

El Salvador

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

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Statistics

GENERAL

Population

- El Salvador has a total population of 5.8 million,¹ of which 51% are women.² The growth rate is approximately 2.2% per year.³
- In 1996, 40% of the population was under 15 years old⁴ and 4% was over 65.⁵
- In 1995, 47% of the population lived in urban areas while 53% lived in rural areas.⁶ 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.⁷

Territory

- El Salvador has a surface area of 21,122 square kilometers.⁸

Economy

- In 1994, the World Bank estimated the gross national product per capita at U.S.\$1,360.⁹
- 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%.¹⁰
- In 1996, government investment in the health sector was 7.3% of the total national budget.¹¹

Employment

- In 1994, approximately 2 million people were employed in El Salvador,¹² of which 33% were women.¹³

WOMEN'S STATUS

- The average life expectancy for women is 72.5 years, compared with 66.5 years for men.¹⁴
- 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%.¹⁵
- In 1992, 41.4% of women in urban areas were unemployed.¹⁶
- In 1994, women represented 33% of the national labor force.¹⁷ Participation of female labor in agriculture was 5%; in the industrial sector, 18%; and in the service sector, 77%.¹⁸
- 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.¹⁹ In 1996, of 906 cases that were attended to, 824 of the victims were women and 82 were men.²⁰

ADOLESCENTS

- Approximately 40% of the population of El Salvador is under 15 years old.²¹
- The median age at first marriage is 18.5 years.²²
- In 1995, 13% of adolescents between the ages of 15 and 19 were mothers.²³
- 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.²⁴

MATERNAL HEALTH

- The total fertility rate is 3.09 children per woman.²⁵
- For 1996, the maternal mortality ratio was estimated at 300 deaths per 100,000 live births.²⁶
- The infant mortality rate is 42 deaths per 1,000 live births.²⁷
- In 1995, only 66% of births were attended to by a health professional;²⁸ only 60% of pregnant women had prenatal care;²⁹ and 43% of pregnant women suffered from some degree of anemia.³⁰

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 of 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

1. WORLD ALMANAC BOOKS, THE WORLD ALMANAC AND BOOK OF FACTS 1997, at 761 (1996).
2. UNITED NATIONS, THE WORLD'S WOMEN 1995: TRENDS AND STATISTICS, at 27 (1995).
3. UNITED NATIONS POPULATION FUND ("UNFPA"), THE STATE OF WORLD POPULATION 1997, at 72 (1996).
4. THE WORLD ALMANAC, *supra* note 1, at 761.
5. *Id.*
6. THE WORLD'S WOMEN 1995, *supra* note 2, at 65.
7. *Id.*
8. THE WORLD ALMANAC, *supra* note 1, at 761.
9. WORLD BANK, WORLD DEVELOPMENT REPORT 1996: FROM PLAN TO MARKET, at 188 (1996).
10. *Id.*, at 208.
11. THE STATE OF WORLD POPULATION 1997, *supra* note 3, at 72.
12. WORLD DEVELOPMENT REPORT 1996, *supra* note 9, at 194.
13. *Id.*
14. THE STATE OF WORLD POPULATION 1997, *supra* note 3, at 69.
15. THE WORLD'S WOMEN 1995, *supra* note 2, at 110.
16. THE GOVERNMENT OF EL SALVADOR, INFORME NACIONAL PARA LA CONFERENCIA REGIONAL PREPARATORIA SOBRE LA MUJER A CELEBRARSE EN ARGENTINA, SEPTIEMBRE 1994 [NATIONAL REPORT FOR THE PREPARATORY REGIONAL CONFERENCE FOR WOMEN IN THE REPUBLIC OF ARGENTINA, SEPT. 1994], [DOCUMENTO CONSULTORIO PRELIMINAR Y PREPARATORIO PARA LA CUARTA CONFERENCIA SOBRE LA MUJER, BEIJING, CHINA] PRELIMINARY AND PREPARATORY CONSULTATIVE DOCUMENT FOR THE FOURTH WORLD CONFERENCE ON WOMEN, BEIJING, CHINA, at 36 (1994).
17. WORLD DEVELOPMENT REPORT 1996, *supra* note 9, at 194.
18. THE WORLD'S WOMEN 1995, *supra* note 2, at 158.
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.*
21. THE WORLD ALMANAC, *supra* note 1, at 761.
22. SALVADORIAN 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 DIRECTIVE, THE ISS AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID/EL SALVADOR), NATIONAL FAMILY HEALTH SURVEY (NFHS-93), at 65 (1994).
23. THE WORLD'S WOMEN 1995, *supra* note 2, at 32.
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")).
25. THE STATE OF WORLD POPULATION 1997, *supra* note 3, at 72.
26. *Id.*, at 69.
27. *Id.*
28. THE WORLD'S WOMEN 1995, *supra* note 2, at 93.

29. NATIONAL REPORT, *supra* note 16, at 7.

30. *Id.*, at 15.

31. THE WORLD'S WOMEN 1995, *supra* note 2, at 69.

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).

