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U.S. Department of State

El Salvador Country Report on Human Rights Practices for 1997

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EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president and a unicameral legislature. Armando Calderon Sol of the Nationalist Republican Alliance Party (ARENA) was inaugurated President for a 5-year term in June 1994. In free and fair legislative elections in March, the former guerrilla organization Farabundo Marti National Liberation Front (FMLN) won a third of the Legislative Assembly seats, leaving the ARENA party with a one-vote plurality. Seven other parties also hold seats, including the conservative National Conciliation Party (PCN) and the centrist Christian Democratic Party (PDC). The Constitution provides for a separate, politically appointed, independent judiciary.

Since the Peace Accords ended the 12-year civil war in 1992, the Government has reduced the armed forces (including civilian employees) by 70 percent; redefined the role of the military, placing it under civilian control; created a new Civilian National Police (PNC); and integrated the former guerrillas into political life. Although its internal policing mission has been eliminated, the military continues to provide support for some PNC patrols in rural areas, a measure begun in 1995 to contain violence by well-armed criminal bands. The professionalism of the PNC generally improved, but the 4-year-old force continues to be understaffed, only minimally trained, and short on practical experience. Members of the police committed human rights abuses.

El Salvador has a market-based, mixed economy largely based upon agriculture and light manufacturing. Some 40 percent of the workforce is in the agricultural sector; coffee and sugar are the principal export crops and major sources of foreign exchange. The growing light manufacturing sector

(export processing zones) is dominated by apparel manufacturing and represents the main source of new jobs. The Government is committed to privatization and free market reforms. The economy is open, and private property is respected. The rate of real economic growth was about 4 percent, and per capita gross domestic product was estimated to be \$1,930. About 52 percent of the population lives below the poverty level.

The Government's human rights record improved somewhat; however, there were problems in some areas. In one new case, two police agents face charges of extrajudicial killings. The police sometimes use excessive force and mistreat, arbitrarily arrest, and detain persons, although the PNC sought to identify and to punish those within its ranks who committed criminal acts or violated established procedures. Prison conditions remained poor and overcrowding worsened. The judiciary's inefficiency resulted in lengthy pretrial detention and long delays in trials. The Supreme Court made some progress in cleaning up the judiciary but did not move quickly to discipline or dismiss corrupt or incompetent judges. Impunity for the rich and powerful remained a problem; however, the Government took action to investigate, prosecute, and, in some cases, jail prominent citizens for crimes. Discrimination against women, the disabled, and indigenous people, violence against women, and abuse of children are also problems.

The United Nations General Assembly eliminated the position of Special Representative of the Secretary General, resident in El Salvador, reducing the U.N.'s on-site monitoring role in recognition of the progress made in implementation of the Peace Accords. The Human Rights Ombudsman, a position created by the Peace Accords and the Constitution, continued to speak out on controversial issues. However, the investigative capacity of her agency, the office of the Counsel for the Defense of Human Rights (PDDH), remained limited and was hindered further by a shrinking budget.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no confirmed political killings. The FMLN charged that the February murder of two of its activists in Nejapa during the election campaign was politically motivated. In contrast, police authorities linked the killings to a criminal gang known to be operating in the area. The case remained under investigation at year's end.

In October 1996, a PNC agent shot and killed Francisco Manzanares in what the police said was an 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. PNC agent Guillermo Linares was originally held for wrongful death, but in October, the court charged PNC agent Jose Santo Arevalo with the shooting. At that time, three PNC agents, including Linares, were charged as accessories to the crime. The judge stated that the killing could have been a premeditated act and noted that the PNC had persecuted Manzanares prior to his murder. At year's end, the four police officers were detained, and the case was under active investigation in preparation for trial.

The authorities in June charged two PNC officers with the March 1996 extrajudicial killings of four gang members in Santa Ana. Witnesses reported that the police apprehended the four persons for robbing spectators at a morning sporting event and placed them in a PNC vehicle. The four were found 3 hours later, murdered; the bodies were dumped at a local farm. On December 2, a Santa Ana court found that there was insufficient evidence to tie the PNC agents to the murders, dropped the charges, and

released the two policemen. The Attorney General's office has the option to appeal this decision to a higher court.

