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U.S. Department of State

Honduras Report on Human Rights Practices for 1997

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HONDURAS

Honduras is a constitutional democracy, with a president and a unicameral congress elected for 4-year terms. President Carlos Flores Facusse took office on January 27, 1998, as the fifth democratically elected President since the reestablishment of democracy in 1982. The two major political parties, the Liberals and the Nationalists, have alternated in power peacefully after free elections. The judiciary is independent but is often ineffective and subject to outside influence.

The Honduran Armed Forces (HOAF) comprise the army, the air force, and the navy. The Congress in 1996 ratified a constitutional amendment to sever the Public Security Force (FUSEP), a paramilitary police force, from the HOAF. The police were transferred to civilian control in 1997; new legislation concerning how the civilian police force will function is expected to be approved in 1998. The armed forces operate with considerable institutional and legal autonomy, particularly in the realms of internal security and military affairs. The Government in 1993 established an Ad Hoc Commission on Police and Judicial Reform in response to credible allegations of extrajudicial killings by members of the FUSEP, particularly its National Directorate of Investigations (DNI). That decision led the Government to establish a new Public (Justice) Ministry charged with administering a new Directorate of Criminal Investigations (DIC) to succeed the DNI. Human rights organizations, including the Government's National Commissioner for Human Rights, acknowledge that reports of human rights abuses have steadily declined since the DNI was abolished; however, members of both the armed forces and the police continue to commit abuses.

The economy is based primarily on agriculture, with a small but increasingly important maquiladora (in-

bond processing for export) industry that accounts for some 90,000 jobs. The armed forces play a role in the national economy through their pension fund, controlling some enterprises usually associated with the private sector, including a bank, several insurance companies, and one of two cement companies. However, some state enterprises, such as the merchant marine and the national telephone company, have passed from military to civilian control. Approximately 43 percent of workers engage in agriculture; about one-third of those work on large plantations. The principal export crops are coffee and bananas, which are the leading sources of foreign exchange; nontraditional products, such as melons and shrimp, also play an increasingly important role in the economy. Annual per capita income is about \$700; the Government estimates that 65 percent of its citizens live in poverty.

The Government's human rights record improved somewhat, but serious problems remain. Members of the security forces allegedly committed extrajudicial killings. Incidents of police beating and other abuse of detainees remained a problem. Prison conditions remained harsh, detainees do not always receive due process, and lengthy pretrial detention is a problem. Considerable impunity for members of the civilian and military elite, exacerbated by a weak, underfunded, and sometimes corrupt judicial system, contributes to human rights problems. The judicial system continued to deny swift and impartial justice to prisoners awaiting trial. While no senior government official, politician, bureaucrat, or member of the business elite was convicted of crimes, the Government removed dozens of judges and police investigators from office on charges of corruption. Other human rights problems included societal discrimination and violence against women, discrimination against indigenous people, and abuse of street children. There was an increase in killings by vigilantes. Child labor is a problem, particularly in rural areas and in the informal economy, but not in the export processing sector.

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 reports of politically motivated killings; human rights organizations, however, continued to allege that individual members of the security forces committed extrajudicial killings. The Government in September publicly denied such allegations.

In April the security forces killed 2 persons and wounded 16 others in the process of routing protesters who had taken over a highway in El Paraiso. In November prison guards opened fire on prisoners escaping a fire the prisoners themselves had set, killing at least one person (see Section 1.c.).

Human rights groups implicated members of the security forces in a number of killings of street children (see Section 5.).

The crime rate surged again in 1997, due to worsening economic conditions, easy access by the general population to alcohol and weapons, the inability of the police to deter crime, and the difficulties encountered by an underfunded and understaffed DIC in investigating and solving more than a token number of crimes. The number of homicides nationwide rose, averaging five to six per day in the capital city of Tegucigalpa alone; random shootings also were common. The drastic increase in violent crime contributed to the growth of private, often unlicensed, guard services, and of volunteer groups who patrolled their neighborhoods or municipalities to deter crime. The proliferation of private security forces, in turn, made it more difficult to differentiate among homicides that may have been perpetrated by government security personnel, common criminals, or private vigilantes.

