GENERAL OVERVIEW OF THE COMMUNICATIONS ADDRESSED
BY THE UN SPECIAL PROCEDURES TO
EL SALVADOR BETWEEN 2014 AND 2017

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The Special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights. The system of Special Procedures covers all human rights: civil, political, economic, social and cultural. There are currently 44 thematic and 12 country mandates. These experts send communications to States in which they bring alleged violations or abuses to their attention. These documents can be sent by a single Special Rapporteur, Independent Expert or Working Group, but can also be sent as a joint communication regrouping various mandates concerned by the type of human rights violations in question.

Since 2011, the Special Procedures have been submitting joint reports during each regular session of the HRC on their communications to States. Unfortunately, these reports only index the number of communications sent and answers received, without condensing, country-specific, all the communications. Thus, they do not represent an actual report with analytical and functionable information and statistics that would clearly outline trends, patterns and key issues emerging from the large number of communications sent and the answers they received.

Therefore, this report seeks to address these issues by defining clear trends and provide a country-specific analysis of the communications sent to El Salvador since its last Universal Periodic Review in October 2014.

Statistics on the communications sent to El Salvador between 2014 and 2017:

Between El Salvador’s last Universal Periodic Review in October 2014, and the last communication with the country in May 2017, the Special Procedures sent 9 communications, among which 3 were left without answers.

Within each communication, several matters and topics are addressed:

Over 50% of the communications touched upon the issue of human rights defenders (5), and almost half of the communications concern violence against women (4) and discrimination against women in law and practice (4).

One third of the communications also addresses freedom of opinion and expression (3), freedom of peaceful assembly and of association (3), health (3) and torture (3).

On a slightly lower scale, 2 communications refer to summary executions, 2 are linked to enforced disappearances, 1 concerns the independence of judges and lawyers, 1 deals with sexual orientation and gender identity and 1 is related to disability.

Main issues addressed in each communication
ANALYSIS OF COMMUNICATIONS RECEIVED BY EL SALVADOR

1. 12 May 2015 (SLV1/2015) – Threats and harassment of families of victims of enforced disappearances

Oscar Oswaldo Leiva Mejía, Francisco Javier Hernández Gómez and José Fernando Choto Choto were last seen on 18 February 2014, when they were taken away and reportedly disappeared by the Fuerzas Armadas de El Salvador (FAES). After having denounced their disappearance to the national authorities, the victims’ relatives were subjected to threats and harassment by members of FAES and the Policía Nacional Civil (PNC). The apparent lack of action by the competent authorities, whose responsibility is to protect citizens against State agents’ abuses and arbitrariness, has raised deep concern from the Working Group on Enforced Disappearances who had already sent a letter regarding the disappearance of these three men.

(enforced or involuntary disappearances)


According to the government of El Salvador and based on information provided by the Policía Nacional Civil, the three men – along with two other young men who were later released – were stopped and questioned because they were mistaken for members of local gangs. After the family had filed the complaint, the investigations led to the arrest of 5 members of the Destacamento Militar No. 6 de Sonsonate, who were still on trial at the time of the government’s reply. The national police took measures to locate the 3 disappeared persons, but with no results. According to the government, the victims’ relatives who were interviewed by the relevant authorities expressed that they were not being subjected to threats or harassment by members of the armed forces.

2. 28 May 2015 (SLV2/2015) – Assassination of two defenders of the rights of persons with disabilities

This communication refers to the killings of Mr. Israel Antonio Quintanilla and, of his son, Mr. Carlos Alberto Quintanilla Zavala. Israel Quintanilla was the President of the Asociación de Lisiados de Guerra en El Salvador (ALGES) and was himself disabled due to the armed conflict. He disappeared together with his son on 1 May 2015, after participating in the International Workers’ Day march. The following day, ALGES reported their disappearance to the national police but on 4 and 5 May 2015, their bodies were found. Deep concern is expressed in relation to the potential link between the two men’s assassination and their work defending the rights of people with disabilities. The communication urges the State to hold those responsible accountable and to adopt the necessary measures to avoid the reoccurrence of violence against human rights defenders.

(human rights defenders, summary executions, freedom of association, disability)

Reply dated 27 July 2015 and 11 August 2015.

