

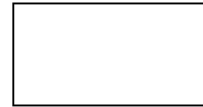


Director of
Central
Intelligence

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El Salvador: Performance on Certification Issues

Special National Intelligence Estimate

~~Secret~~

SNIE 83-1-83
14 January 1983

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EL SALVADOR: PERFORMANCE
ON CERTIFICATION ISSUES

Information available as of 13 January 1983 was
used in the preparation of this Estimate.

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THIS ESTIMATE IS ISSUED BY THE DIRECTOR OF CENTRAL INTELLIGENCE.

THE NATIONAL FOREIGN INTELLIGENCE BOARD CONCURS.

The following intelligence organizations participated in the preparation of the Estimate:

The Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the intelligence organization of the Department of State.

Also Participating:

The Assistant Chief of Staff for Intelligence, Department of the Army

The Director of Naval Intelligence, Department of the Navy

The Assistant Chief of Staff, Intelligence, Department of the Air Force

The Director of Intelligence, Headquarters, Marine Corps

KEY JUDGMENTS

During the past six months we have seen signs of modest progress in some areas, and no signs of backsliding on the part of the government or the military in their commitment to improve the human rights situation and reinforce democratic institutions in El Salvador. Nevertheless, positive efforts by the government in all areas continue to be hindered by deep-seated problems, and overall we conclude that there have been few dramatic changes since July. We expect progress to remain slow and arduous.

The government has made limited progress on human rights issues in the past six months, although in at least one area—the rate of civilian deaths—the improvement has been substantial. Other positive trends, such as good treatment of political prisoners, remain overshadowed by a virtually nonfunctional criminal justice system that has proved unable to indict and prosecute the accused.

Although some progress has been made in curbing abuses by the armed forces, El Salvador continues to have serious problems in this respect. Major problem areas remain the lack of fire control in populated combat zones and arbitrary violence committed by unsupervised security forces. Nevertheless, the military has increased efforts to educate and discipline subordinate officers and troops, and intelligence support has resulted in more selective targeting. In addition, replacement of a few commanders has been followed by a subsequent improvement in the human rights records of their units. Moreover, before launching operations some field commanders reportedly have received specific instructions to respect the rights of the local civilian population and to take guerrilla prisoners. They increasingly have adhered to these orders in operations of the past six months.

The government has demonstrated advances in political and economic programs, particularly in Phase III of the agrarian reforms, and the parties have shown a willingness to cooperate on major issues. A unity pact signed by the major parties has led to establishment of political and human rights commissions and a new Central Elections Council. A new constitution is scheduled to be completed this spring, and presidential elections are scheduled for March 1984.

The government continues its interparty discussions on reconciliation. On the issue of negotiations, the positions of all government and

military elements have coalesced against guerrilla terms for dialogue, but they will discuss a role for the guerrillas in the ongoing political process. San Salvador has renewed offers to the left to compete in elections and is drafting an amnesty law to help convince leftists to end the fighting. The government leaves the door open for possible informal talks to that end.

The killers of the US churchwomen have been identified, indicted, and have been remanded for trial in civilian criminal courts. There is no evidence of higher level complicity in these murders. Two members of the National Guard have confessed to killing two US representatives from the American Institute for Free Labor Development (AIFLD) and the president of the Salvadoran land reform institute. They have been ordered to stand trial. However, the three accused authors of these crimes—two military officers and a businessman—remain free.

DISCUSSION

1. The Intelligence Community has attempted during the past six months to broaden its coverage of El Salvador's efforts to meet qualifications for continued aid set forth by the US Congress. During this time we have realized some modest improvement in our []

[] Reporting from the US Embassy in San Salvador continues to provide our primary base of information on the fundamental issues involved in certification; the data provided appear objective and accurate and reflect the judgment of all elements of the mission. []

Human Rights

US Congress criterion for judging Salvadoran Government's performance: "Making a concerted and significant effort to comply with internationally recognized human rights."

