
A Negotiated Revolution?

A Two Year Progress
Report on the Salvadoran
Peace Accords

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March 1994

Hemisphere Initiatives
Cambridge, Massachusetts

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Graphic design is by Colin Bird. Carol MacDonald and David Krusé assisted with production. A special thanks to David Holiday for his assistance.

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Introduction

On January 16, 1992, the Farabundo Martí National Liberation Front (FMLN) and the Government of El Salvador ended 18 months of peace negotiations and eleven years of war by signing a comprehensive peace agreement at Chapultepec Palace in Mexico City. In exchange for the phased demobilization of the FMLN's army, the agreement called for a wide ranging series of institutional changes in El Salvador that were aimed at providing political guarantees for the FMLN to safely enter civilian political life, at healing the wounds of war and at amplifying democracy in El Salvador. In the words of Alvaro de Soto, the chief UN mediator during the peace talks, implementation of the accords would result in "a negotiated revolution."

In early December, 1992, Hemisphere Initiatives published *Endgame*, a progress report on the accords.¹ At that critical moment the parties were scheduled to implement several of the most sensitive military provisions. The FMLN was scheduled to demobilize the final 20% of its troops and destroy, under UN supervision, the last of its weapons by December 15. By January 1, 1993, the government was to remove or transfer high ranking military officers whose human rights records had been judged unacceptable by the civilian Ad Hoc Commission created by the accords and, a few weeks later, to demobilize the last of its elite rapid response battalions.

As has been the pattern throughout the implementation process, that "defining moment" brought no clear definition. The Salvadoran government intentionally missed the January deadline for removing some of

the top ranking officers, and was cited by the UN Secretary General for failure to comply. Last June a secret arms cache controlled by one of the constituent groups of the FMLN exploded in Managua, a fact the UN Secretary General termed the most serious violation of the treaty to date. Each key date for implementing provisions of the accords brings a new crisis, a new round of negotiations, and enough progress to keep the process alive.

Despite these crises, all sides agree that the peace process has proven irreversible with the final end of the FMLN military structure and the delayed removal or retirement of the high ranking officers named in the Ad Hoc Commission report. The civil war has ended.

But will the peace process foster democratization and reconciliation? Many institutional changes promised in the accords have not been completed. The implementation process is complicated by the fact that political parties are preparing for the "elections of the century" to be held on March 20th. Hemisphere Initiatives has also been reporting on this electoral process.²

The election, and economic worries have tended to divert attention and energies away from the implementation process. El Salvador's relatively successful peace process (in the context of more severe international crises) has also diverted international attention from El Salvador. Both of these factors have made it difficult to sustain the political pressure needed to achieve full implementation of the accords.

Overview of the Accords

A preeminent concern of the accords was to establish a basis for the ending of human rights abuses and of impunity by those who commit them. Another central concern of the accords was the enhancement of civilian political power vis a vis the power held by the military. Several areas of the accords bear on these two goals. The accords call for:

- A UN observer mission (ONUSAL) to verify agreements to respect human rights.
- The establishment of an international Truth Commission to investigate and determine responsibility for major cases of human rights abuse during the civil war.
- Review of the human rights record of all military officers by a civilian Ad Hoc commission empowered to order their removal or transfer.
- Demobilization of the three military-controlled national security or police forces.
- Constitutional changes in the role of the military.
- Establishment of a national civilian controlled police force.
- Enhanced civilian influence in the direction and instruction of the old military academy and the new police academy.
- Reforms to the judicial system giving the Supreme Court less power in the selection of judges and making it more difficult for one party to control the selection of Supreme Court judges.

The accords also establish programs and processes to deal with the resolution of disputed land claims, the provision of resources for ex-combatants and civilians most affected by the war, and the reconstruction of the society and the resolution of a broad range of social issues. The language of the accords for these issues was considerably more general than the language dealing with human rights, military and police reforms. A wide variety of other social issues were left to be debated in a Social and Economic Forum made up of government, business and trade union groups, and cooperative groups. The debate was to result in proposals made to the legislature and other legal bodies.

What Does Implementation Mean?

The frequent and intense negotiations over changes in the timetable of implementation underline the extent to which the peace accords represent a complex array of reciprocal promises made by each side. In negotiating the calendar each side sought to avoid taking concrete actions solely in exchange for promises of future compliance by the other side.

The original calendar of implementation was designed to "synchronize" the reintegration of the FMLN's ex-combatants into civilian life with the implementation of reforms by the Salvadoran government affecting land tenure, political activity, institutional restructuring and the creation of a new National Civilian Police force.

The purpose of the accords is not only to end a civil war but to transform the institutional structures of Salvadoran society. Given such a broad purpose, it is important to avoid focusing narrowly on specific provisions of the accords in isolation from other provisions. They are a tapestry that cannot be reduced to a sum of its fibers. The institutional changes required by the accords are intended to abolish a system of impunity that gave rise to civil war, and the success or failure of the process of implementation will be judged by the extent to which that system is eradicated.

In this report we examine progress toward that objective and the problems that remain. We start by acknowledging that the peace process in El Salvador has brought about changes that are unmatched by any other country and that seemed unimaginable a few years ago. The changes to the Salvadoran military's role in society and the relatively few violent incidents that have marred the process are impressive and incomparable. While few provisions of the accords have been implemented exactly on time and as called for in the original agreements, few have been completely ignored or flagrantly violated.

Despite such progress, the overall tone of this report is skeptical and worried. Partial progress toward fulfilling specific provisions of the accords obscures, in our view, growing evidence that the structures of impunity remain intact. We share the concern expressed in ONUSAL's most recent human rights report that impunity, "continues to constitute one of the principal problems of the administration of justice, violations of human rights and the alarming violence prevalent in the country."

The recent human rights panorama shows apparently politically motivated violations on the increase, key Truth Commission recommendations ignored, the UN's presence scheduled to be diminished and ended, the new Human Rights Ombudsman's office struggling to gain credibility, increasing violations by the National Police, growing concern about militarization of the National Civilian Police and judicial reform stalled.

The elections this month will mark an important moment in the peace process, but they will not mark

its end. Many key provisions of the accords will not be fulfilled when a new government takes office, and the commitment of that government to the accords will have significant impact on the final outcome. While the international community will gradually reduce its presence within the internal politics of El Salvador as the accords are fully implemented, the willingness of the international community to maintain its support and its guarantees until that goal is achieved will be equally significant.

Human Rights, Impunity and Judicial Reform

Two years after the signing of the Peace Accords and weeks before national elections, killings and other human rights violations with apparent political motivation threaten the electoral process and the peace process itself. Death squad-style killings continue at unacceptable rates, generally remain unsolved and without serious investigation. While no evidence of official participation in these crimes has been found, the Government of El Salvador is not fulfilling its obligation to ensure that those responsible for violations are held accountable. Compounding this situation, new institutions designed to play key roles in guaranteeing human rights are not being implemented as foreseen in the Peace Accords.

Recent murders of prominent FMLN leaders highlight the dangers inherent in this situation. On October 25, 1993, Francisco Vélis, a leader of the PRTC3 faction of the FMLN and candidate for the Legislative Assembly, was gunned down as he was leaving his infant daughter at a San Salvador day care center used by many FMLN leaders. The modus operandi of this killing left little doubt of its political motivation. Two men walked up to Vélis, shot him in the head, apparently using silencers, and ran down the street to a red pickup with darkened windows parked nearby.

Less than a week later Eleno Hernán Castro, a ranking ERP4 commander working on land transfers, was shot and killed in a highway incident that initially appeared to be politically motivated. Subsequent investigation, including that of ONUSAL, concluded that Eleno Castro's killing resulted from an argument over a traffic accident. The alleged killer, a landowner, has yet to be arrested: it is not known whether he recognized the well-known FMLN commander before shooting him.

Another prominent FMLN leader, Mario López, also of the PRTC, was killed on December 9, 1993. While

government investigators attributed López's death to his attempt to help an assault victim, the FMLN maintains that he was targeted for political reasons. López was shot when he and his bodyguard intervened in an assault on an elderly woman who had just left a bank. There is evidence suggesting that the robbery may have been staged as a trap for López. At least two men armed with assault rifles were waiting outside the bank in a vehicle with polarized windows. López was making a regular visit to a family member at the time of the incident.

On February 24, 1994, gunmen ambushed the car of Nidia Díaz moments after she was dropped off, gravely wounding her driver. Díaz is second in rank in the PRTC, and was a member of the FMLN team that negotiated the peace accords.

A number of earlier killings of individuals associated with the left have been officially attributed to common crime, fueling suspicion that common crime is being used as a cover for political murder. Organized criminal groups and well-armed murderers for hire are readily available.

In some crimes, however, the political motivation has been explicit: Democratic Convergence member Gregorio Mejía Espinoza was kidnapped, tortured and interrogated because of his political activities in May 1993, days after receiving a letter signed by the New Salvadoran anti-Communist Army which ordered him to give up political activity or be killed along with his family.⁵

The recent high-profile killings reflect a larger phenomenon. ONUSAL reported that between August 1 and November 15, 1993, it obtained information about 47 cases of human rights violations which suggested the possibility of political motivation because of the victim, the methods used, or the characteristics of the violation.⁶ After investigation,

some cases were found to have been common crimes, but others have not been clarified and some are clearly politically motivated.

ONUSAL's human rights division has expressed increasing alarm over politically motivated human rights abuses. Last July it concluded that "crimes utilizing methods analogous to those death squads used in the past" were on the increase. Its subsequent report, written before the December assassination of López, termed recent human rights violations "a serious deterioration." Moreover, in a preliminary analysis of 94 cases involving killings in which the hypothesis of political motivation or organized crime could not be immediately discarded, ONUSAL found only eight cases in which there had been arrests and only one with a judicial sentence.

A case which highlights the failure thus far to develop effective state machinery for investigating crimes and ensuring an end to impunity is the killing of the suspect in the August 1993 murder of Oscar Grimaldi, an FMLN member who had been active in logistics. Salvador Guzman had been identified as the gunman who shot Grimaldi in a Santa Tecla cafe. Yet the Commission to Investigate Criminal Acts (known in English as the SIU), charged with investigating this high-profile case, failed to arrest Guzman despite repeated urging from ONUSAL. The SIU attributed its inaction to lack of a court order, but said it would arrest the suspect on October 29. In the early morning hours of October 29, Guzman was found shot to death in Planes de Renderos, a death squad dumping ground near San Salvador. An immediate autopsy was not performed, purportedly because the dead suspect suffered from AIDS. ONUSAL's attempt to observe a subsequently ordered autopsy was thwarted when ONUSAL legal officers were told the autopsy would be performed on a certain day when in fact it was actually performed days before. The suspect in the killing of Guzman has not been detained, despite having been identified.

In this discouraging context, the recently established Joint Group to investigate politically motivated illegal armed groups presents a unique opportunity to give impetus to the stalled effort to overcome impunity, although it faces the daunting task of achieving substantial results in a limited timeframe. On December 8, 1993, UN Secretary General Boutros-Ghali announced the formation of the "Joint Group for the Investigation of Politically Motivated Illegal Armed Groups" composed of two independent representa-

tives of the Salvadoran Government nominated by President Cristiani, the Human Rights Ombudsman and the Director of ONUSAL's Human Rights Division.⁷ The Joint Group's mandate is to assist the Government in complying with the Truth Commission recommendation that it carry out an in-depth investigation of illegal armed groups. The day after the Secretary General's announcement of the Group's formation, FMLN leader Mario López was killed.

During its six-month mandate, the Joint Group, assisted by a team of Salvadoran and foreign professionals, is to carry out a technical/scientific investigation of the activities of illegal armed groups since the January 1992 signing of the Peace Accords. The first two months were spent acquiring funding and office space and hiring staff, and there is considerable skepticism that the group will be able to carry out a task of this magnitude in the three months now remaining.

To address past violations, the accords called for cleansing the military of human rights violators through a special review process⁸ and a "Truth Commission" to investigate the worst abuses committed during the war, assign responsibility and recommend measures to prevent their repetition. To safeguard the future, the negotiators agreed to the establishment of a human rights ombudsman with broad powers to oversee the country's human rights situation as well as a series of institutional reforms. To help in the short term, they agreed to the establishment of a U.N. observers' mission on human rights to monitor human rights practices and promote institutional change. Among the institutional reforms included in the accords were the replacement of the military security forces with a new civilian police force and reforms in the justice system to increase the independence of judges.⁹

Confronting Past Impunity

The negotiators recognized the need to break with rampant impunity and establish an officially accepted truth about some of the worst human rights violations that occurred during the war. Following the agreement, the U.N. Secretary General appointed former Colombian President Belisario Betancur, former Venezuelan Foreign Minister Reinaldo Figueredo and U.S. law professor Thomas Buergenthal to the Truth Commission. With a six-month mandate to carry out its huge task, the Commissioners and their international staff received testimonies from more than

2,000 people and devoted much of their time to investigating selected cases chosen for the seriousness of their repercussions or as representative of certain practices. The Commission sought to assign individual responsibility and, where it obtained sufficient evidence, named individuals found to have committed, ordered or covered up the acts investigated.

The Truth Commission issued its report on March 15, 1993.¹⁰ The report named some 40 military officers, FMLN members, civil defense men, judges, a civilian army lawyer and several other civilians. It concluded that virtually the entire High Command was involved in planning and covering up the November 1989 Jesuit murders and that the chief investigator of those murders played an active role in the cover-up. The Commission confirmed ARENA founder Roberto D'Aubuisson's responsibility for the March 1980 killing of Archbishop Romero. It also provided extensive forensic and testimonial documentation of the December 1981 army massacre of civilians at El Mozote.¹¹ The report held six leaders of the People's Revolutionary Army (ERP) responsible for implementing an FMLN policy of killing mayors in conflictive areas and found the FMLN responsible for other murders of civilian opponents.

The Commission recounted and assigned responsibility for some of El Salvador's most notorious human rights cases, yet stopped short of recommending that those named be prosecuted. It reasoned that the weak and compromised Salvadoran justice system would be incapable of carrying out prosecutions. Instead, the Commission urged that those named be removed from the military and public office and be barred from holding public office for at least a 10-year period, with a permanent bar against holding national defense or public security positions.

The Truth Commission further emphasized the need for immediate and far-reaching reforms of the legal system, beyond those agreed to in the Accords. These included constitutional reforms to lessen the concentration of powers in the Supreme Court as well as a call for the voluntary resignation of current Supreme Court justices to facilitate the reform process. The Truth Commission called for dismantling the Commission to Investigate Criminal Acts (SIU), found to have been complicit in covering up past human rights violations.

Many Salvadoran officials, including members of the Government's negotiating team, rejected the Truth Commission's findings and recommendations, terming the report unfair and biased and maintaining that the Commission exceeded its mandate. The Army High Command blasted the report as, *inter alia*, "partisan, illegal and unethical," while the Supreme Court found its conclusions and recommendations "harmful to the administration of justice in El Salvador."¹² Although the parties had agreed that the Truth Commission's recommendations would be binding, the Government made it clear that it did not intend to carry out key recommendations.

