to increase the prison sentences for having an abortion, from a maximum of 8 years to a maximum of 50 years.
- Q. Whereas international law also establishes that under no circumstances, a woman who undergoes an abortion, will be considered like a criminal;
- R. Whereas the total prohibition of abortion and its consequences, impact on the respect and guarantee of human rights as the right to due process, to health, to privacy, to live free of inhuman or degrading treatment and non-discrimination;
- S. whereas the Monroe doctrine is still applied in Latin America by destabilising and interfering progressives governments notably in El Salvador ; whereas the inalienable right of El Salvador's people to choose their future and to be willing to themselves;
- 1. Condemns all forms of violence against women and recalls that these constitute a serious violation of the human rights and dignity of women and girls; Emphasizes that Article 7 of the Rome Statute of the International Criminal Court (which El Salvador ratified on 3 March 2016), defines forced pregnancy as a crime against humanity and a form of gender-based violence against women which constitutes a serious violation of the human rights and dignity of women and girls;
- 2. Strongly reaffirms that the denial of sexual and reproductive health and related rights and services, including the safe and legal interruption of pregnancy, constitutes a form of violence against women and girls; emphasizes that only women and girls should be able to dispose of their own bodies and sexuality;
- 3. Strongly condemns the sentencing and imprisonment of women and girls for having abortions or miscarriages. According to the recommendation of the OHCHR, urge review the commutation requests of women incarcerated for pregnancy-related

complications. And release all women and girls imprisoned on abortion related charges. Especially call to guarantee due process for Teodora del Carmen Vásquez and Evelyn Beatriz Hernandez Cruz;

4. Requests the authorities of El Salvador to provide comprehensive sexual education to prevent an unwanted pregnancy and respond to the obstetric emergency. Calls for women's access to family planning and the full range of sexual and reproductive public and universal health and rights services, including modern contraceptive methods and legal and safe interruption of pregnancy in order to aimed at reduce maternal and infant mortality;
5. Calls on the Legislative Assembly to follow the recommendations by the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein and the CEDAW recommendation in order to improve the women rights;
6. Stresses that measures to combat violence against women should be accompanied by actions that address economic inequalities based on sex and that promote women's economic independence;
7. Welcomes El Salvador for the approval of some laws that advance the recognition of women's rights, such as: the Equity and Eradication of Women's Discrimination Law (LIE); or the Special Comprehensive Law for a Life Free of Violence for Women (LIEV). Invite the Authorities to continue on this way and provide the necessary budget to the institutions that must enforce the laws;
8. Calls on the Legislative Assembly of El Salvador to change Article 133, Article 135 and Article 136 of the Penal Code in order to decriminalize abortion. Invite to guarantee totally access to safe and legal abortion both in law and in practice;
9. welcomes certain initiatives of the government for decriminalisation of abortion is taking place, calls on El Salvador's legislators to guarantee a total stop of sentencing and imprisonment of women and girls for having abortions or miscarriages, even when women's and girl's lives are not at risk, when pregnancies are not a result of rape, when the foetus is not unlikely to survive;
10. Calls upon El Salvador to launch a moratorium on the application of article 133 of the Penal Code and to review the cases of the for abortion-related offences detained women;
11. Calls on the authorities to address the underlying causes of the systemic marginalization of women and girls at all levels of society and in all circumstances, whether public or private, including the political, family, health care
12. Instructs its President to forward this resolution to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the national parliaments of the 28 Member States, the President, Government and Parliament of the Republic of El Salvador, the Secretariat for Central American Economic Integration, Parlacen, the EuroLat Parliamentary Assembly and the Community of Latin American and Caribbean States, the Office of the UN High Commissioner for Human Rights.