Replying to specific questions made in the communications, the government of El Salvador addressed, among other things, the investigation and the measures taken to protect human rights defenders. It indicated the various steps followed during the investigation phase and laid out the various national institutions working to promote human rights education. To the question on the measures taken to guarantee human rights defenders’ safety, the government replied listing the measures adopted to harsh penal consequences for those committing violence against human rights defenders. It also reminded the acts of public recognition related to the activity of human rights defenders.

2. 7 January 2016 (SLV3/2015) – Threats and harassment towards two human rights lawyers and their organization for being involved in a legal case against the former President

Mrs. Bertha de León and Mrs. Teresa Naves, human rights lawyers working for the Fundación de Estudios para la Aplicación de la Ley (FESPAD), filed a lawsuit against former President Flores Pérez.

In response, the Office of the Attorney General sent a letter to FESPAD threatening the bring a legal action against the association for disclosing sensitive information. In November 2015, Mrs. Naves and Mrs. De León were allegedly followed by unknown men, and on 17 November 2015 Mrs. Naves allegedly received a call threatening her and her family’s life.

(freedom of expression, human rights defenders, independence of judges and lawyers, freedom of association)

Communication SLV3/2015 was left unanswered.
3. **14 April 2016 (SLV1/2016) – Violation of women’s right to health following the spread of Zika virus**

Following the spread of Zika virus, the rapporteurs raised concerns in relation to women’s sexual and reproductive rights, in particular with respect to the risks incurred by pregnant women. Difficult access to contraception, emergency contraception, and the total ban on abortion, including in cases of serious fetal impairment due to the Zika virus, appear to violate international human rights standards. There are concerns over the rise of unsafe abortions due to the aforementioned factors.

The rapporteurs asked the government to provide additional information concerning the situation of women’s sexual and reproductive rights, especially in relation to the access to contraception in the context of the Zika crisis. They also requested information on the decriminalization of abortion, the ratification of the Optional Protocol of CEDAW and on the policies adopted in terms of prevention and sexual and reproductive health.

*(health, torture, violence against women, discrimination against women in law and practice)*

**Reply dated 6 July 2016**

The government acknowledges that the absolute prohibition of abortion – implemented since 1997 – limits women’s full enjoyment of their sexual and reproductive rights. In its response, the government laid out all the policies that it promoted to guarantee maternal health and sexual and reproductive education.

As far as the ratification of the Option Protocol of CEDAW is concerned, the government expresses its will to promote the process of ratification. In relation to the situation of women’s sexual and reproductive rights, especially regarding the access to contraception in the context of the Zika crisis, the Ministry of Health indicated that the government promoted various information campaigns and underlined its efforts guarantee access to the modern contraception. It provided data on women’s usage of the various contraceptive methods. The Minister of Health, Violeta Menjivar, also expressed her concern about the criminalization of abortion.

4. **14 July 2016 (SLV2/2016) – Detention of María Teresa Rivera after her release from prison following a miscarriage**

In 2011, Mrs. María Teresa Rivera was arrested and condemned to 40 years of prison on charges of “aggravated homicide” following a miscarriage she had due to obstetric complications. In 2015, the Human Rights Ombudsman declared that the national authorities violated Mrs. Rivera’s right to equality and non-discrimination, as well as her right to due process. According to the Ombudsman, they also violated her right to presumption of innocence and failed to demonstrate enough proof to find her guilty.

On 20 May 2016, Mrs. Rivera was released following a judge’s ruling according to which there was not enough evidence to support the charges against her. However, on 21 June 2016, the Office of the General Attorney filed an appeal against the judge’s decision. The rapporteurs requested the government to provide additional information on Mrs. Rivera’s case, including evidence. On a more general level, the rapporteurs requested information on the measures taken to prevent the imprisonment of women for obstetric emergencies. They also urged the State to provide information about *communication SLV1/2014*, regarding the situation of the 17 women currently incarcerated following charges of “aggravated homicide” due to abortions or miscarriages. This communication has yet to be answered.

