

ne, an idyllic path where
use had a grove of fruit
small chicken pen and at
a beehive. Only the fruit
re intact; the hives were
ed, the bees buzzing every-
the houses were destroyed
d.

ad was littered with animal
cows and horses. In the
behind the houses were
es, these unburned by fire
by the sun. In one group-
learing in a field were 10
o elderly people, two chil-
infant—a bullet hole in
in the arms of a woman,
est adults. Although local
ater said they had buried
he bodies in the area, the
youths acknowledged they
l that the corpses be left
neone from the outside
rought to see them.
getting dark, and we trav-
guerrilla military encamp-

ap was populated by about
guerrillas, all armed and
under military discipline.
wn the road was a civilian
the other a collection of
be houses, with about 80
refugees and guerrilla sym-
It was from this camp the
ing that the guerrillas sent
4, who said she was the
or she knew of from Mo-

errillas left me alone to
c. She said that it was on
g of Dec. 11, although she
e of days of the week than
t troops of the Atlacatl
ad come to Mozote. The
in elite, 1,000-man unit of
oran Army, well known at
me to most Salvadorans,
een trained for rapid de-
nd antiguerrilla offensives
itary advisers here.

ny people had warned
z, a friend of theirs from
that an offensive was
l that there would be no
e allowed from San Fran-
a [the provincial capital]
er and that we should all
zote where no one would
So we did. There were
of us in all living in the

iers, she said, took those

the deaths of her children. She said
that while her two surviving sons
have joined the guerrillas since the
December incident, Mozote was not
predominantly progueerrilla, although
it is in the heart of a rebel zone.

She said the guerrillas had gone
around the villages in early Decem-
ber warning the population of an
impending government offensive and
instructing civilians to head for
towns and refugee camps outside the
area.

"But because we knew the Army
people, we felt safe," she said. Her
husband, who Amaya said was on
very good terms with the local mili-
tary, "had a military safe conduct."

At around 5:30 the morning after
their initial visit, she said, the

with their children into a house on
the square. From there they saw the
men being blindfolded and bound,
kicked and thrown against each oth-
er, then taken away in groups of four
and shot.

"The soldiers had no fury," she
said. "They just observed the lieu-
tenant's orders. They were cold. It
wasn't a battle.

"Around noon they began with the
women. First they picked out the
young girls and took them away to
the hills. Then they picked out the
old women and took them to Israel
Marquez's house on the square. We
heard the shots there. Then they
started with us in groups. When my
turn came and I was being led away
to Israel Marquez's house I slipped

ACLU Criticizes El Salvador Over Human Rights Record

By John M. Goshko
Washington Post Staff Writer

The American Civil Liberties
Union, charging the government of
El Salvador with continuing repres-
sion, including responsibility for an
estimated 12,501 murders during
1981, yesterday urged President
Reagan not to certify to Congress
that the Salvadoran regime is im-
proving its human rights record.

The ACLU and another private
organization, the Americas Watch
Committee, made public a 273-page
report detailing charges of system-
atic murder, torture, arbitrary ar-
rests and denial of rights by the
U.S.-supported civilian-military gov-
ernment headed by President Jose
Napoleon Duarte.

Under the foreign aid legislation
passed last month, Reagan must cer-
tify to Congress by the end of this
week that the Duarte government, in
exchange for U.S. military assistance
to fight leftist guerrillas, is making "a
concerted and significant effort" to
comply with international human
rights standards and is "achieving
substantial control over all elements
of its armed forces."

The ACLU, which normally is
concerned with safeguarding liberties
in this country, has had a general

policy since 1973 of opposing U.S.
aid to countries engaged in rights
violations. However, ACLU officials
said yesterday that the report on El
Salvador marked the first time the
organization has singled out a spe-
cific government as being in viola-
tion of that policy.

State Department spokesman
Alan Romberg declined to comment
on the report and said the admin-
istration's position will be spelled
out in detail when the president
sends the required notification to
Congress later this week.

It is known that the administra-
tion will dispute the continuing crit-
icism directed against the Duarte
government by human rights organ-
izations and congressional liberals.
The administration will contend in-
stead that, under Duarte's leader-
ship, the Salvadoran government has
been making significant strides in
correcting past abuses and moving
the country toward democracy.

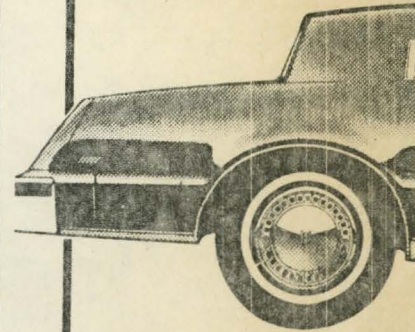
Many of the rights violations de-
scribed in the report involve inci-
dents that occurred prior to this past
year. However, the report notes that
Salvadoran authorities, citing the
necessities imposed by civil war,
have continued the suspension of
constitutional rights guarantees.

come there because of "the repres-
sion in December" and claimed to
have lost members of their families.

[In Washington, Ambassador
Rivas, in denying the accuracy of
this account Tuesday, said that "se-
rious efforts" were being made to
stem armed forces abuses and that
this was the "type of story that leads
us to believe there is a plan" to dis-
credit the ongoing electoral process
in El Salvador, and to discredit the
armed forces "or to take credit away
from the certification President Rea-
gan must make to Congress."

[This week the Reagan adminis-
tration must by law certify to Con-
gress that the Salvadoran leadership
"is achieving substantial control over
all elements of its own armed forces,
so as to bring to an end the indis-
criminate torture and murder of Sal-
vadoran citizens by these forces," or
risk a cutoff of aid to El Salvador
under congressional restrictions.]

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Jim

-- Excerpts From --

REPORT
ON
HUMAN RIGHTS
IN
EL SALVADOR

A Report to the Board of the American Civil Liberties Union

January 1982

American Civil Liberties Union

Americas Watch Committee

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SUMMARY

This report contains much detailed information including testimonials from individuals whose rights were violated. Here the information can be presented only in a generalized form.

