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## U.S. Department of State

### El Salvador Country Report on Human Rights Practices for 1996

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#### EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president, a unicameral legislative assembly, and a separate, politically appointed, independent judiciary. Armando Calderon Sol of the Nationalist Republican Alliance Party (ARENA) was inaugurated President for a 5-year term in June 1994. In the Legislative Assembly, the ARENA party holds a plurality. Seven other parties also hold seats, including the ex-guerrilla organization Farabundo Marti Front for National Liberation (FMLN), and its offshoot, the Democratic Party.

Since the Peace Accords ended the 12-year civil war in 1992, the Government has reduced the armed forces (including civilian employees) by over 70 percent, created a new Civilian National Police (PNC); redefined the role of the military; integrated the former guerrillas into political life; and completed a land transfer program. The military continues to provide protection for PNC patrols in rural areas, a measure begun in 1995 in response to action by well-armed criminal bands. Members of the PNC were charged with having committed human rights abuses.

El Salvador has a mixed economy largely based upon agriculture and light manufacturing. The Government is committed to privatization and free market reforms. People are free to pursue economic interests, and private property is respected. The rate of real economic growth continued to be strong, and per capita gross domestic product was about \$1,710. About 40 percent of the population lives below the poverty level.

The Government's human rights record improved somewhat. There were two cases in which police agents face charges of extrajudicial killings. Occasional use of excessive force by the police, denial of due process, lengthy pretrial detention, and long delays in trials were also problems. Prison conditions remain poor, although overcrowding was reduced somewhat. The judiciary is inefficient and subject to corruption. The Supreme Court did not move quickly enough to discipline or dismiss incompetent judges. The resulting widespread impunity continues to be a problem. Politically motivated assassinations appear to have ended, although a number of cases from past years remain unsolved. Some public figures reported death threats, but none was substantiated. Discrimination against women, the disabled, and indigenous people, violence against women, and abuse of children are also problems. The level of criminal violence, particularly murder, assaults, kidnaping, and robberies, remained high. In March growing public demand for firm action against crime led to the passage of an Emergency Law against Common and Organized Crime, which won the support of all political parties represented in the Legislative Assembly, except the FMLN. Shortly after the law's passage, the Government's Human Rights Ombudsman and other critics filed several constitutional challenges against it; at year's end, the Supreme Court had not ruled on the law's constitutionality. On December 4, the Legislature approved a new Criminal Procedures Code, as called for by the Peace Accords.

In April the United Nations General Assembly (UNGA) reduced the U.N. Mission to El Salvador to a small office of verification, reflecting continued progress in implementation of the Peace Accords. The UNGA further scaled back the U.N. presence in December and eliminated the position of Special Representative of the Secretary General. The Human Rights Ombudsman, whose office was created by the Peace Accords, continued to speak out on issues such as harsh prison conditions and the emergency law, but the investigative capacity of her agency, the Office of the Counsel for the Defense of Human Rights (PDDH), remained limited. Nonetheless, polls indicate that the PDDH retains a high level of public trust.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Political and Other Extrajudicial Killings**

There were no confirmed cases of political killings. However, there were two cases in which the authorities charged PNC officers with extrajudicial killing. Six PNC agents and two PNC drivers face charges of killing four persons (including a minor) during a brawl in San Pedro Masahuat in March. After a justice of the peace ordered the arrest of the agents, a trial judge released two of them on the grounds that there was insufficient evidence. A higher court ordered the two back into confinement, but one fled in the meantime. Officials of the Attorney General's office alleged that PNC agents in San Pedro Masahuat attempted to intimidate witnesses and interfere with the proceedings in an effort to protect their colleagues. The justice of the peace has received police protection at the request of the Supreme Court.

In October a PNC agent shot and killed Francisco Manzanares in what the police said was investigation of an extortion case. Although not active in politics at the time of his death, Manzanares' past as an FMLN combatant and party member raised the issue of political killing. The authorities charged PNC agent Guillermo Linares with wrongful death and detained three other PNC agents for having removed the body from the crime scene when they took Manzanares to a hospital. The incident was under active investigation at year's end; preliminary evidence indicated improper police procedures rather than a deliberate killing.

