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E.O. 12356: N/A
TAGS: PHUM, ELAB, ES
SUBJECT: HUMAN RIGHTS INQUIRY: 92 LABOR CASES

TO: THE HONORABLE CHRISTOPHER J. DODD
- UNITED STATES SENATE
- WASHINGTON DC 20510

DEAR SENATOR DODD:

I AM WRITING IN RESPONSE TO YOUR LETTER OF OCTOBER 10, 1989 TO JANET G. MULLINS, ASSISTANT SECRETARY OF STATE FOR LEGISLATIVE AFFAIRS, REGARDING 92 CASES OF DETENTION OR DISAPPEARANCE IN EL SALVADOR. YOUR LETTER WAS REFERRED TO US BY THE DEPARTMENT OF STATE, AND ARRIVED HERE ONLY IN EARLY NOVEMBER. OUR RESPONSE HAS BEEN DELAYED BOTH BY THE LARGE NUMBER OF CASES INVOLVED, AND BY THE DISRUPTIONS RESULTING FROM THE FMLN OFFENSIVE LAUNCHED ON NOVEMBER 11, 1989. WE REGRET ANY INCONVENIENCE THIS DELAY MAY HAVE CAUSED YOU.

THE FIRST CASE REFERRED TO IN YOUR LETTER IS THAT OF MARIO PALENCIA, SECRETARY OF FINANCES FOR FENASTRAS, WHO WAS DETAINED ON SEPTEMBER 18 BY MEMBERS OF THE UNCLASSIFIED

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NATIONAL GUARD. IN A VIDEOTAPE PLAYED ON NATIONAL TELEVISION, PALENCIA STATED THAT SEVERAL FENASTRAS LEADERS WERE MEMBERS OF THE FMLN, AND THAT FUNDS DONATED TO THE LABOR FRONT HAD BEEN DIVERTED TO THE FMLN. DURING A COURT APPEARANCE ON SEPTEMBER 21, HE RECANTED, BUT WAS NONETHELESS CONSIDERED FOR TRIAL. IN LATE OCTOBER, HOWEVER, HE WAS ORDERED RELEASED. PALENCIA WAS PICKED UP AGAIN ON NOVEMBER 24, BUT WAS RELEASED BEFORE APPEARING BEFORE A COURT JUDGE.

REVIEW AUTHORITY: Adolph Eisner, Senior
Reviewer

OLGA MARISOL DIAZ TOBAR, MARK ANNER, SUSAN DOLORES RODRIGUEZ AND MERCEDES GARCIA GUTIERREZ WERE ALSO ARRESTED ON SEPTEMBER 18, ACCORDING TO THE GOVERNMENT HUMAN RIGHTS COMMISSION. AS YOU KNOW, MR. ANNER WAS RELEASED THE NEXT DAY WHILE THE OTHERS WERE CONSIGNED FOR TRIAL. THE THREE WOMEN WERE RELEASED BY THE END OF SEPTEMBER. BOTH MARK ANNER AND OLGA MARISOL DIAZ WERE WOUNDED IN THE OCTOBER 31 EXPLOSION AT FENASTRAS' OFFICES.

MARIA ISABEL RODRIGUEZ FIGUEROA WAS ARRESTED ON SEPTEMBER 17, 1989 ON SUSPICION OF BEING INVOLVED IN TERRORIST ACTIVITIES, ACCORDING TO THE GOVERNMENT HUMAN RIGHTS COMMISSION. SHE WAS ORDERED BY THE COURTS TO BE HELD FOR TRIAL ON SEPTEMBER 20, BUT WAS RELEASED ON SEPTEMBER 22.

WE BELIEVE THAT "ANDRES HENRIQUEZ," AS THE NAME APPEARS ON THE LIST SUBMITTED FROM YOUR OFFICE, IS ACTUALLY ANDRES DE JESUS SANCHEZ WHO, ALONG WITH ANA GUADELUPE ALVAREZ, WAS DETAINED ON SEPTEMBER 17 AND LATER ORDERED RELEASED. "FRANCISCO JAVIER" IS PROBABLY FRANCISCO MARTINEZ, WHO WAS ORDERED BY THE UNCLASSIFIED

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COURT TO BE HELD FOR TRIAL AFTER BEING DETAINED BY MEMBERS OF THE NATIONAL GUARD ON SEPTEMBER 18. WE BELIEVE MR. MARTINEZ IS STILL AWAITING TRIAL.

