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QUESTION OF HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF
DETENTION OR IMPRISONMENT, IN PARTICULAR:
QUESTION OF MISSING AND DISAPPEARED PERSONS

Report of the Working Group on enforced or involuntary disappearances

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INTRODUCTION

1. The Commission on Human Rights by its resolution 20 (XXXVI) which it adopted without a vote on 29 February 1980, decided to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons. The Working Group was requested to submit to the Commission at its thirty-seventh session a report on its activities, together with its conclusions and recommendations. The present report is submitted to the Commission pursuant to that request.

2. The appointment of the Working Group under the resolution presented its members with what they recognized to be an important task. Everything that has happened since has served to emphasize that there is profound interest in the progress of the Group's work and hope in many quarters that this work may lead to results where other approaches have been less successful.

3. The starting point was the very large amount of information which had been received relating to alleged disappearances. Much more has since arrived, and all of this is summarized and analysed, in some detail, in chapter III. This information was supplemented by oral evidence, often given from first-hand knowledge, as may be seen in annexes XII to XVI. From the first, the Group kept firmly in mind its terms of reference; and it recalled the wording of resolution 33/173 of the General Assembly, which expressed deep concern at :

"reports from various parts of the world relating to enforced or involuntary disappearances of persons as a result of excesses on the part of law enforcement or security authorities or similar organizations, often while such persons are subject to detention or imprisonment, as well as of unlawful actions or widespread violence".

The vast majority of the cases which confronted the Group involved persons who had been arrested, detained or abducted by personnel belonging to a body which was either established as or believed to be, an organ of Government; or controlled by Government; or operating with the overt or latent complicity of Government; and the Government concerned in these cases neither accepted responsibility for the arrest, detention or abduction, nor accounted for these actions. There was, however, a minority of cases in which persons had disappeared and were not accounted for, but where it was not clear where the responsibility lay; the Group has not necessarily excluded such cases from its consideration.

4. It will be seen from the text that in a number of cases persons who had been reported as disappeared have been found dead. This information has come from private individuals and organizations, and sometimes from Governments themselves. This raises two points. First, it may be asked whether such persons can properly be said to be "disappeared persons" at all. The Group however considers that cases in which a person's detention between his arrest and his death is not accounted for and his family have not known his whereabouts, do fall within its terms of reference. Second, in the

knowledge that families may read this report in the hope that it will bring news of their lost relatives, the Group has to say that, apart from those cases which the text expressly indicates that a person has been reported dead, there is so far insufficient evidence one way or the other to indicate whether the persons reported as disappeared are alive or dead.

5. Some priority has been given to case histories. The Working Group has primarily concerned itself, during the period of its mandate, with those countries from which case histories have been submitted. The reason for this is that the volume of case histories was very considerable and there was a keen interest, in many quarters, in their being investigated. Moreover, the Group has no inherent investigative capacity in terms of time, persons or resources, to search out further cases which have not been voluntarily submitted. This does not mean however, that the following two points have been overlooked: first, the Group is very much concerned with those countries where the phenomenon of disappearances has become a common practice, since the reasons for such a development require thorough investigation; and second, it is quite possible that there may be other countries in which disappearances have been or are occurring but from which no case studies from which no case studies have so far been made available. The reason for this lack of information may be ignorance of the existence of the Working Group and its mandate or some sort of impediment in the way of submitting or unwillingness to submit cases of disappearance to the Group for its attention.

6. The Group began its work by asking the Secretariat to check with the original sources of information, where this was thought necessary, as regards the reliability of the reports submitted. It also contacted the relevant organizations and associations, as appropriate, for that same purpose. This was done with due regard to the paragraph in the resolution establishing the Group which underlines the need for discretion.

7. In the same spirit, the Group expended much effort in seeking co-operation of Governments. In this process it was careful to stress that no judgement whatsoever had been reached on the allegations made. Some Governments have not responded at all; it is to be hoped that this report and the description of the Group's approach will encourage them to do so. Others have been more forthcoming and their representatives have come forward to provide explanations and assistance. This has been most helpful, as has been the willingness of all Government representatives who have come before the Group to transmit to their capitals the points and questions raised by the Group, and to seek answers; in some cases the answers have already been supplied. The Group wishes to express its appreciation to those Governments which have been willing to supply information about the cases to which the allegations relate.

8. It was considered that it might be useful and productive if one or two members of the Group were to visit certain countries concerned. This suggestion has been communicated to Governments, and has met with some positive response. However, during the six months of the Group's activities no such visit has proved to be practicable.

9. The Working Group has taken note of the fact that there is a considerable volume of opinion according to which Governments should assume responsibility for disappearances and discharge its responsibility. Equally, numerous touching and eloquent requests for help in discovering what has happened to the disappeared have been received. In the present state of the Group's knowledge, it is this latter humanitarian approach which has assumed prominence. Accordingly, this report does not contain pronouncements or attributions of responsibility. It will be seen that the number of conclusions and recommendations is very limited.

10. Apart, however, from the investigation of older cases, the Group has decided to assume another function, which it derives from its terms of reference and the debates leading to the adoption of Commission resolution 20 (XXXVI). Since the Group's first meeting news has been received of a number of new cases of disappearance. A procedure was approved whereby in such cases the Chairman was authorized immediately to dispatch a cable seeking information from the Government concerned and its assistance in tracing the person or persons involved. This procedure, which has been used on a number of occasions, has provoked some response and achieved certain results, as may be seen in Chapter II. Thus, while the Working Group has been in existence, it may well have been realized by those, throughout the world, who contemplated the detention of a person and his disappearance, that the Group was continuously acting as the eyes of the international community, and acting with that sense of urgency which alone can save lives. Just as older cases must be investigated, so, too, new ones must be prevented.

11. Lastly it is worth recording that the Group has been very well aware of the trust that is placed in it and of the expectations raised by its work. Hence it is pleased to be able to say that all its decisions, at every stage and of whatever degree of importance, have been reached by consensus.

12. The Group would also wish to acknowledge the invaluable assistance provided by the Director of the Division of Human Rights and the Secretariat. They have displayed extreme diligence and helpfulness in preparing and expediting the massive amount of work involved, and the Group would like to pay them a tribute and thank them for discharging their task so willingly and conscientiously.

I. INTERNATIONAL CONCERN WITH ENFORCED OR
INVOLUNTARY DISAPPEARANCES

United Nations resolutions

13. The General Assembly at its thirty-third session adopted, on 20 December 1978, its resolution 33/173 entitled "Disappeared persons" (See annex I). In that resolution the Assembly expressed concern at reports from various parts of the world relating to enforced or involuntary disappearances of persons as a result of excesses on the part of law enforcement or security authorities or similar organizations, often while such persons are subject to detention or imprisonment, as well as of unlawful actions or widespread violence. The Assembly also expressed its concern at reports of difficulties in obtaining reliable information from competent authorities as to the circumstances of such persons, including reports of the persistent refusal of such authorities or organizations to acknowledge that they hold such persons in their custody or otherwise to account for them. Further, the Assembly referred to the danger to the life, liberty and physical security of such persons arising from the persistent failure of these authorities or organizations to acknowledge that such persons are held in custody or otherwise to account for them, and the Assembly also stated it was deeply moved by the anguish and sorrow which such circumstances cause to the relatives of disappeared persons, especially to spouses, children and parents. The Assembly requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations.

14. The General Assembly, also in resolution 33/173, called upon Governments:

"(a) In the event of reports of enforced or involuntary disappearances to devote appropriate resources to searching for such persons and to undertake speedy and impartial investigations;

"(b) To ensure that law enforcement and security authorities or organizations are fully accountable, especially in law, in the discharge of their duties, such accountability to include legal responsibility for unjustifiable excesses which might lead to enforced or involuntary disappearances and to other violations of human rights;

"(c) To ensure that the human rights of all persons, including those subjected to any form of detention and imprisonment, are fully respected;

"(d) To co-operate with other Governments, relevant United Nations organs, specialized agencies, intergovernmental organizations and humanitarian bodies in a common effort to search for, locate or account for such persons in the event of reports of enforced or involuntary disappearances;"

In that resolution, the Assembly also urged the Secretary-General to continue to use good offices in cases of enforced or involuntary disappearances of persons, drawing, as appropriate, upon the relevant experience of the International Committee of the Red Cross and of other humanitarian organizations, and it requested the Secretary-General to draw the concerns

expressed in that resolution to the attention of all Governments, regional and interregional organizations and specialized agencies for the purpose of conveying on an urgent basis the need for disinterested humanitarian action to respond to the situation of persons who have disappeared.

15. The Economic and Social Council at its first regular session of 1979 dealt with the question of disappeared persons and adopted resolution 1979/38 (see annex II) in which it requested the Commission at its thirty-sixth session to consider as a matter of priority the question of disappeared persons, with a view to making appropriate recommendations. The Council further requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider the subject at its thirty-second session, with a view to making general recommendations to the Commission on Human Rights at its thirty-sixth session and to consider communications on disappeared persons in accordance with the relevant resolutions.

16. The Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-second session (August - September 1979) adopted resolution 5 B (XXXII) (See annex III) in which it pointed out that according to information brought to its notice, enforced or involuntary disappearances of persons as a result of excesses on the part of law enforcement or security authorities or similar organizations continued to occur, and that the danger involved for such persons warranted urgent reaction on the part of all individuals and institutions as well as of the Governments. The Sub-Commission proposed that the emergency action called for by this situation might be entrusted to a group of experts of the Sub-Commission, which would be given all the information available for locating the missing and disappeared persons in different regions of the world and would make the necessary contacts with the Governments and families concerned, and it requested the Commission on Human Rights to authorize members designated by the Chairman of the Sub-Commission to undertake the task. The Sub-Commission further suggested that if this phenomenon were to continue, its extreme gravity would justify envisaging some form of emergency remedy, based on the notion of habeas corpus or any other type of legal protection, designed to induce official organs to devote the necessary means to the search for the missing and disappeared persons in different regions of the world. The Sub-Commission also transmitted to the Secretary-General for action, as part of the good offices urged upon him by the General Assembly, the lists of missing persons communicated to him by members of the Sub-Commission.

17. The Commission on Human Rights at its thirty-sixth session considered the question of missing and disappeared persons and adopted, without a vote, on 29 February 1980, resolution 20 (XXXVI) (See annex IV). In that resolution the Commission referred to General Assembly resolution 33/173, Economic and Social Council resolution 1979/38 and resolution 5 B (XXXII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and stated that it was convinced of the need to take appropriate action, in consultation with the Governments concerned, to promote the implementation of the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing and disappeared persons. It was under resolution 20 (XXXVI) that the present Working Group was established (see below, chapter II).

18. The Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-third session (August - September 1980) continued to study the question of enforced or involuntary disappearances and adopted resolution 18 (XXXIII) (see annex V) in which it expressed the deepest concern at the danger to the life, liberty and physical security of persons subjected to enforced or involuntary disappearances and for the anguish and sorrow caused to relatives of those persons, and emphasized the importance for Governments, relevant United Nations organs, specialized agencies, intergovernmental organizations and humanitarian bodies to co-operate for the purpose of bringing an end to the occurrence of enforced or involuntary disappearances and of determining the whereabouts or fate of missing or disappeared persons. In that resolution, the Sub-Commission, in view of the continuing seriousness and scale of the question of missing and disappeared persons, urged the Commission on Human Rights to extend the Working Group's mandate and emphasized that the extreme gravity of enforced or involuntary disappearances necessitates emergency action by the Working Group, by other organs in the United Nations system, as well as by the Secretary-General.

19. The General Assembly at its thirty-fifth session adopted without a vote, on 15 December 1980, resolution 35/193 entitled "Question of involuntary or enforced disappearances" (See annex VI) in which it expressed again its emotion at the anguish and sorrow of the relatives of victims of involuntary or enforced disappearance and welcomed the establishment by the Commission on Human Rights of the Working Group on Enforced or Involuntary Disappearances. The Assembly, in that resolution, requested the Commission to continue to study the question of enforced or involuntary disappearances as a matter of priority and to take any step it may deem necessary to the pursuit of its work on the question when it considers the report to be submitted to it by the Working Group at its thirty-seventh session. The Assembly further appealed to all Governments to co-operate with the Working Group and the Commission and to enable them to perform their task effectively and in a humanitarian spirit and it requested the Secretary-General to draw the concerns expressed in that resolution to the attention of all Governments, regional and interregional organizations and specialized agencies.

20. In addition to the above-mentioned resolutions of United Nations bodies dealing with the general question of enforced or involuntary disappearances, United Nations organs have dealt with missing persons in specific situations and with particular aspects of the problem. In 1977, the General Assembly in its resolution 32/128 expressed its concern at the lack of progress towards tracing and accounting for missing persons in Cyprus and requested the Secretary-General to provide his good offices through his Special offices through his Special Representative in Cyprus, to support the establishment of an investigatory body with the participation of the International Committee of the Red Cross which would be in a position to function impartially, effectively and speedily so as to resolve the problem without undue delay. The following year, the Assembly, in its resolution 33/172, urged the establishment of an investigatory body under the chairmanship of the representative of the Secretary-General with the co-operation of the International Committee of the Red Cross, which would be in a position to function impartially, effectively and speedily so as to resolve the problem without undue delay.

