

POLICE REFORM, HUMAN RIGHTS AND DEMOCRATIZATION IN POST-CONFLICT SETTINGS: LESSONS FROM EL SALVADOR

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Central America's military and police forces gained international renown for their repression and brutality during the civil wars that swept the region in the 1980s. Yet with the partial exception of Costa Rica after it abolished its military in 1948, the region as never known accountable, professional, civilian police forces which prioritized the protection of citizens. Beginning in the nineteenth century, public security institutions, while conforming to certain democratic forms, were oriented toward protecting the interests of an agrarian elite and a military institution which increasingly exercised autonomy as an informal ally and protector of that elite.¹ During the civil wars of the 1980s, internal security forces became deeply involved in counterinsurgency efforts and were responsible for many of the 300,000 deaths attributed to these internal wars.²

Thus it is unsurprising that issues of public security and policing were central to political negotiations in the three conflicts settled through negotiation in the region --Nicaragua in 1990, El Salvador in 1992, and Guatemala in 1996. In El Salvador and Guatemala, far-reaching efforts to

William Stanley has called this arrangement the "protection racket state" in El Salvador during the 20th century. See his *The Protection Racket State: Elite Politics, Military Extortion and Civil War in El Salvador* (Philadelphia, PA: Temple University Press, 1996). In Nicaragua, Panama, the Dominican Republic and Haiti, the arrangement was somewhat different as the interests of a personalistic dictator received more attention.

The figure is from George Vickers, "Renegotiating Internal Security: The Lessons of Central America," Draft Paper presented at the Woodrow Wilson Center conference on Comparative Peace Processes in Latin America, March 13-14, 1997. I am indebted in numerous ways to both George Vickers and Bill Stanley, with whom I have collaborated and exchanged ideas for several years on policing and human rights in Central America. I have drawn extensively on their ideas in this paper, although I take full responsibility for all flaws herein. Research conducted as a 1995-96 Peace Scholar of the U.S. Institute of Peace, as an affiliate of Stanford University's MacArthur Consortium on International Peace and Security, and as a grantee of the Stanford Center on Conflict and Negotiation was helpful in the preparation of this paper.

demilitarize policing were launched. Similar police reforms have been undertaken in post-authoritarian settings of Panama, Haiti and Honduras, marking the most sweeping attempt in the region's history to create civilian, humane and professional police forces.

In each of the Central American cases, removing the military's power has been a core element of reforms. In other settings, "police reform" may connote something different: depoliticization (e.g., in post-communist Eastern Europe), decentralization (e.g., in post-war Germany), increased responsiveness to ethnic concerns (e.g., in Los Angeles or Bosnia) or better oversight systems (e.g., in New York City). But in Latin America and the Caribbean, demilitarizing public security -- ending the extraordinary military control over and nature of policing -- is correctly viewed as a first step in the ability of elected civilian officials to exercise political power. It is also crucial for whether new democratic regimes can deliver certain fundamental goods: protection, order, and justice.

Unfortunately, crime waves which tend to follow political transitions appear to be accentuated following transitions from war to peace. Central America has been no exception, with dramatic surges in common crime since the termination of internal wars. The inability of new civilian police forces and justice systems to control this crime has raised questions about the choices made during negotiations, including the exclusion of military means to confront these threats.

This paper examines one the most significant attempts to demilitarize public security after civil war in the post-Cold War period: El Salvador. After briefly describing the public security reforms themselves, the paper develops a series of lessons based principally on the Salvadoran case, but drawing upon other reform experiences where they may be useful.

I. Negotiations and Public Security Reforms in El Salvador

Initiated in 1992 as part of a peace accord ending that country's twelve-year civil war, El

Salvador's police reforms are among the earliest post-Cold War efforts by international and national actors to revamp policing and public security as part of a peace settlement monitored by the United Nations. Police reforms were central to the peace process itself, permitting the conservative Salvadoran government and the leftist Farabundo Marti National Liberation Front (FMLN) to overcome an impasse regarding the status of the government armed forces. Then-U.N. Secretary General Boutros Boutros Ghali declared the creation of El Salvador's new police "one of the fundamental elements of the peace accords and perhaps the single component with greatest hopes."³

A key factor in the forging of these reforms was the balance of forces between the two sides and the nature of termination of the conflict. Following a failed but politically significant "final offensive" by the FMLN in late 1989, both sides recognized that a strategic stalemate had developed.⁴ That stalemate created the conditions for a detailed series of political agreements which were reached before a cease-fire occurred. One early lesson that international observers took away from the El Salvador experience is that a detailed political accord, backed by genuine political will on the part of the signatories, is a huge factor in the success not only of a peace process but of negotiated reforms to the institutions of the state.

The Salvadoran accords provided for several reforms to the public security system. These included the following:

A. The removal of internal security responsibilities from the military except in exceptional circumstances, and the reduction by almost half of the size of the military. The three security forces -- the Treasury Police, the rural-oriented National Guard, and the urban-oriented National Police -- would be dissolved. Paramilitary civil defense patrols were disbanded and legally barred. The military intelligence system was to be abolished and replaced by an intelligence service reporting directly to the president.

B. The creation of a new National Civilian Police (PNC) as the sole national-level public security

U.N. Secretary General Boutros Boutros Ghali in report to the General Assembly, A/50/517, October 6, 1995, para. 7.

