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Top U.N. Human Rights Official Criticizes El Salvadorâ€™s Crime-Fighting Approach

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The Salvadoran government under President Salvador Sánchez Cerén continues to face questions over its gloves-off pursuit of street gangs, a security approach that has trimmed the tiny country’s horrific homicide numbers but at the cost, say a growing number of critics, of basic human rights standards.

One of the latest to take issue with the crackdown is Zeid Ra’ad Al Hussein, head of the UN Office of the High Commissioner for Human Rights (UNHCHR). In a statement released at the end of a several-day visit to El Salvador in November (NotiSur, Dec. 1, 2017), the Jordanian-born official noted that violence levels remain “shockingly high” and condemned the actions of gangs and organized crime, describing them as “blights on the lives of so many Salvadorans.” But he also challenged the Sánchez Cerén administration’s response to the problem, especially the so-called medidas extraordinarias (emergency measures) it introduced early in 2016 to tighten control over imprisoned gang members.

Among other things, the measures restrict visiting rights for convicted gang members, allow certain gang leaders to be held in isolation, and prohibit inmates from leaving prisons even for court dates (NotiCen, May 26, 2016). As a result, Al Hussein argued, thousands of inmates have been subjected to “prolonged and isolated detention under truly inhumane conditions.” As evidence for his claim, the UN official pointed to “an outbreak of tuberculosis, affecting more than 1,000 inmates, with several hundred also said to be suffering from malnutrition.”

Al Hussein called on President Sánchez Cerén to end the emergency measures—which were approved by the legislature and later extended—and grant outside rights groups, including the UNHCHR, access to the country’s prison facilities. In addition, he noted that there has been growing number of deadly shootouts between Salvadoran security forces and presumed gang members, and that a grossly disproportionate number of civilians—more than 1,000 between January 2015 and February 2017 compared to 45 police officers—have died as a result.

“There are also alarming reports of extrajudicial killings and the return of death squads,” the high commissioner explained. “No matter how serious the human rights violations committed by violent gangs, all perpetrators of violence need to be held fully accountable for their actions through judicial mechanisms. Victims on all sides deserve justice.”

‘A security lens’

Critics say the extrajudicial killings and other human rights abuses are a direct result of the heavy-handed security push that the Sánchez Cerén administration launched in early 2015 following the collapse of an experimental tregua (truce) between the country’s leading gangs, known locally as maras or pandillas. The tregua, brokered by Sánchez Cerén’s predecessor, Mauricio Funes (2009-2014), produced a sharp decrease in homicide numbers—for the two years it was in effect,
annual killings dropped from roughly 4,000 to 2,500—but proved to be politically untenable (NotiCen, April 24, 2014).

After squeezing into office, Sánchez Cerén turned his back on the deal, saying there would be no more “negotiating with gangs, because that is outside the law.” Instead, he promised to launch what he called Plan El Salvador Seguro (Safe El Salvador Plan), a five-year, US$2.1-billion program to prevent crime by building parks and sports facilities, improving job prospects for youth, and rehabilitating prisoners. Within weeks, however, it became apparent that the government’s security policy would be more stick than carrot, especially after Sánchez Cerén’s vice president, Óscar Ortiz, gave police what amounted to a license to kill (NotiCen, Jan. 29, 2015).

In cases where they feel threatened, Ortiz said, police are free to shoot gang members “without any fear of suffering consequences.” Homicide numbers soared, in the meantime, jumping from 3,912 in 2014—the year Sánchez Cerén replaced Funes—to more than 6,650, a post-war record, in 2015, according to the Policía Nacional Civil (PNC) (NotiSur, Jan. 21, 2016).

The emergency measures were introduced in 2016, along with legislation outlawing any kind of negotiation with the gangs and classifying the groups as terrorist organizations. The government also presented a pair of new anti-gang commando units: the Fuerzas de Intervención y Recuperación Territorial (FIRT), an 800-strong joint force deployed in the country’s 10 most gang-plagued municipalities, and the Fuerzas Especializadas de Reacción (FER), made up of 600 soldiers and 400 members of the police force.

Since then, murders numbers have fallen somewhat. Last year’s homicide total stood at 5,279, according to the PNC, a 20% decrease from 2015 but still incredibly high for a country that is roughly the size, in terms of both population and territory, of the US state of Massachusetts (where 135 were killed in 2016, The Boston Globe reported). So far this year, the homicide tally is lower still, with a reduction, as of Nov. 1, of roughly 27% compared to the first 10 months of 2016.