There was mixed progress in cases from previous years. In April a court exonerated and released the last three suspects in the "Sombra Negra" case. The Sombra Negra was a vigilante group that operated in San Miguel in 1994; it allegedly killed 20 people it claimed were criminals. Four of the nine original suspects arrested in July 1995 were police officers.

In February a court found two PNC agents guilty of killing four people in San Pedro Masahuat, Zacatecoluca in March 1996, and found six other police guilty of complicity in the murders. The two murderers were sentenced to the maximum 30-year prison term, five other police officers received 12-year terms, and one a term of 10 years. In July an appeals court confirmed the guilty verdicts and sentences, and in October the Supreme Court refused to review the cases. In a related case, the authorities brought charges against two PNC officers for allowing six of the eight guilty police to escape detention in February.

In February the authorities brought charges against seven police officers and arrested six of them for the December 1995 murder of medical student Adriano Vilanova (the seventh suspect was still at large at year's end). It took an investigation by the PDDH, a series of investigative reporting articles, and a full reexamination of the case by the Attorney General's office to reopen the case. At year's end, the six police were in custody, and their trial was under way.

In April a court found PNC officer Tomas Coronado Valdes guilty of manslaughter and sentenced him to 1 year in prison for killing a demonstrator with a rubber bullet in November 1995. It later suspended his sentence, placed him on 2 years' probation, and ordered him to pay the victim's family an indemnification of \$2,860 (25,000 colones). Coronado was dismissed from the PNC and is not allowed to hold public office or work for a government institution.

Following a high speed chase in January 1996, police shot and killed 16-year-old William Antonio Gaytan, a passenger in a stolen car. Based on testimony by one of the other persons in the stolen car, in January the PNC arrested police agents Miguel Palacios Contreras and Narcisco Escamilla Acosta and charged them with involuntary manslaughter. In September the authorities raised the charges to intentional homicide when they concluded that these police officers had continued firing after the car chase ended and that the youths in the stolen vehicle never fired at the pursuing police. In December a court found Escamilla guilty and sentenced him to 11 years in prison. It found Contreras not guilty, and he was released.

Although a court found Jose Argueta Rivas guilty in October 1996 and sentenced him to 30 years in prison for the 1994 murder of Ramon Garcia Prieto, the Garcia Prieto family has charged before the Inter-American Commission on Human Rights that the Government failed to investigate properly the crime to determine the intellectual authors. The Government stated that it is continuing the investigation into the murder.

In the 1993 murder of FMLN leader Darol Francisco Velis Castellanos, the Government extradited a former police detective, Carlos Romero Alfaro, from the United States in March 1996. Following this extradition, the PNC arrested another former police agent in connection with the murder and was investigating two other suspects at year's end. In May the Attorney General sought preventive arrest decrees for these two suspects. The case remained active at year's end.

b. Disappearance

There were no confirmed politically motivated disappearances.

From January to July, of the 3,179 cases the PDDH accepted for investigation, there were 8 cases involving forced or involuntary disappearances, none of which involved serious allegations of political motivation. Kidnaping for profit affects all levels of society and has become a common occurrence throughout the country.

There were allegations of political motivation behind several high-profile kidnapings, including one of a U.S. citizen, which took place in the early 1990's. Rumors of political motivation surrounded the 1995 kidnaping of Andres Suster, the 15-year-old son of the former president of the state telephone company (ANTEL) and close associate of former President Alfredo Cristiani. Suster was kidnaped in September 1995 and released 1 year later. In July police arrested several people in connection with the Suster kidnaping. In addition, one individual associated with the disbanded Communist Party has been jailed, and an important leader of the Communist Party fled the country, both in connection to the Suster and other kidnapings. At year's end, the Suster case remained active and police were continuing to investigate links between it and other kidnapings.

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

The Constitution prohibits such practices, but the PNC continued to be charged with the use of excessive force and other mistreatment of detainees. In late December, the PDDH charged two PNC officers with burning detainee Ambrosio Perez over 30 percent of his body, during a January confrontation in a land dispute at the El Espino plantation on the outskirts of San Salvador, in an effort to obtain information on the location of an alleged hidden cache of arms.

