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## U.S. Department of State

### Honduras Country Report on Human Rights Practices for 1996

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#### HONDURAS

Honduras is a constitutional democracy with a President and unicameral Congress elected for 4-year terms and an independent judiciary headed by a Supreme Court of Justice. President Carlos Roberto Reina took office in January 1994 as the fourth democratically elected President since the reestablishment of democracy in 1982. Both major parties (Liberal and National) have now assumed power from the other after free elections.

The Honduran Armed Forces (HOAF) comprise the army, air force, navy, and the police (Public Security Force--FUSEP) as a fourth branch. In December, however, the Congress approved the second and final reading of a constitutional amendment to place FUSEP under civilian control. The armed forces operate with considerable institutional and legal autonomy, particularly in the realm of internal security and military affairs. The Government established an Ad Hoc Commission on Police and Judicial Reform in 1993, in response to credible allegations of extrajudicial killings by members of the FUSEP, particularly its Directorate of National Investigations (DNI). In January 1994, the Government established a new Public Ministry containing a new Directorate of Criminal Investigations (DIC) to replace the disbanded DNI; however, the DIC is not yet fully staffed or equipped. According to human rights organizations, including the Government's National Commission for the Protection of Human Rights, reports of abuses have steadily declined since the DNI was abolished. Nonetheless, members of both the armed forces and the FUSEP are reported to have committed human rights abuses.

The economy is primarily based on agriculture, with a small but increasingly important maquiladora (in-bond processing for export) industry that accounts for some 75,000 jobs. The armed forces or its pension

fund play a role in the national economy, controlling enterprises usually associated with the private sector, including a bank, several insurance companies, and one of the two cement companies. Some entities (notably the merchant marine and the national telephone company) have passed from military to civilian control. Approximately 43 percent of workers engage in agriculture; about one-third of those work on large plantations. The principal export crops are coffee and bananas, which are the country's leading source of foreign exchange. Nontraditional products such as melons and shrimp also play an important role in the country's economy. Per capita income is about \$670 annually, which provides most of the population with a low standard of living. The Government estimates that 65 percent of its citizens live in poverty.

The Government's human rights record improved somewhat, although serious problems remain in certain areas. Some members of the security forces allegedly committed extrajudicial killings. Reports of torture decreased significantly; however, police beatings and other abuse of detainees remained a problem. The Government administratively punished some abusers but took no judicial action against them. Considerable impunity for members of the civilian and military elite, exacerbated by a weak, underfunded, and sometimes corrupt judicial system, contributes to human rights problems. Prison conditions remained harsh, and the judicial system is unable to provide prisoners awaiting trial with swift and impartial justice. No senior government official, member of the business elite, bureaucrat, or politician was convicted in 1996. However, the authorities arrested and jailed two officials of the former administration for fraud and abuse of power, and there are accusations against former President Callejas and members of his cabinet. There was an increase in the number of vigilante killings. Other human rights problems were societal discrimination and violence against women, discrimination against indigenous people, and abuse of street children.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Political and Other Extrajudicial Killing**

There were no reports of politically motivated killings. However, members of the security forces (notably District Command 7 of the police in Tegucigalpa) allegedly committed several extrajudicial killings.

The crime rate surged again in 1996, including a rise in the number of homicides. Random shootings were common; bombs were thrown at the President's home and at businesses of a human rights activist, at the courts, at Congress, and at government ministries. With the drastic increase in violent crime, it continued to be difficult to differentiate among homicides that may have been perpetrated by members of the various government security services, common criminals, or private vigilantes (these are privately hired, unlicensed guards or watchmen, as well as volunteer groups who patrol their neighborhoods or municipalities to deter crime).

Human rights groups have compiled credible evidence to indicate that at least 73 of these homicides were extrajudicial executions. In at least 21 of these cases, it is alleged that renegade elements of the security forces or civilian groups working with them (including vigilante elements) deliberately used unwarranted lethal force against supposed habitual criminals. Widespread frustration at the inability of the security forces to control crime and the well-founded perception that a corrupt police force is complicit in the high rate of crime, have led to considerable public support for vigilante justice. The Government did not take effective action to try, convict, or punish anyone for these offenses.