The 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.¹ Spanish is the official language.² Ninety-four percent of the population is mestizo, 5% is indigenous, and 1% is white.³ Roman Catholicism is the predominant religion, although there are also numerous Protestant denominations.⁴

El Salvador declared independence from Spain in 1821, and from the Central American Federation in 1839.⁵ Its recent history is characterized by twelve years of civil war in which the leftist guerrilla movement known as the Farabundo Martí National Liberation Front⁶ fought the national government.⁷ More than 75,000 Salvadorans were killed during the war.⁸ In 1992, with the support of the United Nations, the war ended and both parties to the conflict signed the Peace Accords.⁹ 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.¹⁰

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 1994.¹¹ 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.¹²

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"),¹³ establishes that the government is republican, democratic, and representative.¹⁴ The political system is "pluralistic"¹⁵ and political parties are the only organizations that represent the people.¹⁶ Power emanates from the people¹⁷ and is delegated to three branches of government.¹⁸ Political power is exercised in accordance with principles contained in the Constitution and laws.¹⁹ The branches of government are the executive, the legislative, and the judicial.²⁰

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.²¹ The president, elected every five years by universal suffrage,²² 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.²³ The president is the commander in chief of the armed forces and of the National Civil Police.²⁴

The Constitution provides that the ministers of state oversee public administration.²⁵ Each of them is in charge of a ministry that he or she governs in collaboration with the viceminister.²⁶ The president, the vice president, and the ministers form the Council of Ministers,²⁷ which is the body in charge of drafting the General Government Plan and the National Budget.²⁸ The Legislative Assembly²⁹ can recommend to the president that ministers be dismissed when it deems appropriate,³⁰ either after investigation or an interrogation process of the ministers known as *interpelación ministerial*.³¹ 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.³²

Legislative Branch

The legislative branch consists of a unicameral legislative body, elected by the people, called the Legislative Assembly (the "Assembly").³³ 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.³⁴ The representatives represent the people and are "inviolable,"³⁵ that is to say, they cannot be tried for common crimes during their term in office.³⁶ In the event that a representative is alleged to commit a serious crime,³⁷ 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.³⁸ In such cases, the representative is suspended from carrying out his or her functions.³⁹

The main function of the Assembly is to enact, revise, and repeal laws.⁴⁰ 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.⁴¹ 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.⁴²

An absolute majority of all representatives in the Assembly is required in order to pass a bill.⁴³ The Assembly must forward any bill it passes to the president within ten days for his or her approval.⁴⁴ The president then orders the official publication of the bill.⁴⁵ Alternatively, the president may opt to veto a bill and return it to the legislature, explaining the reasons for the veto.⁴⁶ The Assembly may vote to override the president's veto, with a two-thirds majority of the total votes cast. The president then must sign the bill into law and order its publication.⁴⁷ Presidential approval is not needed when the Assembly carries out internal administrative functions, when it nominates officials or administers oaths, or when it carries out functions to control the executive.⁴⁸

Judicial Branch

The legal system in El Salvador derives from Roman law.⁴⁹ The judicial branch consists of the Supreme Court of Justice,⁵⁰ the Appeals Chambers,⁵¹ the courts of first instance,⁵² the justices of the peace,⁵³ and "the other courts as provided for by law."⁵⁴ 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.⁵⁵ The Appeals Chambers each have two magistrates⁵⁶ 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.⁵⁷ 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.⁵⁸ The justices of the peace are citizens elected by the Supreme Court of Justice for a two-year term.⁵⁹ They must be lawyers or graduates of juridical science faculties.⁶⁰ Justices of the peace resolve civil and commercial cases where the amount of money in question is small,⁶¹ and they try certain penal matters as specifically designated by the law.⁶²

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.⁶³ Only the judicial branch can impose punishment,⁶⁴ with the exception of military courts.⁶⁵ Laws may not have retroactive effect, except in matters of public order and criminal matters when they favor the defendant.⁶⁶ Everyone has access to the justice system, free of charge.⁶⁷

In El Salvador, the Attorney General's Office is charged with controlling the exercise of public power and with defending society's interests.⁶⁸ This body consists of the attorney general, the public defender, and the human rights ombudsman,⁶⁹ all of whom are appointed by the Legislative Assembly.⁷⁰

The attorney general defends the interests of the state and society in the courts. He or she brings legal actions on his or her own initiative or when a complaint is filed by a party in defense of legality, represents the state in contracts involving acquisition of property, and assures that state concessions of property are legal.⁷¹ The human rights ombudsman promotes respect for human rights through the following means: investigations of human rights violations throughout the country; assistance to victims of human rights violations; oversight of the conduct of public administration; the performance of inspections; the issuance of opinions about proposed legislation; and the drafting and publication of reports.⁷² The Public Defender provides assistance and legal representation to poor people, and protects the well-being of minors, the disabled, and the family.⁷³

B. THE STRUCTURE OF REGIONAL GOVERNMENT

Regional and local governments

El Salvador is divided into departments, whose number and borders are established by law.⁷⁴ Each department has a governor, nominated by the executive branch,⁷⁵ whose function is political administration.⁷⁶ The departments are divided into municipalities, which are governed by Municipal Councils and elected through universal suffrage.⁷⁷ 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.⁷⁸ The municipalities are independent in administrative and budgetary matters.⁷⁹ 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.⁸⁰

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.⁸¹ Any citizen can petition the Supreme Court to assess the constitutionality of a law, decree, or regulation.⁸² 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.⁸³ However, custom constitutes a source of national law in cases where the law gives it such status.⁸⁴