In the first 9 months of 1997, the PDDH accepted 993 (a monthly average of 110) complaints of violation of the right of personal integrity (a category covering torture; inhuman or degrading treatment; mistreatment; disproportionate use of force; and improper treatment of detainees). The PDDH received a total of 1,295 such complaints (or 108 per month) from June 1996 through May 1997; and 861 (or 72 per month) from June 1995 through May 1996. The PDDH reported that the vast majority of these complaints were directed against the PNC and resulted from improper arrest procedures. During this period, the PDDH determined that an average of 12.4 percent of the complaints it accepted in 1997 (for all human rights categories) were actual violations of rights.

The PNC Inspector General's office (IG, an entity separate from the PNC, which answers directly to the Minister of Public Security) investigated 73 cases of violation of the right of personal integrity through June, compared with 44 cases for the last 8 months of 1996.

The PNC continued to be the subject of more complaints of human rights violations received by the PDDH than any other government institution. Covering all human rights (affecting 16 major PDDH categories ranging from due process and personal integrity to property and personal documents rights to the right to a clean environment and personal health), for the first 9 months of 1997, out of a total of 3,987 complaints accepted by the PDDH, 1,894 pertained to the PNC, or 47.5 percent of the total. By comparison, 2,503 (51.2 percent) of the 4,882 complaints registered by the PDDH for its June 1996 through May 1997 reporting period involved the PNC, as did 57.3 percent of the complaints in the June 1995 through May 1996 reporting period. The PDDH also received human rights complaints involving other government offices, including the Ministry of Education, the courts, the Ministry of Health, the Ministry of Labor, and local governments.

The IG also noted an increase in complaints against the PNC. In the first 6 months, the IG investigated

229 cases, compared with 208 cases for the last 8 months of 1996. The concentration of complaints involving the PNC reflected several factors: The PNC's authority to use force in carrying out arrests; its inexperience (the 1992 Peace Accords created the PNC as a replacement for the old, discredited security forces, and the first PNC deployment occurred in March 1993); the difficulty of its work in the face of critical, often violent crime levels; and a continuing need for training in human rights. From January through September, the PNC internal affairs division processed 925 complaints against police for administrative violations (such as drinking on duty, improper use of police equipment and vehicles, stealing from police funds, etc.) and criminal abuses. The division found police at fault in 368 cases and administratively disciplined (with temporary suspension or fines) 212 police officers for violation of PNC regulations; fired agents in 92 cases for serious violations or minor criminal abuses; and jailed 64 agents for serious criminal acts.

Working together to improve PNC human rights training, the PDDH and the National Public Security Academy incorporated additional human rights courses into the curriculum for the academy's police officer training program.

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. The IG conducted a nationwide poll in March in which 63 percent of the respondents gave the PNC good to excellent marks for its respect of human rights, and 68 percent gave good to excellent marks for the PNC's everyday treatment of citizens. A July poll taken by the Catholic University found that 40 percent of respondents had "some" or "a lot" of confidence in the PNC.

In the only terrorism-related case, in June a court found innocent three university students arrested in June 1996 in connection with two bombings in April and May 1996. No one was injured in either incident, and the motives remain unclear. Four students allegedly belonging to a left-wing terrorist had been arrested initially; one of the four was released soon after the arrest due to lack of evidence.

Prison conditions remained poor, and overcrowding in prisons worsened. High crime rates, the increased number of arrests, and a slow judicial process kept the flow of new prisoners higher than the release rates. The prisons are filled with violent inmates, and guards exercise little control. Responding to a highly critical 1996 report on prisons by the PDDH, the Government sought to improve prison conditions through efforts to provide better food, medical care, and rehabilitation facilities in the prison system. Prison authorities report that from January to September there were 6 violent deaths in the prison system, compared with 24 violent deaths in all of 1996.

Both female and juvenile prisoners have separate facilities. The new Juvenile Code expands the use of halfway houses and other nonpenal facilities for minors.

The Government permits prison visits by independent human rights monitors, representatives of nongovernmental organizations (NGO's), and the media.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest, but there were cases of arbitrary arrests and detentions by the PNC.

