

# She was raped, had a stillbirth and almost died. Then she was charged with the murder of her fetus.

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A Salvadoran woman charged in the death of her stillborn baby was cleared Monday, a ruling advocates say is a notable [triumph](#) in a country with one of the world's most severe abortion bans.

A judge's decision to acquit 21-year-old Evelyn Hernández marks the culmination of a tragic saga that began when she was raped at the age of 18, her lawyers said. Those close to Hernández say she didn't know she was nearly 34 weeks pregnant in 2016, when she walked into a latrine and delivered a stillborn child. Her mother found her, bleeding and unconscious, before rushing her to a hospital.

Paula Avila Guillen, director of Latin America Initiatives at the Women's Equality Center, said a doctor concluded that Hernández's condition was a result of an "incomplete abortion." Police discovered her fetus in the latrine and charged Hernández with aggravated homicide. In 2017, she was handed a 30-year prison sentence.

"Mere suspicion of possible abortion immediately makes [women] guilty, presumption of innocence gets erased," said Guillen, who worked closely with Hernández's defense team. "When police were notified, they shackled her to a hospital bed and interrogated her."

Hernández spent 33 months in prison and was released in February after a successful appeal. In an attempt to retry Hernández on the same charges, prosecutors last week fought to increase her sentence to 40 years, arguing that she had lied about being raped and should have known she was pregnant.

The woman bled frequently and faced other obstetric ailments during her pregnancy, Guillen said, which she confused with her period.

The judge "simply couldn't see enough evidence to be convinced she had done anything to commit any crimes," Guillen said. "It was the right thing to do."

Several Latin American countries have stringent abortion laws, including Argentina, where an 11-year-old rape victim was forced to give birth in February, even though the girl had repeatedly asked for an abortion. But no restriction is more severe than El Salvador's absolute ban, which has been in place since the late 1990s and applies even if a mother's life is in danger.

Guillen and other advocates say the ban is applied arbitrarily and specifically targets poor women in El Salvador who lack access to quality medical care. Even in instances of miscarriage, prosecutors in the country seek homicide or manslaughter charges on top of abortion-related counts.

Hernández's case was remedied only after a painstaking process, and Guillen notes that this was just the second time a judge in the country has ruled that a stillbirth or miscarriage was not criminal. About 20 women remain imprisoned under similar circumstances, Guillen said.

But slowly, some of them have had their charges commuted or dismissed.

In December, Imelda Cortez was released after spending about 18 months in prison for attempted murder. She also gave birth to a baby in a latrine, but the infant survived, and prosecutors argued that she hid her pregnancy and was negligent. Cortez contended she was a rape victim and did not know she was pregnant.

Four months later, three Salvadoran women charged with aggravated homicide after suffering miscarriages had their sentences commuted. They'd spent a collective 29 years in prison.

"The stories are all so similar because they all follow a pattern of persecution of women who have stillbirths and are impoverished," Guillen said. "You have to mobilize the world to save one woman; that's what it takes in El Salvador."

Morena Herrera, an prominent advocate for women's rights in the country, said in a statement that Hernández's acquittal "is a sign of hope for all women who remain in jail for crimes they did not commit, for health problems that should have never been brought to court."

"It is a hope for Salvadoran society because we are beginning to take steps along the path of justice, of truth and of well-being for everyone," Herrera added. "No woman should go through the ordeal that Evelyn did."

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