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U.S. Department of State

Honduras Country Report on Human Rights Practices for 1998

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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. The two major political parties, the Liberals and the Nationalists, have alternated in power peacefully after free elections. The judiciary is independent, but often ineffective and subject to outside influence.

The Honduran Armed Forces (HOAF) comprise the army, the air force, and the navy. The National Police (formerly a paramilitary force known as the FUSEP) were transferred to civilian control in 1997. The Government created a new Ministry of Security in 1998 to oversee police operations and counter a nationwide crime wave. In September the National Congress unanimously amended the Constitution to establish direct civilian control over the armed forces--through a civilian Minister of Defense--for the first time in nearly half a century. This change, ending the considerable institutional and legal autonomy with which the HOAF operated, was expected to take effect in January 1999. Reports of human rights abuses have declined since the police were separated from the military forces; however, members of both the armed forces and the police continued to commit abuses.

The market-based economy is based primarily on agriculture, with a small but increasingly important maquiladora (in-bond processing for export) industry that accounts for about 100,000 jobs, most filled by young women. The armed forces indirectly play a declining role in the national economy through their pension fund, which controls some enterprises usually associated with the private sector, including a bank and several insurance companies. About 37 percent of workers labor in agriculture, with most of the rest in industry and manufacturing, commerce, and services. The principal export crops are coffee

and bananas; these, along with "value added" income from the maquiladora industry, constitute the leading sources of foreign exchange. Nontraditional products, such as melons, pineapples, and shrimp, play an increasingly important role in the economy. In October Hurricane Mitch devastated the country, causing thousands of deaths, leaving hundreds of thousands of persons temporarily homeless, and seriously damaging the nation's infrastructure. Annual per capita income is about \$830; about two-thirds of the country's households live in poverty.

The Government's human rights record improved somewhat, but serious problems remained. Members of the security forces allegedly committed extrajudicial killings, particularly of presumed criminals, leading human rights groups to charge that the security forces had formed neighborhood death squads. Incidents of police beatings and other abuse of detainees remained a problem. Prison conditions remain harsh, detainees do not always receive due process, and lengthy pretrial detention is common. Considerable impunity for members of the economic and official elite, exacerbated by a weak, underfunded, and sometimes corrupt judicial system, contributes to human rights problems. Although civilian courts increasingly considered allegations of human rights violations or common crimes against armed forces personnel and some cases went to trial, there were relatively few convictions. In November an appellate court upheld a lower court grant of amnesty to a military officer convicted of committing human rights abuses. While no senior government official, politician, bureaucrat, or member of the business elite was convicted of crimes, the Government removed numerous military officials, police investigators and agents, and judges from office on corruption and other charges. The judicial system continued to deny swift and impartial justice to prisoners awaiting trial. In the aftermath of Hurricane Mitch, in November the Government, with congressional assent and in accordance with the temporarily suspended certain civil liberties; these were restored 4 weeks later. On occasion the authorities conducted illegal searches. Other human rights problems included societal discrimination and violence against women, discrimination against indigenous people, and abuse of street children. The Government does not enforce effectively all labor laws. 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. However, human rights organizations alleged that individual members and former members of the security forces, acting as vigilante "security squadrons," committed extrajudicial killings. The Government publicly denied accusations relating to the security forces as institutions, but investigated individual allegations against members of neighborhood vigilante groups. Human rights groups also implicated members of the security forces in a number of killings of street children (see Section 5).

In February persons in Santa Rosa calling themselves "Vigilantes of the Night" killed Ernesto Sandoval Bustillo, a former judge who was the Copan department representative of the Committee for the Defense of Human Rights in Honduras (CODEH). Sandoval had been investigating the possible involvement of local officials in contraband and narcotics smuggling, land expropriation schemes, environmental destruction, and police abuses. The Government deployed police investigators from Tegucigalpa who determined that the Chinchilla crime organization had carried out the murder; the police subsequently arrested two dozen members of the Chinchilla gang who were awaiting trial at year's end.

In May unknown persons killed Carlos Antonio Luna Lopez, a town councilman in Catacamas. Police

continued to investigate this case. In October Pedro Garcia Villanueva, a regional director of attorneys for the Public (Justice) Ministry, was killed in Santa Barbara. Garcia had been investigating several notorious human rights cases, including the 1992 murder of former national electric company director Marco Tulio Castellon Baide. The police detained several suspected assailants.

Dramatic increases in violent crime fueled the continued growth in the number of private, often unlicensed, guard services, and of volunteer groups who patrolled their neighborhoods or municipalities to deter crime. The continued proliferation of private security forces made it more difficult to differentiate among homicides that may have been perpetrated by government security personnel, private vigilantes, or common criminals. The number of homicides nationwide rose, reaching 6 to 12 murders per day in the capital city of Tegucigalpa alone; random shootings and other violent assaults also were common.