During the first 9 months of 1997, the PDDH accepted a total of 583 cases (or an average of 65 per month) for violations of personal liberty. Of these complaints, 76 percent were lodged against the PNC for alleged arbitrary arrest and 20 percent against the PNC for alleged improper arrest procedures. In

comparison, the PDDH accepted 745 cases (62 per month) in this same category from June 1996 to May 1997 and 901 (75 per month) for the same period in 1995-96. The IG investigated 48 cases of violation of personal liberty and due process from January to June. 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. Low salaries and insufficient supervision contribute to poor handling of public defender caseloads.

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 already overcrowded 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. Few cases, however, are completed within the legally prescribed time periods.

The law permitted the release of detainees on bail only for crimes where the maximum penalty was under 3 years. Many crimes, including homicide, manslaughter, rape, and crimes against property, carry penalties in excess of 3 years, thereby precluding release pending trial. The new Penitentiary Code, passed in April, permits bail for crimes with a minimum penalty of over 3 years, if the suspect is unlikely to flee or his release would not impede the investigation. This law, set to take effect in 1998, is expected to reduce pretrial detention.

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. At the beginning of December, 74 percent of all inmates were awaiting trial or sentencing. The University of El Salvador and the Public Defender's office continued a program to investigate the cases of 500 to 600 prisoners who did not have effective representation. The program helped to move these cases forward and, where appropriate, to seek habeas corpus, which resulted in a large number of prisoners being released.

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, decide most 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. The new Criminal Procedures Code (to take effect in 1998) provides for full appeal of jury verdicts if there is evidence of corruption or vested interest by members of the jury.

In fulfillment of commitments under the Peace Accords, the Assembly continued to enact wide-ranging reforms of the criminal justice system. Following the Criminal Procedures Code passed in December 1996, the Assembly passed the Penal Code and Penitentiary (Sentencing) Code in April. Both codes are expected to speed up the trial process and reduce the number of detainees; these measures were

scheduled to enter into effect in 1998. There are two new court systems, for family and for juvenile offenders. Both systems stress conciliation as an alternative to adjudication. The Juvenile Legal Code, which 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. 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. While defendants often are not assured of these rights, compliance with these provisions improved, in 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 were too few public defenders to make this a reality.

The new Penitentiary (Sentencing) Code, called for in the Truth Commission report, lays the foundation for extensive reform in the penitentiary system and adopts an approach stressing rehabilitation of the criminal and prevention of future crimes, rather than retribution, and stipulates the provision of humane conditions in the prisons as well as the separation of violent offenders and pretrial detainees. It also establishes a new institution, the Criminal Sentencing Court, with responsibility for executing and monitoring the sentences imposed by the trial courts. Heretofore, the same judge that investigated, judged, and sentenced the accused was also responsible for the imposition, monitoring, and suspension of the sentence. The new code also provides for alternatives to imprisonment for nonviolent offenders, which is expected to reduce prison overcrowding.

Problems of corruption and incompetence in the judicial system remain. The Supreme Court disciplined judges for corruption, but it moved slowly. Judicial salaries are high enough to attract qualified judges, but salaries are still considered insufficient to attract competent prosecutors or public defenders. Training programs are insufficient to compensate for inadequate university training, low pay, and poor supervision. This deficiency is expected to be further complicated by the implementation of the new judicial codes. While they represent a marked improvement, the new codes also entail a massive reeducation effort for professionals in the judicial sector.

The general public does not place much confidence in the judicial system, with over 70 percent of those polled saying that they had little or no confidence in it. Fifty-six percent of the respondents in a July Catholic University poll stated that they had little or no confidence in the Supreme Court.

Impunity, especially of the politically, economically, or institutionally well-connected, remained a problem. The systemic weaknesses in the criminal justice system contribute to this impunity. Such impunity might take the form of a reluctance on the part of authorities to pursue aggressively allegations involving acts of violence or other major crimes. There is a clear perception among the public that those who are well-connected, especially the rich and powerful, often have impunity with respect to the country's civil and criminal laws. Public suspicion that special groups receive special treatment under the law clearly diminishes confidence in the justice system. However, the Government took action during the year to prosecute and jail prominent citizens involved in financial scandals and theft, which represented a step forward in combating impunity and altering the public's perception.

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 under way or is about to be committed, before entering a private dwelling. Government authorities generally respected these rights.

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. Opposition figures are regularly interviewed on television and radio. According to major media associations, the Government did not use direct or indirect means to control the media.