On July 23, residents discovered the body of a 20-year-old in a trash dump in El Segundo Anillo Periferico, a neighborhood in the northern city of San Pedro Sula. They found the victim, whose identity remains unknown, with his feet bound and his hands tied behind his back; he was shot twice in the head. Witnesses to the shooting claim that the victim was killed at the trash dump by several men who fled the scene. Police speculate that the killing was an act of vigilante justice but have not identified any suspects.

On July 1, the bodies of two men (Isauro Rene Rivera Salgado, age 25 and Ruben Omar Arambu Baile, age 21) were found in Cerro Grande, a neighborhood of Comayagueta, near Tegucigalpa. Both men, missing for 2 days, were found in a ditch with bullets in the head, the thorax, and both sides of the body. In a preliminary investigation, the police indicated that both appeared to be executions, adding that one or both were involved in some sort of illegal activities. There were no witnesses, and FUSEP has not interrogated or arrested any suspects.

Credible allegations of extrajudicial killings by members of the FUSEP, particularly its now-defunct Directorate of National Investigations, led to the creation in January 1994 of a new civilian-controlled Directorate of Criminal Investigations to replace the DNI within the new Public Ministry (which also includes a prosecutorial branch). Human rights groups, including the Attorney General's office, have noted a continuing drop in the number of reports of human rights abuses since the dissolution of the DNI. The new Ministry, responsible for investigating all cases of extrajudicial killings, has completed its initial program of training and organizing its staff. Although this process has been slow, the DIC did solve several high-profile cases, including two kidnappings where the DIC rescued the victims and arrested the kidnapers. The Ministry will lack the capability, however, to investigate adequately current or past criminal cases until the DIC reaches a higher level of operational capability. The DIC expects to reach this level in mid-1997, when it expects to have 1,500 fully trained and equipped agents. In 1996, the DIC had only 420 investigators and practically no communications equipment.

In June the stepdaughter of human rights activist Ramon Custodio, president of the Committee for the Defense of Human Rights in Honduras (CODEH), died under unclear circumstances; by year's end no final determination had been made whether the death was a murder or a suicide.

On January 5, the First Court of Appeals ruled that military officers accused of human rights abuses in the 1980's were covered by the 1991 amnesty decreed by the National Congress. However, in a decision announced January 19, the Supreme Court unanimously overruled the Appeals Court decision in the case of nine military officers accused of the illegal detention, torture, and attempted murder of six students in 1982. The case was returned to the criminal courts for action, which the appeals court had ruled did not have jurisdiction since past amnesty covered the military. The effect of this ruling was that courts of first instance will consider the application of amnesty on a case-by-case basis, subject to review by higher courts.

Following much-publicized investigations of human rights violations (past and present) by military personnel, judges in the civilian court system issued arrest warrants for 15 senior active and retired military and police officers, charging them with a number of serious crimes committed in 1982. These included the kidnaping, illegal detention, torture, and attempted murder of six students by the police; the illegal detention and murder of Nelson Mackay Chavarria and the attempted murder and illegal detention of Miguel Francisco Carias; and the illegal detention, robbery, murder, and threats to murder of Adan Aviles Funez and a Nicaraguan laborer named Amado Espinoza Paz, who disappeared together in Choluteca on June 12, 1982. Of the 15 with outstanding warrants, all but 2 remain fugitives and at large. (One of these turned himself in but was released after proving that he was not in the country at the time of the alleged crimes; the other is in prison serving a 5-year sentence for a narcotics conviction).

The Supreme Court on July 1 issued a special decree permitting officials associated with the criminal justice system (including the military, police, prison wardens and employees, criminal investigative agents, public prosecutors, judges, and magistrates), who are sought by the criminal courts, to serve their preventive detention at military bases and police centers rather than the central penitentiaries, as has been the case in the past. The decree is not mandatory and leaves the detention decisions up to the judge in each case. This ruling applies only to preventive detention and may encourage military officers sought for alleged human rights abuses in the 1980's to turn themselves in. The decree is designed as an interim measure, pending passage by the National Congress of a new penal procedures code that will modernize the now antiquated code.