A. Background to tragedy

The underlying causes of the present crisis in El Salvador are the highly concentrated system of land tenure, the denial of basic rights to a peasant majority still prevented by law and practice from forming independent organizations, and a half century of hardline military rule by an army that has traditionally represented the interests of the landed oligarchy.

El Salvador is a small country, about the size of Massachusetts, with approximately 4.8 million people. Its population density is the highest in the Western Hemisphere. Clearly, the pattern of land distribution in such a country affects all else. (See Chapter 2 for data on economic and social conditions.)

In the last century, land ownership has become increasingly concentrated. The coffee boom of the late nineteenth century led to the abolition of communal lands farmed by indigenous peasants in favor of private property. In this century, the cotton and sugar booms of the past three decades accelerated concentration.

Commercial agriculture required large landholdings demarcated by legal titles and a pool of readily-available and preferably cheap labor. Massive evictions of peasants facilitated both. The only missing factor was coercion to keep the newly landless laborers in line. Around the turn of the century, a rural mounted police force was created, first in the coffee departments of Ahuachapan, Sonsonate, and Santa Ana, and then throughout the country. It was the precursor of the National Guard, which was formally created in 1912.

An agrarian law of 1907 confirmed the virtual serfdom of rural workers. Landless workers could be arrested for vagrancy. They had to carry workbooks showing to whom they owed their labor. Agrarian judges, assisted by the army, pursued anyone who tried to escape the estate on which he was to work.

Popular unrest in the countryside finally spilled over in 1932 under the pressure of the collapsing coffee market during the world-wide depression. General Maximiliano Hernandez Martinez, who had recently taken power, reponded to a small peasant uprising with fire and blood. (See Chapter 3) As many as 30,000 peasants were slaughtered in a campaign starkly known in Salvadoran history as "La Matanza," the massacre.

El Salvador's small Communist Party was blamed for the uprising. Its leader, Agustin Farabundo Marti, was arrested and executed. Today's guerrillas fight under the banner of the Farabundo Marti Front for National Liberation (FMLN).

General Martinez's 12-year rule set the pattern for military-oligarchical control of the country for the next fifty years. Presidents came from military ranks; cabinet members were generally civilians representing the coffee oligarchy.

Economic transformation after World War II introduced significant changes into El Salvador. There was a measure of industrialization, and an urban-based working class took shape. The 1960s, the era of the Alliance for Progress, saw substantial light industry develop. However, the border war with Honduras in 1969 cut off a major market and exacerbated domestic problems as thousands of Salvadorans who had settled in Honduras returned home.

Labor leaders shared briefly in power during a short-lived provisional government in 1960-1961, and during the following decade new civilian political parties -- principally the Christian Democrats (PDC) and also the social democratic MNR -- appeared and grew.

Despite political and economic changes in the cities, rural El Salvador remained almost feudal. Attempts to organize rural workers were ruthlessly suppressed. In 1950, an amended agrarian law reaffirmed vagrancy as a punishable offense. The National Guard was detailed to maintain order on private estates. Land-owners themselves appointed law enforcement officials. Eviction of superfluous tenant farmers was streamlined. With rapid expansion of sugar and cotton plantations in the Pacific lowlands, the percentage of landless laborers soared, to 40 percent by 1975, according to one estimate.

During the 1960s, a new instrument to insure control of rural areas appeared: ORDEN (Spanish for "order"). This intelligence and paramilitary apparatus grew to an estimated 80,000 members and penetrated every hamlet in the country.

By the early 1970s, tension in El Salvador was increasing. In 1972, voters expressed their repudiation of the five-decades-old system of military rule by casting their ballots for presidential and vice-presidential candidates of a civilian coalition, Jose Napoleon Duarte of the PDC and Guillermo Manuel Ungo of the MNR. As their lead piled up in unofficial returns, the army suspended radio broadcasts, and later simply announced that its candidate, Colonel Arturo Armando Molina, had won.

With electoral paths to change and reform blocked, new forms of opposition took shape. In the cities, mass popular organizations appeared outside the traditional political party structures. Migrants forced from the rural areas had swelled the city slums. They combined in the new organizations with urban workers disillusioned with official unionism, university students, and low-paid teachers. Between 1974 and 1978, three such organizations appeared: the Front for Unified Popular Action (FAPU), based on urban workers, in 1974; the Popular Revolutionary Block (BPR), based mainly on the peasantry, in 1975; and the February 28 Popular Leagues (LP-28), based in San Salvador's slums, in 1978.

Meanwhile, three guerrilla groups had begun to operate in El Salvador: the Popular Forces of Liberation (FPL), formed in 1970 from the radical faction of the Salvadoran Communist Party and left-wing university students; the Revolutionary People's Army (ERP), which appeared in 1971 and emphasized sabotage and individual acts of terrorism; and the Armed Forces of National Resistance (FARN), formed from an ERP splinter group in 1975.

Soon, the guerrilla bands and the mass organizations linked up -- FAPU with the FARN, the BPR with the FPL, and the LP-28 with the ERP.

In 1977, the electoral farce was played out again. General Carlos Humberto Romero won presidential elections which were stage-managed by the military. On recorded tapes played for a sub-committee hearing in the U.S. House of Representatives, military officers were heard using a crude code to communicate the number of votes they wanted registered in various sections of the country (See Chapter 10).

After 1977, the opposition abandoned reliance on elections and the government turned to increasingly savage repression in an attempt to stem the rising tide of demonstrations, strikes, and protests. But it was an event in neighboring Nicaragua that doomed the Romero government. The victory of the Sandinistas over the Somoza dictatorship in July 1979 seemed to signal the twilight of the military tyrants in Central America. The conviction grew, in San Salvador and in Washington, that reforms were urgently needed if El Salvador was not to follow the path of Nicaragua.