The new Assembly abrogated the 1996 telecommunications law, approved a revised law in August, and made final amendments to the new law in October. However, the issue of providing free or low cost frequencies to "community radio" stations was not resolved. The Supreme Court ruled that the Government had acted improperly in 1995 when it confiscated the equipment of 11 unlicensed, low-powered stations, operating in small rural communities, temporarily closing them down. The Court ordered the return of the equipment and overturned a fine, but found that the stations must get permits before broadcasting. Ten stations are broadcasting again, all without licenses. In practice, it takes years to get licenses, and the stations argue that they cannot afford them. The final law maintained the existing separation bandwidth (the broadcast spectrum is already over subscribed) and gave no special status to the community stations (requiring them to seek commercial licenses to broadcast). The community stations and several NGO's charged that this law supported a monopolization of the airwaves and effectively violated the right of free expression.

On August 25, Lorena Saravia, a news reader employed by a commercial radio station, was shot and killed. The PNC reacted quickly, mounting a major investigation, which was still under way at year's end. Although the Inter-American Press Society cited this murder as an example of violence directed against the media, there was no indication that the murder had any direct connection to Saravia's profession or that it had any relationship to the media.

In July police using nightsticks struck media reporters covering a major financial scandal. There were no serious injuries. The chief of police apologized the following day and instituted an internal investigation. The President recognized publicly that the police had overreacted. After meeting with the El Salvador Association of Reporters, the PNC formally and publicly promised that such action would not be repeated.

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 for any lawful purpose, and the Government respects this right in practice. There is no requirement for permits to hold public meetings, and public demonstrations are common.

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

The Ministry of Interior began implementing the 1996 law that gives it the authority to register, regulate, and financially oversee domestic and international NGO's and non-Catholic 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.

Some leaders of the NGO community complained that the Ministry had not yet published implementing regulations defining procedures for reviewing applications. These NGO's also complained that the Government did not fulfill its promise of an "open dialogue" prior to the implementation of the law. Although the law went into effect December 1996, the Ministry of Interior extended the deadline for NGO registration to the end of September and made efforts to allow all operating NGO's to present their documents. The law requires the Ministry to respond to applications within 15 days; if the Ministry fails to do so, the NGO receives automatic registration. In June some 200 NGO's presented a constitutional challenge to the law based on the right of free assembly. The Supreme Court accepted the challenge for consideration in September, but at year's end had not issued a judgment.

c. Freedom of Religion

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

In August the Ministry of Interior denied temporary resident status for some 100 Japanese members of the Sun Myung Moon church. The Ministry determined that the members had violated their status as tourists by actively proselytizing. However, none of the group were punished, and, while requiring the group to leave, the Government allowed the same members to reenter the country as tourists, but not for religious purposes. The Government noted that under the law, visitors must seek immigrant status in order to practice religious proselytism.

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 1997 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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The President and Vice President are elected every 5 years; legislative and municipal officials are elected every 3 years. The Constitution bars the President from election to consecutive terms. Voting is by secret ballot.

In March there were elections for all 84 national Legislative Assembly seats and all 262 municipal governments. Ten political parties and thousands of candidates, representing the full political spectrum, campaigned freely. The Government did not restrict opposition participation. The voting procedure was without major flaws and proceeded peacefully with fair access to polls for all voters. The election resulted in significant gains for the FMLN (the principal opposition party) in the legislature and victories in many of the largest municipalities (including San Salvador, in which a FMLN coalition candidate was elected mayor). The governing ARENA party lost its legislative working majority and important

mayoral races. The next two largest opposition legislative parties won a significant bloc of seats, leading to a true multiparty Assembly.

There are no laws or overt practices that prevent women or minorities from voting or participating in the political and governmental systems. Women represented 50.6 percent of the registered voters for the March election, and party campaigns and slates reflected a strong attention to this vote. Voters elected 14 women to the legislature (representing about 17 percent of the total seats), an increase from the previous Assembly's 9. However, women held fewer positions on the Assembly's governing board than in the previous legislature. One cabinet minister was a woman, a woman served as the Government's highly visible Human Rights Ombudsman, and a woman was the President's cabinet-level adviser for modernization. Women served on the Supreme Court, as head of the Social Security Institute, and in a substantial number of subministerial positions.