On this stalemate, see Terry Lynn Karl, "A Negotiated Revolution" *Foreign Affairs*. Spring 1992.

force, with responsibilities for order maintenance and protection of citizens, and a doctrine that explicitly emphasizes human rights. The PNC leadership must be civilians, and the legislature can remove the PNC Director for human rights abuses committed by the force.

The two sides eventually agreed that at least 60% of both the officer-level and the basic agent personnel of the PNC would be drawn from "civilian" applicants, that is, persons not having served as combatants during the war. No more than 20% of the PNC could be ex-members of the old National Police; and no more than 20% could be ex-guerrillas. Ex-combatants from both sides were required to pass entrance requirements on an individual basis, although relatively high education requirements were relaxed to facilitate their entry into a new police academy.

C. The creation of a new National Public Security Academy (ANSP) responsible for recruitment, selection, initial training and in-service training for all PNC sworn officers and agents. The Academy is separate from the PNC. Its civilian director reports to the Public Security Minister and is advised by a politically diverse Academic Council set up under the accords.

D. The creation of an Ad Hoc Commission to review the files of military officers and recommend names to be purged (over 100 were purged in this manner) and a U.N.-supervised Truth Commission to prepare a report with names and specific responsibilities for the most egregious human rights violations of the war (the Truth Commission report was completed and made public in March 1993).

E. The creation of a Human Rights Ombudswoman's office with powers to investigate human rights abuses, including inspection of military and police installations with no advance notice. Reforms to the judiciary aimed at reducing the partisanship of its appointment process and decentralizing power from the Supreme Court were also included.

A two-year interim arrangement was agreed upon whereby the urban-oriented National Police would patrol the cities and be demobilized as the new PNC were deployed. "Transitional Patrols" (PAT's) of not-yet-graduated ANSP trainees patrolled former conflictive zones until fully trained graduates could deploy. The United Nations, through its Observer Mission (ONUSAL), provided U.N. Civilian Police to monitor the conduct of the National Police and of the PAT's. These police also provided guidance in the field to new PNC agents during the first few months of deployment. Bilateral assistance mainly from the United States and Spain supported curriculum development and training at the ANSP as well as equipment and advice on

structuring the new PNC.

II. Special Circumstances of Post-Conflict Settings

While an increase in common and violent crime seems to accompany many processes of democratization, the surge in crime in post-conflict settings has been more pronounced. Several factors account for this crime surge. Because large numbers of combatants and non-combatants depended on the war for a livelihood, its termination usually renders a significant number of people unemployed. The end of a war leaves thousands of weapons and ammunition available on the black market, but also a surplus of persons trained in their use. Trained in the use of arms, organized into tightly knit groups, and familiar with the ways of crime, members of prior security forces could easily turn into a significant organized criminal networks. Furthermore, patterns of widespread use of violence in society have generally emerged during years of conflict, and internal conflicts often occur in poor countries where war has rendered them poorer still. In many cases, a rise in common crime is followed by an increase in organized, violent crime.⁵

El Salvador is a case *par excellence* of post-conflict crime surge. Polls show that, since the end of the war, crime has become the top concern of the population, ranked by 95% as "very serious".⁶ By 1995 and 1996, political commentators noted how the country's major newspapers had become virtual crime reports, with the first few pages routinely dedicated to the previous day's worst crimes and most significant arrests. And the news reflected genuinely dramatic increases in violent crime. From 1992 to 1994, for example, reported homicides rose from 3,229

Robert Perito, Deputy Director, International Criminal Investigative Training Assistance Program (ICITAP), U.S. Justice Department, in remarks before conference at National Defense University on "Policing the New World Disorder," Washington, D.C., September 16, 1997.

The 95% figure is from CID-Gallup poll published January 1997. See also polling by the Instituto Universitario de Opinión Pública, published in *Estudios Centroamericanos (ECA)*, by the Universidad Centroamericana, October 1995, where 37% reported crime to the principal problem facing the country, 20 points ahead of the second problem. Both cited in Vickers, *op cit.*, p. 13.

annually to 9,135.⁷ Thirty-four percent (34%) of urban interviewees reported in January 1996 that they or an immediate family member had suffered a violent crime in the prior four months.⁸ In 1995, deaths by homicide exceeded the average annual number of deaths **during the twelve-year war**, and by 1996 El Salvador's homicide rate reached 140 per 100,000, the second highest in the world.⁹ Less dramatic crime surges occurred in post-conflict Nicaragua and recently in Guatemala.¹⁰

Such circumstances make it difficult for newly reformed police forces to gain the breathing space necessary to gain experience and effectiveness. This situation is complicated further when political groups have an interest in delegitimizing the new political system and its public security institutions, as occurred in El Salvador and Haiti. In El Salvador and Guatemala, unprecedented reports of local communities taking the law into their own hands in frustration has led to the execution of several thieves caught by common citizens. These circumstances have prompted some calls for the remilitarization of public security, and raised questions about a trade-off between civilianizing police reforms and police effectiveness. While the jury is still out on this question, some careful analysis of the police reform experience in El Salvador sheds light on where the costs and benefits of certain choices may lie.

Reliable statistics are hard to come by, and reporting has probably improved over the past three years. These figures are from the Director of Statistics, State Prosecutor's office (fiscalía).

Three of every ten families had been affected according to a January 1996 poll carried out by Gallup. "Piden mano Dura Contra el Crimen," *El Diario de Hoy*, January 30, 1996, p. 2.

