



**THE UNITED NATIONS IN EL SALVADOR:  
THE PROMISE AND DILEMMAS  
OF AN INTEGRATED APPROACH TO PEACE**

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**Abstract**

This work on the United Nations Observer Mission in El Salvador (ONUSAL) was completed in September 1993. Much has been published on the Mission and the Salvadorean peace process since then. Nevertheless, CERLAC has decided to distribute this study in the Occasional Paper Series since it provides original documentation and analysis based on field work and interviews, in addition to UN documents and secondary sources.

The research was conducted as part of a broader project on UN peacekeeping operations, funded by the Ford Foundation and directed by the late Professor David Cox, Department of Political Studies, Queen's University on behalf of the Canadian Centre for Global Security.

\*The authors would like to thank the UN officials, diplomatic corps personnel in various capitals, Salvadorean political leaders, human rights activists, and academic colleagues who generously granted interviews, provided information, and commented on previous drafts of this work. The non-attributed quotations that appear in this work come from these sources which, in some cases, preferred to remain anonymous. In particular, we wish to acknowledge the extensive and detailed comments provided by Henry Morris.

**This work is dedicated to the memory of Professor David Cox,  
Canada's leading scholar on the United Nations.  
His warmth, encouragement, and fine sense of humour  
are missed by his friends and colleagues.**

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## FREQUENTLY USED SPANISH ACRONYMS

ANSP	National Academy of Public Security (new police academy set up under the terms of the Chapultepec Accords).
ARENA	Nationalist Republican Alliance (the ruling party).
COPAZ	National Commission for the Consolidation of Peace (set up for implementation of the peace agreements).
DNI	National Intelligence Directorate (controlled by the armed forces) that was to be dissolved under the terms of the peace agreements.
FAES	Armed Forces of El Salvador.
FMLN	Farabundo Martí National Liberation Front (the revolutionary coalition that signed the Chapultepec Accords).
ONUCA	United Nations Observers in Central America.
ONUSAL	United Nations Observer Mission in El Salvador.
PN	National Police (military controlled police force that was to be dissolved under the terms of the peace agreements).
PNC	National Civilian Police (new police force organized under the terms of the peace agreements).

## **THE UN IN EL SALVADOR: THE PROMISE AND DILEMMAS OF AN INTEGRATED APPROACH TO PEACE**

### **Introduction**

The mediation and verification activities of the United Nations in El Salvador represent new departures in the history of peacekeeping. It was there that the United Nations first involved itself in negotiations to resolve an internal conflict in a sovereign nation and deployed a peacekeeping mission prior to a cease-fire: indeed, the Security Council unanimously approved the establishment of the UN Observer Mission in El Salvador (ONUSAL) on May 20, 1991 when civil war still raged in that country. The decision to move into the Salvadorean "imbroglio, when not all the parties could or would guarantee the safety of its personnel", in the judgement of one observer, was "absolutely revolutionary."<sup>1</sup> It bears stressing that, in addition to the continuing civil war, extreme right wing groups associated with death squads publicly threatened UN personnel prior to, and after, their deployment.

ONUSAL also marked the first time that human rights verification became the core component in the mandate of a peacekeeping mission. Indeed, the mandate was initially limited to the verification of compliance with the San José Agreement on Human Rights, signed by the Salvadorean government and the Farabundo Martí National Liberation Front (FMLN) on July 26, 1990. Moreover, although the Mission was conceived right from the beginning as an "integrated peacekeeping operation", authorized to monitor all subsequent

agreements that might be reached by the parties in conflict, the human rights component, in the words of the second Director of the Mission's Human Rights Division, was to form the "backbone" or "directive axis" for all of ONUSAL's work.<sup>2</sup>

It should be noted that the UN Transition Assistance Group in Namibia (UNTAG) (1989-1990) had some human rights responsibilities built into its mandate although it did not possess a distinct human rights division. See *The Blue Helmets* (1990), Chapter 17.

Another unprecedented aspect of the Mission lay in its civilian leadership.<sup>3</sup> Iqbal Riza, an international civil servant from Pakistan and previously head of the UN Observer Mission for the Verification of Elections in Nicaragua (ONUVEN) was appointed Chief of Mission. The possibility of extending the mandate of the UN Observer Mission in Central America (ONUCA) to verify the implementation of agreements in El Salvador was discarded for at least two reasons. The FMLN distrusted that military-headed peacekeeping Group whose state centric mandate of monitoring arms flows to irregular forces was perceived by the rebels as being directed against them.<sup>4</sup> In addition, since the United Nations expected to exercise various

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<sup>1</sup>. From comments provided by H. Klepak for the preparation of our initial study of ONUSAL which was published as chapter III of Stephen Baranyi and Liisa North, *Stretching the Limits of the Possible: United Nations Peacekeeping in Central America*, Aurora Papers 15 (Ottawa: Canadian Centre for Global Security, 1992). It should be noted, however, that the UN Operation in the Congo (ONUC) (1960-1964) was deployed in the transition from colonial rule and before an effective cease-fire had been reached. See United Nations, *The Blue Helmets: A Review of United Nations Peace-keeping* (New York: UN Department of Public Information, 1990), Chapter 11.

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<sup>2</sup>. Interview with Diego García Sayán, Director, Human Rights Division, ONUSAL, San Salvador, January 7, 1993. The same phrases are used by various UN officials. See, for example, Asamblea General, "Situación de los Derechos Humanos en El Salvador", A/47 (9 de octubre de 1992), para. 121. This report was prepared by Pedro Nikken, Independent Expert of the Commission of Human Rights and we will refer to it below as the Nikken Report.

<sup>3</sup>. The UN Temporary Executive Authority in West New Guinea (UNTEA) (1962-1963) also had a civilian head, as did UNTAG in Namibia. Both of these cases, however, represented transitions from colonial rule. See *The Blue Helmets* (1990), Chapters 12 and 17.

<sup>4</sup>. Moreover, some members of the ONUCA mission, officers from Latin American countries in particular, had failed to maintain the UN peacekeeping norms of impartiality and neutrality. See Baranyi and North, *op. cit.*, pp. 19-20.

functions in El Salvador, it wished to avoid the confusion in responsibilities that had arisen from the simultaneous functioning of several UN missions in Nicaragua.<sup>5</sup> Therefore the novel concept of an integrated operation under civilian leadership was developed.

Furthermore, no previous peace-keeping operation had involved as high a degree of UN intrusiveness into what have traditionally been considered the domestic matters of a sovereign state. In effect, following the signing of the Chapultepec Agreement that brought the civil war to an end on January 16, 1992, the United Nations role expanded from monitoring respect for human rights to overseeing and assisting El Salvador's transformation from a military dominated society to a civilian ruled democracy: at the signing ceremonies, the then incoming UN Secretary-General, Boutros Boutros-Ghali, hailed the peace settlement as "a revolution achieved by negotiations". In that respect, ONUSAL became a test case for many of the innovative proposals -- particularly those concerning peacebuilding through democratization -- that were later presented in the Secretary General's An Agenda for Peace.<sup>6</sup>

Finally, the multifaceted and complex character of the Mission's responsibilities, especially after the expansion of its operations following the Chapultepec Agreement, raised new organizational challenges. Those ranged from coordinating civilian, police, and military personnel with very different kinds of training, experiences, and prejudices to addressing gender issues in staffing and operations.

Below, we will first examine the factors that shaped the UN-mediated negotiation process

which concluded in the various accords that permitted the establishment of ONUSAL. Second, we will turn to the Mission's and the United Nations' performance in verification and provision of continuing mediation services in the areas of rebel demobilization and military reform; the reorganization of public security institutions; and respect for human rights together with the reform of judicial institutions. These were the responsibilities that corresponded primarily to the three divisions into which the Mission was organized. The third part of our work will deal with the implementation of the socio-economic measures and electoral reforms included in the peace settlement: the first of these was an area in which the United Nations did not expect to play a major role, and a new division was created in mid-1993 for monitoring the second. A concluding section will assess both the overall organization and functioning of the Mission, with reference to the established norms of peacekeeping operations, and its accomplishments in peacebuilding. Throughout, we will provide recommendations for the design and operation of future missions.

Our analysis is based on ONUSAL's performance through mid-1993. It is therefore only a first step toward the evaluation of the dilemmas posed by the integrated approach to conflict resolution embodied in that Mission. A conclusive evaluation will have to await until some time after the Mission leaves following El Salvador's March 1994 national elections. Moreover, the complexity and breadth of ONUSAL's mandate and operations are such that each of the areas of UN verification discussed here merits an independent study.

## **I. UN PEACEMAKING AND THE ONUSAL MANDATE**

The idea of using international peace observers in El Salvador dated back at least to the Latin American led Contadora peace process of 1983-1986 and it was enshrined in the Esquipulas II Agreement signed in August 1987 by the five Central American states. However, within six months, the government of El Salvador became one of the principal advocates of the dissolution of the International Verification and Follow-up Commission (CIVS) that was set up to monitor compliance with that Agreement. The Salvadorean government's

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<sup>5</sup>. These were ONUCA, ONUVEN, and the International Support and Verification Commission (CIAV). Although the Organization of American States (OAS) was responsible for CIAV operations in Nicaragua, the fact that it was jointly set up by the secretaries general of the United Nations and the OAS drew the former into its functioning.

<sup>6</sup>. An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping (New York, United Nations, 1992). To be sure, the previous UN peacekeeping operations (referred to in the footnotes above) included elements of peacebuilding and could therefore be considered precedents, but none had the breadth of ONUSAL's mandate.



opposition responded, in large part, to the Commission's unfavourable evaluation of the human rights situation in the country.<sup>7</sup> Subsequently, when ONUCA was established in 1989, it was widely believed that the Mission would be redeployed to El Salvador to oversee the demobilization of the FMLN after contra demobilization had been completed in Nicaragua.<sup>8</sup> This did not transpire chiefly due to FMLN opposition: in addition to the FMLN's distrust of ONUCA noted above, the rebel forces were unwilling to demobilize in the absence of prior political agreements.

Yet, peace talks that had languished for years were revived in January 1990 under the auspices of the then UN Secretary-General, Javier Perez de Cuellar. It should be recalled that proposals for negotiations had been presented and more or less pursued by the FMLN or the government in 1981, 1984, 1987, and early 1989. Ironically, rather than a peace proposal, it was an escalation of the war -- a massive FMLN military offensive in November 1989 -- that precipitated the breakthrough to negotiations. It did so by shattering the policy consensus in Washington. As William M. LeoGrande argues:

Since 1984, U.S. policy in El Salvador and the bipartisan congressional consensus behind it [had] rested on two key assumptions. The first was that the Salvadorean armed forces, bolstered by U.S. military aid, were gradually winning the war. The second was that the Salvadoreans were building a democracy to replace the nation's traditional military dictatorship. The strength and tenacity of the guerrilla offensive . . . [in] November [1989] shattered the first illusion. The army's response to the offensive [which included the murder of six Jesuit priests and their two

housekeepers at the Central America University and indiscriminate aerial bombing of civilian areas] shattered the second.<sup>9</sup>

Within a month, in December 1989, the government of El Salvador and the FMLN requested UN assistance in the resolution of the country's long-standing armed conflict. That request, it should be stressed, followed upon an already lengthy regional peace process that had been accelerated by a "hurting stalemate".<sup>10</sup>

The dramatic events surrounding the FMLN offensive and international reaction to them weakened hard-line groups in the El Salvador Armed Forces (FAES) and the ruling ARENA party while strengthening the hand of those favouring negotiations, led by President Alfredo Cristiani. On the rebel side in the civil war, decreasing prospects of obtaining any assistance from Cuba and Nicaragua, the demonstration effect of the problems confronted by the Nicaraguan revolution in the 1980s, and the rapidly advancing rapprochement between Washington and Moscow, certainly provided incentives for negotiating.<sup>11</sup> To both sides in the conflict, the November offensive demonstrated their relative equivalence as military forces: neither side was in a position to defeat the other in the foreseeable future.

Nevertheless, the fact that the FMLN actually demanded (and eventually gained) more concessions from the government after the fall

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<sup>7</sup>. See, for example, Andrés Opazo Bernales and Rodrigo Fernández V., Esquipulas II: Una tarea pendiente (San José, Costa Rica: EDUCA/CSUCA, 1990), pp. 202-206.

<sup>8</sup>. ONUCA Observer (November 1990), p. 8.

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<sup>9</sup>. William M. LeoGrande, "After the Battle of San Salvador," World Policy Journal (Vol. VII, No. 2, Spring 1990), p. 331. The Rector of the (Jesuit) Central American University, Ignacio Ellacuria, who had long been a leading and influential advocate of a negotiated solution, was also a leading candidate to become a negotiator in the resolution of the civil war. In the view of one close observer, "the fear of his potential role as negotiator was the principal motivation for the assassination".

<sup>10</sup>. See I William Zartman, Ripe for Resolution: Conflict and Intervention in Africa (New York: Oxford University Press, 1985) and also our previous work, Baranyi and North, *op. cit.*, pp. 4-6.

<sup>11</sup>. Lee Hockstader, "Salvadoreans Agree to End Civil War", The Washington Post (January 1, 1991). See also James LeMoyne, "Out of the jungle. El Salvador's guerrillas", The New York Times Magazine (February 9, 1992), pp. 24-29, 56, and 58.

1989 offensive than it had in previous negotiation trials suggests that the critical changes in political outlook that permitted an effective UN response occurred within the party in power and, little by little, in Washington. For example, in January 1989 the FMLN had simply proposed a postponement of the March 1990 national elections to September in order to resolve the conflict through the ballot box.<sup>12</sup> It also bears stressing that it was the FMLN that insisted on and obtained, in addition to UN verification, UN mediation (as opposed to good offices only, which was the government request).<sup>13</sup>

Initial consultations during January-March 1990 with the Secretary-General's Personal Representative for the Central American Peace Process, Alvaro de Soto, culminated in the Geneva Agreement of April which identified the four overall goals of the negotiations:

to end the armed conflict by political means as speedily as possible, promote the democratization of the country, guarantee unrestricted respect for human rights and reunify Salvadorean society.<sup>14</sup>

<sup>12</sup>. FMLN commander Joaquín Villalobos later noted ironically that it was a good thing that the government did not accept the rebel proposal for the FMLN would certainly have lost those elections. He also pointed out that the October 1989 FMLN proposal for a settlement to the conflict did not, for example, refer to the reform of the police forces that emerged from the later UN-mediated negotiations. In Francisco Santolalla, "Entrevista exclusiva con Joaquín Villalobos (FMLN)", *Ideéle* (No. 35, Año 4, Marzo 1992), pp. 27-29.

<sup>13</sup>. Interviews with UN officials in El Salvador, March 1992. One observer noted that "the government accepted mediation only reluctantly". See also Carlos Acevedo, "Balance global del proceso de negociación entre el gobierno y el FMLN", *Estudios Centroamericanos* (Vol. XLVII, Nos. 519-520, enero-febrero 1992), pp. 24 and 42.

<sup>14</sup>. "Geneva Agreement" in United Nations Department of Public Information and ONUSAL, *El Salvador Agreements: The Path to Peace*, May 1992, pp. 1-3. In what follows, we will refer to this volume, which includes the texts of all the agreements reached in the course of the UN-mediated peace process, as *El Salvador Agreements*.

That Agreement established the general framework for the long and complex process of UN-mediated talks -- they were to take two years to reach fruition -- and allowed the Secretary-General and his representatives to begin the necessary diplomatic work (see the Chronology of the peace process below).

**Table I**  
**Principal Steps in the Salvadorean Peace Process Leading to the Chapultepec Accord**

- Attempts to negotiate fail in 1981, 1984, 1987, and early 1989.
- December 1989: informal and indirect talks begin with representatives of the UN Secretary-General.
- April 4, 1990: the Geneva Agreement officially initiates the negotiations under the mediation of the Secretary-General of the United Nations.
- May 21, 1990: the Caracas Agreement establishes the agenda for the negotiations.
- July 26, 1990: the San José Agreement on Human Rights requests the establishment of a UN verification mission to monitor respect for and guarantee the exercise of human rights and fundamental freedoms.
- January 1, 1991: the Preparatory Office for ONUSAL is set up in San Salvador.
- April 27, 1991: the Mexico Agreements include provisions for Constitutional reforms related to the judicial and electoral systems, reform of the armed forces, the advancement of human rights, and the creation of a Truth Commission.
- May 20, 1991: The UN Security Council passes Resolution 693 authorizing the establishment of ONUSAL to verify compliance on all agreements reached.
- July 26, 1991: ONUSAL begins the

verification of the San José Agreement on Human Rights.

- September 25, 1991: the New York Agreement sets up a new agenda, establishes the Commission for the Consolidation of Peace (COPAZ), and provides for the disbandment of the security forces and the "purification" of the armed forces.
- December 31, 1991: the New York Act ends the armed conflict and includes provisions on the reform of the armed forces, the creation of the National Civilian Police (PNC), socio-economic measures, and the terms for the cease-fire.
- January 16, 1992: the peace agreements are signed at the Chapultepec Castle in Mexico City.

Thus Perez de Cuellar, immediately upon the success in Geneva, contacted the three countries that, in the words of de Soto, were not considered "impartial: the United States which only maintained relations with the government [of El Salvador], and the then Soviet Union and Cuba which only maintained relations with the FMLN."<sup>15</sup> Within a month, both Washington and Moscow publicly confirmed their support for the negotiations by voting in favour of a Security Council Resolution<sup>16</sup> which, among other things, "welcome[d] the efforts of the Secretary-General to promote the achievement of a negotiated political solution to the conflict in El Salvador."<sup>17</sup> Soon afterwards, on May 21, the Caracas Agreement, entitled the "General Agenda and Timetable for the Comprehensive Negotiating Process", was signed.<sup>18</sup>

Together, the Geneva and Caracas accords ensured that the United Nations would

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<sup>15</sup>. Francisco Santolalla, "Entrevista exclusiva a Alvaro de Soto", *Ideéle* (No. 34, Año 4, Febrero 1992), p. 25.

<sup>16</sup>. Security Council Resolution 654, 4 May 1990.

<sup>17</sup>. See Report of the Secretary-General, S/21909 (26 October 1990), para. 1.

<sup>18</sup>. See *El Salvador Agreements*, pp. 4-6.

play the principal verification role in any future peace agreements which, it was expected, would be concluded by the end of the year. In fact, the seven items in the first paragraph of the Caracas Agreement were expected to be resolved by mid-September. In addition to a "cessation of the armed conflict and of any acts that infringe the rights of the civilian population", the agenda items included "political agreements" on:

1. Armed forces
2. Human rights
3. Judicial system
4. Electoral system
5. Constitutional reform
6. Economic and social issues
7. Verification by the United Nations

All this, in turn, was to create the "necessary conditions and guarantees for reintegrating the members of the FMLN . . . into the civil, institutional and political life of the country".<sup>19</sup>

The talks, however, remained largely stalled on anything beyond procedural issues until clear signals from Washington demonstrated that the armed forces' status as a recipient of U.S. military aid was no longer sacrosanct. That happened on June 27 when the House of Representatives passed a bill recommending a 50 percent cut in U.S. military assistance until such time that the government of El Salvador pursued a serious investigation of the assassinations at the Central American University. Despite the Bush administration's strong opposition to such a change in policy, enough Senate support to impose the restriction appeared to be forthcoming.<sup>20</sup> Indeed, according

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<sup>19</sup>. Another paragraph referred to "Final agreements for the consolidation of the objectives of the Geneva Agreement and verification, where appropriate, by the United Nations". See *Ibid.*, p. 4-5.

<sup>20</sup>. Pamela Constable provides a synthetic discussion of U.S. Congressional reactions in "At War's End in El Salvador", *Current History* (Vol. 92, No. 572, March 1993). The investigation of the assassinations at the Central American University were closely followed by a congressional team headed by Democratic Representative J. Joseph Moakley. "At one point, Representative Moakley charged that the armed forces were 'engaged in a conspiracy to obstruct justice'. This prompted [Salvadorean Minister of Defence] General Ponce to suddenly offer broader military cooperation - a move Bush rewarded by releasing half the \$42.5 million in military aid frozen by Congress." P. 110.

to one observer of these events in San Salvador, "the Bush administration saw the talks as a way of obtaining the FMLN's surrender, and whenever de Soto seemed to be negotiating in earnest, he was attacked both privately and in public".