There was no progress in investigation or prosecution of other alleged extrajudicial killings committed in previous years. These include the 1995 killings of four alleged criminals who had been detained by police of the 7th command of FUSEP in Tegucigalpa: Orlando Alvarez Rios, Diomedes Obed Garcia, Rony Alexis Betancourt, and Marco Antonio Serbellon; the 1995 killings of three alleged car thieves found tortured and shot to death outside the city of La Paz: Jose Alfredo Castro Urbina and Dennis Moises Castro Rosa (the third remains unknown); and a number of killings dating back to 1990.

#### b. Disappearance

There were no reports of politically motivated disappearances.

The Attorney General continued investigations into the disappearances of 184 people in the 1980's. Various witnesses, survivors, and a few former members of the military have charged that a military intelligence group called Battalion 3-16 kidnaped, tortured, and murdered many of those who disappeared. The National Commissioner for Human Rights, Leo Valladares, also continued his investigation into the human rights abuses alleged to have been committed by members of Battalion 3-16 and the former DNI. The Attorney General had several clandestine grave sites excavated during the year, and forensic scientists identified several remains as those of persons on the list of those who disappeared. The Attorney General and the Human Rights Commissioner requested from the HOAF and the U.S. Government information they might have to aid this investigation. The HOAF claimed to have no relevant information. The U.S. Government reviewed documents from that period and released to the Attorney General and the Commissioner thousands of pages of declassified documents, including several hundred pages relating to the disappearance of a U.S. citizen Jesuit priest, Father James Carney.

In August the Government completed payment of indemnifications ordered by the Inter-American Court of Human Rights to the victims' families in the Velasquez Rodriguez and Godinez Cruz cases. The victims were students at the National Autonomous University in 1981 when DNI agents detained them; they were never seen again. The Inter-American Commission on Human Rights expressed its satisfaction with the Government's action and with the petitioners who testified.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture, and there were only a few reports that officials employed such practices. However, police beatings and other alleged abuse of detainees remained a problem. The police also engaged in violence against street children (see Section 5).

The Office of Professional Responsibility (OPR), part of FUSEP, investigates cases of alleged torture and abuse; OPR officials recommend sanctions for police agents found guilty of such mistreatment. However, neither the FUSEP General Command nor the OPR is empowered to punish wrongdoers; only the commander of the accused agent has the authority to do so. Several human rights groups and the

Public Ministry criticized the OPR for not being responsive to their requests for impartial investigations of FUSEP agents accused of abuses. The Public Ministry established the Office of Human Rights Inspector within the DIC to monitor the behavior of its agents. This office reports to the head of the human rights section and to the Attorney General. Investigations by this office resulted in the firing of 11 DIC agents in 1996.

Prison conditions are harsh. Prisoners suffer from severe overcrowding, malnutrition, and a lack of adequate sanitation. The 24 penal centers hold 9,342 prisoners, of which only 835 have been convicted and are serving sentences. The rest are still awaiting trial, some for as long as 5 years. More often than not, wardens house the mentally ill and those with tuberculosis and other infectious diseases together in the same cells with the general prison population. A new, larger detention facility for men located in Tamara lacks water and was not expected to open until sometime in 1997. Prisoners with money routinely buy private cells, decent food, and conjugal visitation rights, while prisoners without money often lack the most basic necessities as well as legal assistance. When the authorities arrest street children, they house many of them with adults who abuse them.

The Government permits prison visits by international human rights organizations.

#### d. Arbitrary Arrest, Detention, or Exile

The law states that the police may arrest a person only with a court order, unless the arrest is made during the commission of a crime, and that they must clearly inform the person of the grounds for the arrest. (By law the FUSEP cannot investigate; it only detains suspects.) Police must bring a detainee before a judge within 24 hours; the judge then must issue an initial temporary holding order within 24 hours, release an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation. However, in practice, the authorities do not routinely observe these legal requirements. While bail is legally available, it is used primarily for ostensibly medical reasons, but procedures for granting it in such cases are confused and unclear. Poor defendants, even when represented by a public defender, are seldom able to take advantage of bail.

Under the 1984 Code of Criminal Procedures, a judge, the police, public officials, or any citizen may initiate criminal proceedings. Perhaps as many as 80 percent of the cases reported to the police are never referred to the criminal justice system but instead are settled administratively by the police or by municipal courts, which are separate from the regular judicial court system.