El Salvador's rate passed even Colombia, and was matched only by South Africa. See World Bank study cited in *Los Angeles Times*, September 6, 1997, p. 2.

See Vickers, *op cit.*, p. 12-14.

III. LESSONS

1. Policing is inherently political, in that police forces' missions and activities always provide security for certain social groups over others. Consequently, those who benefit from the old public security system can be expected to resist reform efforts.

Resistance to reform is among the most central political and policy issues surrounding reform efforts. Two sectors can be expected to resist reforms: the economic elites who benefitted under the old system (and the parties which represent them), and the state institutions who directly control the public security apparatus. In most of Latin America, that is the military. In El Salvador, an important element of the strategic stalemate that permitted the negotiated settlement was a recognition on the part of business elites that the military and its security forces were no longer able to protect its interests.¹¹ Although economic elites did not press for police reforms and repeatedly expressed concern that reforms might render the police ineffective, those elites generally did not stand in the way of the creation of a civilian-controlled force during negotiations.¹²

More salient, however, was the military's resistance to the agreed-upon public security reforms. Although the government announced the dissolution of the National Guard and the Treasury Police a month after the February 1992 cease-fire, both units were essentially transferred intact into the army and renamed. Under pressure from the FMLN and international actors, the

In a massive but ultimately unsuccessful "final offensive" in November 1989, the guerrillas demonstrated that the military's promises of imminent victory were false and showed the FMLN's ability to take control of rich neighborhoods of the capital whose residents had never before laid eyes on guerrilla combatants. Consequently, economic elites who had ignored the increasing corruption and autonomy of the armed forces before the 1989 offensive became more convinced of the need not only of a negotiated settlement, but also of less corrupt, professional public security forces over whom they might regain some political control. Author interviews with government negotiators David Escobar Galindo and Col. Mauricio Vargas; and with business sector representative Luis Cardenal, December 1995-January 1996.

ibid.

government disbanded these units, but subsequently transferred over 1,000 of them into the new police force in violation of the accords.¹³ The military also upset a plan to use one of its facilities for the new police academy, converting the facility at the last minute into a new military academy and contributing to a delay in opening the academy.¹⁴ It also delayed demobilization of the National Police by several months, and denied transfer to the PNC of hundreds of small weapons donated to the old security forces by the United States which would have primarily law enforcement applications.¹⁵

2. Conversely, sectors who feel unprotected by the old security system can be expected to back reforms aimed at more humane, accountable and citizen-oriented policing. Yet even where political parties take up the banner of "democratizing" public security, they often seek to use reforms to their own advantage as well, including violating the letter or spirit of agreed-upon reforms.

In El Salvador, the FMLN was the force behind reforms to the military and security forces and can largely take credit for them. Despite the FMLN's renegeing upon important agreements during the peace process, the guerrilla organization largely complied with the agreements regarding public security and the judiciary.¹⁶ Nevertheless, the FMLN did succeed in "smuggling" some of its own combatants into the new force in the guise of non-combatants.¹⁷ The numbers of

See Report of the Secretary General to the U.N. Security Council, May 26, 1993. Also see William Stanley, *Risking Failure: The Problems and Promise of the New Civilian Police in El Salvador* (Washington Office on Latin America/Hemisphere Initiatives), September 1993, p. 17.

See Stanley, *ibid.*

See U.S. General Accounting Office, "El Salvador: Efforts to Satisfy the National Civilian Police Equipment Needs," Washington, DC: GAO/NSIAD-93-100BR.

The most egregious violation of the accords was the discovery in 1993 that the FMLN had hidden weapons depots in El Salvador and Nicaragua and lied about their existence to the U.N. observer mission.

Personal interviews with anonymous ex-FMLN PNC officers and agents, Fall 1995, January 1996.

these "smuggled" ex-combatants appears to be far fewer than alleged by conservative sectors within El Salvador who mistakenly include several hundred persons who entered the PNC legitimately as non-combatants.¹⁸ Yet these efforts at favoritism succeeded in some cases.

In addition, during ongoing negotiations between the government and the FMLN over the implementation of the accords, the FMLN on a few occasions sacrificed the letter and spirit of the agreements in order to gain advantageous treatment of its own members. On one occasion, the FMLN permitted the entry into the PNC of one former National Police instructor who had failed an admissions exam, in exchange for their gaining an extra slot in the officer ranks.¹⁹ On another occasion, the FMLN apparently permitted the appointment of former military officer Capt. Oscar Peña Durán as PNC Deputy Director for Operations, gaining certain concessions regarding economic opportunities for the FMLN.²⁰ Similar examples of a reform-minded party making appointments based on political loyalty rather than competence occurred in Haiti.²¹

Many of these persons were members of popular organizations affiliated with the FMLN during the war, but were entitled to entry under the "civilian" quota because they in fact were never combatants. The government, through the new academy, arranged for special recruitment and education for them in order to facilitate their entry into the academy. See copies of correspondence among the ANSP, the FMLN, and ASPAD, the non-governmental organization contracted to conduct the education and recruitment, author files.

Personal interviews with several senior PNC officers, and with FMLN Commanders Atilio Montalbo and Claudio Armijo, both members of the COPAZ Subcommittee for Public Security, San Salvador, September 1995-January 1996.

ibid., plus personal interviews with a U.N. official monitoring the talks, January 1996; and with FMLN negotiators Shafick Handal and Salvador Samayoa, San Salvador, January 1996, May 1996.