Human rights groups asserted that at least some of these homicides were extrajudicial executions. Over 100 youths associated with criminal gangs were killed, execution-style. In such cases, renegade elements of the security forces, or civilian (including vigilante) groups working with such elements, allegedly used unwarranted lethal force against supposed habitual criminals. The Government did not take effective action to try, convict, or punish anyone for these offenses.

Concerns that the security forces would not investigate credible allegations of extrajudicial killings by members of the former FUSEP led to the creation in 1994 of a civilian-controlled Directorate of Criminal Investigations (DIC) under the Public Ministry (which also includes a prosecutorial branch). The Police Organic Law, which took effect in November, placed the DIC under the new Ministry of Security and renamed it the General Directorate of Criminal Investigations (DGIC). Since the creation of the DIC, the Attorney General and human rights groups have noted a decrease in reported human rights abuses.

In January a judge of the second criminal court ruled that although Lieutenant Colonel Juan Blas Salazar Mesa was guilty of participating in the kidnaping, torture, and murders of students in 1982, he qualified for amnesty. In December the Supreme Court upheld the lower court's ruling on amnesty for Salazar.

In 1997 the authorities jailed two former senior military and security officials in the cases of Adan Aviles Funez and Nicaraguan citizen Amado Espinoza Paz, who disappeared in Choluteca on June 12, 1982. Authorities detained Colonel Manuel Enrique Suarez Benavides, while retired police colonel Marco Antonio Matute Lagos surrendered voluntarily; both faced charges of illegal detention and murder. Both officers appealed their detention. Suarez was freed on appeal in late 1997, and Matute was granted conditional liberty in October. Police Colonel Alexander Raymundo Hernandez, another suspect in this case, has been missing since 1995; the police discontinued his salary in 1997 and discharged him from the force in March.

There was no progress in the investigation or prosecution of other alleged extrajudicial killings committed in previous years. In June the armed forces named a commission of senior military officers to investigate accusations of human rights violations or other criminal activities by armed forces personnel. At year's end, this commission had made no public findings.

b. Disappearance

There were no reports of politically motivated disappearances.

The Attorney General continued investigations into the disappearances of 184 persons in the 1980's.

Various witnesses, survivors, and a few former members of the military have charged that members of Battalion 3-16 kidnaped, 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 police intelligence unit. At the request of the Government, the U.S. Government in 1997 and 1998 reviewed and declassified thousands of pages of official documents related to alleged human rights abuses in Honduras during the 1980's and provided them to Commissioner Valladares.

In December the Supreme Court upheld a lower court's grant of amnesty for Lt. Col. Juan Blas Salazar Mesa. The lower court had found him guilty of participating in kidnappings and other human rights abuses in 1982 (see Section 1.a.).

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. The National Commissioner for Human Rights reported seven known instances of torture during 1997, the lowest recorded figure for the decade. Police beatings and other alleged abuses of detainees remained a problem. The police also engaged in violence (including beatings and a number of killings) against street children (see Section 5).

The Office of Professional Responsibility (OPR) within the National Police investigates allegations of official torture and abuse and can recommend sanctions against 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 former 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 DGIC dismissed or suspended over two dozen agents for involvement in corrupt activities and abuses of authority. The National Police took similar action against over 50 policemen, including police commander Colonel Julio Cesar Chavez and police chief of staff Colonel Manuel Antonio Urbina, on similar grounds. The civilian Police Transition Board, established when the police were removed from military control in September 1997, exercised operational control over the National Police, pending its planned integration into the new Ministry of Security in January 1999. The Board dealt swiftly with charges of corruption or malfeasance against individual police officials by removing them from positions of authority, pending judgment. In October the Public Ministry sought arrest warrants for police Colonels Chavez and Urbina and three other senior police officials for allegedly trafficking in stolen vehicles.

The widespread frustration at the inability of the security forces to prevent and control crime, and the well-founded perception that corrupt security personnel were complicit in the high crime rate, led to considerable public support for vigilante justice. In October President Flores, with congressional backing, deployed 600 army troops in the country's four major cities to assist the National Police in curbing surging street crime. In October the Congress ratified a 1997 constitutional amendment that permits sentences of life imprisonment to be included in the pending reform of the Penal Code.

In 1996 the Supreme Court 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 on 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 would encourage military officers sought for alleged human rights abuses in the 1980's to turn themselves in. However, only a small number of officers whose cases fell under the decree surrendered or were apprehended; most have been freed for lack of evidence.

In December the Supreme Court upheld a lower court's grant of amnesty for Lt. Col. Juan Blas Salazar Mesa. The lower court had found him guilty of participating in torture and other human rights abuses in 1982 (see Section 1.a.).