International sources of law

Numerous international human rights treaties recognize and promote women's rights. These treaties legally commit

governments to impose measures to advance and protect these rights. The international treaties ratified by El Salvador are a source of law, and take precedence over other laws, but are subject to the Constitution.⁸⁵ The government cannot enter into treaties that restrict or affect the Constitution.⁸⁶ The Assembly must ratify all treaties in order for them to have legal effect.⁸⁷ Once the Assembly ratifies the treaty, it becomes a law of the Republic.⁸⁸ The Courts have the authority to declare a treaty unconstitutional, following the same procedure used for declaring laws unconstitutional.⁸⁹

El Salvador is a member state of the United Nations and the Organization of American States and, as such, it has signed and ratified the majority of relevant treaties of the universal⁹⁰ and the Inter-American systems for the protection of human rights.⁹¹ Specifically, it has ratified treaties related to women's rights, such as the International Convention on the Elimination of All Forms of Discrimination Against Women⁹² and the Inter-American Convention for the Prevention, Punishment and Eradication of Violence Against Women ("Convention of Belém do Pará").⁹³

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.⁹⁴ However, statistics reveal that the public health situation there is alarming: 45% of the population does not have access to potable water.⁹⁵ Of this number, 85% are from rural areas and 13% live in cities.⁹⁶ Twenty-five percent of the population does not have access to latrines.⁹⁷ Concerning women's health, in 1994, only 60% of pregnant women received prenatal care⁹⁸ and 43% of pregnant women suffered some degree of anemia.⁹⁹

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.¹⁰⁰ 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.¹⁰¹ 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.¹⁰²

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.¹⁰³ It offers medical assistance and sociomedical services to the population through its technical sections and its regional, departmental, and local health agencies.¹⁰⁴ It is the duty of the MPHSA to develop a national program designed to provide general and specialized medical services to the population.¹⁰⁵ It is also responsible for coordinating and standardizing the procedures of all medical facilities.¹⁰⁶

The Salvadoran Social Security Institute ("SSSI")¹⁰⁷ is in charge of managing the country's social security system.¹⁰⁸ 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.¹⁰⁹ It offers medical, surgical, pharmaceutical, dental, hospital, and laboratory services¹¹⁰ to insured workers, their spouses and registered partners, widows, their children, and unemployed or disabled workers.¹¹¹

Cost of health services

The state provides funds to finance the health services provided by MPHSA,¹¹² through an annual allocation that comes from the national budget.¹¹³ For 1996, public health expenditure was 7.3% of the total central government's expenditures.¹¹⁴ The services provided by SSSI are primarily funded through contributions that the law requires from employers, workers, and the state.¹¹⁵

The Constitution establishes that the state has a duty to offer free care to the sick who cannot afford to pay.¹¹⁶ 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.¹¹⁷

Regulation of health care providers

The Health Code¹¹⁸ and the Penal Code¹¹⁹ 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,¹²⁰ through the Superior Public Health Council (the "Council")¹²¹ and the Professional Supervision Board (the "Supervision Board").¹²² These bodies are charged with authorizing individuals to practice a health profession.¹²³

The Health Code contains norms of binding character for professionals, technicians, auxiliaries, hygienists, and assistants who work in the health sector.¹²⁴ 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.¹²⁵ 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.¹²⁶ The following acts are considered serious infractions against health:¹²⁷ causing a person’s death; causing temporary or permanent harm or impairment through error, negligence, inexcusable abandonment, or malice during professional practice;¹²⁸ breach of patient confidentiality;¹²⁹ failing to provide appropriate medical treatment;¹³⁰ suggesting or proceeding with surgery when the patient could be treated by medication;¹³¹ 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.¹³² It is classified as a minor infraction¹³³ to fail to conduct a serological examination for syphilis in any pregnant woman.¹³⁴ Other minor infractions are principally related to care and hygiene in the use and handling of medical instruments in health establishments.¹³⁵

Medical professionals who violate any regulation, prohibition, or duty established in the Medical Code are sanctioned by the Council and the respective Supervision Boards.¹³⁶ The disciplinary sanctions that may be imposed on health professionals are a private verbal warning;¹³⁷ a written warning;¹³⁸ a fine, the amount of which shall depend on the seriousness of the infraction;¹³⁹ suspension from professional practice for up to five years;¹⁴⁰ and the temporary or permanent closing of the health establishment.¹⁴¹ The Penal Code regulates punishments in cases of perpetration of crimes derived from practicing the profession. Performing an abortion,¹⁴² injuring a patient,¹⁴³ or causing a patient’s death¹⁴⁴ 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,¹⁴⁵ and it is the duty of the state and the general public to watch over its preservation and restoration.¹⁴⁶

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.¹⁴⁷ The government is responsible for controlling the quality of chem-

ical, pharmaceutical, and veterinary products,¹⁴⁸ and must establish supervisory bodies to ensure quality.¹⁴⁹

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,¹⁵⁰ and the low prevalence of contraception.¹⁵¹ The population growth rate was 2.5% for the period 1990 to 1995,¹⁵² which is one of the highest rates in Latin America.¹⁵³ Furthermore, the civil war and related political violence increased migration to the cities and resulted in large numbers of internally displaced people.¹⁵⁴ Growth is disorderly, and more than 1 million Salvadorans have emigrated in the last decade,¹⁵⁵ 50% of which were women.¹⁵⁶

Population laws and policies

The Constitution provides that the state must guarantee its inhabitants enjoyment of health, culture, economic well-being, and social justice.¹⁵⁷ 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.”¹⁵⁸