On October 15, 1979, a group of younger military officers removed Romero and promised far-reaching changes in Salvadoran society. But the officers were fatally divided among themselves. At one end of the spectrum were the younger and more progressive officers grouped around Colonel Adolfo Arnoldo Majano; at the other, conservatives who recognized the need for a new public image led by Colonels Jose Guillermo Garcia and Jaime Abdul Gutierrez.

The officers invited prominent civilian politicians to join the Revolutionary Governing Junta, among them Guillermo Ungo. Popular pressure for reform, including an end to repression, intensified, but the level of repression actually increased. The Majano-led wing soon found that its influence over the army was limited or, in the case of the National Guard and the Treasury Police, virtually non-existent. Members of the latter two branches of the security forces also belonged to various paramilitary groups that played an ever-more violent role in the last months of 1979. By year-end, the civilian members of the government made executive control over the armed forces the central condition for their continued participation and when the military rejected their demands, most resigned. With the fall of this "First Junta," the centrist alternative was effectively closed, and the conservatives in the military were back in unquestioned control.

The opposition popular organizations had meanwhile come together in the Coordinadora Revolucionaria de Masas (CRM) which called a mass demonstration in San Salvador on January 22, 1980 to mark the anniversary of the uprising of 1932. This demonstration, the largest ever in the country, was attacked by units of the

armed forces, marking the end of peaceful protest in El Salvador. By April further development of the opposition culminated in the establishment of the Democratic Revolutionary Front (FDR). It included civilian political leaders and organizations, former government officials, trade unions, professional organizations, and the popular mass organizations. The FDR is the political arm of a now revolutionary opposition. The guerrilla organizations also began to coalesce, and in October 1980, formed the Farabundo Marti National Liberation Front (FMLN). By mid-1981, the FMLN's regular forces numbered some 5,000 combatants, compared with some 15,000 in the combined Salvadoran armed forces.

Events in March 1980 hastened the onset of open warfare in El Salvador. On March 24, the popular Archbishop of San Salvador, Oscar Romero (no relation to the former President) was assassinated at his altar while saying mass. Archbishop Romero, who had championed the cause of the poor using his influence to promote a political solution, in his last homily, had called on the Junta's troops to disobey orders to fire on their own people. With his death, El Salvador lost its most important symbol of resistance to political violence.

In the same month, the government announced a sweeping agrarian reform program -- if carried out -- by Latin American standards. All estates over 500 hectares (1,235 acres) were expropriated with compensation. A second stage, aimed at estates between 100 and 500 hectares, has now been indefinitely postponed. The third stage, known as Land to the Tiller, was intended to give all small renters and share-croppers outright ownership of the land they had previously rented.

The program has been troubled from the start, and has apparently failed in its attempt to undermine peasant support for the guerrillas. Large landowners bitterly opposed the first stage; suspension of the second stage leaves the coffee oligarchy untouched; and the third stage does not deal with the thousands of laborers left landless by the spread of commercial agriculture in recent decades. In addition, the widespread violence in the countryside, particularly when military sweeps take place, forced hundreds of thousands of peasants on to the roads as refugees. (See Chapter 12 for an analysis of the agrarian reform program.)

Perhaps most destructive to the program was the fact that its implementation was accompanied by a wave of repression by military and security forces operating without restraint under a state of siege.

Violence and repression mounted throughout 1980. Colonel Majano, considered the principal progressive leader within the military, was forced out of the Junta and into exile. In November, six of the top

leaders of the FDR were kidnapped in broad daylight in San Salvador by civilians operating inside a military cordon. Their mutilated bodies were found scattered around the city a few hours later. In December, four U.S. women religious workers were killed on a road outside San Salvador in circumstances which convinced then U.S. Ambassador Robert White that the security forces were responsible.

At present, the military situation seems to be at a stalemate. A "final offensive" by the guerrillas in January 1981 was beaten back by government forces, but the guerrillas still seem able to move about at will in the countryside. The Junta, now nominally headed by Jose Napoleon Duarte, with backing from the Reagan administration, proposes elections in 1982 and 1983 to resolve the conflict. The opposition says that widespread repression and violence makes free elections impossible and asserts its willingness to negotiate a political solution. The FDR-FMLN recently scored a diplomatic victory in August 1981 when France and Mexico recognized it as a "representative political force."

There are no signs of a quick solution to the crisis and neither the government nor FMLN forces appears capable of a decisive military victory.

B. The human rights situation in El Salvador

There are two salient facts about the violation of human rights in El Salvador today: first, the violations are directly related to the structure of Salvadoran society described in the preceding pages; second, the intensity and frequency of violations have increased since the "reform" government took power in a coup on October 15, 1979, and particularly since it was reshuffled on January 9, 1980.

As throughout contemporary Salvadoran history, the violence and repression is most severe in the rural areas. It has fallen most heavily on peasants, particularly those who have emerged as leaders of peasant organizations. And, in a steadily widening circle, the violence has touched those individuals and institutions who have espoused the cause of the peasants and protested their fate: priests and nuns, civilian political leaders, labor leaders, journalists, teachers, students, refugee workers. By now, it has engulfed the whole society.

-- In 1980 alone, the conservative estimate of the U.S. State Department is that 9,000 died in political violence in El Salvador. Socorro Juridico, the legal aid office of the Archdiocese of San Salvador, placed the figure at 10,000. Of them, it said

over 8,000 were killed by government forces, and of them over 3,700 were peasants, 400 industrial workers, 100 teachers, and 10 were priests.

-- Since the October 15, 1979 coup, 602 cases of prisoners disappearing after detention have been documented by Socorro Juridico.

