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El Salvador: Performance on Certification Issues


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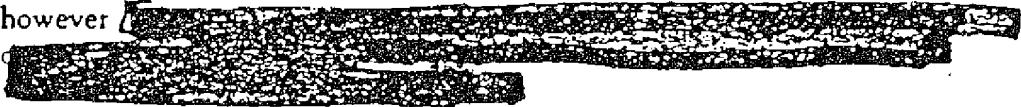
EL SALVADOR: PERFORMANCE
ON CERTIFICATION ISSUES


Information available as of 11 July 1983 was
used in the preparation of this Assessment.







KEY JUDGMENTS


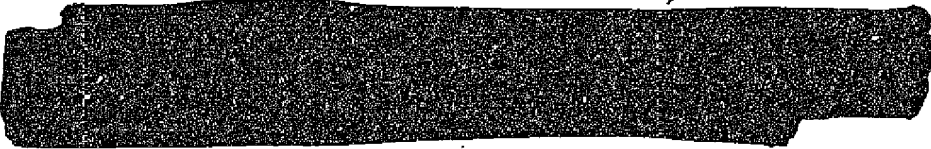
The government of El Salvador has made continued progress on most certification issues during the past six months. Progress in achieving substantial control over the armed forces and prosecuting those responsible for the murders of six Americans has been marginal at best, however 

Improvement has been most evident in the area of government reforms. Agrarian reforms have made steady advances, particularly in the distribution of land and titles to thousands of new beneficiaries. Recent banking laws also have completed a process begun in 1980 to reorganize financial institutions and reallocate credit to the general public 

Cooperation among moderate elements in the government has increased over the last six months, with an attendant erosion of extreme rightist influence. This has enabled the administration to step up the process of democratization, especially evident in the enactment of an amnesty law that has reduced the number of political prisoners by 70 percent. Other advances include the creation of a Peace Commission charged with seeking political reconciliation with the guerrillas and completing the draft of a new constitution 

Major weaknesses remain, however, in the government's ability to safeguard human rights, particularly in the countryside. Killings by rightwing death squads and elements of the armed forces continue. Efforts by the military high command to instill respect for human rights among the rank and file have had some effect in elite units, but little in poorly trained garrison units and civil defense forces 

The cases involving the murder of the six US citizens have yet to reach trial stage because of continued legal and procedural bottlenecks in the weak criminal justice system. Conspirators in the killings of two



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US labor advisers, moreover, continue to avoid prosecution following appellate court decisions to drop current charges until new evidence can be developed.

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DISCUSSION

Human Rights

"Making a concerted and significant effort to comply with internationally recognized human rights." (Criterion for Judging Salvadoran Government's performance.) (U)

1. During the past six months, the Magana administration in El Salvador has continued to make progress on some human rights issues, particularly as evident in the recent implementation of the amnesty law. However, the measurement of progress in El Salvador is a relative thing, complicated by abuses of prisoners before detention in a government facility and the use of violence by extremists against their perceived political opponents.

2. The insurgent war has intensified this year as the guerrillas have stepped up efforts to broaden their areas of control and inflict major damage on the country's already crippled economy. The rate of combat deaths on both sides has increased, but the rate of civilian political deaths¹ has not changed substantially. According to US Embassy reports, figures for the first six months of 1983 show a slight increase over those for the last six months of 1982—178 civilian political deaths versus 160. The average so far this year, however, is well below the monthly death rate of 217 for all of 1982. (See accompanying chart.)

3. The trend toward improvement is also reflected in the recently enacted and swiftly implemented amnesty law. Since it went into effect in May 1983, the authorities have released more than 500 of the 733 political prisoners in jail at the time amnesty went into effect—guerrillas and labor leaders as well as leftist intellectuals suspected of subversion and detained under the emergency decree. Most of those released

¹ Political deaths are those that take place outside a zone of combat and which clearly suggest a political motive—for example, civilians murdered because of suspected complicity with the insurgents. Civilians killed as a result of being caught in a crossfire or other military-related activities are classified as combat deaths.

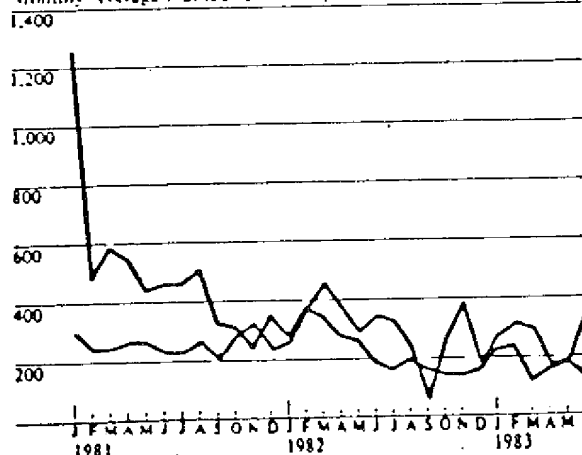
had been held at the relatively modern Mariona Prison outside the capital.

