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**COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1989**

REPORT

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COMMITTEE ON FOREIGN AFFAIRS
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COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

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El Salvador has a freely elected democratic government, with an executive branch headed by a president, a unicameral legislative assembly, and an independent, but politically appointed, judiciary. On June 1, for the first time in Salvadoran history, civilian control of the government passed from one political party to another following free and fair elections. Alfredo Cristiani of the Nationalist Republican Alliance (ARENA) party assumed the Presidency from the incumbent, Jose Napoleon Duarte of the Christian Democrats (PDC).

The Armed Forces of El Salvador (ESAF) total 56,000, including some 11,500 members of the police forces. There are three national police entities, usually referred to as the security forces: the National Police, the National Guard, and the Treasury Police. The security forces are considered part of the armed forces. The National Police, National Guard, and Treasury Police report to the Vice Minister of Defense for Public Security.

El Salvador has a mixed economy, and private property is generally respected. The country's economy is predominantly agricultural. Coffee accounts for 65 percent of foreign exchange earnings. The economy has experienced 6 years of modest growth, despite losses of nearly \$2 billion caused by an armed insurgency. The Farabundo Marti Front for National Liberation (FMLN) follows a strategy of seeking to disrupt the operations of the economy: it holds traffic bans which disrupt normal commercial activity; it extorts "war taxes" to raise income; and it has increasingly resorted to sabotage of economic targets. The group's stated goal is to worsen economic conditions in order to turn the population against the elected government. The FMLN's November 1989 offensive, during which attacks were focused on San Salvador and other urban areas, caused nearly \$20 million worth of damage to economic enterprises and infrastructure.

The FMLN has been engaged in an armed insurgency since 1980, dedicated to the violent overthrow of governments now regularly established through democratic processes. The FMLN has an estimated 6,000 full-time combatants backed by a network of front groups, part-time militia, and urban commando cells. During much of 1989 the FMLN pursued a public policy of attempting to make the country "ungovernable" through increased urban bombings and assassinations of intellectuals, newspaper columnists, civilian employees of the military, former FMLN members, mayors, and government ministers and their families. The FMLN sought to thwart the democratic elections in March by threatening the lives of those who administered the election process and those who transported voters to the polling places, and rejected a government cease-fire during the election period. On the political front, the FMLN offered in January and in September two proposals to negotiate an end to the conflict. For the first time the FMLN dropped demands for power sharing and acknowledged the validity of elections as a means to power; it specifically called for postponement of the March elections. FMLN insistence on an unconstitutional delay in the elections and its refusal to accept the Government's cease-fire proposal made agreement on a proposal impossible. In September the FMLN made a new proposal; shortly thereafter the Government and the FMLN agreed to permanent monthly meetings in an attempt to reach an end to the conflict and the FMLN's incorporation into political life. Meetings were held in

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September and in October. On November 11, the FMLN launched a nationwide offensive which left over 3,000 guerrillas, soldiers, and civilians dead and thousands more wounded. Nevertheless, the government delegation went to Caracas for the scheduled November 20 negotiating session, but the FMLN did not show up.

As the insurgency gathered strength in the early 1980's, members of the security forces repeatedly violated the human rights of their fellow citizens and were unquestionably involved in widespread death squad activities. Although abuses continue, successful investigation and prosecution efforts now mean that military personnel, including officers, cannot count themselves immune to prosecution. In March 1989 the military turned over two officers, three noncommissioned officers, and six soldiers to civilian authorities for prosecution resulting from the September 1988 massacre of 10 civilians in San Sebastian. In May an active duty officer in the armed forces was found guilty and sentenced for the 1987 murder of three men. In January 1990, Colonel Guillermo Alfredo Benavides Moreno, Commandant of the Military Academy and Overall Commander of units providing security to the Academy area, along with two lieutenants, a sub-lieutenant, and five other soldiers, was held in custody and charged with the slayings of six Jesuit priests, a housekeeper, and her daughter on the campus of the University of Central America on November 16.

Statistics kept by the American Embassy, aggregated for only the first 8 months of the year, do not show an increase in civilian political killings. Nevertheless, rightwing vigilantism continued to be a serious human rights concern. While intense investigation of some notable cases has produced information useful to the prosecution, in many cases it was unclear who the perpetrators were--rightwing vigilantes, the security forces, the FMLN, or common criminals taking advantage of the violent environment that has characterized the country in recent years.