A sweeping and apparently unconstitutional amnesty law was passed at the Government's urging days after the Commission's report was issued.¹³ The blanket amnesty decree permitted the application of amnesty to many crimes not covered by the constitution's provision for amnesty. It provided for the extinction of civil as well as criminal responsibility. The Supreme Court lent its support to the broad amnesty law — which allowed amnesty for crimes committed by actors within the justice system — by refusing to review its terms despite serious constitutional questions raised by Salvadoran human rights groups.¹⁴

The Government took no steps to remove military officers or civilians named by the Commission as human rights violators.¹⁵ The FMLN originally said it would voluntarily accept the prohibition against those named holding public office if the Government did likewise. Ultimately, all parties agreed to ignore this controversial recommendation, although the FMLN maintained that military officers named should be removed. Nor was the Government willing to work for approval of further constitutional reforms beyond those agreed to and approved during negotiations.¹⁶ Instead of disbanding the SIU, the Government authorized its wholesale transfer to the National Civilian Police without adequate safeguards to ensure that members are properly evaluated for past performance and retrained in accordance with the doctrine of the new entity. (see section on National Civilian Police)

Future Protection

ONUSAL's Human Rights Division was given a multi-faceted mandate to oversee the human rights situation during the transition period. Its complex role

called for building confidence in positive changes as well as verifying observance of human rights norms. ONUSAL monitors the human rights situation, "verifies" individual cases, publishes reports, provides training, and works with Salvadoran institutions to promote changes in practices. With unprecedented national coverage and access, ONUSAL has become the authoritative voice on human rights matters in El Salvador.

A particularly important challenge for ONUSAL is helping to consolidate the new Human Rights Ombudsman's office (a product of the accords), which is supposed to take on many of the tasks currently carried out by ONUSAL's Human Rights Division. In July 1993, the two institutions signed a cooperation agreement.

Hampered by inexperience, lack of direction and difficulties in establishing its authority, the Ombudsman's office has yet to build necessary credibility. Yet, with the UN's impending withdrawal, the Ombudsman's role in overseeing the human rights situation is crucial. The Ombudsman publicly vowed to carry out the Truth Commission recommendations pertaining to his institution, but failed to provide leadership for implementation of other more controversial Truth Commission recommendations. The Ombudsman urged the Supreme Court to give due consideration to challenges to the amnesty law, but made no public pronouncement when the Court allowed the law to stand.

Criticized by Salvadoran human rights groups for not taking strong public stands on key human rights issues, the Ombudsman's office has spoken out in some areas and issued reports highly critical of certain actions by the police and courts. The UCA's Human Rights Institute recently criticized the Ombudsman for promoting a "law of citizen security" that undermines rather than protects individual rights of due process. It urged him to focus instead on combating impunity and guaranteeing respect for due process, including speaking out clearly on the failure to carry out recommendations made by the Truth Commission and ONUSAL and keeping Salvadorans informed of efforts to ensure compliance and the results of the Ombudsman's own recommendations.¹⁷

As a member of the new Joint Group investigating death squads, the Ombudsman now has the opportunity to play a major role in a serious joint effort, which should be an invaluable learning experience and an opportunity to establish his credibility.

The most important instrument created by the peace accords to break with impunity and to ensure political and civil rights is the new National Civilian Police force. The status of that force is discussed later in this report.

Judicial Reform

While few judicial reforms were included in the Peace Accords, even those few have met with obstacles to their implementation.¹⁸ Reforms approved aimed to increase the independence and professional qualifications of the judiciary by changing the selection process for judges at all levels. The Supreme Court would no longer be named by a simple majority of the Assembly for a five-year uniform term. Instead, the National Council on the Judiciary and bar associations would be charged with nominating candidates who would then be selected by the Assembly from lists of three by a 2/3 majority vote to serve staggered 9-year terms. The Attorney General (Fiscal General) and State Counsel (Procurador General) were also to be elected by a 2/3 vote of the Assembly instead of by a simple majority. Judicial independence was to be enhanced by setting aside six percent of the national budget for the judiciary and barring judges from serving as notaries — often a potential source of conflict of interest.

While the Accords called for reforming the existing National Council on the Judiciary to create a more independent body with greater responsibility for judicial nominations at all levels and charged with running the Judicial Training School, they failed to end the dangerous concentration of power in the Supreme Court, which continues to have responsibility for actually naming, disciplining and removing lower court judges as well as authorizing lawyers and notaries to practice and suspending or sanctioning them for misdeeds.

After much dispute and lengthy delays, a new law for the National Council on the Judiciary was approved by consensus in December 1992.¹⁹ The new 11-member Council includes two lawyers proposed by the Supreme Court (not Supreme Court justices), as well as two lower court judges chosen from among those with most seniority. Three practicing lawyers were nominated by bar associations, the vast majority of which are also dominated by the Supreme Court. The other Council members are three law professors and a member of the Public Ministry. While the Accords called for the inclusion of members from other walks of life, the law approved failed

to include any such representatives. Given the makeup of the Council, the Supreme Court can continue to exercise a significant influence over Council decisions.

A major challenge facing the National Council on the Judiciary is the nomination of candidates for the new Supreme Court, which will take office in July 1994. The Truth Commission had urged the sitting justices to resign because of the "Judicial Branch's enormous responsibility for the impunity surrounding serious acts of violence" and to permit the immediate application of the constitutional reform. This recommendation was summarily rejected by the incumbents who cited it as proof of the Truth Commission's overreaching and inappropriate attempt to violate the constitutional order and Salvadoran sovereignty. The bar associations are sure to include current Supreme Court President Mauricio Gutierrez Castro — singled out for criticism by the Truth Commission — as a candidate for renomination.

A transitional provision to the constitutional reforms allows either the current Legislative Assembly or its successor (to be installed on May 1, 1994) to elect the new Court.²⁰ Because new justices must be elected by a 2/3 vote of the Assembly, selection by this Assembly would require the cooperation of one or more opposition parties. Recent reports in the Salvadoran press suggest that ARENA and the Christian Democrats have been discussing this option for selecting the new Court. A new Attorney General and State Counsel were selected in 1993 after the ARENA and Christian Democratic parties agreed to divide the two posts between their parties, thus assuring the requisite 2/3 vote for appointment. This procedure hardly guaranteed the selection of qualified candidates, and both the original candidates chosen were replaced when serious questions arose about their qualifications.

Many of the legislative reforms called for by the Truth Commission and ONUSAL have not proceeded beyond draft legislation prepared by the Ministry of Justice.²¹ Six proposed laws were submitted to the Legislative Assembly in October 1993, but fear of crime, accentuated by media reports, has created a climate unpropitious for legal reform that protects individual rights. In addition, the Assembly has yet to approve legislation authorizing a massive action to collect combat weapons in the hands of civilians.

The Tasks Ahead

In its September 1993 report, ONUSAL's Human Rights Division emphasized the danger resulting from the State's apparent inability to guarantee respect for human rights, most notably its failure to punish those responsible for serious human rights violations. It noted that politically motivated rights violations had become more open and serious because of the electoral context. ONUSAL warned that:

"The generally positive trends that the peace has brought about in the area of human rights are not yet....irreversible. Such trends can endure only if the institutions established as a result of the peace function effectively, if State institutions observe the law scrupulously, if the judiciary has the authority and autonomy to carry out investigations and mete out appropriate punishment, if the [Ombudsman's office] is strengthened and its constitutional functions respected by State agencies and if civilian society is strengthened..."

Its subsequent report found a serious deterioration in human rights in the country.

The response to the current human rights crisis in the coming months may well determine whether positive changes become irreversible — or are instead reversed. To consolidate positive trends and end the prevailing climate of impunity requires full implementation of the Peace Accords, the effective functioning of the new institutions created by the Accords — notably the Ombudsman's office and the civilian police— as well as carrying out the Truth Commission's recommendations about the judicial branch and criminal justice. Of crucial importance is the selection of a new Supreme Court whose members have not contributed to impunity and who will help consolidate the peace process by acting to uphold the rule of law, regardless of the powerful interests involved. Likewise, the Joint Group's investigation must yield substantial results that lead to identifying those involved in death squad activities as well as prosecutions and sanctions for those found responsible. Ideally, the Joint Group's work should establish a new standard for criminal investigation in El Salvador.

The Civilian National Police

The peace accords' creation of a new National Civilian Police (PNC) force—with a new training academy and a new doctrine emphasizing citizen rights and minimal use of force—was designed specifically to supplant the Salvadoran military from its decades-old dominance of the country's internal security functions. The accords called for immediate decommissioning of two of the old security forces accused of widespread human rights abuses—the National Guard and the Treasury Police—and the gradual demobilization of the National Police (PN) to coincide with deployment of the new PNC.

The PNC represents an unprecedented attempt to transform the relationship between the state security forces and the population, historically based on fear and repression, to one of trust and respect for individual rights. With former FMLN combatants to comprise 25% of its initial force (another 25% were to be former National Police members and the rest civilians), the PNC is the key to guaranteeing the security of demobilized FMLN combatants and their families as they reenter civilian life.²²

There were many delays in the development of a new PNC training academy, and the opposition charged the government with being less than generous in using available resources (primarily from the military) for the PNC. By the beginning of 1994, the PNC was deployed in about half the country, almost entirely in eastern and northern provinces, the main centers of the war and FMLN support.

The PNC enjoyed early success, despite a paucity of resources. It put several rural gangs out of business, and established a working relationship with the population. The opposition criticized the government for not deploying the PNC in crime ridden San Salvador, and at the end of 1993 PNC units were placed in some areas of the capital. Presidential candidates, from left to right, have called for hastening its deployment.

The early successes of the PNC are in danger of being reversed. A pattern of developments suggests the possibility that the PNC will be taken over by elements of the old security forces:

- * Poor recruitment of civilians and ex-FMLN combatants and a desire by PN members to find employment as their agency is phased out has led to an imbalance in the agreed upon ratios. There is a threat this imbalance will worsen.
- * An agreement to incorporate two specialized police units into the PNC was not followed up with agreed upon human rights training. Challenged by ONUSAL and others about these violations of the accords, the government has been both dilatory and evasive in its responses. There have been attempts to place members of the larger of these units, an anti-narcotics force, throughout the PNC, raising fears that the PNC will fall under control of elements from the old security forces.
- * The former commander of this anti-narcotics unit is effectively Chief of Operations of the PNC.
- * While complaining about a lack of international financial assistance, the PNC leadership has ended the advisory role of the Police Division of ONUSAL, whose several hundred-strong presence constitutes the international community's most concrete offer of USAID as well as constituting a watchdog observer mission.
- * At a time when ONUSAL police have less access to PNC operations, reports of human rights abuses from the new police are on the rise.
- * In addition to putting ONUSAL at arm's length, the Salvadoran government has taken decisions regarding the PNC without consulting COPAZ, as required by the accords.

These problems have caused diplomats and opposition leaders to fear a possible militarization of the PNC, a trend they fear will continue as the FMLN has less bargaining power over the accords and as ONUSAL's observer mission becomes reduced or eliminated. The biggest concern is over the eventual incorporation into the PNC of large numbers of unqualified, corrupt and abusive members of the current National Police force, whose already sluggish demobilization was suspended in early January.

The National Public Security Academy (ANSP)

The new National Public Security Academy was originally scheduled to begin operating within three and a half months of the signing of the final Peace Accords. This unrealistic schedule inevitably resulted in delays, exacerbated by the failure of the Salvadoran government to transfer land, buildings and equipment from the military as they reduced forces in accordance with the Accords. The Academy finally opened on September 3, 1992, just a month before the originally scheduled initial deployment of the PNC, and before the final demobilization of FMLN troops.²³

The Salvadoran military refused to turn over to the ANSP the site of the former Public Security Academy (turning it into a Military School), so the vast majority of PNC cadets have been trained at the sweltering, but refurbished facilities of the former Bracamonte Battalion, in Comalapa, an hour's drive from the capital.²⁴ Plans to build a new academy have been scrapped for the time being, with limited resources focused on graduating the full contingent of new PNC agents over the next couple of years in order to meet the eventual 10,000 person goal.

As of early 1994, some 2800 students had graduated at the basic, executive and superior levels. With help from Spanish, U.S., Chilean and Norwegian instructors, the ANSP has done a formidable job of admitting and training 250 to 400 students a month for a six-month term for basic recruits. In addition, some 60 students from the first class of executive and superior level officers received intensive training in Puerto Rico or Spain.²⁵ Another 120 officers are scheduled to be trained in the U.S. for a three month period in the near future. By September 1994, 240 officers and 5,700 agents are expected to have graduated.²⁶

The most glaring deficiency in the ANSP's training is failure to prepare cadets for the specialized divisions that are being formed in the PNC, especially for the new Criminal Investigations Division and the Anti-Narcotics Division. These divisions are now staffed by the former Special Investigative Unit (SIU) and the Special Narcotics Unit (UEA), which were transferred into the PNC, under an agreement the FMLN now regrets, from the old security forces. (See below.) The lack of training of PNC cadets for these specialized units implies they will retain their existing character.²⁷

The Academy has had difficulty getting sufficient civilian and former FMLN recruits to match the percentages agreed upon in the accords. Publicity and programs to educate potential recruits to the school level required by the Academy have been deficient. In one recent application round only half of the 1000 solicitants came to retrieve their notifications because of bad publicity, and then only 140 persons arrived for the first day of examination.²⁸ There are increasing complaints about arbitrary and inflexible admission procedures, including biases against civilians.

The old National Police, by contrast, has easily fulfilled its quota. PNC salaries are considerably higher, and some ex-PN members have apparently been able to continue drawing salaries from the old National Police while in the PNC. With the threatened end of the old National Police, there is an oversupply of its members waiting to get into the PNC. Should this continue the new PNC will be made up largely of ex-members of the National Police, since the quotas will no longer apply when the transition period ends in a few months. This is clearly a goal of some leaders of the old National Police. The shortfall in ex-FMLN recruits was about 200 at the beginning of the year and in civilian recruits about nine hundred. An estimated 1000 members of the old National Police are lining up to enter when the quotas end.

The government has not responded to a request from ONUSAL for lists of members of elite-reaction battalions, the Treasury Police and the National Guard, in order to facilitate ONUSAL's verification that none of these persons have entered the academy as civilians.²⁹ In the first officer class, some 10 former PN candidates also had military backgrounds, a clear violation of the accords. This issue was later resolved between the government and the FMLN, and it appears not to be the case with current officer candidates.

The Academy has also had disciplinary and academic problems. Students have complained about arbitrary enforcement of internal regulations without due process guarantees, the kind of discipline more akin to the military than to a civilian institution. Some professors have complained the administration has resisted criticism about the Academy's course work.³⁰ Finally, it appears that the educational standard is not as high as its minimum 9th grade educational requirement would suggest; some students have apparently purchased their 9th grade certification. As a result, ONUSAL sources have observed that many Academy graduates do not have a sufficient understanding of either Salvadoran or international legal norms.

Deployment

As of early 1994, the PNC had deployed some 2,800 agents in the eastern half of the country, including Chalatenango, Cabañas, Morazán, La Unión, San Miguel, Usulután, San Vicente and some parts of San Salvador. At the end of 1993, a last-minute decision was made by President Cristiani to cancel a scheduled deployment of PNC agents to La Paz and Cuscatlán, deploying them instead to the high-crime barrios of Soyapango and Ilopango in San Salvador. The next deployment is to cover the suburban town of Santa Tecla as well the working-class barrios of Mejicanos, Ayutuxtepeque, and Cuscatancingo.