Partly as a consequence of the contradictory signals emanating from Washington and the fear that no substantive results could be achieved as scheduled in the Caracas Agreement, the discussion of human rights was brought forward in the negotiations as "something that everyone could agree upon". Remarkably, a "single all-night session produced" the Human Rights Agreement which was signed July 26, 1990 in San José, Costa Rica.<sup>21</sup> It requested the establishment of a UN verification mission to:

investigate the human rights situation in El Salvador as regards acts committed or situations existing as of the date of its establishment and to take any steps it deems appropriate to promote and defend such rights.<sup>22</sup>

That Agreement provided for the deployment of a UN mission only after the cease-fire, which was expected by the end of the year, had been negotiated. Soon after the San José Agreement was signed, however, it became clear that the objective would not be achieved as mapped out in Caracas and both the government and the FMLN -- under pressure from the Salvadorean public and the country's human rights community -- independently requested the deployment of a human rights monitoring mission.

With that request in hand, Secretary-General Perez de Cuellar and his staff began studying the feasibility of establishing the human rights monitoring component as a first step in the creation of the integrated peacekeeping operation with broader responsibilities. (The safety of UN

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<sup>21</sup>. The quoted material comes from the commentary of a close observer of the events who prefers to remain anonymous.

<sup>22</sup>. San José Agreement in El Salvador Agreements, p. 10.

personnel was, not surprisingly, a major concern.) Permission to establish a small Preparatory Office in San Salvador to further study this possibility was obtained from the Security Council in early September 1990. Yet, due to a number of factors, including a new FMLN fall offensive designed to demonstrate its continued military capacity and thereby to augment its negotiating power,<sup>23</sup> the Office was not opened until January 1991.

The talks then resumed in Mexico in February 1991, with a "working document" presented by UN-mediator Alvaro de Soto in October 1990 as their point of reference.<sup>24</sup> Meanwhile the Preparatory Office was beginning to function, in the words of one ONUSAL observer, "without a precedent to rely on" or learn from.<sup>25</sup> The initial tasks of the team of four young UN officials which established that Office were to gather information on the "micro-picture" in the country and inform key Salvadorean players concerning what ONUSAL might be doing shortly. Even though there were no immediate breakthroughs in Mexico, hostilities deescalated somewhat and the Secretary-General sent a Preliminary Mission to El Salvador to further investigate the possibility of deploying the human rights monitoring component of ONUSAL before a cease-fire agreement had been reached. Headed by Riza, that mission returned to New York and recommended that, despite the ongoing hostilities, ONUSAL could and should be deployed. The Secretary-General accepted the advice and, in mid-April, he requested Security Council approval for initial deployment.

Perez de Cuellar stressed that his reasons for urging the Council to authorize an

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<sup>23</sup>. Santolalla, "Entrevista con Joaquín Villalobos", p. 30.

<sup>24</sup>. That document dealt "with the most difficult issues of the negotiations, reform and purging of the armed forces". It "provided a mechanism for the two sides to identify their differences in a systematic way, as both sides would comment on proposals written by the UN mediator De Soto on various issues." David Holiday and William Stanley, p. 7 of original draft of article later edited and published as "Building the Peace: Preliminary Lessons from El Salvador", Journal of International Affairs (Winter 1993, Vol. 46, No. 2).

<sup>25</sup>. Interview with Gino Costa, Official for Political Affairs, ONUSAL, San Salvador, January 5, 1993.

early deployment were twofold: first, ONUSAL could appreciably improve the situation of human rights in El Salvador even in the context of ongoing hostilities; second, its presence would facilitate the UN-sponsored negotiations to end the war itself.<sup>26</sup>

The Secretary-General's request to establish ONUSAL was presented during a round of intense negotiations which ended with the signing of the Mexico Agreements on April 27, 1991. The second set of substantive results from the talks, those Agreements included: provisions for important reforms to the Constitution to withdraw the FAES from internal security functions through the creation of a National Civilian Police (PNC) and the establishment of an intelligence service under presidential direction, independent from the armed forces; measures to enhance the independence of the judiciary and of a new Supreme Electoral Tribunal vis-a-vis particular governments and political parties; and further steps to promote human rights, including the creation of an ombudsman-like National Counsel for the Defence of Human Rights. The still warring parties also finally agreed to the creation of a "Truth Commission", which was originally meant to be a part of the San José Human Rights Agreement: it was to be a 3-member panel of prominent international figures to be chosen by the Secretary-General to investigate "serious acts of violence that have occurred since 1980 and whose impact on society urgently requires that the public should know the truth".<sup>27</sup> Although many points in the Mexico Agreements were left vaguely elaborated since the negotiations, as in San José, "were also concluded in haste and under pressure", the results were widely and, as it turned out, correctly perceived as an important step forward.<sup>28</sup>

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<sup>26</sup>. "Centroamérica: esfuerzos en pro de la paz. Informe del Secretario-General", S/22494 (16 de abril de 1991) and Hoja de información 7, ONUSAL, 1991.

<sup>27</sup>. Mexico Agreements in El Salvador Agreements, p. 17.

<sup>28</sup>. The pressure felt by the negotiators was stressed by a close follower of the events. For a discussion of the subsequent legislation passed by the Assembly on April 30, 1991, see Centroamérica Hoy (No. 56, May 15, 1991) and "Acuerdos de México", 27 de abril de 1991, Hoja de Información 4, ONUSAL, julio de 1991.

The following week, the government and the FMLN consolidated the momentum created in Mexico by formally reiterating their request for UN verification of the San José Accord before a cease-fire. So just as the imminence of UN human rights monitoring may have facilitated the peace talks, the successful conclusion of another substantive agreement was used to strengthen Security Council support for early deployment: ONUSAL was approved on May 20 to "monitor *all\_agreements* concluded" between the parties to the conflict.<sup>29</sup>

Meanwhile, the Preparatory Office was already facilitating the conduct of the negotiations by providing logistical and other support. Officially, with the assistance of the ambassadors of Colombia, Spain, Mexico, and Venezuela -- which formed the "friends of the Secretary General" or "*los países amigos*" -- the Office organized with ONUCA a protected transportation service to get FMLN field commanders out of the country to participate in the cease-fire talks that began in May. Unofficially, it provided UN headquarters with information and analysis on the local situation to assist de Soto and other UN officials in the negotiations.<sup>30</sup> Thus, the Preparatory Office -- together with ONUCA which continued to function with a down-scaled presence in the region until mid-January 1992 -- contributed to improving the context for the peace negotiations.<sup>31</sup> This constructive interplay between the UN presence on the ground and the UN-mediated negotiations continued and was fortified in late 1991 after the ONUSAL Human Rights Division opened its doors in late July.

A separate cease-fire table had been established already in May, with the active

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<sup>29</sup>. Security Council Resolution 693, emphasis added.

<sup>30</sup>. Interviews with UN observers in San Salvador, March 1992.

<sup>31</sup>. Although some ONUCA staff acted in a biased fashion, the Canadian contingent largely escaped accusations of breaches of neutrality and it was a Canadian officer who was singled out by observers in San Salvador as particularly helpful. We have stressed the importance of the role played by the Canadians -- as experienced peacekeepers who upheld UN norms -- in our earlier work. See Baranyi and North, , pp. 19-21.

participation of UN Under-Secretary-General for Special Political Affairs, Marrack Goulding, but the two sides' positions remained far apart on the terms of a cease-fire, reform of the FAES, and the question of land reform. Then, after months of recrudescing warfare and little forward movement, another breakthrough occurred in mid-September when the site of the negotiations was moved to UN Headquarters in New York and the Secretary General, President Cristiani, and top FMLN Commanders became directly involved in the talks.

Several important events had taken place immediately before that new round in New York: in August, the superpowers had issued a joint statement strongly supporting the Secretary-General's mediation efforts and then U.S. Ambassador to El Salvador, William Walker, had established contact with the FMLN; in September, the incoming Legislative Assembly had re-ratified the first set of Constitutional reforms agreed upon in Mexico and already ratified by the outgoing Assembly<sup>32</sup>; and the Human Rights Division's first public report had been released (see section 2.3 below). Concrete steps looking forward to the organization of the PNC, a critical post-demobilization security element for the FMLN, had been taken also: a team composed of Canadians, Spaniards, and Swedes visited El Salvador in the summer of 1991 to study the matter. Their report found its way into the New York Act at the end of the year.<sup>33</sup>

Moreover, with the new venue of the negotiations in New York, the U.S. Ambassador to the United Nations and former Ambassador to El Salvador, Thomas Pickering, was in a position to play a more direct and independent day-to-day role in advancing them. According to a close observer of the negotiations, Pickering was considerably more supportive of the negotiation process than the Under-Secretary of State for Latin American Affairs, Bernard Aronson, and he brought the latter as well as the Bush

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<sup>32</sup>. Constitutional reforms require the approval of two consecutive Legislative Assemblies.

<sup>33</sup>. Interview with Robert B. Loosle, Training Manager, International Criminal Investigative Training Assistance Program (ICITAP), U.S. Justice Department, at the U.S. Embassy in San Salvador, January 8, 1993. ICITAP was contracted to manage the establishment of the new police force.

administration on board the UN-led and mediated negotiations.<sup>34</sup> Thus, when the talks stalled in late September due to the Salvadorean government's reluctance to accept the UN mediator's proposals concerning the FAES and the police, the United States placed pressure on President Cristiani to compromise.

Finally, on September 25, the two sides signed the New York Agreement which included general provisions for the creation of a Salvadorean National Commission for the Consolidation of Peace (COPAZ) to provide overall supervision of the peace agreements. Equally important were agreements, or specifications on previous agreements, on the "purification of the armed forces . . . on the basis of a vetting of all personnel serving in them by an ad hoc Commission"<sup>35</sup> and the reform (structural and doctrinal) of the FAES; the disbandment of the National Guard and the Treasury Police, and the replacement of the National Police (PN) by the new police force under civilian authority,<sup>36</sup> the establishment of a "Forum for economic and social accommodation, with participation by the governmental, labour and business sectors",<sup>37</sup> and guidelines on economic and social measures, including land transfers. The details and timing of these reforms, like the modalities of a cease-fire, were left to be hammered out at so-called "Compressed Negotiations" during the following months. On September 30, the Security Council responded by adopting Resolution 714

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<sup>34</sup>. In 1983, in the midst of an escalation in death-squad violence in El Salvador, Pickering had called those squads "fascists serving the communist cause" who killed "university professors, doctors, labor leaders, peasants and government workers." He continued, "None of us can accord to continue in the self-deluding belief that nothing is really known about the shadowy world of these individuals -- and therefore nothing can be done." *Newsweek* (December 5, 1983).

<sup>35</sup>. New York Agreement in *El Salvador Agreements*, p. 35.

<sup>36</sup>. "In a secret annex to the agreement, the FMLN agreed to forego all demands to participate in the Armed Forces, accepting instead a guarantee that their personnel" could join the new civil police. Holiday and Stanley, op cit, p. 420.

<sup>37</sup>. New York Agreement in *El Salvador Agreements*, p. 38.

expressing its readiness to authorize the deployment of the broader peacekeeping mission already approved in May.

In mid-November, the ONUSAL Human Rights office released its second report which recommended a series of steps to improve the human rights situation while emphasizing that only an end to the armed conflict could provide the necessary environment for fundamental change in this area. During the same month, fighting was effectively brought to a halt when the FMLN announced a unilateral truce throughout the country after U.S. Ambassador Walker, with the permission of the State Department, visited the rebel camp.<sup>38</sup> The government responded with the suspension of air operations and heavy artillery use. In addition, COPAZ -- where both ONUSAL and the Catholic Church had observer status -- began to function as an informal multi-party consultative mechanism even though it was not formally inaugurated until after the definitive cease-fire was reached.

Continued forward movement in the rounds of UN-mediated negotiations was all the more remarkable during October and November in the light of strong opposition from sectors of the ruling ARENA party and the political ultra-right in general: President Cristiani was bitterly criticized for accepting the New York Agreement and a campaign of intimidation erupted against the international press, and local non-governmental organizations (NGOs) and church groups supportive of the peace process, in addition to ONUSAL. Three Venezuelan Observers barely escaped serious injury when a car attempted to run them down.

Finally, in the last hours of December 31, 1991 (the clock was stopped), a cease-fire was agreed upon. The Secretary-General and President Cristiani were personally involved in these final moments during which the *paises amigos* exerted intense pressure on the FMLN and the Bush administration on the Salvadorean government.<sup>39</sup> In that New York Act, in addition

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<sup>38</sup>. Washington Post (November 12, 1992).

<sup>39</sup>. According to Tim Golden, the talks "nearly foundered once again in a dispute over land redistribution". The New York Times (January 1, 1992).

to the general terms for the cease-fire, agreement was reached on the dismantling of the military structure of the FMLN and the reincorporation of combatants into civilian life; as well, refinements were made to earlier negotiated provisions concerning economic and social matters, the reform of the FAES, and the organization of the PNC.

The government and the FMLN also agreed to have the new Secretary-General, Boutros-Ghali, "adjudicate any unfinished conflicts" at talks which resumed in early January to clarify timing and other details: when the "clock was stopped" on December 31, a large number of "bracketed paragraphs, which had been left aside for lack of agreement", still remained.<sup>40</sup> These were discussed during the next ten days which, in the view of one observer present at the sessions in New York, "were the most difficult moments of the negotiations". The Secretary-General had to exercise his right to adjudicate since the parties to the conflict again bogged down on some key issues, land transfers among them.

On January 16, 1992, after two years of UN-mediated negotiations, the Chapultepec Agreement that brought El Salvador's long and costly civil war to a close was formally signed in Mexico City: it had lasted twelve years and cost some 70,000 lives as well as billions in economic damage. While the package of accords signed in Chapultepec may not have represented the "negotiated revolution" hailed by the new Secretary-General, they did open the door to the possibility of fundamental transformations. In the words of Pedro Nikken, an Independent Expert of the UN Human Rights Commission who evaluated progress in implementation in the fall of 1992:

The design and content of the accords are directed not only toward ending the armed conflict by political means but toward the national task of constructing a new more democratic and solidary society in which unrestricted respect for human rights becomes the fundamental basis

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<sup>40</sup>. Interview with a UN official in San Salvador, January 1993.

of State action. It was not a question of only ending a war, but of eradicating its causes.<sup>41</sup>

As in the case of previous Central American accords, national, regional, and global factors converged to secure the breakthrough. Particularly significant were the dramatic shifts of attitude in the Cristiani government and the FAES General Staff, under pressure from not only domestic peace advocates in the human rights community and popular organizations but from a United States now willing to support the UN-led peace process in the new context of increasing superpower cooperation.<sup>42</sup> De Soto later singled out Ambassador Pickering's personal role as a "key" element in the success of the negotiations, particularly so during the critical last weeks in New York.<sup>43</sup> Nevertheless, this should not obscure the fact that the length of time it took to get to UN mediation and the establishment of ONUSAL was in large part due to Washington's historic opposition both to a negotiated settlement with the FMLN and to the deployment of any UN mission which might open spaces for the political survival of the rebel forces.

It must be emphasized that it was Congress rather than the Bush administration that initially conditioned military assistance to the FAES on progress in the negotiations and a "serious and professional" investigation of the assassinations at the Central American University. Indeed, as the search for a new Secretary-General was taking place during the second half of 1991, some peace groups in El Salvador and elsewhere feared that the White House was seeking a candidate who would see "the negotiations the American way, namely, as a more elegant way of achieving what they had not achieved at war: the surrender and effective

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<sup>41</sup>. Nikken Report, para. 238.

<sup>42</sup>. Rebel commander Joaquín Villalobos, in his earlier cited interview with Santolalla, argued that the end of the cold war was a "blessing" for the FMLN: "That perception of the conflict, predominant in Washington, was what blocked its solution". He also pointed out that when Soviet Foreign Minister Shevardnaze visited Managua in October 1989, the FMLN refused to see him, pp. 29-30.

<sup>43</sup>. Santolalla, "Entrevista exclusiva a Alvaro de Soto", p. 25.

elimination of the FMLN".<sup>44</sup> In the light of Secretary-General Perez de Cuellar's proven commitment to the negotiations, there was thus considerable pressure on the FMLN and the negotiators to reach a final agreement before the end of his term.

Beyond the Secretary-General's personal commitment, the skill and initiative of UN mediators -- Alvaro de Soto and Marrack Goulding most prominently among them -- also emerge clearly from the record, as does the importance of the support provided by middle power states. The "Friends of the Secretary-General" stand out in the public eye;<sup>45</sup> however, the support provided by other states -- for example, in formulating the guidelines for the creation of the PNC -- was also significant. In addition, participants in the talks and UN officials underline ONUSAL's 1991 record as instrumental to creating the mutual confidence necessary for the agreement.<sup>46</sup> On the one hand, as one UN official put it, "We helped persuade the U.S. Administration that peace in El Salvador was possible and verifiable".<sup>47</sup> On the other hand, FMLN field commanders were similarly convinced by actions such as the organization in September 1991 of the joint ONUSAL-ONUCA operation -- the "Palomina Service" -- to airlift key FMLN commanders out of the combat zones and bring them to the talks in Mexico and New York. Although the FMLN would not accept the redeployment of ONUCA to El Salvador, the rebels' day-to-day interactions with that group's personnel (in the field in conflict zones as well as in Managua and Mexico) created "rapport" with some of that Mission's members and greatly assisted in generating confidence in the UN role. At the

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<sup>44</sup>. From commentary provided by a close observer of the events in San Salvador.

<sup>45</sup>. The Secretary-General himself emphasized the importance of the "friends" to the UN-mediated Salvadorean peace process in Report of the Secretary-General, S/23402 (10 January 1992), para. 17.

<sup>46</sup>. Interviews with ONUSAL officials in El Salvador, March 1992. See also interview with Salvador Samayoa in Guillermo Galván, "El Salvador: son necesarias nuevas relaciones entre civiles y militares", *Esta Semana*, 18-24 de febrero de 1992 and Acevedo, *op. cit.*

<sup>47</sup>. From an interview with a UN official.



same time, the Preparatory Office functioned as a facilitating and confidence-building measure, thereby suggesting that the idea of such offices should be strengthened in the repertory of UN peacemaking mechanisms.

Indeed, when ONUSAL began to monitor the agreements, the confluence of all the elements identified above created what may be considered an "ideal scenario" for the United Nations, contrasting dramatically with the situations prevailing in, for example, Angola, Cambodia, and Yugoslavia. Among others, Diego García Sayán, the second director of the Human Rights Division, emphasized this, remarking that El Salvador was the "abnormal case" and a sharp contrast to the "real world" in which other UN missions were operating.

Although the confluence of favourable domestic and international conditions augured well for the United Nations, the implementation challenges in El Salvador remained daunting nevertheless. Through their peacemaking efforts, UN officials had catalyzed agreement on a broad package of accords. Where the details of implementation and verification remained undefined, mechanisms for their negotiation were established. Yet, some provisions remained quite vague and could present serious problems in the future. Most prominently, this was the case in the area of judicial reform and land transfers, but lack of precision also characterized aspects of the dismantling of security agencies. Indeed, some of the issues were blurred over in the interest of forging an agreement before the end of Secretary General Perez de Cuellar's term in office.

To be sure, the United Nations protected itself and the peace process against failure by upholding the broad mediation and verification mandates defined for it in the accords and in Security Council Resolution 690. In the following sections, we will review how the United Nations exercised this broad mandate. Would it help craft further agreements in a manner consistent with the spirit of the accords? How would ongoing peacemaking be reconciled with verification, which might require ONUSAL to denounce one party's violations? Which ONUSAL division or UN office would take care of peacemaking, and which office would verify commitments in grey areas like land transfers? How would these divisions and offices coordinate their activities? Finally, how would

the United Nations reconcile its immediate responsibility for ensuring compliance with the long term goal of strengthening domestic conflict resolution capacities?