THE NEXT 64 NAMES SUBMITTED BY YOUR OFFICE INVOLVE FENASTRAS MEMBERS DETAINED ON SEPTEMBER 18 AFTER PARTICIPATING IN A VIOLENT DEMONSTRATION DURING WHICH THE MARCHERS BURNED TWO COMMUTER BUSES AND OCCUPIED A BAPTIST CHURCH, REFUSING TO ALLOW WORSHIPPERS OR JOURNALISTS TO LEAVE THE PREMISES. ALL OF THE 64 PERSONS DETAINED WERE EVENTUALLY RELEASED.

SEVERAL OF THE WOMEN DETAINEES COMPLAINED THEY HAD BEEN RAPED BY NATIONAL POLICE OFFICERS, AND AT LEAST ONE PRESENTED A FORMAL COMPLAINT AND SUBMITTED TO A MEDICAL EXAMINATION THE RESULTS OF WHICH WERE CONSISTENT WITH HER ACCUSATIONS. MEMBERS OF OUR STAFF WERE SENT TO THE NATIONAL POLICE TO POINT OUT THE SERIOUS NATURE OF THE ALLEGATION, AND TO REQUEST A FULL INVESTIGATION. SUCH AN INVESTIGATION WAS ORDERED BY THE MINISTRY OF DEFENSE. MEMBERS OF OUR STAFF MET SEVERAL TIMES WITH THE VICTIM, JULIA MENDOZA, TO URGE HER TO PRESS THE COMPLAINT. NONETHELESS, SHE WITHDREW HER COMPLAINT IN MID-OCTOBER, AND WAS TRAGICALLY KILLED IN THE OCTOBER 31 EXPLOSION AT FENASTRAS OFFICES.

JUAN JOSE HUEZO, ANOTHER FENASTRAS MEMBER, WAS
ARRESTED IN MARCH 1989 DURING AN FMLN TRAFFIC
STOPPAGE DESIGNED TO IMPEDE THE DEMOCRATIC ELECTORAL

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PROCESS. HUEZO, WHO HAD BEEN IMPLICATED IN THE 1988
TAKEOVER OF THE MINISTRY OF LABOR, WAS REPORTEDLY
SEEN THROWING NAIL-STUDED STICKS AND "MIGUELITOS"
INTO THE STREET IN ORDER TO PUNCTURE THE TIRES OF ANY
PASSING CARS. HE WAS ORDERED HELD FOR TRIAL BY THE
FOURTH PENAL COURT.

RAFAEL ZEPEDA, A MEMBER OF THE WATER WORKERS' UNION
SETA, WAS DETAINED BY THE TREASURY POLICE ON AUGUST
5, 1989 AND CHARGED WITH BEING A MEMBER OF THE
FMLN-AFFILIATED ARMED FORCES OF NATIONAL RESISTANCE.
MEMBERS OF OUR STAFF MET WITH SETA LEADERS IN EARLY
NOVEMBER, DURING WHICH THE LEADERS NOTED THAT
ZEPEDA'S TRIAL WAS UNDERWAY, AND THEY EXPECTED HIM TO

BE RELEASED.

JOSE GERMAN MURCIA MEJIA AND FRANCISCO ISRAEL MONTANO WERE DETAINED ON AUGUST 17 BY MEMBERS OF THE AIR FORCE IN THE SAN SALVADOR INDUSTRIAL SECTOR OF ILOPANGO (OVER WHICH THE AIR FORCE HAS SECURITY RESPONSIBILITIES). THEY WERE HELD ON SUSPICION OF UNCLASSIFIED

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BEING MEMBERS OF AN FMLN MILITARY GROUP, AND ORDERED HELD OVER FOR TRIAL ON AUGUST 21. HOWEVER, WE UNDERSTAND THEY HAVE SINCE BEEN RELEASED.

WE HAVE BEEN UNABLE TO DEVELOP ANY INFORMATION ON THE CASE OF JOSE SALVADOR MAGANA, A MEMBER OF A FENASTRAS AFFILIATE WHO, ACCORDING TO YOUR INFORMATION, WAS DETAINED ON AUGUST 2. SINCE WE HAVE MET SEVERAL TIMES WITH FENASTRAS MEMBERS REGARDING THEIR HUMAN RIGHTS COMPLAINTS, AND THIS CASE HAS NOT BEEN RAISED, WE TEND TO BELIEVE HE HAS BEEN RELEASED.