In September unidentified assailants shot and killed Siegfried Guth Zapata, the nephew of ARENA's then president, in San Salvador. The motive is unknown; the case remained under investigation at year's end.

Politically motivated threats were made during the year, but the existence of organized groups was never proven. Since May a previously unknown group calling itself the "Roberto D'Aubisson Nationalist Force" (FURODA) had made politically motivated threats against 15 prominent citizens, including the Human Rights Ombudsman and other government officials. The existence of this and other groups was never proven, and although threats continued in some cases, none were carried out. In November Ombudsman Dr. Marina de Aviles publicized the FURODA threats against her and her staff but vowed to continue her work. Government and ARENA party officials condemned the threats, and the PNC director said the police were working directly with the Ombudsman to provide collaboration and security.

Tomas Coronado Valles, the PNC officer who killed a protester with a rubber bullet in November 1995, remained under a charge of manslaughter. The Ministry of Public Security and the PDDH completed work on the details of an agreement, signed after the November 1995 incident, to govern coordination in situations such as violent public demonstrations.

The authorities detained, but later released, PNC agents in connection with the controversial 1995 death of medical student Adriano Vilanova. A December PDDH report concluded that a government autopsy that exculpated the police was botched and that Vilanova was beaten to death, not struck by a car or impaired by drugs or alcohol as the authorities had claimed. The PDDH report suggested that PNC members were guilty of extrajudicial killing and that a judge had impeded investigation of the case, but it did not contain any new evidence to support these allegations. The President, the Attorney General, and the Supreme Court president announced that the Government would do everything in its power to identify and punish the perpetrators. The case remained open at year's end.

Prosecutions continued in the case of the so-called Sombra Negra (Black Shadow) vigilante group, which surfaced in San Miguel in 1994 and allegedly killed 20 people whom it claimed were criminals. However, a court released several suspects from pretrial confinement when it determined that there was insufficient evidence against them. Nine suspects who were alleged members of the group still faced charges at year's end, including at least two of the four PNC members arrested in July 1995.

There was little progress in cases from past years in which political motivation was a possibility, with the exception of the investigation of the 1993 murder of FMLN leader Darol Francisco Velis Castellanos. In that case, the authorities extradited a former PNC detective, Carlos Romero Alfaro, from the United States in March. Following his extradition, they arrested another former agent in connection with the murder and investigated two others. The case remained active at year's end.

#### b. Disappearance

There were no confirmed reports of politically motivated disappearances.

Vague and unsubstantiated rumors of political motivation surrounded the kidnaping of Andres Suster, the 15-year-old son of a close associate of former President Alfredo Cristiani. Suster was kidnaped in September 1995 and released in September. While political motivations cannot be ruled out, available evidence suggests that this was a criminal act for personal gain.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, but complaints against the PNC for excessive use of force and denial of due process continued. Some of these complaints were investigated and found to be warranted, but most were not thoroughly explored due to institutional weaknesses of the PDDH and the PNC Inspector General's office.

The PNC continued to be the subject of more complaints of human rights violations than any other government institution. This reflects their license to use force and carry out arrests, as well as their inexperience (the 1992 Peace Accords created the PNC as a replacement for the old, discredited security forces; the first PNC deployment occurred in March 1993). The majority of the complaints against the PNC continued to be for denial of due process. The authorities have investigated and disciplined some PNC agents for misconduct, including human rights violations, and jailed a few for criminal activity.

The PNC Inspector General briefly threatened to resign in June, claiming that the Deputy Director of the PNC and the Public Security Ministry were undermining his ability to do his job. He withdrew his resignation after receiving public reassurances of the importance of his office.

Despite the volume of human rights complaints, public opinion polls gave the PNC relatively high marks amidst general dissatisfaction with government institutions as a whole. In an August poll conducted by the Institute of Public Opinion of the Central American University, the PNC came in second place in a ranking of those institutions that best defended human rights. A plurality of respondents, however, stated no institutions effectively defended human rights or that they had no opinion. Two other separate polls by the Salvadoran Investigation Center for Public Opinion of the University of Technology also gave relatively high marks to the PNC.