## **II. IMPLEMENTATION, VERIFICATION AND ONGOING PEACEMAKING**

The combination of factors favouring peace in El Salvador generated great optimism concerning the implementation of the unusually ambitious set of reforms and the equally ambitious timetable to which the Salvadorean government and the FMLN had agreed. Nevertheless, the process quickly began to suffer from numerous setbacks and frustrating delays. Indeed, both the specific terms of the agreements and the calendar for compliance were to be repeatedly renegotiated under continuing UN mediation: Under-Secretary General for Peacekeeping, Marrack Goulding was called in for crisis resolution in March to stop land seizures; in August to deal with delays in the establishment of the new PNC; in September to negotiate land transfers; and in late October-early November 1992 to address a host of problems ranging from the "cleansing" of the officer corps to the organization of the new police force and the legalization of the FMLN as a political party. Meanwhile, Alvaro de Soto also continued to provide occasional mediation services (see Table II).

**Table II**  
**Principal Steps in the Implementation and Verification of the Salvadorean Peace Accords January 1992-May 1993**

- January 14, 1992: Security Council Resolution 729 authorizes the addition of a Military and a Police Division to ONUSAL.
- February 1: The cease-fire officially goes into effect and ONUSAL monitors the separation and concentration of FAES, security forces, and FMLN contingents to 150 agreed-upon locations.
- February 6: ONUSAL monitors the further concentration of FAES and security forces and FMLN contingents to 62 and 15 locations respectively

while the Police Division begins to monitor the activities of the National Police.

- Mid-March: Under-Secretary General for Peacekeeping, Marrack Goulding, visits El Salvador to mediate the crisis resulting from the FMLN slow down in the concentration of its forces in response to the Salvadorean government's failure to comply with provisions on security forces and transfer of lands.
- June 12: the military controlled National Intelligence Directorate (DNI) is officially replaced by the civilian directed State Intelligence Organ (OIE) but the United Nations fails to verify this change in practice.
- June 25: concentration of state and FMLN armed forces is completed.
- July 1: first 20% of FMLN forces are demobilized.
- July 31: National Civilian Police (PNC) Director is named.
- August: Mr. Goulding visits again to mediate crisis related to the establishment of the new public security organizations.
- September 1: National Academy for Public Security (ANSP) is established.
- September 23: Ad Hoc Commission tables its report on the "cleansing" of the officer corps.
- Mid-October: Mr. de Soto mediates agreement on land transfers.
- October 30: Messrs. de Soto and Goulding arrive to mediate disputes concerning the Ad Hoc Commission report and FMLN demobilization.
- December 14: Legislative Assembly approves new Electoral Code.
- December 15: final 20% of FMLN forces are demobilized, 65% of its

adjusted inventory of arms is destroyed, FMLN is recognized as a political party, and the armed conflict officially ends.

- January 15, 1993: UN Secretary-General rejects President Cristiani's plan for implementing Ad Hoc Commission recommendations.
- February 5: first two classes graduate from ANSP to PNC.
- March 15: Truth Commission tables its report on major cases of human rights abuses during the civil war.
- April 1: most FMLN weapons have been destroyed, all rapid action battalions have been dismantled, and the FAES has been reduced by 54%.
- May 27: Security Council Resolution 832 authorizes establishment of an Electoral Division to monitor the March 1994 general elections.

The personal interventions of the envoys from headquarters in New York, moreover, represented only the tip of the iceberg. As one ONUSAL observer exclaimed, "there were twenty and more such problems" with which the Mission had to deal. To make matters more difficult still, he considered ONUSAL's configuration into Human Rights, Military, and Police divisions -- and at least initially also its personnel -- ill prepared for tasks which turned out to involve considerably more than verification: "there was no peacebuilding division, nor was there a political division" to handle the resolution of the many unforeseen "political complications" that arose from the unusually comprehensive peace accords which included the creation of new institutions to respond to the causes of the war. In addition, there were the numerous details "that fell between the cracks of the three divisions" that were established. Moreover, what ONUSAL officials initially thought would be "purely technical questions to be handled by the United Nations Development Program (UNDP) turned out to be political",<sup>48</sup> other questions considered

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<sup>48</sup>. From interviews at ONUSAL headquarters in San Salvador during January 5-20.

the responsibility of COPAZ also turned up on the Mission's doorstep as that national commission proved itself considerably less effective than expected. In October 1992, a UN report noted tersely that the

functioning [of COPAZ] has been slow; its organization, deficient; and its conduct, less useful than foreseen for it has not even managed to elaborate the various draft laws for which it is responsible.<sup>49</sup>

In short, the translation of ONUSAL's mandate of monitoring "all agreements concluded" between the parties into actual operating procedures proved difficult. The interpretation of most aspects of the peace accords became subject to dispute, and the division of responsibilities within ONUSAL turned out to be less clear than a rapid glance at its structure might suggest.

Thus, although a year after the signing ceremonies at Chapultepec Castle, peace seemed assured in El Salvador -- not a single major infraction of the cease-fire had taken place -- the possibilities of bringing the military under civilian control and democratizing the political system through the creation of institutions that ensured respect for the full range of human rights -- the essence of the agreements -- still remained open questions. Convergencia Democrática party leader Rubén Zamora placed the enormity of the challenge facing the country into perspective when he pointed out that the full implementation of the peace accords implied laying the foundations for both a transition to civilian rule -- from 60 years of military domination -- and to democratic governance -- from nearly 200 years of post-independence politics based on the

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<sup>49</sup>. Nikken Report, para. 29. COPAZ was composed of two representatives each from the government and the FMLN, and one from each of the six political parties presented in the Legislative Assembly. The Commission was frequently deadlocked as three parties normally voted with the government and three with the FMLN. The former were the ruling ARENA party, the National Conciliation Party (PNC), and the Authentic Christian Movement (MAC); the latter were the Democratic Convergence (DC), the Christian Democratic Party (PDC), and the National Democratic Union (UDN).

exclusion of the majority.<sup>50</sup>

In this chapter, we will first review ONUSAL monitoring and UN-mediation of compliance with the cessation of the armed conflict and reform of the military. We will then turn to the internal security or policing provisions of the agreements and, finally, to the record of compliance on human rights, including the creation of a Human Rights Ombudsman's office and the reform of the country's notoriously corrupt and politically manipulated judicial system. Throughout, we will refer to the adequacy of the mission's organization in the light of the tasks assigned to it and include recommendations arising from interviews with ONUSAL officials and other observers.

## 2.1 Peacekeeping and Military Verification

With the successful conclusion of the negotiations, ONUSAL, as foreseen, proceeded to undertake supervisory activities beyond human rights verification. On January 10, the new Secretary-General requested that the Security Council expand the Mission's mandate to enable it to supervise the agreements pertaining to the cessation of the armed conflict and the dissolution of the National Police.<sup>51</sup> While the Secretary-General requested Security Council authorization for the expansion of ONUSAL's mandate and resources, in fact, such authorization had already been granted by Resolution 693 (1991), which mandated ONUSAL to supervise the implementation of "all" accords reached by the Government of El Salvador and the FMLN. Through Resolution 729, the Council authorized these changes on January 14, 1992.

Immediately after receiving the approval of the Security Council, ONUSAL established two new departments: a Military Division and a Police Division, with

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<sup>50</sup>. Rubén Zamora, "La izquierda en la encrucijada", interview with *Tendencias* (No. 15, Noviembre de 1992), pp. 21-23.

<sup>51</sup>. For information on the expansion of ONUSAL's mandate, see Report of the Secretary-General, *op.cit.* (10 January 1992) and Addendum 1, S/23402 (13 January 1992). See also Guillermo Galván, "Los Acuerdos Chapultepec son una victoria para el pueblo salvadoreño", *Esta Semana*, 21-27 de enero de 1992, p. 13.

approximately 1,000 personnel projected for the two.<sup>52</sup> Although commanded by military officers, the new divisions were placed under the authority of the civilian Chief of ONUSAL. Both had their headquarters in the capital and Regional and Sub-Regional Offices in roughly the same locations as those of the already functioning Human Rights Division.<sup>53</sup> In addition, the Police Division had several other Sub-Regional offices in the countryside<sup>54</sup> and the Military Division deployed a Verification Team close to each of the 15 designated FMLN concentration zones.

In organizing the Military Division, the United Nations could draw on its long established peace-keeping expertise and call on experienced personnel from ONUCA in particular. Thus the Division's design had been quickly prepared during December 1991, in consultation with Marrack Goulding, by a Canadian and a Spanish officer, the latter having acted as the military advisor to the peace talks.<sup>55</sup> Brigadier-General Suanzes Pardo of Spain, the former head of ONUCA, was appointed Chief Military Observer (CMO)<sup>56</sup> and Canadian Colonel Ian McNabb remained his Deputy. Thus, as in the case of ONUCA, personnel from the former colonial power in the region and from the

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<sup>52</sup>. Numerous military and police officers were already incorporated into the Human Rights Division when the two new Divisions were established. See Section 2.3 below.

<sup>53</sup>. That is, in San Salvador, Santa Ana, San Vicente, and San Miguel; the Sub-regional Offices were located in Chalatenango and Usulután.

<sup>54</sup>. In San Tecla, Sensuntepeque, and Gotera.

<sup>55</sup>. From interviews with Lt. Colonel (ret.) Henry Morris, Principal Liaison Officer to the Head of ONUSAL (formerly Chief Military Operations Officer in the Military Division, Central Region, San Salvador) San Salvador, January 5-20, 1993. Morris was the Canadian officer involved in the design of the Military Division.

<sup>56</sup>. Maintaining a down-scaled ONUCA office to oversee and encourage regional military disarmament conversations was considered by UN officials. However, given scarce resources, and since conflict had to end before disarmament could begin, the decision was made to close down ONUCA. In the words of Henry Morris, "it was a question of priorities in the context of limited resources".

country that had provided expert advice on peace-keeping to the Contadora Group as well as the United Nations took on principal responsibilities in the Military Division. Many of the Observers assigned to ONUSAL were simply transferred from ONUCA, along with much of the equipment that the UN Group had been using.

Canada, a country with extensive experience in peace-keeping, contributed the second-largest military observer complement (54 personnel) for the early stages of the Mission's operations, second only to Spain's 138. Relatively large contingents were also provided by three Latin American countries: Brazil (47), Ecuador (45), and Venezuela (40).<sup>57</sup> Thus the Military Division was mostly composed of personnel from countries with little peace-keeping experience and with recent histories of dictatorial rule and/or internal insurgencies. During the peak period of troop concentration in February, the Division numbered 375 Observers. Subsequently it was reduced to 284 in March,<sup>58</sup> and to 212 in January 1993, that is, following the demobilization and destruction of most FMLN arms on December 15, 1992 (originally projected for October 31) as well as the dissolution of most of the FAES rapid action battalions. Further reductions took place in February (to 103) and the Division was projected to remain with only a small contingent of less than 40 Observers by late 1993. Its numbers may be increased, however, during the March 1994 general elections.

The proportion of Canadian Observers decreased much more rapidly than the overall numbers (to only 11 in August 1992 and 10 in

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<sup>57</sup>. Altogether, eleven countries provided personnel for the Military Division. In addition to the countries mentioned in the text, these were Argentina (8), Colombia (8), India (11), Ireland (12), Sweden (9), and Norway (2) in February 1992; in January 1993, the numbers contributed by those countries were 7, 5, 2, 2, 3, and 0 respectively.

<sup>58</sup>. The Military Division was originally expected to have only 244 regular Observers following the troop concentration of February. However, the Salvadorean government and armed forces convinced the United Nations to deploy more Observers at FMLN camps, so about half of the 123 special Observers stayed behind in March. Interview with DCMO Colonel McNabb in San Salvador, March 1992.

January 1993) as a consequence of Perez de Cuellar's decision that the working language of the Mission would be Spanish. Meanwhile, the proportion of Spaniards increased (126 out of 284 in August and 110 out of 212 in January) while Brazil and Venezuela also continued to provide substantial numbers.

Soon after the signing of the Chapultepec Agreement, a three-member Joint Working Group (GCT) was established, under the Chairmanship of CMO Suanzes Pardo and with the participation of a representative each of the government and the FMLN. The Working Group coordinated the definition of the number of military personnel and armaments to be concentrated into the zones agreed upon and it, of course, helped clarify the procedures involved in concentration and demobilization.

Beginning January 15, the Military Division supervised, without major incidents, the separation and initial concentration of approximately 63,000 FAES members into 100 designated areas and of some 8,000 FMLN combatants into 50. Then, concentration was to proceed from the 100 to 62 locations for the FAES and from the 50 to 15 for the FMLN. "This was probably the most dangerous time because FAES and FMLN units had to cross each others' paths."<sup>59</sup> Remarkably enough, however, the cease-fire held although the process slowed down: it was not completed until June 25, instead of March 2 as originally projected. Although the FAES concentrated its regular forces at the 62 designated sites by the projected date, apparently they kept too many men deployed at too many "strategic locations" beyond these points. On the other side, the FMLN substantially slowed down the concentration of its forces, provoking accusations of rebel breaches of the accords on the part of President Cristiani and the United States.

In fact, the FMLN slowdown was motivated by the rebel forces' concerns over government breaches of other aspects of the peace agreements. As one ONUSAL official commented, "the FMLN was always up front and said that they were tying their military moves to political progress on other aspects of the peace

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<sup>59</sup>. From the earlier cited interviews with Henry Morris, January 1993.

process" although the United Nations did not officially accept such linkage.<sup>60</sup> On that occasion, the FMLN's concerns arose from the fact that the FAES had incorporated the security forces -- the National Guard and the Treasury Police -- into its structures without dissolving them as suggested (but not spelled out in detail) by the peace accords. Moreover, the government had failed to begin transferring land holdings in excess of 245 hectares to former combatants from both sides on February 1 as had been agreed.<sup>61</sup>

Thus UN officials from headquarters in New York intervened directly again as peace-makers, this being the first such occasion since the signing ceremonies. Under-Secretary-General Goulding travelled to El Salvador and, on March 18, obtained assurances from the government that land transfers would proceed and that the National Guard and the Treasury Police would indeed be dissolved and not be used for public order functions. However, ONUSAL officials "had to fight to get their dissolution"<sup>62</sup>, which was not accomplished until June 28. Moreover, in clear violation of the accords, "1,009 members of the Treasury Police and 111 members of the National Guard were transferred to the National Police prior to May 1" and so were, at a later date, "self contained units (including officers) from one of the demobilized Rapid Reaction Infantry Battalions".<sup>63</sup> When ONUSAL became aware of these transfers of personnel to the PN, it put a stop to them but it

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<sup>60</sup>. *Ibid.* At the time, the FMLN slowdown was explained in the media as the consequence of logistical problems: lack of sanitary and housing infrastructure in the zones of concentration. However, Henry Morris and others argue that those problems could have been quickly solved.

<sup>61</sup>. For a discussion of compliance on the different aspects of the accords and the extent to which the calendar of implementation slowed down, see Hemisphere Initiatives, Endgame: A Progress Report on Implementation of the Salvadorean Peace Accords (Cambridge, Mass., December 3, 1992). The Nikken Report also provides a detailed assessment of compliance -- particularly on human rights -- up to October 1992.

<sup>62</sup>. Interview with an ONUSAL official in San Salvador, January 1993.

<sup>63</sup>. Hemisphere Initiatives, *op.cit.*, p. 18.

"could not demand the dismissal of those already incorporated: that was one of many *faits accomplis* that ONUSAL had to accept".<sup>64</sup> Meanwhile, the FMLN held back the demobilization of the first 20 percent of its forces from the originally scheduled May 1 to July 1.

During these stages of concentration and initial demobilization, the Military Division suffered from a shortage of personnel due to the shortfall in expected contributions from UN-member states. Since helicopter mobility allowed a single unit to be responsible for two posts, this shortage did not prove critical. However, during the month of February, lack of rotation of the UN Observers between FAES barracks and FMLN camps did begin to generate problems as the Observers "were getting socialized to see all from the perspective of one or the other side".<sup>65</sup> This was corrected in March to ensure impartial behaviour. Thus, although on the whole, the purely "military aspects of the process really went off very well",<sup>66</sup> problems did emerge with Military Division Observers. For example, some "infantry personnel from countries where the military had been recently engaged in fighting an insurgency" had to be either removed from "day-to-day contact with the civilian population or be sent home" because they "abused local people, thereby detracting from the image of the Mission".<sup>67</sup> Some Latin American members of the Military Division, according to close observers of developments on the ground, may also have breached norms of neutrality by striking friendships with Salvadorean officers. However, as serious as these incidents were, they were entirely overshadowed by broader political conflicts that the Mission and New York confronted.

As stated, FMLN demobilization slowed down when the government failed to take action on some provisions (land transfers, most

prominently), complied only in a formalistic fashion with others (as in the case of the abolition of the security forces), or violated still others (the incorporation of personnel from the security forces into the PN). The most prominent and conflictive issues, however, involved land transfers (see chapter 3) and the recommendations of the Ad Hoc Commission which was established to determine how the officer corps would be "cleansed" of human rights abusers. Composed of three prominent Salvadoreans appointed by the UN Secretary-General in consultation with the signatories, the Commission presented its findings to Boutros-Ghali and President Cristiani on September 23, 1992. Monitoring the "cleansing" or "purification" was the responsibility of the Secretary-General rather than the Mission office.

The report's recommendations were considerably more severe than expected. Although not made public officially, it soon became widely known that of the 232 officers whose records were reviewed, almost half -- over one hundred colonels and generals, including the Minister and Vice-Minister of Defence -- were slated for discharge or transfer.<sup>68</sup> With only three months allowed for completing its work (later extended by one month), the Commission, which was appointed on schedule on 16 May 1992, was able to evaluate the records of no more than 10 percent of the officers corps: the 232 top ranking officers instead of the 2,293 on active duty originally agreed to. President Cristiani, who had thirty days to present his compliance plan and another sixty days to carry it out, balked. The FAES high command (including Defence Minister Ponce) denounced the report as a subversive leftist plot to destroy the armed forces and the Deputy Defence Minister described it as "'the prolongation of a strategy of leftist struggle against the Armed Forces,' aided by midlevel officials of the United Nations".<sup>69</sup> Although many junior and mid-career officers were apparently not only willing

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<sup>64</sup>. Interview with an ONUSAL official in San Salvador, January 1993.

<sup>65</sup>. *Ibid.*

<sup>66</sup>. From the earlier cited interviews with Henry Morris, January 1993.

<sup>67</sup>. Interview with a UN official, San Salvador, January 1993.

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<sup>68</sup>. Although the report was not made public, it was revealed that the exact number of officers involved was 103.

<sup>69</sup>. Cited by Lawyers Committee for Human Rights/The Americas, El Salvador's Negotiated Revolution: Prospects for Legal Reform (New York, June 1993), p. 54. This report provides a detailed analysis of the Ad Hoc Commission report and the UN efforts to obtain compliance on it, pp. 50-64.

but perhaps even eager to accept the Commission's recommendations,<sup>70</sup> Cristiani proposed to the UN Secretary-General that compliance be postponed to August 1993 and even later in the cases of some key officers.

In November, after nine days of intensive negotiations with UN envoys Goulding and de Soto, a compromise was worked out. The Salvadorean government was to present compliance plans on November 29 and proceed to carry them out at the end of December, in conjunction with the normal schedule of announcements concerning promotions and discharges of military personnel, in order to maintain the agreed upon confidentiality of the measures. Presidential action, in addition, was timed to follow upon the Secretary-General's confirmation of the complete demobilization and destruction of the weapons of the FMLN, rescheduled to December 15 from the original October 31 deadline.

The FMLN was subsequently demobilized in mid-December but Cristiani failed to comply with the November compromise in the cases of some officers. Meanwhile, FMLN leader Joaquín Villalobos, with support from a sector of the former rebel organization, had begun to bargain with the President for assurances of greater security and resources for FMLN leaders and supporters in exchange for acquiescence to the postponement of the full implementation of the Ad Hoc Commission recommendations until the end of Cristiani's term in office in June 1994.

