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REPORT ON EL SALVADOR AND NICARAGUA

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from California [Mr. LAGOMARSINO] is recognized for 60 minutes.

Mr. LAGOMARSINO. Mr. Speaker, this special order is to report to my colleagues on the trip I took to El Salvador and Nicaragua some 2 weeks ago as vice chairman of the Western Hemisphere Subcommittee of the Foreign Affairs Committee at the request of its new chairman, GEORGE CROCKETT. MIKE DEWINE and ESTEBAN TORRES also went.

I came back more than ever convinced that United States policy is correct—that we were right and continue to be right in supporting the Government of El Salvador and in assisting the prodemocratic anti-Sandinista forces in Nicaragua.

I want to primarily commend President Jose Napoleon Duarte for the significant progress which his administration has made in El Salvador during the past few years.

As most of us know, El Salvador has been moving along the road to full democracy. Since 1979, much progress has been made in the political arena in that country, including national assembly elections in 1982 and the free and open election of President Duarte in 1984, which I witnessed as an observer. Since then, President Duarte has continued to move his country toward a full democracy. He has called for national assembly elections next year and for Presidential elections in 1989.

By any standard, he has undertaken a democratic revolution in El Salvador based on freedom, not totalitarianism. He is attempting to solve the problems of his nation through a commitment to dialog and to civilian rule.

He is also to be congratulated for his deep and abiding commitment to human rights. There has been a dramatic decline in death squad activities in El Salvador and other human rights abuses and judicial reforms are underway there. A widespread human rights education effort has also begun. More remains to be done. President Duarte is committed to social reform and respects the will of the Salvadoran people in determining the future of that country.

The Salvadoran leader is determined to improve the economy of El Salvador in spite of a disastrous earthquake, guerrilla attacks on the infrastructure of that nation, and a decline in the export prices of many Salvadoran exports. President Duarte has wisely used U.S. economic assistance to better the lives of the Salvadoran people.

He has wisely professionalized the Salvadoran military, and that organization is assisting in stabilizing the country by providing security to the people of El Salvador who are being threatened by Communist guerrillas. The military is making progress in conduct of the war, and in respecting both human rights and the democratic process. I congratulate them and the Defense Minister Vides Casanova and urge them to continue and improve such activities.

All of these improvements have been made in El Salvador despite ongoing attacks by insurgents against Salvadoran economic targets and innocent civilians. In spite of their barbaric efforts, including indiscriminate mining, the Sandinista-backed guerrillas have failed to create political instability and economic chaos in that small country.

President Duarte continued to call for dialog with the guerrillas in spite of their unreasonable demands. Unlike the insurgents, the Salvadoran President has called for a prolonged peace that will benefit all of the people in that country.

In this spirit I commend this special order to my colleagues praising President Duarte for his outstanding accomplishments.

President Duarte, on conditions on aid to El Salvador, said:

It would weaken me if conditions are put on military aid. If you put conditions on me, you are putting the authority into the hands of others and the result would weaken me but not the military.

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I would hope, Mr. Speaker, as we consider legislation on this issue that we keep his words in mind.

We met with a number of groups in El Salvador, human rights groups. For example, we met with the Government Human Rights Commission. The commission works directly with the United Nations and with other international groups to include Amnesty International and Americas Watch; and while the commission now only reports on human rights violations, it may be able to prosecute in the future.

They reported that there were 25 cases of human rights violations by the armed forces that occurred in 1986 and 12 of those 25 cases resulted in prosecution, some released for lack of evidence.

The Salvadoran military do not have the court martial system, and the personnel must leave the military in order to be prosecuted by civilian judges. That is a real weakness in the system.

In the meeting that we held with President Duarte, I already told you what he said about proposed conditions on military assistance. He also told us that \$400 million in economic and military assistance for El Salvador is badly needed.

He pointed out that recent economic difficulties include a decline in the price of Salvadoran exports, the insurgency, the disastrous earthquake, a drought, the deficit, and return of many Salvadorans from the United States as a result of our new immigration law.

He did say that U.S. assistance has helped him to stabilize the political scene and to give human rights training to the military, and has brought social progress to the Salvadoran people.

He did say that he proposes a democratic revolution based on freedom and calls for a prolonged war of peace rather than a prolonged guerrilla war, as the insurgents are carrying out.

He pointed out also, in response to a question by one of our group that military assistance would not be needed at all if guerrillas would stop the war against economic infrastructure of that country.

He said, as he has on many occasions both in his own country and here, that the solution to the guerrilla war is a political, not a military one; dialog must be created with the guerrillas.

When we asked him about the question of whether or not Nicaragua was supporting the insurgency in his country, he said it was, and he pointed out to us that during the time that Salvadoran guerrillas held his daughter captive after they had kidnapped her, that all of the negotiations regarding her release were conducted with them in Managua, Nicaragua.