*(discrimination against women in law and practice, health, torture, violence against women)*

**Communication SLV2/2016 was left unanswered**

5. **12 December 2016 (SLV3/2016) – Information received regarding the bill proposal to decriminalize abortion under certain legal grounds**

The rapporteurs welcomed the bill proposal, promoted by Mrs. Lorena Peña – President of the Legislative Assembly – seeking to reform the legislation on abortion in order to include four legal grounds on which an interruption of pregnancy may be permitted. The Special Procedures reminded the State that the total ban on abortion and the criminalization of women who have suffered miscarriages disproportionately affect poor women and goes against the State’s obligation to ensure all rights are respected. Moreover, they expressed deep concern on the very high rates of underage pregnancy which represents more than half of the country’s total registered pregnancy according to UNFPA. Additionally, the experts are particularly concerned by an amendment proposal to the Penal Code aiming to raise the punishment for abortion.

Reminding the State of the previous communications regarding abortion legislation ([SLV 1/2013, SLV 1/2014 y SLV 1/2016]), the experts call for El Salvador to provide further information on the aforementioned legislative proposals and reiterate the Working Group on Discrimination Against Women’s request for a country visit.
6. 16 March 2017 (SLV1/2017) – Attacks and harassment against a human rights defender

Mrs. X is a lawyer and human rights defender working at the Asociación Salvadoreña por los Derechos Humanos (ASDEHU), an organization helping victims of human rights violations committed by state institutions as well as criminal gangs. Mrs. X who suffered threats and intimidation in relation to her work as human rights defender, eventually had to leave the ASDEHU.

On 18 February 2015 ASDEHU organized a Eucharistic celebration in memory of three disappeared persons, whose legal cases had already been brought to the Supreme Court of Justice of El Salvador. During the celebration, members of the Armed Forces took pictures of the victims’ mothers and of the persons accompanying them, including Mrs. X. At one of the Court hearings in July 2015, Mrs. X was intimidated by a man who presented himself as a Colonel and, at a later stage of the process, she was harassed by the presiding judge who interrogated her in front of the audience and humiliated and intimidated her.

According to the information the rapporteurs received, members of Mrs. X’s family received explicit death threats. On 10 August 2016, Mrs. X was intimidated by a member of the National Police who, showing his gun, threatened her to drop the legal case she was following. He added that they were determined to protect their colleagues and, had she not accepted such conditions, she would have lost her life. Mrs. X left the country, but her family members continue to receive threats and intimidation.

The rapporteurs requested information on the stage of the investigation on Mrs. X’s case, on the measures taken to protect her and her family and, on a more general level, on the measures adopted to guarantee human rights defenders’ safety in the exercise of their work.

(human rights defenders, disappearance)

Reply dated 22 May 2017

According to the government, the Office of the Attorney General opened an investigation for the crime of aggravated menacing. As part of the investigation, it requested the surveillance footage. No measures aimed to protect Mrs. X and her family were taken because Mrs. X failed to appear to personally authorize the investigation, as foreseen in art. 27 of the Criminal Procedural Code. The General Staff of the Armed Forces promoted an internal investigation in relation to Mrs. X’s claims. As resulting from such investigation, it does not appear that military personnel was present during the Eucharistic celebration, nor that it was present during the court hearing held in July 2015 after which Mrs. X declared to have been threatened.

7. 26 May 2017 (SLV2/2017) – Killing of three transsexual women and threats to a transsexual human rights defender

Between 18 and 21 February 2017, three transsexual women were murdered in El Salvador (the exact location has been left unknown). On 19 February 2017, the bodies of two trans women (whose names have been left unknown) were found with signs of torture and bullet impacts. On 21 February, Mrs. X (identity hidden) attended the funerals of the two women assassinated two days before. That was the last time she was seen alive, as her body was found the following day with signs of violence. Allegedly, she was murdered as she had information on the killers of the two women assassinated on 19 February.

In relation to the three killings, a complaint has been filed before different bodies (Office of the National Prosecutor, Ombudsman, Civil National Police).

On 28 April 2017 Mrs. Y (name left unknown), a transsexual woman and LGBTI’s rights defender, was attacked in her house by three men who were allegedly members of a local gang. During the attack, the three men gave Mrs. Y three days to hand them 50% of the prize money she had won in a contest. Had she failed to do so, her life would have been put in danger. For this reason, Mrs. Y was forced to flee and seek shelter in another location.

The rapporteurs requested additional information on the investigation carried out by authorities, as well as on the measures adopted to protect the transsexual population’s safety and promote non-discrimination. Not only, the rapporteurs also requested information on the measures adopted by the government to guarantee the human rights defenders’ safety, and on a more general level on the measures taken to promote awareness on LGBTI’s rights.