JOSE ANTONIO SERRANO, OSCAR ERNESTO BOLANOS, SALVADOR SOLIS AND MARTA ELENA RODRIGUEZ WERE ALL DETAINED ON SEPTEMBER 8, AND ORDERED HELD FOR TRIAL ON SEPTEMBER 11. SECURITY FORCES CLAIM THE FOUR FORMED AN FMLN CELL INVOLVED IN TERRORIST ACTIVITIES, INCLUDING THE APRIL 1989 ATTACK ON THE VICE-PRESIDENT-ELECT'S RESIDENCE. WE UNDERSTAND THEY ARE STILL AWAITING TRIAL.

MEMBERS OF OUR STAFF MET WITH REPRESENTATIVES OF THE LEFTIST BRANCH OF ANTMAG (THE UNION OF THE MINISTRY OF AGRICULTURE - IT HAS DIVIDED AND THE LEFTIST SECTOR REPRESENTS A MINORITY OF UNIONIZED EMPLOYEES) REGARDING THE DETENTION OF GILBERTO ANTONIO AND JOSE RAUL CHAVEZ MORENO. BOTH ANTMAG MEMBERS WERE ARRESTED ON SEPTEMBER 24 AND ORDERED HELD ON SEPTEMBER 27, ACCORDING TO THE GOVERNMENT HUMAN RIGHTS COMMISSION. BOTH WERE ACCUSED OF PARTICIPATION IN TERRORIST ACTIVITIES. ANTMAG LEADERS DENIED THE CHARGES, STATED THE TWO HAD NOT BEEN MISTREATED DURING DETENTION, AND EXPECTED THEY UNCLASSIFIED

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WOULD BE RELEASED SHORTLY. WE HAVE NO FURTHER INFORMATION ON THEIR CASES. BOTH ANTMAG LEADERS WITH WHOM WE MET ALLEGEDLY FLED THE COUNTRY IN NOVEMBER 1989, REPORTEDLY AFTER BEING LINKED TO THE FMLN

OFFENSIVE.

ZULMA YANIRA PEREZ, LUZ ESMERALDA ACOSTA, PEDRO CRUZ, CARLOS MIGUEL MIJANGO AND VILMA VASQUEZ, ALL MEMBERS OF FENASTRAS AFFILIATES, WERE DETAINED ON SEPTEMBER 28 AFTER TRYING TO OCCUPY THE SAN FRANCISCO CHURCH IN SAN SALVADOR (THE SAN FRANCISCO CHURCH WAS ONE OF SEVEN CHURCHES PROTESTERS TRIED TO OCCUPY THE WEEKEND OF SEPTEMBER 28). ALL FIVE WERE RELEASED WITHIN TWO DAYS. MEMBERS OF OUR STAFF SPOKE TO PEDRO CRUZ, WHO ALLEGED HE HAD BEEN BEATEN WHILE IN POLICE CUSTODY. CRUZ ADMITTED THAT THE PARISH PRIEST HAD ASKED THEM NOT TO INTERFERE WITH WORSHIPPERS DURING THEIR DEMONSTRATION, BUT CLAIMED THERE WAS NO OTHER WAY TO CONDUCT A PROTEST.

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THE EMBASSY HAS BEEN IN REGULAR CONTACT WITH THE FAMILIES OF SARA CRISTINA CHAN CHAN AND JUAN FRANCISCO MASSI, BOTH OF WHOM DISAPPEARED ON AUGUST 19, 1989. WHILE FAMILY MEMBERS CLAIMED THE TWO WERE DETAINED BY THE AIR FORCE, THE AIR FORCE HAS CONSISTENTLY DENIED HAVING ANY KNOWLEDGE OF THE CASES. AT THE REQUEST OF THE FAMILY MEMBERS, MY STAFF RAISED THIS CONCERN WITH THE HEAD OF THE AIR FORCE, WHO AFFIRMED THE TWO WERE NOT IN AIR FORCE CUSTODY. LATER, THE FAMILIES CLAIMED THE TWO WERE

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BEING HELD BY THE NATIONAL POLICE, AND REQUESTED THAT MY STAFF WORK WITH THE GOVERNMENT HUMAN RIGHTS COMMISSION TO TRY TO VERIFY THIS RUMOR. AFTER MAKING APPROPRIATE INQUIRIES, THE HUMAN RIGHTS COMMISSION REPORTED THAT THE TWO WERE NOT IN NATIONAL POLICE CUSTODY. THE HUMAN RIGHTS COMMISSION HAS CHECKED SEVERAL TIMES WITH ALL BRANCHES OF THE SECURITY FORCES, BUT TO NO AVAIL. OUR MOST RECENT CONTACT WITH THE CHAN CHAN FAMILY WAS IN JANUARY, 1990, AND NO NEW LEADS HAD DEVELOPED.