The Constitution prohibits the expatriation of a citizen to another country; exile is not used as a means political control.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the right to a fair trial. While the Government respects these provisions in principle, historically in practice, adherence has been weak and uneven. A number of factors limit the effectiveness of the system: Both the judiciary and the Public Ministry suffer from inadequate funding; the civil law inquisitorial system functions very poorly; and powerful special interests still exercise their influence and often prevail in many lower courts. However, in landmark public sector cases (see Section 1.a.), the Supreme Court did show a significant degree of independence from powerful political and economic interests.

The court system is composed of a Supreme Court with 9 magistrates; 10 appeals courts; 67 courts of first instance of general jurisdiction; and 325 justice of the peace courts of limited jurisdiction. Congress

elects the nine Supreme Court justices and names the president of the Court; the Supreme Court, in turn, names all lower court judges. The 4-year term for justices of the Supreme Court coincides with those of the Congress and the President.

Some progress was made in using a judicial career system to enhance qualifications of sitting judges, depoliticize the appointments process, and break the subcultures of corruption, clientism, patronage, and influence peddling within the judiciary. Nevertheless, many appeals courts and lower courts remain staffed by politically selected judges and unqualified clerks and are inefficient and subject to influence by special interests.

An accused person has the right to a fair trial, which includes the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. Although the Constitution recognizes the principle of innocence, the Criminal Code is in practice often administered by ill-trained judges operating on a presumption of "guilty until proven innocent." Pretrial hearings and trials are written, and at the judge's discretion may be declared secret and not "public." Defendants and their attorneys are not always genuine participants in the process, despite rights accorded under law. Defendants may, through the judge, confront witnesses against them and present evidence on their own behalf. According to law, defendants and their attorneys have access to government-held evidence relevant to their cases, but in practice this is not always the case.

In the inquisitorial system, judges are legally in charge of the investigation as well as the trial and sentencing. Both the Public Ministry's public prosecutors and private prosecutors may bring criminal charges against citizens. A judge may jail an accused persons for 6 days before a determination is made of probable cause to admit the charge. If a judge sustains the criminal accusation, the accused remains in jail or may be released on bail while awaiting trial. Until recently, the same judge conducting the investigation was the trial and sentencing judge. By order of the Supreme Court, those jurisdictions are now separate.

A public defender program provides service to those unable to afford an adequate defense. There are 104 public defenders nationally providing free legal services for 37.4 percent of the prison population; however, public defenders are hard pressed to meet the heavy demands of a nonautomated, inadequately funded, and labor-intensive criminal justice system. Despite their best efforts, detention of criminal suspects pending trial averaged 2 years and remains a serious human rights problem. In a number of cases, poor prisoners remain in jail after being acquitted or completing their sentences, due to the failure by responsible officials to process release papers. A significant number of defendants serve the maximum possible sentence for the crime of which they are accused before their trials are ever concluded or even begun. In June government statistics showed that 89 percent of prisoners in jails had not been through a trial process or sentenced.

Pending consideration of proposed reforms, the Supreme Court issued an instruction that holds judges personally accountable for reducing the backlogged cases; separates judges into pretrial investigative judges, and trial and sentencing judges; and creates a program to monitor and enforce compliance with these measures. The instruction is intended to ensure that the rights of the accused to a timely and transparent defense are more effectively respected.

The 1994 Public Ministry Law and subsequent creation of the new ministry, with 196 public prosecutors assigned nationally, are also intended to strengthen a citizen's ability to seek redress from government abuses and to enjoy fair and public trials. The Public Ministry's independence from the other branches of the Government is also intended to reduce the opportunities for the politically and economically powerful to distort the investigative and prosecutorial process. After 2 years in full operation, the Public Ministry has taken decisive action in favor of human rights by investigating and accusing not only

military officers of violations, but also investigating and accusing various high ranking officials of both the former and current government of abuses of power, fraud, and diversion of public funds and resources. These are crimes that seriously diminish the Government's ability to address fundamental economic issues affecting the human rights of the general population. Citizens can also seek redress through the National Human Rights Commissioner (Ombudsman), who is empowered to monitor and oversee the Government's performance on human rights matters. Despite the significant efforts of the Public Ministry, considerable independence shown by the Supreme Court on highly visible and different cases, and independent lower court judges, at year's end the justice system still tended to favor the rich and politically influential and remained weak, underfunded, marginally politicized, and generally inefficient.

