

El Salvador & draconian anti-abortion law: where women are thrown into jail for losing a baby

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When Mirna Ramírez gave birth two months early, she was detained by the police, accused of attempted murder and jailed for 12 years. In El Salvador, where a draconian anti-abortion law holds sway, her story is an all too familiar one.

"It's hard to talk about," says Mirna Ramírez softly as she begins to explain why she spent 12 and a half years in prison. "I was put in jail because I had a premature birth and they accused me of an abortion."

The 48-year-old mother, from San Salvador, has been free for a year. But she is still scarred by what she feels is the injustice of arguably the most draconian anti-abortion law in the world.

Ramírez was 34 years old and seven months pregnant when she felt a pain and went to the bathroom. "That's when it [the baby] came out," she says, recalling how a neighbour came to help her before wrongly denouncing her to the authorities. "She said I wanted to kill my baby. I thought she was my friend and she'd tell the truth and help me, but it was the opposite."

An hour later, the police arrived and took her to a detention centre. "I was still bleeding," she recalls. "It's a miracle I'm alive. I received no medical attention. It was like a nightmare. I never imagined I'd go to prison."

But she did. Even though her baby survived, she was accused of attempted murder because the neighbour claimed the child had been conceived with another man during an affair. After just five minutes with her state-appointed defence lawyer, she was sentenced to 15 years.

Ramírez – whose full name is not revealed here because of the stigma associated with such cases – was not alone. Civil rights groups say 17 women in El Salvador have been wrongfully imprisoned for miscarriages [1]. Countless more have been jailed for having abortions.

While several other countries in the region have relaxed their anti-abortion laws, El Salvador has moved backwards [2]. In 1973, its criminal code permitted the termination of pregnancies in cases of rape, congenital foetal defects or when the mother's life was at risk. This, though, was superseded by a revised constitution in which article one stated that human beings come into existence from the moment of conception.

As a result, abortion – or miscarriages treated as suspected abortions – can now be regarded as murder, which can carry a 40-year sentence.

That does not stop abortions taking place in secret. Citing health ministry figures, Amnesty said that almost 20,000 abortions between 2005 and 2008, but NGOs believe this is an underestimate.

Hundreds of women are believed to die as a result of complications. Those who are caught are imprisoned. The health and legal risks of clandestine abortions are felt disproportionately by poor communities.

Many women are illiterate and their knowledge of reproduction is often minimal. Very few have access to a lawyer when they are accused. While the rich fly to Miami to have their pregnancies terminated, poorer women can find themselves in court.

"Lamentably, there are women who go to hospital and find themselves in jail," says supreme court justice Doris Rivas Galindo. "This doesn't happen in private hospitals."

Appeals rarely reach the high court, says the judge, who has called for a public debate on whether to revise the law. She says she has seen cases where women had miscarriages and were then reported by neighbours who believed they had had an abortion.

No politician will touch this. Even the ministry of health has problems with it
Dr Guillermo Ortiz

In another trial, a young woman was charged with homicide after she had a stillborn child without realising she was pregnant. "I judged her innocent," Rivas says. "I don't think she should have been in court, but the attorney general insisted."

Lawyers claim police and prosecutors fail to distinguish between miscarriages and abortions. "They say women are responsible for care of the foetus," says Dennis Muñoz, who represents two imprisoned women. "There is a lot of ignorance and no intention to investigate. There's also religious dogma. I prove it's a miscarriage but the courts don't care."

He believes El Salvador's anti-abortion laws are the worst in the world because they presume guilt. "If a woman goes to a public hospital because she is bleeding and could die, they will first help her and then report the case to the police."

As well as breaking the medical code of doctor-patient confidentiality, he says this goes against the duty of care. In some cases, he says, women are handcuffed to their beds. "It's a form of torture. They don't care if it [miscarriage] was deliberate or spontaneous."

The medical profession is in a bind. Few doctors are willing to speak out. "Sometimes, it's sad to say, we have had women handcuffed to beds. Maybe a couple of cases a year," admits Guillermo Ortiz, a gynaecologist at the biggest public women's hospital in the country.

