Women of the World: Laws and Policies Affecting Their Reproductive Lives

Latin America and the Caribbean

The Center for Reproductive Law and Policy
DEMUS, Estudio para la Defensa de los Derechos de la Mujer

In collaboration with partners in

Argentina  Bolivia  Brazil  Colombia  El Salvador
Guatemala  Jamaica  México  Perú
El Salvador

Statistics

GENERAL

Population
- El Salvador has a total population of 5.8 million, of which 51% are women. The growth rate is approximately 2.2% per year.
- In 1996, 40% of the population was under 15 years old and 4% was over 65.
- In 1995, 47% of the population lived in urban areas while 53% lived in rural areas. There are more women in the urban areas: 114 women per 100 men live in urban areas, while 97 women per 100 men live in rural areas.

Territory
- El Salvador has a surface area of 21,122 square kilometers.

Economy
- In 1994, the World Bank estimated the gross national product per capita at U.S.$1,360.
- From 1990 to 1994, the gross domestic product (GDP) grew at an estimated rate of 6.2%, as compared with the period from 1980 to 1990, when the GDP grew at a rate of 0.2%.
- In 1996, government investment in the health sector was 7.3% of the total national budget.

Employment
- In 1994, approximately 2 million people were employed in El Salvador, of which 33% were women.

WOMEN’S STATUS
- The average life expectancy for women is 72.5 years, compared with 66.5 years for men.
- Illiteracy continues to be a problem that affects women more than it does men. In 1990, the illiteracy rate for women over 25 years old was 56.1% of the total population, compared with male illiteracy, which was 44.5%.
- In 1992, 41.4% of women in urban areas were unemployed.
- In 1994, women represented 33% of the national labor force. Participation of female labor in agriculture was 5%; in the industrial sector, 18%; and in the service sector, 77%.
- Violence against women is a serious problem in El Salvador. Between 1992 and 1996, the Legal Medical Institute attended to 3,695 victims of rape. In 1996, of 906 cases that were attended to, 824 of the victims were women and 82 were men.

ADOLESCENTS
- Approximately 40% of the population of El Salvador is under 15 years old.
- The median age at first marriage is 18.5 years.
- In 1995, 13% of adolescents between the ages of 15 and 19 were mothers.
- Between March and December 1996, the Salvadoran National Civil Police registered 14 cases of mistreatment of minors, 8 cases of sexual violence against minors, and 41 cases of violence within the family.

MATERNAL HEALTH
- The total fertility rate is 3.09 children per woman.
- For 1996, the maternal mortality ratio was estimated at 300 deaths per 100,000 live births.
- The infant mortality rate is 42 deaths per 1,000 live births.
- In 1995, only 66% of births were attended to by a health professional; only 60% of pregnant women had prenatal care, and 43% of pregnant women suffered from some degree of anemia.
CONTRACEPTION AND ABORTION

- 53% of Salvadoran women use some form of contraception. 31 48% employ modern family planning methods. 32

- The most frequently used modern contraceptive methods are female sterilization (20.8%); oral contraceptives (5%); injectable contraceptives (2.2%); intrauterine devices (1.3%); condoms (1.3%); and male sterilization (0.2%). 33

- Between January and June 1996, the number of women treated for complications from abortion procedures in hospitals and clinics throughout the country was 3,738.34

HIV/AIDS AND STIs

- Prior to 1997, 3,470 cases of HIV had been reported in El Salvador, of which 1,875 had developed AIDS.35 Of all the cases reported, 720 were women.36

- In 1995, 18,319 cases of sexually transmissible infections were registered with health authorities, including 3,118 cases of gonorrhea, 1,055 cases of syphilis, 24 cases of congenital syphilis, 175 cases of lymphogranuloma venereum, 887 cases of herpes, and 13,060 cases of trichomoniasis.37

ENDNOTES

4. The World Almanac, supra note 1, at 761.
5. Id.
7. Id.
8. The World Almanac, supra note 1, at 761.
10. Id., at 208.
13. Id.
19. Information collected by the Norma Virginia Guirola de Herrera Women's Studies Institute (“CEMUJER”), from statistics sources by the Dr. Roberto Masferrer Legal Medical Institute (1996) (on file with the Center for Reproductive Law and Policy (“CRLP”)).
20. Id.
22. Salvadoran Demographic Association, With the Participation of the Consultative Committee Consisting of The Ministry of Public Health and Social Assistance, The Ministry of Planning and Coordination of Economic and Social Development, the Statistics and Census Directorate, the ISS and the United States Agency for International Development (USAID/El Salvador), National Family Health Survey (NFHS-3), at 65 (1994).
24. Information collected by CEMUJER, from statistical sources by the Dr. Roberto Masferrer Legal Medical Institute (1996) (on file with the Center for Reproductive Law and Policy (“CRLP”)).
26. Id., at 69.
27. Id.
30. Id., at 15.
32. Id.
33. Information collected from the CEMUJER (on file with CRLP).
34. Id.
35. La Prensa Grafica, Jun. 18, 1997, at 12.
36. Id.
37. Information collected from the Ministry of Health by CEMUJER (on file with CRLP).
he Republic of El Salvador is located in Central America, bordered on the north and east by Honduras, on the west by Guatemala, and on the south by the Pacific Ocean. Spanish is the official language. Ninety-four percent of the population is mestizo, 5% is indigenous, and 1% is white. Roman Catholicism is the predominant religion, although there are also numerous Protestant denominations.

El Salvador declared independence from Spain in 1821, and from the Central American Federation in 1839. Its recent history is characterized by twelve years of civil war in which the leftist guerrilla movement known as the Farabundo Marti National Liberation Front fought the national government. More than 75,000 Salvadorans were killed during the war. In 1992, with the support of the United Nations, the war ended and both parties to the conflict signed the Peace Accords. These Accords have promoted the incorporation of guerrilla groups into the political system, the reform and reduction of the armed forces, and the implementation of a program of agrarian land reform.

The present government of El Salvador is led by President Armando Calderón Sol, a member of the conservative political party ARENA. He was democratically elected in June 1994. His government is committed to privatizing government-owned enterprises and opening up the economy, which is based principally on agriculture and light industry, in order to strengthen it.

I. Setting the Stage: the Legal and Political Framework

To understand the various laws and policies affecting women’s reproductive rights in El Salvador, it is necessary to consider the legal and political systems of the country. By considering the bases and structure of these systems, it is possible to attain a better understanding of how laws are made, interpreted, modified, and implemented as well as the process by which governments adopt reproductive health and population policies.

A. THE STRUCTURE OF NATIONAL GOVERNMENT

The Political Constitution of El Salvador (the “Constitution”), establishes that the government is republican, democratic, and representative. The political system is “pluralistic” and political parties are the only organizations that represent the people. Power emanates from the people and is delegated to three branches of government. Political power is exercised in accordance with principles contained in the Constitution and laws. The branches of government are the executive, the legislative, and the judicial.