Human rights groups asserted that they had credible evidence that at least some of these homicides were extrajudicial executions. In such cases, persons presumed to be part of renegade elements of the security forces, or civilian (including vigilante) groups working with such elements, allegedly used unwarranted lethal force against supposed habitual criminals. Widespread frustration at the inability of the security forces to control crime, and the well-founded perception that corrupt security forces were complicit in the high rate of crime, led to considerable public support for vigilante justice. The Government did not take effective action to try, convict, or punish anyone for these offenses.

Credible allegations in the past of extrajudicial killings by members of the FUSEP led to the creation in January 1994 of a new, civilian-controlled Directorate of Criminal Investigations under the control of the Public Ministry (which also includes a prosecutorial branch). The Attorney General and human rights groups have noted a continuing drop in the number of reports of human rights abuses since the creation of the DIC. The new Public Ministry, responsible for investigating all cases of extrajudicial killings, has completed its initial program of training and organizing its staff.

The Supreme Court in 1996 issued a special decree permitting officials associated with the criminal justice system (including the military, police, prison wardens and employees, criminal investigative agents, public prosecutors, judges, and other magistrates) who are undergoing investigation or trial to serve their preventive detention at military bases and police centers, rather than at the central penitentiary in Tegucigalpa, as had been the case in the past. It was hoped that the decree, which applies only to preventive detention, would encourage military officers sought for alleged human rights abuses in the 1980's to turn themselves in. The decree was designed as an interim measure, pending passage by the Congress of a new penal procedure code that would modernize the existing antiquated code.

Under terms of the decree, two low-level former FUSEP agents surrendered in July to face charges of alleged involvement in two 1992 disappearances in Choluteca. The authorities freed them in August for lack of evidence.

Two former senior military and security officials were jailed in the case of Adan Aviles Funez and Nicaraguan Amado Espinoza Paz, who disappeared together in Choluteca on June 12, 1982. Retired police colonel Marco Antonio Matute Lagos surrendered to the authorities on November 3; colonel Manuel Enrique Suarez Benavides was jailed on August 25. Both faced charges of illegal detention and murder. At year's end, Matute awaited trial on the charges; Suarez was freed on appeal in November.

There was no progress in the investigation or prosecution of other alleged extrajudicial killings committed in previous years.

b. Disappearance

There were no reports of politically motivated disappearances.

The Attorney General continued investigations into the disappearances of 184 people in the 1980's. Various witnesses, survivors, and a few former members of the military have charged that a military intelligence group called Battalion 3-16 kidnapped, tortured, and murdered many of those who disappeared. The National Commissioner for Human Rights, Leo Valladares, also continued his investigation into the human rights abuses alleged to have been committed by members of Battalion 3-16 and the former DNI. The Attorney General and the Human Rights Commissioner requested from the HOAF and the U.S. Government information that they might have to aid this investigation. The HOAF claimed to have no relevant information, but the U.S. Government reviewed internal documents from the period in question and released to the Attorney General and the Human Rights Commissioner

thousands of pages of declassified documents, including several hundred pages relating to the 1983 disappearance of a U.S. citizen Jesuit priest, Father James Carney.

In February the Government completed payment of indemnifications to the families of Saul Godinez Cruz and Manfredo Velasquez Rodriguez that the Inter-American Court of Human Rights levied in 1989. Godinez and Velasquez were students at the National Autonomous University in 1981 when DNI agents detained them; they were never seen again.

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

The Constitution prohibits torture, but there were isolated reports that officials employed such practices. Police beatings and other alleged abuses of detainees remained a problem. The police also engaged in violence against street children, including beatings and a number of killings (see Section 5).

The National Police's Office of Professional Responsibility (OPR) investigates cases of alleged torture and abuse; OPR officials can recommend sanctions for police agents found guilty of such mistreatment. However, neither the police commander nor the OPR is empowered to punish wrongdoers; only the immediate superior of the accused agent has the authority to do so. The Public Ministry and human rights groups criticized the OPR for being unresponsive to their requests for impartial investigations of police officers accused of abuses. In 1996 the Public Ministry created the Office of Human Rights Inspector within the DIC to monitor the behavior of its agents; the Inspector reports to the head of the human rights section of the Public Ministry and to the Attorney General. The DIC dismissed some 40 agents for involvement in corrupt activities and abuses of authority. The HOAF no longer exercise mission or funding authority over the police, and the Government in September established a seven-member review board to monitor the police until legislation provides implementing regulations and ministerial authority. The police are scheduled to make the final transition to civilian authority in May 1998.