(discrimination of women in law and practice, human rights defenders, violence against women, violence and
discrimination due to gender identity or sexual orientation, summary executions, freedom of expression, freedom of association)

Reply dated 21 July 2017

According to the government’s reply, during the investigations on the three women’s killings – which at the time of the reply were still ongoing – the authorities proceeded with: inspection of the location by police, interview of the victims, sketch of location of the crime scene, pictures of the crime scene, autopsy, chemical analysis of evidence.

In relation to the threats received by Mrs. Y, the Specialized Unit for the investigation of extortion offences opened an informal investigation and indicated to the National Police all the necessary proceedings. The investigation was still ongoing at the time of the reply.

With regard to the measures taken to protect transsexual people’s lives and combat discrimination, the government replied that it adopted institutional measures to guarantee a dignified treatment to victims and to give priority to investigations for crimes against the transsexual community. It also laid out the dispositions promoted to tackle discrimination in the public administration. It adopted policies aimed at tackling discrimination based on gender identity and sexual orientation, and it promoted programs to raise awareness among the population and public officials.

Nevertheless, the government did not specifically mention which measures it took to protect transsexual people’s life and physical integrity.


The communication addresses the death threats received by Cesar Castro Fagoaga, Juan Martínez D’aubisson and Brian Alexander Avelar Rodríguez, three journalists specialized in investigative journalism working for Revista Factum and El Faro. In August 2017, the three journalists published an article online revealing the criminal activities allegedly carried out by the national police. They had carried out previous investigations on the participation of police and armed force in criminal activities and abuse of power. Since then, they have been receiving death threats on social media and various attempts were to close their medias’ webpages.

On 26 August 2017 four persons, claiming to be from the Attorney’s Office for the Defense of Human Rights visited the premises of Revista Factum asking for information about the work schedule and employees’ time of arrival. The Office denied such visit. Days later, members of the Police visited the newspapers’ premises. Following such events, the Ombudsman solicited cautionary measures to protect the journalists. The Police provided additional security measures outside the premises of Revista Factum, but only for a short time.

The rapporteurs express concern in relation to the lack of sufficient measures to guarantee the three journalists’ safety, as well as a lack of an investigation on the authors. For these reasons, the rapporteurs requested additional information on the stage of investigations, on the measures taken to ensure the three victims’ safety and to ensure a safe continuation of their work. In conclusion, they requested information on the measures taken by the government to guarantee the safety of all Salvadorian journalists and to combat impunity.

(freedom of expression, human rights defenders)

Reply dated 7 November 2017

According to the government, the Office of the Attorney General called for the Head of the Central Division of Investigation of the Civil National Police to investigate based on specific fact-finding measures. At the time of the issue of the reply, the Office of the Attorney General was still awaiting the results of the abovementioned investigation. The three victims were interviewed and expressed their concern for the threats and intimidation received.
Conclusions

Since El Salvador’s last UPR in October 2014, the government received 9 communications referred mostly to alleged violations and abuses against human rights defenders and to the condition of women in the country. The Government replied to 6 of them, and 3 were left unanswered. On the basis of the replies issued by the government, it is possible to outline some general trends.

Among the 3 communications which were left without answer, 2 explicitly address the total prohibition of abortion in the country and its unconformity with international human rights standards and as a consequence to this legislation, the criminalization of women who have sustained a miscarriage. El Salvador’s failure to reply to such communications indicates a lack of political will to address the question despite the Special Procedures’ repeated requests.

It is also interesting to analyze how the government responded to allegations of crimes or intimidations committed by the State’s institutions and law enforcement bodies:

- In one case (SLV3/2015, point 3 of this report), whereby a human rights lawyer brought a legal action against the former President and the Office of the Attorney General sent her a letter threatening to bring a legal action against her association, the government decided not to reply.

- In the other cases, the government replied to every communication directly dealing with alleged abuses committed by the National Police (3 out of 9). However, the replies seem biased and bring only partial information. In 2 replies, the government’s position contradicts the information provided by the victims, in a way that seems to absolve the members of the Police of their responsibility. Complete information has not been provided, as in all three cases the proceedings were still ongoing.