The decision to bring the PNC into San Salvador just two months before the elections, came as common crime emerged as a serious campaign issue and as public opinion polls showed the Cristiani administration's response to delinquency as one of its principal weaknesses.³¹ Although the 475 agents deployed on Jan. 3 in the two urban barrios are relatively better equipped than their counterparts in other departments, the haste with which their deployment was planned (many of them had to sleep on the floors of rented buildings) may decrease their initial effectiveness.³² The most disturbing development in the PNC, and the one which has aroused the most public debate, has been the transfer of the Special Investigative Unit (SIU) and the Special Anti-Narcotics Unit (UEA) into the PNC. A December 22, 1992, agreement between the government and the FMLN provided for the transfer of resources and personnel of the SIU and UEA to the PNC, only after the investigation and review of individual records by the PNC director and the administration of a special course of studies in the ANSP on human rights and PNC doctrine.

In September 1993, ONUSAL Chief of Mission Augusto Ramírez-Ocampo wrote to the government protesting the superficial manner in which the 430 UEA and 140 SIU personnel had been evaluated and incorporated into the PNC. In the end, these agents were merely required to attend a one-week course at the Academy on PNC doctrine; even then, no roll was taken, and no examinations were given.

The rationale for the agreement was that these two units had received foreign training and had a level of expertise in specialized areas needed by the new PNC. The FMLN apparently thought it would be better to have them inside the PNC than continue to exist outside. But it has become clear to ONUSAL that 100 to 150 people without foreign training were added to the UEA after the December 22nd agreement.³³

The appointment of a former military captain and director of the UEA, Oscar Peña Durán, as Subdirector for Operations of the PNC has been an additional subject of controversy. Both ONUSAL and the FMLN protested his appointment because his military background constituted a violation of the accords, but the government and the FMLN reached an agreement on Sept. 8, 1993, to allow his appointment as a one-time exception.³⁴

Since then, Peña Durán (now with rank of Commissioner) has tried to place many of his former UEA colleagues in key positions and is seen as responsible for the PNC's distancing from ONUSAL.³⁵ He has reportedly offered to transfer any former UEA officers with specialized training in car theft, for example, into the new Criminal Investigations Division, rather than keeping them in the Anti-Narcotics Division.³⁶

The crisis over the incorporation of the UEA and SIU was alleviated somewhat in February when ONUSAL and the Salvadoran government reached an agreement to establish a special commission to oversee this process. The commission is made up of the General Directors of the PNC and of the police academy (José María Monterrey and José Mario Bolaños) and Robert Loosle, a technical consultant to both bodies, and a representative of ONUSAL head Ramírez Ocampo as a verifier.

The agreement includes a requirement that the government deliver a list of those who have taken courses at the academy and a requirement that all who have not done so will be required to do so, that

all officers of both units take a one month course before June 30. The agreement further stipulates that, at least until next December, members of both units will operate only within those units, and that new graduates of the Academy will receive special training so that they may enter those units.

This agreement, hammered out after several frustrating months of getting the government to provide minimal information, constitutes a reaffirmation of old agreements that were not met, with a new oversight mechanism. Though the FMLN was pressuring along these same points during a mid February visit to the UN in New York, neither it nor the police subcommission of COPAZ appear to have been part of the negotiations leading to the agreement. The agreement, as represented in a February 17 Ramirez Ocampo letter to the Coordinator of the COPAZ subcommission on the PNC, does not address the increasing imbalance of ex-PN members in the PNC compared to civilians and ex-FMLN combatants.

The nearly wholesale transfer of both the UEA and the SIU into the PNC are deeply troubling. The UEA has about 300 active field agents (as compared with about 40 in the SIU), and has a history of aggressive police procedures which often disregard civil liberties. Its direct subordination to Peña Durán, as opposed to any institutional loyalty to the PNC, raises serious concerns. The investigative behavior of the Special Investigative Unit is also problematic. For example, the SIU failed to respond to ONUSAL requests that the alleged assassin of FMLN member Oscar Grimaldi (which occurred in August 1993) be arrested. Weeks after the suspect had been identified, and the day after a visit by ONUSAL to the SIU in which the latter finally announced that it would arrest the suspect, the alleged killer was found dead.³⁷

ONUSAL has documented more cases of abuse by PNC agents in recent months, including cases of mistreatment and one case of torture in Chalatenango. In the month of October, for example, the number of abuses by the PNC reported to ONUSAL jumped from 3-5 per month to 20.³⁸ In part, this can be seen as a natural result of a rapidly expanding police force as well as a civilian population which is more likely to denounce such abuses. But in other cases, abuses have been carried out as a result of lack of training, direction and oversight, or due to old habits from the PN or UEA personnel carried over into the new police. The increased reporting of such abuses makes all the more urgent

the immediate implementation of an internal disciplinary body, which is currently being discussed.

To the extent that abuses stem from inadequate training and oversight, the PNC's decision to reduce ties to ONUSAL is all the more regrettable. From April-September 1993, ONUSAL maintained a close relationship with newly deployed PNC agents, providing transportation and communication equipment, but more importantly also providing technical guidance and evaluations.

This program was widely considered by both PNC officers and foreign police personnel as key to the initial success of the PNC. When ONUSAL's agreement with the PNC expired at the end of September, however, it was not renewed despite ONUSAL's expressed willingness to continue. This change in attitude, which many observers attribute to the influence of Commissioner Peña Durán, is a waste of the readily available and valuable resources that the 270-person Police Division of ONUSAL could provide, and also makes more difficult the verification role assigned to ONUSAL.

Also disturbing has been the increasing neglect of the COPAZ Subcommission on the PNC by PNC Director Monterrey, in violation of the Chapultepec accords. The Subcommission was not consulted by Monterrey before draft laws transferring the UEA and the SIU into the PNC were sent to the Legislative Assembly. Neither has it been consulted about other decisions, such as the recent deployment of the PNC to Soyapango and Ilopango.³⁹

The U.N. Secretary-General's Nov. 20, 1993, report cited "the government's failure to provide the PNC with adequate logistical and technical support" as "blatantly insufficient," saying that it "taxes their morale and hampers their performance." Indeed, despite a small increase to PNC salaries last October, the average agent complains first and foremost about the inadequacy of the salary.⁴⁰ Short of handcuffs, the PNC has had to rely on the old method of using a suspect's shoestrings to tie their thumbs together. The PNC's \$33 million budget for 1994, while significantly larger than 1993's \$12 million, is still some \$20 million less than what it needs.

The PNC is strained because so much of its budget goes toward the purchase of new equipment. Police stations are rented, rather than purchased, further

draining resources. A U.S. Embassy request for 200 vehicles last June is now not expected to be delivered to the PNC until March or April 1994, apparently for bureaucratic reasons.⁴¹

National Police Demobilization

With the early January 1994 deployment of the PNC to two crime ridden areas of San Salvador, President Cristiani also announced he was suspending the demobilization of the National Police for several months. Because of public concern about common crime, opposition political forces did not publicly criticize this suspension, although it contributed to their general suspicion that the government intends to maintain the old National Police as long as possible while moving its members into the PNC. The slow demobilization of the National Police impacts on the limited resources available to the PNC, as government funds could be better spent on increased salaries for PNC officers, which might in turn also attract more civilians into the police profession.

After delaying since February 1993 a presentation of a demobilization plan for the National Police, the government announced a two-phase plan of demobilization, with some 300 agents being released per month from October 1993 to May 1993, and some 1,370 agents released per month between May and October 1994, bringing the total number demobilized to 10,320⁴². There is evidence that the total number is greatly inflated for purposes of maximizing budget corruption in the form of shadow salaries. In every department in which the PNC has been deployed, it has increased the number of agents previously

stationed by the PN. Yet, with only 2,800 PNC agents covering half the country, it doesn't make sense that the National Police maintains three or four times as many personnel in the other half.⁴³

Foreign diplomatic observers say a more realistic figure would put the number of active PN agents at 3000 to 5000. If the number of agents on the street is actually much lower than official figures, the suspension of its demobilization could be of less concern. But the absolute lack of transparency by the government on this issue, as well as the decision to demobilize the vast bulk of the old National Police only after the electoral cycle, has generated fears among many observers that the newly elected government will seek to transfer large numbers of former National Police into the PNC with the same kind of lax evaluation and training received by the UEA and SIU.

The continued presence of the National Police not only violates the peace accords, which calls for its progressive replacement by the PNC, but also has important human rights consequences. The National Police is considered by the ONUSAL Human Rights Division to engage in systematic abuses of human rights, especially with respect to arbitrary detentions. In addition, the PN has returned to the use of torture, frequently uses excessive force, and abuses its position of authority for personal reasons. More seriously, ONUSAL has found that as the National Police nears the end of its existence, the number of illegal acts and human rights violation has increased. The most recent ONUSAL human rights report expressed satisfaction that the government recently appointed a new head of the PN.⁴⁴

Reform of the Armed Forces

The FMLN put high priority during the negotiations on demands that the Salvadoran armed forces be transformed. For the FMLN and other opposition groups, drastically reducing the military's political power was a precondition for establishing a durable civilian democratic regime. The FMLN tied the timing of its own demobilization and disarmament principally to the radical restructuring of the military.

The Peace Accords offered an impressive blueprint for subordinating the military to civilian control. The accords completely redefined the military's constitutional role, limiting it to one of national defense, and required the dissolution of the security forces and intelligence apparatus, separating them from the military's command structure. Under the 1983 Constitution, the armed forces had been also responsible for maintaining internal law and order, guaranteeing compliance with the Constitution and other laws, and defending the "democratic" system of government. The accords also provided for the reduction of the military from some 55,000 to 31,000 troops; the dissolution of five specialized combat battalions (BIRI's) and the civil defense units; the establishment of a joint civil-military academic council to oversee the military academy; and the "cleansing" of the officer corps to be carried out by an Ad Hoc commission of three prominent Salvadorans.

Implementation of the reforms affecting the armed forces proved difficult. Initial problems concerned the military's failure to dismantle the security forces.

Although the government announced the dissolution of the National Guard and Treasury Police on March 2, 1992, the two security forces in fact were simply renamed and incorporated, structurally intact, into the army. After repeated protests by the FMLN, UN special envoy Marrick Goulding mediated an agreement whereby the security forces would be definitively dissolved by June 28. On June 24, the Legislative Assembly repealed laws creating the two security forces.

Although the National Guard and Treasury Police were finally dismantled, many of their former members continue to serve in public security roles. In fact, since the signing of the accords, the National Police has reinforced its numbers by incorporating over 1,000 ex-members of other security forces and entire units from one of the demobilized BIRI's.⁴⁵ In addition, the new Special Brigade for Military Security, which is housed in the former barracks of the National Guard, consists largely of former Guardsmen and Treasury Police.⁴⁶ The Special Brigade's functions are limited to military policing and border security; however, as part of the "dissuasive" deployment of regular army along the country's highways (see below), troops from the Special Brigade have been assigned to patrol the main highway between San Salvador and the airport.⁴⁷

The most serious problems in implementing the accords arose as a result of the High Command's resistance to recommendations of the Ad Hoc Commission,⁴⁸ which had been set up to evaluate, and "cleanse", the officer corps. Beginning in May 1992, the Commission evaluated the records of 232 officers - approximately 10% of the total officer corps. Given the impossible task of evaluating the entire officer corps in three months, the commission limited its interviews to all of the active-duty generals, colonels and lieutenant colonels, and to a handful of lower-ranking officers implicated in human rights abuses.

On September 23, 1992, the Commission presented its recommendations to UN Secretary General Boutros Boutros-Ghali and President Cristiani in New York. The Commission's report, whose contents were kept confidential, called for the removal of 102 officers, including most of the generals and many of the colonels.⁴⁹ President Cristiani announced in late October that he would postpone action on the Commission's recommendations until after the FMLN

had demobilized completely (a position which did not correspond to the sequence of events established in the calendar of the peace accords). UN mediation efforts resulted in a new agreement whereby the officers would be removed or transferred by early January, 1993.

Despite the final demobilization of the FMLN on December 15, Boutros Boutros-Ghali informed the UN Security Council on January 7, 1993, that President Cristiani had failed to comply with the Commission's recommendations regarding fifteen officers, including the Minister and Vice-Minister of Defense.⁵⁰ Cristiani subsequently announced that he would defer action on eight of the officers until the end of his presidential term.⁵¹

The logjam was broken in March 1993 with the release of the long-awaited United Nations Truth Commission report.⁵² Just days before the report became public, Minister of Defense Gen. Rene Emilio Ponce offered his resignation, followed soon after by Vice-Minister of Defense, Gen. Juan Orlando Zepeda, who announced that he was retiring from the armed forces.

Pressure by the United Nations and the Clinton administration, which conditioned \$11 million in military assistance on full compliance with the Ad Hoc Commission's recommendations, combined with the fallout from the Truth Commission's report, prompted President Cristiani to inform the Secretary General in late March of his decision to remove the remaining officers by the end of June 1993. Although the Minister and Vice-Minister of Defense, along with the rest of the High Command, stepped down on June 30, 1993, the officers remained on "disponibilidad" (that is available) and were not slated for retirement until the end of 1993. This was clearly a violation of the Ad Hoc Commission's recommendations.⁵³

Despite these problems, the progress made thus far is unprecedented. The Ad Hoc and Truth Commissions' reports mark the first time in Latin American history that a military has submitted to an external review of their officer corps. Moreover, the military's institutional prerogatives have been significantly circumscribed as a result of the accords.

During the past year there have been a number of significant developments in the military, some of which bode well for the future of civil-military relations:

- Despite the initial resistance of several high-ranking officers, the civil-military academic council set up to oversee the military academy appears to be functioning well. The council was charged with establishing new admissions requirements, setting down new criteria for selecting faculty and revamping the curriculum. Both civilian and military members of the council have expressed satisfaction with the council's progress thus far.⁵⁴

- The new High Command led by Minister of Defense Col. José Humberto Corado Figueroa has demonstrated a greater willingness to engage civilians in a dialogue concerning civil-military relations and the future role of the armed forces. For example, in July 1993 the Universidad Salvadoreña sponsored a seminar on civil-military relations. Approximately 50 officers, including the new Commander of CODEM (Comando de Doctrina y Educación Militar), and as many civilians attended. On October 7, 1993, the Minister of Defense was the keynote speaker at a conference on civil-military relations organized by the Centro de Investigaciones Tecnológicas (CENITEC), a civilian-run research institute. Over 100 officers and some 250 civilians attended the morning session of the conference, and many stayed on in the afternoon to listen to the presidential candidates discuss the future role of the military.

- Another important development was the creation of the School of High Strategic Studies in September 1993. Administered by CODEM, in mid-September the school launched a six-month course on strategic studies. Attending were eight military officers and 23 civilians drawn from government ministries, private sector organizations, political parties (including the FMLN), and universities. Although the course was organized in a haphazard manner and without sufficient resources, at a minimum it represents a new opportunity for civilians and military to engage in dialogue on national issues.⁵⁵

- In addition to having its institutional prerogatives significantly circumscribed by the Peace Accords, the military is confronting severe resource constraints. Although the High Command has been successful in protecting the defense budget from drastic cuts, U.S. military assistance has been reduced dramatically.⁵⁶ In 1990, U.S. military assistance stood at \$81 million, but was down to \$12.4 million for 1993.⁵⁷ The strain on resources means that it will be more difficult for the military to maintain its vast paramilitary network in the countryside.