-- Torture of the most brutal kind is common in El Salvador. Statistics are difficult to compile partly because relatively few victims survive to give testimony, but a high proportion of the corpses of individuals arrested by security forces or abducted by paramilitary groups show signs of barbaric torture. As a commission investigating attacks on health workers noted in 1980:

"The brutality involved in the killings of health workers and patients and the accompanying torture suggest that this is a deliberate tactic aimed at striking terror into the hearts of others. Victims have been decapitated, emasculated or found with the initials "EM" which stands for Esquadron de la Muerte (Death Squad), in their flesh." (See Chapter 4)

-- Arbitrary arrests by Salvadoran authorities are widespread, and are clearly used against the political opposition.

-- Rights to due process of law and a fair trial have been abrogated and the independence of the judiciary eliminated.

-- Priests and nuns have been marked as targets of repression. The best known cases involved the assassination of Archbishop Oscar Arnulfo Romero on March 24, 1980, and of three American nuns and a lay worker on December 2, 1980.

-- Constitutional guarantees of freedom of expression have been suspended, and opposition newspapers no longer publish. Since January 1980, 17 news offices and radio stations have been bombed or machine-gunned, twelve journalists have been killed by the security forces, and three have disappeared.

-- Union leaders and organizers have been special targets for the government's security forces. Unions have been dissolved and guarantees of workers' rights abolished.

-- Elections are planned for March 1982 but guarantees of safety and freedom for opposition leaders do not exist. The armed forces in mid-1981 published a list of 128 people it accuses of being terrorists, among them the top leaders of the opposition.

-- At least 350,000 refugees, mainly peasant families, have abandoned their homes and fled to other areas of El Salvador, or to neighboring countries.

1. Legal guarantees of rights

Salvadoran law contains many guarantees of the rights which are today violated with impunity by the security forces. In addition, El Salvador is a party to several international conventions that mandate protection of human rights. (See Chapter 2)

Although many of the provisions of the 1962 Constitution have been suspended by the Junta, ostensibly it is still partially in force. It provides for executive, legislative, and judicial branches. It guarantees various rights, including equality before the law; the right of asylum; freedom of movement and residence; freedom from extradition or expatriation; freedom of conscience, religion, thought, and expression; protection and defense of life, honor, liberty, labor, property, and possessions; and the right to justice, due process of law, and of habeas corpus. The home is recognized as inviolable and arbitrary detention is forbidden, as is the retroactive application of laws.

During emergencies such as war, rebellion, and general disasters, the rights of freedom of movement and residence, of thought and expression, of assembly and of the inviolability of correspondence, may be suspended for 30 days. A new decree is necessary to prolong the suspension.

Under the "organic law of the judicial branch," the Supreme Court has final jurisdiction on the constitutionality of laws, decrees, and regulations, and writs of habeas corpus and of amparo (a remedy to stop or redress acts or omissions of any official which violate constitutional rights).

In addition to its domestic laws, El Salvador has signed several international conventions that are legally binding domestically. It is a founding member of both the United Nations and the Organization of American States and voted for both the UN Declaration on Human Rights and the OAS Declaration of the Rights and Duties of Man. It has ratified the four Geneva Conventions of 1949 on the laws of war as well as its 1977 Protocols. It has also ratified the American Convention on Human Rights and the UN Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. It has signed treaties guaranteeing asylum and political and civil rights for women, and condemning genocide, forced labor, racial discrimination, and apartheid.

2. Recent legislation affecting human rights

In spite of these guarantees and promises El Salvador has recently enacted a series of laws and decrees which negate or threaten the exercise of human rights.

On November 25, 1977, the Romero government enacted a Law of Defense and Guarantee of Public Order. It defined 18 categories of activity as crimes against public order in such broad and vague terms that they could be used to harass and repress anyone who opposed the Romero government. The U.S. State Department, the Inter-American Commission on Human Rights (IACHR) of the OAS, and the International Commission of Jurists all criticized the law as a severe threat to civil liberties. It was repealed on February 27, 1979 but most of its provisions and procedures, often in even harsher form, have been reinstated under the Revolutionary Governing Junta, in power since October 15, 1979.

The first decree of the new government, issued the day of Romero's overthrow, was the Proclamation of the Armed Forces. It set forth the reasons for the coup and the objectives of the new government. It accused the Romero government of violating human rights, fostering corruption, causing economic and social disaster, and disgracing the country and the armed forces. It criticized what it called El Salvador's "antiquated economic, social and political structures." It acknowledged past electoral frauds, and blamed previous governments for failing to push through necessary structural changes. Claiming that the armed forces had always been identified with the people, the Proclamation promised to end violence and corruption, guarantee human rights observance, equitably distribute the national wealth while increasing it, and improve the country's foreign relations, mainly with its Central American neighbors.

Specifically, the armed forces promised to dissolve ORDEN to assure freedom for political parties of all ideologies, to grant amnesty to all political exiles and prisoners, to permit labor unions to organize. In addition, the armed forces committed themselves to agrarian reform, and housing, food, education, and health care for all.

Decree No. 114 of February 8, 1980 introduced a major legal change. It accepted the Constitution of 1962 only "insofar as it is compatible with the nature of the present Regime and does not contravene the postulates and objectives of the Proclamation of the Armed Forces of October 15, 1979 and its line of government." Many of the decree's measures concerned economic changes the Junta wished to institute, but its most important result was to make the Constitution subordinate to proclamations of the Armed Forces, and to the armed forces themselves. Constitutional guarantees were no longer the supreme law of the land and enforcement of them could no longer be sought as a matter of right.

Decree No. 155 of March 6, 1980 imposed a state of siege on the country. Its ostensible purpose was to allow smooth implementation of the agrarian reform which was announced at the same time. Under the Constitution, as mentioned above, state of siege provisions suspend the freedoms of movement and residence and of thought and expression, the inviolability of correspondence, and the right of assembly for 30 days. They also give the military courts jurisdiction over civilians accused of certain crimes including treason, espionage, rebellion, sedition, other offenses against the peace or independence of the state, and offenses against the law of nations. Despite the constitutional restrictions on extending the state of siege, it has been renewed each month and is by now permanent in El Salvador.

