

Guadalupe's pardon: UN experts urge El Salvador to pardon all women jailed for pregnancy complications and repeal restrictive abortion law

GENEVA (28 January 2015) – El Salvador's decision to pardon a woman convicted of aggravated homicide after suffering a miscarriage must mark a turning point for the authorities to review the sentences against all women jailed for pregnancy-related complications, a group of UN human rights experts* said on Wednesday.

“The decision to pardon Carmen Guadalupe Vásquez Aldana, following a judicial review which concluded that due process had been violated, reverses an appallingly unfair sentence and we wholeheartedly welcome it. But there are many more women imprisoned on similar charges, some of them awaiting decisions on a pardon,” the experts said. “We further urge the authorities to repeal legislation which criminalises abortion in all circumstances,” they added.

Since 1997, El Salvador has had one of the most restrictive abortion laws in the world, with abortion criminalized even when the woman's life or health is at risk or in cases of rape or incest. A constitutional amendment in 1998 defined life to begin at conception. Charges against women who suffer pregnancy-related complications are often being classified as aggravated homicide, which carries not only stiffer sentences but unwarranted stigma associated with their situation.

This was Guadalupe's case, who suffered a miscarriage at 18 after reportedly being raped and was sentenced to 30 years in prison in February 2008. She was pardoned on 21 January 2015.

“We would like to reiterate our concern that in the cases of the 17 women** who were seeking pardons, sanctions were disproportionately imposed without due process,” the experts said. The Parliamentary Assembly is due to consider the case of nine of the women in the coming month and the experts urged the competent authorities to pardon them. “It is also time for El Salvador to review its 1997 law on abortion and end such injustices,” the experts stressed.

The experts noted that they had previously communicated their concern to the Government of El Salvador that the 1997 abortion law violates the right of women to the highest attainable standard of physical and mental health, in particular the need to ensure equitable access to sexual and reproductive health and rights, particularly to therapeutic abortion.

“The total ban on abortion disproportionately affects women who are poor. Furthermore, matters relating to an obstetric complication can sometimes mistakenly be considered as abortion,” said the experts.

“El Salvador must comply with its international obligations and ensure access to sexual and reproductive health and rights, including maternal health care and access to all methods of modern contraception,” the experts stressed. “Access to safe and legal abortion, at least when the pregnancy endangers the life or health of the woman; when it is the result of rape or incest, or in cases of severe fetal malformation must be ensured.”

ENDS

BACKGROUND

*(**) Of the 17 cases, nine are currently seeking pardons, one woman was released after completing her sentence, while the cases of six others have already come before the Supreme Court which decided not to pardon them.*

According to the World Health Organization, restrictive abortion laws do not reduce the number of abortions. Instead, they force women to seek clandestine and unsafe abortions, which jeopardise their lives and their health. Unsafe abortion accounts for about 13 percent of maternal mortality globally. In some countries, the percentage of maternal deaths resulting from unsafe abortion is much higher, accounting for up to 30%. Maternal mortality violates the rights to life, health, equality and non-discrimination. In the framework of the International Conference on Population and Development (ICPD) Programme of Action, States committed to “reduce greatly the number of deaths and morbidity from unsafe abortion”.

(*) The experts:

Emna Aouij, Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice

Mads Andenas, Chair- Rapporteur on the Working Group on arbitrary detention

Dainius Pûras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Juan Ernesto Mendez, Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment

Rashida Manjoo, Special Rapporteur on violence against women, its causes and consequences

Gabriela Knaul, Special Rapporteur on the independence of judges and lawyers

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