Despite these positive developments, which bode well for the future of civil-military relations, there continue to be some red flags:

- No progress has been made in reducing the military's control of key state institutions, an important source of continuing political power for the military. Soon after stepping down as Minister of Defense, for example, General Ponce was appointed to the board of directors of ANTEL (National Telecommunications Administration). In addition to ANTEL, military officers continue to administer the National Administration of Water and Aqueducts, Port Commission, Directorate of Land and Transport, Directorate of Statistics and Census, Customs, Civil Aeronautics and the Postal Service. Another member of the Tandon, Gen. Mauricio Vargas, was appointed as a private secretary in the Ministry of the Presidency, charged with helping oversee the implementation of the peace accords.⁵⁹
 - The new High Command, while more open to dialogue with civilian leaders, does not represent a dramatic departure from the past.⁶⁰ Although distancing himself slightly from the Tandon in public statements upon taking over as Minister of Defense, Corado's views on civil-military relations have not changed significantly over the past year.⁶¹ During a conference on civil-military relations in October 1993, Corado stated that harmonious relations between the armed forces and civilian leaders depended on military professionalism and political stability. He warned against governments with "radical programs", emphasizing that the armed forces desire a "responsible government that serves the national interests."⁶²
 - Although the new High Command appears to have accepted the military's reduced institutional prerogatives, there is still significant resistance to civilian authorities exercising effective oversight of the military institution. For example, while some officers have a positive view of the new academic council for the military academy, they are opposed to civilian oversight of subsequent officer training courses. Moreover, most officers are unwilling to accept greater legislative oversight of the defense budget even under current peace time conditions, and few would tolerate a civilian as Minister of Defense.⁶³ Resistance to civilian oversight seems to have been reinforced in the wake of the peace accords. The work of the Ad Hoc commission confirmed the military's worst fears concerning civilian "meddling". Several officers interviewed, including junior officers, complained that those called before the Ad Hoc commission were never given a chance to defend themselves.⁶⁴ They also saw the commission as politically driven, bent on destroying the military's image. In short, the peace accords may have reinforced officers' contempt for civilian politicians.
 - The reduction of the armed forces is not as dramatic as it appears. The High Command claimed a total of 63,175 troops at the time the peace accords were signed, which included both regular army and security forces. The military agreed to an overall reduction of 50.2% to just over 31,000 troops by January 1994.⁶⁵ The fact that the military completed its reduction by March 1993, almost a year ahead of schedule, suggests that the number of soldiers demobilized was much less than claimed by the High Command. It apparently maintains the same number of officers as before the accords. Even after the reduction (to 29,000 according to ONUSAL), the Salvadoran army continues to be large by Central American standards.⁶⁶ This is especially true given that the country no longer faces an external threat (a border dispute with Honduras was definitively settled by the World Court) nor an internal civil war.
 - There is also a troubling lack of attention to civil-military issues by civilian society. The School of High Strategic Studies is a Ministry of Defense initiative, not the product of a dialogue with organized sectors of civil society. If the military is to give up traditional prerogatives, then civilian authorities must become prepared to assume new responsibilities in the area of defense policy. Yet few civilians express any interest in defense matters.
- Given the costs of reconstructing the country after 12 years of armed conflict, the army faces an uncertain future. Not surprisingly, the High Command has eagerly sought out new tasks for the army. These include traditional activities, such as civic-action, collaboration with government ministries on national reconstruction projects,⁶⁷ and "supporting" the police in its public security functions.
- The military stepped up its civic action activities after the cease-fire went into effect, and entered new areas like conservation and reforestation. Despite limited resources, the new High Command would like to preserve the military's traditional role in national development. US officials appear to be willing to support such a role for the Salvadoran armed forces. The most recent example is the Pentagon's decision

to target El Salvador to conduct joint engineering training exercises with the Salvadoran military. The Fuerte Caminos operation lasted from August through December 1993 and will start back up in May 1994.

In July 1993 President Cristiani ordered the army to patrol the nation's highways and other high crime areas where the new National Civilian Police (PNC) had not yet been deployed. He also recently asked the military to "protect" this year's coffee harvest. Although the FMLN opposed Cristiani's decision to

deploy the army, it found itself in a difficult position. In a March 1993 poll (ECA Julio-Agosto 1993, pp. 714-15) crime was the number two concern amongst Salvadorans, and in a September 1993 poll (La Prensa Grafica, 1 October 1993) 66.5% expressed support for Cristiani's decision. Despite the apparent public support for the measure, the decision to deploy the army sets a dangerous precedent. Instead of assigning sufficient resources to the PNC, the government has turned to the army to perform what are in fact public security functions, thereby legitimizing the army's involvement in public security.

Land Conflicts⁶⁸

In September 1992 ONUSAL described conflict over land as the chief obstacle blocking the implementation of the peace accords. A year later, after several new plans to resolve conflicts⁶⁹, ONUSAL head Ramírez Ocampo said that lack of progress in resolving land conflicts was the chief obstacle to completing the peace process.

Agricultural production has long been the backbone of the Salvadoran economy. ⁷⁰Though some Salvadoran analysts persist in seeing the war as a by-product of the Cold War, most view unequal distribution of land, rural poverty and a rapidly increasing incidence of landless and unemployment among the peasantry as principal causes of the war.

Despite the centrality of land, the peace accords pay relatively little attention to the issue of land distribution and use (and still less to other "social issues", such as use and control of international reconstruction funds, the alleviation of poverty, ill health and the lack of education, or the relations between labor and management). All of these issues were left to the end of negotiations when there was great pressure to reach an overall agreement and a tendency to accept vague compromise language in order to do so.

The accords address three war-related land issues. First, they create a procedure to resolve land disputes in war zones. The accords also use land as a resource (among others) to USAID the reinsertion of ex-combatants into civilian life. Finally, the accords call for the full implementation of agrarian reform legislation passed years earlier.

During the war, many landowners ceased farming their land due to dangerous conditions. In many cases, landless peasants, willing to take their chances in the war zones, moved onto the land and grew subsistence crops. In other cases, landowners were forced to abandon their land by guerrillas or by

landless peasants taking advantage of the reduced police presence in a war zone.⁷¹ At issue by the end of the war was who should get these lands, the old titled landowners who had been gone for years, or the resident peasants. The FMLN took the side of the peasants and the government that of the titled owners.

The government saw its position as upholding the rule of law, and as supporting the interest of landowners, a backbone of support of the ARENA party, in a context in which many in the ARENA party were already alarmed and angry that the government had made any concessions at all to the FMLN.

The FMLN argued that peasants had moved onto lands at a point where the real estate value was low if not zero and had invested years of work in the land. Moreover, as landlessness was a cause of the war, to suddenly take land from these people would be to reawaken a cause of the war. Politically, the FMLN faced the problem of providing some material benefit at war's end for its civilian followers. As a political organization made up of five constituent groups, it also had to find an economic means of wherewithal in the post war situation. Not unsurprisingly, these were political gains its adversary wished to deny.

Both sides were sympathetic to the view that resources needed to be provided the members of each army, and since many troops were from peasant background land was an obviously appropriate resource.

The central compromise of the land provisions of the accords was to allow titled landowners to have their land back, but to prohibit them from evicting peasant residents until the government had a chance to offer to buy the land from the landowner, at market values, and then sell to the peasant residents. Failing that, the government was obliged to find another piece of

land to sell to the peasants. Lands for resettlement were to come either from lands already in the possession of the state, land which the state was supposed to have confiscated some years before under the agrarian reform law, or lands which the state would purchase from the landowners.

Putting into effect this compromise formula has proven difficult. Perhaps more than any other areas of the accords, the social and physical realities of the land issue are so variable and complex that implementation problems were inevitable. Several thousand pieces of land of widely varying character have been in play, and tens of thousands of people (including titled owners, ex-combatants and peasant residents) have a stake in the outcome. El Salvador has never had an adequate cadastral survey and many titles are cloudy.

Negotiations over the first steps of implementing the plan have not been between peasants and landowners, but between FMLN leaders and members of governmental financial institutions charged with implementing this phase of the accords. A high level of political suspicion between these negotiators has persisted with each side making plausible claims that the other is holding up the process. ONUSAL has played a useful and patient mediating role, and its field workers have participated in various phases of verification.

Implementation Problems

The accords required the FMLN to present a list of lands it considered to fall within the framework of the accords. Its first list numbered 12,000 parcels. After six months of additional negotiations this list was finally pared down to an agreed list of some 4600 parcels. That list involved over 350,000 manzanas of land (1 manzana = 1.7 acres),⁷² and amounted to about 16% of the arable land in El Salvador.

Teams comprised of ONUSAL representatives, the FMLN and the government then attempted to verify the list; to ascertain that there was such a piece of land of an approximate size, that the land was occupied, the names of those people residing on the land, and the names of the owners of the land. This took several more months, and the parties arrived at the aforementioned September-October crisis with some progress made. Virtually no lands had been legally transferred despite that fact that many owners had indicated a willingness to sell.

The FMLN, aware that its bargaining position in the accords would weaken once its troops were demobilized, wanted quick action. The government, however, declared that the verification process had revealed many irregularities—that some pieces of land were not occupied or that some seemed to be occupied by an insufficient number of people, and that for still others the owner could not be located.⁷³

In October 1992, ONUSAL tried to break the logjam with a new plan. It estimated that there were 25,000 civilian residents on disputed land, plus two agreed-upon pools of ex-combatant potential beneficiaries (7500 ex-FMLN combatants and 15,000 ex-soldiers). Using a formula that estimated market value and credit limits, it calculated that land needs could be met with 100,000 manzanas less than that involved in the 4600 parcels of land on the earlier list. The limiting factor became the credit limit and current market values. Both sides agreed to the plan. From the beginning, some owners were eager to sell their land to the Land Bank (at market prices) perhaps fearing that the land bank would run out of money to buy. Others, having not used their land for years, simply wanted the capital. Other owners had no interest in selling, and many others (some 1600 in the list of 4600) could simply not be found. Under the new plan it was still necessary to negotiate sales prices with owners, and to dip into the state-owned land bank. The lists of buyers also had to be verified. The Land Bank insisted upon an exact list of names for each piece of property, and that each piece of property be purchased by a group of individual families, not by a collective entity such as a cooperative or corporation of which families were members.

The FMLN complained that the Land Bank was being obstructionist and legalistic, seeking to undermine the agreement. The government, in turn, claimed that the initial lists of beneficiaries provided by the FMLN bore no basis in reality - that some names were registered for multiple pieces of land. They noted, for example, that Emiliano Zapata was listed as a resident of several farms. Both sides complaints had a degree of merit.

Not unsurprisingly, the neat formula has bumped into a complex social reality. Very few farms have had the precise number of families. Disruptions of the war, the end of the war, problems and delays in other aspects of the reconstruction process, and the delays in the land transfer process itself (which in turn have made it difficult for residents to get sufficient crop

loans) have created considerable movement of families. A large number of farms that have owners willing to sell have not had the right number of families.

FMLN negotiators have had a difficult time convincing some potential beneficiaries to move from one piece of land which either was not to be sold or which was not very viable economically, to another more viable property in another region of the country. El Salvador is a small country, but before and during the war there was a fair amount of regional isolation given poor transport and communications. To move from the northern Department of Chalatenango to a farm in the costal region of San Vicente is to change from, in Salvadoran terms, a cool climate to a very hot humid climate. Moreover, for a population which had suffered from the horrors of war, such a move meant another uprooting, another effort to make a new place among strangers.

Perceiving these difficulties the government, in September 1993, suddenly adopted a strategy of trying to push the land settlements to a finish. The FMLN was put in the anomalous position of slowing things down, just as they had been put in the anomalous position of negotiating sale prices in which they (the representative of the buyer) were pressing the banks to allow them higher price limitations because the owner was not willing to sell.

A new round of negotiations in October 1993 resulted in a new calendar which would end the process in May 1994, just before the change of government, and around the beginning of the rainy season. There were agreements on all sides to speed up the process, and a significant number of lands have finally been negotiated, purchased by the land bank and sold to the residents (though the number is significant mostly in comparison with what happened before). In February 1994 yet another calendar was negotiated, this one extending the process to the end of 1994, almost three calendar years and three crop cycles after the signing of the accords.

By mid-February 1994, deals had been negotiated for 328 properties involving 8,500 FMLN beneficiaries

To illustrate the complexity, assume there is a farm on the list in San Vicente of 350 manzanas. For this farm to be transferred, the owner must be willing to sell. If so, the FMLN negotiates a price with the landlord, but the prices must be approved by the Land Bank. Let us assume the price agreed to is 6000 colones per manzana (or \$405 per acre). The total price would be 2,100,000 colones. If the bank were willing to offer the maximum credit of 30,000 per family, 70 families would buy the farm, each getting an average of 5 manzanas. Seventy families would have to sign up. If there were only 45 families resident on the farm, the FMLN would have to convince 25 families to move there. If there were 80 families on the farm, 10 could move or they could all agree to accept a smaller piece of land. If a family does not pay the loan the other families are not responsible, but the bank can ask the court to divide the land into (70) parcels, and it would get one of them. Alternatively the 70 families could take over the loan if they all signed on.

In those cases where there were too few residents on a farm whose titled owner was willing to sell, the spaces could be filled by transferring either ex-combatants (from the FMLN) to that land, or other peasant families residing on lands which the owner did not want to sell.

(including both ex-combatants and peasant residents). Two hundred eighty two of these had been negotiated five months earlier. The more significant increase was in those which had made it through to the last step of receiving title. This sum was close to zero in September and had reached 262 in February. In addition, 53 state properties had been negotiated involving 5,359 beneficiaries (only 21 of these had gotten to the point of passing title). Of the 32,500 potential FMLN beneficiaries in the UN plan of October 1992, less than one quarter are on a titled piece of property they can call their own. It may be, however, that the real universe of those who want property (at the prices being offered) is now less than that sum.

The process has moved considerably more slowly for the 15,000 potential ex-soldier beneficiaries. By mid-February, 2,872 beneficiaries had received title. The government's estimate is that eventually about half of the 15,000 will get land, explaining this low figure as due to a lack of interest among the ex-soldiers and other opportunities available to them in the urban economy or other post war training programs.⁷⁴ A

UN official thought the estimate of 7,500 was quite optimistic.

Resistance to Solution

El Salvador's peace negotiations over military demobilization and political guarantees were extraordinarily difficult and resulted in a unique, if difficult to implement peace accord. Negotiations over social and economic conflict were even more difficult, and the implementation of these provisions is more complicated because it involves a broad sector of the population as well as political groups with articulated interests. The language of the accords suggests that the negotiators, coming down to the wire after 18 months of negotiations, settled on compromise formulas that they hoped could be worked out in detail during implementation.

The problem is that the formula achieved did not take into full account the social or economic reality. What was at stake was considerably more than providing land titles, and even that has proven extremely difficult.