When news of the bargaining broke out, a broad range of unions and popular organizations, FMLN and other political leaders, human rights groups, church agencies, and the Central American University publicly denounced any effort to water down the Commission's recommendations as acquiescence to a continued military veto power. They insisted that full compliance with the Ad Hoc Commission report was a *sine qua non* for establishing civilian control of, and reforming, the armed forces. An

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<sup>70</sup> Pamela Constable writes: "Many younger officers welcome the purge as necessary in rebuilding the image of the armed forces, and also as a means of eliminating high-ranking officers from the military academy class of 1966, known as the '*tandona*', who had essentially controlled the army for years." *Op.cit.*, p. 109.

editorial in the University's weekly news bulletin argued:

The FMLN has committed a serious political error by accepting the negotiation of cleansing [depuración]. . . Negotiating with the government to obtain the best possible social and economic benefits is legitimate but cleansing is not negotiable . . . In politics, pragmatism is necessary but never at the cost of negotiating principles.<sup>71</sup>

As an ONUSAL official pointed out, the fact that the "FMLN [was] not unified on how much flexibility [was] in order" did not help the United Nations in insisting on compliance. Nevertheless, on January 7, 1993, the Secretary-General rejected Cristiani's proposals concerning 15 cases as "not in compliance" and "therefore not in conformity with the peace accords".<sup>72</sup> "Boutros-Ghali ruled that Cristiani's actions on 87 officers complied with the peace agreements but that his appointment of seven as attaches and his deferral of action on eight others were violations." Stanley Meisler, "Salvador Failing to Fulfil Pact, U.N. Says", *Los Angeles Times* (10 February 1993).

The question of the "cleansing" remained at an impasse even after the release, on March 15, of the report concerning major human rights abuses in the course of the civil war prepared by the Truth Commission, which also reported directly to the Secretary-General (see 2.3 below).<sup>73</sup> Although Defence Minister Ponce

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<sup>71</sup> "La depuración plantea una nueva crisis", *El Salvador proceso* (Año 13, número 545, 6 enero 1993), pp. 1-2.

<sup>72</sup> Lawyers Committee, *op.cit.*, p. 58. The Ad Hoc Commission had called for the discharge of 76 officers and the transfer of 26 to other functions. "But instead of complying with the commission's demand, Cristiani dismissed 23 officers, transferred 25, allowed 39 to remain in the army until their retirement within six months, named seven as military attaches in Salvadorean embassies and deferred action on eight others for the remainder of his term.

<sup>73</sup> Its members were former Colombian president Belisario Betancur, president of the Commission; former Venezuelan foreign minister Reinaldo Figueredo; and Thomas Buergenthal, professor of law

resigned two days before the Truth Commission cited "substantial proof" that he had led the conspiracy to assassinate the Jesuits at the Central American University, President Cristiani did not accept his resignation.<sup>74</sup> It was not until April 1 that the government presented a proposal that was accepted by the Secretary-General: it involved completing the implementation of the Ad Hoc Commission recommendations by June 30. Meanwhile, the governments of the countries that had supported the negotiation process -- that is, *los países amigos* -- had "sent a clear message that the government must comply fully"<sup>75</sup> and, in mid-February, the recently inaugurated Clinton administration had informed Cristiani that "it was holding back \$11 million in military aid until there was full compliance with the [Ad Hoc] Commission's earlier call for the dismissal of officers implicated in the worst abuses".<sup>76</sup>

Other issues that became sources of conflict in the military area included the arms inventory submitted by the ex-guerrillas in January 1992. The FMLN first claimed to possess no more than 4,000 rifles, a few hundred machine guns, and a small reserve of bazookas, mortars, grenade launchers, and SAMs. The government and FAES, as well as independent observers, found these figures difficult to believe since they implied that the Frente had fewer weapons than combatants<sup>77</sup> when, by all accounts, weapons had been widely available in the region, especially since the contra demobilization in Nicaragua and Honduras. ONUSAL insisted on a revised version which -- "more realistic than the initial one", in the words of a Military Observer -- was later submitted and approved by the Mission on December 8, 1993. Meanwhile, the FAES held back the dissolution

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and honorary president of the Inter-American Institute for Human Rights in Costa Rica.

<sup>74</sup>. "A U.N. Panel Urges El Salvador to Dismiss Senior Military Officers", The New York Times (March 16, 1993).

<sup>75</sup>. Lawyers Committee, *op.cit.*, p. 62.

<sup>76</sup>. "State Dept. Praises 'Truth'; Ex-Aides Critical", The New York Times (March 16, 1993).

<sup>77</sup>. Interviews with ONUSAL officials, March 1992, and "La marcha del proceso de desmilitarización", El Salvador proceso (Vol. XII, No. 506, 4 marzo 1992), pp. 5-8.

of three of its rapid action battalions -- the Atlacatl, Arce, and Atonal -- until the United Nations approved the FMLN inventory and verified the destruction of its arms. By December 15, 1992, ONUSAL had verified the destruction of 65 percent of the FMLN's revised inventory; by February 11, 1993, it had certified the destruction of almost all weapons held by the former rebels in El Salvador, and by April 1, of weapons held outside the country. Only a small number of sophisticated FMLN weapons remained to be destroyed by ONUSAL in June 1993 pending the government's full compliance with the Ad Hoc Commission recommendations.<sup>78</sup>

It is clear that although the FMLN handed over at least most heavy and medium armaments, both the rebels and the government retained arms that were prohibited by the agreements. In mid-1993, to the great embarrassment of the United Nations and ONUSAL, an arms cache sufficient to completely rearm one of the constituent groups of the FMLN was discovered in Managua: this was a very serious infraction of the peace accords, and its domestic and international political costs on the FMLN were high. On the other side, the FAES distributed armaments to government loyalists and members of Civil Defence Units (which were technically disarmed by May 31, 1992) as well as members of the Territorial Service (the FAES reserves that were supposed to have been replaced by a new system, also by that date, but were still active in the fall of 1992).<sup>79</sup> As in the case of Nicaragua following the contra demobilization, El Salvador remained awash in arms that fed waves of "delinquent violence" involving, in the words of one ONUSAL Observer, "ex-soldiers, ex-police, and the occasional ex-FMLN fighter".<sup>80</sup> In late May

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<sup>78</sup>. Report of the Secretary-General, S/25812 (21 May 1993), para. 15.

<sup>79</sup>. Moreover, Civil Defence and Territorial Service personnel were still being utilized for making arrests by some local judges in the fall of 1992. Nikken Report, paras. 78 and 203.

<sup>80</sup>. "The threat to life appears to have increased as a consequence of delinquent actions. It is well known that a large quantity of weapons of war remained in the hands of civil society, outside the control of the authorities and that such arms have been seen in the hands of common delinquents. The objective of



1993, the Secretary-General reported that the collection of FAES arms from private individuals was not progressing at all: "the fact that . . . the process remains at a virtual standstill is a source of grave concern." Report of the Secretary-General, *op.cit.* (21 May 1993), para. 20.

Significantly also, the agreements were quite vague on how the dissolution of the military controlled National Intelligence Directorate (DNI) -- the historic nerve centre of state surveillance and repression -- would be monitored. The DNI was replaced by a new civilian directed State Intelligence Organ (OIE) on June 12, 1992; it was to be staffed and trained in accordance with the objectives of national reconciliation. A year after Chapultepec, however, it was clear that the Mission had not been able to play an effective role in the dissolution of the DNI. Although the OIE had been created, the Independent Expert of the UN Human Rights Commission found that its

new director [had] informed COPAZ that he does not know the destiny of the [DNI's] archives, equipment, and other materials that pertain to the activities for which he is now responsible [and] that neither has he been provided with budgetary resources. Nor is there information on the personnel of the dissolved DNI, for none of its ex-members have asked to be incorporated into the new organ . . . or taken advantage of the alternative regime of compensation [stipulated in the accords]. This combination of circumstances has made some sectors think . . . that the suppression of the DNI and the creation of the OIE has taken place only . . . [formally and] that the old organ continues to operate in secret while the new one does not exist in reality.<sup>81</sup>

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collecting all weapons of war in private hands has not been accomplished." Nikken Report, para. 244.

<sup>81</sup>. Nikken Report, para. 204.

Nevertheless, despite the delays, frustrations, and some serious violations, measurable progress had been made by year's end on military matters. Although both sides retained arms, the FMLN was demobilized and the armed conflict finally came to an official end on December 15, 1992; although security force and rapid action battalion members and even units were integrated into the FAES and the PN, their independent structures were dissolved in the course of the year; and important steps to "cleanse" the officer corps of human rights violators had begun. By April 1993, all five rapid action battalions of the FAES had been disbanded and it had been reduced in size by over 54 percent.<sup>82</sup>

In general, the mandate and responsibilities of the Military Division in these processes were relatively straightforward -- for the most part, they involved the verification of the demobilization and reduction of armed forces. In these matters, as already noted, the United Nations acted in its area of traditional competence and, overall, the mandate was effectively carried out with adherence to the traditional norms of peacekeeping, including non-use of force. Nevertheless, problems concerning the maintenance of impartiality did emerge among infantry personnel from national contingents with recent experiences of armed internal conflict within their home countries. In addition, the preponderance of Spanish observers, especially in the later stages of the Mission, detracted from the balance that peacekeeping missions, according of UN norms, should maintain. Consequently, for example, patrols that should have been made up of personnel from more than one nation wound up being manned by Spanish officers only. This, in turn, led to some tensions and to allusions by local wits to the Mission as the "second conquest".<sup>83</sup>

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<sup>82</sup>. Report of the Secretary-General, *op.cit.* (21 May 1993), paras. 17 and 18.

<sup>83</sup>. An ONUSAL official also pointed out that the preponderance of any one national contingent "in a Mission carries a host of problems, including the formation of cliques which detract from its effectiveness and morale. . . With too many officers from one country, they naturally fall back on the norms of their home institution rather than UN norms".

Progress on the broader issue of civilian control of the military was considerably more difficult to gauge. President Cristiani's unwillingness or incapacity to carry out the recommendations of the Ad Hoc Commission report in a timely fashion certainly evidenced significant military power and autonomy. As for the reform of FAES doctrine and its impact on military education -- to reorient the institution toward external security functions, obedience to civil authority, and respect for human rights -- the information available is not sufficient to make an assessment. As of mid-1993, the broad outlines of a new doctrine congruent with the stipulations of the peace accords had been publicized and the Human Rights Division was providing some lectures to military personnel. ONUSAL observers also provided advice to the military academy's academic council but they did not have the capacity to observe the changes that might or might not be taking place in class rooms.

In this respect, an ONUSAL Military Observer proposed that the United Nations could make a contribution by sponsoring 3-month courses on peacekeeping -- organized "by the old hands of the trade: Canada, Ireland, and Sweden" -- for Salvadorean armed forces personnel. Such courses could serve to "refocus [the FAES] on new ways of conceiving of the military mission and to improve morale in the right direction . . . El Salvador could then provide a medical unit, a helicopter unit, or a battalion to Somalia, for example". Although we have questioned in other works the advisability of the integration of military personnel from armed forces with recent records of abuse into UN peacekeeping missions, it appears to us that units trained in the manner proposed above could be employed.

To participate in such training programs with the United Nations in El Salvador, or through bilateral missions in other Latin American countries, nations with experience in peacekeeping would have to provide Spanish language training for their officers. This appears particularly advisable for Canada since it is a hemispheric nation and a member of the Organization of American States (OAS),<sup>84</sup> one of

<sup>84</sup>. As one of the Canadian observers with ONUSAL commented, "we have become an acceptable and welcome player in the region and we should build on that judiciously".

the regional organizations proposed in An Agenda for Peace for partnership with the United Nations in peacemaking and related responsibilities.

The important advances registered in the military sphere were greatly assisted by ongoing internal and external pressure: from the FMLN, other opposition political forces, popular organizations, and human rights agencies in El Salvador; and from the United States and the *paises\_amigos* in particular in the international arena. Yet, whatever the organizational and coordination problems within the Mission may have been, one must not lose sight of the overall efficacy of the UN and ONUSAL performance: the professional competence of the Military Division; the ongoing peacemaking interventions of not only the officials from headquarters who travelled to San Salvador for crisis resolution but also the day-to-day efforts of Mission leaders and observers; the boldness of the investigative work of the Ad Hoc Commission; and the insistence of the Secretary-General's office on full compliance with its recommendations despite the bargaining on the calendar of implementation that began between some among the former parties in conflict. The challenge ahead for the United Nations and ONUSAL lay in ensuring that the successes obtained in the peacekeeping sphere were not undermined by incomplete implementation of outstanding military reforms and other aspects of the agreements as discussed below.

## **2.2. Public Security Verification and the Creation of the National Civilian Police (PNC)**

In contrast to the Military Division, the organization of the Police Division represented a fairly new departure for the United Nations.<sup>85</sup> In fact, numerous police personnel were already incorporated into the Human Rights Division that had been functioning since mid-1991. Consequently, the UN Secretary-General asked the ONUSAL personnel already on the ground in San Salvador to advise him on the possibility of simply incorporating more police into the operations of the Human Rights Division rather than creating a new division. That option was discarded (in retrospect, probably mistakenly),

<sup>85</sup>. UNTAG (1989-1990) also had a large Police Division.

on the grounds that, given the monitoring responsibilities of the police, their presence in the Human Rights Division would make it "at the same time, party to, and judge" of local police behaviour.<sup>86</sup> It was also then decided that the Human Rights Division would not take responsibility for the monitoring of a "special security regime" in, and the return of judges and mayors to, the former zones in conflict.

Although fine "in principle", these interpretations of the functions of the Human Rights Division and the assumption of potential conflict between police and human rights monitoring ignored the interrelated nature of the different aspects of the accords and the need, in the words of the Secretary-General for "close coordination of human rights and police work".<sup>87</sup> But as a result of these decisions, then, the monitoring of the "special regime" and of the return of the officials became the responsibility of the Head of Mission, Iqbal Riza, to whom both human rights and police personnel had to report on these matters.

The lack of coordination between police and human rights monitors was to become a source of problems which were later identified and pointedly criticized by independent human rights agencies.<sup>88</sup> In practice, the two divisions performed many of the same or overlapping tasks during 1992 but even communication between police and human rights observers was often less than fluid as a consequence of the

organizational structure adopted. In addition, differences in perspective arose from the distinctive professional backgrounds of police personnel trained to defend existing state institutions and human rights lawyers prepared to question them.

We will return to these issues after examining the make up and mandate of the Police Division, its performance in the field, and other public security issues that ONUSAL eventually had to address in relation to the creation of the PNC in particular.

Created primarily to supervise the maintenance of public order by the PN until such time as the PNC was ready to replace it and assume public order functions, ONUSAL's Police Division was intended to

work closely with the Salvadorian police, monitoring their activities in order to ensure that they are conducted with professionalism, objectivity and impartiality . . . The aim of the United Nations monitoring will be to deter intimidation, reprisals or other violations of the civil rights of all sectors of the population, as well as to promote the impartial and non-discriminatory enforcement of laws and regulations in a manner that will encourage and promote national reconciliation.<sup>89</sup>

The Division was originally projected to function with a "core strength" of 631 Observers until the end of December 1992<sup>90</sup> and be subsequently scaled down as the PNC was deployed. However, at the end of March 1992, it had only 264 Observers and the full deployment numbers had been reduced to 362, that is, some 40 percent below the original target figure.<sup>91</sup> But not even

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<sup>86</sup>. This remark and the following discussion of the Police Division are drawn from interviews with ONUSAL officials in San Salvador, January 1993. For a proposal concerning the organization of a democratising mission incorporating police personnel and focused on improving respect for human rights, see "Report submitted to the Secretary-General by the team of human rights experts on the International Civilian Mission to monitor respect for human rights in Haiti", Annex III to Report of the Secretary-General, "The Situation of Democracy and Human Rights in Haiti", A/47/908 (24 March 1993).

<sup>87</sup>. Report by the Secretary-General, *op.cit.* (10 January 1992), para. 12.

<sup>88</sup>. See, for example, Americas Watch, El Salvador, Peace and Human Rights: Successes and Shortcomings of the United Nations Observer Mission in El Salvador (ONUSAL) (Vol. IV, No. 8, New York and Washington, September 2, 1992), passim and p. 20.

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<sup>89</sup>. Report of the Secretary-General, *op.cit.* (10 January 1992), para. 7.

<sup>90</sup>. *Ibid.*, para. 11.

<sup>91</sup>. ONUSAL, "Information Note", March 1991; División Policial, "Situación del personal al 15/3/92", mimeo.

that lowered target was reached because of a shortfall in contributions from member states: there were only 307 Observers in November 1992 and 315 in May 1993.<sup>92</sup> In addition, the launching of the PNC was to be plagued with resource shortages, in part because few international donors provided police assistance due to the past ill repute of such programs.

The Police Division was temporarily commanded by Colonel Pierre Gastelú of France; he was replaced in March 1992 by Brigadier-General Homero Vaz of Uruguay. It was originally anchored by personnel from Spain (with members from two different forces), France (also from two forces), and Italy, and it later received a large contingent from Mexico.<sup>93</sup> Unfortunately, the Division suffered from a lack of internal cohesion, especially in its initial stages. In the words of one observer, "it wound up being almost three different structures due to national rivalries". In addition, the inclusion of large numbers of Mexican police officers (they made up more than a third of the Division in the fall of 1992) proved extremely controversial among the local population: many Salvadoreans who fled the country during the 1980s had vivid memories of the police abuse and corruption from which they had suffered in Mexico. In the light of all these and other problems, difficulties in verification performance could be expected.

The supervision of the PN -- the Police Division's first major responsibility -- involved placing UN Observers in key PN offices throughout the country and accompanying selected PN patrols on their rounds. A principal goal of this supervision was the prevention of acts of intimidation or human rights violations by PN officials. Beyond this, as indicated above, the purpose of ONUSAL police verification was to ensure adequate law enforcement in order to generate popular confidence in national reconciliation.

The principal problems in this respect arose from the fact that ONUSAL was charged

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<sup>92</sup>. Report of the Secretary General, *op.cit.* (21 May 1993), para. 27.

<sup>93</sup>. The nations that were contributing police to the Mission as a whole -- that is, to its Human Rights Division as well as its Police Division -- in the fall of 1992 were Austria (3), Chile (25), Spain (114), France (27), Guyana (10), Italy (9), Mexico (112), Norway (3), and Sweden (4).

with monitoring the activities of a force which, on the one hand, was not capable of effectively maintaining law and order and, on the other hand, was called upon to uphold laws of dubious legitimacy, as in the case of property laws in the countryside. The PN's internal limitations arose from various sources: as the urban-based little brother of the National Guard and the Treasury Police, it was traditionally poorly equipped and poorly trained; its personnel were demoralized -- the force, after all, was going to be dissolved with the deployment of the PNC; and it had no presence in the FMLN-controlled zones.

For its part, the Police Division of ONUSAL suffered from an equal number of limitations. In addition to its already identified internal coordination and other problems, the nature of its mandate forced it to be present at PN operations such as the evictions of peasants from lands they had occupied in areas other than conflict zones -- these took place during the first months of 1992<sup>94</sup> -- thereby giving it the image of legitimizing perceived injustice; its rather severe personnel shortage did not allow it to adequately monitor PN activities in every town where that force had a presence; it could not operate at night; and, since it was mandated to monitor only the PN, it could not provide security in zones controlled by the FMLN nor could it monitor Civil Defence or Territorial Service units: members of these, as noted earlier, continued to function as law enforcers although both were supposed to have been dissolved. Consequently, accusations of breaches of impartiality on the part of the Police Division were just about unavoidable.

All these problems were expected to diminish and eventually be overcome with the deployment of the PNC: 5,700 new police officers were to be trained by the time of the general elections scheduled for March 1994 after which ONUSAL was expected to close down.<sup>95</sup> However, the establishment of the PNC began to suffer from major delays and conflicts. The

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<sup>94</sup>. These occupations were deemed illegal and the evictions took place during the first months of 1992. ONUSAL was present at the evictions, in the words of Gino Costa, "to ensure respect for human rights and to demonstrate its neutrality to the government". From earlier cited interview.