Executive Branch

The president of the republic, together with the vice president, the ministers and vice ministers of state, and the officials under them, form the executive branch of public power. The president, elected every five years by universal suffrage, is responsible for obeying and enforcing the Constitution and laws, directing foreign relations, signing treaties, commanding the armed forces, and issuing regulations to facilitate the application of laws. The president is the commander in chief of the armed forces and of the National Civil Police.

The Constitution provides that the ministers of state oversee public administration. Each of them is in charge of a ministry that he or she governs in collaboration with the vice minister. The president, the vice president, and the ministers form the Council of Ministers, which is the body in charge of drafting the General Government Plan and the National Budget. The Legislative Assembly can recommend to the president that ministers be dismissed when it deems appropriate; either after investigation or an interrogation process of the ministers known as interpellación ministerial. The Legislative Assembly’s recommendation regarding dismissal is binding when related to serious human rights violations by the heads of the state public security or intelligence agencies.

Legislative Branch

The legislative branch consists of a unicameral legislative body, elected by the people, called the Legislative Assembly (the “Assembly”). The Assembly is composed of 168 representatives, 84 “proprietor representatives,” or acting representatives, and 84 deputy representatives. All representatives are elected to serve for a three-year term, and can be reelected. The representatives represent the people and are “inviolable,” that is to say, they cannot be tried for common crimes during their term in office. In the event that a representative is alleged to commit a serious crime, he or she can be tried before a criminal court, as long as the Legislative Assembly has previously declared there is a basis for initiating such action. In such cases, the representative is suspended from carrying out his or her functions.

The main function of the Assembly is to enact, revise, and repeal laws. It is also responsible for approving the National Budget proposed by the executive, and for electing, through a public vote, the main officials in the judicial branch, the Attorney General’s Office, and other public administrative bodies. The following individuals and entities have the right to propose legislation: representatives, the president through his ministers, the Supreme Court on subjects relating to the administration of the judicial branch, and the Municipal Councils on the subject of municipal taxes.
Judicial Branch

The legal system in El Salvador derives from Roman law. The judicial branch consists of the Supreme Court of Justice, the Appeals Chambers, the courts of first instance, the justices of the peace, and the judges of the matters that the Appeals Chambers hear on appeal. The Supreme Court of Justice is the highest court, and its duties consist of resolving conflicts that arise between courts; nominating magistrates of Appeals Chambers, judges of first instance, and justices of the peace; and deciding cases that are not under the jurisdiction of another authority. The Appeals Chambers each have two magistrate and have jurisdiction over matters on appeal on diverse subjects and in different regions, according to what the Organic Law of Judicial Authority assigns them. The judges of first instance hear and decide the matters that the Appeals Chambers hear on appeal. The judges of first instance also oversee the administrative matters of the judicial branch. The justices of the peace are citizens elected by the Supreme Court of Justice for a two-year term. They must be lawyers or graduates of juridical science faculties. Justices of the peace resolve civil and commercial cases where the amount of money in question is small, and they try certain penal matters as specifically designated by the law.

The judicial branch is independent from the other branches of government and the judges and magistrates issue judgments according to their interpretation of the Constitution and the law. Only the judicial branch can impose punishment, with the exception of military courts. Laws may not have retroactive effect, except in matters of public order and criminal matters when they favor the defendant. Everyone has access to the justice system, free of charge.

In El Salvador, the Attorney General’s Office is charged with controlling the exercise of public power and with defending society’s interests. This body consists of the attorney general, the public defender, and the human rights ombudsman, all of whom are appointed by the Legislative Assembly.

B. THE STRUCTURE OF REGIONAL GOVERNMENT

Regional and local governments

El Salvador is divided into departments, whose number and borders are established by law. Each department has a governor, nominated by the executive branch, whose function is political administration. The departments are divided into municipalities, which are governed by Municipal Councils and elected through universal suffrage. The Municipal Councils consist of a mayor, an administrative official named as trustee and two or more councilmembers, the number of which is proportional with the population represented. The municipalities are independent in administrative and budgetary matters. Within the limits established by law, they can create, modify and abolish public taxes and contributions to carry out municipal works, enact their own budget; appoint and remove municipal officials, and manage municipal properties.

C. SOURCES OF LAW

Domestic sources of law

Laws that shape women’s legal status, including their reproductive rights, derive from various sources. In the legal system of El Salvador the formal sources of law are hierarchically ordered in the following way: the Constitution, international treaties, laws, and regulations. Any citizen can petition the Supreme Court to assess the constitutionality of a law, decree, or regulation. Jurisprudence is not a source of law. The law states that there can be no laws that establish general rules and regulations to regulate the application or interpretation of the laws. However, custom constitutes a source of national law in cases where the law gives it such status.

International sources of law

Numerous international human rights treaties recognize and promote women’s rights. These treaties legally commit...
II. Examining Health and Reproductive Rights

In El Salvador, women’s reproductive health issues are part of the country’s national health and population policies. Thus, an understanding of reproductive rights in El Salvador must be based on analysis of these laws and policies.

A. HEALTH LAWS AND POLICIES

Objectives of the health policy

The Constitution establishes as a state duty the protection of the health of El Salvador’s inhabitants. However, statistics reveal that the public health situation is alarming: 45% of the population does not have access to potable water. Of this number, 85% are from rural areas and 13% live in cities. Twenty-five percent of the population does not have access to latrines. Concerning women’s health, in 1994, only 60% of pregnant women received prenatal care and 43% of pregnant women suffered some degree of anemia.

For the period from 1994 to 1999, the government of El Salvador has declared it a national health priority to secure the population’s access to a “basic basket” of health services and access to a “larger basket” of essential clinical services. The Ministry of Public Health and Social Assistance (“MPHSA”) has also proposed the creation of a mandatory medical insurance program for all of the population as well as private medical insurance. Finally, it has proposed the reorganization of the institutional and legal frameworks of the health sector to achieve greater efficiency in the provision of health services.

Infrastructure of health services

The MPHSA is the sector within the executive branch in charge of directing and coordinating all aspects of public health countrywide. It offers medical assistance and sociomedical services to the population through its technical sections and its regional, departmental, and local health agencies. It is the duty of the MPHSA to develop a national program designed to provide general and specialized medical services to the population. It is also responsible for coordinating and standardizing the procedures of all medical facilities.

The Salvadoran Social Security Institute (“SSSI”) is in charge of managing the country’s social security system. The objective of the system is to cover health risks that contributing workers may be exposed to because of sickness, accidents, maternity, disability, old age, death, and involuntary unemployment. It offers medical, surgical, pharmaceutical, dental, hospital, and laboratory services to insured workers, their spouses and registered partners, their children, and unemployed or disabled workers.

Cost of health services

The state provides funds to finance the health services provided by the MPHSA through an annual allocation that comes from the national budget. For 1996, public health expenditure was 7.3% of the total central government’s expenditures. The services provided by SSSI are primarily funded through contributions that the law requires from employers, workers, and the state.

The Constitution establishes that the state has a duty to offer free care to the sick who cannot afford to pay. Free health services are offered to the entire population when there is an effort to combat the spread of a transmissible disease or an epidemic.