Prior to 1994, the armed forces insisted that its members could only be tried through its own courts-martial. However, in 1993 Congress passed a resolution interpreting the jurisdiction of the military court system to be subordinate to the civilian system in cases of jurisdictional dispute. Since then both officer and enlisted military personnel accused of crimes against civilians have in fact been remanded to the civilian judicial system. Following much-publicized investigations of human rights violations (past and present) by military personnel, judges in the civilian court system brought criminal charges against a number of senior active and retired military officers for murder, attempted murder, and illegal detention (see Section 1.a.). The Public Ministry maintains civilian prosecutors accredited to 11 military courts as well as to the major courts of first instance in the country. Although the military continued to profess respect for civilian court jurisdiction over its members, only one military officer accused of human rights violations has turned himself in.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution specifies that a person's home is inviolable and that persons authorized by the State may enter only with the owner's consent or with the authorization of a competent authority. Entry may take place only between 6 a.m. and 6 p.m. or at any time in the event of an emergency or to prevent the commission of crime. However, as in previous years, there were credible charges that police and armed forces personnel failed at times to obtain the needed authorization before entering a private home. Despite a system of "duty judges" and "duty prosecutors" to issue search orders, coordination among the police, the court, and the Public Ministry remains weak. However, while these interagency liaison problems still undermine the effectiveness of the system, there was notable improvement during the year.

### **Section 2 Respect for Civil Liberties, Including:**

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and the authorities largely respected these freedoms in practice. The media, while often openly critical of the Government and frequently willing to expose corruption, are themselves subject to high levels of corruption and politicization. Serious investigative journalism is still in its infancy. There were credible reports of powerful figures threatening the job security of reporters, as well as instances of self-censorship and payoffs to journalists to kill stories.

The Government respects academic freedom and has not attempted to curtail political expression on university campuses.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

#### c. Freedom of Religion

The Constitution provides for all forms of religious expression, and the Government respects this right in practice.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens enter and exit the country without arbitrary impediment, and the Government does not restrict travel within the country's borders.

The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. There were no reports of forced expulsion of those having a valid claim to refugee status. The Government provides first asylum and the granting of asylum or refugee status in accordance with the standards of the 1951 United Nations Convention and its 1967 Protocol Relating to the Status of Refugees.

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

Citizens exercised the right to change their government through democratic and peaceful means in the November 1993 elections. International observers found the elections to be free and fair. The national government is chosen by free, secret, direct, and obligatory balloting every 4 years. Suffrage is universal, but the clergy and serving members of the armed forces are not permitted to vote. Any citizen born in Honduras or abroad of Honduran parentage may hold office except for members of the clergy and the armed forces. A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half the country's 18 departments. In December the major parties held vigorously contested primary elections--a first for the National Party--in preparation for elections in 1997.

There are no legal impediments to women or minorities participating in government and politics, but in practice, the proportion of women and minorities in political organizations and elective office is far lower than their overall representation in society. However, in the 1993 elections voters elected for the first time a woman, Guadalupe Jerezano, as one of the three vice presidents, and the losing opposition slate also had a female vice presidential candidate. Women hold a cabinet ministry and a Supreme Court position, as well as a number of vice ministerial positions. Of the 128 Deputies in Congress, 14 are women. There are few indigenous persons in leadership positions in government or politics. Five Deputies are indigenous persons, and the ambassador to the United Nations is a member of the Garifuna indigenous group.

### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views.

In March Congress ratified a presidential decree expanding the functions of the National Commission

for the Protection of Human Rights and unanimously reelected Dr. Leo Valladares for a 6-year term as Commissioner. Under this new decree, and in fulfillment of his expanded functions, the Commissioner has free access to all civil and military institutions and centers of detention; he may enter without authorization or objection by anyone. The Commissioner performs his functions with complete immunity and autonomy from all persons.