Examples include Aristide's attempt to appoint as Police Chief an ex-military officer Celestin whose questionable qualifications and alleged involvement in corruption led the Haitian Senate to reject his appointment (see Rachel Neild, "The Haitian National Police," Washington, D.C.: WOLA, March 18, 1996, p. 6); the allegations by US and UN officials that senior police commissioner appointments of ex-military officers and others were based mainly upon personal loyalty to President Aristide; and the preservation of a Presidential Security Unit (autonomous from the new police force) whose senior leaders have been implicated in political murders and whose loyalty to President Aristide reportedly left his successor feeling unable to replace them.

Personal interviews with officials of the U.S. Departments of State and Justice, March-April 1996, Port-au-Prince and in Washington, D.C., October 1996. See also U.S. House of Representatives Committee on International Relations Majority Staff report, "Haiti Quagmire," October 22, 1996. In general, see National Coalition for Haitian Rights/Washington Office on Latin America/Human Rights Watch, *The Human Rights Record of the Haitian National Police*, January 1997.

3. During major police reforms, government officials often create parallel police units which undercut the institutional development and legitimacy of newly reformed police forces.

One of the serious problems that has plagued new police forces in El Salvador and Haiti is the formation of "parallel" units which duplicate specialized divisions of the newly reformed police. In El Salvador, Public Security Minister Hugo Barrera formed several special units, comprised largely of individuals who had not passed through the new police academy, which reported directly to him. One of these, an anti-kidnapping unit, wholly duplicated the function of the anti-kidnapping squad of the PNC's Criminal Investigations Division but was funded by private businessmen and headed by a Venezuelan citizen. Part of the impetus for this unit, Barrera reported, was the need for a prompt and effective response to kidnappings given the PNC squad's lack of experience.²² Similar reliance upon personally trusted units recruited through separate channels and duplicative of newly formed units also occurred in Haiti after the new police was created. While the importance of effective responses to increased crimes is apparent, the choice for expediency -- in this case hiring individuals on an *ad hoc* basis outside of institutional channels -- undermines the legitimacy of the new force and the development of its own in-house capabilities.

4. In seeking to demilitarize public security, questions of (a) composition and (b) missions/doctrine are just as important as the hierarchical separation of the police from military command.

Most scholars and practitioners conceive of the "demilitarizing" public security primarily in terms of the hierarchical separation of the police forces from military command. Removing the police from the Defense Ministry or the armed forces command is deemed paramount. Yet it is

Personal interview, San Salvador, May 1996.

more useful to conceive of the "demilitarization" of internal security along three dimensions: (a) hierarchical command, (b) composition, and (c) mission, or doctrine. While structural separation from the military is a necessary step toward the differentiation of external defense functions from those of internal security, it is not sufficient. Since 1985, for example, Guatemala's police forces have responded to a civilian ministry rather than the Defense Ministry; however, the personnel, doctrine and conduct of the police has remained highly militarized. Three government attempts at further demilitarization of the police failed in the face of military resistance before the 1996 peace accords.²³ An infusion of new civilian personnel and a reorientation of doctrine and missions are also important for the effective demilitarization of policing.

The incorporation of previously disenfranchised political and social groups into the police can be both a means of political reconciliation as well as a source of legitimacy for the new police. The incorporation of former guerrillas into the PNC was a source of legitimacy and popular support for the new force in areas where guerrilla support was strong.²⁴ In addition, the entry of FMLN members into the PNC served as an informal guarantee of the personal security of ex-combatants. Although high standards of entry into newly reformed police forces are generally important for the effectiveness and reputation of a new police force, relaxing such standards to ensure representation of important political, religious, gender, or ethnic groups into the police force may be worthwhile if such groups would otherwise be excluded or severely underrepresented in police forces. In El Salvador, the mixed training of ex-combatants from the

The attempts occurred in 1988, 1991, and 1994. See Mario Rene Cifuentes, "Desafios de la Desmilitarizacion del Orden Publico," Paper presented at WOLA/SAIS/North-South Center Conference on "Demilitarizing Public Order and Protecting Human Rights: The International Community and Police Reforms in Central America and Haiti," Washington, D.C., November 1994.

Early polls of such areas showed a tremendously high favorable rating for the PNC in mid-1993, with over 70% of respondents reporting the PNC's work as either "good" or "very good" and less than 5% reporting it "bad" or "very bad". Subsequently popular approval ratings dropped but remained more positive than negative. See polls cited in William Stanley, *Protectors or Perpetrators?*, Boston: Hemisphere Initiatives/Washington Office on Latin America, January 1996.

two sides to the conflict led to a surprising degree of cooperation among them.²⁵

In some cases, attention to diverse composition of police forces can advance transparency and accountability as well. The presence of ex-soldiers, ex-guerrillas, and civilians in the PNC has led to some cops leaking information on questionable or abusive police action to the press or to congressional overseers. In one instance, the top FMLN legislator on the National Assembly's Public Safety Committee publicized information he had received on an internal PNC order to erect roadblocks for the indiscriminate search and detention of vehicles coming into the capital purportedly for the illegal occupation of buildings. The PNC director then publicly renounced the order.²⁶ Without changes to doctrine, mission and training curriculum, that is, reconceptualizing the very object of police protection, attempts to remove the military influence in policing could well founder. The idea that policing is to protect and serve individual citizens rather than the regime or the state is novel in most of Latin America, and requires emphasis and institutionalization.