Regulation of health care providers

The Health Code and the Penal Code are the main regulators of the practice of health care professionals. The Health Code contains provisions dealing with the supervision and control of all professionals working directly with the people through the Superior Public Health Council (the “Council”) and the Professional Supervision Board (the “Supervision Board”). These bodies are charged with authorizing individuals to practice a health profession.

The Health Code contains norms of binding character for professionals, technicians, auxiliaries, hygienists, and assistants who work in the health sector. These provisions require them to provide appropriate care to all persons who request it without discrimination of any kind and to attend immediately to emergency cases when their professional collaboration is
requested. The Health Code also prohibits the deception of patients with “nonscientific or doubtful” treatments, practicing hypnosis with nonmedical aims, and issuing false medical certificates among others. The following acts are considered serious infractions against health: causing a person’s death; causing temporary or permanent harm or impairment through error, negligence, inexcusable abandonment, or malice during professional practice; breach of patient confidentiality; failing to provide appropriate medical treatment; suggesting or proceeding with surgery when the patient could be treated by medication; and refusing to offer medical, technical or auxiliary services when they are required and the refusal results in harm to the health of an individual or the community. It is classified as a minor infraction to fail to conduct a serological examination for syphilis in any pregnant woman. Other minor infractions are principally related to care and hygiene in the use and handling of medical instruments in health establishments.

Medical professionals who violate any regulation, prohibition, or duty established in the Medical Code are sanctioned by the Council and the respective Supervision Boards. The disciplinary sanctions that may be imposed on health professionals are a private verbal warning; a written warning; a fine, the amount of which shall depend on the seriousness of the infraction; suspension from professional practice for up to five years; and the temporary or permanent closing of the health establishment. The Penal Code regulates punishments in cases of perpetration of crimes derived from practicing the profession. Performing an abortion, injuring a patient, or causing a patient’s death are considered crimes that imply the participation of health professionals.

Patients’ rights

The law also influences the quality of health services by protecting patients’ rights. In El Salvador, the Constitution considers health as a public good, and it is the duty of the state and the general public to watch over its preservation and restoration.

Although there is no specific law protecting health service users and patients in general, all the duties contained in the Health Code mentioned in the previous section imply a correlative right of patients to demand appropriate conduct from health professionals as well as the duty of the supervising bodies to protect that right. The Health Code establishes that a person who feels his or her rights have been violated or who witnesses a health professional’s infraction of the norms contained in the code has the right to denounce the perpetrator before the supervising boards set up for such matters. The government is responsible for controlling the quality of chemical, pharmaceutical, and veterinary products and must establish supervisory bodies to ensure quality.

B. POPULATION, REPRODUCTIVE HEALTH, AND FAMILY PLANNING

The Government of El Salvador has declared that the country is facing a serious problem of overpopulation due to the high fertility rate, which is estimated at 4.5 children per woman, and the low prevalence of contraception. The population growth rate was 2.5% for the period 1990 to 1995, which is one of the highest rates in Latin America. Furthermore, the civil war and related political violence increased migration to the cities and resulted in large numbers of internally displaced people. Growth is disorderly, and more than 1 million Salvadorans have emigrated in the last decade. 50% of which were women.

Population laws and policies

The Constitution provides that the state must guarantee its inhabitants enjoyment of health, culture, economic well-being, and social justice. The Constitution contains a specific provision stating that the state should adopt population policies with the goal of “assuring the maximum well-being of the inhabitants of the republic.”

The National Population Policy (“NPP”), devised by the government in 1993, is contained within the Plan for Economic and Social Development, which seeks economic growth and improvement of quality of life for the population, especially for the poorest people. The general objective of the NPP is to establish a compatible and satisfactory relationship between development and growth, and the size and territorial distribution of the population, in such a way as to contribute to an improvement in quality of life for Salvadorans. Among the specific objectives that refer to women’s status are to improve conditions in order to better enable the incorporation of women into development and to recognize more fully their dignity as free persons with rights and duties equal to those of men. To achieve these objectives, the principle courses of action are to provide education, information, and communication on population matters to improve health and nutrition, to provide family planning, and to seek a better distribution of displaced populations.

The coordination and implementation of the NPP is the responsibility of the National Population Commission (“NPC”) and the Technical Population Committee (“TPC”). The former is a decision-making body, and the latter an advisory body. The NPC consists of representatives from the various ministries involved in population-related issues while the TPC is made up of one member of the NPC as well as representatives from other governmental institutions.
**Reproductive health and family planning laws and policies**

Laws and policies related to reproductive health and family planning are found principally in the NPP and, in a more limited way, in the National Women’s Policy (“NWPP”). The specific objectives of the NPP in matters of reproductive health are to protect pregnant women and nursing women and to supply them with nutritional supplements. It establishes measures aimed at enlarging the scope of health services and emphasizes maternal-infant care. It also proposes to increase the efficiency and effectiveness of health care services, with emphasis on maternal-infant care. In family planning matters, the NPP establishes the need to enlarge the reach and improve the quality of family planning services offered by institutions in the public sector. It also emphasizes the need to increase the availability of family planning services in rural areas, marginal-urban areas, and among “vulnerable groups” taking into account the demands, living conditions and sociocultural patterns of each group. It promotes the use of additional family planning methods and strategies in urban areas. Finally, it establishes that public health sector institutions should support family planning activities carried out by nongovernmental and private bodies, as long as they are in line with the objectives and aims of the NPP.

The NWP, adopted by the government in 1996, is a policy instrument whose purpose is to improve Salvadoran women’s status. The Salvadoran Institute for Women’s Development (SIWD) is charged with carrying it out. The strategic objectives of the NWP in reproductive health matters are to promote women’s reproductive health by preventing practices that present a health risk, to facilitate women’s access to health services for pregnancy, childbirth, and postnatal care, and to detect breast cancer as well as psychological, physical, and sexual violence against women. In family planning matters, the NWP seeks to improve women’s access to services. Another general strategic objective of the NWP is to train health workers to ensure efficient services and to respect women’s human rights within the health care system.

**Government delivery of family planning services**

Family planning services are provided principally by three entities: two from the public health sector (the MPHSA and the SSSI) and one private entity (the Salvadoran Demographic Association, “SDA”). These entities are charged with carrying out the National Family Planning Program. The MPHSA covers 48.9% of demand for family planning services, the SDA covers 15.3%, and the SSSI 14.5%. In urban areas, the SSSI and pharmacies are the main sources of contraception, while in rural areas it is the SDA. The forms of contraception provided by these institutions are sterilization, oral contraceptives, injectable contraceptives, condoms, intrauterine devices, and others that are less frequently used, such as male sterilization, vaginal methods, and Norplant.