We also met with Gen. Vides Casanova, who is the Minister of Defense of El Salvador. He reported to us that since 1984, the military situation in El Salvador is better, and the armed forces have taken the offensive against the Salvadoran guerrillas. They are using more aggressive tactics, that they have air superiority which has hurt the guerrilla movement.

He said also that Salvadoran military operations are now 14 months in duration instead of 15 days, as in the past. He said that most of the military now respect human rights; and the army no longer interferes with civilian government.

He did say that the Salvadoran legal system has problems, which it certainly does; but that those are in the process of being corrected by judicial reform.

He said that the Salvadoran military now follows strict rules of engagement, but the guerrillas have none, however.

With regard to human rights, he told us, and I want to put in the *RECORD* at this point, he told us about the visit of the U.N. Special Rapporteur

who commended for progress in human rights and made the comment that most of the human rights violations in that country are now being carried out by the guerrillas.

The summary referred to follows:

SUMMARY OF SPECIAL RAPPORTEUR'S REPORT ON HUMAN RIGHTS IN EL SALVADOR

1. Following is text of summary of the U.N. special rapporteur's 1986 report on human rights in El Salvador.

SUMMARY

While remaining opposed in principle to the human rights double standard implicit in the continuing assignment of a UN special rapporteur for human rights in El Salvador, the GOES is largely satisfied that the 1986 report of the rapporteur is a fair assessment of the human rights situation in El Salvador. This satisfaction flows in large measure from the rapporteur's recognition of the tremendous progress made by the GOES over the past several years and the now officially documented increasing human rights violations being committed by the FMLN/FDR. The main substantive issues in dispute between the GOES and the FMLN/FDR over the past year were largely settled by the rapporteur in favor of the GOES:

(A) As the existence of a special rapporteur has become a political issue used by the left to question the legitimacy of the Duarte government, Pastor's praise of human rights progress and commitment of the GOES to the rule of law is seen as an endorsement of the legitimacy of the government.

(B) As the military are the primary focus for criticism, Pastor appears to have made a special effort to praise the performance of the military and the public security forces, noting that they are not in any way officially connected with what little rightist inspired violence that may remain;

(C) On questions related to observance of the Geneva Conventions and protocols thereto, Pastor criticizes the FMLN/FDR, not the GOES, saying the guerrillas misuse of civilian supporters and its indiscriminate land mine warfare constitute serious violations of international norms;

(D) On statistical accuracy, he questions Tutela legal's (the Catholic Church's human rights organization) methodology, calling it based on presumptions, not facts.

The GOES accepts as accurate his criticisms of the judicial system and the need to reform the legal code to deal with security prisoners.

The FMLN/FDR is incensed by Pastor's report and is questioning its objectivity. End summary.

3. Dr. Jose Antonio Pastor Ridruejo, United Nations special rapporteur for human rights in El Salvador, submitted his report "on the situation of human rights in El Salvador" to the United Nations third committee on October 21, 1986. Pastor's first report was presented to the United Nations Human Rights Commission in March 1982. Since then Dr. Pastor has visited El Salvador each September, submitting his preliminary report to the third committee each fall and his final report to the UNHRC each spring. In 1986 Pastor, an internationally respected Spanish jurist, visited El Salvador September 21-27, and met also with interested parties in New York. Throughout the year, both the Government of El Salvador and The FMLN/FDR guerrilla front provided Pastor with information. The following is a summary of Dr. Pastor's preliminary report for 1986. If past reports are any guideline, he will make only minor modifications before presenting it as the definite

report to The UNHRC meeting in Geneva in spring 1987. While we do not agree entirely with each of Pastor's conclusions, we believe that his is the most objective assessment of human rights in El Salvador written by an outside human rights expert. The report itself was submitted in Spanish and we understand that the UN does not plan to translate the report until it is submitted to the UNHRC meeting.

4. Note: Large portions of the report dealing with agrarian reform and the economy have been omitted from the following excerpts. We have also omitted the conclusion section which repeats much of the excerpts we have selected:

5. Begin excerpts:

I. General political situation

There has been greater respect for human rights during 1986. A state of siege remains in force suspending freedom of movement, freedom of expression, and freedom of correspondence.

II. Economic, social, and cultural rights

After citing in lengthy detail information about the state of the economy, land reform, and the labor situation, the special rapporteur turns to guerrilla sabotage of the economy. He cites Salvadoran governmental human rights commission statistics that in the period from September 1985 to June 1986 the guerrillas initiated 50 attacks against public and private transport including machine-gunning, fire bombing, and dynamiting. In addition the guerrillas declared five transportation stoppages. Other guerrilla targets were cooperatives, farms, crop dusters, banks, private residences. There were 15 attacks against towns or villages. Five phone company offices were attacked, 4 city halls, 2 court houses, 3 schools, and the National Census Office was burned.