Decree No. 43 of August 21, 1980 placed certain autonomous government agencies under military control, including the National Administration for Aqueducts and Sewerage (ANDA), the National Telecommunications Administration (ANTEL), the Hydroelectric Executive Commission for the Lempa River (CEL), and the Autonomous Executive Commission of the Port Authority (CEPA). All workers and employees became members of the armed forces and are subject to any military order. The measure was aimed at preventing strikes.

Decree No. 507 of December 3, 1980 drastically changed the administration of justice, effectively ending judicial independence. It permits the military to hold a person for 180 days of preventive detention or 120 days of corrective detention on suspicion or whim. Even children, no matter how young, are subject to military justice. The investigation phase of proceedings can be carried out in secrecy. Security forces need not bring a prisoner before a judge until 15 days after the arrest. Standards of evidence are practically eliminated. (See Chapter 6 for an analysis of Decree No. 507).

On January 10, 1981 the Junta imposed a 7 p.m. to 5 a.m. curfew on the country and declaration of martial law. Subsequent events indicate that troops carried orders to shoot to kill curfew violators. From January 12 to February 19, 1981 alone, Socorro Juridico compiled a list of 168 persons killed. Many were on their way home and were killed a few minutes after 7 p.m. Others were simply standing outside their houses. (See Chapter 3)

3. The right to life

The various international agreements on human rights which El Salvador has ratified guarantee the right to life as the most basic and precious of rights. The Constitution of El Salvador says: "No person may be deprived of his life . . . except after being tried and sentenced in accordance with provisions of law . . ." (Article 164)

Massacres carried out by military and security forces stain the pages of recent Salvadoran history. In 1972 and 1977 protests of fraudulent elections were crushed by troops firing on crowds. A 1975 student demonstration against government expenditures on the "Miss Universe" pageant was fired upon by National Guardsmen; at least 16 students died. In May 1979, 23 demonstrators were killed by police outside the Cathedral in San Salvador. There were many similar incidents.

The killing continued after the October 1979 coup. The International Commission of Jurists reported: "Violence has not abated following the overthrow of General Romero. Many people have died in almost daily clashes of demonstrators and police." On January 22, 1980, the largest demonstration in the country's history came under fire from sharpshooters on the roof of the National Palace. Between 20 and 52 persons died. During the funeral ceremony for Archbishop Romero, 22 church leaders from several countries saw shots fired from the Presidential Palace at the crowd. During 1980, the killings escalated to a level of approximately 200 a week and continued close to that level in 1981.

4. The right to humane treatment

Prohibitions against torture in international agreements ratified by the government of El Salvador and in the Constitution of El Salvador, are absolute. As the 1978 OAS General Assembly reaffirmed in Resolution 371: " . . . there are no circumstances that justify torture, summary execution, or prolonged detention without due process of law . . . " (See Chapter 4)

Investigations by the OAS Inter-American Commission on Human Rights and by a British Parliamentary delegation found "unequivocal proof" of torture during visits to El Salvador in late 1979 and early 1980. The U.S. State Department report on human rights for 1978 said:

"There have been numerous detailed allegations of torture of prisoners by security guards, many of which are credible. Accusations against the National Guard and other security forces include denial of food and water, electric shock and sexual violations . . ."

The State Department's findings the following year were in the same vein.

Despite promises of improvement in human rights conditions after the October 15, 1979 coup, torture continued to be employed by the security forces. Decree No. 507, discussed above, contains

clauses which are practically invitations to the use of torture. They permit convictions based on uncorroborated confessions made in the presence of only police, army, or other security personnel. They also permit security forces to hold prisoners for 15 days after arrest before bringing them before a judge.

Torture has been widely used prior to killings. By mid-January, 1980, tortured and mutilated corpses were appearing every day throughout El Salvador. In the following months, reports of killings, abductions and torture in the countryside mounted sharply.

Documented cases of torture during interrogation by security forces are numerous. Torture has been reported to occur in the central headquarters of the National Guard, the Treasury Police, and the National Police in El Salvador, and in police and National Guard headquarters in other towns. The most frequent types of tortures reported are severe blows to all parts of the body, death threats, choking, electric shock to lips, mouth, and genitals, hooding, drugging, submersion in water, cigarette burns, and simulated execution.

Information regarding the use of torture points unequivocally to the involvement of all branches of the security forces, as well as of paramilitary groups acting with impunity. The systematic, massive character of the practice leads to the inescapable conclusion that the authorities approve of it.

5. The right to personal liberty

The right to freedom from arbitrary arrest is guaranteed in the Constitution of El Salvador and in various international agreements to which it is a party. In spite of these protections, that right is seriously undermined by recent decrees of the Junta, and by the actions of its security forces.

The Law for the Defense and Guarantee of Public Order, passed under the Romero government in 1977, permitted the security forces to conduct arbitrary and unacknowledged arrests. The Inter-American Commission on Human Rights, after its January 1978 visit to the country, reported:

"The security bodies have committed serious violations of the right to liberty, in making arbitrary arrests. They have maintained secret places of detention, where some persons, whose capture and imprisonment have been denied by the government, were deprived of liberty under extremely cruel and inhuman conditions." (See Chapter 5)

The government that took power with the October 1979 coup promised to end arbitrary arrests. But in less than five months, it reimposed a state of siege and other measures which permitted arbitrary arrests, even though the Constitutional right to personal liberty is not subject to suspension under Salvadoran law.

On December 3, 1980, the Junta issued Decree No. 507 (discussed above) which permits prolonged, even indefinite, detention of prisoners at a military judge's whim. The decree has been applied selectively against political opponents of the regime, although not against well-known, right-wing figures with ties to the armed forces, such as former Major Roberto D'Aubuisson nor Ricardo Sol Meza (accused of killing two American labor advisors). The cases of both men were handled in the ordinary courts.

The main protection against arbitrary arrest, the right of habeas corpus, is no longer effective in El Salvador. Lawyers seeking writs have been mistreated and sometimes arrested by the security forces. Many have been threatened, some killed. And the Supreme Court, empowered by the Constitution to enforce the writs, declines to involve itself.