<sup>95</sup>. The PNC was projected to reach full strength in 1999, with 10,000 officers.

director of the new institution was not named until July 31, five months behind schedule. Similarly, the National Academy for Public Security (ANSP), which was to be created to train the new police force, opened its doors four months late, on September 1 instead of May 1. This, in turn, meant that there was no possibility of respecting the envisaged correspondence between the demobilization of the FMLN which was originally programmed for October 31 and the deployment of the first PNC graduating class. It was the new police force -- composed 20 percent each of former FMLN combatants and PN personnel and 60 percent of civilians who had not fought on either side of the civil war -- that was supposed to provide security guarantees to the FMLN following its demobilization.

These delays provoked, in August, one of the major crises that Goulding was called to resolve. The outcome of the crisis, as one close observer summed it up, was that the FMLN "simply had to swallow the fact [of the delay], as it has had to swallow other things". The first PNC class was going to be out in February 1993 and, during the intervening period between the FMLN demobilization and the fielding of the new police force, "it was going to be sheer international pressure that would keep things moving" after the rebels handed over the weapons that had earlier served them as bargaining chips for coaxing the government and the military into compliance.

However, it was not only the timetable that came up for renegotiation in August. The other major issue was the nature of the "special security regime" that was supposed to be established in the former conflict zones. The peace agreements were not entirely clear on the procedures to be followed and COPAZ -- whose composition produced recurrent stalemates -- had proved itself incapable of resolving this question. The FMLN, of course, already had its own public security regime in those zones that it had effectively controlled. However, the government was not willing to accept it (although local judges worked with it) and the FMLN was not willing to dismantle it until the nature of the "special regime" was defined.

Eventually, Mission personnel came up with a creative proposal that was accepted by both parties. It was decided that after a 15-day preparatory course, the new PNC cadets would be sent to the zones for one month tours of duty

under the supervision of ONUSAL Police Division personnel, in the proportion of 8-10 cadets per Observer and using Mission transport and communications. Therefore, the first class of graduates would benefit from a month of supervised field training in addition to five (rather than six) months of courses at the Academy. They became the *Policía Auxiliar Transitoria (PAT)* and were generally well received by both the resident population and the mayors who returned to the former conflict zones.<sup>96</sup>

Some of the delays and conflicts in the organization of the PNC and the Academy -- as well as other aspects of the peace agreements -- could be explained by the rather ambitious timetable that had been worked out in a rush between the end of December marathon negotiation sessions and the mid-January signing ceremonies in Mexico City; the lack of precision in the accords and therefore diverging interpretations concerning what was and what was not permitted; insufficient resources, both financial and human; bureaucratic bungling; the ineffectiveness of COPAZ; and even the lack of familiarity with the local political situation of the international team that had prepared the report on which the PNC organization was to be based. That team of foreign experts without experience in El Salvador could not foresee the types of political problems that might emerge in the course of implementation and consequently did not, for example, recommend ONUSAL observer status in the Academic Council of the ANSP.

Nevertheless, two independent observers who followed these events *in situ* have argued that the number and seriousness of problems in the government's performance of its obligations under the accords point to a lack of political will.<sup>97</sup> While the record certainly suggests that this was the case, it also suggests that the government did not fully control its armed forces. It was probably a mixture of both that accounted not only for the transfer of security force personnel into the PN but also for the continued operation of the its training school and the gradual build up of the force as a whole during 1992-1993, in clear violation of the peace accords that stipulated the phasing out of the PN.

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<sup>96</sup>. From earlier cited interviews with Gino Costa and Henry Morris.

<sup>97</sup>. Holiday and Stanley, *op.cit.*, pp. 425-427.

ONUSAL protested these practices, but as of mid-1993, it still had not received a satisfactory response from the government.<sup>98</sup>

To be sure, the time and resource constraints on moving ahead rapidly with the organization of the PNC and its Academy were real enough.<sup>99</sup> However, international donors were also discouraged by the government's unwillingness to commit its own resources to the PNC and the ANSP: they were convinced that "some sort of peace dividend from the cessation of the war should be available for this purpose".<sup>100</sup> As well, they were shocked by "actions such as the military's stripping of the site offered to the police academy".<sup>101</sup> "everything of value, including beds, lockers, windows, doorjamb, and even light bulbs" had been carried off.<sup>102</sup> (The fact that the PN training school continued to operate and soak up public resources did not come to the attention of ONUSAL and potential donors until the spring of 1993.)

In addition, and also in clear violation of the peace agreements, former National Guard, Treasury Police, and Army personnel were admitted to command-level PNC training programs despite the objections of ONUSAL.<sup>103</sup> These as well as other questionable procedures

led to FMLN protest and a Mission request for observer status in the Academic Council of the ANSP. The government finally agreed to this in January 1993, but only after a "long drawn out battle"<sup>104</sup> and after the Secretary-General had reported to the Security Council on three occasions that the United Nations was not satisfied with the government's performance on the selection of candidates and other questions related to the creation of the new police force.<sup>105</sup>

Some of those other questions, singled out by UN Independent Expert Pedro Nikken, included the facts that, in contradiction to the peace accords: women were not favoured in the police candidate selection process; military consultants worked at the ANSP for a period of time; and the responsibilities of the Criminal Investigations Division of the new PNC were duplicated by a still existing military headed Special Investigative Unit that functioned in the Ministry of Justice.<sup>106</sup> Without the dissolution of that Unit and the separation of the armed forces from policing, Nikken warned of "the virtual repetition of a past in which the public security corps were singled out inside and outside the country as responsible for grave and systematic violations of human rights".<sup>107</sup>

As if these problems were not enough, a U.S. General Accounting Office report maintained that the salaries offered to entry-level police were so low that they sent "a negative message to potential officers and the general public about the government's commitment to a professional police force".<sup>108</sup> The report failed to point out, however, that low salaries also make police susceptible to corruption by the rich and

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<sup>98</sup>. Report of the Secretary-General, *op.cit.* (21 May 1993), paras. 40-43.

<sup>99</sup>. Resource constraints were emphasized by, for example, Loosle. See earlier cited interview. In December 1992, there was a \$15 million shortfall in funding for the Academy and \$59 million for the first year of PNC operations. See Hemisphere Initiatives, *op.cit.*, p. 16.

<sup>100</sup>. United States General Accounting Office (GAO), National Security and International Affairs Division, Report to Congressional Requesters Robert G. Torricelli (Chairman, Subcommittee on Western Hemisphere Affairs, House of Representatives) and Alan Cranston (United States Senate), B-250336 (September 22), 1992, p. 8.

<sup>101</sup>. *Ibid.*

<sup>102</sup>. Hemisphere Initiatives, *op.cit.*, p. 16.

<sup>103</sup>. Informe del Secretario General, S/24833 (25 de noviembre de 1992), para. 37.

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<sup>104</sup>. From an interview with an ONUSAL Observer, San Salvador, January 1993.

<sup>105</sup>. See, for example, Informe del Secretario General, *op.cit.* (25 de noviembre de 1992), paras. 37-41.

<sup>106</sup>. Nikken Report, paras. 145-147 and 252.

<sup>107</sup>. *Ibid.*, para. 147. The Lawyers Committee provides an extensive discussion of this issue, including a brief review of the past performance of the Special Investigative Unit whose head attempted to cover up the investigations of the murders of the Jesuits at the Central American University. *Op.cit.*, pp. 23-34. See also Hemisphere Initiatives, *op.cit.*, pp. 18-19.

<sup>108</sup>. GAO, *op.cit.*, p. 5.

powerful -- one of the many plagues from which Salvadorean society had suffered throughout its history.

In sum, this UN foray into monitoring and encouraging institution building and reform - a critical aspect of overall post-conflict peacebuilding -- was less than entirely successful. No doubt, some progress was made, ironically in the light of Washington's past role in El Salvador, much of it under the guidance of the International Criminal Investigative Training Assistance Program (ICITAP) of the U.S. Justice Department. It was contacted by the United Nations, first to set up the ANSP and then to deal with just about all aspects of PNC organization: "budget, policies and procedures, organizational structure; functions; career ladders".<sup>109</sup> Most of the funding also came from the United States, with Spain and Norway providing much smaller amounts.<sup>110</sup>

According to all accounts available to us, the technical aspects of training and organization -- once under way -- went well. FMLN leaders publicly expressed their satisfaction with the courses both at the Academy in San Salvador and in training programs in Spain and Puerto Rico. Serious doubts, remained, however, about political and armed forces interference in the new police force once ONUSAL's mandate was terminated.

The limited advances in compliance with the public security provisions of the accords were extremely worrisome. As in the case of military reform, entrenched elite attitudes -- especially FAES resistance to the creation of an independent public security force but also the ARENA government's budgetary priorities -- were major obstacles to implementation. However, in retrospect, it also appears clear that

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<sup>109</sup>. From the earlier cited interview with Loosle. See also GAO, *op.cit.*

<sup>110</sup>. Spain also accepted 15 superior level police officers for training and provided 12 professors (including one woman) for the Academy in San Salvador; the other countries that provided training personnel were Chile (11), Puerto Rico (8, including one woman); and Norway (one woman). The curriculum of the Academy included courses such as "Policing in a Democracy" and "Democratic Orientation", and all courses were designed to emphasize "human dignity and civil rights". Interview with Loosle.

the configuration of the Mission, as well as the training and backgrounds of some of its personnel, were not ideally suited for responding to all the problems and conflicts which emerged. The complexity of the monitoring responsibilities inherent in verifying compliance with "all accords" argued for the establishment, as suggested earlier, of a Political Division or a Peacebuilding Division for continuing mediation and advisory services.

In addition, and especially in the case of missions such as ONUSAL with a peacebuilding component and therefore a mix of personnel including men and women with different national and professional backgrounds and experiences (civilian lawyers, military officers, and police from at least 35 countries in the case of ONUSAL), a common training and "socialization experience" prior to deployment "would pay off dividends" later.<sup>111</sup> "At a minimum, [it should consist of] one week in New York for all key mission members, focused on the issues" that would be confronting them and "in an environment free of other demands and distractions". In addition to "imparting knowledge" on the country in which the mission will be located, the experiences of other UN missions, respect for human rights, the nature of the hierarchies within which observers were going to work, UN peace-keeping norms of neutrality, communication skills, and gender relations,<sup>112</sup> For a discussion of the systematic problems of prostitution around foreign military bases in third world societies, see Cynthia Enloe, Bananas, Beaches, & Bases: Making Feminist Sense of International Politics (Berkeley: University of California Press, 1989), pp. 65-92. such an experience would "help form [the mission into] a team" that could work

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<sup>111</sup>. This and the following discussion are based on interviews with ONUSAL and other observers in San Salvador, January 1993.

<sup>112</sup>. A shouting match overheard by one observer in an ONUSAL office is illustrative:

Senior male police officer: "Women should be at home and stay in the kitchen."

Younger woman, human rights lawyer: "I was not contracted to cook for ONUSAL."

Some loud incidents with prostitutes in hotel lobbies and ONUSAL cars parked in front of "houses of ill repute" also detracted from the image of a mission that was supposed to present a model of professional behaviour to Salvadoreans.

together effectively and therefore avoid at least some of the type of slippage that appears to have occurred in the verification of the public security clauses of the Salvadorean peace accords. Why, for example, did it take the Mission more than a year to find out about the continued operation of the PN training school?

Further, more attention needs to be dedicated to personnel selection in addition to common training. Problems of coordination between the Police Division and the Human Rights Division were compounded, for example, by the fact that most of the officers initially sent by donor nations to ONUSAL were high ranking personnel used to giving orders. As one ONUSAL observer commented: "It was consequently going to be very difficult for a young human rights lawyer -- especially if female -- to instruct them". Relations worked better in the case of lower ranking police officers, leading another observer to suggest that "junior police personnel should have been sent by the donor nations and the lawyers, in turn, should have been familiar with police work and procedures". Many police considered the human rights lawyers "pinkos" biased toward the FMLN while the latter's attitude toward the police, and also the military, "was one of disdain and moral superiority".<sup>113</sup> As one observer put it laconically, "they don't like each other very much".

Most of the civilian, military, and police personnel incorporated into ONUSAL overcame their prejudices and eventually learned to work reasonably well and effectively together -- especially in the relatively isolated regional offices where they were highly dependent on each other. Nevertheless, much tension and misunderstanding that detracted from the professionalism and neutral image of the Mission could have been avoided if the United Nations had organized a coherent common training experience for its key personnel prior to deployment.<sup>114</sup>

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<sup>113</sup>. These types of tensions were exacerbated by the different social origins of the lawyers and human rights professionals in contrast to those of the police: most if not all of the former, of course, came from high status families and the latter from lower down the social scale.

<sup>114</sup>. For example, in at least one regional office, the Military Division officials did not make helicopters available to Human Rights Division personnel on the

The concerns raised here are not intended to detract from the accomplishments of the Police Division and the Mission. Obtaining government and armed forces compliance was going to be difficult -- even for an ideally configured, staffed, and experienced mission -- given the multiplicity of privileges, interests, and entrenched power relations that the implementation of the peace accords implied. In the final analysis, without ONUSAL's presence -- and its persistence and even creativity, as demonstrated in the organization of the PAT -- little or no progress would have taken place. Nevertheless, it seems to us that performance in this area could have been considerably better and ONUSAL's experiences -- as well as those of other similar missions -- should be studied to learn from mistakes in order to prevent their repetition.

### 2.3 Human Rights Monitoring

The institutionalization of respect for the full range of human rights, and therefore the democratization of the Salvadorean society and polity, formed the core of the peace accords and therefore of ONUSAL's verification mandate. The dissolution of the security forces, the cleansing and reform of the FAES, and the creation of the PNC were steps in that direction. As difficult as ensuring compliance on the measures related to the police and military proved to be, the creation of a viable Human Rights Ombudsman and reforming the judicial system confronted at least equally, in not more, profound obstacles. In mid-1993, the New York-based Lawyers Committee for Human Rights observed: "Ironically, many observers now speculate that it will be easier to overcome structural problems in the military than those in the judicial system".<sup>115</sup>

The Human Rights Division, of course, was the first to be established: an advance team led by Iqbal Riza had arrived on May 22, 1991 and the Division started functioning about two months later with Philippe Texier, a

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argument that they were reserved for military use. The civilians were not aware that this was not the case until another officer, a Canadian from the San Salvador headquarters, discovered what was happening and obtained helicopter transport for them.

<sup>115</sup>. Lawyers Committee, *op.cit.*, p. 4.



distinguished French jurist, as its first Director. In the fall of 1992, he was succeeded by Diego García Sayán, an eminent Peruvian lawyer and former head of the Andean Commission of Jurists. By the end of the Human Rights Division's preparatory phase in mid-September 1991, 101 international civil servants and professionals contributed by governments or contracted directly by the United Nations had joined the Mission; altogether, 27 countries were represented.<sup>116</sup> By November 1991, it was staffed by 135 personnel, of which 57 were Human Rights Observers, Legal and Political Advisors, or Educators; 15 were Military Liaison Officers; 27 were Police Advisors; and 36 were administrative and support staff.<sup>117</sup> Quite a few of the civilian professionals were recruited from the local UN High Commissioner for Refugees (UNHCR) office and their familiarity with the country's civil war induced problems of population displacement proved to be an important asset for ONUSAL.<sup>118</sup>

Below, we will first review the Division's functioning from its installation through the first month of the cease-fire. We will then turn, first, to its efforts to monitor the creation of the Human Rights Ombudsman's office,<sup>119</sup> which was intended to continue the monitoring and educational work initiated by ONUSAL, and second, to the reform of El

Salvador's notoriously corrupt and politically manipulated judicial system.

During the fall of 1991, while negotiations continued in New York and the civil war continued in El Salvador, ONUSAL initiated an extensive program of visits to official institutions (e.g., the ministries of Justice and Defense, the Supreme Court, the governmental Human Rights Commission), FMLN command centres, non-governmental human rights agencies, communities of returnees, and the like. A study of existing human rights monitoring efforts in El Salvador was carried out with the objective of establishing criteria for documenting violations. Reports of specific cases of violations were accepted and recommendations were presented to the still warring parties.<sup>120</sup> A public information campaign on the San José Human Rights Agreement and on ONUSAL's functions was also prepared.<sup>121</sup>

ONUSAL, at this time, decided to give "top priority to protecting the human rights of the *civilian* population", although it would also "have to deal with situations related to the armed conflict".<sup>122</sup> In practice, this meant that only selected cases involving humanitarian law would be addressed and efforts would be concentrated on monitoring respect for fundamental political rights: that is, the rights to life, the integrity and security of the person, due process, personal liberty, freedom of expression, and freedom of association. The capacity to have considerable deterrent impact was enhanced by the fact that ONUSAL could, according to the terms of the San José Agreement, "visit any place or establishment freely and without prior notice".<sup>123</sup>

In the light of this broad authority, in addition to the size and visibility of the Mission throughout the country, ONUSAL's presence created some unrealistic expectations among Salvadoreans, expectations that were never

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<sup>116</sup>. "First Report of the United Nations Observer Mission in El Salvador", Addendum to Note by the Secretary-General, S/23037 (16 September 1991).

<sup>117</sup>. ONUSAL, "Information Notes" (November 1991).

<sup>118</sup>. The UNHCR collaborated with ONUSAL in various programs -- e.g., land transfers and the documentation of approximately 500,000 internally and externally displaced people (this involved the provision of birth certificates, *cédulas*, etcetera). It also helped the Mission avoid some errors. For example, ONUSAL originally planned to provide documentation to FMLN combatants at the points of concentration. After the UNHCR pointed out that this would allow the former combatants to be identified as such for the rest of their lives through the "block of identification numbers to which their certificates" belonged, the procedures were modified. Interview with Patricia Weiss-Fagen, Head of Mission, UN High Commissioner for Refugee, San Salvador, January 21, 1993.

<sup>119</sup>. Entitled "National Counsel for the Defence of Human Rights" in the peace accords.

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<sup>120</sup>. Only four were investigated, judgement was passed in two of them.

<sup>121</sup>. "First Report of the Director of the Human Rights Division", *op.cit.* (16 September 1991).

<sup>122</sup>. *Ibid.*, para. 25, authors' emphasis.

<sup>123</sup>. "San José Accord", El Salvador Agreements, p. 10.

entirely dissipated. In his first report, the Director of the Human Rights Division cautioned that:

Salvadorians right across the political spectrum believe that the Mission will be able to prevent, or at least punish, human rights violators. Even though the Mission will try to fulfil the expectations which the Salvadorian people have of it, it is worth remembering that while its verification possibilities are considerable, it does not have the power to prevent violations or to punish violators. As a result, far from attempting to replace the institutions responsible for ensuring the protection and promotion of and respect for human rights, the Mission will assist Salvadorians in the effort to ensure unrestricted exercise of those rights.<sup>124</sup>

Thus, overseeing the reform of existing Salvadorean institutions and the creation of new ones was to be the Division's long term objective following Chapultepec. The difficulties that would be encountered in carrying out that mandate were already presaged in the record of systematic violations that the Mission confirmed during its first six months of functioning and the mixed reactions that its presence and initial undertakings provoked among leading members of the country's political elite.

While sinister threats from extreme right organizations such as the Frente Anticomunista Salvadoreño could be expected, ONUSAL was criticized also by some prominent figures of the ruling ARENA party, its President, Armando Calderón Sol, among them. He charged that ONUSAL was "ineffective" because it had not denounced certain alleged FMLN violations of the San José Accord. Nevertheless, the Mission was, at least formally, unanimously welcomed by the Legislative Assembly and strongly supported by the Cristiani

government.<sup>125</sup> Although its First Report was also criticized on several grounds by some non-governmental human rights agencies, their critique was muted and their standpoint could be characterized as critically supportive.