**C. CONTRACEPTION**

**Prevalence of contraceptives**

In 1993, 97.8% of Salvadorans between the ages of 15 and 44 years old were familiar with at least one form of contraception. These figures were higher among married, separated, widowed, or divorced women (99.5%) and lower (94.4%) among single women. The better known forms were sterilization (93%), oral contraceptives (90.8%), and condoms (88.2%). In 1993, 53.3% of married or cohabiting women of reproductive age used some form of contraception. However, only 2.5% of single women and 27.9% of separated, divorced, or widowed women use contraceptives. Women who work outside the home (20% more than housewives), those with some higher education, those with more children, and those who live in urban areas have the highest prevalence rates of contraceptive use. Of all women that use some form of contraception, 31.5% were sterilized, 8.7% use oral contraceptives, 21% use the IUD, 21% use condoms, 36% use injectable contraceptives, 3% use natural methods (rhythm/billings), and 2.4% use other methods.

A study of prevalence rates of various forms of contraception in El Salvador reveals that the proportional increase in the use of contraceptives through 1985 was attributable mostly to increased reliance on permanent forms of contraception (female sterilization), while the increase from 47.1% in 1988 to 53.3% in 1993 was due to increased prevalence of temporary methods.

**Legal status of contraceptives**

In El Salvador contraception is legal and is promoted by the MPHSA as a strategic activity of the National Population Policy. There are no legal restrictions on the use of contraceptives. The Constitution and the Health Code regulate the quality and the commercialization of contraceptives. The Constitution establishes the state’s duty to provide the resources necessary to control the quality of chemical, pharmaceutical, veterinary, and cosmetic products as well as therapeutic devices. This control is exercised by the MPHSA through the Quality Control Laboratory. In cases where a product or device does not comply with legal requirements, the Superior Public Health Council will deny authorization for its distribution. Only pharmacies and authorized trade establishments can sell or dispense the above-mentioned products.

**Regulation of information on contraception**

There are no restrictions on access to information relating to methods or techniques of contraception. One of the
fundamental courses of action of the National Population Policy is the dissemination of information on topics relating to reproductive health and population through media or social communication.206

Sterilization

Female sterilization represents 31.5% of all forms of contraception used by women in El Salvador.207 Female sterilization is the most widely used method regardless of where the woman lives. It is most prevalent in rural areas, where it represents two-thirds of contraceptive prevalence.208 Sterilization was widespread, especially before 1985.209 Among married, widowed, and divorced women, sterilization is the most prevalent form of contraception (84.6%).209 Despite its popularity as a method of family planning, there are no laws or policies establishing procedures or requirements for obtaining surgical sterilization.

D. ABDUCTION

Although no systematized statistics on the prevalence of abortion in the country exist, during the period of January to June 1996, approximately 3,738 cases of abortions and related complications were treated by hospitals and provincial clinics countrywide.211

Legal status of abortion

In accordance with the Penal Code passed in April 1997, which entered into effect on January 20, 1998 (the "Penal Code"),212 abortion is classified under "Crimes Relating to the Life of a Human Being in Formation."213 The Penal Codes revised provisions on abortion have eliminated all exceptional circumstances in which abortion was not punishable and has increased penalties for abortion.214 Thus, the Penal Code penalizes the "woman who induces her own abortion or consents to its performance by another person," 215 It also penalizes "those who perform an abortion with the woman's consent"216 or without it217 and those who obtain consent through violence or deception.218 In addition, a doctor, pharmacist, or assistant in those professions who performs an abortion is also punished.219 The Penal Code also punishes those who persuade a woman to undergo an abortion,220 or facilitate the performance of an abortion by economic or any other means. Attempted abortion and unintentional abortion are not punishable, provided no third-party participants were involved.221

Penalties for abortion

The Penal Code that took effect in January 1998 increased the penalties for abortion than those in the previous code. The woman who induces her own abortion or consents to its performance by another person is punished with two to eight years in prison.222 The same penalty applies for the person who performed the abortion with the woman's consent.223 When the woman does not give her consent, or consent is obtained through violence or deceit, the punishment is four to ten years in prison.224 In cases where the abortion is carried out by a doctor, pharmacist, or assistant of these professions, the punishment is six to twelve years in prison.225

Anyone who persuades a woman to undergo an abortion226 or who facilitates the abortion through economic or any other means, is liable for two to five years in prison.227 If the person who encourages or provides assistance to the woman is the father of the fetus, the punishment is increased by a one-third.228 Unintentional abortion is also penalized by six months to two years imprisonment for the person who caused the abortion.229

The revised Penal Code now contains new crimes called "illegal sale of abortifacients"230 and "advertisement of means to obtain an abortion."230 Those that are convicted of these crimes receive punishments of detention for fifteen to twenty-five weeks and a fine of ten to thirty days' wages for the former,233 and a fine of ten to thirty days' wages for the latter.234

E. HIV/AIDS AND SEXUALLY TRANSMISSIBLE INFECTIONS (STIs)

Examining HIV/AIDS issues within the framework of reproductive rights is essential, as the two areas are interrelated from both medical and public health standpoints. Hence, a comprehensive evaluation of laws and policies affecting reproductive health in El Salvador must examine HIV/AIDS and sexually transmissible infections ("STIs") because of the dimension and implications of these diseases as reflected in the following statistics. Approximately 30,000 people in El Salvador are infected with the AIDS virus,235 but only 694 cases have been officially reported,236 of which 23% are women.237

Laws on HIV/AIDS and STIs

The M PHSA is the body in charge of issuing standards for the prevention of STIs as well as the treatment, care, and rehabilitation of those infected.238 The regulations and other measures decreed by the M PHSA must be complied with by all public and private health establishments.239 In El Salvador, the Health Code is the only legal instrument that contains norms regulating AIDS and STIs. Both diseases are considered "diseases of mandatory reporting,"240 which means that they are subject to a mandatory reporting system established by the M PHSA.241 All of the following are required to report cases of HIV and STIs: (a) the doctor who cares for the patient; (b) the professional responsible for the public or private health establishment where the case was presented or attended to; (c) the legal representative, family member, or responsible person caring for the infected person, (d) the owner of the house or...
establishment where one of these cases is presented; (e) the professional responsible for the laboratory that confirms the diagnosis of the infected person; and (f) any person who knows or suspects of the existence of a case.242

The Health Code authorizes the quarantine, observation, and supervision of sick persons and those who may have been exposed to infection, “for the time and in the form that the ministry [MPHSA] deems fit.”243 It also provides that “places and objects” with which the sick person could have had contact or relation will be submitted to disinfecting procedures as necessary.244 Specifically, “patients with venereal diseases and those with whom they have had contact” are required to submit to orders of observation, supervision, and treatment as determined by the Health Code.245 Treatment and prevention services for transmissible diseases are generally provided free of charge to the entire population.246

Policies on prevention and treatment of HIV/AIDS and STIs

In El Salvador there is no policy related to the prevention and treatment of HIV/AIDS. The NWP247 declares one of its strategic aims to be the revision of laws and regulations that relate to STIs and HIV/AIDS.248 It also proposes to massively promote prevention of these diseases with emphasis on the eradication of high-risk behaviors.249

The Health Code declares that actions by MPHSA to eradicate transmissible diseases, including AIDS and STIs, are in the public interest. The eradication efforts that have been undertaken in El Salvador are carried out unilaterally or are coordinated by governmental institutions, such as the MPHSA, the SSSI, and the Ministry of Education, or by non-governmental organizations such as the National Foundation for the Prevention, Education, and Control of HIV/AIDS Patients, the Salvadoran Demographic Association; the Collective of Women Workers in the Sex Industry, “Flor de Piedra,” (Stone Flower); and organizations within the homosexual community.250

III. Understanding the Exercise of Reproductive Rights: Women’s Legal Status

Women’s reproductive health and rights cannot be fully understood without first analyzing women’s legal and social conditions. Not only do laws relating to women’s legal status reflect societal attitudes that affect their reproductive rights, but such laws often have a direct impact on women’s ability to exercise reproductive rights. The legal context of family life and couple relations, women’s educational level, and access to economic resources and legal protection determine women’s ability to make choices about their reproductive health care needs and to exercise their right to obtain health care services.