6. The right to due process and to a fair trial

Guarantees of due process and fair trial are found in El Salvador's Constitution:

"No person may be deprived of his life, liberty, property, or possessions except after being tried and sentenced in accordance with provisions of law; nor shall anyone be tried twice for the same offense . . . every person has the right of habeas corpus . . ."
(Article 164, Title X) and

"No person shall be tried except under laws that were promulgated prior to the commission of the offense in question, and by a court that was previously established by law . . ." (Article 169, Title X)

Various other provisions of the Constitution and of the Code of Criminal Procedure contain guarantees of the rights of prisoners.

However, these legal standards have not ensured consistent, non-discriminatory justice in El Salvador's modern history. As the Inter-American Commission on Human Rights concluded in its 1978

report on El Salvador: " . . . in practice the legal remedies are not effective for protecting the persons arbitrarily deprived of their basic human rights." (See Chapter 6)

Despite its promises of an end to human rights abuses, the government that took power in October 1979 has virtually eliminated guarantees of due process and fair trial in security cases. Decree No. 155 of March 6, 1980 placed civilians accused of security offenses under military courts whose procedures differ significantly from those in ordinary criminal proceedings. For example, the constitutional right against self-incrimination by refusing to answer a judge's questions during the investigation phase does not exist in military court proceedings. Also, military judges can order arrests on the basis of a "simple presumption" of a crime rather than the "sufficient elements of proof that the person participated in the offense," the standard required in the ordinary courts. And, unlike the regular criminal investigation, the military investigation phase is secret.

The independence of the civilian judiciary was eliminated after October 15, 1979. The Junta replaced all the magistrates on the Supreme Court with its own appointees. Under the state of siege law, civilian judges may not review in any meaningful way the proceedings of the military courts. Decree No. 507 finally ended judicial independence by militarizing the administration of justice. "The judiciary," a former civilian judge has charged, "is an appendage of the military high command."

Fear has been as effective in undermining judicial independence and authority as the Junta's decrees. The International Commission of Jurists concluded that:

"The judiciary has been made impotent by fear, while magistrates who have attempted to investigate crimes attributed to the security forces or right-wing groups have been immediately attacked, and several of them have been murdered."

7. The right to freedom of conscience and religion

El Salvador is a predominantly Catholic country, and the Catholic Church has played a pivotal role in the events of recent years. It has been in the forefront in implementing the changing role sketched for the Latin American church at bishops' conferences in Medellin, Colombia in 1968 and in Puebla, Mexico in 1979. Over the last two decades, the church in much of Latin America has shaken off the social conservatism which characterized it for centuries, and has become a leading voice for reform and social change.

This change has caused much controversy within the Latin American church, and in Latin American society in general. In El Salvador, as elsewhere, there have been divisions and disagreements, but the direction has been clear. It has supported the struggle of poor people for justice.

Violence against the church for its identification with the poor began several years ago. In June 1977, the Salvadoran church's Inter-Diocesan Social Secretariat published a report on attacks on the church in the preceding 18 months. It listed

" . . . ten bomb explosions, two searches; one ransacking and desecration of the Blessed Sacrament; one threat to close the church radio; seven prohibitions for priests wishing to enter El Salvador; three priests tortured and two mistreated; three priests arrested; two priests and four laypersons assassinated; three priests forced to leave the country due to death threats. A defamation campaign. Threats to expel an order of religious women. Fifteen parishes without priests."

The incidence of attacks declined in the first few weeks after the October 1979 coup, but resumed with ferocity in 1980. The assassination of Archbishop Romero took place on March 24, and the four American churchwomen were killed on December 2. In addition, dozens of attacks by government forces on church members were documented during that year and continue up to the present. Priests, catechists, seminarians, Catholic relief workers, and nuns have been killed, or arrested and tortured. Churches have been raided and shot up with machine guns.

8. The right to freedom of thought and expression

El Salvador's constitution and the international conventions it has ratified guarantee freedom of expression, but limitations on that freedom, by law, military intervention, or threat, have been a constant feature of Salvadoran reality. The Law for the Defense and Guarantee of Public Order, enacted in 1977, formalized those limitations. The International Commission of Jurists described that law in 1978 as "a serious attack on freedom of expression particularly that of the press . . ." (See Chapter 8). Bombs, machine gun attacks, and death threats against independent newspapers and editors complemented statutory limitations on the press during the Molina and Romero governments.

The October 15, 1979 Proclamation of the Armed Forces promised to guarantee human rights observance in part "by stimulating free expression of thought, in accordance with ethical standards." Five

months later, the Junta declared a state of siege which suspended constitutional guarantees of freedom of expression. Again, bombs and machine guns have complemented the restrictions. From January 1980 to June 1981 according to Socorro Juridico, 17 news offices and radio stations were bombed or machine-gunned, twelve journalists killed, eleven by official security forces, and three disappeared.

No independent newspapers currently publish. The last two, El Independiente and La Cronica del Pueblo, had closed by January 1981 after numerous bombings, threats, military interventions, and assaults on employees. The government has failed to investigate any of those incidents thoroughly.

9. The rights of assembly and association

According to the Constitution (Title X, Article 160), "the inhabitants of El Salvador have the right to assemble and to meet peacefully without arms, for any lawful purpose." In practice, those perceived to be opponents of the government have not enjoyed that right in recent decades. Restrictions on the rights to assembly and association have been particularly severe in the countryside. After the peasant uprising of 1932, all organizations of agricultural workers were banned. When peasant unions began to organize in the late 1960s and 1970s, the government responded with repression. The International Commission of Jurists observed: "It is from late 1976 that the detention, torture, disappearance and murder of peasant leaders began to be reported with alarming frequency." (See Chapter 9)

In 1977, the Law for the Defense and Guarantee of Public Order, aimed at peasant organizations as well as urban-based unions, made public meetings and all strikes illegal.