Anonymous telephone callers continued to threaten several individuals active in human rights endeavors. Human Rights Commissioner Valladares received numerous telephone threats against himself and his family. Dr. Ramon Custodio, president of CODEH, and Berta Oliva de Nativi, coordinator for the Committee of the Relatives of the Detained and Disappeared in Honduras, also received numerous telephone threats. DIC director Wilfredo Alvarado has received death threats since his investigation into several high-profile scandals involving the illegal sales of Honduran diplomatic passports. Attorney General Edmundo Orellana reported threats against himself and his family due to his investigations of several cases of persons who disappeared in the 1980's.

### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution bans discrimination based on race and sex. Although it also bans discrimination on the basis of class, in fact, both the military and the political and social elite generally enjoy impunity before the legal system. Members of these groups are rarely arrested or jailed. Some progress was made by the Government, however, with the arrest and incarceration of Jose Tomas Guillen Williams and Luciano Coello, two officials of the former Callejas government. Both remain in the central penitentiary in Tegucigalpa awaiting trial on charges of corruption and abuse of power.

In 1994 the Congress passed a constitutional amendment to end compulsory military service. This measure was designed to end the common practice of forcible recruitment into the armed forces of middle and lower class citizens. There were also allegations that the authorities do not adequately defend homosexuals from threats, harassment, or abuse and that some officials support, promote, or engage in such hostile activities.

#### **Women**

Violence against women remains widespread, and serious weaknesses in the Penal Code severely impede efforts to combat it. The Honduran Women's Committee for Peace--Visitacion Padilla and the Center for Women's Rights have called for the passage of legislation now before the Congress that would strengthen penalties for crimes against women. Congress continues to resist addressing concerns of women's advocacy reform groups in this area. The majority of such violence takes place within the family. The courts do not take action in domestic violence cases unless the victim is badly injured and incapacitated for more than 10 days. Except in the case of children 12 years of age or under, rape is considered a private crime (meaning rape victims over age 12 must hire a private prosecutor, a luxury few can afford). The penalties for rape are relatively light, ranging from 3 to 9 years' imprisonment. There are few shelters specifically maintained for battered women. During the year, six new centers for battered women were opened offering legal, medical, and psychological assistance. Although the law offers some redress, few women take advantage of the legal process, believing that judges would be unwilling to apply the law vigorously. Sexual harassment in the workplace is also a problem.

Women are represented in at least small numbers in most of the professions, but cultural attitudes limit their career opportunities. In theory, women have equal access to educational opportunities, but family pressures often impede the ambitions of women intent on obtaining higher education. The law requires employers to pay women, who make up 51 percent of the work force, equal wages for equal work, but

employers often classify women's jobs as less demanding than those of men, as a justification for paying them lower salaries.

Some organizations have begun to offer assistance to women, principally targeting those living in the rural sectors and marginal neighborhoods of cities. The Honduran Federation of Women's Associations, for example, provides home construction and improvement loans, offers free legal assistance to women, and lobbies the Government on women's causes. The human rights group CIPRODEH continues an education program to make women aware of their rights under the law.

## Children

Although the Government has committed itself to protecting children by allocating 27 percent of its 1996 budget to public education and health care, it is unable to prevent abuse of street children (see Section 1.c.) and child workers (see Section 6.d.). In Tegucigalpa there are about 4,000 street children, of whom 2,000 find shelter on any given day. Many of them have been sexually molested, and about 40 percent regularly engage in prostitution; approximately 30 percent of the street children in Tegucigalpa and San Pedro Sula are HIV positive. At least 40 percent are chronically addicted to glue sniffing. Over 75 percent of the street children find their way to the streets because of severe family problems; 30 percent are abandoned. Both the police and members of the general population engage in violence against street children. When the authorities arrest street children, they house many of them with adults who abuse them.

Casa Alianza worked with the police and courts to end the abuse of children who are arrested and incarcerated in adult prisons. As a result, juvenile centers in Tamara, El Carmen, and Hatillo (located in sections of Tegucigalpa and San Pedro Sula) were opened during the year. However, detention of children with adults, vigilante violence, and police abuse continue to be a problem due to a general lack of juvenile detention centers.

On September 10, new legislation covering children and adolescents took effect. The new code covers the rights, liberties, and protection of children, including the area of child labor, and establishes prison sentences of up to 3 years for persons convicted of abuse of children in any form. Given limited resources, the ability of the Government to enforce the new code is problematic.