In the only terrorism-related arrests, the authorities detained four university students in June in connection with a car bombing in April and an explosion at an insurance company in May. No one was injured in either incident, and the motives remain unclear. The four students allegedly belong to a leftwing terrorist group; one of the four was released for lack of evidence.

Prison conditions remained poor, but the Government opened a new 2,000-inmate prison in September. This reduced severe overcrowding, although there were still 3,000 excess prisoners. The prisons are filled with violent inmates, and guards exercise little control. Killings among prisoners are common. The Human Rights Ombudsman said in June that prison conditions constituted a systematic violation of human rights. She blamed judges for using pretrial detention too freely and trying cases too slowly. The Ombudsman recommended approval of pending criminal codes, the use of pretrial detention only as a last resort, acceleration of judicial procedures, seeking alternatives to imprisonment, and developing a policy on crime and prisons.

Prison problems attracted public attention when protesting prisoners organized a "lottery of death" in which they randomly selected inmates for execution. No executions were carried out, but other prisoners began hunger strikes, some with their mouths crudely sewn shut, to gain attention for their demands for better conditions, provisions for bail, speedy trials, and early release programs. The Government responded by asking the courts to speed up trials (the Supreme Court began a nationwide review of pending cases) and promising to relocate prisoners, measures which seemed to relax tensions.

The Government permits prison visits by independent human rights monitors, NGO's, and the media.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the number of complaints of arbitrary

arrest and detention continued to decline. Complaints that PNC officers violated due process rights of detainees also continued, but few of these complaints were fully investigated. The courts generally enforced a ruling that interrogation without the presence of a public defender amounts to coercion, and that any evidence so obtained is inadmissible. As a result, police authorities generally delayed questioning until a public defender arrived. However, since low salaries and insufficient supervision limit the number of cases that public defenders handle, they are not always available when needed.

By law, the police may hold a person for 72 hours before delivering the suspect to court, after which time the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees are often sent to the prisons where they may be mixed with violent criminals. The law allows 120 days to investigate serious crimes and 45 days for lesser offenses before a judge must bring the accused to trial or dismiss the case. The Emergency Law Against Common and Organized Crime, passed in March and effective for 2 years, shortened these periods, but in practice the authorities rarely observed the time limits. The Assembly also considered a second measure in response to the crime wave, a sweeping vagrancy law that would have allowed the police to make arrests for a variety of only vaguely defined activities not heretofore criminal. However, the Assembly dropped this proposal after it was sharply criticized by human rights advocates.

Although the law permits the release of detainees pending trial for crimes for which the maximum penalty does not exceed 3 years, many crimes (homicide, manslaughter, rape, and crimes against property) carry penalties in excess of 3 years, thereby precluding release pending trial. Because it may take several years for a case to come to trial, some prisoners have been incarcerated longer than the maximum legal sentence for their crimes. Any detainee may request a review (habeas corpus) by the Supreme Court, but the Court denies the overwhelming majority of such requests. Nearly 80 percent of all inmates are awaiting trial or sentencing.

The Constitution prohibits compulsory exile, and it is not practiced.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice.

The court structure has four levels: Justices of the peace, trial courts, appellate courts, and the Supreme Court. Judges, not juries, rule in many cases. A jury verdict cannot be overruled by a judge nor appealed by the defendant; however, defendants may appeal the sentence to the Supreme Court.

Legislation passed in 1995 provided for oral trials and new rights for the parties, and it also established two new court systems for family and juvenile offenders. Both systems stress conciliation as an alternative to adjudication. The Juvenile Legal Code that went into effect in March 1995 included greater provisions for due process, raised the age of majority from 16 to 18 years, limited sentences to a maximum of 7 years, and introduced alternatives to incarceration. However, the Emergency Law Against Common and Organized Crime lowered the age of minors to 14 years and made imprisonment the remedy of choice. The new Juvenile Code continues to suffer from the weaknesses of the institutions involved in its execution.

Under the Constitution, defendants have the right to a presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and compensation for damages due to judicial error. They also have the right to be present in court and to confront witnesses. While still far from satisfactory, compliance with these provisions has improved, in large part due to judicial training

programs and to evaluations of judges conducted by the National Council of the Judiciary (an independent body provided for in the Constitution to nominate, train, and evaluate judges) and the Supreme Court. Although legal counsel is supposed to be available at government expense for the indigent, there continued to be far too few public defenders to make this a reality.