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 operated freely as did various international human rights groups, including migration and other humanitarian and technical assistance groups. International and domestic NGO's were required to register with the Government under the terms of the 1996 NGO Registration Law (see Section 2.b.).

The Peace Accords specifically created the PDDH, which was formally established by a constitutional amendment that defined its role. The PDDH's investigative capacity remains limited due to resource constraints. Moreover, the PDDH is spread increasingly thin as the organization sought to expand its scope of attention, extend its presence throughout the country, and meet increased public demand. In December 1996, the Assembly reduced the PDDH's budget allocation by 10 percent, but the Ombudsman and the PDDH continued to be active on all human rights issues. In July a University of Central America poll indicated that the PDDH retained the highest level of public trust of any government institution, with 55 percent of the public reporting confidence in the PDDH.

In November Human Rights Ombudsman Victoria de Aviles revealed that she had received death threats through her private cellular telephone. Police Chief Rodrigo Avila promised to enhance existing police protection and begin an investigation to find out who was making the calls.

In December 1996, the U.N. General Assembly eliminated the position of Special Representative of the Secretary General resident in El Salvador and further reduced the U.N.'s presence to a small support unit. In late July, the General Assembly closed this support unit, while confirming that the U.N.'s verification responsibilities would be carried out from its headquarters. These resolutions reflected international acknowledgment of the continued progress in implementing the Peace Accords. The U.N. Development Program office continued assistance programs with 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, indigenous people, and the disabled occurs in salaries, in hiring, and in access to credit and education.

Women

Violence against women, including domestic violence, is a widespread and serious problem. Once a taboo social subject, it is being increasingly recognized publicly and has become a topic for national debate. Government institutions such as the PDDH, the Attorney General's office, the Supreme Court, and the PNC coordinate efforts to combat family violence. The National Secretariat for the Family maintains a hot line for victims to report domestic abuse. From March 1996 to March 1997, there were 3,033 reported cases of domestic violence, mostly against women, according to the Salvadoran Institute for the Development of Women (ISDEMU). The Institute of Legal Medicine, using different criteria, reported 545 cases from January to August. From January to September, the Attorney General's office received 208 cases of mistreatment of women, 144 cases of threats against women, and 31 cases of wounding of women.

The authorities believe that cases of domestic violence and rape are underreported for several reasons: Societal and cultural pressures against the victim, a fear of reprisal, poor handling of victims' feelings by the authorities, fear of publicity, and the belief that cases are unlikely to be resolved. The PDDH noted that hundreds of domestic abuse victims who underwent psychotherapy refused to report their cases formally. Reports of sexual abuse of women continued to rise. The authorities attribute some of this statistical increase to a growing willingness of victims to bring formal charges.

The Attorney General's office reported 221 cases of rape and 18 cases of attempted rape from January through September. Under the new Criminal Procedures Code (to take effect in 1998), victim testimony will be admissible evidence. The current codes do not allow victim testimony. As the victim of rape is often the only witness, this resulted in little chance for conviction in rape cases. In 1996 the Assembly repealed an old law that exonerated a rapist if he offered to marry the victim, and she accepted.

The Constitution grants women and men the same legal rights, but women suffer discrimination. The 1994 Family Legal Code amended laws that discriminated against women, especially affecting the large number of women in common law marriages. The law also established special courts to resolve family disputes. Several NGO's are engaged in promoting women's rights and have conducted several rights awareness campaigns.

Women suffered from economic discrimination and in practice did not have equal access to credit and land ownership. Women were often paid less than men for equal work. Of the economically active female population, 65 percent worked in the informal economy. However, women made up 90 percent of the work force in the export processing zone companies, which are the largest source of new jobs (see Section 6.b.). Training for women was 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 was 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, and while there was progress in increasing the availability of schooling throughout the country, compliance with legal requirements was only feasible in the country's urban centers.

The Government worked 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. The Salvadoran Institute for the Protection of Children (ISPM), an autonomous entity, is responsible for protecting and promoting children's rights. The ISPM estimated that as of August it had 2,577 children in its shelters,

some abandoned and others victims of mistreatment. Through August, it had received a total of 1,101 formal complaints, of which 178 were for physical mistreatment, 133 for negligence, and 123 for abandonment. Using different criteria, the ISDEMU reported 959 cases of child abuse for the period March 1996 through March 1997. Between January and September, the Attorney General's office reported 54 formal cases of child abuse, and it brought 61 cases against parents for throwing minors out of the house.