Prison conditions remained harsh. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation. The country's 24 penal centers held over 9,000 prisoners; more than 90 percent of these were awaiting trial, some for over 5 years. In August, September, and November, a wave of prison protests across the country resulted in the burning by inmates of penitentiaries in Santa Barbara, Trujillo, and Gracias, and in mass escapes from other detention centers. After the Gracias fire, 134 prisoners escaped. Guards reportedly opened fire on them, killing one person and wounding five others. In September a physician who treated prisoners in the central penitentiary in Tegucigalpa filed legal charges against its warden and several guards for allegedly ordering and inflicting torture. In October a prisoner in San Pedro Sula publicly claimed that he had been raped by other prisoners, and that he knew of seven similar cases, including that of a minor. These events increased public pressure for urgently needed penal reforms.

Women are incarcerated in separate facilities under conditions similar to those of male prisoners, except that female prisoners do not have conjugal visit privileges.

More often than not, wardens housed the mentally ill and those with tuberculosis and other infectious diseases among the general prison population. A new, larger detention facility for men located in Tamara, which had been scheduled to open in 1996, lacked water and had not yet been placed in operation. Prisoners with money routinely bought private cells, decent food, and conjugal visitations, while prisoners without money often lacked the most basic necessities, as well as legal assistance. The prison system budgets just \$0.45 (6 lempiras) per day for food and medicine for each prisoner. Many street children under arrest were housed in adult prisons, where they were routinely abused.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The law states that the police may arrest a person only with a court order, unless the arrest is made during the commission of a crime, and that they must clearly inform the person of the grounds for the arrest. (By law, the police cannot investigate; it only detains suspects.) Police must bring a detainee before a judge within 24 hours; the judge then must issue an initial temporary holding order within 24 hours, release an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation. In practice, however, the authorities do not routinely observe these legal requirements. While bail is legally available, it is used primarily for ostensibly medical reasons; however, procedures for granting it in such cases are confused and unclear. Poor defendants, even when represented by a public defender, are seldom able to take advantage of bail.

Lengthy pretrial detention is a problem. More than 90 percent of prisoners were awaiting trial, some for over 5 years (see Section 1.c.).

Under the 1984 Code of Criminal Procedures, judges, the police, public officials, or any citizen may initiate criminal proceedings. Perhaps as many as 80 percent of the cases reported to the police are never referred to the criminal justice system, but instead are settled administratively by the police or by municipal courts, which are separate from the regular judicial court system.

The Constitution prohibits the expatriation of a citizen to another country; exile is not used as a means political control.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the right to a fair trial. While the Government respects these provisions in principle, implementation has been weak and uneven in practice. A number of factors limit the effectiveness of the system: Both the judiciary and the Public Ministry suffer from inadequate funding, the civil law inquisitorial system functions very poorly, and powerful special interests still exercise influence and often prevail in many courts. Also, many leading politicians enjoy constitutional immunity from prosecution because of their membership in either the Congress or the Central American Parliament, and that immunity extends to acts committed before taking office. The Attorney General in September publicly described the legal regime as "a system in collapse," and recommended a congressional review of the legal immunity statutes.

The court system is composed of a Supreme Court with 9 magistrates; 10 appeals courts; 67 courts of first instance of general jurisdiction; and 325 justice of the peace courts of limited jurisdiction. Congress elects the nine Supreme Court justices and names the president of the Court; the Supreme Court, in turn, names all lower court judges. The 4-year term for justices of the Supreme Court coincides with those of the Congress and the President.

Some progress was made in using a judicial career system to enhance qualifications of sitting judges, depoliticize the appointments process, and break the subcultures of corruption, clientism, patronage, and influence-peddling within the judiciary. Nevertheless, many courts remained staffed by politically selected judges and unqualified clerks and were inefficient and subject to influence by special interests. In September two members of the Supreme Court publicly questioned the political independence and financial integrity of fellow justices on the Court. The Attorney General investigated more than 100 judges suspected of corruption and malfeasance; 44 judges were dismissed for cause, and 3 were

imprisoned.