The General Assembly further called upon the parties to co-operate fully with the investigatory body and, to that effect, to appoint their representatives thereto forthwith. To date an investigatory body for missing persons in Cyprus has not been established (see chapter III C. below).

21. The General Assembly and the Commission on Human Rights have both repeatedly dealt with the question of missing persons in Chile. For example, the General Assembly, in its resolution 34/179, called the attention of the Commission on Human Rights to the recommendations in the report of the Expert on the Question of the Fate of Missing and Disappeared Persons in Chile (A/34/583/Add.1), and expressed its deep concern, although noting that no persons are reported to have disappeared in Chile during 1978 and 1979, that the numerous persons who disappeared between September 1973 and the end of 1977 and whose whereabouts are still unknown, present a continuous situation of gross and flagrant violations of human rights. In that resolution the Assembly also urged the Chilean authorities to investigate and clarify the fate of persons reported to have disappeared for political reasons, to inform relatives of the outcome, and to institute criminal proceedings against those responsible for such disappearances and to punish those found guilty. The General Assembly at its thirty-fifth session, adopted, on 15 December 1980, resolution 35/188 entitled "Protection of human rights in Chile" in which it referred to the report of the Special Rapporteur on the situation of human rights in Chile (A/35/522). In that resolution, the Assembly, *inter alia*, expressed its deep concern that the whereabouts of the numerous persons who have disappeared in Chile are still unknown and that this has caused grief and other hardship to their relatives, and it once more urged the Chilean authorities to investigate and clarify the fate of persons who have disappeared for political reasons, to inform relatives of the outcome of the investigation and to institute criminal proceedings against those responsible for such disappearances. (See chapter II below).

22. The World Conference of the United Nations Decade for Women (Copenhagen, 14-30 July 1980), in its resolution 23, expressed grave concern at the increasing number of missing and disappeared persons, including women and children, and stressed that women and children are affected both as direct victims and as relatives of victims. The Conference called upon all Governments to take whatever measures may be necessary in response to any reliable evidence of the disappearance of a person, including: measures to prevent such disappearances; the provision upon request of all information at their disposal relating to such disappearances; and, all legal, material and other assistance towards alleviating the situation of relatives and protecting them against persecution and harassment. The Conference also urged the Commission on Human Rights to give full effect to its mandate thus contributing to the solution of the problem of disappeared persons. It drew the attention of the Working Group to the effects of the problem on women, both as direct victims and as relatives of victims, and it appealed to all Governments to co-operate with the Working Group of the Commission on Human Rights.

23. The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Caracas, 25 August to 5 September 1980) adopted a resolution entitled "Extra-legal executions" in which it recalled the fact that the enforced or involuntary disappearances referred to in General Assembly resolution 33/173 are frequently related to murders committed or tolerated by Governments and called upon all Governments to take effective

measures to prevent such acts. Also relevant is General Assembly resolution 34/178 of 17 December 1979 in which the Assembly expressed its conviction that the application within the legal system of States of amparo, habeas corpus or other legal remedies to the same effect, is of fundamental importance for : protecting persons against arbitrary arrest and unlawful detention; effecting the release of persons who are detained by reason of their political opinions or convictions, including in pursuance of trade union activities; clarifying the whereabouts and fate of missing and disappeared persons. The Assembly called upon all Governments to guarantee to persons within their jurisdiction the full enjoyment of the right of amparo, habeas corpus or other legal remedies to the same effect, as may be applicable in their legal system.

Resolutions of regional organizations

24. The Working Group was informed of the concern of regional organizations for the enforced or involuntary disappearances of persons. The Group noted the resolution adopted by the General Assembly of the Organization of American States at its ninth regular session (La Paz, October 1979) entitled "Annual Report of the Inter-American Commission on Human Rights", in which the OAS General Assembly declared that the phenomenon of disappearances is a stain on the conscience of the Hemisphere and totally contrary to commonly-held traditional values and to the declarations and agreements signed by the American States. The Group further noted the resolution adopted on 27 November 1980, by the General Assembly of the Organization of American States at its tenth regular session and entitled "Annual Report and Special Reports of the Inter-American Commission on Human Rights". In that resolution the General Assembly of the Organization of American States resolved, inter alia:

"To emphasize the need to put an immediate end, in those countries in which it may occur, to any practice that leads to the disappearance of persons, and also to urge that the necessary efforts be made to determine the status of persons whose disappearance has been reported.

"To recommend to the governments, in connection with the preceding paragraph, that central records be established to account for all persons that have been detained, so that their relatives and other interested persons may promptly learn of any arrest that may have been made; also to request that arrests be made only by competent and duly identified authorities, and that the arrested persons be kept in premises designed for that purpose".

The Working Group also noted Recommendation No. R(79)6 adopted by the Committee of Ministers of the Council of Europe on 20 April 1979 concerning the search for missing persons, and the resolution of 11 July 1980 adopted by the European Parliament concerning a specific report of enforced or involuntary disappearances in which the European Parliament, inter alia, made an urgent appeal for everything possible to be done at all levels to trace the persons reported as missing.

Other expressions of concern

25. The Working Group received numerous letters and telegrams from many sources, including Governments, organizations and individuals throughout the world deploring the phenomenon of enforced or involuntary disappearances and requesting prompt action to bring it to an end. The Group also noted expressions of concern and petitions for action by non-governmental organizations in consultative status with the Economic and Social Council.

II. ESTABLISHMENT AND ACTIVITIES OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

Establishment of the Working Group

26. As was mentioned above, the Commission on Human Rights decided by its resolution 20 (XXXVI) (see annex IV) of 29 February 1980, to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons. The Commission also decided in that resolution that the working group, in carrying out its mandate, should seek and receive information from Governments, intergovernmental organizations, humanitarian organizations and other reliable sources and it invited the working group, in establishing its working methods, to bear in mind the need to be able to respond effectively to information that comes before it and to carry out its work with discretion. The Commission requested the Secretary-General to appeal to all Governments to co-operate with and assist the Working Group in the performance of its tasks and to furnish all information required, and the Secretary-General was further requested to provide the working group with all necessary assistance, in particular staff and resources they require in order to perform their functions in an effective and expeditious manner.

27. In resolution 20 (XXXVI) the Commission requested the Chairman to appoint the members of the group, and on 13 March 1980, at the Commission's 1579th meeting, the Chairman announced the composition of the Working Group as follows : Mr. Luis A. Varela Quiros (Costa Rica), Mr. Kwadwo Faka Nyamekye (Ghana), Mr. Mohamed Redha Al-Jabiri (Iraq), Viscount Colville of Culross (United Kingdom), Mr. Ivan Tosevski (Yugoslavia), by letter dated 9 September 1980, Mr. Al-Jabiri submitted his resignation from the Group. The Chairman of the Commission, Mr. Waleed M. Sadi, was informed of this resignation and, by a letter dated 30 October 1980, notified the members of the Commission on Human Rights. He also stated, in that letter, that in order to enable the Working Group to carry out its function with the full complement of members provided for by the Commission, and taking into account the fact that the present mandate of the Working Group was in an advanced stage, he had decided to assume personally the vacant place of Mr. Al-Jabiri for the remainder of his term which will run until the thirty-seventh session of the Commission on Human Rights (February - March 1981).

28. The Economic and Social Council in decision 1980/128, adopted during its first regular session for 1980, approved the Commission's decision to establish the Working Group.

Activities of the Working Group

29. The Working Group on Enforced or Involuntary Disappearances has held three sessions, each at the United Nations Office at Geneva. The first session took place from 9 to 13 June 1980, as soon as practicable after the Economic and Social Council had approved the establishment of the Group and the Advisory Committee on Administrative and Budgetary Questions had authorized funds for its operation. The Group's second session took place from 15 to 19 September 1980 and its third from 8 to 19 December 1980. At its first session the Group elected Mr. Kwadwo Faka Nyamekye to be its

Chairman/Rapporteur. Mr. Nyamekye, Viscount Colville, Mr. Tosevski and Mr. Varela, attended all three sessions. Mr. Al-Jabiri did not attend the first or second sessions. Mr. Sadi, who had assumed the place vacated by Mr. Al-Jabiri attended the third session. The meetings of the three sessions were private. At each session the Group approved a communique, copies of which are annexed to the present report (annex VII).

30. At its first session the Working Group gave careful consideration to the questions of the manner in which it should approach its task and the methods of work it should adopt. The Group decided to approach its tasks in a humanitarian spirit and to seek the co-operation of all concerned in finding a solution to the problem of enforced or involuntary disappearances and of determining the whereabouts or fate of persons reported missing or disappeared. In accordance with the terms of Commission resolution 20 (XXXVI), the Group adopted methods of work designed to enable it to perform its functions in an effective and expeditious manner, and to respond as effectively as possible to information coming before it. In accordance with the provisions of Commission resolution 20 (XXXVI) and Economic and Social Council decision 1980/128, the Group authorized its Chairman to transmit urgent reports of enforced or involuntary disappearances, received between sessions of the Group and requiring immediate action, to the Government of the country concerned together with a request that the Government transmit to the Group such information as it might wish. A short review of the actions carried out in this regard is found below, in paragraph 43. As requested by the Commission, the Group carried out its activities with discretion. At its first session, it requested the Secretariat to perform a number of tasks, including the organization and preliminary analysis of information submitted to the Group and, as appropriate, verification and completion of such information.

31. The Working Group at its first session came to the conclusion that one of the means by which it might best deal with allegations of enforced or involuntary disappearances, and gain an understanding of the circumstances surrounding such allegations, would be for it, through one or two of its members, to establish direct contact with those immediately concerned in such matters. The Group wrote to the Governments of those countries about which it had received expressions of concern relating to enforced or involuntary disappearances, asking if the Government would in principle be disposed to invite the Group to visit the country in order to establish such direct contacts. Annex VIII contains the text of this letter. The responses of the Governments to the Group's request are reflected in the appropriate sections of chapter III of this report.

32. In accordance with paragraph 3 of Commission resolution 20 (XXXVI) the Group received and, where appropriate, sought, information from non-governmental organizations in consultative status with the Economic and Social Council, from organizations or associations directly concerned with enforced or involuntary disappearances and from relatives of persons reported missing. During its second session the Group met with representatives of organizations and associations directly concerned with enforced or involuntary disappearances. Excerpts of statements made by representatives of those organizations and associations are reproduced in annexes

XII to XVI. The Group appreciates the opportunity it was afforded of meeting with the representatives of those organizations and associations and was much enlightened by the information that was furnished by them, by non-governmental organizations and by relatives of persons reported missing.

33. In order to help to clarify the information on enforced or involuntary disappearances which it had received, the Group, in accordance with Commission resolution 20 (XXXVI) and Economic and Social Council decision 1980/128, decided to transmit the information, without expressing any opinion on its reliability or validity to the Government of the country concerned with a request that the Government transmit to the Group such information or views as it might wish. In some cases specific questions were asked or particular documents requested. The Group also requested the Government to submit any information it might wish concerning any particular measures adopted, at the national or local level to investigate or determine the whereabouts of persons who are alleged to have suffered enforced or involuntary disappearance and concerning steps taken to prevent such disappearances. The Group expressed the hope that this exchange of information would provide the basis for a fruitful dialogue between it and the Government concerned. The Group, in approaching Governments in this connexion, emphasized the importance of any co-operation Governments might wish to extend to the Group; such co-operation was indispensable if the problem which the Commission on Human Rights has referred to the Group was to be solved.

34. At its first session, the Working Group decided to request the Secretary-General to appeal, in accordance with paragraph 4 of Commission resolution 20 (XXXVI), to the Governments which the Group had contacted to "co-operate with and assist the Working Group in the performance of its tasks and to furnish all information required". At its second session, the Group was informed that the Secretary-General, through notes verbales, had made the requested appeal and the Group expressed its thanks to the Secretary-General.

35. The Group, at its second session, decided to invite those Governments to which it had transmitted information on reported enforced or involuntary disappearances to meet with the Group during its third session. The Group met with the representative of the Government of Argentina, during its second session and with the representatives of the Governments of Argentina, Cyprus, Indonesia, Mexico, Nicaragua, Peru, Uruguay and representatives of the authorities of the Turkish Cypriot community during its third session. The Group appreciates the opportunity it was afforded of meeting with those representatives and thanks the aforementioned Governments and the authorities of the Turkish Cypriot community for that concrete expression of co-operation with the Group. Relations between the Group and governments will be dealt with in the relevant sections of chapter III of this report.

36. At its first session, the Group had before it various resolutions of the General Assembly on the question of missing persons in Cyprus, including resolutions 32/128 and 33/172, described in detail in paragraph 20 above, relating to the establishment of an investigatory body; the report of the Secretary-General to the Commission on Human Rights at its thirty-sixth session on the question of human rights in Cyprus (E/CN.4/1373); and information on reports of enforced or involuntary disap-

pearances in Cyprus (see chapter III, section C). The Working Group at its first session decided to consult with the Secretary-General concerning the question of enforced or involuntary disappearances in Cyprus and, after that consultation the Group, at its second session, decided to deal with the question in accordance with the methods of work it had adopted (see below chapter III, section C below).

