INTERVIEW WITH:
MR. JUAN DUCH
LEGISLATOR AND EX-PRESIDENT OF EL SALVADOR'S
LEGISLATIVE ASSEMBLY
August 16, 2000
San Salvador, El Salvador

JUAN DUCH: I believe that each country has its conception of its legislature, but in general terms all are based on the same foundation. Perhaps in specific terms, here there's the simple and qualified majority that's required for certain provisions, such as: international treaties, the appointment of officials, which are dictated by the Constitution. But initially everything's generated through the commissions where political understandings can reach a consensus or an arithmetic majority in order to vote. Sure, we don't have an electronic board, but yes you can easily evaluate whether a political faction (*fracción*) votes and then, one can almost mentally know if there's a simple or qualified majority. This for example also generates some sort of data like if there's a *banquillo* in the plenary for such-and-such a circumstance, that a legislator left to carry out some activity or he's not there, then it's necessary to reduce (*recortarlo*) [the number of votes]. But in general terms the voting mechanism's worked.

JOHN: How's it decided what the position of the parliamentary faction will be when it votes in plenary?

JUAN DUCH: Well, initially the procedure's decided, which differs in other parts, but here everything's voiced with a request (*solicitud*), be it by the citizenship, by a legislator (*diputado*). The citizenship doesn't have....., but the legislators with a political agenda give the initiative to the President of the Republic, by means of ministers or, in their defect, the Supreme Court sends those matters dealing justice, as well as municipals (*municipales*) who also have municipal plans. There are legislators who *se avientan* with everything that occurs to them and just to modify the Constitution requires the proper initiative by a legislator. To begin this action inside the plenary there are two paths: one, that it be presented in the plenary; there's a small general debate and those who've made the request come, there are public spectators (*barras*), etc., and in addition, there's a thirty minute maximum time limit, five minutes per faction. Then there's an alternative, if somebody requests a procedure (*trámite*), it's presented in the plenary, it's voted in favor or against and on the contrary, it's passed to the commissions and there, there's no established time limit.

There's also political lobbying (*cabildeos*) among the factions, internally within the political factions, to determine which way the majority's going to vote. Depending on the activities that they carry out with certain grounds (*con cierto campo*), they have the good luck to reach the commission it was assigned to, to be able to end up being part of the legislative agenda. Otherwise endless hours can go by until it can be evacuated. There it has the alternatives of a favorable, unfavorable, or partial judgment (*dictámen)* or it can be filed; if it's put on file, up to six years can go by before the topic's presented again. It can be a partial judgment because there are very clear elements of certain policies..... to be able to develop it.

Here law judgments (*dictámenes*) exist. To be able to approve laws, there's an internal disposition for them to be distributed to the legislators eight days before they're to be presented in the plenary so the legislators -not only those of the commission and technical corps that elaborated it- have the option of reading it. If that occurs, the political commission determines in conjunction with the Board of Directors (*Junta Directiva*) that it can pass to the plenary; only if they're very big laws and depending on how the agendas are constituted, a special session or a session that has less of an "in house" (*en casa*) work load is sought, in order to implement some papers that must be left for a second round (*segunda ronda*), since the fatigue of so many days heats and reheats (*calentado y reclaentado*) the ideas and in one or two days or up to the following week the law's lobbied again. Lately, since I've been President, I had the alternative to leave some articles frozen (*congelados*) so they'd be returned to the commission, so that there in the commission's core (*seno*), with more criteria, it would understand the reasons for a more appropriate writing so that the redaction wouldn't be in a debate for days. Like the one dealing with the environment that took around four sessions to reach its approval, not so much for the debate, but rather for the law's length and extension, which we were developing in stages. ..... THIS PART IS UNCLEAR.

JOHN: In general the legislators of the faction vote together?

JUAN DUCH: Well, if the faction determines support to something, then yes. There are exceptional cases because you can't say that it's an exclusive (*único*) rule, but when the topics are very difficult and a vote of conscience is taken, of personal values, the faction's free. But they're counted cases.
JOHN: Which projects?

JUAN DUCH: Well, for example in the Constitution there's "the right to the life", but from conception. Abortion is immoral for some and natural for others.

JOHN: Then it's left to the legislators' conscience?

