

# URGENT ACTION

## WOMAN CONVICTED UNDER UNFAIR ANTI-ABORTION LAW While Salvadoran legislators have, for months, been postponing the debate on the Criminal Code reform that would decriminalize abortion, another rape survivor has been sentenced to 30 years' imprisonment for having suffered pregnancy-related complications.

On 5 July, **Evelyn Beatriz Hernández Cruz**, 19, was sentenced to 30 years' imprisonment for "aggravated homicide". According to reports from local organizations, Evelyn Hernández was raped but did not report the incident out of fear. On 6 April 2016, she was admitted to a hospital in Cojutepeque, in the north of El Salvador, after having fainted at home. She had gone into labour without realizing she was pregnant. The hospital staff reported Evelyn Hernández to the authorities. This is the most recent case tried under the unfair current law and underlines the urgency of changing the anti-abortion legislation that violates the human rights of Salvadoran women and girls.

Since 1998, abortion has been criminalized in all circumstances in El Salvador. Many women and girls, like Evelyn Hernández, have lost their lives or been imprisoned because of this total ban. The legal framework criminalizes any woman who undergoes an induced termination of her pregnancy. It also creates an atmosphere of suspicion around women who are not receiving medical care or who receive limited care when they experience obstetric emergencies. The case of Evelyn Hernández is an example of this as it was the hospital staff where she was admitted who reported her to the authorities. In this context, women like her who experience obstetric complications have been accused of aggravated homicide and sentenced to up to 40 years, severely affecting their lives and those of their families.

In October 2016, the Farabundo Martí National Liberation Front (Frente Farabundo Martí para la Liberación Nacional, FMLN) presented a proposal to reform the Criminal Code to decriminalize abortion where the pregnancy poses a risk to the life of a pregnant woman or girl, where the pregnancy is the result of rape and where the foetus would be unable to survive outside the womb. The debate will take place in two phases: first in a Commission of the Legislative Assembly (Comisión de Legislación y Puntos Constitucionales) and then in the Legislative Assembly itself. The debate has not yet begun in the Commission of the Legislative Assembly, but the recent sentencing of Evelyn Hernández highlights the urgency of debating the proposed reform. This is a crucial moment to call on legislators to support the proposal that will respect, protect and fulfil the rights of women and girls.

### Please write immediately in Spanish or your own language:

- Urging the legislators to support the proposal that ends the total ban on abortion;
- Expressing your profound concern that women and girls in El Salvador are at risk of having their rights to life and health, and their right not to be subjected to discrimination, torture or ill-treatment violated if the criminalization of abortion is maintained;
- Calling for access to abortion to be guaranteed both in law and in practice, at a minimum, in cases where pregnancy poses a risk to the life or the physical or mental health of a pregnant woman or girl, in cases where the foetus will be unable to survive outside the womb, and in cases where the pregnancy is the result of rape or incest.

### PLEASE SEND APPEALS BEFORE 24 SEPTEMBER 2017 TO:

President of the Commission of the  
Legislative Assembly

Mario Alberto Tenorio  
Presidente de la Comisión de Legislación  
y Puntos Constitucionales  
Email: mtenorio@asamblea.gob.sv  
Twitter: @mtenoriosv

**Salutation: Dear Mr. President/  
Estimado Sr. Presidente**

President of the Legislative Assembly

Guillermo Gallegos  
Presidente de la Asamblea Legislativa  
Email: ggallegos@asamblea.gob.sv  
Twitter: @GGallegos24

**Salutation: Dear Mr. President/  
Estimado Sr. Presidente**

**And copies to:**

Amnesty International Central America  
team  
Email: equipoca@amnesty.org

**Also send copies to diplomatic representatives accredited to your country.** HER EXCELLENCY MRS LIDIA ELISABETH HAYEK-WEINMANN, Embassy of El Salvador, 8 Dorset Square 1st & 2nd Floors NW1 6PU, 020 7224 9800, Fax 020 7224 9878, embajadalondres@rree.gob.sv, elsalvador.embassy@gmail.com, Salutation: Your Excellency

**Please check with your section office if sending appeals after the above date.** This is the first update of UA 98/17. More information:

<https://www.amnesty.org/en/documents/amr29/6129/2017/en/>

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### ADDITIONAL INFORMATION

1998 was a watershed moment for women's human rights in El Salvador. That was the year the government decided to take a retrograde step. While most countries around the world were moving towards a liberalization of restrictive laws on abortion, El Salvador decided to criminalize abortion in all circumstances. Legislation that had previously allowed access to abortion in certain circumstances – namely, when the woman's life was in danger, when the pregnancy was the result of rape or incest, or in cases of severe foetal impairment – was amended. From then on abortion was considered a crime in all circumstances, without exception.

Evidence shows that total bans on abortion do not reduce the number of abortions but instead increase the risk of women dying due to illegal, unsafe abortions. The World Health Organization has warned that restrictive abortion laws put women and girls living in poverty, and those living in rural and more isolated areas at particular risk of unsafe abortions. Criminalization of abortion in all circumstances deters women from seeking medical care and creates a 'chilling effect' on doctors who are fearful of providing life-saving treatment to women whose life or health are at risk by pregnancy, or who suffer complications from an unsafe abortion.

In recent years, at least 17 Salvadoran women from poor and disadvantaged backgrounds have been unjustly imprisoned after unfair trials, which included unreliable and weak evidence, and poor legal defence. All suffered pregnancy-related complications outside a hospital setting, and were initially charged with abortion. They were subsequently sentenced to up to 40 years' imprisonment for aggravated homicide. For more information, see the report *Separated families, broken ties: Women imprisoned for obstetric emergencies and the impact on their families* (<https://www.amnesty.org/en/documents/amr29/2873/2015/en/>).

1<sup>st</sup> update on UA: 98/17 Index: AMR 29/6727/2017 Issue Date: 13 July 2017