The National Population Policy (“NPP”),¹⁵⁹ devised by the government in 1993, is contained within the Plan for Economic and Social Development,¹⁶⁰ which seeks economic growth and improvement of quality of life for the population, especially for the poorest people.¹⁶¹ 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.¹⁶² 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.¹⁶³ To achieve these objectives, the principle courses of action are to provide education, information, and communication on population matters,¹⁶⁴ to improve health and nutrition,¹⁶⁵ to provide family planning,¹⁶⁶ and to seek a better distribution of displaced populations.¹⁶⁷

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.¹⁶⁸ 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.¹⁶⁹

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 ("NWP").¹⁷⁰ The specific objectives of the NPP in matters of reproductive health are to protect pregnant women and nursing women¹⁷¹ and to supply them with nutritional supplements.¹⁷² It establishes measures aimed at enlarging the scope of health services and emphasizes maternal-infant care.¹⁷³ It also proposes to increase the efficiency and effectiveness of health care services, with emphasis on maternal-infant care.¹⁷⁴ 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.¹⁷⁵ 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.¹⁷⁶ It promotes the use of additional family planning methods and strategies in urban areas.¹⁷⁷ 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.¹⁷⁸

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.¹⁷⁹ 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.¹⁸⁰ In family planning matters, the NWP seeks to improve women's access to services.¹⁸¹ 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.¹⁸²

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").¹⁸³ These entities are charged with carrying out the National Family Planning Program.¹⁸⁴ 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.¹⁸⁵ 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.¹⁸⁶

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.¹⁸⁷ These figures were higher among married, separated, widowed, or divorced women (99.5%) and lower (94.4%) among single women.¹⁸⁸ The better known forms were sterilization (93%), oral contraceptives (90.8%), and condoms (88.2%).¹⁸⁹ In 1993, 53.3% of married or cohabiting women of reproductive age used some form of contraception.¹⁹⁰ However, only 2.5% of single women and 27.9% of separated, divorced, or widowed women use contraceptives.¹⁹¹ Women who work outside the home (20% more than housewives),¹⁹² those with some higher education,¹⁹³ those with more children,¹⁹⁴ and those who live in urban areas¹⁹⁵ 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, 2.1% use the IUD, 2.1% use condoms, 3.6% use injectable contraceptives, 3% use natural methods (rhythm/billings), and 2.4% use other methods.¹⁹⁶

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),¹⁹⁷ while the increase from 47.1% in 1988 to 53.3% in 1993 was due to increased prevalence of temporary methods.¹⁹⁸

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.¹⁹⁹ There are no legal restrictions on the use of contraceptives. The Constitution and the Health Code²⁰⁰ 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 MPHSA²⁰¹ through the Quality Control Laboratory.²⁰² In cases where a product or device does not comply with legal requirements, the Superior Public Health Council²⁰³ will deny authorization for its distribution.²⁰⁴ Only pharmacies and authorized trade establishments can sell or dispense the above-mentioned products.²⁰⁵

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%).²¹⁰ Despite its popularity as a method of family planning, there are no laws or policies establishing procedures or requirements for obtaining surgical sterilization.

D. ABORTION

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 Code's 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 consent²¹⁶ or without it"²¹⁷ 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 per-

formed 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 abortion²²⁹ is also penalized by six months to two years imprisonment for the person who caused the abortion.²³⁰

The revised Penal Code now contains new crimes called "illegal sale of abortifacents"²³¹ and "advertisement of means to obtain an abortion."²³² Those that are convicted of these crimes receive punishments of detention for fifteen to twenty-five weekends 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 MPHSA 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 MPHSA 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 MPHSA.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 law

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 as 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 couple²⁸² as well as the same right to inherit from one another.²⁸³ To enjoy these rights, a prior judicial finding of the existence of the domestic partnership is required.²⁸⁴ This judicial finding is obtained when one of the partners dies or when the union is dissolved.²⁸⁵ The opportunity to request legal recognition of the union expires one year after the union is dissolved or when one of the partners dies.²⁸⁶

Divorce and custody law

Divorce is the dissolution of the matrimonial bond decreed by a judge.²⁸⁷ 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.²⁸⁸ The

court may find life together is intolerable when there is serious or continuing noncompliance with matrimonial duties or evident deplorable conduct by either of the spouses.²⁸⁹ The application of this cause for divorce to particular circumstances is left to the discretion of the judge.²⁹⁰ Only a spouse who was not at fault in the events that made life together intolerable may file for divorce.²⁹¹

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.²⁹² 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.²⁹³ In the case of a contested divorce, if there is no agreement between the spouses, the judge will establish the conditions of separation.²⁹⁴ 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.²⁹⁵ 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.²⁹⁶

B. ECONOMIC AND SOCIAL RIGHTS

Property rights

The Constitution of El Salvador guarantees the right to private property²⁹⁷ and economic freedom of all persons,²⁹⁸ as long as the exercise of those rights does not conflict with societal interests.²⁹⁹ Despite the lack of *de jure* discrimination against women, in practice they do not have equal access to land.³⁰⁰ In 1994, only 10.7% of rural lands designated for former guerrilla combatants³⁰¹ was registered under women’s names,³⁰² even though 26.23% of Salvadoran heads of families were women.³⁰³

Labor rights

Work is a social function protected by the State.³⁰⁴ The Constitution establishes the principal of equality in remuneration for equal work³⁰⁵ and prohibits employment discrimination on the basis of sex, race, creed, or nationality.³⁰⁶ It also establishes the right of the female worker to enjoy paid leave before and after a birth³⁰⁷ and to keep her job.³⁰⁸ Furthermore, it establishes the employer’s duty to establish and maintain nurseries and child-care facilities.³⁰⁹