An accused person has the right to a fair trial, which includes the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. Although the Constitution recognizes the principle of innocence, the Criminal Code is in practice often administered by ill-trained judges operating on a presumption of "guilty until proven innocent." Pretrial hearings and trials are written and at the judge's discretion may be declared secret and not "public." Defendants and their attorneys are not always genuine participants in the process, despite rights accorded under law. Defendants may, through the judge, confront witnesses against them and present evidence on their own behalf. According to law, defendants and their attorneys have access to government-held evidence relevant to their cases, but in practice this is not always the case.

In the inquisitorial system, judges are legally in charge of the investigation as well as the trial and sentencing. Both the Public Ministry's public prosecutors and private prosecutors may bring criminal charges against citizens. A judge may jail an accused person for 6 days before a determination is made of probable cause to admit the charge. If a judge sustains the criminal accusation, the accused remains in jail or may be released on bail while awaiting trial.

A public defender program provides service to those unable to afford an adequate defense. There are 104 public defenders nationally providing free legal services for 37 percent of the prison population; however, public defenders are hard pressed to meet the heavy demands of a nonautomated, inadequately funded, and labor-intensive criminal justice system. Pending consideration of proposed reforms, the Supreme Court issued an instruction that holds judges personally accountable for reducing the backlogged cases; separates judges into pretrial investigative judges, and trial and sentencing judges; and creates a program to monitor and enforce compliance with these measures. The instruction is intended to ensure that the rights of the accused to a timely and transparent defense are more effectively respected.

Detention of criminal suspects pending trial averaged 2 years and remained a serious problem. In a number of cases, poor prisoners remained in jail after being acquitted or completing their sentences, due to the failure by responsible officials to process their release papers. A significant number of defendants served the maximum possible sentence for the crime of which they were accused before their trials were concluded, or even begun. As of year's end, more than 90 percent of all prisoners had been neither tried nor sentenced.

In the past 3 years, the Public Ministry has taken positive steps by investigating and accusing not only military officers of human rights violations, but also ranking officials of the past two governments of abuses of power, fraud, and diversion of public funds and resources. These are crimes that seriously diminish the ability of the Government to address fundamental economic issues affecting the welfare of the general population. At year's end, however, none of those accused had been convicted.

Following much-publicized investigations of alleged past and present human rights violations by national security personnel, judges in the civilian court system brought criminal charges against a number of senior active or retired military officers for murder, attempted murder, and illegal detention; those cases still awaited trial at year's end. Although the military continued to profess respect for civilian court jurisdiction over its members, only three military officers accused of human rights violations had turned themselves in.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution specifies that a person's home is inviolable, and that persons in the employ of the State may enter only with the owner's consent, or with the authorization of a competent legal authority. Entry may take place only between 6 a.m. and 6 p.m., or at any time in the event of an emergency or to prevent the commission of a crime. However, as in previous years, there were credible charges that police and armed forces personnel failed at times to obtain the needed authorization before entering a private home. Despite an improved system of "duty judges" and "duty prosecutors" to issue search warrants, coordination among the police, the court, and the Public Ministry remains weak. There was credible evidence that the military maintained files on union activists (see Section 6.b.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the authorities largely respected these freedoms in practice. The news media often were openly critical of the Government and exposed corruption, but they themselves suffered from corruption and politicization. Serious investigative journalism is still in its infancy; there were numerous credible reports of self-censorship and of payments, in cash or in kind, to journalists either to promote or to kill stories.

The Government respects academic freedom and has not attempted to curtail political expression on university campuses.

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

The Constitution provides for all forms of religious expression, and the Government respects this right in practice.

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

Citizens enter and exit the country without arbitrary impediment, and the Government does not restrict travel within the country's borders.

The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum and grants asylum or refugee status in accordance with the standards of the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol.

There were no reports of the 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 exercised the right to change their government through democratic and peaceful means in the November elections. International observers found the elections to be free and fair. For the first time voters had the opportunity to cast separate ballots in the presidential, congressional, and municipal

elections. Security at election sites was provided by police forces operating under civilian control for the first time in recent years. Voting was made easier for citizens by a change that allowed them to vote closer to their homes.