2. Overall, the Salvadoran Government has made limited progress on human rights issues in the past six months relative to the period covered in the last report, although in at least one area—the rate of civilian deaths—the improvement has been substantial. Given the virtually nonfunctional criminal justice system in El Salvador, the standard for measuring progress in this regard is elusive. According to the US Embassy, only 300 criminals had been processed through civilian courts out of a national prisoner population of 4,000. []

3. The government's record on treatment of prisoners, however, is good. Those abuses that do occur, according to the US Embassy, usually happen during the process of arrest and not during detention. For example, the government claims to have under detention approximately 800 political prisoners. We know that some 700 are housed at the relatively modern Mariona Prison outside the capital. These prisoners range in status from captured guerrillas to leftist intellectuals suspected of subversion. According to US Embassy officers who have visited the prisoners, they are well fed and receive excellent treatment, including access to schooling, use of an industrial shop, and rights to conjugal visits in private dormitories. []

4. The government is attempting to expedite trial proceedings for political prisoners and is drafting a new amnesty law that will further help in reducing the

number of detainees. The establishment of an amnesty commission also is being considered to oversee the broader issue of assimilating guerrilla defectors into the political and economic mainstream as one phase of a democratic solution to the insurgent war. A seven-member human rights commission was appointed in early December, charged with formulating an "institutional mechanism that will promote and protect human rights." []

5. The insurgent war has intensified since July, and the rate of combat deaths on both sides has increased. The rate of civilian political deaths, however, has continued to decline markedly.¹ The monthly average of political deaths in 1981 was about 510, but for 1982 it dropped to 217—a decrease of 57 percent. Since July the death rate has dropped more than 40 percent from that of the first six months of 1982. []

Control of the Armed Forces

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

6. Our base of information has expanded in recent months regarding the behavior of armed forces personnel, although our ability to monitor military actions with any continuity or to confirm specific reports remains poor. [] sources over the past six months essentially indicate that military leaders continue to have problems in curbing abuses by subordinate elements. It should, however, be noted that this may be less the product of an increase in human rights violations than of a greater volume of [] reporting on the subject due to more aggressive tasking and collection efforts.

7. For example, the general staff remains largely ineffective in promoting fire control among combat units, although some improvements have been made over the last six months. US military intelligence reporting indicates that poor planning and carelessness on the part of some Salvadoran commanders during

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

bombardments and large-scale sweeps against guerrilla strongholds sometimes result in civilian loss of life and destruction of property. In some instances, moreover, the distinction between combatant and noncombatant can become blurred. We believe—and [] military reports []—that “guerrilla” casualties often include unarmed insurgent support personnel, camp followers, and innocent civilians trapped in the battle zone. On the other hand, increased intelligence support and training have resulted in more selective targeting. []

8. The tenuous and often nonexistent control of senior officers over elements of the paramilitary security forces and civilian irregulars is a continuing cause for concern. Reporting on human rights violations by military personnel largely reflects the excesses of these small rural-based constabulary forces. In isolated areas especially, where lawlessness is a way of life, semiliterate personnel led by a corporal or a sergeant all too often assume the roles of prosecutor, judge, and executioner. []

9. Senior military leaders, however, are continuing their efforts to overcome human rights abuses. Over the last six months, members of the high command have stepped up visits to posts in the interior, emphasizing to subordinate officers the necessity of disciplining troops guilty of abuses. The high command appears increasingly concerned that combat officers set a good example for their troops. The replacement of a few commanders has been followed by a subsequent improvement in the human rights record of their units. []

10. Defense Minister Garcia continues to take a leading role in curbing military abuses. In October 1982 he ordered a conference in San Salvador of nearly 300 local commanders—essentially all enlisted personnel—and reaffirmed the high command’s commitment to human rights and the penalties for committing abuses. We lack [] evidence, however, that these penalties are being rigorously enforced. []

11. Nevertheless, Garcia’s efforts to discipline and educate the military have shown some positive, although undramatic, results. Before launching an operation, some field commanders reportedly have received specific instructions to respect the rights of the local civilian population and to take guerrilla prisoners. They increasingly have adhered to these orders in operations of the past six months. They continue to take prisoners and interrogate them in a more professional manner. (c)

Progress on Reform

“Is making continued progress in implementing essential economic and political reforms, including land reform.”

12. The State Department and the Agency for International Development provide the bulk of our information on the reform process. All available information indicates that the government has made progress in some areas of political and economic reform, but has accomplished little in others. []

13. The function of government remains hampered by continuing tensions between the major parties. Increasing assertiveness by President Magana, however, has forestalled the kind of deadlocks that prevailed in the first months of his administration. Thus, despite periodic flareups within and among the diverse political groupings, moderates and hardliners have been able to fend off crises through compromise. For example, in September the three major parties agreed to divide the 261 mayoralties evenly, thus avoiding a government crisis. []