The Labor Code³¹⁰ prohibits the employer from discriminating in employment on account of race, color, or sex.³¹¹ 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 property³¹⁹ 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. Its 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 Defenders 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 carried out 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.”³⁵⁶ 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.³⁵⁷

Domestic violence

In El Salvador, violence within the family is regulated by the Law Against Violence Within the Family and by the Penal Code.³⁵⁸ The former establishes the state’s duty to prevent, punish and eradicate violence within the family.³⁵⁹ To this end, a special division was created in the National Civil Police to investigate and process complaints of violence within the family.³⁶⁰ 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.”³⁶¹ Three types of family violence are distinguished: psychological violence,³⁶² physical violence,³⁶³ and sexual violence.³⁶⁴ 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.³⁶⁵ 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.³⁶⁶ The aggressor is required to undergo specialized psychological and psychiatric treatment relating to violence within families.³⁶⁷ In cases where there is any violation of the measures ordered by the judge, a fine of five to twenty days’ wages will be imposed.³⁶⁸ Any person who has knowledge of an act of violence within the family can file a complaint.³⁶⁹ The family courts and the justices of the peace are legally competent to hear complaints of violence within the family.³⁷⁰

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.”³⁷¹

The applicable sentence is six months to one year in prison.³⁷² 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.³⁷³ 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 15,³⁷⁴ 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.³⁷⁵ 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.³⁷⁶ 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.³⁷⁷ 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.³⁷⁸ Those under 18 years of age are legally permitted to marry if they already have a child together or if the woman is pregnant.³⁷⁹ In such cases, the express consent of the parents is required.³⁸⁰ 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.³⁸¹ In case of a difference of opinion, the parent who favors the marriage prevails.³⁸² 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.³⁸³ Consent can also be denied if neither of the two seeking to marry has economic means sufficient to carry out the responsibilities of marriage.³⁸⁴ When the denial is unjustified, the judge can authorize the marriage of the minors upon their request.³⁸⁵

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.³⁸⁶ Rape, whether vaginal or anal, of a minor less than 12 years old is punished by ten to fourteen years’ imprisonment.³⁸⁷ 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.³⁸⁸ “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.³⁸⁹ The above-described acts carry sentences of six to eight years in prison, or ten to fourteen years.³⁹⁰

Engaging in carnal access with a minor between 14 and 16 years of age through deceit is known as statutory rape.³⁹¹ The punishment is one to three years of imprisonment.³⁹² 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.³⁹³ 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.³⁹⁴ Sexual acts other than carnal access that are committed through deception on a person between 14 and 16 years³⁹⁵ are punished by a sentence of six months to two years in prison.³⁹⁶ 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.³⁹⁷

Corruption of minors less than 18 years old “through acts other than carnal access,” even though the victim consents to

participate in such acts,³⁹⁸ is penalized by imprisonment for two to six years.³⁹⁹ 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.⁴⁰⁰

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.”⁴⁰¹ The Ministry of Education, in its curriculum for secondary education, incorporates the subject of sexuality into the curriculum for students at this level.⁴⁰² 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.⁴⁰³

ENDNOTES

1. Political Constitution of the Republic of El Salvador, with all its reforms, entry into effect Dec. 20, 1983, art. 84. Publishers, Lis San Salvador, 1996. [hereinafter EL SAL. CONST.].
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."
3. WORLD ALMANAC BOOKS, THE WORLD ALMANAC AND BOOK OF FACTS 1997, at 761 (1996).
4. *Id.*
5. *Id.*, at 762.
6. *Id.*
7. *Id.*
8. *Id.*
9. *Id.*
10. UNITED STATES DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1996, at 442 (1997).
11. *Id.*
12. *Id.*
13. EL SAL. CONST., *supra* note 1.
14. *Id.*, art. 85.
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. 131, cl. 37.
31. *Id.*
32. *Id.*
33. *Id.*, art. 121.
34. *Id.*
35. *Id.*, art. 125.
36. *Id.*, art. 238.
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 Judiciary Council.
42. *Id.*, arts. 133.
43. *Id.*, art. 134.
44. *Id.*, art. 135.
45. *Id.*, arts. 135 and 136.
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*, *Digestas*, *Novellae*, 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, Jun. 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: Usulután, Cojutepeque, San Vicente, and Nueva 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. 216.
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.*
74. *Id.*, art. 200. El Salvador is divided into fourteen departments. THE WORLD ALMANAC, *supra* note 3, at 761.
75. *Id.*, art. 200.
76. *Id.*
77. *Id.*, art. 80.
78. *Id.*, art. 202.
79. *Id.*, art. 203.
80. *Id.*, art. 204.
81. *Id.*, arts. 246 and 144.
82. *Id.*, art. 183.
83. Organic Judicial Law, art. 24.
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, 1417, 1626, 1728, 1732, 1774, and 1877.
85. EL SAL. CONST., art. 144.
86. *Id.*, art. 146.
87. *Id.*, art. 131, cl. 7.
88. *Id.*, art. 144.
89. *Id.*, art. 149.
90. El Salvador has signed and ratified among others the following: International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, 993 U.N.T.S. 3 (*entry into force* Sept. 3, 1976) (ratified by El Salvador on Nov. 30, 1979); International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171 (*entry into force* Mar. 23, 1976) (ratified by El Salvador on Nov. 30, 1979); Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, 28 I.L.M. 1448 (*entry into force* Sept. 2, 1990) (ratified by El Salvador on Jun. 10, 1990). UNITED NATIONS, MULTILATERAL TREATIES DEPOSITED WITH THE SECRETARY GENERAL: STATUS AS AT DEC. 31, 1995, ST/LEG/SER.E/14, at 95, 111, 121 and 198.
91. Among the treaties from the Inter-American system signed and ratified by the government of El Salvador are: American Convention on Human Rights, signed Nov. 22, 1969, 9 I.L.M. 101 (*entry into force* Jul. 18, 1978) (ratified by El Salvador on Jun. 23, 1978); Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights - "Protocol of San Salvador", signed Nov. 17, 1988 O.A.S.T.S. 69 (1988) (ratified by El Salvador on Jun. 6, 1995); Inter-American Convention for the Prevention and Punishment of Torture, *adopted* Feb. 28, 1987 OEA/SER.LV/IL92 doc. 31 rev. 3 May 3, 1996 (ratified by El Salvador on Dec. 5, 1994).
92. Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Mar. 1, 1980, 1249 U.N.T.S. 13 (*entry into force* Sep. 3, 1981) (signed by El Salvador on Nov. 14, 1980 and ratified on Aug. 19, 1981). Multilateral Treaties, *supra* note 90, at 95, 111, 121 and 198.
93. Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, adopted June 9, 1994, 33 ILM 1534 (*entry into force* Mar. 5, 1995) (signed by El Salvador on Aug. 14, 1995 and ratified on Nov. 13, 1995).
94. EL SAL. CONST., art. 65.
95. THE GOVERNMENT OF EL SALVADOR, INFORME NACIONAL PARA LA CONFERENCIA REGIONAL PREPARATORIA SOBRE LA MUJER A CELEBRARSE EN ARGENTINA, SEPTIEMBRE 1994 [NATIONAL REPORT FOR THE PREPARATORY REGIONAL CONFERENCE FOR WOMEN IN