37. Pursuant to paragraph 3 of resolution 20 (XXXVI), the Working Group contacted the International Labour Organization, UNESCO, the Office of the United Nations High Commissioner for Refugees, the European Commission on Human Rights, the Inter-American Commission on Human Rights and the International Committee of the Red Cross and requested information on the activities of each Organization in connexion with the enforced or involuntary disappearance of persons.

38. The International Labour Organization, in response to the Group's request, transmitted information on cases of reported enforced or involuntary disappearance dealt with by the Committee on Freedom of Association in regard to four member States of the ILO. UNESCO informed the Group of the procedure followed by its Committee on Conventions and Recommendations in regard to communications relating to missing persons and of that Committee's decision, dated April 1980, to ask the Director-General to apprise the Working Group of those communications to which the Committee had decided to apply the special procedure on missing persons, and of all other outstanding communications concerning alleged cases of enforced or involuntary disappearances. It was also agreed by the Committee that, without necessarily setting aside the different communications concerned, it would defer examination of them for a period of one year, i.e. while the Working Group was sitting, with the exception of those communications concerning disappearances said to have occurred within the last two years, and that it would subsequently examine them in the light of the deliberations of the said Working Group. UNESCO transmitted a list of communications concerning missing persons relating to two of its member States. The European Commission on Human Rights transmitted information on missing persons in connexion with one situation dealt with by that Commission; it was stated that no individual application under article 25 of the European Convention of Human Rights had dealt with disappearances.

39. The Working Group appreciates the co-operation extended to it by the Secretary-General, and by the Organizations mentioned above. The Group recognizes the importance of the existing international procedures and the contribution they make towards the solution of the problem of enforced or involuntary disappearances. The magnitude and complexity of this problem is such that the Group cannot pretend at present to deal adequately with each of the numerous reports it has received, nor can it supplant existing procedures.

Question of enforced or involuntary disappearances in Chile

40. The Chairman of the Working Group, in a letter dated 23 June 1980 addressed to the Permanent Representative of Chile to the United Nations Office at Geneva, stated that during its first session the Group had received expressions of concern relating to reported enforced or involun-

tary disappearances in Chile.^{1/} The Chairman also raised the question of establishing direct contacts with those immediately concerned with reports of enforced or involuntary disappearances in the terms mentioned in paragraph 31 above, and inquired if the Government of Chile would in principle be disposed to invite the Group to establish such direct contacts through a visit of one or two of its members to Chile, should the information before the Group in the future make such direct contacts desirable.

41. The Permanent Representative of Chile to the United Nations Office at Geneva, in a letter dated 22 September 1980 addressed to the Chairman of the Working Group, referred to the appointment by the Commission on Human Rights of a Special Rapporteur to deal with the situation of human rights in Chile (Commission resolutions 11 (XXXV) and 21 (XXXVI) and the inclusion in the mandate of the Special Rapporteur of matters within the competence of the Working Group. In this regard, the letter of 22 September 1980 read:

"Both in the General Assembly and in the Commission on Human Rights, my country has stated that it absolutely rejects this procedure, which is ad casum, discriminatory and, consequently, contrary to the principle of the legal equality of States. Chile is supported in its position by the fact that it is the only country that has allowed a Working Group of the Commission on Human Rights to visit its territory. The Group was given every assistance, enjoyed freedom of action and met co-operation that no similar body has received in any country whatsoever, as pointed out in the Working Group's report.

"In an official statement by the Ministry of Foreign Affairs dated 7 March 1979 and transmitted to the Secretary-General under cover of diplomatic note No. 291/39 dated 15 March 1979, Chile stated that it would be in no position to co-operate with general United Nations procedures as long as that situation of discriminatory and ad casum treatment continued.

"Once that situation changes, my country will co-operate with the generally applied and accepted procedures of the United Nations system and will, at that time, have the pleasure of considering your request".

42. The Working Group during its second session met with the Special Rapporteur on the situation of human rights in Chile. After consulting with the Special Rapporteur, and in view of the request in paragraph 8 of Commission resolution 21 (XXXVI) that the Special Rapporteur should deal in his report with the problem of disappeared persons in Chile, the Group found it appropriate at present that the question of enforced or involuntary disappearances in Chile should continue to be part of the mandate of the Special Rapporteur. The Working Group thus refers, in this regard, to paragraphs 242 to 284 of the report of the Special Rapporteur to the General Assembly at its thirty-fifth session (A/35/522). The Group appreciates the co-operation extended to it by the Special Rapporteur.

^{1/} At its first session the Group had before it, inter alia, the reports submitted to the General Assembly and the Commission on Human Rights by the Expert on the Question of the Fate of Missing and Disappeared Persons in Chile (A/34/583/Add.1, E/CN.4/1363, E/CN.4/1381). The Group also received information in this regard from UNESCO.

Urgent reports of enforced or involuntary disappearances received between sessions

43. As was mentioned in paragraphs 10 and 30 above, the Group authorized its Chairman, to transmit urgent reports of enforced or involuntary disappearances received between sessions of the Group and requiring immediate action, to the Government of the country concerned together with a request that the Government transmit to the Group such information as it might wish. Pursuant to that decision, the Chairman transmitted information to Governments on the occasions listed below; more details are contained in the appropriate sections of chapter III. Information was transmitted on two occasions to the Government of Argentina; in one instance it referred to the reported arrest by Argentine and Peruvian military personnel in Lima, Peru, and the subsequent disappearance of five Argentine citizens (see paragraphs 69, 166 - 169). In the second instance information was transmitted concerning the reported arrest and disappearance of a journalist in Buenos Aires (see paragraph 69). Information was transmitted to the Government of Bolivia concerning the reported arrest and disappearance in Bolivia of a Church leader; it was subsequently learned that he had been released and expelled from the country (see paragraph 164). Information was also transmitted to the Government of Bolivia in connexion with the reported disappearance of three Argentine citizens reportedly arrested in Peru and expelled to Bolivia (see paragraphs 166 - 169). At the request of the Chairman, information on the reported arrest and disappearance of some 10 persons in El Salvador was transmitted to the Government of El Salvador on four occasions; with regard to two of the persons concerned the Government reported that they were being held in custody in connexion with a criminal case (see paragraph 95). Information was transmitted to the Government of Guatemala concerning the reported arrest and disappearance of 17 trade unionists (see paragraph 112). Information was transmitted to the Government of Peru concerning the above-mentioned reported arrest and subsequent disappearance of five Argentine citizens in Peru (see paragraphs 69, 166 - 169). The Group has received confidential information that the person concerned in one of the reported disappearances listed above was subsequently released; the confidential nature of that information prevents the Group from indicating the precise case.

III. SURVEY AND ANALYSIS OF INFORMATION RECEIVED BY THE WORKING GROUP

A. General considerations

44. A truly massive amount of information on enforced or involuntary disappearances has been received by the Working Group from a wide variety of sources, including Governments, intergovernmental organizations, non-governmental organizations in consultative status with the Economic and Social Council, private organizations and relatives of missing persons. The Group also received information from persons who report witnessing the arrest or abduction of a missing person, persons who state they were detained with missing persons, persons who report having been members of, or having collaborated with, security or other police forces involved in enforced or involuntary disappearances.

45. Specific information received relates in varying degrees to the following countries: 1/ Argentina, Bolivia, Brazil, Chile, 2/ Cyprus, El Salvador, Ethiopia, Guatemala, Indonesia, Mexico, Nicaragua, Peru, the Philippines, South Africa and Uruguay. This specific information concerns a number of cases on the order of 11,000 to 13,000. In this regard the Group wishes to stress three points:

(a) The number of cases varies greatly between the countries listed; the extent of the problem in each country emerges in the detailed discussion of that country;

(b) The fact that a country does not appear on this list does not necessarily mean that cases of enforced or involuntary disappearances do not occur in that country. There may well be parts of the world where people do not know of the existence of the Working Group or have failed for some reason to contact it;

(c) The number of cases notified to the Secretariat could well be fewer, perhaps very much fewer, than the true number of cases of disappearances in a given country. Information on this appears in some of the statements made to the Group, which are reproduced in annexes XII to XVI.

With regard to the reasons why information does not reach the United Nations, the Group noted statements that some relatives of missing persons fear the consequences of filing reports. The Group was also informed of obstacles placed in the way of lawyers and others dealing with cases of persons reported missing of threats made against them and against the relatives of missing persons, and even the disappearance of those involved in the search for missing persons. Moreover, the Group cannot but note with the greatest concern the recent assassinations of leaders of national human rights organizations.

1/ The Group also received communications addressed to it which appeared to relate to other countries but which did not contain the specific information which would enable the Group to deal with them. The Secretariat was requested by the Group to seek, as appropriate, the necessary details.

2/ For information regarding Chile see paragraphs 40-42 above.

46. The Working Group attempted to deal with all the situations concerning which specific information was received. However, in the six months between its first session and the adoption of the present report the Group was unable fully to analyse all the information submitted, nor was it able to reach final and definitive conclusions. With regard to the information with which it was able to deal, the Group is of the opinion that the task of the Commission on Human Rights regarding enforced or involuntary disappearances would be facilitated if the Group were to provide the Commission with an analytical summary showing the principal characteristics of that information. The detailed analyses on which the summaries contained in this chapter are based are on file in the Secretariat and are available to members of the Commission for consultation.

B. Analytical summary of information received concerning Argentina and communications with the Government of that country

Source and character of the information

47. The principal sources of information received by the Working Group concerning reported cases of enforced or involuntary disappearance in Argentina were the thousands of communications addressed directly to the Group by individuals, generally relatives of the person reported missing. Private organization or associations within and outside the country and non-governmental organizations in consultative status with the Economic and Social Council also transmitted information. Governments of Member States of the United Nations submitted or transmitted to the Group information relating to Argentina, and the Group has received information from the International Labour Organization and UNESCO. The Group also had before it the relevant chapters of the Report on the Situation of Human Rights in Argentina of the Inter-American Commission on Human Rights 3/ and the relevant parts of the Critical Observations and Comments of the Argentine Government 4/ on the Inter-American Commission's report.

48. The information transmitted to the Group included copies of documents issued by administrative, military and judicial authorities, copies of official Government statements, copies of documents submitted to courts, court decisions, and sworn statements by witnesses. Files containing information on particular types of cases were submitted to the Group relating, for example, to the reported disappearance of lawyers, trade unionists, high school (lycee) and university students, professors, scientists, psychologists, social workers, engineers, journalists and workers. Special concern was expressed for lawyers who had disappeared after having been engaged in defending political prisoners or in the search for missing persons, and for active members of associations of relatives of missing persons who had disappeared. Special concern was also expressed for children, minors, and women, for pregnant women who disappeared and the children to whom they had reportedly given birth while in detention. Information was also provided concerning couples (husband and wife), and even whole families, who had disappeared, persons who had disappeared while doing their military service and persons who had last been seen in prison. Reports were also received concerning the operation of habeas corpus and other legal

3/ Document OEA/Ser.L/V/II.49, doc. 19, corr.1, dated 11 April 1980.

4/ Document OEA/Ser.P AG/CP/doc.256/80, dated 29 April 1980.

aspects of cases of reported disappearance in Argentina. It would appear from initial analyses, that the specific information received relates to approximately 7,000 to 9,000 cases.

Analytical summary of 500 reports

49. The Working Group, in the short time available to it, was not able to analyse in detail the many thousands of pages of information mentioned above. The Group did, however, study in detail, as examples some 500 cases which had been submitted directly to it by individuals ^{5/} This analysis revealed the characteristics of the information submitted in such individual reports. The detailed analyses of these reports on which the following summary is based, are available with the Secretariat for consultation by members of the Commission.

50. The great majority of the authors of the 500 reports analysed are close relatives (mother, father, husband, wife, mother-in-law, father-in-law, brother, sister, etc.) of the person who reportedly disappeared, and in most cases they claim to have first-hand knowledge of the arrest of the missing person. In these cases the persons who reportedly disappeared are identified by family name and usually two given names, and generally such information as nationality, identity card or passport number, profession and date of birth or age is also given. The disappearances in the cases analysed, occurred during the period 1975 to 1980, the majority of them reportedly between the years 1976 and 1978. According to the reports, the professional and occupational activities of the missing persons cover a wide range, including those of lawyer, medical doctor, nurse, psychologist, sociologist, teacher, journalist and trade unionist. Students, workers and employees account for the largest numbers.