The October 15, 1979 coup brought to power a government promising, among other things, to recognize and respect "the right to unionize, in all labor sectors." The next day, it ousted striking workers from several factories in San Salvador, killing 18, arresting 78, and torturing many. "Within a week," Amnesty International reported, "the new government was responsible for more than 100 killings of demonstrators and striking workers who had been occupying farms and factories."

In the following weeks, political demonstrations in the streets of San Salvador regularly came under fire from security forces. In March 1980, after its agrarian reform program was announced, government troops swept rural areas where labor groups were strong.

"There appears to be no doubt whatsoever," Amnesty International concluded, "that members of the major campesino groupings, all of them affiliates of oppositionist political coalitions, are being systematically persecuted in areas to be affected by the agrarian reform."

Groups which have sought to monitor human rights conditions, particularly the Archdiocese's Socorro Juridico and the Salvadoran Commission on Human Rights, have had their offices raided repeatedly and bombed, their files ransacked, and their employees threatened and, in some cases, killed.

Academic freedom of association has also been denied. Teachers and students have been killed, schools and the university closed down.

Since mid-1980, several unions have been dissolved and their leaders imprisoned. A strike at the Rio Lempa hydroelectric plant in August 1980 ended when authorities arrested the entire leadership of the Sindicato de Trabajadores de la Electricidad de la Central Electrica del Rio Lempa (STECCEL).

10. Political rights

The 1962 Constitution established a "republican, democratic, and representative" form of government with power emanating from the people who enjoy universal suffrage as well as the rights to form and join political parties and to be candidates for public office. Nevertheless there has not been a fair election in El Salvador for the last 50 years. The U.S. State Department summarized Salvadoran political history this way in 1980:

"Authoritarian military governments allied with a wealthy elite have been the trademarks of Salvadoran politics. A democratic facade has been maintained over the years through regularly scheduled elections resulting in the periodic changing of Presidents, Legislative Assembly members, and municipal administrations. Since the early 1970s, the results of the elections inevitably have been challenged as fraudulent, and although personnel have changed, the character of the governing coalition and its modus operandi have not. As a result, the Government party controlled all but four of the fifty-four Legislative Assembly seats and all two hundred sixty-one mayoralties at the time of the October 15 coup . . .

"Legally, participation in the political system is open to all citizens. However, the functioning of the opposition political parties allegedly had been inhibited through repression, harassment, and collusion that have prevented effective recruitment, organization, and campaigning, including denial of access to the media. The new government has pledged to open the political process."

-- Country reports on human rights practices for 1979

The long history of manipulated elections, and particularly the blatant frauds of 1972 and 1977, undermined faith in elections. The OAS Inter-American Commission on Human Rights concluded after a 1978 visit that:

"There is widespread skepticism among the citizenry regarding the right to vote and to participate in government. In particular, the political parties of the opposition, in this connection, came to have no confidence in the possibility of having full and honest elections, not only in the light of their experiences during the course of recent elections, but also because of the structure of the electoral system and of the obstacles the parties encounter in trying to organize in the interior of the country . . ."

The Proclamation of the October 1979 coup acknowledged "scandalous election frauds" in the past and promised "a truly democratic system," with free elections open to parties of all ideologies. But the Junta later suspended several rights basic to political participation and its denial of those rights has been selectively directed against the political opposition.

The Junta has announced elections in March 1982 for delegates to a constituent assembly, to be followed by presidential and legislative elections in 1983. One of the features of its provisional law for registering parties is that in the present climate of unrestricted political violence against the opposition, it requires the names and addresses of at least 3,000 members to register a new party.

Government officials have made contradictory statements in recent months as to whether the opposition coalition, the Democratic Revolutionary Front (FDR) and its head, Guillermo Ungo, would be

allowed to participate in elections. For its part, the opposition favors political negotiations with international mediation to end the conflict. It has said it would consider elections as part of the comprehensive process of political negotiations.

11. The rights of refugees and displaced persons

The conflict in the rural areas forced at least 350,000 Salvadorans to become refugees, mainly peasant families who abandoned their homes for safety in less dangerous areas or in neighboring countries. (See Chapter 11) Government attitudes towards peasant organization, and the counter-insurgency campaign against the guerrillas have been the major factors spurring their flight.

Even after the October 1979 coup and the promises of reform by the new government, according to Amnesty International, military authorities continued to regard campesino organizations as suspect and "subject to the same degree of repression dealt out to members of avowedly violent guerrilla groups . . ." Socorro Juridico noted sharp increases in reports of killings, arrests, torture, and forced displacement of rural inhabitants coinciding with 171 military operations carried out in different farming areas between January and March 13, 1980. The implementation of the Junta's agrarian reform program in March 1980 produced a new surge of refugees. National Guard and Army units ostensibly deployed to implement the program were allegedly involved in the disappearance, torture, and execution of hundreds of rural inhabitants of villages where the population included members of opposition labor organizations.

The military strategy is to eliminate bases for guerrilla organizations by depopulating villages, and to isolate the guerrillas and create food supply and other logistical problems. This has led to the slaughter of livestock, the theft of food, the razing of villages, cropburning, and direct assaults upon the civilian population.

Of those refugees who have stayed within the country, estimated to number over 150,000, some 80 percent have gone to other rural areas where they may receive some relief assistance from the government or domestic and international humanitarian agencies. Some 5,000 have gone to camps run by the Archdiocese of San Salvador where food and medicine are reported in critically short supply. Health workers aiding refugees have been harassed and some of them killed. Fear is an additional problem. Refugees dare not leave the sites provided by the Church for fear of further persecution by the military. Nor are they safe inside the camps. Between August 20, 1980 and March 17, 1981, Socorro Juridico documented 67 separate instances of killings, detentions, robberies, encirclements, threats, searches, and military occupations of refugee centers by the security forces.

