

EL SALVADOR

1. Discriminatory family code

The Family Code of El Salvador establishes the minimum **legal age for marriage** without consent at 18 for both women and men.¹ In the case of pregnancy, a minor is allowed to marry before the age of 18 with parental consent.² The prevalence of child marriage remains high, with the most recent survey data indicating that 25.4% of women between 20 and 24 were married before the age of 18.³

Customary law is not codified or recognised in El Salvador. Indigenous groups make up 12% of the population,⁴ but the Constitution does not recognise the rights and traditions of indigenous peoples in the country.⁵

Under the Family Code, **parental authority** is exercised jointly by both parents.⁶ The Family Code explicitly states that spouses have equal rights and duties in regard to the care of children and housework, and that neither spouse can prevent the other from receiving education or embarking on other legal activities.⁷ Women's parental authority is recognised after **divorce**.⁸

Under the Civil Code (Articles 983-992), women and men, and sons and daughters have equal **inheritance** rights.⁹

More

The Civil Code establishes that either spouse can **initiate divorce**.¹⁰

¹ Article 14, Family Code of El Salvador; CEDAW (2008a), p. 8

² Family Code of El Salvador, Articles 14 and 18

³ UNFPA (2012), p. 72

⁴ FAO (n.d.)

⁵ Minority Rights Group International (n.d.)

⁶ Article 207, Family Code of El Salvador

⁷ Articles 36-39, Salvadoran Family Code; FAO (n.d.)

⁸ Article 106, Family Code of El Salvador

⁹ Articles 983-992 of the Civil Code of El Salvador (cf: http://www.oas.org/dil/esp/Codigo_Civil_El_Salvador.pdf)

¹⁰ Articles 106-107

2. Restricted physical integrity

In 2011, El Salvador passed a specific law to combat violence against women, the *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres*, which came into effect on 1 January 2012 and supported the Law on Intra-Family Violence.¹¹ It defines violence as economic, psychological, physical, “patrimonial”, symbolic and sexual. Its 61 articles comprehensively address the question of violence, including sexual harassment, negative stereotyping in the media, misogyny, sexism, pornography, femicide and rape. It proposes assistance and protection programmes for victims, prevention programmes, vocational skills programmes to support victims in learning skills to re-enter the labour market, and awareness-raising campaigns.¹²

In 1996, El Salvador passed **domestic violence** legislation (*Ley contra la Violencia Intrafamiliar*), that covered all members of the family, including women, children and seniors.¹³ It defined domestic violence as “patrimonial” (that is, lack of access to family resources, assets and entitlements), psychological, physical and sexual. The Penal Code specifies that domestic violence is punishable by one to three years in prison.¹⁴

High levels of domestic violence continue to be reported. A 2008 national survey found that 44% of women who had been married or lived with a partner had suffered psychological violence, 24% had experienced physical violence and 12% were victims of sexual violence.¹⁵ In 2013, 5,513 cases of domestic violence were recorded.¹⁶

According to the 2011 report of the UN Special Rapporteur on Violence against Women, Its Causes and Consequences, in El Salvador “violence within the family remains largely concealed by prevailing social attitudes that condone it and by the reluctance of victims to report abuse.”¹⁷ Impunity for domestic violence offences is also a frequent occurrence, and those who do come forward are often revictimised by the law enforcement system.¹⁸

The law criminalises **rape**, and the criminal code’s definition of rape may apply to spousal rape.¹⁹ The law requires the state prosecutor FGR to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to nullify the criminal charge. Generally, the penalty for rape is 6 to 10 years of imprisonment, but the law provides for a maximum sentence of 20 years for rape of certain classes of victims, including children and persons with disabilities. Incidents of rape continued

¹¹ See El Salvador country profile on the UN Secretary General database on violence against women (with link to the Law in Spanish): <http://sgdatabase.unwomen.org/searchDetail.action?measureId=49703&baseHREF=country&baseHREFId=472> (accessed 3 December 2013)

¹² See El Salvador country profile on the UN Secretary General database on violence against women: <http://sgdatabase.unwomen.org/searchDetail.action?measureId=49703&baseHREF=country&baseHREFId=472> (accessed 3 December 2013)

¹³ Article 3, *Ley contra la Violencia Intrafamiliar* (1996)

¹⁴ Article 200, Penal Code of El Salvador: http://www.oas.org/dil/esp/Codigo_Penal_El_Salvador.pdf