51. The reports analysed for the years 1975-1979 (488 of the 500) contain, with some exceptions, details of the circumstances of the reported arrest. In 344 cases, the exact location, date and usually the time are given. In 203 cases, the arrest is reported to have taken place in the presence of one or more persons who are often identified by name or by function, for example building custodian or factory director. The reported location of most (252) of the arrests is the home of the missing person or the home of his parents or relatives who, in many cases, are named as witnesses. Some 30 of the missing persons were reportedly taken into custody at their place of work, factory or business, with fellow workers or owners of other businesses reported as witnesses. In 57 other cases the arrest reportedly took place at a specified location on the street, for example at a bus stop, or in places such as theatres. One hundred and thirty-eight of the reports analysed contain fewer details of the arrest of the missing person or even none at all. In most of these cases, the missing person reportedly left home or work on a given day and has not been seen since; however, the authors often report in such cases additional elements, for example, searches of the missing person's home at about the time of the disappearance, telephone calls by the missing person confirming detention, or other reports that the missing person was being detained. In some four or five other cases, the missing person was reportedly last seen in prison; the prison authorities reportedly informed the relatives that the person had

^{5/} Some of these 500 cases had also been brought to the Group's attention by or through Governments which transmitted information concerning them.

been released, the time of release being given as midnight or the early hours of the morning.

52. Reports of disappearances for 1980 which have been analysed (12 of the 500) contain few or no details of the arrest of the missing person and there has been an increase in the number of reports which merely state that the person left home or his place of work and was never seen again.

53. In those reports analysed, for the years 1975-1979, in which information was given on the arrest of the missing person, the authors of the reports, with few exceptions, state that the operation was carried out by a group of men, most often described as armed or heavily armed. In 257 of the 488 reports studied, specific statements are made concerning the identity of the persons carrying out the arrest; in 165 cases, the authors report that those making the arrest either identified themselves as, stated they were members of, claimed to belong to, or had been identified as members of, organizations such as the police, Federal Police, security forces, the army, the navy, "comando antisubversivo", military, combined forces (Fuerzas Conjuntas), State intelligence service, legal forces (Fuerzas Legales), military police, or the Federal police Co-ordination Bureau (Coordinacion Federal). In 92 of the cases, the authors simply state that the persons belonged to one or more of the organizations listed above without substantiating the statement. In some cases (14), it is reported that credentials were shown and in 52 cases, such distinctive elements as the use of uniforms and official cars are reported.

54. Although some of the reports analysed indicate that an attempt was made to conceal the identities of the persons carrying out the arrest - for example, masks were reportedly used - few of the reports for the years 1975 to 1979 reflect any attempt to carry out the operation itself in a hidden or clandestine manner. In the reports analysed for the years 1975 to 1979, most of the descriptions of the operations, during which persons who subsequently disappeared were arrested, include such elements as the involvement of many persons and the use of several vehicles. In many cases, the armed men reportedly approached the custodian or occupants of the building and identified themselves as belonging to one or more of the organizations mentioned above. Often the armed men reportedly remained on the premises for a certain period of time, checking identities, questioning persons and carrying out searches prior to leaving with the person reported missing. In a few cases, the premises were reportedly occupied for several hours, and according to some of the reports the neighbourhood was surrounded and the movement of traffic and pedestrians halted. Many reports state, in connexion with arrests and searches of homes, that money and articles of value were taken by those making the arrests or carrying out the searches. In a few of the reports, the authors state that the local police were called during the operation and that the police either refused to respond to the call or, if they did come, withdrew after having been shown the identity documents of the persons carrying out the operation.

55. In almost all the reports analysed the authors state that petitions of habeas corpus were filed with the courts, and that appeals were made to governmental, military and religious authorities but that such petitions and appeals were unsuccessful. In a few cases it is reported that the testimony of witnesses was presented to the police or courts but did not succeed in securing the release of the detained person. More details of the operation of the Argentine legal system in connexion with reports of disap-

pearances are given below in paragraphs 63 to 65.

Reports on the whereabouts of disappeared persons

56. The Group received extensive written information concerning numerous secret detention centres where missing people were reportedly held between 1976 and 1979. Detailed information on a number of centres has been provided by persons who report having been detained in one or more of these centres for periods ranging from one month to two years. In some cases, the witnesses report having had access to information because they had been assigned various tasks, including clerical work, within the centres. Some of the witnesses also claim that some of the photographs of missing persons in the files of human rights organizations are photographs of people they had seen in the detention centers. The Group also received a written statement from a former member of the Argentine police to the effect that individuals whose disappearance had been reported by relatives had in fact at one time been held in a detention centre in Buenos Aires where he had been on duty.

57. The reports on clandestine detention centres give details about the location, characteristics, manning, organization and functioning of the centre. Several of the reports include maps showing the location of the centres as well as plans of their premises. One report includes two photographs of the building in which a detention center was reportedly located. The descriptions contained in the reports are, in a very great number of respects, consistent with each other and are also consistent with descriptions provided by people who report having been detained for short periods in clandestine places of detention which they were not able to identify. The Group also noted a high degree of consistency between the descriptions of the methods of arrest provided by the authors of these reports and those given by relatives of missing persons and other witnesses.

58. According to the reports received by the group, the following secret detention centres were in operation at various points in time during the period 1976-1979 ^{6/}

- (a) Escuela Mecanica de la Armada, ESMA (Naval Engineering School). The ESMA is a technical institute for midshipmen located in Buenos Aires. The detention centre is reported to have been located in the Officers' Club (Casino de Oficiales), under the authority of naval officers;
- (b) La Perla, located on the outskirts of the town of Cordoba and run by officers belonging to the Third Corps of the army;
- (c) Empresa El Vesubio, located in Buenos Aires within a military zone under the authority of the regiment of La Tablada (Infantry Regiment No.3);
- (d) El Jardin or Automotores Orletti, located in Buenos Aires and run

^{6/} In this regard reference may be also made to the Report on the Situation of Human Rights in Argentina of the Inter-American Commission on Human Rights (document OEA/SER.L/V/II.49, doc. 19, chapter III, B, b).

by members of the Argentine and Uruguayan security forces;

(e) Club Atletico, located in Buenos Aires and run by members of the Federal police;

(f) Banco, located in Buenos Aires, under the authority of army officers;

(g) Olimpo, located in Buenos Aires, under the authority of army officers;

(h) Campo de Mayo. This is a large military base in Buenos Aires. The secret detention centre reportedly operated in a restricted area known as El Campito, under the authority of the Command Staff of Campo de Mayo;

(i) Sheraton, located in Buenos Aires and run by members of the Artillery Unit of the regiment of La Tablada;

(j) A former police station near Quilmes, Province of Buenos Aires;

(k) Pozo, or "The Chamber of Tortures", located near Quilmes, under the authority of Argentina and Uruguayan military officers;

(l) A restricted area of Police Station No. 40 of the Province of Buenos Aires, under the authority of the provincial police force;

(m) Campito, located near La Plata, Province of Buenos Aires, run by military personnel;

(n) Unit No. 5 of the Prison of Buen Pastor, located in Cordoba;

(o) Unnamed centre run at Army Operational Area No. 113 located in Olmos, under the authority of military and naval officers;

(p) Unnamed centre run in the basement of the former headquarters of the Federal Police Co-ordination Bureau (Coordinacion Federal), in Buenos Aires;

The personnel of these centres reportedly included members of the army, the navy, the police and the gendarmeria nacional, as well as some civilians. The Group observed that there is a significant degree of consistency between the reports so far as the identification of individuals mentioned as having staffed the detention centres (by name and/or nickname, rank and function) is concerned. One of the reports includes the photograph of two individuals reported as having been connected with the operation of one clandestine detention centre.

59. the reports received by the Group contain lists of persons reported to have been held in the various detention centres. The persons are identified by name and / or nickname and, in some cases, by profession, marital status and other particulars. Often, additional information is given concerning the date and circumstances of the person's arrival in the centre and of his/her eventual fate. In a number of cases reference is made to pregnant women who gave birth while in detention. The Group noted that in many instances there is agreement, between various reports from the detention

centres, on the identification of detainees, the description of the circumstances of their arrest and the conditions on their detention. A composite alphabetical list containing over 1,000 entries with information on persons reportedly seen in clandestine detention centres, and giving details about the conditions of their detention and their fate, is available with the Secretariat for consultation by members of the Commission.

60. The reports describe in detail the treatment received by the prisoners in the detention centres. In the majority of cases, prisoners are reported to have been kept blindfolded or hooded and handcuffed or chained for long periods, even months; they are also reported to have been provided with insufficient food and clothing. The hygienic conditions are reported to have been extremely bad. Torture and ill-treatment are reported to have been systematically inflicted. 7/

61. As for the eventual fate of the prisoners, the reports indicate that a number of them died as a result of the torture they suffered, some were executed, a few of them were either released or sent to gaol as recognized detainees, but most of them were transferred to unknown destination. Several reports state or suggest that the prisoners purportedly transferred were in fact physically eliminated, in some cases being drugged and then thrown from an aircraft into the sea. A procedure is also described whereby prisoners were taken out of the detention centres during the night and were later reported by the authorities to have died in armed clashes with the security forces.

62. The Group also received less detailed information on a number of other secret detention centres reportedly existing in Argentina.

Information on the operation of judicial safeguards

63. In almost all the cases analysed by the Group it is reported that petitions for habeas corpus were filed before the courts with a view to determining the whereabouts and fate of the missing persons but that these failed to produce any results. The Group received copies of many of these petitions and of the judicial decisions adopted in their regard. As described in the reports analysed, the procedure adopted in relation to petitions for habeas corpus consistently follows the same pattern, namely, the judge requests information about the person allegedly arrested from the administrative and military authorities, these authorities invariably

7/ With a view to verifying the allegations of torture made by the author of one report, and thus substantiating the rest of her testimony, arrangements were made for her to be examined at Geneva by Dr. Bierens de Hann, a physician and psychiatrist who is well-acquainted with the sequelae of torture. In his report, Dr. Bierens de Hann states that, on examination, the subject presented numerous cicatricial lesions (nombreuses lésions cicatricielles) on her body, that these lesions seemed to correspond to full thickness burns (brulures du 3eme degre) and that it was very likely that the burns noted were the result of torture by the 220 volt "picana" (Il est tres vraisemblable que les brulures constatees sont les sequelles de la torture par la "picana" de 220 volts).

answer that the person is not being held under detention ^{8/} and, on the basis of that information, the court proceeds to reject the petition.

64. The Argentine Supreme Court in several decisions, copies of which have been received by the Group, recognized that operations of the system of habeas corpus in relation to missing persons was unsatisfactory. In Perez de Smith, Ana Maria y otros s/pedido (Judgement of 21 December 1978) the Court stated: "In the present proceedings a wealth of evidence, deriving from various courts, shows that the judges have had to reject the applications for habeas corpus because the authorities have flatly reported that the individuals on whose behalf the habeas corpus applications were made are not on record as being detained". The court found there to have been a "denial of justice ... attributable to causes beyond the specific functions and competence of the judges, who are not in a position to correct it simply through their judicial activities". The Court further observed that "faced with this generalized situation, the Court once again finds itself with the inescapable duty of exercising / its / inherent and irrevocable implicit powers as a supreme organ and head of one of the Powers of the State in order to safeguard the efficient administration of justice, so that the specific functions of the judges may have the guarantees and conditions needed to achieve effective results ...". The Court decided "to bring it / the denial of Justice / to the attention of the Executive and urge it to take the necessary measures within its power to create the conditions which would enable the Judiciary properly to determine the cases brought before it, thus safeguarding the personal liberty guaranteed by the National Constitution ...".

65. The Group noted with interest that in several recent cases - notably those of Ollero, Machado et al., and Hidalgo Sola - the Argentine Supreme Court overruled decisions of lower courts which, on the grounds referred to above, had rejected petitions for habeas corpus in respect of disappeared persons, and ordered the judges to continue their investigations. The Court held that, if the institution of habeas corpus is effectively to protect the personal liberty guaranteed by the National Constitution, it is necessary that the judges take every possible step which might reasonably help to clarify the circumstances under which the persons were deprived of their liberty. The Group learned that, where there is sufficient evidence, the penal code is automatically invoked; it includes an offence of unlawful imprisonment, which the judge then investigates. The Group was informed, however, that since this change, no such case has been brought to a conclusion for, among other reasons, lack of time.

Survey of information transmitted to the Government and the question of establishing direct contacts

66. In view of the enormous number of communications received by the Group concerning cases of enforced or involuntary disappearance in Argentina, and taking into account the time available to it for the preparation of its report to the Commission, the Group decided to transmit to the Government of Argentina initially a limited number of cases which had been selected as

^{8/} The Group was informed of cases in which the Ministry of the Interior had given written replies to relatives of detainees who had been missing stating that they were not being held, at a time when the detention had already been admitted by military authorities and the relatives had visited the detainees at their places of detention.

constituting a representative sample of all the reports received. For the period 1976-1979, the cases transmitted were selected from among those which provided a detailed description of the circumstances in which the disappearance took place and a clear identification of the people involved and the witnesses. With respect to disappearances which reportedly occurred in 1980, the Group decided to transmit to the Argentine Government those cases which prima facie appeared to be serious and well-founded, notwithstanding the fact that the information was not always as complete as that for the cases of the period 1976-1979.