4. US Embassy officers visit the facility frequently and report that the prisoners are well fed and are receiving excellent treatment, including access to schooling and rights to conjugal visits in private dormitories. In addition, US officials who recently visited the Ilopango Women's Prison indicate that more than half of its 92 political prisoners have been released under the amnesty. Conditions there are reported as good, and some of the common criminals stated they are denied privileges that are extended to political detainees.

5. We believe the government may extend the amnesty beyond its mid-July cutoff in an effort to attract political exiles and disenchanted members of insurgent groups inside the country. Despite the unex-

El Salvador: Insurgency-Related Civilian and Military Deaths, 1981-June 1983

Total Number of Civilian Deaths
Monthly Average Number of Military Killed or Wounded



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pectedly high number of political prisoners who have benefited from the law, it reportedly has attracted so far only about 200 guerrillas and camp followers. Nevertheless, the president of the government's Human Rights Commission—which is currently investigating reported cases of abuse of civilians by both guerrilla groups and armed forces units and attempting to locate over 100 missing persons—appears optimistic that others will take advantage of the law. He notes that guerrillas are required only to sign a formal request for amnesty, and that they are not interrogated or required to provide details of their past actions. Like the released political prisoners, insurgents seeking amnesty are free to remain in the country or to leave. Meanwhile, the Amnesty Commission's recently established rehabilitation committee is assisting beneficiaries in finding work or in resettling on land belonging to the agrarian reform agencies. Those desiring to leave El Salvador are offered free passports.

6. Despite these and other efforts—including a massive publicity campaign—we believe that fear of reprisals from the extreme left or right will inhibit most guerrillas and political exiles from taking advantage of the amnesty. The government hopes that fair treatment of insurgents turning themselves in will spark additional defections, but this may be offset by accounts of former political prisoners of abuses before their internment.

7. These abuses apparently are continuing. According to the US Embassy, government and military officials disavow responsibility for actions employed by the Army in combat situations before prisoners are transferred to detention centers. The positive effects of the amnesty program could be further offset by recent death squad activity against some prisoners who had been released before the amnesty.

Control of the Armed Forces

"Is achieving substantial control over all elements of its own armed forces." (v)

8. [redacted] reporting [redacted] on control of the armed forces. [redacted] indicates that the performance of the

military remains mixed. The military is stepping up efforts to professionalize its ranks and instill respect for human rights. Nevertheless, the intensity of the guerrilla war—particularly recent massacres of captured soldiers—and its influence on domestic lawlessness probably have generated continued abuses by armed forces elements against the civilian population.

9. Military leaders are maintaining their efforts to reduce human rights violations within the armed forces. Moreover, reporting indicates more precision in the last six months in fire control during fighting in populated areas, particularly on the part of combat pilots and artillery units.

10. Improved fire discipline also has been noteworthy among US-trained infantry battalions that have been engaged in heavy counterinsurgency campaigns in San Vicente and Morazan Departments. [According to US defense attache reports,] troops moving into guerrilla base areas and occupied towns are treating local inhabitants with greater consideration.

11. Treatment of captured prisoners—whose numbers remain small—continues to improve. According to the US defense attache, the Army increasingly is treating wounded guerrillas and interrogating them humanely. They are then evacuated to San Salvador rather than being left in the hands of local commanders. Some of those captured have related the concern of guerrilla leaders over the superior performance of US-trained units and their ability to generate more positive attitudes among peasants toward the government.

12. In addition, the new Defense Minister has issued a human rights manual to all military units in the country. Similar guidelines have had only limited impact within the security forces over the past two years. Nevertheless, this action helps reinforce the commitment to curb abuses by field commanders and their troops.

Moreover, poor recordkeeping and lack of reporting within the

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military institution itself frequently reduce the availability of information. US officials have found that military personnel are regularly discharged from the service for human rights offenses and other criminal acts, pending trials in civilian courts. These cases cease to be the responsibility of the military and quickly become buried in the labyrinth of civil and criminal justice proceedings. In one eastern department, for example, US Embassy officials identified 17 civilian court cases involving former military personnel. All had been separated from the armed forces for serious crimes such as assault, rape, kidnaping, and murder. Most cases were still pending, although two had resulted in acquittals, and a few others in convictions.