¹⁵ UN Human Rights Council (2011), p. 8

¹⁶ Corto Suprema de Justicia: <http://www.csj.gob.sv:88/?op=content&seccion=11&categoria=tru&id=89> (accessed 3 December 2013)

¹⁷ UN Human Rights Council (2011), p. 7

¹⁸ UN Human Rights Council (2011), p. 17

¹⁹ US Department of State (2013)

to be underreported for several reasons, including societal and cultural pressures on victims, fear of reprisal, ineffective and unsupportive responses by authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted. Laws against rape were not effectively enforced.²⁰

The UN Human Rights Council reports that high levels of rape and sexual abuse continue to be a cause of concern in El Salvador.²¹ According to the most recent data, in 2008 alone, there were 4,120 sexual violence cases, up from 3,368 in 2007, documented by the Institute of Forensic Medicine.²² Impunity regarding cases of sexual violence is high – with recent data showing that “of the 2,057 cases of sexual violence brought to court by the Office of the Procurator-General in 2008, 812 were provisionally dismissed, 385 were definitively dismissed and 700 went to trial.”²³ Ultimately, those trials resulted in 200 convictions and 153 acquittals.

Ley Especial Integral para una Vida Libre de Violencia para las Mujeres seeks to address some of these shortcomings, for example through the creation of specialised police units designed to address violence against women.²⁴

Sexual harassment is defined under the Penal Code as any undesired acts, gestures and behaviour of a sexual nature. It is punishable by three to five years in prison.²⁵ If the victim is a minor, the punishment is four to eight years in prison. Sexual harassment in the workplace is also addressed in the *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres*.

However, according to the UN Human Rights Council, sexual harassment remains a problem in the country, sometimes at very severe levels. Sexual harassment is often met with inefficient responses by law enforcement officials and inefficient services, leading to high levels of impunity for offences.²⁶

The 2011 report of the UN Special Rapporteur on Violence against Women, Its Causes and Consequences states that women working in *maquila* plants and as domestic workers are at particular risk of violent harassment and high levels of exploitation.²⁷

There is no evidence to suggest that **female genital mutilation** is practised in El Salvador.

More

Salvadoran gang activity is also a large contributor to the phenomenon of **femicide** – the murder of women because they are women – in the country. According to an article published in *Gender & Development* journal in 2007 which examined the phenomenon across the region, femicide represents the ultimate form of gender-based violence “that is intrinsically linked to deeply entrenched gender

²⁰ US Department of State (2013)

²¹ http://www.isdemu.gob.sv/index.php?Itemid=237&lang=es&option=com_phocadownload&view=sections

²² UN Human Rights Council (2011), p. 7

²³ UN Human Rights Council (2011), p. 16

²⁴ UN Human Rights Council (2011), p. 12

²⁵ Article 165, Penal Code of El Salvador

²⁶ UN Human Rights Council (2011), p. 8

²⁷ UN Human Rights Council (2011), p. 8

inequality and discrimination, economic disempowerment, and aggressive or machismo masculinity.”²⁸ The killings are typified by extreme brutality and violence and by the failure of police to investigate, and they have been linked to the high levels of gang-related crime in El Salvador.²⁹ In 2006, El Salvador reported 12.7 homicides for every 100,000, bringing it over the 10 per 100,000 that the WHO classifies as an epidemic.³⁰ El Salvador is now the country with the highest murder rate of women in the world.³¹

In 2012, based on recommendations from the UN Office of the High Commissioner for Human Rights, the Attorney General of El Salvador approved a national protocol to guide officials tasked with investigating femicide,³² and both femicide and femicidal violence are defined under the country’s Law for a Life Free from Violence for Women.³³

Both the UN Special Rapporteur for Violence against Women, Its Causes and Consequences and the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) have expressed concern about the trafficking of women and girls in El Salvador and the low number of prosecutions and convictions for those involved.³⁴

Abortion is illegal under all circumstances in El Salvador, even when a woman’s life is at risk.³⁵

In 2008, the CEDAW Committee noted that clandestine abortions are a major cause of maternal mortality in El Salvador.³⁶ In 2013, the Constitutional Board of the Supreme Court denied a Salvadorian woman suffering from lupus the right to a therapeutic termination of the pregnancy that was threatening her life. After a ruling from the Inter-American Court of Human Rights, the government of El Salvador authorised the medical procedure for the woman.³⁷

3. Son bias

The male-to-female **sex ratio** at birth in 2013 is 1.05 and for the working age population (15-64 years old) is 0.89.³⁸ There is no evidence to suggest that El Salvador is a country of concern in relation to **missing women**.