14. The ability of the parties to cooperate on some key issues was underscored by the signing in August of the “Pact of Apaneca”—a unity document in which the major parties pledged to cooperate on political, social, and economic reforms. As stipulated by the agreement, human rights and political commissions since have been formed and are functioning, with the latter setting a formal timetable for drafting and ratifying a new constitution by early 1983 and scheduling presidential elections for March 1984. The formation of a peace commission, however, remains mired in partisan controversy over its composition and mission. It reportedly will be formed by February, but Magana now envisions it as merely a subcommittee of the political commission. []

15. Problems with forming the peace commission have been caused largely by intransigence on the part of the extreme right, led by Assembly President D’Aubuisson. His tactics, however, have brought moderates closer together in an effort to limit his influence. We believe, therefore, that, while the coalition government remains vulnerable to partisan in-fighting, the overall trend points to increasing progress in policy formulation and implementation. []

16. The military remains the key to stability in San Salvador and continues to support the Magana admin-

istration. Magana's efforts to effect some degree of compromise have enabled the high command to reduce its involvement in civilian political battles over the last six months. Despite the recent dispute within the military, we believe the armed forces will remain the primary force for moderation. Should a change in the Defense Ministry take place in the next few months—as now appears probable—we believe the officer corps will again select a pragmatist to assume the portfolio.

17. While escalating insurgent attacks have put new strains on the economy, they have not deterred the armed forces from keeping the agrarian reform process on track. On balance, the relationship between the peasant organizations and the military has improved, and the land reform process in recent months has not met with the kinds of setbacks and controversy that occurred following the March election, when former landowners illegally evicted several thousand peasant beneficiaries.

18. Progress in Phase III (land to the tiller) has been particularly apparent since an Army colonel was appointed to head its administration and a top peasant leader was named to the presidential committee overseeing legislative action on land reform. For instance, according to information provided by AID in El Salvador, 1,380 applications for land titles were submitted in August and September, more than three times the figure (454) for the previous two months.

19. Such increases also are attributable to a government publicity campaign to inform eligible recipients of benefits and procedures. As of 1 October, applications for new titles since the beginning of the reform program totaled 38,615, according to AID. Since October, the government reportedly has set the goal of an additional 22,000 new applications by the end of March 1983. According to AID, more than 11,000 new applications had been received by year's end, indicating that government efforts are on track. Meanwhile, as of 1 October, 32,952 provisional titles had been distributed. The government hopes to increase this figure by an additional 14,000 by the end of March 1983; but by year's end the total had increased by only 1,722, suggesting that the government is well behind in reaching that goal. In addition, 157 permanent land titles were granted under Phase III during the past six months, bringing the total number of permanent titles granted to more than 400.

Elections and Negotiations

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

20. The government and military appear committed to holding presidential elections on schedule by March 1984. During a special plenary session in November, the constituent assembly appointed a new Central Elections Council to oversee the electoral process. The five political parties represented in the assembly each have one member and one alternate serving on the Council. The president of that body—elected by his colleagues—represents the moderate Democratic Action party, which currently holds no posts in the provisional government.

21. The Council is charged primarily with:

- Drafting a new electoral law.
- Preparing a new voter registry.
- Authorizing political party activities.
- Promoting the election process.
- Regulating its own internal functions.

22. The Council faces some fundamental hurdles, however, including its temporary status and the possibility that it could be restructured before the 1984 election. It also currently lacks financial and material resources, such as new computers to assure prompt and accurate voter tallies. Its predecessor's attempts to design a new voter registration system proved organizationally infeasible during the last election and probably also will be beyond reach for 1984.

23. National interest in the 1984 election, meanwhile, is already evident in the attempts of new parties to organize. To the disadvantage of D'Aubuisson, a conservative splinter party has emerged with considerable private funding and has successfully registered with well over the required 3,000 signatures. Two fledgling center-right groups and one left-of-center party also plan to participate in 1984.

24. We believe the government and the military are willing to make some attempts at reconciliation with the left before the presidential election. The Magana administration repeatedly has stated its policy of allowing leftist parties to register, campaign, and field

candidates for office. Nevertheless, government and military leaders of all stripes reject any proposals for negotiations aimed at achieving a power-sharing arrangement outside the ongoing political process. According to the US Embassy, the five parties in the assembly have debated the issue and appear to agree on three major points:

- Dialogue and/or negotiations at the initiative of the left are unacceptable.
- The left must compete for power in democratic elections.
- Any talks promoted by the government should have as their only objective the participation of the left in elections or its surrender.