The National electric company reported that during the same period of time, it suffered 1035 guerrilla actions against its installations including the destruction of 66 high tension towers, 541 posts, 45 transformers and two substations. Two electric company workers were seriously wounded when they sought to repair a downed tower which the guerrillas had rigged with a mine. Total loss to the electric company of equipment totaled over 19 million dollars.

The special rapporteur cites the August 27, 1986, International Herald Tribune that "rebel violations include an increasing number of summary executions, attacks on road traffic, dozens of kidnappings and the indiscriminate use of land mines, which probably kill and wound many more civilians than does bombardment by the (Salvadoran) army."

In the conclusion of the report the special rapporteur once again calls attention to the fact that the systematic guerrilla attacks against the economic infrastructure gravely endanger the present and future enjoyment by the Salvadoran citizenry of important economic, social, and cultural rights.

III. Civil and political rights

Assassinations: Pastor warns that one must "proceed with extreme prudence" in examining the number of assassinations because of methodological differences between sources of information and because of the difficulty of investigating the deaths, especially in the conflictive zones. After citing figures from various organizations including the U.S. Embassy, Pastor notes that "the special rapporteur believes that at present commanders and high-ranking officers do not help or protect" the death squads. The report notes that despite the different figures given by different sources, "there exists among them an important point of

coincidence: The number of political assassinations committed by agents of the state and perhaps paramilitary groups linked to the extreme right in 1986 is manifestly less than in 1985, which confirms the downward trend which was initiated in June 1984 when Jose Napoleon Duarte was inaugurated as President. The special rapporteur stresses the continuance of the downward trend while expressing the hope and desire that summary executions be completely eliminated in the shortest time possible."

Arrests and disappearances: The report notes that with regard to arrests and disappearances one must use great circumspection in evaluating the figures. As of September 23, 1986, there were 76 women incarcerated under the terms of decree 50 (which covers subversive activity) as compared to 44 one year previously, and 972 decree 50 prisoners in the men's prison as opposed to 462 in 1985.

Noting that the number of decree 50 prisoners has increased, "the special representative does not deny, of course, the right of the Salvadoran authorities to proceed legally against those attempting by force of arms to overthrow the constitutional order: his concern is centered on applying to such individuals a law as criticized as decree 50, whose long deadlines are not even met.

Treatment of political prisoners: citing information from a number of sources and testimony from individual prisoners. Pastor concludes that harsh psychological pressure is applied during the extrajudicial interrogation of some decree 50 prisoners. He notes that sources indicate that between 15 and 20 percent of political prisoners are psychologically abused although he "does not believe that it constitutes a deliberate and systematic practice by Salvadoran authorities."

State of the Salvadoran criminal justice system: After listing a number of unresolved high-profile cases which "demonstrate at the very least an anomalous slowness and high index of inactivity in the functioning of the Salvadoran criminal justice," he notes that ordinary Salvadorans deserve the same attention: "From the point of view of the rule of law all cases must merit identical treatment and interest as is required by the principle of equal justice under the law."

After reviewing data provided by the Salvadoran armed forces of soldiers turned over to the courts for prosecution, he concludes that all or almost all the cases involve common crimes and not violations of human rights committed with political motives.

The work of the Salvadoran justice system with regard to grave violations of human rights is "... highly unsatisfactory. While it is true that criminal investigations are initiated in all or almost all cases the impression is that these investigations advance at an extraordinarily slow pace and encounter almost insurmountable barriers to convictions, propitiating a harmful climate of impassivity."

According to the Salvadoran authorities, the obstacles to an adequately functioning justice system are: (1) Insufficient pay for judges and prosecutors, especially at lower levels; (2) lack of means to carry out investigations; (3) psychological pressure on the judges, many of whom were assassinated or threatened in previous years; (4) witnesses' fear of testifying in cases with political implications; (5) intimidated jurors; (6) legislation and procedures inadequate to the present climate of violence; and (7) destruction of courthouses and court records in the conflictive zones.

Violations of human and political rights attributed to the guerrillas: The special rapporteur, after cautioning that one must exercise the same circumspection when evalu-

ating information received in this field as in evaluating that received about offenses committed by government forces, cites figures from various sources of the number of persons killed outside combat by the guerrillas, the number of persons kidnapped for political reasons by the guerrillas—here he rebukes the guerrillas for not having permitted the international committee of the Red Cross to visit Col. Omar Napoleon Avalos, held by the guerrillas since October 26, 1985. (Department note: Avalos has since been released in an exchange for wounded and imprisoned guerrillas); the guerrillas finally permitted the ICRC to visit Avalos in October 1986—and casualties suffered by the civilian population during FMLN-declared "traffic stoppages."