- THE REPUBLIC OF ARGENTINA, SEPT. 1994], PRELIMINARY AND PREPARATORY CONSULTATIVE DOCUMENT FOR THE FOURTH WORLD CONFERENCE ON WOMEN, BEIJING, CHINA, at 8 (1994).
96. UNITED NATIONS, *THE WORLD'S WOMEN 1995: TRENDS AND STATISTICS*, at 53 (1995).
97. NATIONAL REPORT, *supra* note 95, at 8.
98. *Id.*, at 7.
99. *Id.*, at 15.
100. ELSA CABELLERO, NATIONAL DEVELOPMENT FOUNDATION, LA REFORMA DE SALUD: ENTRE LA DESCENTRALIZACIÓN Y LA PRIVATIZACIÓN [HEALTH REFORM: BETWEEN DECENTRALIZATION AND PRIVATIZATION], at 71 (1995).
101. *Id.*, at 71.
102. *Id.*, at 71.
103. HEALTH CODE, Decree No. 955, May 11, 1988 (updated until Mar. 27, 1996), art. 193.
104. *Id.*, art. 193.
105. *Id.*, art. 194.
106. *Id.*, art. 196.
107. Social Security Law, Decree No. 1263, Dec. 3, 1953, art. 4.
108. EL SAL. CONST., art. 50.
109. Social Security Law, art. 2.
110. *Id.*, art. 48.
111. Regulation for the Application of the Social Security Regime, Decree No. 37, Sep. 25, 1968, art. 41.
112. HEALTH CODE, arts. 14, cl. p, and 18 cl. a.
113. EL SAL. CONST., art. 167, cl. 3.
114. UNITED NATIONS POPULATION FUND (UNFPA), *THE STATE OF THE WORLD POPULATION 1997*, at 72 (1997).
115. Social Security Law, art. 25.
116. EL SAL. CONST., art. 65.
117. *Id.*, art. 66.
118. Approved by Decree No. 955, published in the Official Bulletin (Vol. 299 (86)), May 11, 1988.
119. PENAL CODE, Decree No. 1030, Apr. 26, 1997. This Code entered into effect Jan. 20, 1998. *Id.*, art. 409 [hereinafter Revised penal code].
120. HEALTH CODE, art. 5.
121. *Id.*, arts. 7, 8, 10, and 11. It is a "public law corporation" and, like the Supervision Boards, enjoys independence in its functions and decisions. It is linked to other bodies through the MPHSA and consists of fourteen members, two elected by the executive branch and three representatives from each of the following professional associations: medical, dentistry, chemical-pharmaceutical, and veterinary. Each member is elected for two years by his or her association's general assembly convoked for that purpose.
122. *Id.*, arts. 5, 9, 10, and 11. Legal bodies that control the work of diverse health professionals are denominated as such. There is one for every professional branch. For example, a Supervision Board for the Medical Profession and one for the Nursing Profession. They are composed of five scholars from the profession that is being regulated and are elected in a general assembly of professionals from each association formed for this purpose by the Superior Public Health Council for a period of two years.
123. *Id.*, arts. 23 and 30.
124. *Id.*, art. 33.
125. *Id.*
126. *Id.*
127. *Id.*, art. 279.
128. *Id.*, art. 284, cl. 1.
129. *Id.*, cl. 2.
130. *Id.*, cl. 3.
131. *Id.*, cl. 4.
132. *Id.*, cl. 15.
133. *Id.*, art. 279.
134. *Id.*, art. 284, cl. 30.
135. *Id.*, art. 286.
136. *Id.*, arts. 279, 289, 290, 291, and 292.
137. *Id.*, arts. 280 and 287, cl. a.
138. *Id.*, cl. b.
139. *Id.*, arts. 281 and 287, cl. c.
140. *Id.*, arts. 282 and 287, cl. c.