5. International actors and assistance can of course provide valuable assistance in police reforms in post-conflict settings. But their contribution can be especially important in questions of composition and doctrine of newly reformed police forces.

The dissolution of the old security forces and the separation of the police from military hierarchical command were proposals of the FMLN dating from the early 1980s. But the decision to set a minimum of 60% non-combatants within the PNC resulted from plans and persuasion by a team of European and Canadian consultants hired by the U.N. mediator to draft laws for the PNC

See my "Police Reform and Post-Conflict Reconciliation: The Case of El Salvador," Paper presented at Workshop of the MacArthur Consortium on International Peace and Security, Stanford, CA, February 1996.

Personal interview with the FMLN legislator and with the PNC Director, San Salvador, December 1995.

and for the new academy.²⁷ Negotiators from both sides attribute the influx of new civilians to this international influence, and consider it positive in hindsight.²⁸ In addition, U.N. advice and bilateral assistance from the United States, Spain, Norway, and other countries were fundamental to the transformation of the doctrine and training curriculum of the new force. International assistance can be especially helpful in ensuring that policing is representative of and responsive to sectors which were not organized parties to the conflict but who might be left out of new institutional arrangements. These include women, whose unprecedented participation as police officers in El Salvador, Haiti and Panama was backed by international actors, and indigenous or other ethnic groups.²⁹

6. In countries where the prior security forces were repressive or politicized, reformers face a "demobilization dilemma." Although retaining significant numbers of the old force would undermine needed changes in the organizational culture and practices of the police, getting rid of all former security personnel also carries costs for public security.

The difficulty of this demobilization dilemma can be minimized through (a) adopting a strong preference for new recruits with no military background, but not excluding entirely former security personnel from the newly reformed force; (b) adopting stringent selection criteria and vetting procedures for all personnel based on their individual capacities; (c) initiating significant reintegration programs for demobilized combatants; and (d) constructing effective mechanisms of accountability to catch problematic personnel who make it through the vetting process.

Personal interviews with U.N. mediator Alvaro de Soto, New York, October 1996; with team leader Dr. Jesus Rodes, Guatemala, November 1995; and with lead negotiators of the government and the FMLN, Fall 1995-January 1996.

ibid.

Women comprised 6% of the PNC as of May 1997; 7% of the Haitian National Police as of August 1996; and 9% of the Panamanian National Police as of August 1997.

The "demobilization dilemma" stems from the question: What should be done with members of existing security forces which have repressive or politicized images and organizational cultures.³⁰ But in such settings, reformers are "damned if they do" and "damned if they don't" draw upon former security forces personnel in newly created police forces. They are damned if they do because police reformers must pay attention to how the public will view the new force. Even if former security personnel are vetted and retrained, they may still be met with rejection from a populace emerging from years of repression. In El Salvador, the presence of large numbers of former security forces personnel in El Salvador would have sullied the reputation of the new force, especially in former zones of conflict. Just such popular rejection occurred in Haiti when former soldiers were deployed as interim police following the 1994 U.S. intervention.³¹ Similarly, the new National Police created in Panama experienced this problem when the same military personnel deployed with the same uniforms as used during the Noriega regime.³² Even a few individuals can preserve an organizational culture that tolerated abuses and corruption and that focused on protecting certain elites and the state from potential threats.

Yet a blanket exclusion of ALL such former security personnel also carries high costs. As mentioned earlier, turning to organized crime is an appealing choice for well-organized, trained, and unemployed ex-combatants. Interviews with public security personnel and news reports of the composition of arrested gangs in El Salvador indicate that demobilized ex-policemen are responsible for a high number of armed assaults and robberies in that country.³³ Furthermore, starting from scratch with all new cops and no experienced mentors creates a gap in criminal

Personal interviews with Inspector General Victor Valle and with Public Security Minister Hugo Barrera, May 1996.

See National Coalition for Haitian Rights/WOLA/HRW, *op cit*.

See Richard Shultz, Jr., *In the Aftermath of War: U.S. Support for Reconstruction and Nation-Building Following Operation Just Cause*, Undated Manuscript.

See personal interviews cited above, San Salvador.

investigations that is difficult to fill. Former investigators often have networks of informants which are not easy to reconstruct. Finally, a blanket exclusion will be perceived as unjust bias, and may undermine any loyalty that ex-combatants might feel toward the process of political reconciliation, jeopardizing that process.

The Salvadoran experience points toward a few ways that the problems of this dilemma might be minimized (though not erased; that's why it is a genuine dilemma). First, reformers should seek to maximize the hiring of new, civilian personnel without totally excluding former security forces personnel in their individual capacities. In El Salvador, over 60% of the senior and mid-level officers and 88% of the basic-level cops and sergeants were drawn from civilian life.³⁴ The presence of these new civilians in the PNC has contributed to more courteous conduct and to increased transparency in the organization. In addition, concerns about the lack of management skills of civilians vis-a-vis ex-combatants were contradicted by the equal or higher marks they received in performance ratings of U.N. police monitors.³⁵

A second means of minimizing the demobilization dilemma is the adoption of stringent admissions requirements applied on an individual basis. The wholesale transfer of two old security units shows the danger of not applying admissions criteria on an individual basis and of drawing upon too many former military personnel. In 1993 hundreds of investigators and support personnel from the old Anti-Narcotics Unit (UEA) and the old Special Investigative Unit (SIU) were transferred into the PNC. The transfer infected the new institution with criminal conduct and human rights problems. The majority of these personnel performed badly, blockaded themselves in their offices as protest against additional training to adapt them to the new civilian institution, and ultimately resigned en masse.³⁶ Two critical years were wasted trying to preserve

Figures based on Academy graduation figures, January 1996.