## People with Disabilities

There are no formal barriers to participation by disabled persons in employment, education, and health care, but neither is there specific statutory or constitutional protection for them. There is no legislation that requires accessibility for disabled persons to government buildings or commercial establishments.

## Indigenous People

The small community of indigenous people have little or no ability to participate in decisions affecting their lands, cultures, traditions, or the allocation of natural resources. All indigenous land rights are communal. While the law permits persons to claim individual free holding titles, in practice this has been difficult. Tribal lands are often poorly defined in documents dating from the mid-19th century and in most cases lack legal title based on modern cadastral measurements. The Honduran Forestry Development Corporation makes decisions regarding exploitation of timber resources on indigenous lands, often over strenuous tribal objection. Nonindigenous farmers and cattle ranchers regularly usurp indigenous lands.

The courts commonly deny legal recourse to indigenous groups and show bias in favor of the nonindigenous parties, who are often people of means and influence. Failure to obtain legal redress frequently caused indigenous groups to attempt to regain land through invasions and other tactics, which usually provoked the authorities to retaliate forcefully. In April, 2 years after their 1994 pilgrimage, some 5,000 members of indigenous groups again threatened to march to Tegucigalpa to remind the Government of the promises it made (the "Plan of Presidential Action of 1994") and demand that their rights be respected. They called off the march after discussions with senior government officials but vowed to return if the Government does not fulfill these agreements.

## **Section 6 Worker Rights**

### **a. The Right of Association**

Workers have the legal right to form and join labor unions; the unions are independent of government and political parties. Although only about 14 percent of the work force is organized, trade unions exert some economic and political influence. During the year this influence diminished somewhat. Unions frequently participate in public rallies against government policies and make extensive use of the media to advance their views. There are also three large peasant associations directly affiliated with the trade unions. The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities honor in practice. The Civil Service Code, however, stipulates that government workers do not have the right to strike. (This does not include those working in state-owned enterprises.) There were legal and illegal strikes during the year by workers in foreign-owned maquiladora (in-bond processing) plants exporting textiles and garments.

A number of private firms have instituted "solidarity" associations, which are essentially aimed at providing credit and other services to workers and management who are members of the association. Organized labor, including the American Federation of Labor-Congress of Industrial Organizations and the International Confederation of Free Trade Unions, strongly opposes these associations on the grounds that they do not permit strikes, have inadequate grievance procedures, and neutralize genuine and representative trade unions.

The trade union movement maintains close ties with various international trade union organizations.

### **b. The Right to Organize and Bargain Collectively**

The law protects workers' rights to organize and to bargain collectively; collective bargaining agreements are the norm for companies in which workers are organized. However, although the Labor Code prohibits retribution by employers for trade union activity, it is a common occurrence. Some employers threaten to close down unionized companies, harass their workers, and in some cases fire them for trying to form a trade union. Employers actually dismiss relatively few workers for union activity once a union is recognized; these cases, however, serve to discourage other workers from attempting to organize. Workers in both unionized and nonunionized companies are under the protection of the Labor Code, which gives them the right to seek redress from the Ministry of Labor. The Ministry of Labor took action in several cases, pressuring employers to observe the code. Labor or civil courts can require employers to rehire employees fired for union activity, but such rulings are uncommon. Generally, however, agreements between management and unions contain a clause prohibiting retaliation against any worker who participated in a strike or union activity.

The same labor regulations apply in export processing zones (EPZ's) as in the rest of private industry. Unions are active in the government-owned Puerto Cortes free trade zone (7 of the 11 maquiladora

companies there are unionized), but factory owners have resisted efforts to organize the new privately owned industrial parks. The Maquiladora Association has sponsored several meetings and seminars between its membership and major labor groups. As a result, tensions declined, and some 20 plants unionized peacefully in the privately owned EPZ's. The attitude of the Government towards organized labor in the EPZ's is the same as for other industries.

In a number of U.S.-owned plants, workers have shown little enthusiasm for unionizing since they believe that their treatment, salary, and working conditions are as good as or better than those in unionized plants. In the absence of a union and collective bargaining, several of the EPZ plants have instituted solidarity associations, which to some extent exist as company unions for the purpose of setting wages and negotiating working conditions. Others use the minimum wage to set starting salaries and adjust the wage scale by negotiating with common groups of workers and individuals depending on skill, years of employment, and other related criteria. Talks between unions and EPZ plants continue.