The judicial process continued to be hindered by archaic procedures, inadequate facilities, intimidation of judges, and corruption. The FMLN's assassination of the Attorney General in April was an additional blow. Unfortunately, there was little progress in the prosecution of some key human rights cases during 1989. Although the military leadership showed somewhat greater cooperation in investigations of reported human rights abuses by members of the military, this attitude was not reflected in the lower ranks of the ESAF, where cooperation with civilian investigators is, at best, erratic or problematic.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

The assassinations of the Jesuits, the Attorney General, and the Minister of the Presidency were among the numerous political and extrajudicial killings occurring during the year. Discerning a trend or pattern in the level of such violence is always difficult, the more so in 1989 with a guerrilla offensive beginning in November. The collection and classification of information on politically motivated

killings is inexact, and trends in violence over time, using a consistent method of example, can easily be distorted by perpetrators wishing to cause a political motive, causing them to be classified

The November FMLN offensive political killings through August, the number of deaths which may have been political; this compares with in 1987, 22 in 1986, 28 in 1982, 444 in 1981, and some rural areas, it is 1 the full number of civilians.

Of the 138 apparently political noncombatants during the clearly to have been probably attributed to the military personnel; and evidence to designate the the 138 victims were 42 action between the FMLN and

In statistics maintained murders in which a political not be excluded, these deaths per month during 1988 to the first 8 months of 1989. showed that in the period average was 13, compared

There continued to be reported to the military and police deaths of two young men, Parada, who were in the country beyond the legally allowed military high command order and two soldiers were charged in custody and the other suspect charged, in a statement the country, that his actions which operated out of the First Brigade denied the investigation at year's end

On August 22, a member of year-old high school student ESAF apologized to the far responsible. In another military detachment in Sor wounded seven. The Chief parents and promised to bring to believe that the student roadblock) to justice. Anyway, by year's end no soldiers

On November 16, 1989, six daughter were murdered on campus (UCA). The victims UCA's Rector; Father Segura Human Rights Institute; Father

History of
Proc. of
military
vs H.R.

Judicial
process

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The Government does not recognize the FMLN as a belligerent power and so does not accord prisoner-of-war status to captured guerrillas; captured guerrillas are turned over to the civilian court system for criminal prosecution. In the case of a group of war-wounded and handicapped FMLN ex-combatants who occupied the National Cathedral and later the Mexican Embassy, the Salvadoran Government allowed them to leave the country to take advantage of offers of free medical care by passing an amnesty in the National Assembly. Forty-six of them departed for Cuba in October.

There are no provisions in the law for exile. Many leaders of the FMLN claim to be in exile, but it is self-imposed. Some of them could, however, be subject to arrest in El Salvador for participation in guerrilla operations if they were to return. Revolutionary Democratic Front (FDR a formal political ally of the FMLN) leader Reuben Zamora, who returned in 1988 from such an exile, left again in late 1989, alleging that the Government's vigorous counter-offensive against the FMLN placed him in jeopardy. He had earlier in the year been an active campaigner for his party in the March presidential election. Mr. Zamora returned to El Salvador in early 1990.

With regard to forced or compulsory labor, see Section 6.c.

e. Denial of Fair Public Trial

The Constitution stipulates that the judiciary, the Attorney General's office, and the Solicitor General's office (public defenders) are independent of the rest of the Government and each other. The Legislative Assembly chooses the Supreme Court justices for 5-year terms, the Attorney General for a 3-year term, and the Solicitor General for a 3-year term. The Constitution establishes the regular court system and provides for a special system should the Legislative Assembly enact a state of exception. The Assembly enacted legislation to invoke an indefinite state of exception on November 13, following the initiation of the FMLN offensive; under its terms, security forces are allowed to detain FMLN suspects for 15 days for interrogation before consigning them to the courts. The state of exception remained in effect as of year's end.

The Constitution provides that a person accused of a crime may have a lawyer present upon being arraigned, but the right is seldom used, probably because few arrestees can afford to hire a private attorney. Court-appointed attorneys are not generally available to a defendant until the investigative phase is over and the judge determines there is sufficient evidence to enter the final, or plenary, stage of the trial. The defendant has a right to be present in court and to confront the witnesses that testify against him. All trial records of adults are open to the public unless the judge rules that the case be kept confidential. An appeal process exists and is used regularly.