But he says doctors have little choice because they have a legal duty to report suspected crimes and, if they fail to do so, they can be accused of complicity. "We've had a couple of cases of doctors going on trial because they didn't notify the authorities about a possible abortion. Even though they were found innocent, it cost them time, money and appearances in the press," he says.

Even when the lives of pregnant women are at risk, he says, he has to advise them to continue the pregnancy until they are close to death. Two years ago, in the globally famous case of Beatriz – a 22-year-old woman who almost died because of her pregnancy with a foetus that lacked a brain – Ortiz was so desperate that he advised his patient to sue him. Even so, the magistrate refused to grant permission for a termination until the last possible minute.

Ortiz says Beatriz is still paying for the consequences of that delay with a renal disorder, respiratory problems and low blood pressure. "If we had acted promptly at 12 weeks, maybe she wouldn't have the renal problems."

But he and his colleagues continue to struggle with similar cases, some of which end with the death of the mother. "I had hoped Beatriz's case would change things but nothing happened. Sometimes I feel, 'What was the point?'" he laments. "No politician will touch this. Even the ministry of health has problems with it."

The main obstacle is the Catholic church, arguably the strongest institution in the country. With the Opus Dei sect in particular opposed to abortion, there is little debate on the issue. Although Pope Francis said this year that priests have the capacity to pardon women who have abortions [3], it will take a long time to shift attitudes in El Salvador. Polls show public opinion is strongly against any change in the law even in cases like those of Beatriz, or incestuous rape of minors.

"Life is sacred. You don't have the right to kill someone because someone else will suffer," says Carla de la Cayo, president of the Yes to Life Foundation, which offers shelters to pregnant women and then tries to dissuade them from abortions.

The hostility towards liberalisation was apparent among the congregation flocking out from Sunday mass at the San Salvador Cathedral. "It's absolutely unacceptable. Only God can decide when a life is taken and he calls you into his presence. Nobody else has the right to take a life," said Elsy de Jesus Cabrera, a 73-year-old woman. "People don't have values. Those who want an abortion are ignorant," claimed Claudia Henríquez, a T-shirt seller.

In this climate, there is often suspicion rather than sympathy for pregnant women who lose their babies.

Muñoz says that of the 17 cases of women imprisoned for miscarriages, only two have been released. Most of the rest are serving sentences of up to 40 years. Another six women are awaiting sentences.

One woman - who had wished to be known by her first name, Manuela - died in prison. She was the mother of two children when she was rushed to hospital after a stillbirth. The authorities presumed she was guilty of killing her baby because the child had been conceived out of wedlock. They sentenced her to 30 years in prison. After being convicted in 2008, Manuela was diagnosed with lymphatic cancer - which can cause miscarriages - and died two years later. The Inter-American Commission on Human Rights later ruled that she suffered an injustice [4], but the state has yet to respond or provide compensation to her two teenage children.

There was no pardon either for Ramírez, who served almost her full sentence. Now rebuilding her life as a chef, she says she has a good relationship with her teenage daughter, whom she was wrongly accused of trying to kill. She could meet her only intermittently while she was in prison.

"She knows I was in jail, but she doesn't know why, though she once asked me 'Why don't you get on with our neighbour?'" she says. "Sometimes I'm angry when I think how I have suffered. All I'd say is the law is so unfair."

Jonathan Watts, Latin America correspondent, in San Salvador

P.S.

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<https://www.theguardian.com/global-development/2015/dec/17/el-salvador-anti-abortion-law-premat-ure-birth-miscarriage-attempted-murder>

Footnotes

[1] <https://www.theguardian.com/global-development/2015/jan/22/el-salvador-pardons-woman-gu-adalupe-stillbirth-miscarriage-anti-abortion-laws>

[2] <https://www.theguardian.com/global-development/2014/apr/17/beatriz-case-resistance-el-salva-dor-abortion-law>

[3] <https://www.theguardian.com/world/2015/sep/04/pope-francis-abortion-boston-catholics>

[4] <https://www.reproductiverights.org/press-room/el-salvador-must-respond-to-charges-of-human-rights-violations-related-to-womans-imprisonment-under-abortion-ban>