There were no reliable estimates of the number of children living on their own in the streets, but children's advocates agree that there is a sizable number. Many of these were involved in substance abuse (glue and paint sniffing). There are allegations from children rights advocates that street children suffer from police brutality. The PNC denies these charges but has accepted PDDH human rights training for 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 Supreme Court found unconstitutional key provisions of the 1996 Emergency Law against Common and Organized Crime, which negated parts of the 1995 Juvenile Code by lowering the age of majority for juvenile offenders to 14 years.

The Institute of Legal Medicine recorded a reduction in reports of sexual abuse of children under 15 years of age, with 235 reports from January through August, compared with 301 for the same period in 1996 and a total of 454 for all of 1996. The Attorney General's office registered 26 cases of child rape for January through September. The ISPM reported 57 cases of sexual abuse for January through August. According to the PDDH, over 85 percent of all abuse occurs in schools and at home, and only a small percentage of these cases were reported to the authorities.

The PDDH estimated that 270,000 minors work, mostly as street vendors. Besides losing their opportunity for an education, these children often fell victim to sexual abuse and are exploited as prostitutes. The PDDH, NGO's, and the media mounted throughout the year a publicity and investigative campaign to highlight the plight of children.

Infant malnutrition continued to be a problem. Ministry of Health figures indicated that 50 percent of infants under the age of 5 had some nutritional deficiency, and 11 percent suffered from serious malnutrition. The Government has a national plan for infants designed to increase access to potable water, iodized salt, and 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 1984 decree stating that 1 of every 500 employees must be a person with disabilities. Access by the disabled to basic education was limited due to lack of facilities and appropriate transportation. There was 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 provided such service, tending rather to focus on life-threatening conditions and preventive care for mothers and children. The Ministry of Health estimated that between 7 and 10 percent of the population is afflicted by some form of disability. In December the National Council of Disabled People estimated that there were 500,000 persons with disabilities, of which 12,500 were directly attributed to the civil war. Other factors contributing to the large number of disabled were lack of prenatal care, misuse of pesticides in food production, malnutrition, auto accidents, and criminal violence.

There were 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 provided alternatives for the education and rehabilitation of the disabled population. A semiautonomous institute, the Salvadoran Rehabilitation Institute for the Disabled (ISRI), also provided assistance to the disabled. The ISRI offered medical treatment, counseling, special education programs, and professional training courses. Founded in 1957, the ISRI has 10 centers throughout the country and received assistance from the Government and national and international private and nongovernmental organizations.

Indigenous People

El Salvador is an ethnically homogeneous country, although a very small segment of the population still claims indigenous status. The Constitution makes no specific provisions for the rights of indigenous people.

Early in the century, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they are generally indistinguishable. There are a few very small communities whose members still wear traditional dress and maintain traditional customs without repression or interference. These small indigenous groups exist in the poorest parts of the rural countryside where employment opportunities are few and domestic violence is a problem. Indigenous people reportedly earned less than other agricultural laborers, and indigenous women in particular had little access to educational and work opportunities. As with the poor rural sector in general, access to land was a growing problem confronting indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There are a few small indigenous associations. One, the National Association of Indigenous Salvadorans (ANIS), continues to be involved in a long-running land dispute with a neighboring cooperative. The dispute has caused division within the organization, evictions of ANIS members from land, and exchanges of threats with the neighboring group and among rival camps within ANIS. The ANIS charged that the Government was targeting indigenous leaders with legal harassment and threats. There has been little evidence to support these allegations.

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. The military, police, and government workers may not form unions (but are allowed professional and employee organizations) and may not strike. The 1994 Labor Code streamlined the process required to form a union in the private sector, extending union rights to agricultural, independent, and small-business workers, and extending the right to strike to union federations. The Labor Code prohibits partisan political activity by unions, but they routinely ignored this prohibition.