Elements of the armed forces withheld their cooperation from official efforts to track down military officers wanted in connection with alleged human rights abuses dating back to the 1980's. In August a HOAF spokesman quoted the armed forces commander as having admitted that the military was protecting officers accused of human rights violations; the HOAF subsequently claimed that the news media had reported the commander's remarks erroneously. The Supreme Court considered whether government amnesties for crimes committed in the 1980's covered the military, as political deliberations in the Congress had suggested. The Court determined in December that, while the amnesty laws were constitutional, amnesty appeals would have to be decided on their individual merits (see Section 1.e.). Constitutional amendments aimed at reforming the armed forces and eliminating the legal immunity enjoyed by military officials were expected to be ratified by January 1999.

There were developments in two cases involving alleged former members of the army's notorious counterinsurgency Battalion 3-16. Canada deported Fausto Ramon Reyes Caballero, and he subsequently provided testimony regarding several human rights cases of the 1980's. However, that testimony did not lead to any new charges or convictions. Retired captain Billy Fernando Joya Amendola, who fled to exile in Spain in 1995, returned voluntarily in December to face charges in several cases of torture and disappearance.

Prison conditions remained harsh. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subject to various other abuses, including rape. The 24 penal centers held over 10,000 prisoners; more than 90 percent of these were awaiting trial for an average of 22 months, with some waiting over 5 years (see Sections 1.d. and 1.e.). Prison disturbances, caused primarily by harsh conditions, occurred throughout the year, resulting in deaths and injuries, the destruction of prison facilities, and mass escapes. In some instances, the Government placed army troops in temporary command of prisons until order was restored.

In February approximately 25 inmates escaped from the jail in El Progreso, Yoro, which holds nearly 250 prisoners despite a designed capacity of 150. In August four murderers, including Nahum and Santos Padilla Bustillo, brothers convicted of homicide and other crimes, escaped from the prison in San Pedro Sula. Another 12 prisoners fled from the San Pedro Sula facility in October. In December Juan Ramon Hernandez, an alleged major drug trafficker who headed a major criminal organization, bribed his way out of the new maximum security prison outside the capital, where he had been awaiting trial.

The colonial-era central penitentiary in downtown Tegucigalpa suffered severe deterioration, with some prisoners narrowly escaping death from collapsing walls, and was destroyed in October due to flooding caused by Hurricane Mitch. The Government opened a new central prison in Tamara, outside the capital, for prisoners who have been sentenced, but it proved no more secure than older prisons; sections of the new facility were closed to enhance overall security, and the Government launched an investigation into charges of corruption related to its construction. The new Ministry of Security is to assume responsibility for the prison system in early 1999.

The Government sought and secured assistance for its prisons from international sources. Mexico provided technical assistance to the prison system, including the first rehabilitation program in the central penitentiary. The Government also allocated emergency funds for prisons and their staff as part of its efforts to combat rising crime, but improvements were not expected to be evident before 1999. Despite the decrepit condition of the prisons, the new civilian National Police showed increased respect for the human rights of the prisoners.

More often than not, and for lack of alternative facilities, wardens housed the mentally ill and those with tuberculosis and other infectious diseases among the general prison population. Prisoners with money routinely bought private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked the most basic necessities, as well as legal assistance. The prison system budgets just \$0.43 (6 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits, and in many cases relied on outside help to survive, as the prison system could not provide adequate or sufficient food. Street children in detention often were housed in adult prisons, where they were abused routinely. Women were incarcerated in separate facilities under conditions similar to those of male prisoners, except that female prisoners do not have conjugal visit privileges.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The law provides for protection against arbitrary arrest and detention; however, the authorities occasionally do not observe these legal requirements in practice. 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, make an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation.

While bail is legally available, it is granted primarily for ostensibly medical reasons; however, procedures in such cases are confused and unclear. Poor defendants, even when represented by a public defender, seldom are able to take advantage of bail (see Section 1.e.). Lengthy pretrial detention is a problem; more than 90 percent of prisoners are awaiting trial, some for over 5 years (see Sections 1.c. and 1.e.).

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 the municipal courts.

Neither the Constitution nor the legal code explicitly prohibit exile, but it is not used as a means of political control.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary is often ineffective and subject to outside influence. While the Government respects the constitutional 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; low wages make law

enforcement officials susceptible to bribery; the civil law inquisitorial system is both inefficient and nontransparent; 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 National Congress or the Central American Parliament. That immunity extends to acts committed before taking office.

The court system is composed of a 9-member Supreme Court, 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.

The Constitution provides for the right to a fair trial. However, the written, inquisitorial trial system is labor intensive, slow, and opaque; it does not protect the rights of defendants adequately. Judges legally are in charge of investigations, as well as of trials and sentencing. Both prosecutors working for the Public Ministry 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 accept charges. If a judge sustains the criminal accusation, the accused remains in jail, or may be released on bail while