Playing the difficult role of "monitoring the monitor", the Central American University's Instituto de Derechos Humanos Segundo Montes (IDHUCA), for example, argued that the first ONUSAL report was overly favourable to, and too lenient with, governmental sources and agencies.<sup>126</sup> Cynthia Arnson of Americas Watch, in an interview on November 19, 1991 in Washington, argued that ONUSAL's report did not have to suggest that all human rights groups - including the army's and the president's -- were equally legitimate human rights agencies. The Institute's report judged that, in its attempt to appear impartial, ONUSAL had presented a distorted picture of human rights violations (i.e., that its case illustrations suggested that FMLN violations were on par with those of the FAES, even when its own data indicated otherwise); that specific cases were not sufficiently well-documented; and that ONUSAL had not always systematically followed up on the cases presented to it. These kinds of criticisms, in varying forms, were to reappear in the evaluations of other independent agencies in the course of 1992 although all agreed with the assessment of Americas Watch that "ONUSAL's presence in the country, both before and after the ceasefire, has dramatically improved the observance of human rights".<sup>127</sup>

The record of abuse and violations confirmed by ONUSAL was staggering: during the first three months of operations, the Mission received over 1,000 denunciations of alleged human rights violations.<sup>128</sup> After investigating

<sup>124</sup>. "First Report", *op.cit.* (16 September 1991), para. 16.

<sup>125</sup>. "Fuentes ataques contra ONUSAL", El Salvador Proceso (Vol. XII, No. 494, 13 noviembre 1991), pp. 12-16.

<sup>126</sup>. "Primer informe de la Misión de Observadores de la ONU (ONUSAL)" (San Salvador: IDHUCA, septiembre de 1991) and the subsequent "Segundo informe de ONUSAL", El Salvador Proceso (Vol. XII, No. 499, 18 diciembre 1991), pp. 7-11.

<sup>127</sup>. Americas Watch, *op.cit.*, p. 11.

<sup>128</sup>. See "Segundo informe de la Misión de Observadores de las Naciones Unidas en El Salvador", Informe del Secretario General, S/23222 (15 de

many of these, it reported in November 1991, rather diplomatically, that "the level of human rights violations is preoccupying, despite real efforts to improve the situation."<sup>129</sup> Specifically, the Mission confirmed the persistence of summary executions by unidentified assailants and the inadequacy of official mechanisms for the investigation of these violations.

In the specific case of the Jesuit murders and other trials in the fall of 1991, ONUSAL stated that, while there had been improvements in the judicial system, the absence of adequate support from technical experts and from the military-controlled Special Investigative Unit had hampered those trials and continued to present obstacles to the effective administration of justice.<sup>130</sup> In fact, as the later report of the Truth Commission made clear, the fundamental problems in the conduct of the investigation and the trial inhered in power relationships: in mid-March 1993, the Commission concluded that the Minister of Defence was the leader of the conspiracy to assassinate the priests.<sup>131</sup>

With the implementation of the cease-fire in February 1992, the situation, of course,

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noviembre de 1991). The work of the Human Rights Division during October-November 1991 can be divided into three areas: first, receiving denunciations of alleged human rights violations, investigating these, and expressing its views on the human rights situation; second, making recommendations to public authorities and FSLN bodies regarding measures they should take to comply with their broader commitments under the San José Accord; and third, educating the warring parties and the public about the Accord and ONUSAL's mandate.

<sup>129</sup>. *Ibid.*, p. 39.

<sup>130</sup>. For a critical evaluation of the conduct of the investigation and trial of the murderers of the Jesuits, see Lawyers Committee for Human Rights, The "Jesuit Case": The Jury Trial (La Vista Pública) (New York, September 1991). The head of the Special Investigative Unit was later named in the Truth Commission Report of March 1993. See Lawyers Committee, *op.cit.* (June 1993), p. 26.

<sup>131</sup>. Informe de la Comisión de la Verdad 1992-1993, De la locura a la esperanza: La guerra de 12 años en El Salvador (San José: Editorial DEI, 1993), p. 82. In what follows, we will refer to this volume as the Truth Commission Report.

changed significantly: forced recruitment, harm done to civilians in the course of armed conflict, and limitations on freedom of movement largely ended. Nevertheless, in his Third Report of February 1992, the Director of the Human Rights Division still pointed to the alarming persistence of summary executions and death threats, apparently perpetrated by organized groups and typically directed at members of non-governmental organizations and churches.<sup>132</sup> Nor was there state protection available for potential victims while the measures, capacity, and willingness to investigate, prosecute, and lawfully penalize the perpetrators of such acts were still completely inadequate.<sup>133</sup> Overall, one detects a note of growing frustration in the February report. It concluded:

The end of the armed conflict should ensure that the State and the FMLN . . . will devote themselves more fully to respect for and the protection of human rights . . . However, violations of fundamental human rights are still extremely prevalent . . . It is also disturbing that State organs, including the judicial system and auxiliary bodies, remain incapable of preventing, investigating and punishing violations of fundamental human rights . . .

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When the Secretary-General requested

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<sup>132</sup>. Latin America Regional Reports: Mexico and Central America writes: "Portraying the peace agreement as a defeat for the armed forces, right-wing terrorist groups have already made clear they will not stomach it. A group calling itself the Ejército de Salvación Nacional has issued death threats against 11 leaders of the Consejo Nacional de Iglesias (CNI), the local counterpart of the World Council of Churches, accusing them of actively backing the FMLN and of being members of the Communist party" (20 February 1992), p. 1.

<sup>133</sup>. On the positive side, military authorities did take some steps to penalize personnel responsible for blatant abuses but ONUSAL noted that they were still not typically being prosecuted.

<sup>134</sup>. "Report of the Director of Human Rights Division", Addendum to Note by the Secretary-General, S/23580 (19 February 1992), paras. 175-176.

the authorization of the Security Council for the deployment of the Human Rights Division before the cease-fire, he argued that the risks of such a mission would be offset by its contribution to the human rights situation and to obtaining a definitive peace accord. As we have documented, the hope entertained by the Secretary-General that the early deployment of the Human Rights Division would enhance his peace-making efforts proved well-founded (see section 1 above). The Mission's initial human rights work, however, did not prove to be as successful as its contributions to peace-making. No discernible improvement in the human rights picture occurred during the first six months after ONUSAL's deployment.<sup>135</sup> Neither were many of the Division's recommendations to state institutions followed up with constructive action. Yet the infrastructure for broad human rights verification and promotion was established throughout the country. Furthermore, by helping to bring the peace talks to fruition, ONUSAL helped enhance human rights since the cease-fire led to a dramatic reduction in violations associated directly with the armed conflict.

Although the incidence of human rights violations declined dramatically after the cease-fire, serious abuses were by no means eliminated. In the fall of 1992, the Independent Expert of the UN Human Rights Commission, Pedro Nikken, still reported on assassinations and summary executions in which former or current members of security forces were implicated and apparent death squad operations directed against union and agricultural cooperative leaders.<sup>136</sup> Against this backdrop, ONUSAL turned to monitoring the creation of

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<sup>135</sup>. Michael Czerny, former Director of IDHUCA and current head of the Jesuit Social Justice Secretariat in Rome, in comments on an earlier draft of this work, pointed out that the greatest *measurable* improvement in the human rights situation took place in the six-to-nine month period following the signing of the San José Human Rights Agreement. Thus, the expectation of United Nations monitoring already had a significant impact. Note, however, that some observers believe that ONUSAL deployment did have a positive impact on the respect for human rights even before the cease fire. See Holiday and Stanley, *op.cit.*, p. 422.

<sup>136</sup>. Nikken Report, paras. 37-78. The persistence of the abuses into 1993 was confirmed in ONUSAL, Sixth Report of the Director of the Human Rights Division, S/25521 (5 April 1993).

the Human Rights Ombudsman and the reform of the judicial system while continuing to monitor specific human rights violations.

With respect to the Human Rights Ombudsman, the institution was set up, with technical advice from ONUSAL, but Nikken described it in October 1992 as consisting of "many departments and little activity".<sup>137</sup> He concluded: "The presence of the Ombudsman has not yet been felt in the society nor in the handling of human rights issues . . . It has not intervened in a significant fashion".<sup>138</sup> The Ombudsman's timidity was reflected in the areas it chose to work on: children's, women's, seniors', and environmental rights. As important as these are, the absence of activity on the basic rights to life, due process, etcetera -- as summarized above with reference to ONUSAL's interpretation of its mandate -- was striking. This was understandable, if not acceptable, in view of the threat under which the institution's members worked: for example, one of its high level officials was left quadriplegic following an assassination attempt in July 1992.<sup>139</sup> Moreover, the government provided little funding for the Ombudsman which therefore depended for the most part, like the PNC and its Academy, on international donors.

By mid-1993, however, there were some signs of improvement. Operational cooperation between ONUSAL and the Ombudsman's office had increased, with the Human Rights Division providing training and advice. Plans were also in the works to establish a human rights monitoring and investigative section, with European financing. Thus one of the human rights agencies that has been "monitoring the monitors" could refer to "encouraging" developments.<sup>140</sup>

#### Turning to the reform of the judicial

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<sup>137</sup>. Nikken Report, para. 129.

<sup>138</sup>. *Ibid.*, para. 131. Later in his report (para. 250), Nikken reiterates: "The initiation of its activities has not had the force, resources or clarity of objectives necessary for making its presence felt as a truly useful instrument for the victims of the violations of human rights".

<sup>139</sup>. *Ibid.*, para. 58.

<sup>140</sup>. Lawyers Committee, *op.cit.* (June 1993), p. 39.

system, ONUSAL had to face not only the well-known concentration of power in the Supreme Court but the routinized corruption of a system designed to maintain elite privilege rather than guarantee the rule of law. On the basis of the evidence available, progress proved even more frustrating and slow than it did with the reduction and cleansing of the armed forces since the perquisites and *modus operandi* of the traditional civilian power structure of the country were involved. Since it is beyond the scope of this work to provide a detailed evaluation of the very serious deficiencies of the existing judicial system and the often questionable manner in which the government and the ARENA-controlled Legislative Assembly have gone about implementing the agreed upon reforms, we will limit ourselves to summarizing some of the principal conclusions of the major reports prepared on this question -- that is, the Nikken report and the findings of the Lawyers Committee for Human Rights.<sup>141</sup> The latter, moreover, points out that "the results obtained at the negotiating table concerning judicial reform were modest. One Salvadorean commentator called them 'without a doubt the weakest link in the institutional transformation of the country'".<sup>142</sup>

In addition to recording numerous delays and deficiencies in the implementation process, Nikken noted numerous outright violations. For example, the peace agreements envisioned the restructuring of the National Council of the Judiciary so that its composition "guarantees its independence from the organs of State and from political parties".<sup>143</sup> Nevertheless, the Legislative Assembly decided to have the Council's members elected by the Assembly itself. Thus, these new procedures, Nikken argued, did not ensure the Council's independence and, given its responsibilities (such as the preparation of the list from which Supreme Court justices would be selected), this "could have a devastating impact on judicial reform overall".<sup>144</sup> Similarly, new legislation left

<sup>141</sup>. Nikken provides such a detailed analysis in paras. 148-178.

<sup>142</sup>. Lawyers Committee, *op.cit.* (June 1993), p. 3.

<sup>143</sup>. Mexico Agreements in El Salvador Agreements, p. 15.

<sup>144</sup>. Nikken Report, para. 170.

much more power over judges in the hands of the Supreme Court than recommended by ONUSAL and local non-governmental organizations specializing on legal issues.<sup>145</sup>

In his overall assessment of this area of implementation, Nikken concluded that the "reforms have not been sufficient, up to date"<sup>146</sup> and that the government had not carried through on most of the recommendations presented to it by ONUSAL.<sup>147</sup> Meanwhile, Philippe Texier, upon his retirement as head of the Human Rights Division, concluded that violations continued "as a consequence of the presence of structural causes that remain' and that 'much time will pass before they disappear'".<sup>148</sup>

In contrast to Nikken's diplomatic and sometimes indirect formulations, the end of year report of a U.S. based independent monitoring agency, with personnel in San Salvador, identified the continuing political problems of the judicial system in very forceful terms.

Political affiliation and family ties rather than professional competence have been the keys to appointment and reappointment. Legal disputes continue to be resolved based on money, power and influence. Whether a crime is even investigated still depends

<sup>145</sup>. *Ibid.*, paras. 165-167. Lawyers Committee, *op.cit.* (June 1993), pp. 9-17.

<sup>146</sup>. Nikken Report, para. 255.

<sup>147</sup>. *Ibid.*, para. 258. The Lawyers Committee summarized ONUSAL's mid-1993 analysis of the deficiencies of the judicial branch as follows: "a failure to guarantee rights; delays in justice; the negligence of certain judicial functionaries; failure to ensure the right to defense; the high rate of unsentenced prisoners; the lack of forensic impartiality; the obstacles to effective investigation of crime; the persistence of obsolete administrative and judicial structures; the lack of technical training for the judiciary, especially justices of the peace; the ineffectiveness of constitutional justice (particularly habeas corpus); the lack of adequate resources for a quick and efficient justice; the absence of judicial independence and autonomy; and corruption." *Op.cit.* (June 1993), p. 43.

<sup>148</sup>. Quoted in Nikken Report, para. 183.

largely on the relative power of the victims and those responsible. Cases are often dismissed because of political or economic pressures -- or threats. In other cases, defendants remain imprisoned -- usually without trial -- for long periods of time because of political pressure rather than evidence against them. Judges routinely acknowledged that they acted under serious constraints.<sup>149</sup>

How should the record of inaction and/or deficient action on the part of Salvadorean authorities be explained? The government itself appeared to provide support for the implementation of the accords: it even established a "Unit for the Execution of the Peace Accords" in August of 1992, around the time of one of Goulding's crisis intervention visits, "to provide greater coordination to the implementation effort".<sup>150</sup> When asked about the numerous delays and problems that we have reviewed, the Unit's Director referred to the complexity of the accords and of the legislative and bureaucratic changes that they required, the ambitiousness of the calendar of implementation, lack of resources within the country, and insufficient international assistance.<sup>151</sup>

All these problems and obstacles to implementation were real enough. However, the record also attested to less than energetic government follow-up. Of course, President Cristiani also faced opposition to implementation, as we have noted, within his own party, within the military, and within the judicial system. Meanwhile Supreme Court President Gutiérrez Castro, for example, "stated

<sup>149</sup>. Hemisphere Initiatives, *op.cit.*, p. 19.

<sup>150</sup>. Interview with Rodolfo Parker, Director, Unidad de Ejecución de los Acuerdos de Paz, San Salvador, January 6, 1993.

<sup>151</sup>. *Ibid.* Parker noted: "The Secretary General has commended Cristiani's political will but it is another matter to have the agreements work their way through public bureaucracies and institutions. . . . Agreements on practical details have to be reached with different political factions and we certainly did not foresee all the difficulties that emerged."

on numerous occasions that he does not consider the peace accords binding on the judiciary".<sup>152</sup>

ONUSAL officials were clearly frustrated. One observer commented in early 1993 that ARENA support for the peace accords remained "minimalist": the party's members in the Legislative Assembly "have interpreted [all clauses] in the narrowest fashion possible". Another one observed: "the ONUSAL presence is perceived as necessary, although not desired, by key political sectors"; for this reason, ONUSAL, was "advancing on the short term objectives but much more slowly than desired and even much more slowly than some expected".

The government's failure to comply with its human rights and judicial reform commitments was brought into stark relief by the report of the Truth Commission, released on March 15, 1993. While the report found the FMLN responsible for killing eleven mayors in conflict areas during the 1980s, its conclusions on systematic official abuse were considerably more far-reaching. While five percent of the cases examined by the Truth Commission were attributed to the FMLN, eighty five percent "involved state agents, paramilitary groups, or death squads allied with official forces".<sup>153</sup> In addition to identifying the founder of the ARENA party as the author of the assassination of Archbishop Oscar Romero, the report condemned many senior FAES officers and judicial authorities for authorizing or covering up massive human rights violations, including the El Mozote massacre of 1981 and the Jesuit murders in 1989. The report also warned that death squads and their links to state intelligence and security agencies might still exist.<sup>154</sup>

<sup>152</sup>. Lawyers Committee, *op.cit.* (June 1993), p. 42.

<sup>153</sup>. Americas Watch, El Salvador. Accountability and Human Rights: The Report of the United Nations Commission On the Truth for El Salvador (Vol. V, No. 7, New York and Washington, August 10, 1993), p. 3.

<sup>154</sup>. The main findings and recommendations of the Truth Commission are summarized in the Report of the Secretary-General, *op.cit.* (25 May 1993). For complementary summaries and analyses of the report, in addition to the August 1993 Americas Watch report cited above, see Lawyers Committee, *op.cit.* (June 1993), pp. 62-84 and Hemisphere Initiatives, Justice Impugned: The Salvadoran Peace Accords and the

Based on these findings, the Commission recommended that all FAES officers (including the existing High Command) named in the report for perpetrating or covering up serious human rights violations be discharged. It also recommended that all other public officials named for covering up these violations be discharged and, in this connection, that the entire Supreme Court resign voluntarily.<sup>155</sup> Furthermore, it recommended that all those named for participating in serious human rights violations be barred from holding public office for at least ten years and be permanently barred from any responsibilities in the areas of public security and national defence. The report also underlined the importance of investigating death squad activities and cleansing military intelligence services and other state agencies of personnel responsible for directing or supporting the death squads. Finally, because the judicial system had participated in the abuses reviewed and still lacked "the minimum requirements of objectivity and impartiality," the Commission stated that it could not be made responsible for guaranteeing the implementation of the report.<sup>156</sup> Only a judicial system fully reformed in the light of the peace accords could ensure that justice be done.<sup>157</sup>

While President Cristiani's response to the report was "relatively measured", he did call for a general and absolute amnesty. Meanwhile, Defence Minister Ponce denounced it as "unfair, incomplete, illegal, unethical, partisan and insolent"; Vice President Merino stated that

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Problem of Impunity (Cambridge, MA, June 1993), pp. 5-6.

<sup>155</sup>. Truth Commission Report, p. 257.

<sup>156</sup>. Truth Commission Report, pp. 259 and Report of the Secretary-General, *op.cit.*, Addendum 3 (21 May 1993), para. 111. Hemisphere Initiatives, concurring with the Truth Commission, argued that the overall human rights picture remained deeply disturbing: "... the basic structures of impunity remain intact. The justice system remains largely unaffected by reforms, military and security forces with a record of human rights abuse remain active, and as yet there is no significant evidence of the ability of civil society to hold accountable those in power." *Op. cit.* (June 1993), p. 11.

<sup>157</sup>. Truth Commission Report, p. 260.

"this is a crucial moment to raise our voices to denounce these stateless mercenaries"; and "the High Command [of the FAES] promised to take 'legal measures' against those who 'promote the destruction' of the institution."<sup>158</sup> The Supreme Court rejected the call for its resignation and instead criticized the report as "'harmful to the dignity of the administration of justice in El Salvador'".<sup>159</sup> On the other side to the conflict, the FMLN announced that it accepted the report's main findings and that members who had been identified would abide by the recommendation against seeking public office for ten years.

Shortly after the report was released, ARENA used its majority in the Legislative Assembly to push through a new amnesty law (previous partial amnesties had been approved in 1987 and 1992). It effectively granted an amnesty to all those identified by the Truth Commission as guilty of directing or covering up the worst human rights violations of the civil war. UN Secretary-General Boutros Ghali publicly criticized the new law and reminded all parties that compliance with the report was mandatory under the terms of the peace accords. International pressure, together with UN efforts, may yet yield progress in this area: "donors . . . made clear that future economic assistance [was] linked to compliance with Truth Commission recommendations" and the U.S. Secretary of State "appointed a 'panel to examine the implications of the U.N.-sponsored El Salvador Truth Commission report for the conduct of U.S. foreign policy and the operations of the Department of State'".<sup>160</sup>

There can be no doubt that the Human Rights Division of ONUSAL, together with other UN agencies and officials, and the commissions that functioned under the Secretary-General's authority, have had a significant impact in El Salvador. ONUSAL's initial work -- and its assumption of considerable risks -- contributed to the success of the

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<sup>158</sup>. All the cited material is drawn from the Lawyers Committee, *op.cit.* (June 1993), p. 71.