There are several problems with the formula in the accords and its interpretation following the accord. The first problem is the use of market principles. The leftist FMLN was suspicious of this approach⁷⁵ and of course, the neo-liberal ARENA government was all for it. The problem may be less in the model than in the application of the model. Any application of market principles might have taken into account the real world distortions in the market surrounding these properties.

To apply post-war market prices gave most of the benefit to the titled landowners. They had left their land, or been forced off it, at a point where its market value was near zero. Peasants had moved onto the land at a similar point and presumably farmed it for several years at no cash purchase expense or rent, but at considerable risk. When the guerrillas, supported by many of these same peasants, stopped shooting, land values naturally went up. The agreement provides all the windfall benefits of peace to the landowner, and charges the peasants who farmed the land a quite high price to retain access.

Landowners also benefitted after the war from a somewhat idealized version of market price. Those who were willing to sell were not to get the market price of their piece of land, but of a piece of land with similar physical characteristics. But the real world

market price of their farm would be considerably lower given its social properties (i.e., being occupied by peasants and being in a zone in which the FMLN was politically strong after the war), and would surely make their property less valuable than someone else's farm which did not have peasant occupiers or was located in territory in which, say, ARENA was politically strong.

Finally, selling the land to collective entities rather than individual families was ruled out because of philosophical predilections of the government and USAID, and perhaps also an accurate perception on their part that peasants would prefer to have individual title. But any way one looks at it, a group of peasants (even with individual debts) are buying a farm, and if one of them does not pay the debt, the others will not lose but they will certainly be affected. They will have to decide who farms which part of the farm. It is to some extent a collective enterprise. Had the land been sold to collective entities without the demand for a precise number of families, the transfer process could have proceeded much more rapidly.

Unless the new owners are given technical support and training it is also not clear if the income to be derived from the few manzanas of land they are buying will be equal to the income the old owner may have been able to get from it. Without such training and ample credit, they will be inclined to farm subsistence crops, and subsistence crops may not generate sufficient income to pay the mortgage and make ends meet.

Some people in the field believe the peasants have no intention of paying off the loans; if they could hold the land in the face of war's dangers they won't give it up to a bank. But even if they don't physically lose the land, such a posture could cut them off from agricultural credits, which would further the cycle of low production low income farming, and would add further instability to the land. In neighboring Nicaragua, failure to provide title and offer sufficient land and credit (the latter in part due to structural adjustment) has led to chronic rural violence and land invasions, along with low productivity and investment. El Salvador may not escape this fate.

This may explain why the FMLN has had a difficult time getting peasants to fill the quotas on some pieces of land; peasants have a sense of the market too, and they may not like what they see. Given the exigencies of the peace accords, the efforts of the

players involved has been to complete the accords, to methodically negotiate the purchase and sale of pieces of property. This has not been such an easy task, in part because of the terms of the deal. Relatively little attention has been paid by the players

involved (with the major exception of some international USAID agencies) to the long-term development of the land with its new owners, and still less attention has been paid to this post-war issue in the current electoral campaign.

The National Reconstruction Plan

The Chapultepec Accords devote only a few hundred words to the National Reconstruction Plan (PRN). By comparison, the agreement on the National Civilian Police fills sixteen pages. The accord calls for PRN social and economic programs to:

1. Promote "integrated development" in areas most affected by war;
2. Meet immediate needs of civilians, and of FMLN and government ex-combatants; and,
3. Reconstruct war-damaged infrastructure.

The PRN is to support the FMLN's entry into civilian life with scholarships, housing, jobs, pensions and loans. The accords emphasize job creation and food production.

The Government was to present a draft plan, and subsequently incorporate the suggestions of the FMLN and other social sectors so that the plan would reflect the country's "collective will." The accords give the United Nations Development Program (UNDP) an important, if undefined, role in attracting funds and providing technical assistance. They recommend that the Government and the UNDP ensure the PRN's compatibility with the work of non governmental organizations (NGOs) active at the local and regional level.⁷⁶ The negotiators provided no details about the PRN's implementation. For example, the agreement mandates a National Reconstruction Fund (FRN), but does not state the institutional auspices under which it will be created or administered.

National reconstruction in El Salvador takes place in the context of a discussion that seeks to set the economic course of the country into the next century. In that discussion, the government of El Salvador is

seated at the table with the World Bank and the International Monetary Fund to discuss the next steps in the country's "structural adjustment."⁷⁷ Structural adjustment was mentioned in the accords, which call for the government to enact programs to alleviate its harsh effects, but it is almost never mentioned in the debate about national reconstruction. For the Ministry of Planning (MIPLAN), it is of critical importance that national reconstruction not circumvent limits imposed by agreements about structural adjustment.⁷⁸ For its part, the World Bank sees the PRN's need for external funds as insurance that El Salvador will not depart from the narrow path of structural adjustment.⁷⁹ The PRN's target population has not been present in the structural adjustment discussions, as it has hardly been present in the negotiations about the PRN, but its future, as well as that of all Salvadorans, is surely at stake.

We emphasize below the debates about the substance of and participation in the planning and execution of the PRN. The PRN encompasses a dizzying array of programs (the government suggests there are over 16,000 projects), and many actors. Hemisphere Initiatives will publish in April a report more fully analyzing the PRN's programs, successes and problems.

Launching the PRN

In the latter part of 1991, with peace negotiations drawing to a conclusion, government and FMLN analysts were drafting proposals for post-war economic reconstruction. On January 31, 1992, the day before the peace accords were to take effect, the government established the Secretariat for National Reconstruction (SRN). Days later, the government presented a draft reconstruction plan to the FMLN, and through news conferences and a public forum. The plan created a target zone of 106 municipalities

and catalogued the massive post-war needs of its inhabitants. It called for \$1.3047 billion to support a six-month immediate needs program and a five-year plan. The draft plan relied heavily on local and national governmental entities for implementation.⁸⁰

The FMLN argued that the draft plan overemphasized infrastructure construction and gave too limited attention to investment in human resources through education, health and job training programs. It insisted on greater participation of national NGOs, and also advocated the creation of a "neutral" mechanism, perhaps under the control of the UNDP, to administer the FRN. The context was how to change the government's plan; it was not a debate about two competing plans, a key advantage to the government.

The debate produced important changes in the plan. Newer versions extended the target area to 115 municipalities and broadened projections concerning the participation of non-governmental actors. The changes were not sufficient to end the debate.

Despite its complaints, the FMLN accepted an invitation to participate in presenting the plan to a

meeting of the World Bank Consultative Group for El Salvador (CG) in March 1992. This gave the PRN the appearance of a national consensus.

The March 1992 meeting of the CG was a watershed for the PRN. The World Bank Consultative Group became the donor forum for the PRN, thereby cementing the relationship between reconstruction and structural adjustment. And, the FMLN presence apparently satisfied a donor concern that the plan have broad support.⁸¹

The meeting was a rousing financial success, with major commitments from USAID, the government of Japan, the European Economic Community (EEC), the Inter-American Development Bank, and the World Bank.⁸² The \$800 million pledged exceeded government hopes of \$745 million. Most significant was AID's commitment of \$250 million (later boosted to \$300 million), to be channeled through the SRN. This allowed the SRN to begin work and, firmly established the SRN at the center of the plan, temporarily closing the debate on SRN administration.

Table 1
Who's Who In the National Reconstruction Plan

Organization	Participation in PRN
Target Population	-1,645,756 people, almost all residents of the 115 target municipalities -60,000 displaced people -24,000 repatriates -56,356 ex-combatants (both sides) ⁸³
Ministry of Planning (MIPLAN)	-leads government participant in PRN -wrote draft plan, sought funds -administers all SRN money
Farabundo Martí National Liberation Front (FMLN)	-political representative of much of the target population -negotiates changes in PRN -organizes target population
Secretaría de Reconstrucción Nacional (SRN)	-set up to execute large part of plan -receives money from MIPLAN -approves projects, disburses money
Other governmental institutions	- execute SRN projects or get PRN funds direct from MIPLAN
Salvadoran non-gov't organizations (NGOs)	-execute SRN projects -through SRN or intermediary NGO -some feel excluded from PRN
Foreign NGOs	-execute SRN projects -four active, often intermediaries for national NGOs.
Target municipalities	-execute SRN projects -work through MIA Program -many had mayors "in exile"
U.S. Agency for International Development (USAID)	-largest foreign supporter of plan -disburses money to MIPLAN -chooses and monitors projects -sole donor to SRN
European Economic Community (EEC)	-unifies support of European countries -large reinsertion project -"coordinated autonomy" from SRN
PRODERE	-support of World Food Program
United Nations Development Program (UNDP)	-U.N. support for plan -provides technical assistance -executes some projects -channels assistance to PRN
United Nations Mission for El Salvador (ONUSAL)	-verifies compliance with accords -reports on progress of PRN -focus on ex combatants

The Ongoing Debate

The "honeymoon" for the SRN was brief. The FMLN publicly criticized the SRN at the end of 1992 and again at the April 1993 Consultative Group meetings where it had no place on the formal agenda.⁸⁴

Debate has put the beneficiary groups, some NGOs (including some with ties to the FMLN), and the FMLN on one side and the government and pro-government NGOs on the other. Surprisingly, even during the election campaign, political parties (save for the FMLN and the governing ARENA party) have not joined in. No one in the Democratic Convergence, for example, has given special attention to the reconstruction process.⁸⁵

Groups of beneficiaries have not hesitated to take to the streets to press for their demands,⁸⁶ but negotiation and discussion have been more common. For ONUSAL, the accords' vagueness on reconstruction has complicated its verification role. The only exception is the reinsertion program where the UN has taken an active mediation role. Because of the strategic importance of the donors, much of the debate has been directed to a foreign audience.

Three central debate themes appear repeatedly:

1. The degree of participation in the PRN by NGOs with historical ties to the target populations;
2. The question of whether the PRN has unduly favored infrastructure projects over "human development" activities like education, health, or job training;
3. The reasons for the inordinate delays in the implementation of the economic programs to support the reinsertion of ex-combatants into civilian society.

NGO Participation

The SRN proudly emphasizes the extent to which it has increased the degree of Salvadoran NGO participation over the past year-and-a-half.⁸⁷ Everyone acknowledges this improvement, but for the FMLN and many opposition NGOs (the government refers to them as FMLN NGOs)⁸⁸ the improvement has been insufficient and highly selective, minimizing the role of NGOs the SRN perceives as aligned with the FMLN, despite their considerable experience working in the target areas of the PRN during the war.

The numbers tend to bear out this claim. Less than 7% of SRN funds going to NGOs (and 3% of all SRN funds) have been approved for this sector. Since the SRN will channel less than half of all reconstruction funds, the participation of the opposition NGOs appears to be truly minuscule. By contrast, FEDISAL, a single NGO affiliated with the Salesian fathers, has received approval for more than \$17 million, 15% of the SRN total approved funds.⁸⁹

The SRN says that no organization has been excluded on political grounds, and mentions technical considerations.⁹⁰ This has not, however, always been their position. In April 1992, representatives of one international NGO were told that many of the local NGOs with whom they were working were "FMLN-controlled" so that an alternative channel would have to be found for the project under discussion.⁹¹

USAID admits that there might have been a problem, but that it had more to do with NGOs lacking legal status. Political disqualification of NGOs is not USAID policy, and "the Director has made himself very clear on that point." USAID says it has offered to review any project which NGOs believe has been rejected on political grounds, but only one NGO has taken advantage of the offer.⁹²

This climate makes the relationship of these NGOs to the FMLN extremely delicate. The NGOs insist they are independent,⁹³ but it is no secret that many have their origins assisting war zone populations regarded by the government and the FMLN as the FMLN's social base. The situation at least implied a close relation with the Frente. During the war, working under extremely harsh conditions, they institutionalized themselves and implemented large emergency projects with funds from international NGOs. Many of these relationships continue and constitute, in a much smaller and more decentralized model, a reconstruction project alternative to the PRN. Over time, these opposition NGOs have developed a network of project support from foreign governments and multi-lateral institutions. They were able to mobilize this support, not because of their relation with the FMLN, but because they proved themselves to be the only channels capable of assisting the populations in conflictive zones.

Since the peace these opposition NGOs have reconsidered priorities as well as the economic and political relations they experienced during the war.

The FMLN Reconstruction Committee acknowledges the need for significant restructuring of these NGOs including decentralization, and improvement of technical capacity. The latter, they insist, should be supported with outside assistance.⁹⁴

Lack of technical capacity does not appear to explain the relative lack of success these opposition NGOs have had in getting SRN projects. Similar questions exist about NGOs and government agencies that have been awarded large SRN projects. The UNDP insists that most NGOs and government agencies with whom they have collaborated suffer serious limitations in capacity.⁹⁵

The SRN has approved small projects for a few opposition NGOs; several others have been part of SRN projects administered by the UNDP, such as the Mid-Level Commanders' Program. Even more have participated in "umbrella" programs such as the agricultural credit program coordinated by Catholic Relief Services (CRS).⁹⁶

The government's opportunity to further post-war reconciliation through the participation of forces traditionally associated with the opposition was a selling point it used with donors to demonstrate consensus. For the NGOs, its failure to do so not only makes a lie of the government's pledge to donors, but also greatly hampers the SRN's ability to "deliver the goods"—to respond to the material necessities of its target population.⁹⁷

Local Participation and the Infrastructure Debate

The \$300 million dollars committed to the SRN by USAID represents less than half the total funds to be made available for national reconstruction. Most funds, by agreement of MIPLAN and the donor, have been channeled through other government entities, such as the Ministries of Public Health or Public Works; semi-autonomous institutions, such as the Rio Lempa Hydroelectric Commission (CEL) and the Social Investment Fund (FIS); and multi-lateral organizations such as the UNDP.

Table 2
Summary of International Support for the
National Reconstruction Plan (PRN)
as of December 1993
(In millions of \$US) ⁹⁸

Program Area	Under Contract	In Negotiation	Total
Investment Projects	627.30	191.86	819.16
Technical Assistance	43.76	12.90	56.66
Strengthening Dem. Inst.	54.70	12.85	67.55
Total	725.76	217.61	943.37

The variety of channeling arrangements between donors and MIPLAN is staggering, but what they have in common—with the notable exception of the aforementioned USAID agreement—is that they seek alternative mechanisms of implementation to the SRN. No one in MIPLAN or among the donors consulted suggests that this indicates a disapproval of SRN or a lack of confidence in its work, but clearly

there has been no stampede—by donors or by MIPLAN—to the doors of the SRN.

If the government does end up spending \$160 million per year, it will be making a significant investment in reconstruction relative to other government expenditures. Salvadoran government spending as a percentage of GNP in human services areas is, however, among the lowest in the hemisphere.⁹⁹

Table 3
Comparison of Reconstruction to
Other Government Expenditures
(amounts in millions of \$US, \$1US = 8.65 colones)

Expense Category	1993 Salvadoran Budget
Education Spending	127.86
Health	84.39
Housing, Urb. Development	3.54
National Defense	100.17
Average Reconstruction Budget	160.00

SOURCE: 1993 GOES budget

Another way to measure the size of the proposed investment in reconstruction is to compare it to the magnitude of the country's three largest source of foreign-currency income: dollars sent home by Salvadorans living overseas, exports, and economic USAID from the United States.