On December 4, the Legislative Assembly approved a new Criminal Procedures Code, as called for by the Peace Accords. The new code replaces a criminal system based on civil law with one in which oral argument is the norm. The legislature is expected to take up other legal reforms mandated by the Peace Accords, including a new criminal code and a sentencing law, in early 1997.

Problems of corruption and incompetence in the judicial system remain. The Supreme Court, which has the authority to discipline judges, has moved slowly. Judicial salaries are now high enough to attract qualified judges, but are still inadequate for prosecutors or public defenders. Training programs are insufficient to compensate for inadequate university training, low pay, and poor supervision. While new laws represent a marked improvement, they also add to the confusion. Impunity, especially of the politically, economically, or institutionally well-connected, continued to be a problem. The deficiencies of the judicial system contribute to this impunity as well as to the increase in crime.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

According to the Constitution, the police must have the resident's consent, a warrant, or a reasonable belief that a crime is being or is about to be committed, before entering a private dwelling. Government authorities generally respected these rights. Wiretapping of telephone communications by the Government, private persons, and political parties is illegal but occurs.

### **Section 2 Respect for Civil Liberties, Including:**

#### a. Freedom of Speech and Press

The Constitution provides for freedom of the press, and the Government respects this right in practice.

There are 4 daily newspapers, 10 television stations, approximately 100 licensed radio stations, and 2 major cable television systems. Print and broadcast journalists regularly criticize the Government and report opposition views. According to most major media associations, in general the Government did use direct or indirect means to control the media.

In 1995 the Government's National Telecommunications Association (ANTEL) closed 11 low-power, unlicensed radio stations operating in small rural communities. These so-called community radio stations alleged an attempt to restrict free speech, while ANTEL claimed that the stations' signals interfered with licensed users, a charge the community radio stations denied. In January the Supreme Court ruled that the Government had improperly confiscated the community radio equipment, ordered its return, and overturned a fine levied by ANTEL. However, the Court said that the stations must get permits before broadcasting. In practice, it takes years to get licenses, and the spectrum is already over subscribed. ANTEL has offered the community stations various alternatives, all of which have been rejected. Of the 11 stations, 10 have resumed unlicensed broadcasting. The community radio stations tried unsuccessfully to persuade the Legislative Assembly to grant them special regulatory status under the new telecommunications law passed in September.

In July the police arrested Francisco Elias Valencia, editor of a newspaper usually identified with the left, on libel charges after his newspaper accused a PNC official of corruption. Valencia was quickly released under bond, but journalists from across the political spectrum condemned his arrest as an attack on freedom of the press. The incident appeared to be unique (in part a result of the country's unusually strict libel laws) and not part of a larger effort to intimidate the press.

Some media outlets accused the Government of favoritism in the apportionment of its advertising, but they did not produce any firm evidence to substantiate their complaints. In June some media figures received threats purportedly from a previously unknown clandestine group, but the threats were never carried out.

The Constitution provides for academic freedom, and the Government respects this right in practice.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for peaceful assembly and association for any lawful purpose, and the Government respects these rights in practice. There is no requirement for permits to hold public meetings, and public demonstrations are common. Incidents of alleged police brutality in breaking up demonstrations in 1995 were not repeated.

In November the Assembly passed a law giving the Ministry of Interior the authority to regulate, supervise, and financially oversee both domestic and international nongovernmental organizations (NGO's) and religious groups working in the country. The law exempts organizations such as unions, cooperatives, and the Catholic Church, and the Interior Minister stated it will not affect other churches. International NGO's had lobbied for regulation of their organizations to remain with the Foreign Ministry. Smaller and domestic NGO's and the FMLN opposed the law, arguing that it abridges freedom of association. The NGO community and others expressed concern that the Interior Ministry will politicize registration and regulatory oversight decisions.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government respects them in practice.

The Government cooperates with the office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise in 1996 and has not arisen in recent years. There were no reports of forced return of persons to a country where they feared persecution.