25. The left's negotiation efforts have been largely propagandistic.

The left seeks to regain lost support—domestically and internationally—by portraying itself as the more legitimate governing alternative to the civil-military power structure in San Salvador. The Marxist-Leninist majority of the insurgent alliance views negotiations as a means of undermining the unity of the government and the military, while also buying time for the guerrillas to strengthen their political and military organizations. Even the concept of power sharing—totally unacceptable to guerrilla hardliners—is perceived by the less doctrinaire as a temporary phase before final victory.

26. Nevertheless, we believe that some leftist elements—such as Guillermo Ungo and his small coterie of moderate socialists—are sincerely interested in joining the electoral process and may be considering the possibilities for arranging a separate peace with San Salvador. Publicly and privately they have been pressing the government for concessions and guarantees that would make their participation viable. (s

27. We view as negligible the prospects for negotiating a comprehensive and binding solution over the next six months. The fundamental goals of the government and the Marxist-Leninist insurgent leadership appear irreconcilable. If elections take place, therefore, they are likely to be held once again in an atmosphere of violence.

Murders of US Citizens

“Good-faith efforts to investigate murders of six [US citizens] and bring to justice those responsible for those murders.”

28. Our discussion of this issue is based almost entirely on US Embassy reporting.

29. The five National Guard members accused in the slayings of four US churchwomen have yet to go to trial. Court-appointed defense attorneys routinely have appealed the presiding judge's order to begin trial proceedings on the basis of the available evidence. The appeal process is likely to be completed by the end of January and will determine whether the trial begins promptly or must be postponed pending further investigation. There is no additional reporting to suggest how the appellate court will rule.

30. We also lack information to assess the testimony of one court witness that the accused guardsmen may have been acting on orders from above. The witness has implied that the junior sergeant accused of planning and directing the killings might have only suggested they were under “higher orders,” presumably to elicit the cooperation of his peers.

31. We have no evidence suggesting the guardsmen were ordered by higher authority to carry out the crime, although we suspect that some attempts at a coverup probably occurred during initial investigation on the part of midlevel National Guard officials. The incident reflects the kind of arbitrary abuses by elements of the security forces that we believe still take place, albeit with less frequency.

32. Two members of the National Guard have confessed to killing two US representatives from the American Institute for Free Labor Development (AIFLD) and the president of the Salvadoran land reform institute. They have been ordered to stand trial. The three accused authors of the crime—military officers Lt. Lopez Sibrian and Captain Avila and businessman Hans Christ—remain free.

33. The whereabouts of Captain Avila and Hans Christ are unknown. Christ fled in 1981 to Miami, where he was detained by US authorities pending extradition to El Salvador on criminal charges. Charges were dropped by the Salvadoran Government for lack of evidence and with them the request for extradition. Christ may have left the United States for

Europe or South America. Captain Avila, meanwhile, fled the country in September following his polygraph by FBI officials in San Salvador. A civilian justice official indicates that Captain Avila's uncle is one of the most powerful members of the Supreme Court and has worked to block formal indictment proceedings against his nephew.

34. The case of Lt. Lopez Sibrian, who is currently on active duty, has underscored the continuing weaknesses of the judicial process. He was twice ordered released from military detention by two civilian judges, even though the evidence against him was formidable. Some Salvadoran leaders have admitted to US officials that his release for lack of sufficient evidence was a "travesty" of justice, and a senior military officer has alleged that the civilian judges were intimidated and bribed by rightwing elements.

35. Senior government and military officials are pressing the Salvadoran judiciary to rescind the release order and renew trial proceedings. The high command has denied Lopez Sibrian permission to leave the

country, and the government has appealed the release by lower court judges and expects a decision soon. According to US Embassy sources, if the appeal fails, the government will attempt to employ Decree 507 (state-of-siege law) and detain him under the terrorism clause for his role in a political crime against a public official. Success in this effort will depend on the judgment of the Supreme Court, which currently is against employing the state-of-siege law.

36. In broad terms, the Lopez Sibrian case continues to point up the endemic weaknesses and vulnerabilities of the entire Salvadoran situation. Despite the efforts of government and military leaders to prosecute, we have noted an increase in recent months in anonymous death threats and intimidation against court witnesses, civil and military officials, and US diplomats. The far right also has attempted to garner public support for the accused officers by painting them as innocent martyrs, and charging government and military officials with treason for colluding with the US Embassy. The events of the past six months make successful prosecution of Lopez Sibrian and the two other authors of the crime appear doubtful.

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