The Constitution of El Salvador recognizes the principle of equality and establishes the equality of all persons before the law.251 No one may restrict an individual’s enjoyment of his or her rights based on nationality, race, sex, or religion.252 Furthermore, the Salvadoran government has signed various international agreements related to women’s civil rights, in which the principles of equality of rights between men and women and nondiscrimination against women are established.253 In El Salvador, however, violence against women and other violations of their human rights as well as high illiteracy continue to be a serious problem.254

A. RIGHTS WITHIN MARRIAGE

Marriage

The Constitution defines the family as the fundamental basis of society, and marriage as the foundation of the family.255 The state has a duty to encourage marriage.256 The Constitution recognizes the equality of the spouses by providing that marriage “rests on the legal equality of the spouses.”257 The Family Code,258 enacted in 1993, extended the principle of equality by revoking certain provisions that discriminated against women, particularly against married women.259

The Family Code defines matrimony as the legal union of a man and woman who come together in a “permanent community.”260 In accordance with the Constitution, the Family Code establishes equality of rights and duties of the spouses to live together, to remain faithful to each other, to assist each other in all circumstances, and to treat each other with respect, tolerance, and consideration.261 The spouses should jointly decide all issues related to their domestic affairs.262 Both contribute to the family in proportion to their economic resources if one spouse does not have resources, the maintenance of the home and care of the children is considered an equal contribution to that of the other spouse.263 Neither of the spouses can limit the right of the other to undertake legal economic activities to study, or to improve his or her knowledge.264 Spouses should also cooperate and be mutually supportive.265 The housework and the care of the children are the responsibility of both spouses.266

The spouses can opt for one of the following property regimes: separation of property, sharing of earnings, or deferred community property.267 Alternately, they can create their own property regime as long as the rules they establish are not contrary to the Family Code provisions.268 In the separation of property regime, each spouse reserves the right to freely manage and dispose of any property that he or she
brought into the marriage and any property that he or she acquires during the marriage as well as the profits generated by such.269 In the sharing of earnings regime, each of the spouses acquires the right to share in the earnings of the other, during the time that the regime is in effect.270 However, each spouse retains the management, the use, and the free disposition of his or her own property, both that which he or she brought into the marriage and that which he or she acquired after the marriage.271 In the deferred community property regime, property acquired by purchase as well as the profits, income, and interest obtained by either of the spouses while the regime is in effect, belongs to both spouses and is divided in half if the marriage dissolves.272 The applicable property regime must be chosen before the celebration of marriage.273 If a regime is not chosen, the deferred community property regime is applied.274 The property that serves as the family home cannot be transferred and may not be otherwise encumbered without the consent of both spouses, under penalty of the relevant transaction being voided, regardless of the applicable property regime.275 Bigamy is a crime punishable by six months to two years in prison.276

Regulation of domestic partnerships

The Constitution indicates that "the absence of matrimony" does not affect the enjoyment of rights established in favor of the family.277 It also provides that the law should regulate the family relations that result from a stable union of a man and woman.278 The Family Code defines a domestic partnership as a nonmatrimonial union between a man and woman who, without any legal impediment to marriage, make a life together in a "singular, continuous, stable and public manner for more than three years".279 These couples are denominated "cohabitants" or "life companions."280 The property of the couple is governed by a sharing of earnings regime and they are equally responsible for family expenses.281 Furthermore, among other rights, the domestic partnership enjoys the same right to protection of the family home as that established for a married couple as well as the same right to inherit from one another.282 To enjoy these rights, a prior judicial finding of the existence of the domestic partnership is required.283 The judicial finding is obtained when one of the partners dies or when the union is dissolved.284 The opportunity to request legal recognition of the union expires one year after the union is dissolved or when one of the partners dies.285

Divorce and custody law

Divorce is the dissolution of the matrimonial bond decreed by a judge.286 Divorce can be granted with the consent of each spouse, after a separation for one or more consecutive years, or when the spouses' life together has become intolerable.287 The court may find life together intolerable when there is serious or continuing noncompliance with matrimonial duties or evident deporable conduct by either of the spouses.288 The application of this cause for divorce to particular circumstances is left to the discretion of the judge.289 Only a spouse who was not at fault in the events that made life together intolerable may file for divorce.290

In divorce by mutual consent, the spouses determine by agreement who will exercise paternal authority over the children, the visitation regime, child support payments, who retains possession of the home and family furniture, the basis for liquidation of the marital property, and whether or not alimony will be payable to one of the spouses.291 Alimony is payable to protect the spouse for whom the divorce causes an appreciable loss in his or her economic status, in comparison with what he or she had in the marriage.292 In the case of a contested divorce, if there is no agreement between the spouses, the judge will establish the conditions of separation.293 If the applicable property regime is separation of property or deferred community property, and the liquidation of the marital property produces a negative balance, the spouse whose situation is less favorable has the right to receive a compensatory pension.294 The purpose of the divorce decree is to dissolve the matrimonial bond and the marital property regime, and to determine who will exercise parental authority, whether or not alimony is payable, and visitation rights.295

B. ECONOMIC AND SOCIAL RIGHTS

Property rights

The Constitution of El Salvador guarantees the right to private property296 and economic freedom of all persons,297 as long as the exercise of those rights does not conflict with societal interests.298 Despite the lack of de jure discrimination against women, in practice they do not have equal access to land.299 In 1994, only 10.7% of rural lands designated for former guerrilla combatants was registered under women's names300 even though 26.23% of Salvadoran heads of families were women.301

Labor rights

Work is a social function protected by the State.302 The Constitution establishes the principal of equality in remuneration for equal work303 and prohibits employment discrimination on the basis of sex, race, creed, or nationality.304 It also establishes the right of the female worker to enjoy paid leave before and after a birth305 and to keep her job.306 Furthermore, it establishes the employer's duty to establish and maintain nurseries and child-care facilities.307