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

Citizens exercise the right to change their government peacefully through regularly scheduled elections. The President and Vice President are elected every 5 years; legislative and municipal elections are held every 3 years. The Constitution bars the President from election to consecutive terms. Voting is by secret ballot, and there is universal suffrage.

In November the Assembly approved a package of reforms to the Electoral Code that make it more

difficult for political parties to form and maintain official status. In addition, the reforms provide government funding only to parties that meet the minimum requirements for official status or that have at least one member serving in the Legislative Assembly. (There were eight political parties with a least one Assembly deputy and four parties without a deputy and with membership insufficient to qualify for government funding.) The Assembly also voted to dismiss one of the members of the Supreme Electoral Tribunal. The Assembly's moves were criticized for creating the perception of manipulation of the electoral process or the electoral authorities during the sensitive period prior to the March 1997 national legislative and municipal elections.

Although women represent 50.6 percent of the registered voters, the number of women active in politics is relatively small. In the 1994 elections, voters elected 9 women to the 84-member Legislative Assembly, a slight increase from the number in the previous Assembly. The president and 1 of the 4 presidents of the Assembly are women, as are 2 of the 15 Supreme Court justices. One cabinet minister is a woman, as are 31 of the country's 262 mayors. A woman serves as the Government's highly visible Human Rights Ombudsman.

#### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

The Government demonstrated a willingness to discuss human rights issues and problems with international, local, and nongovernmental organizations. Numerous local NGO's operate freely as do various international human rights groups, including migration and other humanitarian and technical assistance groups. However, several NGO's registered their concern that the Ministry of Interior could use its new regulatory powers under the NGO registration law passed in November to restrict NGO activity (see Section 2.b.).

The Peace Accords specifically provided for creation of the PDDH, which was formally established by a constitutional amendment that defined its role. The PDDH's investigative capacity remains limited, however, and the Assembly voted to reduce its budget by 10 percent in December, as part of government-wide reductions. Nonetheless, the Ombudsman continued to speak out on issues such as prison conditions and the emergency law, and polls indicate that the PDDH retains a high level of public trust.

In April the U.N. General Assembly reduced the U.N. Mission to El Salvador to a small office of verification called ONUV, reflecting continued progress in implementation of the Peace Accords. The UNGA further scaled back the U.N. presence in December and eliminated the position of Special Representative of the Secretary General. The U.N. Development Program office assists the police, the judiciary, and the PDDH.

#### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution states that all people are equal before the law and prohibits discrimination based on nationality, race, sex, or religion. In practice, discrimination against women and the disabled occurs in salaries, in hiring, and in access to credit and education.

##### **Women**

Violence against women, including domestic violence, is widespread and a serious problem. Government institutions such as the PDDH, the Attorney General's office, the Supreme Court, and the PNC coordinate efforts to combat family violence, and the National Secretariat for the Family maintains

a hot line for victims to report domestic abuse. From March 1995 to March 1996, there were 10,032 reported cases of domestic violence against women, according to the Institute for Women. The Institute of Legal Medicine, using different criteria, reported 441 cases from January to October. The Center for Women, a leading women's group, reported that out of the 571 women who requested legal advice on problems such as housing, alimony, sexual abuse, and child custody in the first 6 months of 1995, 451 said they had been mistreated by their spouse. The Attorney General's office received on average 10 cases a day of family violence, women being the main victims.

The authorities believe that cases of domestic violence and rape are underreported because of economic and societal pressures and the belief that cases are unlikely to be resolved. The PDDH says that in previous years hundreds of domestic abuse victims who underwent psychotherapy refused to report their cases formally. One benefit of the controversial Emergency Law Against Common and Organized Crime enacted in March was that it did away with a provision of the Penal Code that allowed a rapist to escape criminal liability by obtaining pardon from or by marrying the victim, a provision that invited intimidation of the victim. Reports of sexual abuse of women continued to rise. From January to October, the Institute for Legal Medicine received 367 reports of sexual abuse of women, compared with 375 reports for all of 1995. A main concern for women is that due to the lack of corroborating witnesses, only 10 percent of rape cases result in convictions.