There were approximately 150 active unions, public employee associations, and peasant organizations, which represent over 300,000 citizens, approximately 20 percent of the total work force. Only private sector workers have the right to form unions and strike; employees of 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.

Some of the most powerful labor groups are public employee associations, which take on the same responsibilities as unions-- including calling strikes and collective bargaining. Negotiations between public employee associations and the Government generally settled public sector strikes, although the Labor Code provides for mandatory arbitration of public sector disputes.

The law prohibits antiunion actions before a union is legally registered. The Labor Code forbids foreigners from holding positions in unions.

Unions and other labor organizations freely affiliated 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 (currently undergoing privatization) and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) used collective bargaining.

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 continued to affect labor inspectors and courts, but improvements in training and Ministry of Labor pay scales began to address this problem.

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 may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. Employers generally observed this provision in practice, but credible reports continued of employers using illegal pressures, including dismissing labor activists, to discourage organizing. The law requires employers to rehire employees fired for any type of union activity, and the Labor Ministry has increased efforts to enforce this requirement. In many cases, employees chose to take a cash payment in lieu of returning to work.

There are six export processing zones (EPZ's) and several in-bond plants operating outside of these zones. There are no special labor regulations for the EPZ's. During the last few years, most EPZ companies and a large portion of the in-bond plants have accepted the provisions of voluntary codes of conduct from their parent corporations or foreign purchasers. These codes included worker rights protection clauses. In April the Salvadoran Apparel Industry Association announced implementation of an industrywide code of conduct with worker rights protection. The great majority of companies in the EPZ's provided much better salaries and working conditions than those offered elsewhere in the private sector. There were credible reports that some factories dismissed union organizers, and only one EPZ company had an active plant union. Credible accusations persisted that some maquila factories abused their workers, as well as reports that some women were not hired because they were pregnant. Although the Labor Ministry made measurable improvements in its efforts to increase inspection and follow up on such complaints, it still had insufficient resources to properly cover all the EPZ's, much less the much larger national private sector.

The Labor Ministry made significant progress in modernizing its facilities and professionalizing its staff. Although under 1996 legislation the Government authorized the Ministry of Economy to withdraw away free zone privileges from companies that violated labor regulations, there have been no public cases where this has been threatened. There is also a tripartite (government, business, and labor) commission, established in 1996, to help resolve conflicts in EPZ and other bonded companies.

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. Although not specifically prohibited by law, forced and bonded labor by children are covered by the general prohibition, and there were no reports of its use in the formal sector. However, there was strong evidence that children and minors have been forced into prostitution.

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution prohibits the employment of children under the age of 14. The law does not specifically prohibit forced and bonded labor of children, but both activities are forbidden in general (see Section 6.c.). Minors may receive special Labor Ministry permission to work, but 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. Those legal workers under the age of 18 have special additional rules governing conditions of work (see Section 6.e.).

Orphans and children from poor families frequently work for their own or family survival as street vendors and general laborers in small businesses, especially in the informal sector. Children in these circumstances often do not complete compulsory schooling through the ninth grade (up to the age of 14) as the law requires. Child labor is not usually found in the industrial sector and has disappeared in the EPZ's.

The Ministry of Labor is responsible for enforcing child labor laws and made an effort to do so. However, scarce resources and the difficulty of monitoring the large informal sector limited its effectiveness outside of the urban formal sector. In August the Government participated in the establishment of the National Committee for the Eradication of Child Labor (CNETI). The CNETI is a coordinating body with government, NGO, and private sector (labor and business) representatives that works to combat child labor.

e. Acceptable Conditions of Work

Effective July 1995, the minimum wage was \$4.40 (38.50 colones) per day for commercial, industrial, and service employees; and \$3.30 (28.60 colones), plus a food allowance, per day for agroindustrial workers. However, full-time minimum wage employees are paid by law a full 7 days (56 hours) for the 44 hour week and receive an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. The minimum wage with benefits was insufficient to provide a decent standard of living for a worker and family. For the third year in a row, 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 bonus pay for overtime and limits the workweek to no more than 6 days for all workers.

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. These laws 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, while improved, was 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 has devoted resources to improving the professional training of its staff and inspectors. Increasingly, its investigations lead to fines or other findings favoring workers. The Ministry has restricted powers and only limited, but growing, resources to enforce compliance.

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