See Stanley, *op cit.*, WOLA/Hemisphere Initiatives, January 1996.

36 *ibid.*. According to one international official, of roughly 100 former investigators of the SIU brought into the PNC,

a group of agents who lacked commitment to civilian, rights-oriented policing.

Furthermore, the use of admissions tests reassures former combatants that the selection process will be fair. A blanket exclusion of all former soldiers could well have fueled resentments already felt by demobilized combatants. During the transition period between 1992 and 1995, demobilized combatants, frustrated at the lack of job opportunities or adequate compensation for wartime service and suffering, organized more public protests and building takeovers than perhaps any other sector. Incorporating some of these ex-soldiers into the new police served as a "divide-and-conquer" strategy to prevent further disruption of the process by ex-combatants.

Finally, the presence of reintegration programs for demobilized combatants and of oversight mechanisms are also important for minimizing the "demobilization dilemma." Despite shortcomings of reintegration programs in El Salvador, they appear to have helped a significant number of ex-combatants find employment.³⁷

7. Special effort should be taken to ensure the early establishment of a reformed effective criminal investigations unit, as its slow development can seriously cripple investigations and, in turn, the public security system's effectiveness and reputation.

This point is among the most important to ensure that new forces keep pace with rising crime. Because of the early decision to simply transfer the old SIU into the PNC as its Criminal Investigative Division (DIC), minimal training was done of new specialized investigators. Subsequently, upon the early 1995 mass resignation of the members of the SIU, a process of

13 were implicated in planning, committing, or in a few cases covering-up politically motivated assassinations (List of suspects and their alleged criminal activities provided confidentially to the author, May 1996). Human rights abuses attributed to the PNC rose sharply after UEA personnel were deployed throughout the country in late 1993. See also Human Rights Watch, Americas, "El Salvador -- Darkening Horizons: Human Rights on the Eve of the March 1994 Elections," March 1994, 5-6; and Stanley and Call, 1997.

Reintegration programs are discussed at more length in other papers for this conference. Oversight units are discussed in more detail below.

selecting the most promising active-duty police for specialized training was delayed until 1996. The lack of investigative capacity has seriously impeded the ability to obtain prosecutions in serious criminal cases and to dismantle organized crime. This is a crucial factor in El Salvador's record-breaking crime rates. Moreover, the perception of ineffectiveness undermines public confidence in the new public security system, contributing to people taking the law into their own hands and to a loss of faith in democracy itself. When the "Black Shadow," a ring of vigilante executioners in eastern El Salvador, was exposed in 1995, public opinion was split between support and rejection of the ring.³⁸

8. Oversight units should be developed and deployed simultaneously with mainline operational units in order to avert the development of bad habits and inculcate an expectation of accountability among the police and the public. Equally important are external mechanisms of accountability for police conduct, such as the press, NGO's, legislative oversight, and the exercise of civilian courts' authority over cases of police abuses.

It is important to situate the role of public security reforms in the overall situation of human rights in El Salvador. The end of the war resulted in a dramatic improvement in the human rights situation of the country.³⁹ In contrast to police practice during and before the war of routinely torturing detainees, cases of torture, "disappearances," and politically motivated killings have become the exception rather than the rule.⁴⁰ Military officers, government ministers and

See polls of the Universidad Centroamericana, cited in Stanley and Call, 1996.

By "human rights," I here mean the common (and incomplete) concept prevalent among North Americans of civil and political rights.

See, for example, annual reports of the Salvadoran Human Rights Ombudsperson for 1994-95 and 1995; reports of the PNC Inspector-General, May 1996, August 1997.

economic elites no longer enjoy the certainty of impunity that they did before 1992.⁴¹ While the justice system cannot be relied upon to prosecute, convict and imprison criminals, there is now a reasonable chance that human rights abuses, corrupt practices and other abuses of authority will be denounced, publicized and investigated. At the same time, the transition did not preclude the continued existence of groups implicated in political violence and accustomed to impunity. Organized crime continues to exist with protection from some elements of the PNC and other agencies of the state.

Within this context, the overall performance of the PNC is perceived by most of the population as more humane and more courteous than the old security forces. A survey carried out by the UCA in December 1995 found that 49% of respondents thought the PNC's conduct was better than the old National Police, 26% thought it the same, and 18% thought it worse.⁴² Yet abuses attributed to the PNC rose steadily between 1994 and 1997.⁴³ The overall result is positive, but not as positive as one might expect for a police force less than four years old, founded amidst high hopes in the wake of a brutal war. Widely publicized incidents of police agents beating and shooting some demonstrators in strikes and building occupations have appeared to color the public's impressions.⁴⁴

I am grateful for discussions with Salvador Samayoa in clarifying my thinking on this point.