<sup>159</sup>. *Ibid.*

<sup>160</sup>. Lawyers Committee, *op.cit.* (June 1993), pp. 73 and 72. On U.S. reactions to the report, see also Americas Watch, *op.cit.* (August 1993), pp. 30-36.

mediation process while the end of the war and ONUSAL's countrywide observation improved the overall human rights situation. Moreover, the UN contributed much to laying the foundations for future improvements by consistently drawing attention to the institutional roots of violations in the judiciary, in the security system, and so on. By pressing for and supporting reforms to existing institutions and providing advice and training for new agencies such as the Human Rights Ombudsman, ONUSAL also helped strengthen the basis for the long term verification and promotion of human rights by Salvadorans themselves. Of course, as in other areas of compliance, the advances registered in this sphere would not have been possible without ongoing pressure from opposition parties and popular organizations, the Church, local human rights and developmental NGOs, and the international community.

Yet, as we have suggested, the progress made could be undermined and not only by the lack of judicial reform. Most perpetrators of gross human rights violations remained at large and the continued prevalence of abuse was shocking. Could ONUSAL have done more to ensure compliance, through a different operational configuration and focus to its work or by adopting a more aggressive stance vis-a-vis the government?

With reference to Mission configuration and focus, some changes that appeared advisable were made in 1993. For example, the Human Rights Division began to provide greater support for the Ombudsman's office and ONUSAL created a separate unit to focus on the administration of justice.<sup>161</sup> At the same time, the Division reoriented its work to focus more on the structural problems of the judicial system (rather than individual rights violations) in order to encourage "institutional change [through judicial education, for example], without imposing it from the outside".<sup>162</sup> The recognition of the depth of the types changes required in El Salvador, however, could only come out of experience of the first phases of monitoring and, of course, their efficacy remains to be seen.

With reference to the Mission's stance toward the government, some independent

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<sup>161</sup>. Lawyers Committee, *op.cit.* (June 1993), p. 48.

<sup>162</sup>. *Ibid.*, p. 49.

human rights agencies and observers agreed with criticisms raised by Americas Watch in mid-1992 to the effect that ONUSAL's Human Rights Division had adopted a "kid-gloves approach" and given "the government every possible benefit of the doubt".<sup>163</sup>

In general, ONUSAL has opted for a conservative application of its mandate, one in which human rights problems are treated with the same kind of cautious diplomacy that one might use in attempting to resolve political disputes.<sup>164</sup>

While ONUSAL may indeed have erred on the side of caution, it seems to us that observers *in situ* were constrained by security considerations as well as the necessity of maintaining at least minimally cordial relations with the local government, judicial, police, and military officials they were attempting to influence. The task of "denunciation" in the Salvadorean case, it seems to us, was best performed by the Independent Expert and, especially, the Truth Commission. Moreover, the Secretary-General was consistent in demanding full compliance with the recommendations of both the Ad Hoc and Truth commissions.

### III. SOCIO-ECONOMIC AND ELECTORAL PEACEBUILDING

By addressing the foundations of the power structures of Salvadorean society, the peace agreements dealt with the causes of the civil war. Their implementation, consequently implied, as Convergencia Democrática leader Rubén Zamora argued, transcending 200 years of authoritarian rule based on the reign of force. ONUSAL was thus effectively charged with

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<sup>163</sup>. Americas Watch, *op.cit.* (September 1992), p. 15.

<sup>164</sup>. *Ibid.*, p. 16. Other independent observers interviewed for this study agreed that "you could describe ONUSAL as soft on the government but, [in its day-to-day functioning], it is more so in some of its offices than in others", thereby indicating a certain lack of coherence and uniform rules of operation in the Human Rights Division, a problem to which we have also referred in Section 2.2 above.



monitoring the creation of a new institutional order that implied the re-foundation of El Salvador as a democratic republic. As such, the accords and the Mission's presence created a unique opportunity for progress toward building an enduring peace.<sup>165</sup>

In the previous sections, we already examined some of the peace-building components of accord implementation: in particular, the efforts to create new police and judicial institutions and to reform the military. Here we will turn to the social, economic and electoral measures included in the accords for they were designed to at least partially address the basic causes of the civil war by alleviating social inequality and opening up the political system to effective popular participation. The accord provisions on land transfers, the creation of a Forum for Social and Economic Accommodation, and related clauses added up to "a minimum platform of commitments oriented to facilitate development to benefit all strata of the population".<sup>166</sup> As a document prepared by one of the NGOs monitoring the peace process argued, it was clear that:

Unless an effective war on poverty picks up where the shooting war left off, the country's long-term prospects for consolidating peace, recovery and reconciliation will remain at risk.<sup>167</sup>

Similarly, only a participating and organized

electorate with free access to information could guarantee the long-term viability of any of the reforms undertaken to comply with the accords. Much, moreover, was going to depend on the quality and quantity of international support available.

### 3.1. Social and Economic Measures

The numerous provisions on social and economic policy contained in the accords were supposed to be verified, in the first instance, by COPAZ: the national monitoring institution with broad powers which included the drafting of implementing legislation for the accords.<sup>168</sup> However, that ten-member body as well as its sub-commissions, which were responsible for coordinating and advancing the implementation of specific elements of the accords, as pointed out, proved frequently ineffective. Nevertheless, as an ONUSAL official emphasized, a "tendency toward implementation did exist" and "practice in political dialogue" between formerly warring parties was encouraged by its very existence.

Largely as a consequence of COPAZ's failings, ONUSAL's intrusiveness and variety of responsibilities grew, converting it practically into a co-governing body, albeit without enforcement capacity. In addition to the creeping expansion of its role in military, police, and human rights monitoring, as discussed earlier, ONUSAL wound up playing a larger than expected role in the verification of land transfers, a fundamental part of the accords.

In practice, as one ONUSAL official observed, it often became "very difficult to draw the line between the roles and responsibilities of the United Nations and those of the national government."

Significantly, two of Goulding's four post-cease-fire visits to El Salvador in 1992 were provoked principally by land conflicts. He was called in first in March 1992 when the government accused the FMLN of inciting "illegal land seizures" and the FMLN accused the government of supporting "illegal evictions" of peasants from lands to which they were

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<sup>165</sup>. Nikken, in his Report, among many others, emphasized these points: "The implementation of the peace accords, in letter and spirit, opens a certain possibility, and perhaps the only one in the history of the country, to overcome a structure within which the most grave violations of human rights took place and an unjust social and economic domination was exercised over the majority of the Salvadorean people." para. 119.

<sup>166</sup>. Nikken Report, para. 210. Economic and social agreements are spelled out in greatest detail in the New York Act II, in *El Salvador Agreements*, pp. 77-87.

<sup>167</sup>. Peter Sollis, "El Salvador Issue Brief #2: Poverty Alleviation in El Salvador" (Washington: Washington Office on Latin America (WOLA), January 1993), p. 1.

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<sup>168</sup>. It was officially inaugurated February 1, 1992 although it had been functioning informally as a forum of consultation since the fall of 1991.

entitled, under the peace agreements, in the former conflict zones. In addition, the government had taken no action to transfer holdings in excess of 245 hectares (which was supposed to have begun February 1) to former FMLN combatants and demobilized FAES soldiers. Since ONUSAL could not at the time determine even what should be considered an illegal seizure or eviction, the solution proposed by Goulding and accepted by both parties was that they would "desist" from any further occupations or evictions while a land inventory was conducted; at the same time, however, peasants who had occupied estates in "non-zones of conflict" would be evicted under UN supervision. The FMLN had declared that it was prepared to present an inventory within fifteen days of the cease-fire but had not done so.

When Goulding came to mediate the land transfers again in September, the questions were different and centred on who would benefit (how many tenants? how many ex-FAES members? how many ex-FMLN combatants?) and how much land was going to be available in different regions for the program. To be sure, some progress had been made since Goulding's first visit.

By June the two sides had agreed upon an inventory of 4,666 conflict-zone properties, comprising 263,000 hectares or about 18% of the arable land in El Salvador. This agreement followed months of [ONUSAL assisted] negotiations during which the FMLN pared back its inventory from an initial list of more than 12,000 properties and 350,000 hectares . . . Following agreement on the list, 69 joint teams combining GOES [the government of El Salvador], FMLN and ONUSAL representatives fanned out to verify the inventory (who is the titled owner, who are the occupiers, how big is the land?).<sup>169</sup>

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<sup>169</sup>. Hemisphere Initiatives, *op.cit.* (December 1992), p. 22.

The land transfer process was to begin before the verification was completed. However, the remaining conflicts -- those mentioned above as well as others -- were so acute that no lands had been transferred when Goulding arrived.<sup>170</sup> principal aspects of the process as they relate to ONUSAL.

When the hoped for "magic compromise" was not found during Goulding's September mediation visit, the FMLN let it be officially known that it would not demobilize by October 31. "That was a very difficult moment" which threatened the entire peace process, according to an ONUSAL Observer who also emphasized the aggressiveness of the right wing campaign that then erupted against the accords and ONUSAL. That campaign sustained itself -- more or less stridently -- throughout the fall of 1992 as the principal points in the report of the Ad Hoc Commission leaked out.

In the middle of the crisis provoked by the Ad Hoc Commission report, the United Nations mediated conflicts not resolved by the earlier June agreement and proposed that 237,000 manzanas of land be transferred to a maximum of 47,500 recipients, including ex-combatants of the FMLN, the FAES, and dismantled security forces, as well as peasants who had occupied land during the war years. When the parties accepted the proposal in October, the agreement officially became an addendum to the Chapultepec Accords.<sup>171</sup> (It has been suggested that the New York Headquarters -- where the final points on land transfers were negotiated -- decided to support the inclusion of less land, and a different distribution of it, than suggested by the Mission in the total package.<sup>172</sup>)

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<sup>170</sup>. See, for example, Claudio Tona, "El problema agrario y los Acuerdos de Paz", *Tendencias* (San Salvador, No. 16, Diciembre 1992-enero 1993), pp. 10-12.

Compliance on land transfers deserves a study of its own, as indeed does compliance on most of the other elements of the accords reviewed here. We emphasize that we are simply highlighting the

<sup>171</sup>. The October 13 agreement is Addendum 2 (25 May 1993) of Report of the Secretary-General, *op.cit.* (21 May 1993).

<sup>172</sup>. Interview with an independent observer of the peace process, San Salvador, January 1993.

Between the October 1992 re-negotiation and May 1993, according to the Secretary-General, the land transfer program progressed somewhat "albeit at a slow pace".<sup>173</sup> Indeed, although the transfer of 45,000 manzanas to 10,000 potential recipients had been negotiated, by late May less than 800 people had actually received land and the government had not yet provided the minimum required credit for the new owners to initiate production.

Several factors appear to have impeded progress in this area. Certain large landowners resisted attempts to buy their lands at earlier-estimated prices while some FMLN members rejected previously agreed upon lands. The government and the FMLN had compromised on aspects of the agreement relating to the relocation of landholders whose lands could not be purchased from their legal owners. The state's land transfer procedures were extremely cumbersome and the government failed to prioritize the land transfer plan in its fiscal policies which were constrained by its own and the international community's structural adjustment priorities (see 3.3 below). In addition, the international community did not back the plan with the required resources, instead promoting its own priorities in areas such as environmental and infrastructural development.<sup>174</sup> Given the fundamental importance of land redistribution for ensuring successful peace-building in El Salvador as well as in other third world societies, in the spirit of An Agenda for Peace, we recommend that the United Nations take the lead in establishing an international fund for financing agrarian reform in societies where the maldistribution of land feeds social conflict.<sup>175</sup>

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<sup>173</sup>. Report of the Secretary-General, *op.cit.* (21 May 1993), para. 60.

<sup>174</sup>. These factors are all discussed in *Ibid.*, paras. 61-69 and 98.

<sup>175</sup>. This has been proposed by Irma Adelman who, largely on the basis of her work on South Korea, has argued for redistributive development policies in the third world. For a synthetic statement of her arguments, see "A Poverty-Focused Approach to Development Policy" in Charles K. Wilber (ed.), The Political Economy of Development and Underdevelopment, Fourth Edition (New York: Random House, 1988), pp. 493-507.

In the case of the Forum for Social and Economic Accommodation, progress was even slower. At the end of 1992, it was at an impasse, with no major accomplishments to its name.<sup>176</sup> Finally, in February 1993, the groups represented in the Forum signed a 12-point agreement which included, most importantly, official recognition of unions that could meet the legal requirements (since ARENA had come to power, not a single union had been recognized); promotion of collective bargaining; and the drafting of a new labour code that would include relevant points from International Labour Organization (ILO) norms. However, the commission that was set up to examine the ILO conventions that were to be adopted soon ran into another impasse and, in mid-1993, the broader efforts of the Forum remained tenuous.<sup>177</sup>

Analysts at the Central American University attributed the February agreement to international pressure -- particularly from the United States -- and to ARENA's desire to improve its image for the upcoming 1994 elections.<sup>178</sup> In the light of the subsequent impasse, it appeared that more sustained external pressure would be necessary to ensure forward movement in this area. Overall, although some steps forward were thus taken at the end of the year and the beginning of 1993, Nikken's October 1992 conclusions on the state of social and economic conditions and reform still held at the end of the first year and a half of peace:

The effects of the termination of armed conflict on socio-economic and cultural rights have yet to be felt as neither have the agreements reached on these questions during the peace process produced results.<sup>179</sup>

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<sup>176</sup>. See, for example, "El impasse del Foro de Concertación", El Salvador proceso: informativo semanal (Año 13, Número 543, 16 diciembre 1992), pp. 7-8.

<sup>177</sup>. Report of the Secretary-General, *op.cit.* (21 May 1993), para. 70.

<sup>178</sup>. "El acuerdo del foro de concertación económica", El Salvador proceso: informativo semanal (Año 13, Número 553, 3 marzo 1993), pp. 4-5.

<sup>179</sup>. Nikken Report, para. 248.

### 3.2 Electoral Monitoring

It was against the backdrop of highly uneven advance in compliance on land transfers and reform in labour legislation -- in addition to the numerous problems of judicial, public security, and military reform -- that commitments on political democratization were being implemented. The holding of truly free and fair elections had long been viewed as one of the key goals of the peace accords. For the United Nations, the March 1994 elections -- for the presidency, the Legislative Assembly, mayoralities, and municipal councils -- represented a "culminating point" in the national reconciliation process.<sup>180</sup>

Several steps were taken in preparation for the elections at the end of 1992 and the beginning of 1993. In December, the FMLN was legally recognized as a political party and the government undertook to assign it specific radio and television frequencies. That same month, the Legislative Assembly approved a new Electoral Code. Then in January of the new year, the government officially requested that ONUSAL verify the election, preparations for it, and its aftermath. In May, the Security Council authorized the addition of an Electoral Division of ONUSAL for that purpose.

The general principles for UN observation of the election were straightforward and based on previous experience: strict impartiality, wide geographic coverage, and wide chronological coverage. In order to verify that electoral authorities themselves act with impartiality; that all eligible citizens are included in the electoral roster and provided with adequate documentation; that there is no multiple voting; that freedoms of expression, assembly and organization are respected; and that results are accurately tabulated and announced, ONUSAL was to gradually deploy observers across the country beginning in July 1993. During the actual polling period, the United Nations anticipated a large observer contingent of 900 in the field.<sup>181</sup>

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<sup>180</sup>. Report of the Secretary-General, *op.cit.* (21 May 1993) para 112.

<sup>181</sup>. Report of the Secretary-General, Addendum 1 (24 May 1993) to *op.cit.* (21 May 1993), paras. 88-92.

Yet a number of significant obstacles existed even in this domain. One challenge was to oversee the updating of the electoral roll and the issuance of documentation to eligible voters, about 30 percent of whom appeared not to have been included in the rolls. Beyond this, there were concerns that the uneven implementation of accords in other areas might undermine the election. One independent observer group went so far as to suggest that "delays and failures in implementing important provisions of the Salvadoran peace accords cast doubt on whether conditions for free and fair elections will exist . . ." <sup>182</sup> The danger remained that further delays in fully dismantling intelligence and security agencies, collecting arms from individuals, and training and deploying the PNC in the spirit of the accords could undo even the most careful facilitation and observation efforts of the Electoral Division.

### 3.3 Domestic and International Economic Policy Agendas

Progress toward peace, however, was going to depend not only on the implementation of the specific clauses of the accords but on economic policies that could improve living standards across the board. Transcending the criminal violence facilitated by the availability of arms from demobilized fighters on both sides and avoiding the types of armed conflicts that emerged in post-ONUCA Nicaragua, not to mention the alienation of youth expressed in widespread gang violence,<sup>183</sup> was ultimately dependent on providing educational as well as employment and self-employment opportunities for the country's mostly poverty stricken population.

The social and economic measures specified in the accords were being undertaken in the context of the internationally fostered neo-liberal structural adjustment policies (SAPs) which were also favoured by the local elites.<sup>184</sup>

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<sup>182</sup>. Hemisphere Initiatives, *op.cit.* (June 1993), p. 1.

<sup>183</sup>. On the violence of youth culture in the capital city, see Alberto Arene, "Guerra de maras", *Tendencias* (San Salvador, No. 16, Diciembre 1992-enero 1993), pp. 6-7.

<sup>184</sup>. The New York Act contained a section on "Measures to alleviate the social cost of structural adjustment programmes". See *El Salvador*

In this respect, it is worth recalling that the reconstruction of post-World War II Europe and also of Asia was accomplished not only with a great deal of international assistance but with strong local state intervention that favoured investment over consumption and, in many cases, also nation-wide redistributive reforms (e.g., the thorough going agrarian reforms accompanied by favourable policies toward small-scale producers organized into cooperatives in Japan, South Korea, and Taiwan, to mention only capitalist societies). However, today, the conditionalities imposed and policies favoured by both International Financial Institutions such as the International Monetary Fund and the World Bank, as well as by OECD donor nations, make such state-directed austerity, broad reforms of asset distribution, and comprehensive state support for selected productive sectors nearly impossible.<sup>185</sup>

In the Salvadorean case, the liberalization of trade, privatization, and the encouragement of the private sector favoured the most privileged groups and led to an explosion of imports rather than investment in productive employment and income generating activities. The value of imports were more than double the value of exports in 1992 and, significantly, the proportion of consumer durables in the import mix also doubled. A balance of payments crisis was avoided only due to a very high and growing level of emigrants' remittances: they reached U.S.\$ 718 million and represented 123 percent of exports in 1992, in contrast to 67 percent of exports in 1991.<sup>186</sup> p. 4. It was those remittances rather than a reactivation of the national economy that sustained much of local demand and the living standards of the poorer sectors in particular,<sup>187</sup> creating a dangerous longer-term perspective since most observers expect remittance levels to decrease over time. Since El

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Agreements, pp. 82-83.

<sup>185</sup>. For a critique of SAP conditionality on development assistance, see Sarah Cox, Canada's Aid Policy in Central America (Toronto: Canada-Caribbean-Central America Policy Alternatives (CAPA), 1992)

<sup>186</sup>. Joaquín Arriola, "Coyuntura Económica de El Salvador 1992" (San Salvador: UCA, unpublished paper),

<sup>187</sup>. *Ibid.*, p. 6.

Salvador's terms of trade have also deteriorated, especially since the breakdown of the International Coffee Agreement in 1989, we recommend that the United Nations again take a leading role -- as it did in the 1970s -- in promoting international commodity agreements that can alleviate the conflict inducing economic crises of primary export economies in the third world.

While the Salvadorean government's overall economic policies were not directed toward relieving inequality, the ARENA dominated Legislative Assembly aggravated the problem through measures like the reduction of income taxes and, in early 1993, the abolition inheritance taxes altogether. (The government's unwillingness to commit resources for new and reformed institutions such as the PNC and its Academy, or to the land transfer program, have already been noted.) The potentially destabilizing effects of SAPs and of the government's fiscal priorities had not escaped the attention of the United Nations. In his May report, the Secretary-General noted:

At the same time as El Salvador is consolidating peace . . . it is carrying out a stabilization and structural reform programme . . . Reconciling these two processes is problematical since the financing of the many peace-related programmes has economic and financial implications that often conflict with efforts to stabilize the economy.<sup>188</sup>

Meanwhile, international assistance did not reach the levels expected and required: "This is a delicate matter since the execution of some [aspects of the accords] requires access to resources that can only be expected, in the short run, from international cooperation."<sup>189</sup> The

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<sup>188</sup>. Report of the Secretary-General, *op.cit.* (21 May 1993), para. 95. Contradictions between peace-building and national and international structural adjustment priorities in the Salvadorean case are analyzed by Alvaro de Soto and Graciana del Castillo, "An Integrated International Approach to Human Security. El Salvador: A Case Study" (unpublished paper).