Table 4
Comparison of Reconstruction Budget
With Other Sources of Dollar Income,
Averages, 1989-93
(amounts in millions of \$US)

Income Category	
Dollars Sent Home	753.00
Export Income	511.00
U.S. Economic Aid	230.00
Average Reconstruction Budget	160.00

SOURCES: Banco Central de Reserva, AID

The average annual reconstruction budget is less than the average of U.S. economic USAID alone over the past five years. This illustrates the declining importance of El Salvador for U.S. policy makers now that the war is over. USAID, for example, freely admits that, in just two years, its program in El Salvador could be half the size it is now.¹⁰⁰

The government projected needs of \$1.3 billion over five years in its first draft of the PRN, and later increased that to \$1.5 billion. The government had minimal institutional presence in the PRN target zones during the ten years prior to the elaboration of

the plan. How does one calculate the "social debt" in an area that has been a war zone for ten years? It is safe to say that the government figures understated real needs, and were probably based as well on an optimistic view of what they could acquire. It appears that the PRN will receive only just over half of the targeted quantity of funds.

In January 1994, SRN released a report detailing the approval of projects totaling \$115.14 million in six program areas. Of that amount, \$55.02 million (47.02%) had actually been disbursed to the agencies responsible for implementation.

Table 5
Progress of SRN Implementation
by Project Area
 (amounts in millions of \$US) 101

Program Component	Amount Approved	Amount Disbursed	% Disb.
A. Immediate Assistance	2.78	2.23	80.22
B. Assistance to Ex-Combatants	69.11	23.73	34.34
C. Econ. & Soc. Reactivation	39.24	26.45	67.41
D. Land Transfer	0.00	0.00	0.00
E. Infrastructure	1.74	.80	45.98
F. Administration	2.27	1.81	79.74
Total	115.14	55.02	47.79

SRN statistics do not indicate how much of the \$55.02 million disbursed has actually been used on projects.¹⁰²

Table 5 indicates that less than 2% of funds are for infrastructure, but this greatly understates the reality. The SRN shifted \$29 million for The Basic Infrastructure Program of Municipalities in Action to Component C, Economic and Social Reactivation. This does not count infrastructure support outside the SRN. Japan, for example, has pledged \$50 million to repair two bridges, and there are international pledges totaling \$240 million for electric and transportation infrastructure.

The \$115.14 million approved was channeled through three primary groups of implementing agencies: municipal governments; NGOs; and national governmental organizations including ministries and other specialized agencies.

Table 6
SRN Project Funds Approved
by type of Implementing agency
 (amounts in millions of \$US)¹⁰³

Implementing Agency	\$\$\$	%
Municipalities	28.82	25.03
Non-gov't Agencies	41.15	35.74
Gov't Agencies	45.17	39.23
Total	115.14	100.00

The Municipalities in Action (MIA) program is the largest single recipient of SRN funds with just under \$29 million approved as of November 1993. Founded in 1986, the program sought to channel infrastructure projects through local governments rather than excessively bureaucratic government ministries. USAID calls the program a rousing

success, providing over \$2 billion in projects since 1986, building more schools than the Ministry of Education, and repairing more kilometers of highway than the Ministry of Public Works, with less than one percent of claimed expenses questioned in random audits conducted by Price-Waterhouse.¹⁰⁴

During the war, opposition groups criticized MIA for its connection with CONARA (The National Commission for the Restoration of Areas, and the agency out of which the SRN emerged), a key element in the government's counter-insurgency program.¹⁰⁵ Peace opened the door for the MIA program to begin working in new municipalities. Following the war, government mayors returned to municipalities that had been controlled by the FMLN, and in some cases, to war-time residents who had erected their own extra-official governments during the war. All of the MIA work in the 115 target municipalities of the PRN is now coordinated through the SRN.

At the core of the MIA program is the "cabildo abierto", or municipal assembly, where residents can propose projects based on community needs. The mayor and municipal council then prioritize these requests and present a list of projects to the MIA program for funding approval. For the ARENA government the return of these "exiled" mayors paved the way for full municipal decentralization.¹⁰⁶ Negotiations between USAID, SRN and the FMLN resulted in two mechanisms to ensure the participation of the local opposition: "Cabildos abiertos" including local NGOs and reconstruction committees for opposition input on project priorities.

How democratic is this MIA mechanism? If mayors in the ex-war zones lack legitimacy, local government is a weak foundation upon which to build a program. The "winner-take-all" electoral format for municipal governments leaves the mayor and council in the hands of one party, elected in "exile" war time conditions in many cases with a few dozen votes. Even though the assembly proposes projects, the mayor has ample opportunity to influence the selection of project priorities. The final decision on project funding is made in the SRN. In conflict communities, one finds a perception that the mayors put projects in politically friendly areas, while other areas, perhaps more closely associated in the mayor's mind with the FMLN, get no projects. "The nice jeeps of the SRN get as far as Tejutla, but beyond there it is as if no one lives out here...I swear to you not one five cents of project money has come to Teosinte."¹⁰⁷ An NGO staff member with ties to the MIA program suggests that the selection of projects at the SRN level also can be highly politicized.¹⁰⁸

Within the confines of the debate over infrastructure versus human capital, the results of the MIA program are not in dispute. The SRN reports that as of December 1993, \$30 million had been spent on

1,873 projects (an average of roughly \$16,000 per project). Of those projects, 946 (50.5%) went to road repairs and 55 (2.9%) went to health projects, and the health projects primarily were brick and mortar expenditures for a clinic, 109 not for health promoters.

USAID maintains that its scientific sampling of residents in the PRN target municipalities confirms that the mix of approved projects reflects the needs felt by community members¹¹⁰, but the notion that poor people without motor transport would prioritize roads over health by that sort of margin challenges the imagination.

Delays in the Reinsertion of Ex-Combatants

Programs for ex-combatants received special attention in the Peace Accords. Two years after the shooting stopped, the SRN reported that less than half of the approved \$69 million had been disbursed. The Secretaría cites various reasons for the delay, ranging from inaccurate and incomplete information provided by the FMLN about the ex-combatant population, to the uncooperative attitude of Fundación 16 de Enero (the NGO representing FMLN ex-combatants) which has insisted on receiving administrative funding formally denied to them by USAID. The ex-combatants, themselves, are guilty of "not taking these programs as opportunities, but as rights which they have acquired. This makes it difficult for them to accept the conditions agreed upon between the [government] and the FMLN."¹¹¹

ONUSAL says the program completely fell apart when the land transfer programs stalled, since a land title was a pre-condition for many other programs like credits and technical assistance. USAID ordered the delay of certain training programs to rid them of what they perceived as irregularities. The decision of USAID and SRN not to provide administrative support for F-16 also slowed the program's progress and harmed work relationships among key actors.¹¹² A joint UNDP/ONUSAL document points to the "lack of a joint defined strategy for program development that affect the program from the design to the planning stages."¹¹³

For FMLN critics the delays have added fuel to the fire in its debate with the SRN. They claim the SRN does not recognize the importance of successful reinsertion to the overall peace process, and that it has been insensitive in assigning projects to certain

NGOs. According to an official of F-16, the SRN disqualified opposition NGOs for lack of technical competence, then awarded projects to groups with fewer qualifications.¹¹⁴

Demobilized members of the Armed Forces had to lock up the Legislative Assembly to get their severance pay, and thousands of ex-combatants from the FMLN are still living in tin shacks on land to which they hold no title.

Relations between the FMLN, the NGOs, and the SRN have not improved appreciably in the past year. In November 1993, ONUSAL, the SRN and the Fundación 16 de Enero agreed to meet weekly in hopes of getting the reinsertion program back on track, but no one seems very optimistic about the chances for rapid progress. The above issues remain, with the addition of one more.

The FMLN believes the continuing breach between the SRN and important sectors of the target population is creating a financial and political crisis for the PRN. They note that not a single donor, other than USAID, has chosen to pass significant funds through the SRN. The Frente appears to be on the verge of demanding more radical changes in the leadership and functioning of the SRN. The Frente insists that the time has come for major changes in the SRN in order to achieve a new working consensus on the importance of the reinsertion thereby generating more support from potential donor countries.¹¹⁵

National Reconstruction and Reconciliation

Vagueness of the peace accords concerning national reconstruction makes the question of compliance almost a moot point. The government wrote a reconstruction plan and incorporated, in early 1992, some suggestions of the FMLN and other sectors. But those minimal steps in no way make the document a product of the nation's "collective will"—if such a thing can be said to exist. The SRN points to the quantity of money spent in the target municipalities; the opposition minimizes the human impact of the money citing the emphasis on infrastructure and the lack of participation by both the affected communities and their representative organizations. The accords explicitly emphasize programs for ex-combatants, yet these programs have suffered the greatest delays.

The Peace Accords do not specifically address the question of broad participation in the implementation of the PRN. The FMLN expected, however, that the government's need to attract funds from donors, especially the Europeans, and the important role accorded to UNDP in national reconstruction would open spaces of participation in the plan for the political opposition. Early in 1992, they stopped promoting their own reconstruction plan and chose to attempt to make the government plan work for themselves and their supporters. They concretely demonstrated that approach by accompanying the government delegation to the World Bank meetings in March 1992.

At that moment, the PRN existed as a potential space for interaction and resolution of differences between a variety of social forces. With its large early contribution to the SRN, USAID allowed the work of reconstruction to begin in earnest, but it also removed some of the incentive for government planners to come to "concerted" solutions with the FMLN and other forces. As the technical and political problems of project implementation began to multiply in the months after the Consultative Group meeting, spaces for participation and consultation closed under an avalanche of mutual accusations concerning the politicization of the process.

In its January 1994 report, the SRN makes a striking reference to the importance of broad participation, giving it even more importance than its material achievements: "up until now, neither the size nor the amounts of projects approved have been the most relevant aspect of the implementation of the PRN. Of much more impact has been the institutionalization of more participatory systems to allow the implementing agencies of the PRN to respond to the need of the target communities."¹¹⁶

Here the SRN has put its finger precisely on the element that raises the greatest concerns for the popular sector and in which the PRN desperately needs to make the most improvements. When the books are finally closed on the National Reconstruction Plan, the success or failure of the efforts to broaden participation in the plan, much more than any statistics about roads built or small businesses launched, will determine whether or not the PRN has fulfilled the letter or the spirit of the Chapultepec Accords.

The Social and Economic Forum

The Accords mandate formation of a consultative forum on social and economic issues in which representatives of the government, business and labor will seek "broad agreements" on the development of the country, with particular focus on post war problems and reconstruction. The government agreed in the Accords to propose to the Forum labor legislation and an analysis of disadvantaged urban communities that would lead to proposed solutions.

The Accords left no limit as to what the Forum could take up and gave it no deadlines. It also gave it no power other than to recommend legislation to the government. The Forum thus far has not fulfilled its mandate, perhaps in part because of the broad and vague charge it was given.

Though COPAZ was to convene the Forum within one month of the signing of the accords, nothing happened for three months. Another four months went by while ANEP, the National Association of Private Enterprise, boycotted the Forum due to complaints it had about labor unrest.

Once the Forum did get underway it had seated around the table a quite remarkable array of representatives of business, labor and government. Large and medium sized businesses were represented through their respective professional associations. All major labor federations, including those with close ties to the FMLN and to the Christian Democrats sat at the table. The government sent Ministers or their representatives from the Ministries of Labor, Agriculture, Planning, Health, Education and Housing as well as the President of the Central Bank. The Forum met weekly and, in most cases, leaders of the various groups personally attended.

Given the vagueness of its charge, and the historic enmity between business and labor in El Salvador, it is not surprising that setting an agenda was at first

difficult and then impossible. Eventually the group settled into dealing with its most specific charge—drafting a new labor code. It did so only under outside pressure.

The existing Salvadoran labor code did not meet international labor standards. Under U.S. law, for a country to export certain products to the U.S. without paying tariffs (that is to be within the General System of Preferences) it must respect internationally agreed upon labor standards. The trade union confederation with closest ties to the Christian Democrats and to U.S. unions, UNOC (the National Union of Workers and Farmers) had earlier pressured the U.S. to suspend El Salvador's status in the GSP. With talks stalled in El Salvador, it turned the pressure up once again.¹¹⁷

After being deadlocked several times, the Forum agreed to review a proposal by an International Labor Organization representative with expertise in Latin America, Arturo Bronstein. He presented a package of 49 proposals in early October. Agreement was reached on most of these, but business wanted to suspend the Forum after the beginning of the election campaign on November 20, and there was a November 30 deadline for submitting labor legislation to the Assembly.

Disagreement remained on the number of members in a shop needed to have a union election, the number of union members who would get paid time, by the employer, for union work, and rules about the formation of informal sector unions. Though the two sides moved closer together, the unions insisted on the whole package, while business was willing to take that which had been agreed to. Realizing there might well be considerable slippage between whatever law it got and how it was put into practice, labor pushed hard to get the strongest possible legislation.

After the new deadlock, the government unilaterally submitted labor legislation, which the unions claimed reflected the business sector's position on the items in dispute. Labor also charged that the language submitted on those aspects about which there had been agreement contained subtle changes of language in favor of business. President Cristiani, in heated remarks, claimed the proposed legislation reflected the consensus of the Forum.

The very limited effectiveness of the Forum reflects historic and structural difficulties. In a sense the Forum can be seen as an attempt by the FMLN negotiators to get something into the accords, however general, that would take up social and economic issues it had long considered as causes of the war. But business and labor groups had not previously negotiated such issues, and were unlikely

to share approach and outlook. Finally, the unions had their own political divisions between left and centrist groups and groups the left and center considered to have overly close ties with business. And the business side of the table had its divisions.

Given its charter, it is perhaps too early to dismiss the Forum as a high profile failure. The stature and attendance of the Forum is quite striking. The willingness of top level business, government and union leaders to devote several hours a week for over a year, to the forum is certainly without historic precedent in El Salvador and at least highly unusual by some international measure. It may be that, after the election, the forum will start again and consider other issues which might not be so close to the heart of the conflict between labor and management.

Conclusion

Much has been achieved in the peace process. El Salvador is a different and better country than it was three years ago. Peace has been achieved, and no war is in sight. This statement cannot be made by many of the third world countries which were engulfed in war during the 1980's, to say nothing of ex-Yugoslavia. The FMLN has been legalized as a political party, and elections, after a vigorous campaign involving all political parties from left to right, will soon be held.

Human rights violations are at much lower levels than during the war. In the end, officers named in the report of the civilian Ad Hoc Commission's report were transferred and retired from the military and the old security forces were demobilized. A new civilian police force has been launched and has earned initially high marks from international observers, the public and the politicians.

Some lands have been transferred from titled owner to civilian residents and ex-combatants. In the more numerous cases where they have not, the accords requirement that occupants not be evicted until a solution has been found has (in the main) held up. Considerable money has entered the country for reconstruction purposes and both public works projects and programs for the victims of war have been started. Despite acrimony, a new labor code has been passed that is a considerable improvement over its predecessor.