THIS LIST IS INDICATIVE OF BOTH THE PROGRESS MADE IN HUMAN RIGHTS IN EL SALVADOR - AND THE SERIOUS PROBLEMS WHICH REMAIN TO BE ADDRESSED. IN EVERY CASE DISCUSSED ABOVE IN WHICH A SECURITY FORCE HAS ACCEPTED RESPONSIBILITY FOR A DETAINEE, THE CASE HAS BEEN PROCESSED IN THE LEGALLY MANDATED 72 HOURS BEFORE THE DETAINEE IS EITHER RELEASED OR TURNED OVER TO A COURT. WHILE COMPLAINTS OF MISTREATMENT DURING THE INITIAL 72-HOUR DETENTION PERIOD ARE CAUSE FOR CONCERN, WE NOTE THAT THERE ARE ALMOST NO COMPLAINTS

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OF MISTREATMENT COMING FROM THE PRISON SYSTEM (TO WHICH ALL DETAINEES ARE PASSED ONCE THE COURT HAS ORDERED THEM HELD FOR TRIAL).

THE NUMBER OF DETAINEES RELEASED AFTER TRIAL DOES NOT NECESSARILY INDICATE THAT THE SECURITY FORCES ACTED IMPRUDENTLY (ALTHOUGH THIS IS CERTAINLY SOMETIMES THE CASE) BUT ALSO REFLECTS THE VERY INADEQUATE SALVADORAN JUSTICE SYSTEM. EXAMPLES OF ITS INADEQUACY INCLUDE THE POOR COORDINATION BETWEEN THE DISTRICT ATTORNEYS AND THE SECURITY FORCES, THE INABILITY TO COMPEL WITNESSES TO APPEAR FOR TRIALS, AND THE DIFFICULTY THE COURT HAS IN PUTTING TOGETHER A JURY (JURORS SIMPLY FAIL TO APPEAR, EITHER BECAUSE THEY DIDN'T GET THE NOTICE, THEY CAN'T FIND TRANSPORT, OR - MORE OFTEN - THEY ARE AFRAID TO PARTICIPATE IN A JUDICIAL PROCESS).

DURING THE RECENT FMLN OFFENSIVE, INTERNATIONAL AND NATIONAL PRESS REPORTED THAT MEMBERS OF FMLN FRONT

GROUPS HAD TAKEN UP ARMS IN SUPPORT OF THE GUERRILLAS. THE FMLN USED CIVILIANS AS SHIELDS AGAINST MILITARY ATTACKS, OCCUPIED POOR RESIDENTIAL NEIGHBORHOODS, AND FORCED RESIDENTS TO WORK FOR THEM. IN THE LAST FIVE MONTHS THE FMLN HAS DESTROYED WORKPLACES, BUSES AND ATTACKED INFRASTRUCTURE, DEPRIVING THOUSANDS OF SALVADORANS, OF EMPLOYMENT, TRANSPORT AND GOVERNMENT SERVICES.

THE GOVERNMENT OF EL SALVADOR HAS ACKNOWLEDGED THE IMPORTANCE OF IMPROVING RESPECT FOR HUMAN RIGHTS. PRESIDENT CRISTIANI HAS PUBLICLY DEPLORED SEVERAL VIOLENT ATTACKS IN SAN SALVADOR, AND IS CLOSE TO UNCLASSIFIED

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FULFILLING HIS PROMISE OF BRINGING THE KILLERS OF SIX JESUIT PRIESTS TO JUSTICE AFTER A VIGOROUS INVESTIGATION WHICH IMPLICATED SEVERAL MILITARY OFFICERS. THE FMLN HAS, TO DATE, NOT SHOWN A CORRESPONDING INTEREST IN IMPROVING ITS HUMAN RIGHTS RECORD.

SINCERELY,

WILLIAM J. DIETERICH
CHARGE D'AFFAIRES A.I.

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