The Labor Code prohibits the employer from discriminating in employment on account of race, color, or sex.308 It also establishes the right of women to twelve weeks' maternity
leave, six of which are mandatory after childbirth.312 During the period of leave, the woman receives remuneration equal to 75% of her regular salary.313 During breast-feeding, the working mother has the right to one hour of paid leave per day to feed her child.314 The Labor Code prohibits employers from assigning pregnant workers to tasks that require physical exertion not compatible with their pregnancy.315 Pregnancy is not a justifiable cause to dismiss a worker.316 During the pregnancy and the postnatal leave, even a justifiable dismissal of a woman worker will not result in the termination of the employment contract.317 Such termination is effective only after the pre- and postnatal leaves have been completed.318

Access to credit

There are no legal restrictions on women’s access to credit. However, the practical limitations on women’s access to property323 directly affect their ability to get credit because, in the formal financial system, access to credit requires a mortgage on real property as collateral or a similar guarantee. In 1990, to address this problem, the government created Community and Microbusiness Banks in El Salvador to respond to the credit needs of women.320 In 1994, these programs granted credit to 6,372 Salvadoran women.321

Access to education

The Constitution establishes that all inhabitants of the republic have the right and duty to receive primary and basic education322 and that public education is free.323 However, illiteracy is a more serious problem among women than men. Twenty-four and one-tenth percent of the Salvadoran population is illiterate.324 Of those who are illiterate, 14.3% are women and 98% are men.325 There have been signs of improvement in educational opportunities for women in the last few years. In 1993, 53,970 boys and 60,172 girls were registered for secondary school education.326 In the same year, in primary schools, 532,172 boys and 519,304 girls registered.327 In 1993, 48.7% of those receiving higher education were women.328

Women’s bureaus

The governmental body in charge of formulating gender policies and encouraging women’s advancement in El Salvador is the Salvadoran Institute for Women’s Development (“SIWD”).329 The SIWD was created in 1996 as an independent entity with its own legal status and assets.330 Its aim is to create public policies to improve women’s conditions and promote gender equality in the country.331 Specifically, it is in charge of drafting and implementing the NWP,332 which became effective in December 1996. It principal objective is to improve the conditions of Salvadoran women and to obtain their share in national development through equality of opportunity with respect to men.333 Among the NWP’s strategies for 1997, 1998, and 1999 are the following: to propose legislative reforms aimed at eliminating provisions that discriminate against women334 and to train members of the legislative and judicial branches, the Public Defender’s Office, and the Ministry of Public Security to eradicate discrimination against women.335 Also, the NWP proposes to strengthen the focus on gender in formal education,336 to promote health and reproductive rights,337 and to propose reforms to the Constitution and the Labor Code to bring them into compliance with International Labor Organization agreements ratified by El Salvador.338 Finally, the promotion of women’s participation in designing national and municipal public policies is an additional strategic objective of the NWP to improve Salvadoran women’s status.339

C. RIGHT TO PHYSICAL INTEGRITY

Rape

Between 1992 and 1996, 3,695 cases of sexual crimes were reported to law enforcement authorities in the San Salvador metropolitan area.340 In 1996, 906 cases of sexual crimes were reported in the same area, in which 824 victims were female and 82 were male.341 One governmental organization reported 71 rape cases in 1996.342

The Penal Code, which took effect in January 1998, classifies rape as a crime “against sexual freedom,”343 that is committed by those who, “through violence, have vaginal or anal intercourse with another person.”344 The punishment for this crime is six to ten years in prison.345 The Penal Code also penalizes with three to six years in prison,346 those who carry out any sexual aggression, “not constituting rape.”347 The punishment is increased to six to ten years if the sexual aggression consisted of “oral carnal access” or “the introduction of objects into the vagina or anus.”348 In crimes of rape and sexual aggression, the maximum sentences described above are increased by one-third when the aggressor is an ascendant, descendant, brother, adoptive parent, adopted child, or the spouse or partner of the victim’s mother or father.349 The sentence is also increased by one-third when the rapist or aggressor represents public authority or has the victim in custody;350 when the crime is committed by two or more persons;351 or when it is committed using “especially brutal, degrading or humiliating means, measures or instruments”352.

The Penal Code requires that an indemnity payment be made by perpetrators of the aforementioned crimes, including the medical, psychiatric, and psychological fees that the victim incurs, as well as full maintenance throughout the period of medical incapacity.353 The Penal Code that was repealed in January 1998 included the crime denominated “rape of a prostitute.”354 It was penalized by three months to two years in prison, a much lighter sentence than that imposed for rape of any other person.355
Sexual harassment

In the Penal Code, sexual harassment is penalized with a sentence of six months to one year in prison. Sexual harassment is defined as "sexual conduct that is not desired by those who receive it, which implies touching or other conduct which is unequivocally of a sexual nature." If sexual harassment is committed by someone who is taking advantage of a "superior" position within "any relationship," a fine of thirty to fifty days' salary will also be imposed.

Domestic violence

In El Salvador, violence within the family is regulated by the Law Against Violence Within the Family and by the Penal Code. The former establishes the state's duty to prevent, punish and eradicate violence within the family. To this end, a special division was created in the National Civil Police to investigate and process complaints of violence within the family. The law defines violence within the family as direct or indirect acts or omissions "that cause harm, physical, sexual, or psychological suffering, or death to persons within a family." Three types of family violence are distinguished: psychological violence, physical violence, and sexual violence. The law also sets out the procedures for police intervention and establishes the jurisdiction of certain courts to adjudicate cases of violence within the family as well as protective measures that the court may order to protect the person who has been harmed. Among the protective measures that can be ordered by a judge are ordering the termination of acts of harassment and mistreatment; prohibiting the aggressor from consuming alcohol or drugs or from carrying weapons; ordering the aggressor to leave the shared home and prohibiting him or her access to the home of the injured party; granting the injured party an order of protection and police assistance; decreeing a loss of parental authority and/or custody of the children; and decreeing maintenance for the injured party. The aggressor is required to undergo specialized psychological and psychiatric treatment relating to violence within families. In cases where there is any violation of the measures ordered by the judge, a fine of five to ten days' wages will be imposed. Any person who has knowledge of an act of violence within the family can file a complaint. The family courts and the justices of the peace are legally competent to hear complaints of violence within the family.

In addition, the Penal Code penalizes crimes of violence within the family and defines them as crimes committed by anyone who uses "violence on his or her spouse or the partner with whom he or she lives, or on his or her children, or his or her partner's children in his or her custody, a minor or disabled person under his or her guardianship, or his or her parents."

The applicable sentence is six months to one year in prison. A punishment of detention for five to ten weekends and a fine of five to ten days' wages may also be applied to cases of violence within the family when injuries are caused to another person. Although jurisdictional conflicts between the procedures established by the Law Against Violence Within the Family and those of the Penal Code are not addressed in the laws themselves, the fact that the former law is exclusively handled by family judges and justices of the peace excludes the possibility of a conflict with the criminal process, in which more severe sanctions are applicable.

IV. Focusing on the Rights of a Special Group: Adolescents

The needs of adolescents are often unrecognized or neglected. Considering that 41% of the Salvadoran population is under the age of 15, it is particularly important to meet the reproductive health needs of this group. The effort to address adolescent rights, including those related to reproduction, are important for the right to self-determination and to the health of all women.