It may be that nothing more could reasonably be expected from the accords in two years. They are a bargained document and the bargaining results, after 18 months of bargaining and eleven years of war, reflected roughly the power the two parties could bring to bear. The government side, and in particular its military representative, could certainly not have wished for all of the language of change in the military and its implicit message that the military bore

much responsibility for what was wrong with the country. But the government could not avoid that language.

The FMLN, no doubt, wanted more power to co-govern after the war and stronger substantive language over the social and economic issues it believed were plaguing the country and had caused the war. It could not get all that it wanted. In the end the FMLN focused on changing the military and providing for a new civilian armed police force at the expense of vaguer agreements involving land, reconstruction and social issues.

The more extreme opposition elements within the business sector, the ARENA party, and the military are an important factor in what has—and has not—been achieved in implementing the accords. In the eyes of one of this sector's leading spokesperson, a weak government gave away far too much in a treaty that amounts to a co-governing arrangement with the hated FMLN. He sees the government's powers further limited during the negotiations and the implementation by hostile international forces - the United Nations and international donors including the U.S.¹¹⁸ The extreme right has lobbied, and lobbied hard, to limit implementation of the treaties provisions and against the presence of ONUSAL.

The language of the Accords promised more than has been achieved both substantively and in terms of process. The language of the accords, while reflecting the power the two parties to the negotiation had at the end of the negotiations, seemed to offer a potential for broader political participation involving a wider array of players. The Accords required the establishment of new structures and committees to oversee the Accords, draft implementing legislation or rules, discuss and negotiate broad social issues, review past abuses, fashion a means for resolving land disputes, and debate and shape plans for

employing reconstruction funds. Political parties, the Legislative Assembly, the courts, ad hoc citizen committees, non-governmental service organizations, trade unions and professional groups, business associations, and various branches of the government are all given important roles to play in carrying out the Accords. It promised further reconciliatory acts between the two main parties to the conflict than those seen at moving ceremonies at the signing of the accords at Chapultepec Palace in Mexico City.

What seems to have happened over two years is less than this promise. In terms of participation, COPAZ has atrophied in part because those with more power (including in some instances the FMLN) have chosen to ignore it, so political parties have been dealt out of the implementation process and seem focused only upon the election. The Social and Economic Forum remained lively, but perhaps has ground to a permanent halt. Civilian control over the new PNC and over the military may be shrinking before the institutional inertia of traditional forces within the military. And reform of the judicial system remains very much in doubt.

Broad participation in reconstruction programs seems non-existent in the large scale infrastructure programs going on outside the framework of the SRN, and only minimally so within that framework. There seems to have been an effort, statements to the contrary notwithstanding, to limit the participation of NGOs perceived as being too close to the FMLN and, by some accounts, to limit the power of government officials who are seen as too willing to deal with the FMLN.

Shortly after the accords were signed a bumper sticker appeared in San Salvador which said "Peace is the Responsibility of Everyone". That has not really been the case. Participation in the process has been narrow, and seems to be getting narrower, by focusing only on those who have some power - either because they control the government, hold a piece of land, or have ties to influential international actors. Increasingly government actors have been more dominant as the FMLN demobilized and various groups used up their international resources. As the electoral campaign has intensified, those within the government more bent on limiting the accords seem to have gained more power than their more moderate counterparts.

It may be that when the elections are over, attention will again focus on the implementation of the peace accords. But as this is being written, ARENA presidential candidate Calderón Sol seems to be leading, and the prospect of an opposition coalition controlling the Assembly is dimmed by its internal divisions. The ARENA candidate is less associated with the Cristiani line of the party than with the group to its right, and has made some ambiguous statements about the peace accords. ONUSAL, it now appears, will stay beyond the transition of government, but its presence will be very much diminished, perhaps limited to the PNC issue and land transfers.

The main potential sources of pressure for full implementation of the accords are likely to be local actors with ties to international funding agencies and groups which can mount popular pressure, as occurred a few weeks ago when ex-combatants staged an effective protest in front of the Assembly demanding what the Accords had promised.

This is not to suggest that the implementation process is over and that nothing more will be achieved than the considerable achievements to this point. But further implementation will take place in a new political space following the elections and in an El Salvador which is very different from the country that went to war. Left wing parties will be struggling to adapt to the post-electoral world and to shape their agendas. Economic actors and political groups will seek growth strategies within an economy in which traditional agricultural exports are in decline and the ecology is in severe danger. A diaspora of well over 1 million Salvadorans props up the economy by sending money home to their families. And those families, some shattered by the war, and all affected by it, will seek their destinies in an El Salvador which is less repressive than the one that fell into war.

The key task for the international community will be to ensure that the political space opened up by the peace accords and guaranteed by the creation of the National Civilian Police is extended and made permanent by effective reforms to the judicial system and by carrying through on promises to complete the land transfer program and support national reconstruction in the areas most devastated by war. That task is far from completed.

End Notes

- 1 Other Hemisphere Initiatives reports on subjects of the Peace Accords are Justice Impugned: The Salvadoran Peace Accords and the Problem of Impunity (Margaret Popkin, George Vickers and Jack Spence), June 1993 and Risking Failure: The Problems and Promise of the New Civilian Police in El Salvador (Bill Stanley with George Vickers and Jack Spence), September 1993.
- 2 See The Voter Registration Tangle, July 1993 and Voter Registration and the Tasks Ahead., November 1993 (both by Madalene O' Donnell with George Vickers and Jack Spence) and Toward a Level Playing Field?: A Report on the Post-War Salvadoran Electoral Process, January 1994 (Jack Spence and George Vickers).
- 3 Partido Revolucionario de Trabajadores y Campesinos (Revolutionary Party of Workers and Peasants), the smallest of the five organizations making up the FMLN.
- 4 Expresion Renovadora del Pueblo (roughly translated, People's Instrument for Renovation), the second largest FMLN group. While keeping the well-known ERP initials, the new name was adopted after the signing of the peace accords to replace the Spanish words for Revolutionary Army of the People.
- 5 See Report of the Director of the Human Rights Division of ONUSAL, May - July 1993, Addendum, Summary of Cases Verified in the VIIIth Report, UN Doc. S/26416, Sept. 15, 1993.
- 6 These cases included 10 murders, three attempted murders, 14 death threats, nine intimidating threats, one arbitrary detention, one case of mistreatment, two kidnappings and one case of violation of the right of free association.
- 7 See letter dated 7 December 1993 from the Secretary-General Addressed to the President of the Security Council and Annex "Principles for the Establishment of a Joint Group for the Investigation of Politically Motivated Illegal Armed Groups," UN Doc. S/26865, Dec. 11, 1993. President Cristiani chose two Salvadoran jurists, José Leandro Echeverría and Juan Jerónimo Castillo, as the Government's representatives. The other Group members are Human Rights Ombudsman Carlos Mauricio Molina Fonseca and ONUSAL Human Rights Division Director Diego García Sayán.
- 8 See section x for a discussion of the Ad Hoc Commission; see also, Hemisphere Initiatives, Justice Impugned. The Salvadoran Peace Accords and the Problem of Impunity, June 1993 at 4; Lawyers Committee for Human Rights, El Salvador's Negotiated Revolution: Prospects for Legal Reform, June 1993 at 50-62.
- 9 For further discussion see Hemisphere Initiatives, Endgame at 10-20; Justice Impugned at 9-12; Risking Failure; Lawyers Committee for Human Rights, El Salvador's Negotiated Revolution: Prospects for Legal Reform, June 1993.
- 10 For further discussion of the Truth Commission report, recommendations and reaction thereto, see, Justice Impugned at 5-8; Lawyers Committee for Human Rights, El Salvador's Negotiated Revolution at 62-74; Americas Watch, El Salvador - Accountability and Human Rights: The Report of the United Nations Commission on the Truth for El Salvador, Aug. 10, 1993.
- 11 For further information about the Mozote case and the U.S. role, see Mark Danner, "The Truth of El Mozote," The New Yorker, Dec. 6, 1993.
- 12 Lawyers Committee for Human Rights, El Salvador's Negotiated Revolution at 69-72; Americas Watch, El Salvador: Accountability and Human Rights at 20-23.
- 13 Legislative Decree 486, March 20, 1993, published in Diario Oficial No. 56, Vol. 318, March 22, 1993. A "National Reconciliation Law" passed just after the Peace Accords were signed was designed to legalize the situation of returning FMLN leaders and authorize the release of political prisoners. The law went much further, however, authorizing amnesty across the board except for persons already convicted by juries (to prevent the immediate release of

the two officers convicted for the killing of six Jesuit priests, their housekeeper and her daughter) and those named in the Truth Commission report (although the Truth Commission report would not be made public until more than a year later.) Legislative Decree 147, Jan. 23, 1992, Diario Oficial Vol. 314, No. 14, Jan. 23, 1992.

14 Decision of Salvadoran Supreme Court, May 20, 1993. The Salvadoran Constitution guarantees judicial protection, due process and the right to seek compensation; It also specifically prohibits amnesty for civilian or military officials who committed crimes during the same presidential term.

15 Many of the officers named, however, were no longer on active duty or had been included in the Ad Hoc Commission Report. According to the U.N., eight remained on active duty in October 1993. See Further Report of the Secretary-General of the United Nations: Observer Mission in El Salvador, UN Doc. S/26581, Oct. 14, 1993.

16 Four constitutional reforms were proposed to: end the concentration of functions in the Supreme Court and its President; transfer responsibility for appointing and removing judges from the Supreme Court to the National Council on the Judiciary; transfer responsibility for authorizing and regulating lawyers and notaries from the Supreme Court to an independent body; end exclusive Supreme Court jurisdiction over the guarantees of amparo and habeas corpus as part of the effort to make these remedies effective.

17 El Salvador Proceso, año 14, no. 596, Jan. 26, 1994.

18 For background on the judicial reforms included in the Peace Accords, see Lawyers Committee for Human Rights, El Salvador's Negotiated Revolution: Prospects for Legal Reform.

19 Legislative Decree 414, Dec. 11, 1993, published in Diario Oficial Vol. 318, Jan. 13, 1993.

20 The new Court is to be selected within 90 days of termination of the current Court's term; i.e., within 90 days of June 30, 1994.

21 These include specific reforms such as eliminating extra-judicial confessions, reducing the period of police detention, eliminating presumptions of guilt; proposals to make habeas corpus and amparo remedies effective; and complete reforms of Criminal Procedure and Criminal Codes as well as a new Penitentiary Code.

22 An initial position of the FMLN in the peace negotiations was that the two sides' armies would be merged. The government refused to accept this. Allowing ex-FMLN combatants an armed presence in the PNC can also be seen as a partial compromise

on this issue. Also, in a June, 1992 complementary agreement the percentages changed to 20% ex FMLN, 20% ex National Police and 60% civilian, apparently in part because the FMLN was having a difficult time filling its quotient either due to the 9th grade or equivalent entrance requirements or perhaps due to an unwillingness among their primarily peasant ex combatants to be further uprooted from their families for training and service in the PNC.

23 The deployment was to be completed 21 months after initial deployment and the demobilization of the PN was to be finished 2 years after initial PNC deployment under the original calendar. Subsequent agreements have changed this timetable as seen below.

24 For further details on the development of the Academy and the PNC, see Risking Failure: The Problems and Promise of the New Civilian Police in El Salvador, written by William Stanley, Hemisphere Initiatives/Washington Office on Latin America, September 1993.

25 These foreign-trained officers made up the first group of provisional commanders of the PNC when it first deployed in March 1993, but returned to the Academy six months later to finish their studies; 44 officer candidates who had stayed behind took their place in the field.

26 Interview with Robert Loosle, Director, ICITAP, San Salvador, Jan. 6, 1993.

27 There have been some short-term training programs offered by ICITAP and Spain, but it will take years for new PNC agents to reach the same level of expertise.

28 Interview, ONUSAL official, Jan. 5, 1994.

29 See Further Report of the Secretary-General on the United Nations Observer Mission in El Salvador, November 20, 1993. Random interviews with ANSP cadets suggest that some of this has most definitely occurred.

30 Interviews with well-informed sources close to the Academy. January 1994, who did not wish to go on record.

31 According to an UCA poll conducted between December 4 and 12, and released to the public on Dec. 16, the rise in delinquency, along with the lack of control over inflation, constitute the two principal errors of President Cristiani. TV 12, reported in El Rescate/Flor de Izote Chronology, Dec. 16, 1993.

32 They are, for example, equipped with 26 police cars, 1 civilian vehicle for investigations and two motorcycles. While certainly insufficient, small number of vehicles goes a longer way in an urban area than they do in a larger department. Previously, the entire police force only had some 67 vehicles and

- 31 motorcycles. See paragraph 36, Secretary-General's Report, Nov. 20, 1993.
- 33 PNC chief José María Monterrey says that it was only increased by some 20 persons. He also acknowledged that some 10 UEA personnel had been disqualified by his review. Interview, Dec. 1, 1993. Also, letter from Augusto Ramírez-Ocampo to COPAZ Subcommittee on the PNC, November 5, 1993.
- 34 According to one ranking member of the FMLN, there was heavy pressure from the U.S. Embassy to agree to the appointment. Interview, February 4, 1994.
- 35 One former UEA officer was in charge of the San Miguel PNC operation for about a month and a half, until he was transferred to Santa Ana to take charge of the UEA's operations there.
- 36 Interview, Robert Loosle, ICITAP, San Salvador, Jan. 6, 1993.
- 37 See paragraphs 28 and 29 of the Ninth Report of the Director of the Division of Human Rights of ONUSAL (August 1-October 31, 1993). Leaders in the FMLN believe the SIU's role was considerably more sinister than simply being dilatory and that it had a hand in the assassin's death, perhaps to protect someone else. Interview with FMLN leader, November 19, 1993.
- 38 The case of Oscar Antonio Salguero on October 22, cited in paragraph 50 of the 9th Report of the Human Rights Division. For the statistics on increases of reported abuses see Cuadro No. 4. in the same report.
- 39 Interviews, members of COPAZ subcommission, Jan. 7, 1994.
- 40 Based on interviews with agents. The current salary of 1713 colones (almost US\$200) for the "basic" agent, while significantly higher than National Police salaries, is somewhat reduced by deductions for insurance, pensions and food. The PNC currently provides housing for its agents; however, in the next year or two, agents will be expected to live in the communities in which they work.
- 41 Secretary-General Report, Nov. 20, 1993. Interview, Robert Loosle, ICITAP, San Salvador, Jan. 6, 1993.
- 42 Secretary-General's Report, Nov. 20, 1993, paras. 38-41.
- 43 The National Police has, until very recently, not taken advantage of a U.S. government offer to assist it with the reintegration of former agents. In a Sept. 27 letter to President Cristiani, U.S. Ambassador Alan Flanigan threatened to withdraw the offered assistance unless it was used. *New York Times*, November 11, 1993.
- 44 Ninth Report, ONUSAL Human Rights Division, Jan. 1994, paras. 88-96.
- 45 United Nations, "Report of the Secretary-General on the United Nations Observer Mission in El Salvador," U.N. Document S/25812, 26 May 1993, New York, p. 10. Also see William Stanley, Risking Failure: The Problems and Promise of the New Civilian Police in El Salvador, HI/WOLA, p. 17.
- 46 The Brigade has approximately 2,000 troops. About two hundred are former Treasury Police and most of the remainder are former Guardsmen.
- 47 Interview with Col. Angel Eliseo Ramos Escalante, Commander of the Special Brigade for Military Security, San Salvador, July 15 1993.
- 48 The members of the commission included Abraham Rodríguez, a prominent businessman and former personal advisor to President Duarte; Eduardo Molina, one of the founding members of the Christian Democratic Party; and Reynaldo Galindo Pohl, legal counsel to the Osorio (military) government and one of the authors of the 1950 Salvadoran constitution. President Cristiani named two former Defense Ministers, Generals Eugenio Vides Casanova and Rafael Humberto Larios, to represent the military on the commission. The military members only had access to the commission's deliberations and recommendations but not to the investigative phase of its work. They also had no vote.
- 49 Seventy-six were to be removed from active-duty, and twenty-six were to be transferred to other posts.
- 50 United Nations, "Letter of 7 January 1993 to the President of the Security Council from the Secretary General", UN Document S/25078, New York, 13 January 1993.
- 51 Inforpress Centroamericana, "El Salvador: todavía no se completa depuración," 4 February 1993, pp. 4-5.
- 52 The Truth Commission was to investigate and to recommend prosecution of the most egregious human rights violations that occurred during the civil war. Its members included Belisario Betancur, former president of Colombia; Reinaldo Figueredo, former foreign minister of Venezuela; and Thomas Buergenthal, professor of law and honorary president of the Inter-American Institute for Human Rights.
- 53 Members of the Tandoná (the "big class" of 1966) completed their 30 years of service in February 1993 and were already slated for retirement. Exceptions are made in the case of generals, who can stay on beyond their 30 years.
- 54 Interviews with Lic. Joaquín Samayoa, Vice-Rector of the UCA, San Salvador, 19 July 1993; and with Col. Jaime Guzmán Morales, Chief of Staff, Estado Mayor, San Salvador, 30 July 1993. Joaquín

Samayoa, one of the civilian members of the council, was impressed by the harmonious working relationship with military members of the council. According to him, because the council has aroused the interest of other Latin American militaries and governments, the High Command now views the council as a way of improving the armed forces' image both home and abroad.