14. Government efforts to investigate mass slayings that occurred last fall have stalled because of a lack of witnesses—a frequent problem that underscores the continuing climate of fear and polarization in El Salvador [REDACTED]

15. Another widely publicized mass killing under investigation occurred in February 1983 in Sonsonate Department. According to US Embassy sources, at least 18 peasant farmers were shot in and around the farm cooperative of Las Hojas; there is one report that as many as 60 more may have been killed. According to peasant spokesmen, the victims were members of the National Salvadoran Indian Association who were targeted by local cattle ranchers following land disputes. Individual members of the local civil defense forces and some 200 regular troops led by an Army captain were involved. The captain was placed under military arrest in April pending further investigations by government prosecutors of charges that his departmental commander, Colonel Araujo, ordered the killings. He has since been released. Araujo has publicly admitted sending his troops to Las Hojas on search and

destroy missions against "known subversives." According to US Embassy sources, civil defense personnel attached to Araujo's command have threatened witnesses with death, thus prompting peasant leaders to seek protection from the National Guard. The local Guard commander has promised to patrol the Indian cooperatives and provide them with weapons for self-protection.

16. [REDACTED] Some military elements continue to engage in random acts of violence. Disappearances and unidentified bodies still are reported in areas controlled by specific units of the armed forces [REDACTED]

Progress on Reform

"Is making continued progress in implementing economic and political reforms, including land reforms." (v)

17. The Magana administration has made steady progress in economic, political, and land reforms during the last six months. This period has been characterized by increasing cooperation among the major parties in the government, reflecting a growing maturation of the still-fragile democratic system as well as the erosion of power of some extreme right elements.

18. The continuing movement toward reform was not affected by the recent power struggle in the military, which resulted in the resignation of Defense Minister Garcia in April. Although Garcia had been a primary force for moderation and had earned the enmity of extreme rightists for his support of reforms, his replacement by General Vides represented both the transition of power through established procedure and the continued dominance of the pragmatic mainstream of the officer corps. Furthermore, the impact

of the crisis in the military was defused by the intervention of President Magana, who, in requesting Garcia's resignation, asserted his civilian authority as constitutional head of the government

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Vides has shown himself cognizant of the need to reinforce the moderate policies of Magana—in part to satisfy US policy requirements—and we believe that the military under his command will continue to support the government's efforts to strengthen reforms

20. Neither factionalism in the military nor escalating insurgent attacks have deterred the armed forces from keeping agrarian reform on track. According to the Agency for International Development, as of 17 June there were some 194,000 beneficiaries in Phase I (redistribution of large landholdings to peasant cooperatives), while Phase III (land to the tiller) has benefited some 305,196 formerly landless peasants.* Since October the government has exceeded most of its immediate goals with regard to title application and distribution. Applications for new titles, for example, have climbed from a cumulative total of 38,615 in October to 64,637 as of 17 June 1983. During the same period, cumulative distribution of permanent titles to Phase II properties has grown from 400 to 2,453, suggesting that changes made last year in management of the program are now paying dividends. While the government is still behind in its schedule for distributing provisional titles, the rate of distribution has increased markedly since January from a cumulative total of 34,674 to 42,415

21. Progress on land reform continues to be clouded by rumors and allegations of large-scale evictions of peasants by former landowners. The government

* This number includes direct beneficiaries and their dependents based on a formula of six individuals per family

is about to undertake a survey to determine the number of illegal evictions, and it recently began a nationwide publicity campaign to discourage such actions. Meanwhile, US Embassy reporting indicates that the armed forces continue their efforts to return evictees to their new lands. As a result, any heretofore unreported evictions are now more likely to come to the attention of the authorities


22. The ability of Magana to continue reforms in the face of rightist opposition has been reflected in his handling of economic issues. This spring, for example, the administration implemented the final step in reforming the banking system by offering up to 49 percent of the equity in nationalized banks to private investors, with limitations on the amount an individual investor can purchase. The offer capped a three-year struggle to take control of credit out of the hands of a few wealthy families. In a further sign that extreme rightwing influence is waning, the Assembly recently defeated a campaign by major coffee growers to weaken the powers of the National Coffee Institute, thereby contributing to equitable returns for small producers