A. REPRODUCTIVE HEALTH AND ADOLESCENTS

In El Salvador, girls from ages 15 to 19 contribute 16% to the total fertility rate. According to figures from the National Population Council, in 1992, there were approximately 503,459 adolescent mothers out of a total of 1,866,121 mothers. Despite these statistics, in 1993, a demographic and health study revealed that only 2.5% of single women between 15 and 44 years old used contraception. In El Salvador there are no policies or legislation that specifically address adolescent health, in spite of the fact that the average woman's first sexual experience occurs during adolescence. The statistics on fertility and contraception do not take into account the population between 12 and 16, thus making it difficult to study the reproductive health of women in this age group.

B. MARRIAGE AND ADOLESCENTS

The average age of a woman at the time of her first marriage is 18.5 years. Those under 18 years of age are legally permitted to marry if they already have a child together or if the woman is pregnant. In such cases, the express consent of the parents is required. If one parent is absent, it is sufficient to have the consent of the other. If both are absent, the consent of the closest relatives is requested. In case of a difference of opinion, the parent who favors the marriage prevails. Denial of consent is justified only if one of the impediments or...
prohibitions for marriage exists such as if one of the two leads an immoral life, has a “passion for illegal games,” habitually gets drunk or consumes illicit drugs, or if either one suffers from an illness that puts the health or life of the other or their child in danger. Consent can also be denied if neither of the two seeking to marry has economic means sufficient to carry out the responsibilities of marriage when the denial is unjustified, the judge can authorize the marriage of the minors upon their request.

C. SEXUAL OFFENSES AGAINST ADOLESCENTS AND MINORS

Sexual crimes against minors and adolescents that are prohibited by the Penal Code are rape, sexual aggression distinct from rape, statutory rape, and other attacks against sexual freedom. Rape, whether vaginal or anal, of a minor less than 12 years old is punished by ten to fourteen years' imprisonment. The punishment is increased by one-third in the following cases: if the crime is carried out by the parents, siblings, or adoptive parents; if the aggressor is a government authority or anyone who had the victim under his or her custody; when the crime involved is an abuse of “domestic relationships”; when it is committed by two or more persons; and when “brutal, degrading, or humiliating” means, methods, or instruments have been used. Other sexual aggressions include those acts carried out with violence but without actual intercourse, for example, oral carnal access or the introduction of objects into the anus or vagina, the latter two carrying longer sentences. The above-described acts carry sentences of six to eight years in prison, or ten to fourteen years.

Engaging in carnal access with a minor between 14 and 16 years of age through deceit is known as statutory rape. The punishment is one to three years of imprisonment. If the victim is between 12 and 14 years old, the punishment is two to four years in prison, even if consent was given for carnal access. Other attacks on the sexual freedom of an adolescent that constitute crimes are sexual harassment, sexual acts different from carnal access, corruption of minors, inducement, promotion and favoring of prostitution, indecent exposure, pornography, and using minors for pornography. Sexual harassment of a minor under 12 years old is punished with six months to two years in prison. Sexual acts other than carnal access that are committed through deception on a person between 14 and 16 years are punished by a sentence of six months to two years in prison. If the victim is between 12 and 14 years of age, the sanction is one to three years in prison, even where the act is consensual.

Corruption of minors less than 18 years old “through acts other than carnal access” even though the victim consents to participate in such acts is penalized by imprisonment for two to six years. The punishment is increased to four to eight years if the victim is under 12; if it is carried out for profit; if it is performed through deception, violence, abuse of authority or trust, or any other means of intimidation; or if it is committed by an older relative, an adoptive parent, a biological or adopted sibling, or someone charged with guardianship or custody of the victim.

D. SEXUAL EDUCATION

In El Salvador, the principle objective of education is to achieve the comprehensive development of the human being and contribute to the “building of a more prosperous, fair and humane society.” The Ministry of Education, in its curriculum for secondary education, incorporates the subject of sexuality into the curriculum for students at this level. The principal aspects of sexuality included in the education program are: the psychobiology of an adolescent's sexuality, identity and sexual roles, personal and social responsibility in sexuality, consequences of sexual activities, and sexuality and culture.
ENDNOTES


2. Id., art. 62: “The official language is Castilian. The government has a duty to ensure its conservation and teaching. The indigenous languages spoken within the national territory are part of the cultural heritage and will be preserved, disseminated and respected.”


4. Id.

5. Id., at 762.

6. Id.

7. Id.

8. Id.

9. Id.


11. Id.

12. Id.


15. Id.

16. Id.

17. Id., art. 86.

18. Id., the Constitution denominates the branches of Public Power of the State “bodies”

19. Id.

20. Id.

21. Id., art. 150.

22. Id., art. 154.

23. Id., art. 168.

24. Id., arts. 157, 159 and 168.

25. Id., art. 159.

26. Id.

27. Id., art. 166.

28. Id., 29 and 167.

29. For a definition of this institution, see section on Legislative Branch.

30. El. SAL. CONST., art. 13, cl. 37.

31. Id.

32. Id.

33. Id., art. 121.

34. Id.

35. Id., art. 125.

36. Id., art. 236.

37. Id. The Legislative Assembly is responsible for establishing and defining what constitute “serious” crimes committed by representatives and for declaring the initiation of the respective criminal proceeding. Id., arts. 236 and 238.

38. Id., art. 238.

39. Id., art. 237.

40. Id., art. 131.

41. Id., cl. 19. Justices of the Supreme Court of Justice, the Supreme Electoral Tribunal, the Attorney General of the Republic, the Public Defender, the Human Rights Ombudsman, and Members of the National Judicial Council.

42. Id., arts 133.

43. Id., art. 134.

44. Id., art. 135.

45. Id., arts 135 and 126.

46. Id., art. 137.

47. Id.

48. Id., art. 135.

49. This system was codified during the time of the Roman Empire. The Compilation of Justinian and his other works such as Institutions, Codex, Digestus Novellas, etc., are collectively referred to as Corpus Juris Civilis, to distinguish the civil system from English common law and Canon Law. See Black’s Law Dictionary, at 168 (6th ed. 1991).

50. El. SAL. CONST., art. 172 and Organic Judicial Law, Decree No. 123, June 6, 1984, art. 1.

51. Id., and Organic Judicial Law, art. 1.

52. Organic Judicial Law, art. 15.

53. Id., art. 22.

54. El. SAL. CONST., art. 172.

55. Id., art. 182.

56. Organic Judicial Law, art. 5.

57. Id., art. 57. There are 11 Chambers in the capital (San Salvador), 4 in the City of Santa Ana, 5 in the City of San Miguel and 1 in each of the following cities: Usulutan, Cuscatancingo, Suchitoto, and Suchas. San Salvador. Id., arts 6-10.