Most major crimes in El Salvador are tried publicly before a five-person jury. Absences of attorneys, the destruction of many court buildings in the October 1986 earthquake, and a practically nonfunctioning jury identification and notification system hinder the ability of the judicial system to process cases expeditiously. Corruption and intimidation by political extremists are also factors. As a result, only 10 percent of the 2,058 prison inmates in September were serving sentences; the rest were awaiting adjudication of

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their cases. Bail is available for some minor offenses, but is seldom used. Prisoners are usually incarcerated for 6 to 18 months from the time they are charged until they are brought to trial, and even longer waits are common.

Historically, civilian judicial authority has not extended to the military officer corps. Many low-ranking members of the military and police have been discharged and turned over to the civilian courts for trial on criminal charges, but, traditionally, officers of the armed and security forces have been treated differently from other citizens before the law. Judges are frequently reluctant to bring charges against them, and colleagues often fail to cooperate in the prosecution of crimes imputed to a fellow officer. This pattern began to change in 1989 with efforts to prosecute a major and a lieutenant accused of the 1988 San Sebastian killings and the conviction and sentencing of Lieutenant Rivas in the murders in Santa Ana (Section 1.8.).

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

The Government generally does not interfere arbitrarily in the personal lives of citizens, although the Constitution allows it the right to intervene when it believes national security is threatened. Both the Government and the guerrillas use networks of informants. According to the Constitution, before entering a private dwelling the security forces must have the inhabitant's consent, a judicial warrant, or reasonable belief that a crime is being or will be committed. In practice, the security forces often use forced entry to carry out arrests and investigations. Government forces often intercept mail deliveries in the conflictive zones. Wiretapping of telephone communications by the Government, the FMLN, private individuals, and political parties is widespread. The Government was accused in late November of indiscriminately entering the premises of religious and humanitarian organizations, conducting mass arrests, and seizing property found on the premises. Government officials asserted that military forces were acting on intelligence reports, indicating that either such premises or some of the individuals therein were acting on behalf of the FMLN.

The guerrillas arbitrarily interfere with the lives of inhabitants in the conflictive zones, expropriating food and medical supplies, intercepting mail, and often forcing villagers to attend indoctrination sessions. They engage in forced recruitment either to fill their ranks or to obtain laborers and porters. FMLN committees exercise a high degree of control over the villages set up by refugees who return from camps in Honduras, an extension of their control inside those camps. The people usually comply with the FMLN demands, because the guerrillas regularly back up their threats by killing those who fail to cooperate.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

There were new claims in 1989 of improper Air Force bombings near civilian populations that caused civilian deaths. Following President Duarte's 1984 guidelines, the Air Force claims to refrain from attacking guerrilla concentrations and installations when civilians are nearby. However, there are credible charges from people in the countryside which contradict this claim, especially in Chalatenango, Cabanas,

and Morazan departments, where operations which received civilian Force. There were no reports of this activity in rural areas.

During the November FMLN offensive positions in the working class San Salvador, using innocent and Air Force counterattacks positions in civilian housing as command headquarters or confirmed by diplomatic officials the guerrillas did not allow evacuate these areas. This shield and maximize the number to blame the ESAF for those

The Embassy estimates, based on hospital and emergency organization 200 and 400 civilian deaths and between 1,500 and 3,000 wounded received minor injury hospitalization. Most casualties street fighting and the use of arms, machine guns, grenades to have been caused by aerial

Charges of indiscriminate bombing FMLN urban offensive were not (AW) report noted that in a visit to "the civilians had strafing and bombing were a result of the ESAF for the offensive." The ESAF for the offensive. The ROE allows only when the mission is to destroy activities. According to E civilian accounts, the Air Force helicopter strafing, rocket emplacements, which resulted in civilian deaths. However, despite initial ESAF several bombs on guerrilla positions Miguel. Both 500 and 250 pound attacks caused some civilian

The guerrillas' use of unmarked landmines and booby traps is causing maiming among peasants. Planted around guerrilla-downed elements near water sources, in farm areas these mines killed 52 civilians in the first months of 1989.

Section 2 Respect for Civil Liberties

a. Freedom of Speech

There are no governmental restrictions on the press. El Salvador regularly prints strongly a report on the aftermath of the assassination of President Duarte. A series of strikes proposed in the National Assembly impinged on freedom of speech. The proposed law, President