<sup>189</sup>. Nikken Report, para. 28.

assistance that was provided, moreover, came with conditions: for example, the United States, at least initially, refused to consider assistance for cooperative agriculture. Beyond this, as noted, most donor countries in the World Bank Consultative Group showed a preference for financing specific projects in infrastructure and the environment rather than in areas such as institutional transformation or land transfers. Nor did donors consistently incorporate the community participation necessary for consensus- and peace-building into project design and implementation or demand that the Salvadorean government do so. Thus, a study on U.S.-funded reconstruction projects concluded that "lack of community input into decisions [has resulted] in projects that are not high priority, not well designed, or that tend to benefit the wealthy few".<sup>190</sup>

In sum, as problematic as the efforts to create or reform police, military, human rights, and judicial institutions proved to be, there was even less movement in creating the social and economic foundations for long-term peace. Neither international conditions nor local power relations favoured policies oriented toward the creation of a more equitable social order. At the same time, the United Nations did not exert the same kind of pressure in this area that it did in the case of military reform, for example. Rather, it promoted a rather conservative land transfer scheme and even this limited plan did not receive adequate support from the Salvadorean government and international donors.

## VI. CONCLUDING OBSERVATIONS

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<sup>190</sup>. Danielle Yariv and Cynthia Curtis, After the War: A Preliminary Look at the Role of U.S. Aid in Post-War Reconstruction in El Salvador (Washington: The Foreign Aid Monitoring Project, December 1992), from the report's Executive Summary. With regard to the ruling party's *modus operandi*, they report, for example, that report: "In the few cases where ARENA mayors [involved in U.S. assisted reconstruction projects] have attempted to reach out to the part of the population that supported the FMLN, they have encountered disapproval from their party. For example, when the mayor of Suchitoto permitted the formation of a Municipal Reconstruction Committee with broad-based participation, including the FMLN, he was removed as secretary general of the ARENA Party in Suchitoto and came under investigation by the National Police for alleged ties with the FMLN". p. 14.

In mid-1993, while the United Nations faced reversals and uncertainty in Angola, Cambodia, Haiti, Somalia, and in the Balkans, the progress achieved in El Salvador embodied the promises of UN peace operations. As the Secretary-General stated, while

all other continents are experiencing savage conflict and massive violations of human rights, the reconciliation and acceptance of pluralism in El Salvador is a remarkable example to the world.<sup>191</sup>

Indeed, as this study has shown, dramatic steps towards peace in El Salvador were taken from 1991 onwards. The institutional roots of massive human rights violations were identified and important measures to protect rights were adopted. The cease-fire that went into effect in February 1992 held until the end of the year when the last combatants of the FMLN guerrilla front were demobilized. By mid-1993, the armed forces were reduced and cleansed of officers involved in gross abuses. A new civilian controlled police force was established and partly deployed, and the first steps were taken towards judicial reform. A program of land transfers to former combatants was initiated and other socio-economic issues began to be addressed. Foundations were also laid for unprecedented free and fair elections.

International factors such as the shift in U.S. policy and support from the "Friends of the Secretary-General" were crucial to these advances as were domestic factors including widespread war exhaustion, changed elite and guerrilla perspectives, and ongoing pressure from the churches and other non-governmental sectors. Yet the United Nations acted as an indispensable catalyst by facilitating progress towards peace in numerous ways. Specifically, Secretary-General Boutros-Ghali, his predecessor, and their senior officials deserve praise for their sophisticated understanding of, and commitment to, the peace process in El Salvador. Their engagement was reflected in active and creative mediation before and since the cease-fire.

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<sup>191</sup>. Report of the Secretary-General, *op.cit.* (21 May 1993), para. 115.

UN officials also deserve credit for deploying and integrating a wide variety of resources to promote peace: the Preparatory Office which took considerable risks to lay foundations for the Mission; the early deployment of the Human Rights Division which increased the UN presence and its credibility; the Military, Police, and Electoral divisions which, combined with the Chief of Mission's Office, provided ONUSAL with the capacity to monitor and promote implementation in other critical areas; and bodies like the Ad Hoc and Truth commissions and the Independent Human Rights Expert, which allowed the United Nations to investigate and push for compliance on sensitive issues without jeopardizing the continuity of the peace process. In our opinion, the Mission's adherence to the classical norms of UN peace-keeping (especially the principles of impartiality, consent, and non-enforcement) also underpinned the constructive impact of the United Nations' contribution to ending war in El Salvador.

Nevertheless, the UN performance record in this case, however impressive from a comparative standpoint, also highlights the challenges of an integrated approach to peace. Four problems stand out: the dilemmas posed by increasing UN intrusiveness; the tension between the need to denounce violations and the need to manage ongoing conflicts; the difficulties of integrating the various aspects of verification and monitoring to promote a complex process of national reconciliation; and finally, the discontinuities between UN efforts and the policies of other international bodies and foreign governments. We conclude by discussing these challenges in order to focus debate on critical policy and organizational issues which continue to face UN conflict resolution efforts.

With regards to UN intrusiveness, it is clear that despite the breadth of the original ONUSAL mandate, the United Nations took on even greater peace-making, monitoring, and institutional support roles than were anticipated. As the pattern of increasing intrusiveness on the part of the United Nations established itself, the military and the political right in general began to accuse ONUSAL of violating the sovereignty of the Salvadorean state while leading figures in the judicial system declared the judiciary not subject to agreements negotiated by the executive power. On the other side of the political spectrum, in the words of one Mission

Observer, "the FMLN sought even greater intrusiveness". Meanwhile, the government, of course, remained officially supportive of the Mission: it endorsed the UN Mission as a manifestation of the development of international human rights instruments to which all states must be subject.<sup>192</sup>

The government's support of the Mission, however, appeared as often, if not more often, formal rather than substantive. It was unwilling or unable to provide political leadership and material resources for carrying out critical reforms; it attempted to modify both the application of certain accord clauses and the recommendations of the Ad Hoc Commission; and it called for an amnesty for those named in the Truth Commission report.

In response, the United Nations' and ONUSAL's role evolved and expanded in practice although, of course, it had referred, right from the start, to monitoring "all accords" signed by the parties. Nevertheless, the Mission and the United Nations did not expect to play as much of a mediating role as they eventually did: their personnel wound up substituting for lack of political will in addition to the lack of conflict resolution experience and skills manifested so prominently in the stalemated and often ineffective COPAZ. The fundamental problems, however, went beyond COPAZ or deficiencies of political will at the executive level. They inhered, as we have argued, in the traditional power relations of a highly repressive authoritarian *system* and the threats posed for the privileged, and also some not so privileged, by the full implementation of the accords. Thus the ARENA-dominated Legislative Assembly, for example, modified legislation that COPAZ prepared to comply with the accords, weakening it considerably in some cases. To all this we must add the exacerbated levels of mistrust between groups that had recently been shooting at each other.<sup>193</sup>

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<sup>192</sup>. Rodolfo Parker, the head of the government's Execution Unit for the Peace Accords, argued during the earlier cited interview: "ONUSAL and similar missions are taking us in the right direction of fortifying the human rights components in the original conception of the United Nations. States can't go backwards in human rights respect by using sovereignty arguments as a excuse. All states should welcome, and have an interest in, international supervision of human rights."

<sup>193</sup>. To test out levels of mistrust, Loosle, on one

Deciding on the appropriate degree of UN involvement in this context posed a profound dilemma: if the United Nations did not intervene enough, the whole process could fall apart due to widespread non-compliance or renewed conflict; if the United Nations intervened too much, it could lose the support of the government and, more fundamentally, it could fail to strengthen the domestic institutions which alone could ensure long term compliance and lasting peace. The United Nations handled the dilemma by extending its involvement where necessary in order to ensure compliance and conflict management, while simultaneously working to support domestic conflict resolution mechanisms such as COPAZ, human rights mechanisms such as the Ombudsman's Office, and new security agencies such as the PNC. But balancing the requirements of conflict management and peace-building proved difficult. As one Mission official noted in January 1993, while "the conditions for preventing new conflict are better", they continue to "exist: the objective social and economic [conflict inducing] conditions are there as are the lack or deficiencies of institutional channels for conflict resolution". He continued: "In the best case scenario, what we are doing is helping construct the channels for future conflict resolution." On these key questions of whether or not movement in the right direction was taking place and whether or not local conflict resolution mechanisms were beginning to develop, ONUSAL observers and others generally stressed the very slow and difficult pace of advance that we have recorded here.

In our earlier work, which assessed developments during the first months following the cease-fire, we argued:

The grim possibility could not be ignored that ONUSAL would leave after the 1994 elections, having disarmed the FMLN but not the core of the Salvadorean armed forces, its

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occasion, presented to the government a proposal only be reference to the discussions he had held concerning it with the FMLN, without mentioning the fact that it had originally come from government personnel. The initial government reaction was to reject it out of hand with warning that it was a conspiratorial FMLN maneuver. From earlier cited interview.

intelligence system, or the death squads, and that conflicts over land and labour issues would lead to a new "dirty war" against popular organizations and reformist politicians.<sup>194</sup>

Unfortunately, that assessment still stands. The Truth Commission report, for example, warned that the death squads that killed thousands in the 1980s continue to be a "potential menace" and therefore called for a "special investigation" into their constitution and operations, in addition to judicial proceedings against those named in the report as responsible for the major abuses.<sup>195</sup> Instead, El Salvador's Legislative Assembly proceeded to pass the "amnesty law" that covered the perpetrators of all the crimes documented in the Commission's Report.

Could ONUSAL have done more to ensure implementation? It might be argued that the United Nations' cautious approach towards established elites and authorities in El Salvador was an inevitable reflection of its character as an organization of states. One *in situ* observer of the first months of ONUSAL's operations commented:

There were times when excessively "governmental" considerations caused ONUSAL to lose its way, make mistakes, betray its mandate. There were times when an excessively officialist or statist mentality on the part of ONUSAL officials prevented them from seeing exactly what they were there to monitor: the State's abuse of power versus its defenceless citizens.<sup>196</sup>

As such, it may be argued that the state-centric, bureaucratic, and conservative biases of the

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<sup>194</sup>. Baranyi and North, *op.cit.*, p. 33.

<sup>195</sup>. Truth Commission Report, pp. 261-262.

<sup>196</sup>. From written comments to an earlier draft of this work by an independent observer who prefers to remain anonymous.



organization inherently limited its capacity to promote the fundamental changes necessary for effective conflict resolution in societies such as El Salvador.

However, we should not ignore the dilemma confronting the United Nations in such situations, namely the tension between the need to denounce violations and the need to manage ongoing conflicts. As with the dilemma of intrusiveness, if the United Nations failed to denounce major violations of the peace accords, its credibility as a monitor would have been jeopardized and the process might have collapsed; on the other hand, strict denunciation of all violations (or self-serving interpretations of the accord) could have also risked the process by damaging the United Nations's capacity to act as a mediator of both the principal and day-to-day conflicts. As one commentator noted:

It is the old foreign policy problem. Do you lose leverage if you denounce? Is it better to try and persuade and to use quiet diplomacy? It's a judgement call, but some things probably could have been denounced.<sup>197</sup>

In effect, the United Nations dealt with this problem by dispersing the responsibilities for monitoring, denunciation, and mediation. Peace-making was generally the preserve of the Secretary-General and his senior officials while ONUSAL was most responsible for ongoing monitoring in all areas, leaving ad hoc bodies such as the Truth Commission, in addition to the ECOSOC Human Rights Expert, responsible for most pointedly denouncing specific parties for non-compliance. This allowed the United Nations to press for overall (if not complete) compliance while ensuring that all major parties maintained their consent to its presence and activities.

In this respect, all observers of the Salvadorean political scene agree on the importance of the upcoming 1994 general elections for determining the future development of the country: to be held under ONUSAL supervision, they will be the first in the country's

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<sup>197</sup>. From an interview conducted in San Salvador in January 1993.

history that do not add up to more or less of a charade.<sup>198</sup> One opposition political leader interviewed for this study, in fact, was not overly concerned about some of the failings in the implementation process on the grounds that a new correlation of political forces in the Legislative Assembly (assuming that ARENA would lose its majority) would ensure compliance over the longer term through, for example, a new agrarian reform law, the fortification of the Ombudsman's office, and the like.<sup>199</sup>

Nevertheless, we believe that the United Nations could have taken some steps to better handle the dilemmas of intrusiveness and conflict management, and that these measures might be germane to future UN peace operations. Especially in the area of human rights, ONUSAL could have worked more closely with NGOs to strengthen the capacity of civil society to monitor steps positive to peace in the long run. Given the obstacles encountered in promoting change under UN supervision, it is essential to strengthen the mechanisms for ensuring continued progress in the absence of such daily external scrutiny and pressure. As important as the creation of state institutions such as the Ombudsman's Office undoubtedly are, the enhanced functioning of the principal non-governmental human rights agencies will be essential to keeping state agencies true to their commitments after the departure of ONUSAL in 1994.

Second, despite impressive advances in the coordination of different UN functions, even greater efforts will have to be undertaken to forge truly integrated peace missions. As shown in this study, advances in one area of the peace process (e.g., peace-keeping) were repeatedly threatened by failure to advance in others (e.g., land transfers). These disjunctions were due in part to the difficulties of promoting synchronized social change in different areas of any society. They were also due to the questionable

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<sup>198</sup>. In our view, this includes the 1991 Legislative Assembly elections that were pronounced fair by the OAS.

<sup>199</sup>. This was argued by, for example, Dr. Victor Manuel Valle, Secretary-General of the Movimiento Nacional Revolucionario (MNR), a member party of the Socialist International. Interview, San Salvador, January 13, 1993.

backgrounds of some personnel seconded for peace-keeping duty, as well as to the United Nations' lack of experience in peace-building functions like promoting judicial, military, and public security reforms. More careful selection and training of mission personnel could alleviate these problems.

The difficulties of coordinating monitoring units with differing functions and personnel with contrasting professional backgrounds exacerbated integration problems. The development of programs for the common pre-deployment training of key personnel could reduce these differences. In more general terms, if UN member states proceed to support the recommendations presented in An Agenda for Peace and therefore more missions similar to ONUSAL, they will have to develop training in the peacemaking and peacebuilding areas discussed here within existing national institutions and consider the creation of new ones. With reference to military institutions in particular, as a former member of the ONUSAL Military Division proposed, "Peacekeeping should become a part of the standard curriculum in the military educational system at all levels -- military colleges and staff colleges". At the same time, the "old hands of peacekeeping" could provide advice and training to personnel from nations with less experience in this area.

UN member nations should also give serious consideration to setting up a multi-national Peace-Building Academy. Its curriculum should not be limited to military and policing questions nor should entrance be restricted to military and police personnel. Rather, it should include education on human rights, the history of past missions, and even gender relations that pertain to the type of peacebuilding activities undertaken by ONUSAL. Since peacebuilding involves a much more ambitious effort than peacekeeping -- including questions ranging from the coordination of civilian, military, and police personnel, to human rights monitoring, the creation of new institutions, and the reform of the old -- the establishment of such an Academy is all the more indicated.

Beyond this, the experience of El Salvador suggests that UN contributions to peace, however impressive, can be undermined by the policies of other international bodies and member states. At one level, the viability of a

host of conflict-reducing reforms depends on financing from the international community. More fundamentally, it is important to ask whether the structural adjustment policies promoted (and enforced) by the G-7 states and the IFIs do not run contrary to efforts to promote national reconciliation through, for example, land transfers or the extension of social services to the poor.

Finally, a brief note on salaries and benefits. Especially in light of the severe resource constraints in the international system and the "demand" for more UN peace operations, it may be recommended that the salaries paid to peace mission personnel should be adjusted in some relationship to the living costs of the host country. Currently there is one standard international salary, no matter where the services are performed. Although not all agree with him, Major-General Lewis MacKenzie has argued that, "peacekeeping money is being wasted on overly generous allowances and benefits".<sup>200</sup> Moreover, the life-styles of UN mission members, particularly in very poor countries like El Salvador, can distort local prices and become a source of considerable resentment on the part of the intended beneficiaries of the peace promotion efforts. This was certainly the case with ONUCA and it is the case with ONUSAL. Right wing populists especially, with other axes to grind, have drummed on this theme in El Salvador, popularizing the notion of the mission as the "United Vacations". Salaries adjusted in some relation to the local cost of living, in addition to producing savings, could neutralize such criticisms and actually improve UN public relations and credibility.

While salaries should be received, Compensatory Time Off (CTO) should be eliminated. CTO was originally designed to provide relief to military observers in hardship conditions. Subsequently, it became an entitlement for all military and police personnel but it was not available to civilians, leading to patent inequality and detracting from mission effectiveness. CTO privileges in El Salvador meant that 25-30 percent of military observers were perennially on leave<sup>201</sup>.

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<sup>200</sup>. Major-General Lewis MacKenzie, "Sarajevo Aftermath: Bullets and sound bites", The Globe and Mail, Focus section, September 4, 1993.

<sup>201</sup>. Based on communications from Henry Morris

There are no simple answers to the complex issues we have raised. Yet if the United Nations is to learn from the past and act more effectively in the future, the lessons suggested by the achievements and limitations of its mission in El Salvador should be systematically studied and acted upon.

## V. RECOMMENDATIONS

In the course of preparing this work, various officials and observers made recommendations concerning the future organization of UN peace-keeping and peace-building missions. Below, we summarize those, and also our own suggestions, in the order in which they have appeared in the text.

1. Preparatory offices should be established prior to the deployment of missions.
2. Infantry personnel from military institutions with recent experiences of counter-insurgency operations and records of human rights abuses should not be incorporated into UN missions.
3. The United Nations and member states with experience in peace-keeping should organize courses to prepare personnel from the armed forces of countries with little or no experience in this area for employment in UN missions.
- 3a. Peacekeeping should become a part of the standard curriculum in the military educational system at all levels -- in military colleges and staff colleges -- in UN member states.
4. Among the experienced peacekeepers, Canada, in the light of its membership in the OAS, should provide Spanish language training for more military personnel.
5. In the case of complex missions with peacemaking and peacebuilding components, a common "socialization experience" should be provided for all

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(October, 1993).

key mission participants to ensure effective working relationships.

- 5a. At a minimum, it should consist of one week, focused on the issues that the mission would be confronting and organized in an environment free of other demands and distractions.
- 5b. The substantive focus of the above should include presentations on the country in which the mission will be located, the experiences of other similar UN missions, respect for human rights, communications skills, the nature of the hierarchies within which mission personnel will be working, UN peace-keeping norms of neutrality, and gender relations.
6. UN member nations should give serious consideration to setting up a Peace Building Academy.
- 6a. Its curriculum should not be limited to military and policing questions nor should entrance be restricted to military and police personnel. Rather it should include education in the areas summarized above in 5b.
7. The United Nations -- although an organization of member *states* -- should explore ways in which it can strengthen its relations to non-governmental organizations and assist their development as a necessary component of democratization.
8. To promote peacebuilding in the spirit of An Agenda for Peace, the United Nations should take the lead in establishing an international fund for financing agrarian reform in societies where the maldistribution of land feeds social conflict.
- 8a. In this respect, the United Nations should also take a leading role in promoting international commodity agreements that can alleviate the conflict inducing economic crises of primary export economies in the Third World.
9. Salaries of UN mission personnel

should be adjusted in some relation to the local cost of living. In addition to producing savings, this can actually improve UN public relations and credibility in poor countries.

10. The United Nations should conduct systematic evaluations of completed missions in order to learn from mistakes.
11. The United Nations should continue to dynamically integrate peacemaking, peacekeeping, and peacebuilding efforts as it did in El Salvador.
12. The United Nations should adhere to the classical norms of peacekeeping -- especially impartiality, consent, and non-enforcement -- unless all peaceful means of promoting peace have been exhausted.