58. Id., see also arts 35-42.

59. Id., see also art. 43.

60. Id.

61. Id., art. 64. The amount in controversy must not exceed 10,000 colones.

62. Id.

63. El. SAL. CONST., art. 172.

64. Id., art. 14 and Organic Judicial Law, art. 24.

65. Id., art. 236.

66. Id., art. 21.

67. Id., art. 181.

68. Id., arts 193 and 194.

69. Id., art. 191.

70. Id.

71. Id., art. 193.

72. Id., art. 194.

73. Id.


75. Id., art. 200.

76. Id.

77. Id., art. 80.


79. Id., art. 203.

80. Id., art. 204.

81. Id., arts 246 and 144.

82. Id., art. 183.


84. For example, civil laws, through the Civil Code, make reference to custom as a source of law, in different articles related to contracts, purchases and sale, leasing and powers of attorney. See arts 2, 147, 1626, 1728, 1752, 1774, and 1877.

85. El. SAL. CONST., art. 144.

86. Id., art. 146.

87. Id., art. 133, cl. 7.

88. Id., art. 144.

89. Id., art. 149.


94. El. SAL. CONST., art. 65.

supra note 96, at 65. In such cases, a sentence of two to six years is imposed on the professional, as is a special disqualification from practicing the profession for a similar period of time.

141. Id. The punishment is two to four years in prison and professional disqualification for the same period.

142. Revised Penal Code, art. 135. For more detail about punishment for abortion, see section on abortion.
251. EL SALC ONST., art. 3.
252.

199. NATIONA LPOPULATIONPOLICY, supra note 150, at 27.
201. HEALTH CODE, art. 249
203. See nature and functions of this entity in the section on Patients Rights
204. HEALTH CODE, art. 14.
205. Id.
206. NATIONAL POPULATION POLICY, supra note 150, at 25.
207. NATIONAL FAMILY HEALTH SURVEY, supra note 154, at 79
208. Id., at 54.
209. Id., at 71.
210. Id., at 54.
211. Statistics collected from the Ministry of Health by CEMUJER, El Salvador, July 1997 (on file with CRLP).
212. Revised penal code, art. 409.
213. Id., Bk. II, Ch. II in Special Part.
214. Superseded PENAL CODE, art. 169. According to the Penal Code that was recently replaced, abortion was not punishable when performed under the following circumstances:
(a) when the abortion was the result of an accident, not caused by the pregnant woman; (b) to protect the pregnant woman's life when there was no other alternative; (c) when the pregnancy was the result of rape; and (d) to avoid an inevitable abnormality in the fetus.
215. Revised PENAL CODE, art. 133.
216. Id.
217. Id.
218. Id.
219. Id. Also see section on Regulation of Health Professionals.
220. Id., art. 136.
221. Id., art. 137.
222. Id., art. 138.
223. Id.
224. Id., art. 134.
225. Id., see also section on "Regulation of Health Professionals"
226. Id., art. 136.
227. Id.
228. Id.
229. Id., art. 137.
230. Id.
231. Id., art. 373.
232. Id., art. 374.
233. Id., art. 373.
234. Id., art. 373.
235. NATIONAL REPORT, supra note 95, at 57.
236. Id.
237. Id., p. 58.
238. HEALTH CODE, art. 154.
239. Id.
240. Id., art. 133.
241. Id., art. 134.
242. Id., art. 135.
243. Id., art. 136.
244. Id., art. 137.
245. Id., art. 153.
246. EL SAL. CONST., art. 66.
247. For a discussion about the nature and functions of the NWP, see section on women's bureaus
248. NATIONAL WOMEN'S POLICY, supra note 170, at 32.
249. Id., at 131.
251. EL SAL. CONST., art. 3.
252. Id.
254. CEMUJER, supra note 250, at 3.
255. EL SAL. CONST., art. 32.
256. Id.
257. Id.
259. COUNTRY REPORTS ON HUMAN RIGHTS, supra note 10, at 447.
260. FAMILY CODE, art. 11.
261. Id., art. 36.
262. Id., art. 37.
263. Id., art. 38.
264. Id., art. 39.
265. Id.
266. Id.
267. Id., art. 42.
268. Id.
269. Id., art. 48.
270. Id., art. 51.
271. Id., art. 52.
272. Id., art. 62.
273. Id., art. 42.
274. Id.
275. Id., art. 48.
276. Revised PENAL CODE, art. 193.
277. EL SAL. CONST., art. 32.
278. Id., art. 3.
279. FAMILY CODE, art. 118.
280. Id.
281. Id., art. 120.
282. Id., art. 121.
283. Id., art. 121.
284. Id., art. 123.
285. Id.
286. Id., art. 125.
287. Id., art. 105.
288. Id., art. 106.
289. Id.
290. Id.
291. Id.
292. Id., art. 108.
293. Id., art. 111.
294. Id., art. 111.
295. Id., art. 113.
296. Id., art. 115.
297. EL SAL. CONST., art. 103.
298. Id., art. 102.
299. Id.
300. COUNTRY REPORTS ON HUMAN RIGHTS, supra note 10, at 447.
301. NATIONAL REPORT, supra note 95, at 40.
302. Id., at 39.
303. Id., at 58.
304. EL SAL. CONST., art. 37.
305. Id., art. 38, cl. 1.
306. Id.
307. Id., art. 42.
308. Id.
309. Id., arts. 172 and 190.
310. LABOR CODE, Decree No. 15, June 23, 1972.
311. Id., art. 123.
312. Id., art. 309.
313. Id.
314. Id., art. 312.
315. Id., art. 110.
316. Id., art. 50.
317. Id., art. 113.
318. Id.
319. See section on Property Rights.
320. NATIONAL REPORT, supra note 95, at 38.
321. Id.
322. EL SAL. CONST., art. 56.
323. Id., at 44.
324. NATIONAL REPORT, supra note 95, at 43.
325. Id., at 48.
326. Id., at 47.
327. Id., at 37.
328. Legislative Decree No. 644, Feb., 1996.
329. Id., art. 1.
330. Id., art. 3.
331. Id., art. 16.
332. Id., at 31.
333. Id., at 35.
334. Id., at 43.
335. Dr. Robert Mansferrer Legal Medical Institute (on file with CRLP).
336. Id., art. 160.
337. Id., at 24.
338. Id., at 27.
339. The division created is called “The Division of Public Security in the Family Depart-
340. Id., at 196.
341. Id., art. 165.
342. Id., at 166.
343. Law Against Violence Within the Family, Decree No. 902, Nov. 28, 1996.
344. NATIONAL REPORT, supra note 95, at 27.
345. Id., at 27.
346. Id., at 26.
347. Id., art. 159.
348. Id., art. 158.
349. Id., art. 164, second ¶.
350. Id., art. 162, cl. 1.
351. Id., cl. 2.
352. Id., cl. 5.
353. Id., cl. 6.
354. Id., art. 174.
355. Revised PENAL CODE, art. 196.
356. Id.
357. Id., third ¶.
358. Id., art. 165.
359. Id., art. 166.
360. Id., art. 167.
361. Id., art. 168.
362. Id., art. 169.
363. Id., art. 170.
364. Id., art. 171.
365. Id., art. 172.
366. Id., art. 173.
367. Id., art. 174.
368. Id., art. 175.
369. Id., art. 176.