The Constitution grants women the same legal rights as men, but they suffer discrimination in practice. A new Family Legal Code went into effect in October 1994, which amended some laws that discriminated against women, most notably the large number living in common law marriages. The new law also established courts to resolve family disputes. Several NGO's are engaged in promoting rights and have conducted several rights awareness campaigns in the media.

Women suffer from economic discrimination and in practice do not have equal access to credit and land ownership. Women are often paid less than men, and over 25 percent of working women earn less than the minimum wage. Of the economically active female population, 65 percent work in the informal economy. Training for women is generally confined to low-wage occupational areas where women already hold most positions, such as teaching, nursing, home industries, or small businesses.

## Children

Government concern for children's rights and welfare is reflected more in its efforts to reduce poverty and promote family stability through economic growth than in direct expenditure on children. The law requires education through the ninth grade, but this is only feasible in the country's larger urban centers. The Salvadoran Institute for the Protection of Children (ISPM), an autonomous entity, is responsible for protecting and promoting children's rights. The Emergency Law Against Common and Organized Crime negated many provisions of the 1995 Juvenile Code by lowering the age of majority for juvenile offenders to 14 years.

The Government works closely through state institutions and with the United Nations Children's Fund to promote protection and general awareness of children's rights. However, children continued to fall victim to physical and sexual abuse, abandonment, exploitation, and neglect. ISPM has an estimated 5,000 children in its shelters, some abandoned and others victims of mistreatment. ISPM received around 2,000 complaints of abuse during the year. Estimates of the numbers of children living on the streets of San Salvador run as high as 2,000. Many appear to be involved in substance abuse (glue and paint sniffing), and there are allegations that they suffer from police brutality. The PNC denies these charges; the PDDH has provided human rights training to those police units that have the most contact with juveniles. The PDDH has also called for the creation of drug treatment centers for minors.

The Institute of Legal Medicine recorded an increase in reports of sexual abuse of children under 14 years of age, with 315 reports in the first 9 months of 1996, compared with 313 for all of 1995. The Attorney General's office also registered an increase in offenses against children, nearly one half of which were sexual abuse cases. According to the PDDH, over 85 percent of all abuse occurs in schools and at home, with only a small percentage being reported. Out of the 1,857 children attended at San Salvador's largest children's hospital between 1989 and 1993, nearly one quarter were treated for sexual abuse carried out by family members or friends of the family.

The PDDH estimates there are some 270,000 minors working, mostly as street vendors. Most of these are believed to come from single-parent families. Besides losing their opportunity for an education, these children often fall victim to sexual abuse and are exploited as prostitutes.

Infant malnutrition is also a problem. Ministry of Health figures indicated that 50 percent of infants under the age of 5 are undernourished. The Government has a National Plan for Infants designed to increase access to potable water, iodized salt, vitamins, and to encourage breast feeding, but all of these remain problem areas, especially among the rural poor.

### People with Disabilities

Except for the war wounded, who have secured both government and international funding for rehabilitation and retraining programs, the Government has no program to combat discrimination against the disabled. There are no laws mandating provision of access to public or private buildings for people with disabilities. The Government has not enforced a decree passed in 1984 stating that 1 of every 500 employees must be a person with disabilities. Access to basic education is limited due to lack of facilities and appropriate transportation. There is no provision of state services for the physically disabled. Only a few of the Government's community-based health promoters have been trained to treat the disabled, and they rarely provide such service, tending rather to focus on life-threatening conditions and preventive care for mothers and children. It is estimated that between 7 and 10 percent of the population is afflicted by some form of disability.

There are few organizations dedicated to protecting and promoting the rights of people with disabilities. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation Pro-Rehabilitation, a local private voluntary organization, help address numerous rehabilitation issues and provide alternatives for the education and rehabilitation of the disabled population. A semiautonomous institute, the Salvadoran Rehabilitation Institute for the Disabled (ISRI), also provides assistance to the disabled. ISRI offers medical treatment and counseling, special education programs, and professional training courses. Founded in 1957, ISRI has 10 centers throughout the country and receives assistance from the Government and national and international private and nongovernmental organizations.