JUAN DUCH: Yes, to their conscience. I give that example because it's very easy to understand. The voting's is like this, or one doesn't vote....THIS PART IS UNCLEAR.

JOHN: If a legislator votes against his faction in a disciplined voting, are there sanctions?

JUAN DUCH: There can be an uncomfortable problem n the party. There are people who have many principles and they vote and that's that. Now, what political problem will they enter in? That's another thing.

JOHN: In the assembly..... .THIS PART IS UNCLEAR.

JUAN DUCH: In the last cycle, at least, the *UFT* voted almost equally for the *FMLN*. If one said "yes", the other one said "yes"; if one said "no", the other "no". Up until the end there are circumstances and with great difficulty the political decisions are compromised because..... and

some cases that it didn't go along with it (*no la acompañó*). More than anything in the case of the election for legislators, the magistrate of the Plenary Court (*Corte Plena*).

JOHN: What are the partisan [aliances?]..... based on? On common ideology, on electoral interests, for the executive, control of the legislative agenda?

JUAN DUCH: The Assembly that I know now is a lot like the Assembly of five or six years ago. There are very common topics, with a lot of accompaniment of factions, but when the factions believe that a topic damages their political image, they separate it from a future election or if it confronts their own ideology or their political personality, they don't vote. And perhaps it's very logical that they don't vote. First because they cover their backs (*cubren las espaldas*) so that if that measure over time doesn't work, they can wash their hands and say "I didn't vote"; even though the measure'sin effect. And if the measure's attractive, well they can say we'll play along (*a la jugada*), he who wins, wins.

JOHN: Why don't they vote? .....

JUAN DUCH: Because sometimes they have commitments with a sector, and if it's "no", it's opposing myself with the other. In other words, they're right in the middle of "win - win". If they vote this way they lose one side; if they vote the other way they lose the other side. So it's better if they stay in the middle and "win - win". They're not burnt (*quemados*) for this side or the other. In United States, in Guatemala and other places it's done this way. It's not that we're discovering a new type of voting here.

JOHN: You've told me that the voting method in the plenary is normally formed.

JUAN DUCH: The nominal and public vote.

JOHN: That's what I was going to ask you. It's a frequent phenomenon?

JUAN DUCH: Generally it's a vote by handraising. When it's qualified,- the nominal and public vote- the cases are now determined by the law. I can give you all the articles. The qualified, for Court Magistrates, they count the General District Attorney (*Fiscal General*), the Human Rights Comptroller (*Controlador de Derechos Humanos*), the Comptroller of..... Now, here's a detail. In the last two budgets - and the upcoming one - there's been the need to emit in some form, in order to face the fiscal deficit. Constitutionally, the budget has to balance the "acts with the price" *(los actos con el precio*). But now in order to pass it [the budget], it's necessary to do three things at the short and medium term. So, you have to have the bonds (*bonos*) on hand to be able to balance the budget. Supposedly, if it's not done this way, it'd be discouraged. So, if it's public debt, the qualified vote's needed, but not for the budget. So, there's a very difficult lock (*candado*) because there's a qualified vote for one action and not for spending the budget. So, there's a struggle in this vote decision.

JOHN: Has this forced any change in the political coalitions?

JUAN DUCH: Yes, many arrangements by force, to make substantial changes of a great magnitude.
JOHN: How many legislators does a nominal voting need to have for what's required?

JUAN DUCH: Well, the Constitution already determines it. In other words, it's already established.
JOHN: Twenty-five or thirty, or half?

JUAN DUCH: To request that? I've never experienced it. It's there in the qualified vote voting system, if you want it textually.

JOHN: The last question. Some years ago, for example, in the Nicaraguan Assembly and also in Peru, Venezuela and Mexico, electronic voting machines were installed. Do you believe that it would be worthwhile and worth the cost, to install such machines in the Salvadoran Assembly, or not? Why?

JUAN DUCH: It could be and maybe not. The topic is whether it's valiant, not with putting a key or a card, what for? Now, if this will serve to force them to vote. So, they raise their hand, I raise it with all the mistaken courage (*valentía equivocado*) for some, while it's correct for others. On the other hand, with the key, well. In addition, as I understand it, in some countries it's also lent itself to force the votes a little. Since I haven't tried it, I can't affirm it, it's only a comment that I make.
JOHN: Many thanks to you.