23. The inability of the far right to prevail on economic issues is mirrored in its overall reduction of power in the government during the past six months. In February a dispute in the Assembly concerning rule changes and a cabinet appointment sparked increased cooperation by moderate right and liberal deputies against obstructionist parliamentary tactics by far right leader D'Aubuisson and his party. This enabled President Magana to replace a rightwing minister with a moderate from a nongoverning political party, thereby reducing the share of power for D'Aubuisson's faction and strengthening executive leverage with the Assembly. Subsequent maneuvers by moderates succeeded in eliciting D'Aubuisson's public declaration to resign upon completion of the new constitution

Elections and Negotiations

"Is committed to holding free elections at an early date and, to that end, has demonstrated ... good-faith efforts to begin discussions with all major political factions in El Salvador." (U)

24. Planning for elections has been hampered by partisan differences over posts to be contested and the eligibility of candidates, as well as disruptive changes in the electoral timetable. Nevertheless, the US Em-

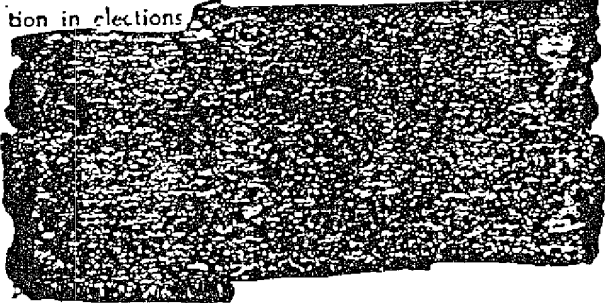


bassy reports that the major parties in the government have informally agreed to hold the presidential balloting on 13 November. A major hurdle, however, will be the promulgation of the constitution, without which an electoral code cannot be developed nor the structure of a new government determined.

25. Other problems such as funding and organization for the electoral contest finally are being addressed by the five-man Election Council. Although the Council remains insistent on devising a new registration system before November, some political leaders now acknowledge that such a program almost certainly is not feasible. Officials of the rightist National Republican Alliance and the liberal Christian Democratic Party, for example, recently have indicated that they will accept open registration—such as existed during the March 1982 elections—for the sake of expedience.

26. Open registration may inspire postelection charges of fraud among partisan groupings, but it should help encourage another large turnout on the part of voters unable or unwilling to return to specific municipalities as would be required with formal registration. Turnout will still be determined to a considerable extent, however, by the ability of the five guerrilla factions to coordinate their efforts to sabotage the balloting more effectively than in March 1982.

27. The government's Peace Commission reportedly has made recent contacts with political spokesmen for the insurgent alliance in an effort to determine their interest in the amnesty program and participation in elections.



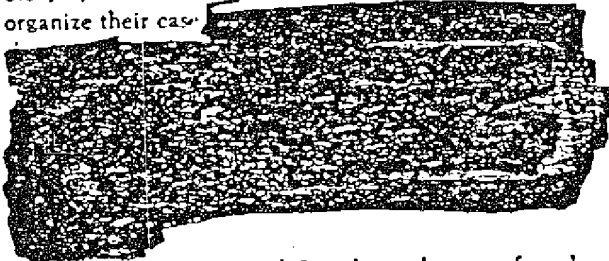
28. We believe, however, that efforts to generate positive leftist interest in the balloting are likely to prove ineffective. The insurgents continue to reject the electoral process in favor of negotiations leading to a

power-sharing arrangement. Having increased their military pressure, the insurgents now are engaged in major diplomatic lobbying for a dialogue with the governments of El Salvador and the United States.

Murders of US Citizens

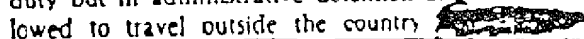
"Good-faith efforts to investigate murders of six US citizens and bring to justice those responsible for those murders." (U)

29. The case of the five National Guardsmen charged with killing four US churchwomen in 1980 has again been set back by judicial procedures. A lower court decision to begin trial proceedings was overturned this spring by an appellate court, which cited irregularities in the presentation of physical evidence. Technically, this only postpones an inevitable jury trial and allows prosecutors more time to organize their case.



30. Two other National Guardsmen have confessed to murdering two US representatives of the American Institute for Free Labor Development (AIFLD) in 1981 and are due to stand trial following an appellate review of the evidence. The court, however, has rejected formal requests by the Attorney General to prosecute two other participants in the crime, Lt. Lopez Sibrian and businessman Hans Christ. According to US Embassy sources, the government has one year to introduce new evidence or the case will be officially closed. Reporting indicates that the Magana administration is pressing for prosecution and probably will appeal to the Supreme Court.

31. Lopez Sibrian, meanwhile, remains on active duty but in administrative detention and is not allowed to travel outside the country.



Another conspirator, Captain Eduardo Avila, remains in hiding subject to arrest as a murder suspect and Army deserter.