There was continued unrest in a home for the blind. Members of the Association of the Blind of El Salvador (ASCES) denounced the school's director alleging corruption and demanded his dismissal. They also complained that ISRI had failed to give them a voice in naming the school's director. Instead of the hunger strikes used in 1995, ASCES staged a takeover of the school in January. However, the National Association of Blind Salvadorans and the Independent Association of Blind Progressives denounced the takeover as too radical a move. The PDDH moved students at the school to another location, and the takeover continued until March when, without modifying their demands, ASCES members left the school in what they called a gesture of good faith. Negotiations between ASCES and ISRI continue with the PDDH mediating.

### Indigenous People

El Salvador is an ethnically homogeneous country, although a very small segment of the population claims to have descended solely from indigenous people. In 1932 government forces killed approximately 30,000 mostly indigenous people following an uprising. In the face of such repression, most remaining indigenous people adopted local customs and successfully assimilated into the general population. There remain a few very small communities of indigenous people who still wear traditional dress and maintain traditional customs without repression or interference. The Constitution makes no specific provisions for the rights of indigenous people.

The indigenous population is believed to be the poorest group in the country. In a 1994 study, the Human Rights Ombudsman found that 90 percent of indigenous people lived in conditions of extreme poverty, with average monthly incomes one-half the legal minimum wage. Employment opportunities in rural areas are few; domestic violence is a problem. Indigenous people reportedly earn less than other agricultural laborers, and indigenous women in particular have little access to educational and work opportunities since they head most of the households. Access to land is a growing problem confronting indigenous people. Few possess titles to land, and access to bank loans and other forms of credit is extremely limited.

The leader of what is probably the largest indigenous association, the National Association of Indigenous Salvadorans (ANIS), remains involved in a long-running land dispute with a neighboring cooperative. The controversy has resulted in a law suit and may have been the motive for death threats received by ANIS leaders. ANIS sponsored the first meeting of the indigenous population in August 1995. Leaders at the event called for respect for indigenous rights, as well as for constitutional recognition of their existence.

## **Section 6 Worker Rights**

### **a. The Right of Association**

The Constitution prohibits the Government from using nationality, race, sex, creed, or political philosophy as a means to prevent workers or employers from organizing themselves into unions or associations. Numerous and sometimes conflicting laws governing labor relations impede full of the freedom of association, although Labor Code amendments developed by the International Labor Organization (ILO) and approved in 1994 brought about some improvements. The Labor Code prohibits partisan political activity by unions, but they routinely ignore this prohibition.

In the 1992 Peace Accords, the Government committed itself to seek consensus on revised labor legislation through the Socioeconomic Forum with equal representation from labor (including groups aligned with the FMLN), the Government, and the private sector. The Assembly passed legislation in 1994 streamlining the process required to form a union, extending union rights to agricultural, independent, and small-business workers, and extending the right to strike to union federations. The legislation also established a tripartite National Labor Council to replace the Socioeconomic Forum.

There are approximately 150 active unions, public employee associations, and peasant organizations, which represent over 300,000 Salvadorans, approximately 20 percent of the total work force. Only private sector workers have the right to form unions and strike; employees of nine autonomous public agencies may form unions but not strike. Nevertheless, many workers including those in the public sector form employee associations that frequently carried out strikes that, while technically illegal, were treated as legitimate.

Negotiations between public employee associations and the Government generally settle public sector

strikes, although the Labor Code provides for mandatory arbitration of public sector disputes. Government downsizing and privatization efforts left public workers disgruntled and public workers' unions claimed that the Government failed to bargain in good faith.

The law prohibits antiunion actions before a union is legally registered. However, under the previous labor code, there were credible charges that the Government impeded union registration through exacting reviews of union documentation and strict interpretation of the Constitution, Labor Code, and union statutes. ILO-drafted changes have streamlined the process and it is now difficult for management to use bureaucratic inertia to impede the formation of a union.

The Labor Code forbids foreigners from holding leadership positions in unions, but unions freely affiliate with international labor organizations.

#### b. The Right to Organize and Bargain Collectively

The Constitution and the Labor Code provide for collective bargaining rights, but only to employees in the private sector and in autonomous government agencies, such as utilities and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) use collective bargaining extensively.