At least 200,000 other Salvadoran refugees have fled to neighboring countries, principally Mexico, Guatemala, Honduras, Nicaragua, and Costa Rica. The refugees in Honduras, estimated to number anywhere from 33,000 to 70,000, generally live near the border with El Salvador. After surviving the traumatic events that drove them from their homes, many were further victimized as they attempted to cross the border. In two widely reported cases, at the Sumpul and Lempa rivers, thousands of Salvadoran peasants allegedly were attacked by Salvadoran troops while Honduran troops blocked the border. In the second of these incidents, March 17, 1981 at the Lempa River, doctors, priests, and relief workers present witnessed the Salvadoran air force dropping bombs and strafing the fleeing refugees while the army fired on them with mortars and machine guns.

Nor are the refugees safe within Honduras. Substantial testimony indicates a pattern of murder, harassment, assault, abduction and forcible return to El Salvador by Salvadoran security forces and members of ORDEN operating in Honduras, as well as crimes by Honduran army personnel against the refugees, including rape and murder.

C. United States involvement

Since the October 15, 1979⁷ coup, the United States has become deeply involved diplomatically, economically, and militarily in the affairs of El Salvador. Since the coup, U.S. economic aid, including proposals for FY1982, has climbed over \$300 million, much higher than for any other Latin American nation. Security assistance to the Junta through FY1982 will total \$62 million, four times what it was in all the years from 1950 to 1979. Despite deep concern in both Congress and among the public about parallels to the early days of U.S. involvement in Vietnam, U.S. military personnel have been sent to El Salvador to help that country's armed forces. U.S. military aid and training are going to units repeatedly accused of massive violations of the human rights of El Salvador's people.

U.S. military involvement in El Salvador began modestly enough with a military mission in the mid-1940s, and with training and assistance programs in pursuit of hemispheric security. After the Cuban Revolution in 1959, U.S. hemispheric strategy shifted to defense against internal subversion rather than external attack. Under the Public Safety Program, the U.S. helped train and equip the Salvadoran police and National Guard. An evaluation of this program in 1967 was satisfied that it had "efficiently trained the National Guard and National Police in basic tactics so that authorities have been successful in handling any politically-motivated demonstrations in recent years." (See Chapter 13).

The first interruption in U.S. military aid to El Salvador came, not because of the Carter administration's human rights policies, but because in 1976 Salvadoran army chief of staff, Gen. Manuel Alfonso Rodriguez was convicted in New York of trying to sell 10,000 machine guns to people he thought belonged to the Mafia. The next year, El Salvador announced it was rejecting military aid to protest U.S. criticism of the Romero government's human rights record.

Less than three weeks after the 1979 coup, the U.S. -shipped \$205,000 worth of riot control equipment to El Salvador, along with four Army advisers. Training in non-lethal forms of crowd control, it was argued, was essential to reduce human rights violations. Archbishop Romero spoke out against the sale and, in a letter to President Carter shortly before his death, charged that "the security forces, with better personal protection and effectiveness, have repressed the people even more violently using deadly weapons."

Despite Romero's protests, U.S. military aid to the Junta increased steadily. Most of it was for training and "non-lethal" equipment (vehicles, communications gear, night vision devices). Some aid was held up for approximately five weeks after the December 2, 1980 murder of the four American churchwomen and reports implicating Salvadoran security forces. When it resumed, in the context of a major offensive by guerrilla forces, two leased helicopters were included. On January 17, 1981, during the Carter administration's last week in-office, overtly lethal weapons -- grenade launchers, rifles, ammunition, etc. -- were sent for the first time.

On February 23, 1981, the new Reagan administration issued a "White Paper" alleging clandestine military support given by the Soviet Union, Cuba and their Communist allies to Marxist-Leninist guerrillas now fighting to overthrow the established government of El Salvador. U.S. military aid to the government increased dramatically. By spring, the Administration had sent \$20 million in emergency funds and asked Congress to reprogram or appropriate \$31 million more. Additional U.S. military personnel were sent as well. By mid-March, 56 were in El Salvador. Their missions included training in use and maintenance of helicopters; training the Salvadoran navy to interdict seaborne infiltration of arms; liaison with the Salvadoran army; intelligence; assisting Salvadoran commanders at the national and regional levels with planning, communications, and coordination; and the training of a new quick-reaction force, the 2,000 man Atlacatl Battalion, counterinsurgency specialists (Green Berets).

The U.S. commitment to the Junta in El Salvador has increased dramatically in spite of congressional attempts to apply legislative brakes to the process. The U.S. experience in Vietnam produced a body of legislation aimed at limiting the discretionary authority of the President in similar situations. (See Chapter 13 for an analysis of the War Powers Resolution and of legislation linking security assistance and human rights.) But it is becoming increasingly evident that the law is still vague, that the executive branch has a great deal of room to maneuver and that congressional brakes are difficult to apply.

D. Conclusions

The analysis of the information developed for this report led the authors to the following major conclusions:

1. The Revolutionary Governing Junta of El Salvador, both by commission and omission, is responsible for a widespread and systematic pattern of gross violations of human rights.

2. Despite its avowedly reformist character, the human rights situation in El Salvador has steadily worsened since the Revolutionary Governing Junta came to power on October 15, 1979. In fact, not since la Matanza, the 1932 massacre of as many as 30,000 peasants, has the human rights situation in El Salvador been as bad as it is now.

3. The violations of human rights taking place in El Salvador are not aberrations. Rather, they are selectively directed against those perceived as opposing the country's economic and political system.

4. The United States government has increased its diplomatic, economic, and military support for El Salvador precisely during the period when human rights violations there have accelerated. Both the Carter and Reagan administrations have followed this policy, but the levels of support, and therefore the U.S. stake in El Salvador, have increased dramatically under President Reagan.

5. Under present conditions, the solution to the crisis favored by the Revolutionary Governing Junta and the Reagan administration -- elections in 1982 and 1983 -- offers little hope for an end to the tragedy of El Salvador.