The national administration is chosen by free, secret, direct, and obligatory balloting every 4 years. Suffrage is universal, but the clergy and members of the security forces are not permitted to vote. Any citizen born in Honduras or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police. A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments.

There are no legal impediments to women or minorities participating in government and politics; in practice, however, the proportion of women and minorities in political organizations and elective office is far lower than their overall representation in society. Women occupied a cabinet ministry and a Supreme Court position, as well as a number of vice ministerial positions, in the Government. Of the 128 deputies in the Congress, 14 were women. In the November elections, a woman for the first time was the presidential candidate of a major political party, and a female candidate was elected to one of the three vice presidencies on the winning party's ticket.

There were few indigenous persons in leadership positions in government or politics. Five indigenous persons were deputies in the Congress, and the ambassador to the United Nations is a member of the Garifuna indigenous group.

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

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views.

In 1996 the Congress ratified a presidential decree expanding the functions of the National Commissioner for Human Rights and unanimously reelected Leo Valladares to a 6-year term as National Commissioner. Under this new decree, and in fulfillment of his expanded functions, the National Commissioner has free access to all civilian and military institutions and centers of detention; he may enter without authorization or objection by anyone. The National Commissioner performs his functions with complete immunity and autonomy from all persons.

Anonymous telephone callers continued to threaten persons active in human rights endeavors. Human Rights Commissioner Valladares received numerous telephone threats against himself and his family. Ramon Custodio, president of the Committee for the Defense of Human Rights in Honduras (CODEH), and Bertha Oliva de Nativi, coordinator general of the Committee of Relatives of the Detained and Disappeared in Honduras (COFADEH), also received numerous telephone threats. DIC director Wilfredo Alvarado received death threats during his investigation of senior government officials involved in illegal sales of Honduran diplomatic passports. Attorney General Edmundo Orellana reported threats against himself and his family due to his investigations of several cases of persons who disappeared in the 1980's and to recent public denunciations of high-level corruption.

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

The Constitution bans discrimination based on race or sex. Although it also bans discrimination on the basis of class, in fact, the political, military, and social elites generally enjoyed impunity before the legal

system. Members of these groups rarely were arrested or jailed; legislators enjoy legal immunity. In 1996, however, the Government detained two officials of the former Callejas administration, Jose Tomas Guillen Williams and Luciano Coello, on charges of corruption and abuse of authority. Both remained in the central penitentiary in Tegucigalpa, awaiting trial.

Women

Violence against women remained widespread, and serious weaknesses in the Penal Code severely impeded efforts to combat it. Most such violence took place within the family. The courts did not take action in domestic violence cases unless the victim was injured severely and incapacitated for more than 10 days. Except in the case of children 12 years of age or under, rape is considered a private crime, which means that rape victims must hire a private prosecutor, a luxury that few can afford. The penalties for rape are relatively light, ranging from 3 to 9 years' imprisonment. The law exonerates a rapist if he offers to marry the victim and she accepts. Under pressure from the Honduran Women's Committee for Peace--Visitacion Padilla, the Center for Women's Rights, and other women's advocacy and reform groups, the Congress in September adopted legislation to strengthen the rights of women and increase the penalties for crimes of domestic violence committed against women.

There were few shelters specifically maintained for battered women. The Government operates one shelter that can accommodate 10 women and their families. Six new centers for battered women opened in 1996, offering legal, medical, and psychological assistance, but not physical shelter. Although the new law dealing with domestic violence offered some redress, few women took advantage of the legal process, believing that judges would be unwilling to apply the law vigorously. Sexual harassment in the workplace was also a problem.

Women were represented in at least small numbers in most of the professions, but cultural attitudes limited their career opportunities. In theory, women have equal access to educational opportunities, but family pressures often impede the ambitions of women intent on obtaining higher education. The law requires employers to pay women, who make up 51 percent of the work force, equal wages for equal work, but employers often classify women's jobs as less demanding than those of men in order to justify paying them lower salaries.

Some organizations have begun to offer assistance to women, principally targeting those living in the rural sectors and marginal neighborhoods of cities. The Honduran Federation of Women's Associations, for example, provided home construction and improvement loans, offered free legal assistance, and lobbied the Government on women's causes. The Center for the Investigation and Promotion of Human Rights (CIPRODEH) continued to operate a program to make women aware of their rights under the law.