67. By letters dated 15 July 1980, 4 August 1980 and 30 September 1980, and at a meeting with representative of the Government of Argentina on 18 September 1980, the Group transmitted to the Argentine Government information concerning 65 cases of disappearance, 12 of which related to 1976, 10 to 1977, three to 1978, 15 to 1979 and 25 to 1980. Full and detailed dossiers, which included copies of all the relevant documents supporting the reports, were transmitted to the Government in 25 of these cases. In the remaining 40 cases the Group transmitted summaries which contained a general description of the elements of each case. The Group also transmitted to the Argentine Government copies of nine selected reports, by persons who claimed to be former detainees, providing information on clandestine detention centers. Excerpts from a number of other reports by former detainees were also attached to some of the cases transmitted to the Government when the former detainee identified the missing person concerned as having been held in a clandestine centre.

68. All the above information was transmitted together with a request that the Government transmit to the Group such information as it might wish. The Group also asked the Government to submit such information as it might wish concerning any particular measures adopted at the national or local level to determine the whereabouts of persons reportedly the victims of cases of enforced or involuntary disappearance and steps taken to prevent such disappearances.

69. Pursuant to the decision referred to in paragraphs 10 and 30 above concerning immediate action in cases of urgent reports of enforced or involuntary disappearances received between sessions, the Director of the Division of Human Rights, acting on behalf of the Chairman of the Working Group, addressed, on 2 July 1980, a letter to the Permanent Representative of Argentina to the United Nations Office at Geneva, transmitting to the Argentine Government information on the disappearance of five Argentine citizens which reportedly occurred after they had been arrested in Lima, Peru, between 11 and 13 June 1980, by officers of the Argentine Security Services and Peruvian military personnel. The letter stated that the Group would appreciate receiving as soon as possible any information which the Argentine Government might wish to transmit (see also paragraphs 166-169 below). Also in accordance with the Group's decision on immediate action in case of urgent reports of enforced or involuntary disappearances received between sessions, the Chairman of the Working Group, by a cable dated 14 October 1980, transmitted to the Government of Argentina information which had been received on the reported arrest and disappearance on 8 October 1980 in Buenos Aires of an Argentine journalist, and the subsequent search of his home by police. The Chairman stated that the Group would appreciate receiving as soon as possible any information which the Government might wish to transmit.

70. The Chairman of the Working Group, in a letter dated 30 September 1980 addressed to the Permanent Representative of Argentina to the United Nations Office at Geneva, referred to the above-mentioned communications dated 25 July 1980, 15 July 1980 and 4 August 1980 and the information thereby transmitted to the Government as well as the information handed to the Permanent Representative during the meeting with the Group of 18 September 1980 and stated that "the Group wishes to renew its request to your Government to submit to it at its earliest convenience any information it might wish in that regard". The Chairman also stated in that letter that:

"the Working Group hopes that this exchange of information will be the basis for a fruitful dialogue between it and your Government. The Group would like to underline the importance of such a dialogue and it looks forward to the co-operation which your Government may wish to extend to the Group. This co-operation is indispensable for solving the problems which the Commission on Human Rights requested the Group to examine".

71. The question of establishing direct contacts with those immediately concerned by reports of enforced or involuntary disappearances in the terms mentioned in paragraph 31 above was raised by the Chairman of the Group in a letter dated 23 June 1980 addressed to the Permanent Representative of Argentina to the United Nations Office at Geneva. The Chairman asked if the Government of Argentina would be disposed in principle to issue an invitation to the Group to establish such direct contacts through a visit to Argentina by one or two of its members should the information before the Group in the future make such direct contacts desirable.

Information and views transmitted by the Government

72. By a letter dated 10 September 1980 (reference 219/80) addressed to the Chairman of the Working Group, the permanent representative of Argentina to the United Nations Office at Geneva referred to the full determination of his Government to assist and co-operate with the Working Group in order to facilitate the task entrusted to it by the Commission on Human Rights. The representative of Argentina also informed the Group that he had been instructed by his Government to establish direct contacts in all matters of interest to the Working Group connected with Argentina. The representative further stated that, to that end, and for any information requested of the Argentine Government, he would act as the channel for all matters falling within the competence of the Working Group.

73. In another letter, also dated 10 September 1980 (reference 218/80), the Permanent Representative of Argentina referred to the Working Group's request for information about specific measures adopted at the national or local level to investigate or determine the whereabouts of persons in cases of enforced or involuntary disappearance and the measures taken to prevent such disappearances. In that connexion the Permanent Representative's letter read as follows:

"In cases of missing persons, the relatives or other interested parties may contact the offices of the Ministry of the Interior and the various federal and provincial police departments, which gather information on these cases and channel the search through the competent local authorities.

"Moreover, in instances where it is presumed that an offence against Argentine laws may have been committed, it is the task not only of the police authorities but chiefly of the judiciary - national or provincial - to take action and investigate the facts.

"A report of a missing person is transmitted to all police offices and placed on file. The file may bear fruit, for some event - an accident, change of address, departure from Argentina through an authorized point of exit, or even a simple traffic offence - may make it possible to identify the person being sought, as has been proved by a number of specific cases relating to persons listed as missing. If any federal or provincial police office comes into contact, whether accidentally or otherwise, with a person on the file, the relevant information is transmitted to the originating body for appropriate action.

"In cases where it is concluded from the investigation that the cause of the disappearance is abduction of the person concerned, something which is an extremely serious offence under Argentine law, the steps required for all criminal proceedings are taken. They consist in establishing the existence of a punishable offence and also the circumstances for the purposes of classification of the offence in law, and discovering the perpetrators and accomplices.

"On a number of occasions the observer delegation from the Argentine Republic in the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the delegation to the thirty-sixth session of the Commission on Human Rights have described the particular features of the situation in Argentina, where terrorist organizations of different types have chosen mindless violence in order to prevail over a lawfully constituted society. I hope that I will be in a position to report to the Group, during the course of the direct contact I am authorized by my Government to make with it, on developments in the situation in my country concerning the security both of society as a whole and of every citizen, and also on the general measures that have been taken."

74. In a letter dated 8 December 1980, the Permanent Representative of Argentina to the United Nations Office at Geneva referred to questions of procedures which are dealt with in paragraphs 75 and 76 below and to communications regarding cases of "alleged disappearances". In this latter regard the letter reads as follows:

"Argentina's experience in this respect points to the existence of well-defined political interests hiding behind what is seemingly a concern to search for disappeared persons. In my country, the phenomenon of disappeared persons was linked from the outset with the criminal activities of terrorist organizations of different types which chose mindless violence in order to prevail over a legally constituted society. Resorting pitilessly to terrorism, these organizations, in their attacks repeatedly violated the right to life of innocent victims and of all those who might stand in the way of their aims. In systematically encouraging accusations against the Argentine Government, the terrorist organizations had a two-fold purpose: first, to build up a historical record that would enable them to legitimize as victims those persons who - whether fugitives abroad, or imprisoned or in hiding in Argentina - need international support to replace the means which they once obtained in Argentina by crime and terror. Sec-

only, to create a "black legend" that can be used politically in the international sphere as a further means of aggression against the nation, in the hope of thus bringing pressure to bear on the Argentine Government and of prompting an unfavourable reaction to our sovereign foreign policy.

"8. By resorting to supposed facts, orchestrated accusations, preconceptions and, in particular, by fabricating interviews with so-called "missing persons who have reappeared", the terrorist organizations endeavour to create a false picture of Argentina violating human rights. International organizations cannot allow themselves to be used as a vehicle for disseminating this distorted image. The truth of the matter regarding the events in my country is very different from what the enemies of peace and order are seeking to portray in a skilfully orchestrated and generously financed campaign. As my Government has had occasion to explain before the Commission on Human Rights, the increase in the number of disappearances in our country, compared with normal times, was a phenomenon which regrettably arose out of the internal unrest caused by terrorist aggression. The tragic disappearance of persons from their normal places of residence is something that occurs in various parts of the world, as is recognized in General Assembly resolution 33/173, and it inevitably increases at any time of internal unrest, international conflict or major natural disaster. The action taken to repel the repeated extremist attacks that occurred in my country led to armed confrontation, which on some occasions reached considerable proportions owing to the intensity of the armed action and the number of persons involved in the fighting.

"The terrorist activities, based on brutal and indiscriminate methods of aggression that involved hundreds of innocent victims, managed to create a situation which, if it had lasted for any length of time, would have brought my country to social and economic chaos. The only possible reaction to such armed aggression was force and the cause of many of the disappearances is to be found in the confrontation that took place. The methods employed by the terrorists make it enormously difficult to identify those who fell in the struggle; a terrorist either carries no identity papers whatsoever or he has a false identity. Again, the people who died in an armed clash could rarely be connected through their relatives with such events - something that would have made it easy to identify them. In some instances, their families were aware of their subversive activities and did not wish to endanger themselves; in others, those who died had long since gone underground and lost contact with their relatives and friends.

"In other cases, the disappearances have not been the immediate outcome of armed clashes with the forces of law and order but have occurred as a result of action by the subversives themselves. The investigations conducted by the competent authorities in my country have brought to light quite a number of cases of subversives killed by members of their organizations because they were accused of desertion or betrayal. On some occasions these crimes, described as 'executions', were announced publicly by these organizations, but they only revealed the victim's name as a 'combatant' and did not give his real name. The 'regulations' that subversive groups establish for themselves punish any infringement of the rules with death and thus

impose an iron discipline that is said to be necessary to spur on the members to commit the worst atrocities. The material seized by the forces of law and order in recent years includes a number of these 'sentences' against members of terrorist organizations.

"In other cases, extremists were wounded in the fighting and were carried off by their accomplices to die later on; the bodies were buried or made to disappear in some other way, but always in secret of course. It was also a common practice of the subversive organizations to carry away the bodies of their dead from the place of the clash, for recognition of the bodies might have uncovered the secrecy with which the organizations sought to shroud their activities, activities which were carried on through a network of small cells that each had a few members.

"Large numbers of disappearances can also be explained by the fact that members of subversive organizations deserted and stay in hiding from the authorities and their own organizations, in the latter instance for fear of reprisals. This kind of disappearance has given rise to complaints by the relatives, who have gone before the courts and generally used pre-established methods on the advice of persons and organizations frequently connected with terrorist groups.

"Conversely, 'going underground' has also led to cases publicly as disappearances. Logically, a terrorist gang has to be joined in secret and, to all intents and purposes, anyone who takes such a decision therefore becomes a 'missing person' because he suddenly and, without apparent reason, leaves home, his job and his social circle. This is one of the most common types of 'disappearance', since the relatives of the person in question report the act as something that is inexplicable. This was the case in one of the most recent and brutal terrorist attacks in my country, in which, amongst other innocent victims, a well-known Argentine businessman was killed right in the centre of the city of Buenos Aires. Subversive criminals long since reported missing took part in this act, which occurred in November 1979. Other persons said to be missing are now living abroad with false papers and actively working for the campaign against Argentina.

"In other cases, fewer in number, the cause of the alleged disappearance lies in the fact that the person has spontaneously turned himself in to the authorities, confessed that he is a member of a subversive gang and reported on their activities and plans. In such instances, Argentine law provides for a substantial reduction of the penalty; these people have been tried accordingly and are now serving their sentences. For elementary reasons of security, their names are not publicized, so as to prevent former accomplices from taking reprisals against them and their relatives. The laws now in force guarantee physical protection for such persons and this means that, even though some of the persons in this situation have regained their freedom, the relevant information must remain confidential.

"Other disappearances are the result of abduction by subversives, who consider that the persons in question are opposed to their aims.

"My Government does not rule out the possibility that some disappearances may have been due to excesses by individuals in enforcing

law and order, which can be explained by the characteristics of an internal conflict that was marked by the brutality of the methods used by the terrorist aggressors. These cases are also matters of concern to the people and the Government of Argentina, and hence the determination with which they endeavoured to restore the rule of law so as to ensure that such lamentable acts will not be repeated.

"The Argentine Government has not been insensitive to the complaints received. On the contrary, it has deemed it a duty to organize a search for missing persons through the offices that exist for this purpose in the Ministry of the Interior and the federal and provincial police forces. In cases in which offence is presumed to have been committed, the Judiciary, national or provincial, also takes action to investigate the facts. However, this positive attitude on the part of the competent authorities in my country must not be jeopardized by false and arbitrary complaints. The activities of groups which bandy about unexplained and fanciful figures for missing persons and include names which have arisen in the circumstances described above and sometimes names of notorious terrorist criminals killed long ago in clashes with the forces of law and order merely lead to confusion and discouragement in a task undertaken in a spirit of seriousness and honesty.