The Ministry of Labor oversees implementation of collective bargaining agreements and acts as conciliator in labor disputes in the private sector and autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiate with labor organizations directly, relying on the Labor Ministry only for such functions as officially certifying unions. The Ministry often seeks to conciliate labor disputes through informal channels rather than attempting to enforce regulations strictly, leading to charges that the Ministry is biased against labor. Corruption continues to be a serious problem affecting labor inspectors and courts.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for 1 year following their term shall not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. Employers generally observed this provision in practice, but in the past they have in some cases fired those attempting to form unions before receiving their union credentials. The law requires employers to rehire employees fired for any type of union activity, although the authorities sometimes fail to enforce this requirement. In many cases, employers convince fired employees to take a cash payment in lieu of returning to work.

There are nine Export Processing Zones (EPZ's). Labor regulations in these zones are identical to those throughout the country. Companies operating in the EPZ's, while providing higher salaries and benefits than companies outside the EPZ's, strongly discourage organizing. In past years there were credible reports of some foreign-owned factories dismissing union organizers. In addition, unions accused some companies of physically abusing their workers. While labor inspectors and courts were ineffective in the face of such complaints, the Government formed interagency committees (consisting of representatives of the Labor Ministry, Economic Ministry, and the PDDH) to investigate alleged violations.

In January the Legislative Assembly passed laws reforming the Labor Ministry and giving the Government the power to take away free zone privileges from companies breaking labor regulations. The new Labor Minister began reorganizing his Ministry, aided by an April law modernizing the Ministry and increasing the number of labor inspectors. The Labor Ministry also opened field offices in two EPZ's. In August the Government established a tripartite (government, business, and labor) commission to help resolve conflicts in free trade zones and bonded companies. In addition, factory

operators and owners continue efforts at setting up an industrywide operating code defining internationally recognized labor standards, as well as a mechanism to monitor its enforcement.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, except in the case of calamity and other specified by law. This provision is followed in practice.

d. Minimum Age for Employment of Children

The Constitution prohibits the employment of children under the age of 14. It provides for exceptions only where such employment is absolutely indispensable to the sustenance of the minor and his family. This is most often the case with children of peasant families who traditionally work during planting and harvesting seasons. Children also frequently work as street vendors and general laborers in small businesses, especially in the informal sector. Parents of children in circumstances such as these often do not allow their children to complete schooling through the ninth grade as the law requires, since the labor the children perform is considered vital to the family. Child labor is not usually found in the industrial sector. (One well-publicized 1995 case of child labor involved a minor who used forged identity papers to pass as an adult.) The Ministry of Labor is responsible for enforcing child labor laws.

e. Acceptable Conditions of Work

The minimum wage for commercial, industrial, service, and agroindustrial employees is \$4.40 (38.50 colones) per day for industrial and service workers, and \$3.30 (28.60 colones) per day, including a food allowance, for agroindustrial employees. Full-time employees who are paid the minimum wage receive pay for 30 days a month. However, the minimum wage with benefits is not sufficient to provide a decent standard of living for a worker and family. Minimum wages did not keep up with the Ministry of Economy's estimate of the increase in the cost of living. The Labor Ministry is responsible for enforcing minimum wage laws and does so effectively in the formal sector.

The law limits the workday to 6 hours for youths between 14 and 18 years of age and 8 hours for adults, and it mandates premium pay for longer hours. The Labor Code sets a maximum normal workweek of 36 hours for youths and 44 hours for adults. It requires for all workers bonus pay for overtime and limits the workweek to no more than 6 days.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees are not placed at risk in their workplaces and prohibit the employment of persons under 18 years of age and all women in occupations considered hazardous. Nevertheless, health and safety regulations are outdated, and enforcement is inadequate. Workers can remove themselves from dangerous work situations without jeopardizing their employment only in situations where they can present a medical certificate issued by a doctor or the Social Security Institute indicating that their health is at risk while using certain equipment or substances. The Ministry of Labor attempts to enforce the applicable regulations and conducts investigations which sometimes lead to fines or other findings favoring workers. The Ministry has very limited powers and only limited resources to enforce compliance.

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