IV. Situation of refugees and the displaced

Referring to operation "Phoenix" carried out by the Salvadoran Armed Forces against the guerrilla redoubt on Guazapa Volcano in January and February 1986, and the forcible evacuation of civilian followers of the guerrillas, the report notes that based upon "article 17 of additional protocol II of the Geneva Conventions of 1949, the removals (from Guazapa) were allowed insofar as the security of the civilians required it Given the reality of the war, the suffering experienced by the civil population affected by these removals is less than that which would have been caused them as a consequence of combat if they were to have continued living in the conflictive zones."

V. Human rights and the armed conflict

Regarding civilian deaths as a consequence of combat, the special rapporteur notes that "presumptions play an important role in the methodology" of Tutela Legal, the archdiocesan human rights office. He notes that Tutela Legal figures for civilians "presumably" killed by the army in combat includes combatants and "constitutes a presumption." (Americas Watch relies almost exclusively on Tutela Legal for its statistics).

Regarding the "Masas" or civilian followers of the guerrillas, the special rapporteur notes that it is often difficult to distinguish between the Masas and the guerrilla combatants. To the extent that the Masas do not take part in combat they should be considered civilian population. However, he notes that with some frequency people belonging to the "Masas" participate for periods of time in actions inconsistent with their role as civilians. He reports talking with a young woman who told him that she not only traveled with the guerrillas but provided supplies and helped them transport ammunition. He notes that this last activity deprives Masas of their identity as civilians. He concludes that the "line between combatants and noncombatants can at times be imprecise. This should not be construed to mean the special rapporteur is affirming the legitimacy of attacking the Masas. ... The active participation of the Masas in combat against the army, however exceptional and circumstantial it may be, can in fact motivate the harassment of the Masas and definitely result in some civilian victims caused occasionally by the army such as incidental damage to their property.

The special rapporteur believes that one of the reasons for the dramatic decline in the number of civilian victims caused by the ESAP is the removal from conflictive zones of the civilian population.

"The regular Salvadoran Army is conducting the war in a much more humanitarian manner at present than in the past and has been able to drastically reduce the number of civilian victims."

With regard to mines, the special rapporteur states his special concern and notes de-

tailed information given him by the governmental human rights commission concerning 69 civilians killed and 208 gravely wounded during the previous year. "The generalized opinion picked up by the special rapporteur from independent sources is that the immense majority of mines killing or wounding noncombatants had been placed by the guerrillas. For his part, Reporter James Lemoyne wrote in August 1986: "Although both the army and the leftist guerrillas use land mines, the majority of civilian casualties appear to be caused by guerrilla land mines, according to several villagers and to leading human rights officials." This is the opinion of the special rapporteur as well."

VI. Concern of the GOES with human rights

In his 1986 visit, the special rapporteur reconfirmed that the GOES "remains firmly committed" to "respect for human rights, a concern which is noted in the process of democratic normalization, which is gradually and progressively bearing welcome results."

With regard to judicial reform, "the special rapporteur reiterates his opinion that the judicial reform project is serious and testifies to the progress of its components, although he once again points out that its effects will be felt in the Salvadoran reality in the medium and long term, particularly since the goal is precisely to change mind sets and civic habits, changes which cannot be achieved overnight."

The special rapporteur understands definitely that the constitutional authorities of the republic of El Salvador are persisting in their efforts to improve the human rights observance within the process of political normalization; efforts, it is correct to say, which increasingly have resonance in the Salvadoran reality, particularly in the crucial terrain of respect for the life of civilians, both outside and as a result of combat."

VIII. Recommendations

"The special representative recommends in particular to the constitutional authorities in El Salvador:

(A) The prompt removal of legislation incompatible with international standards of human rights and the adoption of norms compatible with those standards, especially in the prosecution of political crimes;

(B) The continuation and intensification of control of extrajudicial interrogation of political prisoners in order to adjust to the aforementioned standards;

(C) The continuation and deepening of judicial reform and agrarian reform. ..."

The special rapporteur recommends especially to the forces of the FMLN:

(A) Refraining from locating mines which can kill or injure the physical integrity of the noncombatant population.

(B) Refraining from attacking the economic infrastructure in El Salvador.

(C) "Finally the special rapporteur recommends to all nations in the international community, particularly the wealthier and more developed, that within their possibilities they give necessary aid to provide relief and improve the conditions of life of those Salvadoran citizens who are refugees or displaced as a consequence of the conflict."

EL SALVADOR: 1,596 VICTIMS OF GUERRILLA LAND MINE WARFARE AWAITING TREATMENT

Indiscriminate use of land mines by the Salvadoran guerrillas united in the Farabundo Marti National Liberation Front (FMLN), joined politically with the Democratic Revolutionary Front (FDR), has resulted in the loss of one or more limbs by approximately 1,596 individuals who are