"9. The terrorists who are carrying on their destructive campaign from abroad frequently resort, in the case of international bodies such as the body of which you are Chairman, to the method of fabricating 'testimony' concerning alleged victims of 'repression' who have left Argentina after suffering all kinds of ill-treatment and torture at clandestine detention centres - according to their hostile reports. To begin with, I wish to reiterate that my Government has declared that there are no clandestine detention centres in my country. Secondly, my Government wishes to explain how subversives mount this kind of campaign of defamation, which is presented to the world public through the press or through organizations that are willing to lend a forum. It is very important for the Working Group you preside over to bear in mind the matters discussed below in evaluating, with better knowledge of the facts, the versions that will certainly be sent to you by those who make up these intrigues. The 'testimony' on alleged disappearances normally comes from members of subversive groups who go underground. After they go into hiding, their relatives - sometimes aware of the manoeuvre and sometimes unconnected with it - initiate administrative and judicial action provided for in Argentine law for cases of missing persons, more particularly by entering a writ of habeas corpus. At the same time, the matter is communicated to organs 'connected with human rights' and the case is submitted to international organizations (governmental or non-governmental) to make sure that it is included in all the list of 'missing persons' published in Argentina or abroad. Meanwhile, the subversive, hiding on Argentine territory or abroad, carries on his terrorist activities and benefits from the advantages of the anonymity of his new status as a 'missing person', for he is often provided with a new identity by means of false papers. After some time has passed, the future 'witnesses' re-emerge abroad without any clear explanation of the circumstances in which, according to them, they were detained or of the place or of the reasons for their release. The person who has turned up again - invariably somebody who has an enviable memory - starts to

recount his sufferings during his imaginary captivity, in which he alleges that he suffered torture and ill-treatment and was frequently transferred to the most varied 'clandestine detention centres'.

"The purpose of these so-called transfers is to imply that they enabled the 'detainee' to get to know other persons who were in the same situation and their sufferings are then described. The false 'witness' invariably gives the names of persons 'spoken to' (although the ill-treatment he frequently mentions includes being held 'incommunicado'), the circumstances of their detention, their own transfers, ages, physical appearance and many other details about other people.

"These false 'witnesses' usually use the same precision in describing their alleged captors, who are presented as 'members of the armed forces or security agencies', and supply the name, military rank and other details at great length and, in some cases, even give their home address.

"Repetition of this false 'testimony' which is cleverly worked out to make sure that the data on places and people 'coincide' ('seeing that the information ties in'), creates a picture of a situation that an observer who has not been alerted in advance could regard as convincing evidence. All this is managed by members of terrorist gangs who are living in foreign countries, where they can even count on the complacency of groups which are perhaps well-intentioned, but ill-informed, and of some press circles which are only interested in rash sensationalism. My Government denounces these reports as false, insidious and totally lacking in truth, and appeals to the good sense of your Working Group so that, in its good faith, it will not be taken unawares by 'testimony' that forms part of a sophisticated network of defamation and abuse.

"Such brazen and fanciful narratives do not contribute anything to the exhaustive investigation of acts which may have given rise to genuine disappearances reported through the administrative or judicial channels kept open under Argentine law. The independence enjoyed by the Judiciary in my country is a guarantee to the people who use such channels that every effort will be made to clear up acts that may constitute offences.

"All this reveals how much it is necessary for organs responsible for protecting human rights to apply properly elaborated and agreed procedures that set forth certain rules on admissibility and enable them to set aside all cases of abuse of the right of petition, which - we are able to affirm - occur frequently in matters pertaining to persons said to be missing.

"10. The problem of violence was a mark of the larger part of the 1970s and led to situations which were brought about by nihilistic terrorism and had an enormous impact on the Argentine people. Yet, 1980 is an important milestone: the restoration and consolidation of order and internal peace following the defeat of the armed gangs that caused this criminal aggression. At the same time, the cases or situations alleged to be violations of human rights have been very few in number; after a short time, most of them are disproved by the facts

and the remainder are under investigation in order to determine their true nature and scope. For example, in the course of 1980 the Argentine authorities have by various means learned of a small number of cases of persons who are said to be missing or cannot be located at their normal place of residence. The majority of these cases are included in lists, circulating inside or outside Argentina, of alleged victims of involuntary or enforced disappearances, but the work of investigation undertaken by the authorities has made it possible to pinpoint different kinds of situations.

"A. Names circulating in Argentina

"(i) Names brought to the knowledge of the authorities through press publications or by persons or institutions which state that they are interested in searching for the persons in question but do not lay complaints or offer further details.

"(ii) Persons who have disappeared in circumstances that are unknown or are not specified, by the complainants, who formally request a search by the authorities.

"(iii) Persons of whom it is said, with or without a formal complaint, that they have been victims of 'abduction' or unlawful deprivation of their liberty.

"Official efforts to shed light on these situations cover the three kinds of cases, but it is the third kind that calls for an examination of a possible violation of human rights, especially in instances in which the complaints, from relatives or persons who have been connected with the events, contain information that makes for such a presumption. The national authorities have learned of 11 possible abductions said to have occurred in 1980, a figure which reduces the problem to its real dimensions. It is necessary in every case for the persons concerned to submit formal complaints and avail themselves immediately of the various remedies provided for in the internal legal order, for this alone will make it possible to clear up the facts properly and punish the persons responsible, where appropriate. Again, it is a generally accepted principle that international consideration of a case calls for prior exhaustion of the remedies afforded by the State (see, inter alia, article 20 of the Statute of the Inter-American Commission on Human Rights and article 34 of its Regulations, article 26 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and paragraph 6 (i) of Economic and Social Council resolution 1503 (XLVIII)). However, in order for this internal procedure to be exhausted, it is also necessary for each case to be formally submitted to the competent national authorities.

"B. Names circulating exclusively abroad

"These are names which, either individually or included on lists, are mentioned in publications or pamphlets printed in various countries and usually submitted to international or regional organizations as alleged cases of violations of human rights. The main features of these cases are the omission of the precise identity of the person reported missing and of factual information (time, place and means) on the way in which the alleged disappearances, described as involuntary,

are said to have occurred. This, together with the habitual anonymity of the complainant, precludes any proper investigation and highlights the real purpose of complaints of this kind, which is to make charges that are so vague they cannot be easily refuted, yet make it possible to maintain the image of this phenomenon in Argentina.

"Needless to say, in these circumstances an implicit responsibility lies on those who echo or serve as channels for such charges without the slightest accuracy or evidence being required of the complainants, who thus become accomplices - perhaps involuntary accomplices - in a campaign of defamation clearly formented from abroad. In cases of this type, the Argentine Government will conduct investigations only when domestic remedies are set in motion through formal complaints by persons or bodies who take responsibility for their assertions and furnish the information needed to initiate the search.

"In this note it is not possible to overlook, since they already form part of this campaign, some accusations concerning alleged disappearances outside Argentine territory, accusations which are made irresponsibly against this Government and, therefore, are categorically rejected.

"The Argentine Government understands and shares the noble humanitarian aims of the activities of your Working Group in the face of a phenomenon with grave consequences that affect not only the Argentine Republic but also many other members of the international community. As we have stated, our own experience shows that the distressing situation concerning disappearances has virtually come to an end and, at the same time, there has been a marked improvement in internal security ..."

75. In his letter of 10 September 1980 (reference 218/80), addressed to the Director of the Division of Human Rights, from which quotations are made in paragraph 73 above, the Permanent Representative of Argentina to the United Nations Office at Geneva also made reference to the Working Group's interest in receiving information about cases which the Group had transmitted to the Government. In that connexion he pointed out that since what was involved consisted of individual communications on alleged violations of human rights, they had to respect the requirements and procedures established by Economic and Social Council resolution 1503 (XLVIII) and other relevant resolutions. He continued that Council resolution 728 F (XXVIII), in paragraph 2, subparagraph (e), provided that each Member State concerned should be furnished with a copy of any communication concerning human rights which explicitly referred to that State or to territories under its jurisdiction, without divulging the identity of the author, except in the cases provided for in subparagraph (b). The letter stated that the Secretariat seemed to have departed, in a number of cases, from the proce-

9/ The Permanent Representative added that his Government would continue strictly to observe resolution 1503 (XLVIII) and other relevant resolutions, stating that the point was specially taken into account in Council resolution 1979/38, concerning disappeared persons, paragraph 3, in which the Sub-Commission on Prevention of Discrimination and Protection of Minorities was requested to consider communications on disappeared persons in accordance with the relevant resolutions.

dure in force. 9/ The letter concluded with the following observations:

"The fact that the procedure for individual communications falls under resolution 1503 and other relevant resolutions does not in any way imply that the legitimate right of the Working Group to receive information, as expressly established in resolution 20 (XXXVI), paragraph 4, may be affected, but as we see it, such information must be gathered in the first instance within the framework of the bodies mentioned in that resolution or in the course of the direct contact which my Government is ready to maintain, through me".

76. The Permanent Representative of Argentina, in the letter of 8 December 1980 from which quotations are made in paragraph 74 above, elaborated in some detail on his Government's views regarding this procedural question. He stated that the Argentine Government "believes it appropriate that the question of the various criteria regarding the procedure to be followed in connexion with communications submitted to the Commission on Human Rights at its next session, as part of the Group's report on its activities, its conclusions and recommendations". The passages of his letter relating to this question are reproduced in annex IX. The issues of principle concerning the Group's methods of work and the role of the Secretariat (see paragraph 75) raised in the letter of 10 September 1980 (reference 218/80), were dealt with in a letter dated 25 September 1980 addressed by the Director of the Division of Human Rights to the Permanent Representative of Argentina to the United Nations Office at Geneva and reproduced in annex X. 10/

77. During its second session, on 18 September 1980, and during its third session, on 17 December 1980, the Group met with the Permanent Representative of Argentina to the United Nations Office at Geneva. During those meetings the Permanent Representative of Argentina made statements concerning the general problem of disappearances in his country and reiterated the position of his Government concerning individual cases reflected above. The Permanent Representative also answered some questions put to him by the members of the Group. At the meeting of 18 September 1980, he offered to

10/ The letter dated 25 September 1980 confirmed, with the authorization of the Group, a number of considerations and views which reflect the position of the Group. It reviewed the relationship between different United Nations procedures for dealing with Human Rights problems or with allegations of violations of Human Rights, as well as the resolution leading up to the establishment of the Working Group. The letter stated that it was clear that the General Assembly, the Economic and Social Council and the Commission of Human Rights intended to establish a specialized procedure for dealing with the problems of missing and disappeared persons, which would be complementary to other existing procedures and which would not be subordinated to any pre-existing procedure, and that the contention that the Working Group on Enforced or Involuntary Disappearances should be subordinated to the procedure laid down by Council resolutions 728 F and 1503 could not be sustained. That letter also pointed out that the Group was authorized by Commission resolution 20 (XXXVI) to decide on its methods of work and that the information handled by the Group was particularly addressed to it in the light of its terms of reference.

send to the Group a copy of a Note from the Argentine State Attorney-General to officials of the Public Prosecutor's Office relating to an Act adopted recently by the Argentine Government concerning presumption of death. This information was transmitted by letter of 19 September 1980 and is reproduced in annex XI.

Statements made by representatives of associations or organizations concerned with reports of enforced or involuntary disappearances

78. During its second session, the Group heard statements by representatives of associations or organizations directly concerned with reports of enforced or involuntary disappearances in Argentina. In order to provide the Commission with an overview of the information presented to the Group and of the expressions of concern and requests addressed to the Group in these statements, the most pertinent parts of these statements are reproduced in annex XII.

C. Information concerning enforced or involuntary disappearances in Cyprus

79. As was indicated in paragraph 36 above, the Working Group, after consulting with the Secretary-General, decided at its second session to deal with the question of enforced or involuntary disappearances in Cyprus in accordance with its methods of work. The Group is aware of the resolutions of the General Assembly concerning missing persons in Cyprus, and it has been informed of the Secretary-General's endeavours to deal with the question and of some expectations of progress in the matter. The Group is also aware of the delicate and complex nature of the question and therefore decided not to include in this report a detailed analysis of the information on enforced or involuntary disappearances in Cyprus.

80. The Group received information on enforced or involuntary disappearances in Cyprus from the Government of Cyprus, the Pancyprian Committee of Parents and Relatives of Undeclared Prisoners and Missing Persons and other organizations. The information was transmitted to the Government of Turkey and the authorities of the Turkish Cypriot community together with the request that they submit to the Group any information they might wish. The Group also received information on enforced or involuntary disappearances in Cyprus from the authorities of the Turkish Cypriot community. This information was transmitted to the Government of Cyprus for any information it might wish to submit.

81. The question of establishing direct contacts with those immediately concerned with reports of enforced or involuntary disappearances through a visit of one or two of the Group's members, in the terms mentioned in paragraph 31 above, was raised by the Group's Chairman in letters addressed to the Government of Cyprus, the Government of Turkey and the authorities of the Turkish Cypriot community. In a letter dated 31 October 1980, the Permanent Representative of Turkey to the United Nations Office at Geneva stated,

"as this question of missing persons in Cyprus is completely of an intercommunal nature and has already been considered within this context, in any attempt to deal with it from a purely humanitarian

point of view, it would have been more appropriate to collect the necessary information from the competent authorities of the Turkish Cypriot community".

The Group has continued its contacts with the authorities of the Turkish Cypriot community. By a letter dated 25 November 1980, the Permanent Representative of Cyprus to the United Nations Office at Geneva informed the Chairman of the Working Group that he had instructions from his Government to issue an invitation to the Working Group to visit Cyprus. The Representative of the Turkish Cypriot community has urged the Group to exercise caution in its activities in relation to the question of Cyprus.

82. The Group during its second session met with representatives of the Pancyprian Committee of Parents and Relatives of Undeclared Prisoners and Missing Persons. During its third session the Group met with representatives of the Government of Cyprus and of the authorities of the Turkish Cypriot community.