More

In 2012, the ratio of female to male primary school enrolment was 96% and 100% for secondary education.³⁹ In addition, based on 2008-2012 data from UNICEF, there is virtually no gender gap in pre-primary education. For primary education, when net enrolment data is taken into account, there

²⁸ Prieto-Carrón et al. (2007), p. 26

²⁹ Stone, Hannah (2011)

³⁰ OAS (2012), p. 29

³¹ UN Women (2013a)

³² UN Women (2013a)

³³ OAS (2012), p. 30

³⁴ UN Human Rights Council (2011), p. 11; CEDAW (2008)

³⁵ Article 133 of the Penal Code; UN DESA (2013)

³⁶ CEDAW (2008), p. 35

³⁷ Amnesty International. <https://www.es.amnesty.org/actua/acciones/elsalvador-beatriz/> (accessed 05/05/2014)

³⁸ CIA. <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 05/05/2014)

³⁹ World Bank Development Indicators Database <http://databank.worldbank.org/data/views/reports/tableview.aspx> (accessed 5/05/2014)

appears to be no gender gap in primary education. However, when gross enrolment is examined, there is a gender gap benefitting males. The gap appears to be less significant in secondary education.⁴⁰

Data on birth registration and nutrition provided by UNICEF is not disaggregated by sex. However, the percentage of registered births was 99 in the period of 2005-2012.⁴¹

According to 2005 data, as children approach the age of 14, girls are much more involved in household chores than boys.⁴²

4. Restricted resources and assets

Women and men have the same **rights to own land** under the Constitution and Civil Code in El Salvador.⁴³ However, inequalities remain in relation to access to land, even though the situation of women improved significantly thanks to land reform in the 1980s and to the land transfer programme implemented as part of the 1992 peace agreement that ended a 12-year civil war.⁴⁴ However, the land transfer programme benefited women in only about one-third of cases.⁴⁵ More recently, the government has promoted a land access programme that appeared to benefit more women than men between 2003 and 2005. Most women who are involved in agricultural activities (a number that has declined from 10.7% to 5.6%) and who head their families now own the land on which they work.⁴⁶

There is no indication that customary law governs women's access to land, however it is unclear whether or not this is the case in indigenous communities.

There is no reported legal discrimination against women in regard to **access to property other than land**. Article 70 of the Family Code grants married women and men equal rights to administer and transfer common assets and goods.⁴⁷ The Constitution also grants all citizens the right to freely dispose of their goods.⁴⁸

Concerning **access to financial services**, legally, women have equal rights in obtaining access to bank loans, but they face prejudice from lenders, who continue to believe that women are unsuited to dealing with economic and financial matters.⁴⁹ Ten percent of women have accounts at financial institutions, compared to 17.6% of men, while only 2.8% of women have had a loan from a formal financial institution in the past year, compared with 5% of men.⁵⁰

⁴⁰ UNICEF. http://www.unicef.org/infobycountry/elsalvador_statistics.html (accessed 05/05/2014)

⁴¹ UNICEF. http://www.unicef.org/infobycountry/elsalvador_statistics.html (accessed 05/05/2014)

⁴² Understanding Children's Work. <http://www.ucw-project.org/Pages/Tables.aspx?id=1236> (accessed 05/05/2014)

⁴³ Articles 2 and 22, Constitution of the Republic of El Salvador; Article 568, Civil Code of El Salvador, http://www.oas.org/dil/esp/Codigo_Civil_El_Salvador.pdf

⁴⁴ FAO (n.d.)

⁴⁵ JICA (2005), pp. 22-23

⁴⁶ JICA (2005), p. 24; CEDAW (2007), p. 4

⁴⁷ Article 70, Family Code of El Salvador, http://www.oas.org/dil/esp/Codigo_de_Familia_El_Salvador.pdf

⁴⁸ Article 22, Constitution of El Salvador, http://www.oas.org/dil/esp/Constitucion_de_la_Republica_del_Salvador_1983.pdf

⁴⁹ CEDAW (2007), pp. 26-29

⁵⁰ World Bank (2013)

According to the most recent report to CEDAW, the government launched several programmes to tackle this de facto discrimination and improve women’s access to loans, particularly in rural areas.⁵¹ In recent years, women’s access to microfinance institutions has also increased and, in 2012, women made up 62.14% of microfinance borrowers.⁵²