Labor leaders blame the Government for permitting management to act contrary to the Labor Code, and say that this problem will continue until the Ministry of Labor is reorganized to make it more efficient. They criticize the Ministry for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Under a November 1995 Memorandum of Understanding between the Minister of Labor and the United States Trade Representative's Office (calling for more forceful implementation of the Honduran Labor Code), the Ministry has made significant progress toward enforcing the code. In one case where the Ministry imposed a \$10,000 (115,000 lempira) fine on a company for failure to rehire 16 workers fired for organizing a union, the company reinstated the workers the next day. The Ministry has increased its inspections of the maquiladoras and the training of its inspectors; more needs to be done, however, to adhere completely to international labor standards.

The Labor Code clearly prohibits blacklisting; nevertheless, there was credible evidence that informal blacklisting occurred in the privately owned industrial parks. When unions are formed, organizers must submit a list of initial members to the Ministry of Labor as part of the process of obtaining official recognition. Before official recognition is granted, however, the Ministry must inform the company of the impending union organization. Ministry officials have consistently been unable to provide effective protection to workers. There are credible reports that, particularly in the EPZ sector, some inspectors have gone so far as to sell companies the names of employees involved in forming a union, which some companies used to dismiss union organizers before recognition was granted. There is also credible evidence that military intelligence maintains files on union activists.

#### c. Prohibition of Forced or Compulsory Labor

The Constitution and the law prohibit forced or compulsory labor. Although there were no official reports of such practices, there were credible allegations of forced overtime in EPZ plants, particularly for women.

#### d. Minimum Age for Employment of Children

The Constitution and the Labor Code prohibit the employment of minors under the age of 16, except a child of 15 years is permitted to work with the permission of parents and the Ministry of Labor. The new Children's Code prohibits a child of 14 years of age or less from working (even with parental permission) and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally. An employer who legally hires a 15-year-old must certify that the young person has finished or is finishing compulsory schooling. The Ministry of Labor grants a number of work permits to 15-year-

olds each year. It is common, however, for younger children to obtain these documents or to purchase forged permits that use the Labor Ministry's letterhead.

The Ministry of Labor cannot effectively enforce child labor laws, and violations of the Labor Code occur frequently in rural areas and in small companies. Many children work on small family farms, as street vendors, or in small workshops to supplement the family income. According to the Ministry of Labor, human rights groups, and organizations for the protection of children, the most significant child labor problem is in the construction industry. Employment of children younger than the legal working age in maquiladoras probably occurs but does not appear to happen on a large scale.

#### e. Acceptable Conditions of Work

In December 1995, the Government decreed a 25 percent increase in the minimum wage. Daily pay rates vary by the sector of the economy affected and geographical zones: The lowest minimum wage is \$2.00 (26 lempiras) per day in the agriculture sector. The highest minimum wage is in the mining sector at \$3.48 (31.50 lempiras) daily. Urban workers earn slightly more than those in the countryside. The Constitution and the Labor Code stipulate that all labor be fairly paid, but the Ministry of Labor lacks the staff and other resources for effective enforcement. Even after the third consecutive annual increase, the minimum wage is considered insufficient to provide a decent standard of living for a worker and family. Labor leaders say that the Government has ignored those earning above the minimum wage (workers in the maquiladoras and organizations such as banks) and is calling for an across-the-board increase of 30 percent that they claim will benefit all.

The law prescribes a maximum 8-hour day and a 44-hour workweek.

There is a requirement for at least one 24-hour rest period every 8 days. The Labor Code provides for a paid vacation of 10 workdays after 1 year and 20 workdays after 4 years. However, employers frequently ignore these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor.

The Ministry of Labor is responsible for enforcing national health and safety laws, but does not do so effectively. Although fewer than in previous years, some complaints allege the failure of foreign factory managers to comply with occupational health and safety aspects of Labor Code regulations in factories located in free zones and industrial parks. There is no provision for a worker to remove himself from a dangerous work situation without jeopardy to continued employment.

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