55 Interviews with Col. Jaime Guzman Morales, Chief of Staff, Estado Mayor; Col. Rudolph Jones, Commander US Military Group, San Salvador, 26 July 1993; and Lt. Col. Mark Latham, US advisor assigned to CODEM, San Salvador, 4 October 1993.

56 The 1993 defense budget represented a 6.4% drop from 1992. For 1994, the Cristiani government is requesting the same amount as for 1993 - 866 million colones.

57 The Clinton administration is only requesting \$3.8 million for 1994.

58 The "big class" that graduated from the military academy in 1966.

59 General Vargas represented the armed forces on the government's negotiating team. He was not on the Ad Hoc Commission's list nor was he implicated in the Truth Commission's report.

60 In fact, Col. Corado owes his current position to the Tandon. Given that the Clinton administration had suspended \$11 million in military assistance, it had very little leverage over the Tandon's choice for Minister of Defense.

61 Interviews with Col. José Humberto Corado Figueroa, San Salvador, 28 July 1992 and 4 August 1993.

62 Col. José Humberto Corado Figueroa, "Perspectivas de las relaciones civiles-militares en El Salvador", CENITEC, San Salvador, 7 October 1993.

63 The president does not have a completely free hand in the selection of the Defense Minister. Besides the fact that the military is unlikely to accept a civilian, the president has to be sensitive to military hierarchy and internal military politics when appointing a Defense Minister. The legislature still lacks effective oversight of the defense budget. Although then Defense Minister General Ponce appeared before the legislature in October 1992 to answer questions regarding the 1993 defense budget, legislators had no access to the details of the budget only its broad outline, thus making informed discussion and debate impossible.

64 The Ad Hoc Commission was given the impossible task of reviewing in a few months the records of over 2200 officers. It chose to focus on the records of those at the top on the assumption that lesser officers were acting under their command. Appar-

ently, the military provided very little documentary evidence. In short, the military and the government during peace negotiations was not looking for a full review of all officers with examination and cross examination. The method was not a series of trials, but rather recommendations on promotion, transfer and demotion conducted in a fashion that would maintain privacy for the officers.

65 Given that the security forces, totaling some 15,000, were to be separated from the armed forces under the accords, this would leave 48,000 troops according to the High Command's figures. Nevertheless, most analysts agree that the armed forces (not including the security forces) numbered at most 40-42,000 (and possibly less) in early 1992. In addition, a significant number of conscripts would have finished their military service during the course of 1992.

66 While El Salvador troop/population ratio is 5.27 per 1,000 inhabitants, the ratios for Honduras and Nicaragua are 3.9 per 1,000 and 3.5 per 1,000 respectively. The only country with a higher ratio than El Salvador is Guatemala - 5.64 per 1,000 inhabitants - whose army is involved in an armed conflict. The ratios were calculated based on data from the International Institute for Strategic Studies, *The Military Balance 1993-94*, London, 1994.

67 For more on the military's role in the national reconstruction effort, see Peter Sollis, *Reluctant Reforms: The Cristiani Government and the International Community in the Process of Salvadoran Post-war Reconstruction*, (Washington, D.C.: WOLA, June 1993), pp. 33-42.

68 The analysis in this section is based on interviews with ONUSAL mediators and field staff, September 29, 30, October 3, 13, 28, December 7, 1993 and January 5, 1994, field trips to Chalatenango and Usulután, January 1993, to Usulután and San Vicente, October 1993, interviews with USAID officials October 1, 12, November 5, 1993, and January 4, 1994, interviews with FMLN negotiator Antonio Alvarez, November 1, 9, 15 and 22, 1992; interview with COPAZ official November 4, 1993, interview with Ministry of Agriculture official October 13 and December 7, 1993, interviews with Minister of the Presidency Oscar Santamaria, November 24, 1993 and February 8, 1994.

69 See the United Nations, "Resumen de Propuesta para Transferencia de Tierra", 13 de Octubre 1992; the government's "Plan Para Agilizar El Programade Transferencias de Tierras", (Oficina Coordinadora del Tema Agrario) Agosto de 1993; Frente Farabundo Martí para la Liberación Nacional, "Plan para Acelerar El Programa de Transferencia de Tierras", 1

de Septiembre 1993.

70 At the outset of the war 50% of the population attempted to earn a living from the land, either as small holders, agricultural workers or renters, as well as large and medium sized producers of crops for export. Agricultural export products were the principal source of dollars.

71 In many other cases the FMLN did not force large export growers from the land, but required them, in many cases ARENA supporters, to pay war taxes, and pressured them to raise the wages of the workers.

72 It did not count lands in excess of the agrarian reform's 353 manzana limit.

73 The concept of "insufficient" number of people relates to the concept of market value being used to buy and sell the lands and to the amount and form of credit the government Land Bank, and its main international backer, the U.S. Agency for International Development, were willing to provide. Credit for purchasing land was to be granted to individual heads of households with a ceiling of 30,000 colones (8.7 colones = \$1 as of February 1994). Market value was to be established by the Land Bank for each piece of land based on current values of other lands of comparable physical nature (primarily soil types and location.)

74 Interview with Oscar Santamaria, Minister of the President, February 8, 1994.

75 Interviews with FMLN negotiators, December 1991.

76 Naciones Unidas, Acuerdos de El Salvador: En El Camino de la Paz, pp. 88-89.

77 For an excellent analysis of structural adjustment and the negotiations with the World Bank and the IMF, see Herman Rosa, "El Banco Mundial y Ajuste Estructural en El Salvador," PRISMA Noviembre y Diciembre 1993: pp. 2-5.

78 Ministerio de Planificación, "Plan de Reconstrucción Nacional", (San Salvador: Marzo 1992), Vol I, p. 11.

79 The World Bank, "Report and Recommendation of the IBRD to the Executive Directors on a proposed second structural adjustment loan (SAL) of US\$50 million to the Republic of El Salvador, August 23, 1993, Report No. P-6108-ES, p. 21, cited in Rosa, op. cit., p. 2.

80 See, Peter Sollis, "Reluctant Reforms: The Cristiani Government and the International Community in the Process of Salvadoran Post-war Reconstruction," (Washington, D.C., Washington Office on Latin America: 1993).

81 Sollis, op. cit., p. 4.

82 Humanitarian Space Project, "Update on Recon-

struction in El Salvador #4, (San Salvador, March 1992).

83 FMLN, "Ejecución del Plan de Reconstrucción Nacional: Balance 1993," (San Salvador, Enero de 1994), p. 4.

84 FMLN, "Balance del PRN", (San Salvador: Diciembre 1992), p. 2. The Salvadoran Coordinating Committee of Human Development Institutions (CIPHES), a coalition of Salvadoran NGOs with long work experience plans target zones of the PRN, also sent a protest to the CG about the lack of NGO participation. For a good discussion of the second CG meeting, see El Salvador Information Project, "Springtime in Paris: The Consultative Group and the PRN," (San Salvador, April 16, 1993).

85 Interview with Legislative Assembly Deputy Juan José Martel, San Salvador, January 16, 1994.

86 When wounded veterans of both sides attempted to march on the Presidential Palace in May 20, 1993, police fired on the march killing at least one demonstrator and plunging the peace process into crisis.

87 Interview with Sra. Norma de Dowe, Director of the SRN, San Salvador, February 3, 1994.

88 There are very different opinions about what to call this group of NGOs that feels excluded from the PRN. The government wants to call them "NGOs of the FMLN" while they tend to call themselves "popular-sector NGOs." In hopes of avoiding the language of that debate, we refer to them as "opposition NGOs" because they are NGOs that are closely associated with the country's political and social opposition.

89 Calculations based on the information reported in Secretaría de Reconstrucción Nacional, op. cit., Anexo B. Precise determination is difficult because much of the participation of opposition NGOs is through intermediaries like Catholic Relief Services or UNDP. The reports of the SRN do not give precise figures on the funds executed by each participating NGO.

90 Interview with Guillermo García, SRN Programming Division, San Salvador, January 20, 1994.

91 Interview with representative of Diaconía Suecia, San Salvador, January 17, 1994.

92 Interview with Raymond Lynch and Marvin Dreyer, USAID staff, San Salvador, January 27, 1994.

93 Interview with Andrés Gregory, President of CIPHES, January 14, 1994.

94 Interview with Ana Guadalupe Martínez and Daniel Gómez, FMLN Reconstruction Committee. San Salvador, January 12, 1994.

95 According to Carlos Lecaros, a UNDP top-level project coordinator, in one program, a government

- agency was not able to respond to a request that they train a small number of ex-combatants. In another, a large NGO with good connections to USAID and the GOES received the poorest evaluation responses among the five NGOs participating in a training program.
- 96 CRS is the international relief and development agency of the Roman Catholic Church of the United States. The agency has a long history of project cooperation with USAID which made it an ideal candidate for its key intermediary role between the SRN and opposition NGOs.
- 97 Letter of the Board of Directors of CIPHES to the World Bank Consultative Group, March 25, 1993.
- 98 MIPLAN-SETEFE, "Financiamiento Contratado y en Proceso de Negociación con la Comunidad Internacional para la Ejecución del Plan de Reconstrucción Nacional (PRN)", San Salvador, Diciembre de 1993.
- 99 Sollis, *op. cit.*, p. 43.
- 100 Interview with Raymond Lynch, USAID Staff, San Salvador, January 27, 1994.
- 101 Secretaría Nacional de Reconstrucción, "Plan de Reconstrucción Nacional Informe de Avance: Convenio "Paz y Recuperación Nacional" 519-0394, a noviembre de 1993, San Salvador, diciembre de 1993, p. 25.
- 102 Land transfer, discussed in the previous section, has also been a problem, but the figures given by SRN do not reflect the reality that some landowners have been paid by the Land Bank, perhaps with funds that did not initially pass through the SRN.
- 103 *Ibid.*, p.4.
- 104 Interview with USAID staff, San Salvador, February 4, 1994.
- 105 Sollis, *op. cit.*, pp. 6-8.
- 106 Interview with Miriam Hirezi de Meléndez, SRN/COMURES, San Salvador, January 28, 1994.
- 107 This comment of a Directiva member from Teosinte, Chalatenango is representative of comments received from members of the CDR in Tecoluca, San Vicente and members of CODECOSTA in Nueva Esperanza, Usulután.
- 108 Interview with Guillermo Galván, PROCAPP, San Salvador, January 14, 1994.
- 109 Secretaría de Reconstrucción Nacional, "Principales Logros Hasta Diciembre de 1993, San Salvador, Diciembre 1993.
- 110 USAID, "Evaluation of the Municipalities in Action Program for USAID/El Salvador" (draft), (San Salvador: December, 1994), Tables 23-24.
- 111 SRN, "Informe de Avance...", *op. cit.*, p. 25 and 21.
- 112 Interview with Antonio Tapia, ONUSAL, January 26, 1994.
- 113 ONUSAL-UNDP, "Programas de Reinserción para Ex-combatientes del FMLN", (San Salvador: Noviembre de 1993).
- 114 Interview with Sonia Aguiñada, Fundación 16 de Enero, San Salvador, January 14, 1994. The government insists that it remains focused on ensuring that the most qualified organization implements each project. USAID, which directly participates in the approval process for every project, echoes the official sentiment on this point.
- 115 Interview with Javier Castillo, FMLN Reconstruction Committee, San Salvador, January 18, 1994.
- 116 SRN, "Informe de Avance...", *op. cit.*, p. 5.
- 117 In earlier unions had claimed that the GSP status should be suspended because trade union leaders were being attacked or killed. Defenders of El Salvador in the U.S. claimed if that was happening it was not because they were union leaders but because they were with the FMLN. Since the war the issue focused on the substance of El Salvador's labor code.
- 118 For a good example of this see the thoughts on the peace process by leading columnist Waldo in *Diario del Hoy*, February 16, 1994, p. 3.



Hemisphere Initiatives

Hemisphere Initiatives (HI) was formed in 1989 to report on the Central American peace process and efforts to establish and strengthen democratic institutions throughout the region. It monitored and extensively reported on the Nicaraguan electoral process from May 1989 through the February 1990 election.

HI is currently monitoring the implementation of the Salvadoran Peace Accords signed on January 16, 1992 and the impact of those Accords on processes of democratization in El Salvador. The terms of reference for HI's mission include monitoring the political and electoral process leading up to the 1994 elections to assess the extent to which the Accords help guarantee free and fair competition for votes to the entire Salvadoran political spectrum.

Members of HI's Board of Directors visit the country regularly to measure progress and assess problems. They meet with government and opposition leaders, with journalists, with academic experts and independent observers. HI also maintains an in-country team of experts monitoring the principal areas covered by the Accords: demobilization and reforms to the military and security apparatus, the creation of a new national civilian police force under civilian control, human rights and reforms to the judicial system, the creation of a new electoral tribunal and new electoral code, and social/economic reforms including agrarian reform.

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The Unitarian Universalist Service Committee first began work in Central America in the early 1970s. UUSC provides support to grassroots organizations in El Salvador and works with Washington policymakers on a range of issues that affect the region's poor. The Service Committee has led 19 Congressional fact-finding delegations to Central America since 1978. UUSC also develops educational materials on current issues and mobilizes its membership for policy advocacy.