83. Because of the agreed humanitarian nature of its work, the Group decided to accept, in principle, the invitation of the Government of Cyprus to visit that country at an appropriate time when the modalities for such a visit had been established. The Group is aware that there is still a hope that machinery will be devised to investigate missing persons in Cyprus. In view of the fact that the Group sees itself as complementary to such other machinery, it hopes that talks on this subject will reach a satisfactory conclusion and thus make the Group's own investigation unnecessary.

D. Analytical summary of information received concerning
El Salvador and communications with the Government
of that country

Source and character of the information

84. The principal sources of information received by the Working Group alleging enforced or involuntary disappearances in El Salvador are the reports of disappearances sent by private organizations and non-governmental organizations in consultative status with the Economic and Social Council. The Group also received information from the International Labour Organisation. The Working Group received few reports from individual relatives. The Working Group also had before it the final report of the "Special Commission to Investigate Political Prisoners and the Disappeared", appointed by the Government of El Salvador on 6 November 1979, by the Decree No. 9, to investigate the whereabouts of persons registered as having disappeared since 1972. The information on cases of disappearances in El Salvador submitted to the Group is less detailed than that received concerning other countries.

85. During the Group's third session, a non-governmental organization in consultative status with the Economic and Social Council and an organization directly concerned with reports of enforced or involuntary disappearances in El Salvador transmitted to it detailed files on 54 selected cases of reported enforced or involuntary disappearances in 1980 and summary descriptions of 64 cases in which women were reportedly arrested and had disappeared in El Salvador; 4 of these latter cases relate to 1979 and 60

to 1980. Lack of time has prevented the Group from further analysing these reports and their contents are thus not reflected in the following paragraphs. The above-mentioned organizations informed the Group that the reports which they submitted were not exhaustive.

Analytical summary of reports 11/

86. In El Salvador, disappearances started in 1972 and have been continuing ever since. For the period prior to 1979 the Working Group received only lists of names of missing people and for 1979 onwards it received reports of cases of disappearances. For the period January 1979 to October 1979, the Group received reports of 104 cases, and for January to September 1980, 199 cases. The reports usually provide the family names and the first names of the missing persons, as well as their age and profession or occupation. For the period 1979-1980, 0, the exact circumstances of the arrest are described in most cases. The reports usually indicate the date and the place of arrest, as well as the manner in which it occurred and the name of the branch of the armed forces which made it, but rarely the exact time. The ages of the persons concerned range from eight months to 74 years. Several minors were reported to have been arrested, either with their parents or relatives or on their own. Of the 199 reports of arrests which the Working Group received in 1980, 16 concerned women.

87. The Group noted the information according to which the situation in El Salvador during the present year (1980) had produced internal convulsions and clashes between armed groups of different tendencies which the Government had not been able to control to date. The Group further noted the statement of the Secretary-General, dated 2 December 1980, in which he deplored terrorists attacks in El Salvador, such as hostage-taking and assassinations, and in which he appealed for the immediate release of those who had been abducted and for an early end to violence. The Group also noted the concern expressed over disappearances in El Salvador by the General Assembly in its resolution 35/192 of 15 December 1980.

88. The Group received expressions of special concern about the disappearances of trade unionists, students and peasants. Of the 199 reports on disappearances in 1980, 19 relate to trade unionists, seven of whom were trade union leaders; 48 relate to students; and 45 to campesinos (peasants), day labourers and casual workers. The Working Group also received reports of disappearances of teachers, industrial workers, two priests and one journalist.

89. According to the reports analysed by the Group, the arrests usually occurred at the home of the missing person, in the street or in public places such as parks. In some cases, the missing person was arrested in a bus, at school or even in hospital. In a few cases the arrests were reportedly witnessed by relatives of the disappeared person or by neighbours. It has been reported that, in a few instances, the people carrying out the arrest threatened the neighbours in order to prevent them from interfering.

90. Most of the arrests are reported to have been made by members of the

11/ The detailed analyses of the reports on which this summary is based are available with the Secretariat for consultation by members of the Commission.

Army, the National Guard, the Policia de Hacienda (Treasury police), the security forces or a paramilitary organization called ORDEN (Organizacion Democratica Nacionalista - Nationalist Democratic Organization). In some cases it has been reported that the national police and even the Air Force took part in the arrests. Those making arrests usually operate in groups of heavily-armed men in uniform, though several reports state that they also operate in civilian clothes. The use of army trucks, jeeps and, in a few cases, even tanks has been reported, as well as the use of private cars, which rarely have licence plates. Several reports state that at the time of arrest the subject's home was searched and ransacked by the persons making the arrest.

Reports on the whereabouts of disappeared persons

91. Information on places where disappeared persons were held, on the fate of such persons and on the authorities responsible is contained in the final report of the "Special Commission to Investigate Political Prisoners and the Disappeared", which was established by the Government of El Salvador by Decree No. 9 of 6 November 1979 for the purpose of carrying out on-the-spot investigations to determine the fate of the persons registered in the country as having disappeared since 1972. The Special Commission was composed of three members and adopted a first report at the beginning of December 1979. Its final report to the Government of El Salvador, dated 3 January 1980, stated that:

"In general terms, we can report that to date we have not found a single person of those who appear on the list of the disappeared; but on the other hand, we have proof of the capture of many of them by various official security forces, as of the detention of several of them in the barracks of these security forces".

Since the Special Commission had not found any prisoners in any of these places, it added the following comment: "All this brings us to the conclusion that we can presume that all the disappeared are dead...". The report listed a number of persons arrested by the National Guard and other police forces whom the Commission believed to have been killed. The report also stated that the Commission had visited cemeteries or burial sites and discovered bodies, some of which were identified as those of missing persons.

92. The Special Commission also visited several detention centres, such as the offices of the General Directors of the National Police, of the National Guard and of the Policia de Hacienda, as well as Cojutepeque Prison. In this regard the final report reads:

"In all these places we found cells, dungeons and some cellars which could well have served as secret prisons or places where torture is carried out, although, when we saw them, they were empty. We believe that these structures should be so modified as to make it impossible to use them as prisons".

The Special Commission ended its report by making recommendations that trial proceedings should be opened against the military officials listed in its first report as having been responsible for the killings and disappearances, that the extradition of those now in other countries should be obtained and that the necessary modifications to the detention centres which it had visited should be carried out.

93. For the period subsequent to the report of the Special Commission little information has been received on places where disappeared persons might be held in El Salvador or on their fate. In a few cases the body of the disappeared person has been reported found, some time after the person's arrest. There is evidence, in addition to the information on the arrest itself, from which it can be inferred that prior to their deaths these persons had been detained somewhere for a period; the bodies bore marks showing that their hands had been bound and that they had been tortured. Further, the Group is aware of the reports of the finding in El Salvador of numerous bodies, often mutilated beyond recognition, which precluded their identification as missing persons.

Survey of information transmitted to the Government and the question of establishing direct contacts

94. On 30 June 1980, the Working Group transmitted to the Government of El Salvador a collection of 33 cases of disappearance that reportedly had occurred since the beginning of 1980 together with the request that the Government transmit to the Group such information as it might wish. The Working Group also asked the Government to send detailed information concerning steps taken to implement the recommendations adopted by the "Special Commission to Investigate Political Prisoners and the Disappeared" (see above). On 30 September 1980, after its second session, the Working Group transmitted another collection of 69 cases of persons reported missing, all of them in 1980, to the Government of El Salvador.

95. Pursuant to the decision referred to above (paragraphs 10 and 30) concerning immediate action in cases of urgent reports of enforced or involuntary disappearances received between sessions, reports of two disappearances on 22 July 1980 and one on 21 July 1980 were transmitted at the request of the Chairman of the Group to the Permanent Mission of El Salvador to the United Nations Office at Geneva, by letter dated 6 August 1980. These reports concerned men, 16, 19 and 20 years old, two of whom were reportedly being held at the "Guardia Nacional" and the third in the basement of the "Policia Nacional". Within the framework of this same decision, and at the request of the Chairman, information was transmitted to the Government of El Salvador by a cable dated 28 August 1980 concerning the disappearance of two men who were reportedly arrested on 26 August 1980 by heavily armed men dressed in civilian clothes and driving a vehicle without licence plates. Similarly, at the request of the Group's Chairman, information was transmitted to the Government of El Salvador, in a cable dated 24 November 1980, concerning the arrest of two individuals who reportedly were taken from their homes by uniformed members of the National Guard on 13 November 1980. With regard to this latter case, the Ministry of Foreign Affairs of El Salvador informed the Working Group, by a cable dated 26 November 1980, that the two persons were being held in connexion with a criminal case under the authority of the Seventh Justice of the Peace of San Salvador.

96. On 5 December 1980, information was transmitted by cable to the Government of El Salvador concerning the continued disappearance of one person who reportedly had been arrested along with some 20 other persons on 27 November 1980 by Government forces at the Legal Aid Office of the Archbishopric of San Salvador. Information had been received concerning the discovery of the bodies of other persons reportedly arrested at the same time. The cable of 5 December 1980 also transmitted information on the con-

tinuing disappearance of two Catholic priests reportedly arrested on 23 and 28 November 1980, respectively, by the National Guard.

97. The Chairman of the Working Group, in a letter dated 30 September 1980 addressed to the Permanent Representative of El Salvador to the United Nations Office at Geneva, referred to the information transmitted in the above-mentioned communications dated 30 June 1980, 6 August 1980 and 28 August 1980 and stated that the Group wished to renew its request to the Government of El Salvador to submit to it at its earliest convenience any information it might wish in that regard. The Chairman's letter also stated:

"The Working Group hopes that this exchange of information will be the basis for a fruitful dialogue between it and your Government. The Group would like to underline the importance of such a dialogue and it looks forward to the co-operation which your Government may wish to extend to the Group. This co-operation is indispensable for solving the problems which the Commission on Human Rights requested the Group to examine."

98. The question of establishing direct contacts with those immediately concerned with reports of enforced or involuntary disappearances in the terms mentioned above in paragraph 31 was raised by the Chairman of the Group in a letter dated 23 June 1980 addressed to the Permanent Representative of El Salvador to the United Nations Office at Geneva. He asked if the Government of El Salvador would be disposed in principle to issue an invitation to the Group to establish such direct contacts through a visit by one or two of its members to El Salvador, should the information before the Group in the future make such direct contacts desirable. The Chairman of the Working Group, by a letter dated 18 September 1980 addressed to the Permanent Representative of El Salvador to the United Nations Office at Geneva, stated that the information received by the Group during its second session reinforced the opinion that one of the means through which it might best deal with allegations of enforced or involuntary disappearances and gain an understanding of the circumstances surrounding reports would be for it to establish direct contacts with those immediately concerned in such matters. He added that, to that end, the Group wished to reiterate its desire to know if the Government of El Salvador would be disposed to issue an invitation to the Group to establish direct contacts through a visit to that country.

Information and views transmitted by the Government

99. The Charge d'Affaires a.i. of the Permanent Mission of El Salvador to the United Nations Office at Geneva in a letter dated 29 August 1980, made the following observations:

"The fact that the competent authorities of the Government of El Salvador have, for a number of months, been engaged in the study of reports and cases known to the Inter-American Commission on Human Rights (IACHR) makes it quite impossible for them, owing to lack of time, to provide the information requested concerning disappearances which are alleged to have occurred in El Salvador in an exhaustive and satisfactory manner such as would meet the expectations of the Working Group on Enforced or Involuntary Disappearances and establish the exact situation of human rights in El Salvador in its totality.

"It would be difficult to duplicate efforts as considerable as those now being made in this connexion without prejudice to the seriousness and responsibility which the Government of El Salvador attaches to the tasks involved in the fulfilment of its international commitments, and especially those relating to the Inter-American organizations concerned with the protection and promotion of human rights at the regional level.

"Likewise, the insufficient time available to give proper attention to the Working Group on Enforced or Involuntary Disappearances necessarily limits the possibilities for the Government of El Salvador to extend to it an invitation to visit our country for the purpose of making contact with the persons directly concerned in the matters relating to the Working Group's competence.

"The Government of El Salvador sincerely appreciates the interest shown by the Working Group in the information received concerning disappearances alleged to have taken place in El Salvador, and has the honour to inform it that the appropriate authorities of the Government of El Salvador have initiated the necessary investigations with a view to shedding light on the situations in question."

The Government of El Salvador reiterated this position in a letter dated 8 September 1980 and a cable dated 17 September 1980.

100. As reflected in paragraph 95, the Government of El Salvador supplied the Group with information about one urgent report of disappearance involving two individuals.

Statements made by representatives of associations or organizations directly concerned with reports of enforced or involuntary disappearance

101. During its second session the Group heard a statement by a representative of an organization directly concerned with reports of enforced or involuntary disappearance in El Salvador. In order to provide the Commission with an overview of the information presented to the Group and of the expressions of concern and the requests addressed to the Group in that statement, the most pertinent parts of the statement are reproduced in annex XIII.