Children

Although the Government committed itself to protecting children by allocating 37 percent of its 1998 budget to public education and health care, it was unable to prevent the abuse of street children (see Section 1.c.) and child laborers (see Section 6.d.). There were an estimated 4,000 street children, of whom only half reportedly have shelter on any given day. Many street children have been sexually molested, and about 40 percent regularly engaged in prostitution; approximately 30 percent of the street children in Tegucigalpa and San Pedro Sula, the two population centers, were HIV positive. At least 40 percent were addicted to sniffing glue. Over 75 percent of the street children found their way to the streets because of severe family problems; 30 percent simply were abandoned. Both the police and members of the general population engaged in violence against street children. When the authorities

arrested minors, many of whom were charged with the commission of capital and other serious crimes, they were housed with adult detainees who abused them; one such case in San Pedro Sula became public in October.

In 1996 the Government opened juvenile centers in Tamara, El Carmen, and El Hatillo (located in sections of Tegucigalpa and San Pedro Sula). Nonetheless, a general lack of juvenile detention facilities contributed to the detention of minors with adults, and to vigilante violence against, and police abuse of, street children. A juvenile who escaped from El Hatillo in March was killed while trying to avoid recapture, and four other runaways from El Carmen and El Hatillo in September were found beaten to death or executed by a shot through the head. Human rights groups implicated out-of-uniform security personnel in these and at least eight other juvenile deaths. In October Casa Alianza de Honduras (Covenant House of Honduras), an organization dedicated to children's rights, brought charges before the Public Ministry against unnamed members of the armed forces and the police for the alleged torture of 63 juveniles or minors, 35 of whom reportedly were murdered, since 1990. Also in October, a police captain was placed in preventive detention and four other police agents were placed under investigation for illegally detaining and beating three youths.

New legislation covering children and adolescents took effect in 1996, covering the rights, liberties, and protection of children, including in the area of child labor (see Section 6.d.). It established prison sentences of up to 3 years for persons convicted of any manner of child abuse. In September the Government for the fifth consecutive year convened a national children's congress at which boys and girls from throughout the country discussed issues affecting the nation's youth. Street children participated in this congress for the first time.

People With Disabilities

There are no formal barriers to participation by disabled persons in employment, education, or health care, but neither is there specific statutory or constitutional protection for them. There is no legislation that requires access by disabled persons to government buildings or commercial establishments.

Indigenous People

The small communities of indigenous people had little or no ability to participate in decisions affecting their lands, cultures, traditions, or the allocation of natural resources. Indigenous land rights are communal. While the law permits persons to claim individual freeholding titles, this was difficult to accomplish in practice. Tribal lands often are defined poorly in documents dating back to the mid-19th century and, in most cases, lack any legal title based on modern cadastral measurements. The Honduran Forestry Development Corporation makes all decisions regarding exploitation of timber resources on indigenous lands, often over strenuous tribal objection. Nonindigenous farmers and cattle ranchers regularly usurp indigenous lands.

The courts commonly denied legal recourse to indigenous groups and often showed bias in favor of nonindigenous parties who were people of means and influence. The illegal seizure of private property is punishable by 3 1/2 years' imprisonment, while unauthorized demonstrations in public venues can result in prison terms of 3 to 5 years and fines ranging from \$770 to \$3,845. Failure to obtain legal redress frequently caused indigenous groups to attempt to regain land through invasions and other tactics, which usually provoked the authorities into retaliating forcefully.

In April Candido Amador Recinos, a leader of the Chorti indigenous group who was active in efforts to regain tribal lands, was murdered in Corralitos; there has been no progress in the investigation of his

death. In May after month-long protests by indigenous organizations that included a hunger strike, the Government signed a 22-point agreement with representatives of various groups that would make available 9 initial land grants of 9,000 hectares each to different tribes, grant some contested land titles outright to indigenous petitioners, and set aside \$15,385 in government funds for indigenous housing. The Congress also created a commission to study indigenous land claims, which often conflict with the claims of small farmers. The Government in August transferred title to an additional 1,200 hectares of land to various indigenous groups after protesters temporarily seized the grounds of the President's office, the Congress, and a foreign embassy. On October 12, indigenous protesters destroyed a statue of Columbus in Tegucigalpa. One month later, leaders of the group turned themselves over to a court; the judge reduced the charges to vandalism and released them on bail.