141. *Id.*, arts. 283 and 287, cl. d.
142. Revised PENAL CODE, art. 135. For more detail about punishment for abortion, see section on abortion.
143. *Id.*, art. 146. 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.
144. *Id.*, art. 132. The punishment is two to four years in prison and professional disqualification for the same period.
145. EL SAL. CONST., art. 65.
146. *Id.*
147. HEALTH CODE, art. 294. Also see a more detailed description of supervisory bodies in the previous section and the respective footnotes.
148. EL SAL. CONST., art. 69.
149. *Id.* For a more detailed discussion of bodies responsible for quality control of medicines and contraceptives, see the section on legal status of contraception.
150. NATIONAL POPULATION COMMISSION, POLÍTICA NACIONAL DE POBLACIÓN DE EL SALVADOR [NATIONAL POPULATION POLICY OF EL SALVADOR], at 11 (1993).
151. *Id.*
152. *Id.*
153. *Id.*, at 12.
154. *Id.*, at 11.
155. *Id.*
156. *THE WORLD'S WOMEN 1995*, *supra* note 96, at 65.
157. EL SAL. CONST., art. 1.
158. *Id.*, art. 118.
159. See footnote 149.
160. NATIONAL POPULATION POLICY, *supra* note 150, at 7.
161. *Id.*, p. 10.
162. *Id.*, at 20.
163. *Id.*, at 21.
164. *Id.*, at 25.
165. *Id.*, at 26.
166. *Id.*, at 27.
167. *Id.*, at 28.
168. *Id.*, at 15.
169. *Id.*, at 9 and 10.
170. SALVADORAN INSTITUTE FOR WOMEN'S DEVELOPMENT (SIWD), NATIONAL WOMEN'S POLICY (1996).
171. NATIONAL POPULATION POLICY, *supra* note 150, at 21.
172. *Id.*
173. *Id.*, at 26.
174. *Id.*
175. *Id.*, at 27.
176. *Id.* The law does not define the term "vulnerable groups."
177. *Id.*
178. *Id.*
179. Legislative Decree No. 644, February 1996, arts. 1-3. SIWD was created in 1996 as an independent body, with its own legal status and assets, with the aim of designing public policies to improve women's conditions and establish gender equality in the country.
180. NATIONAL WOMEN'S POLICY, *supra* note 170, at 29.
181. *Id.*
182. *Id.*, at 30.
183. SALVADORAN DEMOGRAPHIC ASSOCIATION (SDA), 35 ANIVERSARIO. MAYO 1962-1997 [35TH ANNIVERSARY: MAY 1962-1997], at 1 (1997). The SDA is a private service organization, founded in 1962, dedicated to educating and informing the population on responsible parenthood. It also designs and implements programs that offer sexual and reproductive health and family planning services.
184. SALVADORAN DEMOGRAPHIC ASSOCIATION (SDA), with the participation of the Consultative Committee consisting of: MPHSA, THE MINISTRY FOR PLANNING AND COORDINATION OF ECONOMIC AND SOCIAL DEVELOPMENT, (MIPLAN), STATISTICS AND CENSUS DIRECTIVE, (SCD), SALVADORAN SOCIAL SECURITY INSTITUTE (SSSI), THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID/EL SALVADOR), ENCUESTA NACIONAL DE SALUD FAMILIAR [NATIONAL FAMILY HEALTH SURVEY], at 80 (1994).
185. *Id.*
186. *Id.*, arts. 73 and 74.
187. *Id.*, at 53.
188. *Id.*
189. *Id.*
190. *Id.*, at 54.
191. *THE WORLD'S WOMEN 1995*, *supra* note 96, at 91.
192. NATIONAL FAMILY HEALTH SURVEY, *supra* note 184, at 62.