The Sánchez Cerén administration sees the decrease as proof positive that its strategy is working. But Al Hussein and other rights defenders aren’t convinced, and encourage the government to refocus on its original, prevention-oriented plan. “The Safe El Salvador Plan is a positive model, but it needs to be implemented in a comprehensive way, in accordance with international human rights standards,” he said. “In practice, this means increasing the focus on the plan’s important preventive aspects and recognizing that dealing with violence primarily through a security lens is ultimately less effective.”

Out of proportion

Al Hussein’s visit to El Salvador—the first for a UNHCHR head—came less than three months after a pair of Salvadoran organizations broached the issue of extrajudicial killings with another prominent human rights body, the Inter-American Commission on Human Rights (IACHR).

Arnau Baulenas of the Instituto de Derechos Humanos de la Universidad Centroamericana (Institute of Human Rights of the Central American University, IDHUCA) and Verónica Reyna of the Servicio Social Pasionista (Passionist Social Service, SSPAS) presented the commission with information about three particularly egregious cases, including the so-called San Blas massacre from early 2015, when police killed eight people in a supposed enfrentamiento—a catch-all term meaning “engagement” or “shootout”—with suspected gang members on a coffee plantation in the department of La Libertad. An exposé by the independent, award-winning news site El Faro
challenged the official version, arguing that the pre-dawn raid wasn’t so much a shootout as it was a commando-style ambush involving summary executions and evidence planting (NotiCen, Aug. 13, 2015).

Baulenas and Reyna noted that enfrentamientos have become increasingly common in the past three years, and that like in the San Blas case—in which no police were killed—there is a huge discrepancy between civilian versus police or military fatalities. In 2016, the activists argued, the ratio was more than 50 to 1. The killings are so disproportionate, IACHR commissioner James Cavallaro said in response to the presentation, that they raise serious doubts about the true nature of the supposed police/gang engagements.

“I’ve studied the numbers from real shootouts in the hemisphere and in other regions,” said Cavallaro, the founding director of the International Human Rights and Conflict Resolution Clinic at Stanford University in California. “The truth is that the proportion of people killed [in real shootouts] can be two or three times as many civilians as police given that the police are presumed to have superior training … But 50 times more? That’s just not possible. It’s not possible with real shootouts … With figures like these, it’s about some shootouts and many cases of execution. We’re looking at a pattern of extremely excessive use of lethal force by state agents.”

Numbers that El Faro obtained through a freedom of information request show that, in the 20 months between January 2015 and August 2016, security forces participated in nearly 1,100 enfrentamientos and gunned down 693 suspected criminals. The number of PNC and military people killed in those engagements was 24. That data also shows that the incidence of lethal force by security agents increased over time. Of the 693 suspected criminals killed, 320 died in 2015 versus 373 in just the first eight months of 2016.

**Justifiable force?**

The Salvadoran government, for its part, continues to defend its crime-fighting approach. And it denies that there is any kind of pattern to the lethal force cases, or that security forces have in any way been ordered to carry out extrajudicial killings. “Shootouts occur when criminals respond with gunfire to an attempt by the police to stop them … and so they die,” the director of the PNC, Howard Cotto, said in a Sept. 16 television appearance.

Most of the killings, in other words, are justified, the authorities insist. Those that aren’t are isolated cases, Raúl López, El Salvador’s deputy minister of justice and security, said in response to the arguments Baulenas and Reyna presented before the IACHR. In such cases, he added, the state is ready and willing to prosecute. “For every illegal action done by a member of the PNC or Army, they’re investigated, captured, and jailed,” López said.

Rights defenders disagree, and suspect instead that prosecutors either ignore evidence of crimes by police or military personnel, or make only a half-hearted attempt to pursue them. Such was the case, critics say, with the San Blas killings, which finally went to trial this year but resulted in acquittals for all of the implicated officers (NotiCen, Oct. 12, 2017). Observers noted first off that the prosecutor—Attorney General Douglas Meléndez—decided to treat the case as a single murder (that of Dennis Hernández Martínez, 20, an employee on the farm) even though eight people died in the police raid, including the 16-year-old girlfriend of one of the gang members. He then failed to furnish evidence showing which of the accused fired the fatal bullet, leaving the presiding judge, in his words, with no choice but to exonerate all of the defendants.
“Meléndez accepted the police version that it was a shootout,” El Faro argued in a Sept. 26 editorial. “He ignored the evidence of the girl’s execution, and a year-and-a-half after the events, decided to pursue a case against eight police officers—three of them on the lam—for a single bullet: the one that killed Dennis. He turned a massacre into a single murder. He turned a criminal group, which killed and covered it up, into a single gun with a single finger on the trigger.”

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