5. Restricted civil liberties

There are no legal restrictions on women’s **access to public space** in El Salvador. The Family Code explicitly states that married couples can jointly decide upon their place of residence.⁵³

Despite this freedom, certain groups of women do not experience full access to public space without discrimination, particularly in the case of transgender women. In 2012, the government addressed discrimination based on gender identity in a decree titled “Provisions to Avoid Any Form of Discrimination in Public Administration on Grounds of Gender Identity and/or Sexual Orientation,” and the municipality of San Salvador set up a Sexual Diversity Office in that same year.⁵⁴

In the area of **political voice**, women and men have the same legal rights to vote and stand for election in El Salvador. Under the 2011 *Ley de igualdad equidad y erradicacion de la discriminacion contra las mujeres* and the National Development Strategy (2010-2014), women’s political participation is encouraged though no specific measures are detailed.⁵⁵ The political party National Liberation Front Farabundo Marti (FMLN) has had a quota of 35% in place since 1996.⁵⁶ Women continue to be underrepresented politically, although the number of female members in the legislature has slowly increased over time. There have been efforts to promote women’s political participation at the municipal level, and according to the 2007 report to the CEDAW Committee, this has resulted in an increase in women holding posts at this level.⁵⁷

According to Article 37 of the 2013 Law on Political Parties (No. 307), there are now **quotas** at national and sub-national levels: political parties must include in their candidate lists for elections to the Legislative Assembly at least 30% of women candidates.⁵⁸

More

In El Salvador, women are not well represented in the news **media**, nor are issues that challenge gender stereotypes covered broadly. Women make up only 27% of presenters, 41% of reporters and 25% of subjects in the news.⁵⁹ Women in El Salvador are the majority of newspaper reporters, however, at

⁵¹ CEDAW (2007), pp. 26-29

⁵² Microfinance Information Exchange (2013)

⁵³ Article 37, Family Code of El Salvador

⁵⁴ Decree No. 56, enacted 12 May 2010; REDLACTRANS and International HIV/AIDS Alliance (2012), pp. 16-17.

⁵⁵ Article 22-24, *Ley de igualdad equidad y erradicacion de la discriminacion contra las mujeres*, [http://www.isdemu.gob.sv/index.php?Itemid=237&lang=es&option=com_phocadownload&view=sections;Plan Quinquenal de Desarrollo, 2010-2014](http://www.isdemu.gob.sv/index.php?Itemid=237&lang=es&option=com_phocadownload&view=sections;Plan%20Quinquenal%20de%20Desarrollo,2010-2014), http://www.isdemu.gob.sv/index.php?option=com_phocadownload&view=category&id=52%3Aplan-quinquenal-de-desarrollo-2010-2014&Itemid=237&lang=es

⁵⁶ The Quota Project (2013)

⁵⁷ CEDAW (2007), pp. 55-56

⁵⁸ The Quota Project (2013)

⁵⁹ GMMP (2010), p. 67

58%.⁶⁰ Nevertheless, only 9% of news stories challenge gender stereotypes and a mere 2% highlight issues concerning inequality.⁶¹

As regards **workplace rights**, Articles 123 and 124 of the Labour Code mandate equal pay regardless of “gender, age, race, colour, nationality, political opinion or religious belief.”⁶²

Women in El Salvador are entitled to twelve weeks of paid maternity leave, although only six weeks are compulsory. Benefits are paid at 75% of her wage by a national social security system if the woman is insured. Otherwise, the employer pays the benefits. Employers are prohibited from terminating the employment of a pregnant woman unless the reason predates the pregnancy, and even then they must wait until the end of a woman’s maternity leave.⁶³ In its concluding observations on El Salvador’s 2007 report, the CEDAW Committee noted its ongoing concern relating to the systematic denial of women’s labour rights in the *maquiladora* industries, including lack of access to social security (including maternity) benefits, poor working conditions, and exposure to violence and sexual harassment.⁶⁴ Similar concerns were noted more recently in a report by the UN Special Rapporteur on Violence against Women, Its Causes and Consequences.⁶⁵

⁶⁰ GMMP (2010), p. 95

⁶¹ GMMP (2010), p. 105

⁶² FAO (n.d.)

⁶³ ILO (2011)

⁶⁴ CEDAW (2008b), p. 7

⁶⁵ UN Human Rights Council, 2011, pp. 9-10

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