193. *Id.*, at 75.
 194. *Id.*, at 62.
 195. *Id.*, at 75.
 196. *Id.*, at 79.
 197. *Id.*, at 71.
 198. *Id.*, at 75.
 199. NATIONAL POPULATION POLICY, *supra* note 150, at 27.
 200. Approved by Decree No. 955, May 11, 1988.
 201. HEALTH CODE, art. 249.
 202. *Id.*, art. 243.
 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 184, 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. 133.
 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. 374.
 235. NATIONAL REPORT, *supra* note 95, at 57.
 236. *Id.*
 237. *Id.*, p. 58.
 238. HEALTH CODE, art. 154.
 239. *Id.*
 240. *Id.*, art. 131.
 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.
 250. Norma Virginia Guirola de Herrera Institute for Women's Studies ("CEMUJER"), at 1-2 (inter-institutional communiqué, Aug. 22, 1997, on file with CRLP).
 251. EL SAL. CONST., art. 3.
 252. *Id.*
 253. ANDEAN COMMISSION OF JURISTS AND MANUELA RAMOS MOVEMENT, INSTRUMENTOS INTERNACIONALES DE PROTECCIÓN DE LOS DERECHOS DE LA MUJER [INTERNATIONAL INSTRUMENTS FOR THE PROTECTION OF WOMEN'S RIGHTS], at 105 and 108 (1997). El Salvador is a party to, among others: The Inter-American Convention on the Nationality of Women, *adopted* Dec. 26, 1933, O.A.S.T.S. 4 (*entry into force* Aug. 29, 1934) (ratified by El Salvador on June 14, 1936) and the Inter-American Convention on the Granting of Civil Rights to Women, *adopted* May 2, 1948, O.A.S.T.S. 23 (ratified by El Salvador on Mar. 27, 1951).
 254. CEMUJER, *supra* note 250, at 3.
 255. EL SAL. CONST., art. 32.
 256. *Id.*
 257. *Id.*
 258. FAMILY CODE, Decree No. 677, Nov. 22, 1993.
 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. 32.
 279. FAMILY CODE, art. 118.
 280. *Id.*
 281. *Id.*, art. 119.
 282. *Id.*, art. 120.
 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. 113.
 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, Jun. 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.*
- 324 NATIONAL REPORT, *supra* note 95, at 43.
- 325 *Id.*, at 44.
- 326 *Id.*, at 48.
- 327 *Id.*, at 47.
- 328 *Id.*, at 37.
- 329 Legislative Decree No. 644, Feb., 1996.
- 330 *Id.*, art. 1.
- 331 *Id.*
- 332 *Id.*, art. 3.
- 333 NATIONAL WOMEN'S POLICY, *supra* note 170, at 6.
- 334 *Id.*, at 16.
- 335 *Id.*, at 18.
- 336 *Id.*, at 24.
- 337 *Id.*, at 31.
- 338 *Id.*, at 35.
- 339 *Id.*, at 43.
- 340 Dr. Robert Mansferrer Legal Medical Institute (on file with CRLP).
- 341 *Id.*
- 342 Complaints presented to the "Casa Morada de la Mujer," CEMUJER, located in the San Salvador metropolitan area (on file with CRLP).
- 343 Revised penal code, Tit. IV, Ch. I of Special Part, arts. 158 and 162.
- 344 *Id.*, art. 158.
- 345 *Id.*
- 346 *Id.*, art. 160.
- 347 *Id.*
- 348 *Id.*, second ¶.
- 349 *Id.*, art. 162, cl. 1.
- 350 *Id.*, cl. 2.
- 351 *Id.*, cl. 5.
- 352 *Id.*, cl. 6.
- 353 *Id.*, art. 174.
- 354 Superseded PENAL CODE, art. 196.
- 355 *Id.*
- 356 Revised PENAL CODE, art. 165.
- 357 *Id.*, third ¶.
- 358 Law Against Violence Within the Family, Decree No. 902, Nov. 28, 1996.
- 359 *Id.*, art. 6.
- 360 *Id.* The division created is called "The Division of Public Security in the Family Department."
- 361 *Id.*, art. 3.
- 362 *Id.* Psychological violence is defined as all actions or omissions whose purpose is to "control or degrade the actions, behavior, beliefs and decisions of other people, through intimidation, manipulation, direct or indirect threat, humiliation, isolation or any other conduct or omission that causes damage to mental health, self-determination, comprehensive development and personal opportunities."
- 363 *Id.* Physical violence is defined as "actions, behavior or omissions that threaten or wound the physical integrity of a person."
- 364 *Id.* Sexual violence is defined as "actions that force a person to engage in physical or verbal sexual contact, or to participate in such acts, through force, intimidation, coercion, blackmail, bribes, manipulation, threat or other mechanisms that nullify or limit personal free will. It is also considered sexual violence when a person is forced to carry out these acts with third persons."
- 365 *Id.*, art. 7.
- 366 *Id.*
- 367 *Id.*, art. 8.
- 368 *Id.*
- 369 *Id.*, art. 13.
- 370 *Id.*, art. 20.
- 371 Revised PENAL CODE, art. 200.
- 372 *Id.*
- 373 *Id.*, art. 375.
- 374 THE WORLD'S WOMEN 1995, *supra* note 156, at 27.
- 375 *Id.*, at 32.
- 376 NAPOCCO, Statistics and Census 1992 (on file with CRLP).
- 377 NATIONAL FAMILY HEALTH SURVEY, *supra* note 184, at 54.
- 378 *Id.*, at 65.
- 379 FAMILY CODE, art. 14.
- 380 *Id.*, art. 18.
- 381 *Id.*
- 382 *Id.*
- 383 *Id.*, art. 19.
- 384 *Id.*
- 385 *Id.*
- 386 Revised PENAL CODE, Tit. IV, Chs. I-IV.
- 387 *Id.*, art. 159.
- 388 *Id.*, art. 12.
- 389 *Id.*, art. 160.
- 390 *Id.*
- 391 *Id.*, art. 163.
- 392 *Id.*
- 393 *Id.*
- 394 *Id.*, art. 165.
- 395 *Id.*, art. 166.
- 396 *Id.*
- 397 *Id.*, art. 164, second ¶.
- 398 *Id.*, art. 167.
- 399 *Id.*
- 400 *Id.*, art. 168.
- 401 EL SAL. CONST., art. 55.
- 402 MINISTRY OF EDUCATION, NATIONAL EDUCATION DIRECTION, REFORMA EDUCATIVA EN MARCHA. EDUCACIÓN MEDIA [EDUCATION REFORM IN PROCESS, MEDIA EDUCATION] (1996).
- 403 *Id.*, at 239.