Section 6 Worker Rights

a. The Right of Association

Workers have the legal right to form and join labor unions; the unions are independent of government and political parties. Three large peasant organizations are affiliated directly with the labor movement. Unions frequently participate in public rallies against government policies and make extensive use of the news media to advance their views. Since only about 14 percent of the work force is unionized, however, the economic and political influence of organized labor has diminished in recent years. The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities honor in practice. The Civil Service Code, however, denies the right to strike to all government workers, other than employees of state-owned enterprises. There were illegal work stoppages during the year, conducted by public sector employees in health and related industries. In November the authorities ordered the security forces to remove striking health workers from public health facilities in Tegucigalpa. The health workers returned to their jobs after the Government agreed to establish a bipartite panel to review worker demands.

A number of private firms have instituted "solidarity" associations, which are essentially aimed at providing credit and other services to workers and managers who are members of the association. Representatives of organized labor groups criticize these associations, asserting that they do not permit strikes, have inadequate grievance procedures, and neutralize genuine, representative trade unions.

The trade union movement maintains close ties with various international trade union organizations.

b. The Right to Organize and Bargain Collectively

The law protects workers' rights to organize and to bargain collectively; collective bargaining agreements are the norm for companies in which workers are organized. However, although the Labor Code prohibits retribution by employers for trade union activity, it is a common occurrence. Some employers have threatened to close down unionized companies and harassed workers seeking to unionize, in some cases dismissing them outright. Employers actually dismiss relatively few workers for union activity, once a union is recognized; such cases, however, serve to discourage workers elsewhere from attempting to organize.

Workers in both unionized and nonunionized companies are under protection of the Labor Code, which gives them the right to seek redress from the Ministry of Labor. The Ministry took action in several cases, pressuring employers to observe the code. Labor or civil courts can require employers to rehire employees fired for union activity, but such rulings are uncommon. Agreements between management and unions generally contain a clause prohibiting retaliation against any worker who participates in a

strike or union activity. In one instance, however, the Banco de Trabajadores received a court order to rehire two workers who successfully unionized that firm, but refused to reinstate them in their former duties; instead, the bank assigned the two workers to an empty office and denied them the opportunity to work. Those individuals remained on the payroll at their former salaries, but it was assumed that the bank wished them to resign in frustration over their new office environment. The bank refused to cooperate with an investigation into these circumstances by the National Commissioner for Human Rights, who threatened to pursue legal action against the bank. In November the Government seized control of the bank's records and threatened to arrest bank officials for noncompliance with the court's edict.

The same labor regulations apply in export processing zones (EPZ's) as in the rest of private industry. Unions are active in the government-owned Puerto Cortes free trade zone (7 of 11 maquiladoras there are unionized), but factory owners have resisted efforts to organize the new, privately owned industrial parks. In February two lawyers representing maquiladoras during labor negotiations in Puerto Cortes claimed to have received death threats. The Honduran Association of Maquiladores (AHM) over the past 2 years has sponsored seminars and other meetings between its membership and major labor groups. As a result, tensions have declined, and some two dozen plants have unionized peacefully in the privately owned EPZ's. The AHM in July adopted a new code of conduct governing salaries and working conditions in the industry and recognizing worker rights to organize. Although the AHM neither consulted local unions before drafting it, nor provided for any formal role for organized labor in supervising its implementation with the industry, the code nonetheless represents a new, public commitment by apparel manufacturers to abide by local laws and regulations governing their industries. It provides a starting point for a dialog among the AHM, organized labor, and the Government. The attitude of the Government towards organized labor in the EPZ's is the same as regards other industries.

In a number of maquiladora plants, workers have shown little enthusiasm for unionizing, since they consider their treatment, salary, and working conditions to be as good as, or better than, those in unionized plants. In the absence of unions and collective bargaining, several EPZ plants have instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Other EPZ plants use the minimum wage to set starting salaries, and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria. In June a South Korean-owned maquiladora plant agreed to permit an independent monitoring group composed of religious, human rights, and women's organizations to inspect its facility and observe the working conditions of its employees. Unions objected to the agreement because it excluded them, while other maquiladoras observed that the monitors lacked relevant expertise in the industry.