Survey of 1,225 urban and rural respondents from all 14 departments of the country conducted by the Public Opinion Research Institute of the UCA. Reported in "Evaluan el año 1995," *Proceso*, January 17, 1996, No. 693, p. 12. The question asked if the "forma de actuar" of the PNC is better, the same or worse than the "antigua Policía Nacional". In rural areas, the Guardia Nacional maintained more of a presence, calling into question the applicability of the question in those areas.

In a March 1995 survey which asked, "Do you believe the PNC respects the rights of the population?," the results showed that 39% responded "yes"; 22% said "no"; and 33% said "sometimes". IUDOP poll of the University of Central America, reported in *Estudios Centroamericanos*, March-April 1995. See also reports of the PNC Inspector General.

In a poll taken right after a November 23, 1995 protest, even though respondents were roughly divided in their opinions about groups' occupying buildings as a form of social protest, a clear majority -- 66% against vs. 23% for -- were opposed to the means utilized by the PNC to confront such occupations. See "Encuesta de Evaluación del año 1995," IUDOP, University of Central America, December 1995, #52, pp. 33, 35.

The deployment of internal oversight units was extremely slow in the Salvadoran police reform. The accords mandated the creation of an Inspector General for the PNC to report directly to the Minister of Public Security; an Internal Control Unit within the PNC for investigating corruption; a Disciplinary Unit within the PNC to investigate and make recommendations of administrative sanctions for abuses by PNC personnel, and a Disciplinary Tribunal within the PNC for acting on those recommendations. Unfortunately the PNC Disciplinary and Control Units were not established until one year after the PNC's first deployments. The PNC's first Deputy Director of Operations and the Disciplinary Unit's first director were accused of bias against former FMLN members in internal disciplinary investigations.⁴⁵ In addition, the unit's work was extremely slow and encountered difficulties in becoming operational.⁴⁶ Furthermore, the Disciplinary Tribunal often fails to take the unit's recommendations, reducing the sentence in up to half of the cases according to one member of the Disciplinary Tribunal.⁴⁷ Although the pace quickened in early 1996, complaints of slack punishment for PNC officers increased over the same period.⁴⁸

More harmful has been the slow and problem-plagued development of the Inspector General's office. One of the novelties of the Salvadoran reforms requires the Human Rights Ombudswoman to approve the Public Security Minister's choice for PNC Inspector General. After a delay of a year and a half, the government finally appointed an Inspector General in October 1994. However, he was dismissed for incompetence and, according to some reports, a

Author interview with three PNC top-ranking officers. See also WOLA's "Protectors or Perpetrators?..." January 1996.

Author interview with Subcommissioner Pablo Escobar Banos, head of the Disciplinary Unit December 1995. Between its opening in March 1994 and September 1995, the unit had received between 2,000 and 2,500 complaints. During that time, it had concluded investigation and passed on to the Disciplinary Tribunal only 657 cases.

Author interview with PNC officer on the Disciplinary Tribunal, May 1996.

PNC Inspector General's Report to the National Assembly, May 1996.

drunken shooting spree.⁴⁹ After the Human Right Ombudswoman refused to confirm the appointment by Public Security Minister Hugo Barrera of a close friend of his to the post, Barrera failed to nominate anyone for several months in 1995. Finally in October 1995, former leftist politician Dr. Victor Valle was appointed to the post. However, Valle has complained publicly and privately that Minister Barrera has hamstrung his efforts to obtain resources and access to information.⁵⁰

External mechanisms of accountability -- especially the Human Rights Ombudswoman and the press -- have been more effective in bringing attention and subsequent action to human rights cases than internal mechanisms. These external instruments have frequently pushed authorities to investigate complaints. In September 1995, for instance, an excellent investigative story by the *Diario de Hoy* exposed the alleged involvement of an entire PNC substation in the killing of a young man from a well-to-do family.⁵¹ The Human Rights Ombudswoman's office has become the most utilized mechanism for receiving citizen complaints of abuses of all types, surpassing other government agencies and even non-governmental groups in this function. In addition, during their tenure, ONUSAL's Human Rights Division, and its successors the U.N. Mission in El Salvador (MINUSAL) and the Office of Verification (ONUV), sparked investigations when they would otherwise not have occurred.⁵²

9. The absence of far-reaching and rapid judicial reforms can undermine the effect of police reforms.

See WOLA, "Protectors or Perpetrators?...", January 1996.

Personal interviews with Inspector General Victor Valle and with Public Security Minister Hugo Barrera, May 1996.

See *El Diario de Hoy*, September 14-15 and 19, 1995, on the Panchimalco killing of Adriano Vilanova. The police were ultimately exonerated, although suspicion continues of their involvement.

See WOLA/Hemisphere Initiatives, "Protectors or Perpetrators? The Institutional Crisis of the Salvadoran Civil Police, written by William Stanley, Washington, D.C. January 1996.

Left until the last minute in the negotiations, judicial reforms were far less specific than police and military reforms. Consequently, the enactment of judicial reforms such as purging the bench, depoliticizing the Supreme Court, and streamlining procedures and laws did not occur very quickly or completely. PNC agents continue to express frustration at the problems with the judiciary that often result in the release of suspects, although PNC agents' own procedural errors and inexperience at times contribute to such outcomes.⁵³ In general, would-be police reformers should vastly step up their attention to both the judiciary and the prison system.

10. Peace agreements should take into account the time required for developing new or reformed public security institutions.

