

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-96/2021 English

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I/A Court H.R.

Protecting Rights

EL SALVADOR IS RESPONSIBLE FOR THE DETENTION, CONVICTION AND DEATH OF A WOMAN WHO SUFFERED AN OBSTETRIC EMERGENCY

San José, Costa Rica, November 30, 2021. In the Judgment of the *Case of Manuela et al. v. El Salvador*, notified today, the Inter-American Court of Human Rights declared the State of El Salvador internationally responsible for the violations of personal liberty, judicial guarantees, equality before the law, the right to life, personal integrity, private life and health, to the detriment of Manuela; as well as the violation of the right to personal integrity, to the detriment of the Manuela's relatives

Consult the official summary of the Judgment [here](#) and the full text of the Judgment [here](#).

Since the absolute criminalization of abortion came into force in El Salvador, women who have suffered miscarriages and other obstetric emergencies have been criminalized. In many cases, these women are prosecuted and convicted of aggravated homicide, for which the sentence is between 30 and 50 years in prison. Most of the women prosecuted for these events have little or no income, come from rural or marginal urban areas, and have a low level of education.

The events in this case took place within that context. Manuela was a woman of limited financial resources, illiterate, living in a rural area with her family. In February 2008, Manuela was pregnant. On February 27, 2008, she suffered an obstetric emergency and was treated at the San Francisco Gotera Hospital. Medical personnel concluded that Manuela had suffered severe postpartum pre-eclampsia plus anemia caused by significant blood loss. The doctor who treated her filed a complaint against Manuela since her medical chart showed childbirth had occurred, yet she had no newborn child.

On February 28, 2008, the police raided Manuela's house and found the body of a still-born infant inside a septic tank. Manuela was arrested that same day "for the crime of homicide to the detriment of her newborn child" and handcuffed to the stretcher where she lay. Between March and August criminal proceedings against her were held, during which time she remained in detention. On August 11, 2008, the San Francisco Gotera Trial Court sentenced her to 30 years in prison for the crime of aggravated homicide. The judgment was finalized on August 26, 2008, as no appeal was filed against it.

While in detention Manuela was diagnosed with Hodgkin's lymphoma for which she received late and erratic treatment. As a result, she died on April 30, 2010.

In its Judgment, the Court concluded that the imposition of preventive detention was arbitrary and violated the right to the presumption of innocence to the detriment of Manuela, since the resolution that ordered her provisional detention was not sufficiently reasoned and was based on legislation contrary to the American Convention.

Similarly, the Court pointed out that in the judicial process brought against Manuela, the public defense acted to the detriment of her rights and interests, leaving her without defense. In addition, the Court highlighted that from the first stages of the investigation Manuela's guilt was presumed, the truth of events was not determined, and the evidence that could disprove the assumption of her guilt was not taken into account. This lack of investigation was fueled by investigators' biases against women. In this sense, prejudices and negative gender stereotypes affected the objectivity of the agents in charge of the investigations, closing possible lines of enquiry into the factual circumstances. Additionally, the reasoning for the conviction did not use factual evidence to establish the causal link between Manuela's actions and the death of the newborn. This lack of reasoning arose from the use of gender stereotypes and preconceptions, not from evidence. The Court indicated that the application of stereotypes was only possible because Manuela was a woman, of limited economic resources, illiterate and living in a rural area. This constituted a violation of the right to the presumption of innocence, the right to be judged by an impartial court, as well as the obligation to give grounds for judicial decisions and not be discriminated against.

Referring to the 30-year prison sentence imposed on Manuela, the Court pointed out that obstetric emergencies, because they are a medical condition, cannot automatically generate a criminal sanction. In addition, the Court noted that the application of a sanction intended for criminally aggravated homicide was clearly disproportionate in this case, because the particular status of women during the puerperal or perinatal period was not taken into account, without prejudice to the fact that this case, due to defects in the investigation, could not rule out the possibility that there may have been a lack of all criminal responsibility.

Additionally, the Court found that the complaint filed by the treating physician, as well as other information released by the medical and administrative staff of the San Francisco Gotera Hospital, constituted a breach of the obligation to maintain patient confidentiality and protect Manuela's sensitive personal data. In this regard, the Court indicated that, in cases related to obstetric emergencies, the disclosure of medical information may restrict access to adequate medical care for women in need of medical assistance, as they may avoid going to a hospital for fear of being criminalized. In this regard, the Court pointed out that the medical personnel prioritized the filing of an alleged offense over diagnosis and medical treatment. In addition, this complaint, together with the treating physician's statement and the subsequent submission of Manuela's medical history, was used in the criminal proceedings against her, in violation of her rights to privacy and health. All these actions were influenced by the idea that the prosecution of an alleged crime should prevail over the rights of women, which is discriminatory. In this case the Court concluded that the right to health without discrimination and the right to equal treatment were not guaranteed.

Subjecting Manuela to this situation, which completely affected her life and her health in addition to being discriminatory, constituted an act of violence against women.

In addition, the Court concluded that depriving Manuela of her liberty prevented her from receiving adequate medical treatment for the illness she developed, so that her custodial sentence became an inhumane sentence, contrary to the Convention. These omissions in medical care also constituted a breach of duty to guarantee Manuela's right to life.

Finally, the Court established in its Judgment that Manuela's family have endured deep suffering and anguish to the detriment of their psychological and moral integrity, violating their right to personal integrity.

Due to these violations, the Court ordered the State to undertake various measures of reparation.

Judges Humberto Antonio Sierra Porto, Eugenio Raúl Zaffaroni, and Ricardo Pérez Manrique advised their individual concurring votes. Judge Eduardo Vio Grossi advised his partially dissenting vote.

The Court's composition for the issuance of this Judgment was as follows: Judge Elizabeth Odio Benito, President (Costa Rica), Judge Patricio Pazmiño Freire, Vice President (Ecuador), Judge Eduardo Vio Grossi (Chile), Judge Humberto Antonio Sierra Porto (Colombia), Judge Eduardo Ferrer Mac-Gregor Poisot (Mexico), Judge Eugenio Raúl Zaffaroni (Argentina), and Judge Ricardo Pérez Manrique (Uruguay).

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