Labor leaders blame the Government for allowing private companies to act contrary to the Labor Code and expect the problem to continue until the Ministry of Labor is reorganized to make it more efficient. They criticize the Ministry for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Under a November 1995 Memorandum of Understanding between the Ministry of Labor and the Office of the United States Trade Representative, which called for greater enforcement of the Honduran Labor Code, the Ministry has made significant progress toward enforcing the code. The Ministry has increased its inspections of the maquiladoras and the training of its inspectors; however, it does not yet adhere completely to international labor standards. Along with other Central American nations, the Government in August agreed to fund a program to modernize the inspection and labor management functions of the Ministry of Labor.

The Labor Code clearly prohibits blacklisting; nevertheless, there was credible evidence that informal blacklisting occurred in the privately owned industrial parks. When unions are formed, organizers must submit a list of initial members to the Ministry of Labor as part of the process of obtaining official

recognition. Before official recognition is granted, however, the Ministry must inform the company of the impending union organization. The Ministry has not always been able to provide effective protection to workers. There were credible reports that, particularly in the EPZ sector, some inspectors had gone so far as to sell the names of employees involved in forming a union to companies that then dismissed union organizers before the Ministry could recognize the unions. There also was credible evidence that military intelligence maintained files on union activists.

c. Prohibition of Forced or Compulsory Labor

The Constitution and the law prohibit forced or compulsory labor, and this applies equally to children. Although there were no official reports of such practices in the area of child labor, there were credible allegations of compulsory overtime at EPZ plants, particularly for women, who constitute an estimated 80 percent of the work force in the maquiladora sector.

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

The Constitution and the Labor Code prohibit the employment of minors under the age of 16, except a child who is 15 years of age is permitted to work with the permission of its parents and the Ministry of Labor. The new Children's Code prohibits a child of 14 years of age or less from working, even with parental permission, and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally. An employer who legally hires a 15-year-old must certify that the child has finished or is finishing his compulsory schooling. The Ministry of Labor grants a number of work permits to 15-year-olds each year.

The Ministry of Labor cannot effectively enforce child labor laws, except in the maquiladora sector, and violations of the Labor Code occur frequently in rural areas and in small companies. Many children work on small family farms, as street vendors, or in small workshops to supplement the family income. According to the Ministry of Labor, human rights groups, and organizations for the protection of children, the most significant child labor problem is in the construction industry.

The employment of children under the legal working age in the maquiladora sector may occur, but not on a large scale. (Younger children sometimes obtain working permits or purchase forged permits containing the Labor Ministry's letterhead.) The maquiladoras in recent years have raised their minimum employment age, and some now hire only at age 18 or above.

e. Acceptable Conditions of Work

In 1995 the Government decreed a 25 percent increase in the minimum wage. Daily pay rates vary by geographic zone and the sector of the economy affected; urban workers earn slightly more than workers in the countryside. The lowest minimum wage occurs in the agricultural sector, where it ranges from \$1.92 to \$2.31 (25 to 30 lempiras) per day, depending on whether the employer has more than 15 employees; the highest minimum wage is \$3.05 (39.65 lempiras) per day in the export sector. All workers are entitled to the equivalent of an additional month's salary in June and December of each year.

The Constitution and the Labor Code stipulate that all labor be fairly paid, but the Ministry of Labor lacks the staff and other resources for effective enforcement. Even after three annual increases, the minimum wage is considered insufficient to provide a standard of living above the poverty line for a worker and family. Labor leaders said that the Government was ignoring workers earning above the minimum wage (for example, those in the maquiladoras and in other industries, such as banking), and called for an across-the-board increase of 35 percent that they claimed would benefit all workers.

The law prescribes a maximum 8-hour workday and a 44-hour workweek. There is a requirement of at least one 24-hour rest period every 8 days. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Labor Ministry.

The Ministry of Labor is responsible for enforcing national health and safety laws, but does not do so effectively. Although fewer than in previous years, some complaints alleged the failure of foreign factory managers to comply with the occupational health and safety aspects of Labor Code regulations in factories located in the EPZ's and private industrial parks. There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.

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