During the early stages of the peace talks, negotiators underestimated the amount of time required to train and deploy an entirely new force. The FMLN, for example, at one point assumed that the new force could be up and running within a few months. International police assistance officials commonly say that five years is a minimum reasonable time frame for deploying a self-sustaining police force.⁵⁴ Where entirely new forces are created, the process is more cumbersome than simply providing a few months of training. It involves the drafting and passage of laws governing the organizations, the development of new curriculum, often the construction of new buildings, vetting procedures, the development of institutional policies and procedures, and the development of specialized units. In El Salvador, development of the Public Security Academy and the PNC met agreed upon timelines only a few months late, but would not have done so absent heavy international pressure. Political, financial and organizational factors figured into the delays.

Personal interviews with 16 PNC top-ranking officers. Fall 1995-January 1996.

This figure was commonly mentioned at a conference sponsored by the National Defense University in September 15-16, 1997 which brought together officials of U.S. Justice Department's police assistance agency, ICITAP, and U.N. coordinators of UN Civilian Police deployments. Washington, D.C.

11. Public education programs involving non-governmental organizations (NGO's) and the press may be necessary to ensure that new models of policing are understood and given a chance by citizens and organizations of civil society.

This lesson is drawn from the experience of both El Salvador and Haiti. In the former, a collection of active and well-organized popular non-governmental groups developed during the war. While El Salvador's experience with democratic political practices was minimal, these groups formed the basis for continuing input and critique of reformed state institutions after the transition from war to peace. They were, however, slow to begin developing proposals for positive reforms in the public security sector and played a minimal role in the conceptualization of the new security system. Human rights NGOs, accustomed to denouncing state coercive institutions, have in the past three years shifted their focus to monitoring police abuses and making positive suggestions about how public security authorities might improve police conduct. Moreover, a public relations campaign by the PNC and the academy helped inform the population about the concept and improved nature of the new police force.

In Haiti, by contrast, no such public education effort transpired. Skeptical of the new U.S.-influenced police force, the Aristide government remained publicly cautious about it. Questions about the influence of former military officers in the new police led to quick denunciations by the population of incidents of excessive use of force and other abuses of authority early in the HNP deployment. In the poor slum of Cité Soleil, the police and community members developed an antagonistic relationship shaped partly by the presence of criminal gangs. While human rights NGO's have quickly adapted to the new political situation and made suggestions for changes in the way the police function, the new force continues to lack significant public confidence.⁵⁵

See National Coalition for Haitian Rights/WOLA/HRW, *op cit.*

One area where reformers have faced stepped up international pressure is the adoption of "community policing" approaches. The international donors have themselves been slow to raise these approaches, ill-equipped to advance them, and unclear about exactly what they mean.⁵⁶ Early experiences suggest that the way in which community policing is organized and conceived in the United States may be less pertinent for developing countries than adherence to the broader concept of prioritizing the community and citizen involvement. Rather than focusing on how the police are organized or carry out patrols, the objectives of community policing might best be pursued by improving citizen access to police stations and decisionmakers, by setting up informal dialogue with community organizations, and by ensuring that communities have a voice in decisions about policing them. Up until now, public education efforts in El Salvador have focused largely on showing the effectiveness of new police forces in fighting crime rather than incorporating citizens into public security decisionmaking.

CONCLUSION

The experience of El Salvador's police reform might lead one to conclude that removing military influence over public security in post-conflict or post-authoritarian settings is relatively easy. Such optimism would be ill-founded. Be it demilitarizing public security, depoliticizing public security, or making public security more representative and accountable, such reforms depend heavily upon the political conditions present. In El Salvador, several conditions conspired to facilitate reforms to the state coercive institutions: the relative balance between the parties; the shift in international factors toward favoring a negotiated settlement; the absence of questions of ethnic or religious identity separating the parties; and the war-weariness of the population. Experience shows that police reform is no "magic bullet" to solving political conflicts or consolidating peace processes. Such reforms generally REFLECT the political context in which

These observations are based on research conducted for "Police Aid and the New World Disorder: Institutional Learning within the U.S. International Criminal Investigative Training Assistance Program," chapter in Oakley, Dziedzic, and Goldberg (eds.) *op cit.*, and upon personal observations in Haiti. By "ill-equipped," I refer to the tendency of police advisers to come from the ranks of national investigative police (e.g., the FBI, the DEA, French gendarmes, Canadian Mounties, etc.) rather than local street or rural cops who patrol communities.

they occur more than they SHAPE it. If political will is lacking among the parties who sign an agreement to terminate a conflict, then agreed-upon changes to the public security system alone are unlikely to create that political will and prevent a reversion to conflict. The experience of Bosnia to date may be illustrative.

At the same time, the Central American experience demonstrates that public security reforms are an important element of many peace agreements and can be significant in the consolidation of peace processes. The lessons presented here show that, despite the severe limits and constraints faced by would-be police reformers, choices about new public security institutions *can* make a difference, both for the consolidation of peace and for the nature of state-society relations under a new regime. Moreover, they show that norms of human rights and democratic governance, reinforced by some features of post-Cold War global politics, have permeated the arena of public security in the developing world in ways which may seem permanent, but which remain fragile and have not been fully realized in practice. Institutionalizing those norms in the face of real obstacles and conforming them to the desires of citizens is a challenge which post-conflict reformers will face for many years.