E. Analytical summary of information received concerning Ethiopia and communications with the Government of that country

Source and character of the information

102. The Group received information concerning the disappearance in Ethiopia of 16 persons, which reportedly occurred in July 1979, from a non-governmental organization in consultative status with the Economic and Social Council.

Analytical summary of reports 12/

103. According to the above information nine persons disappeared in early July 1979 from the prison where they had been held for five years, namely the cellars of the former Menelik Palace, now the headquarters of the Provisional Military Government. It is reported that a number of detainees had been taken out of that prison for interrogation at other detention centres and that the nine never returned; their relations were reportedly told to stop bringing food for them to the prison. Among the nine were a former Patriarch of the Ethiopian Orthodox Church and persons who had held official positions under the previous regime. It is also reported that five members of the All-Ethiopia Socialist Movement disappeared from the Headquarters of the Fourth Army Division in Addis Ababa in July 1979, after having been detained for two years. In addition, it is reported that the General Secretary of the Ethiopian Evangelical Mekane Yesus Church was arrested as he was leaving his church in Addis Ababa on 28 July 1980 by heavily armed men dressed in civilian clothes.

Information transmitted to the Government and the question of establishing direct contacts

104. On 14 July 1980 the Working Group transmitted to the Government of Ethiopia information on the 16 cases of reported enforced or involuntary disappearance mentioned above together with a request that the Government transmit to the Group such information as it might wish. The Group also asked the Government for any information it might wish to submit concerning any particular measures adopted at the national or local level to determine the whereabouts of persons alleged to have suffered enforced or involuntary disappearance. The question of establishing direct contacts with those immediately concerned with reports of enforced or involuntary disappearance, in the terms mentioned above in paragraph 31, was raised by the Chairman of the Group in a letter dated 23 June 1980 addressed to the Permanent Representative of Ethiopia to the United Nations Office at Geneva. In that letter the Chairman asked if the Government of Ethiopia would be disposed in principle to issue an invitation to the Group to establish such direct contacts through a visit to Ethiopia by one or two of its members should the information before the Group in the future make such direct contacts desirable. In a follow-up letter dated 18 September 1980, he stated that the information received by the Group during its second session reinforced its opinion that one of the means through which it might best deal with allegations of enforced or involuntary disappearances and gain an understanding of the circumstances surrounding such allegations would be for it to establish direct contacts with those immediately concerned in such matters. He added that, to this end, the Group wished to reiterate its desire to know if the Government of Ethiopia would be disposed to issue an invitation to the Group to establish direct contacts through a visit to that country.

Information and views transmitted by the Government

105. The Permanent Representative of Ethiopia to the United Nations Office at Geneva, in a letter dated 29 July 1980, acknowledged receipt of the

12/ The information contained in these reports is available with the Secretariat for consultation by members of the Commission.

Group's letter dated 14 July and stated that:

"The information received by the Group concerning enforced or involuntary disappearances in Ethiopia is baseless and unfounded. Our views about Amnesty International from which this allegation has originated are well-known to the Commission on Human Rights (refer E/CN.4/1344 of 15 March 1979)".

The Chairman of the Working Group, in a further letter to the Permanent Representative of Ethiopia to the United Nations Office at Geneva dated 8 October 1980,, referred to the views expressed in the above-mentioned letter of 29 July 1980, stating that "the Group at its second session gave careful consideration to these matters and it requested me to write to you in order to request the particulars on which your Government bases its conclusions that the information received by the Group is baseless and unfounded." The Chairman stated that "such particulars would be helpful to the Group in determining its future decisions on these matters."

106. The Permanent Representative of Ethiopia to the United Nations Office at Geneva replied on 16 December 1980 in the following terms:

"1. Since 1975 the Ethiopian Government has patiently replied to the numerous and wild allegations of violations of Human Rights most of which have originated from Amnesty International.

"2. The numerous letters and statements by the Ethiopian Representatives to the thirty-fourth, thirty-fifth and thirty-sixth sessions of the Commission on Human Rights have categorically refuted the charges made by Amnesty International against the Government and people of Ethiopia.

"3. The Government of Ethiopia has further stated that under the pretext of promoting human rights certain organizations and mass media are conducting a smear campaign and machinations against Ethiopia. This circle has as its main objective the distorting of facts and discrediting genuine government efforts to protect the fundamental rights of the Ethiopian people. These efforts include the removal of oppression and exploitation by a small minority who owned all the land and other means of production; the distribution and exercising of state power; the organizing in a truly democratic manner of Peasant and Urban dwellers' associations, labour unions, women and youth for collective benefits and progressive self-reliance; and the elimination of discrimination on the basis of sex, religion, ethnic origin, etc. All of these efforts have restored to the people their economic, political and social rights, which were usurped under the discredited regime prior to 1974.

"4. Amnesty International and other hostile sources, however, continue under various guises their tendentious report against the Government and people of Ethiopia, the latest one being a charge concerned with enforced or involuntary disappearances of persons who are categorized as religious leaders, former officials of a political organization. Ethiopia's position about Amnesty International from which these and other allegations have originated is further elaborated in document E/CN.4/1344. Summary records of the thirty-sixth session of the Commission on Human Rights also give details of the

position taken by the Ethiopian delegation in connection with the report of the Secretary-General with respect to the human rights situation in Ethiopia (document E/CN.4/R.50/add.3 and E/CN.4/65).

"5. During the informal meeting I had with you, I have assured you of my government's concern for the strict adherence to all aspects of the norms set by the Commission on Human Rights and the Universal Declaration of Human Rights.

"6. I again assure members of the Working Group that the Ethiopian national legislation is formulated to ensure the enjoyment of human rights by all and as such it protects all citizens from any infliction of enforced or involuntary disappearance. The Ethiopian revolution has for its objective the principle of equality, justice and freedom for all. Any allegations to the contrary are therefore sheer fabrications designed to discredit the genuine efforts of the Ethiopian Government.

"7. It is regrettable that these biased sources and politically motivated organizations continue to spread false rumours concerning the human rights situation in Ethiopia. As such I believe that they do not warrant further elaboration on our part".

F. Analytical summary of information received concerning
Guatemala and communications with the Government
of that country

Source and character of the information

107. The main sources of information received by the Working Group concerning reported cases of enforced or involuntary disappearances in Guatemala are the reports of disappearances sent by private organizations and non-governmental organizations in consultative status with the Economic and Social Council. According to that information, disappearances started in Guatemala as early as 1966 and have been going on more or less continually ever since. For the period prior to 1979 the Working Group received only lists of names of missing people, but from 1979 onwards it received more detailed reports of cases of disappearances.

Analytical summary of reports 13/

108. For the period extending from October to December 1979 the Working Group received information on the disappearance of 12 persons, and for the period January 1980 to August 1980 it received reports of 108 disappearances. Reports of cases of disappearance usually provide the family names and the first names of the missing persons as well as their profession or activity, and sometimes their age. In most cases the exact circumstances of the arrest are described. The reports usually provide the date and place of arrest as well as the way it occurred, but rarely the exact time. Reports also provide the name of those responsible for the arrest.

13/ The detailed analyses of the reports on which this summary is based are available with the Secretariat for consultation by members of the Commission.

According to the reports analysed by the Group, the arrests usually occurred at the missing person's home, in the street, at the person's place of work - mostly a factory - and in some cases, even in hospital. It is reported that the arrests are usually made by the Army, the Guardia de Hacienda (Treasury police), the National police or by para-military groups such as the ESA (Secret Anti-Communist Army), the Comando Seis (an anti-riot squad of the National Police), the MANO (Organized Anti-Communist Movement) and the Escuadron de la Muerte (Death Squad). These forces mostly operate in plain clothes but are sometimes in uniform. They are always heavily armed; in several cases it is reported that sub-machine guns have been used. They use army trucks and civilian cars, mostly without licence plates. With regard to the link between the authorities and the disappearances, one organization reports concerning the cases it submitted to the Group that:

"...conventional security forces - the police and the military - either: (1) participated directly in murder or abduction; (2) witnessed, but did not intervene in, killings or abductions; (3) or following killings or abductions security forces did not conduct police law enforcement activity normally associated with criminal acts of murder or kidnapping.

"In none of these cases have authorities taken immediate action to apprehend the perpetrators of killings or abductions, nor have they carried out even basic investigative procedures in most of the cases, to the extent of not interviewing eye witnesses. In contrast, witnesses in several cases have been warned unofficially to remain silent.

"Police action associated with anti-government violence - which includes murder and kidnap for ransom - contrasts remarkably with the cases included here. In cases of anti-government violence, or serious, non-political criminal violence, there is immediate and extensive action, including road blocks and the rapid deployment of elite police and military units equipped with special transport - including helicopters - heavy weaponry and sophisticated communications equipment. In Guatemala City these elite units include sections of the Mobile Military Police and the special "Comando Seis" unit of the National Police".

109. Specific information was received concerning the arrest and disappearance of peasants (campesinos), trade unionists, students, journalists, university teachers and priests. Almost all disappeared persons are men, although in 1980 nine women reportedly disappeared, eight of them trade unionists. The Group received information that some 100 men were arrested on 13 June 1980 by personnel of the army treasury police (Guardia de Hacienda) in the villages of Pinula, Champas Pinula and Almolonga, near Tiguistate in the department of Escuintla, and that they were taken away in trucks and have not been seen since. The Group received the names of 21 of these peasants. The Group was also informed that on 21 June 1980 army personnel arrested from 25 to 30 trade unionists at the headquarters of the Guatemala National Labour Central (Central Nacional de Trabajadores) who have subsequently disappeared. Further, the Group received reports that on 24 August 1980 17 trade unionists were arrested by Government forces during a meeting at the Emaus Centre, located in the Department of Escuintla, 35 kilometres from Guatemala City and that those arrested were

transported to the building of the detective services (Talleres de Cuerpo de Detectives) located on 15th Avenue and 17th Street in zone 6 of Guatemala City. These reports mentioned the licence-plate numbers of two vehicles used in the operation and the name of the police officer reported to have directed the operation. The trade unionists arrested are still missing.

Reports on the whereabouts of disappeared persons

110. The Working Group received little information about the fate of missing persons or about the place or places in which they have been held. However, as noted above, it was reported that the 17 trade unionists arrested on 24 August 1980 had been taken to the building of the detectives services in Guatemala City. In other cases, the corpse of the person reported missing has been found in a street or public place two or three days after his disappearance, with marks of torture. In 1980, of the 108 persons whose disappearance was reported to the Group, 20 were found dead, and of these, 11 were reported to have been brutally tortured. The Group also received information about the discovery in Guatemala of numerous bodies mutilated beyond recognition.

Survey of information transmitted to the Government and the question of establishing direct contacts

111. By a letter dated 30 June 1980 the Working Group transmitted to the Government of Guatemala information on 46 cases of disappearance which reportedly occurred between October 1979 and May 1980, and by a letter dated 30 September 1980 the Working Group transmitted information on 30 cases of disappearance which reportedly occurred in 1980. The above information was transmitted together with the request that the Government transmit to the Group such information as it might wish. The Group, in its letter dated 30 June 1980, also asked the Government for any information it might wish to submit concerning any particular measures adopted at the national or local level to determine the whereabouts of persons reportedly alleged to have suffered enforced or involuntary disappearance and steps taken to prevent such disappearances.

112. Pursuant to the decision referred to in paragraphs 10 and 30 above concerning immediate action in cases of urgent reports of enforced or involuntary disappearances received between sessions of the Group, information on the reported arrest by Government forces on 24 August 1980 of 17 trade unionists and their disappearance was transmitted, at the request of the Chairman of the Group, to the Government by a cable dated 28 August 1980. That cable stated that the Group would appreciate receiving as soon as possible any information which the Government might wish to transmit.

113. The Chairman of the Group, in the above-mentioned letter dated 30 September 1980, renewed the Group's request to the Government of Guatemala to submit to it at its earliest convenience any information it might wish with regard to information transmitted by the letter of 30 June 1980 and the cable of 28 August 1980. In his letter the Chairman stated that:

"The Working Group hopes that this exchange of information will be the basis for a fruitful dialogue between it and your Government. The Group would like to underline the importance of such a dialogue and it looks forward to the co-operation which your Government may

wish to extend to the Group. This co-operation is indispensable for solving the problems which the Commission on Human Rights requested the Group to examine."

114. The question of establishing direct contacts with those immediately concerned with reports of enforced or involuntary disappearances in the terms mentioned above in paragraph 31, was raised by the Chairman of the Group in a letter dated 23 June 1980 addressed to the Permanent Representative of Guatemala to the United Nations Office at Geneva. The Chairman in that letter asked if the Government of Guatemala would in principle be disposed to issue an invitation to the Group to establish such direct contacts through a visit to Guatemala by one or two of its members should the information before the Group in the future make such contacts desirable. The Chairman of the Group, in a letter dated 18 September 1980 addressed to the Permanent Representative of Guatemala to the United Nations Office at Geneva, stated that the information received by the Group during its second session reinforced its opinion that one of the means through which it might best deal with allegations of enforced or involuntary disappearances and gain an understanding of the circumstances surrounding those allegations would be for it to establish direct contacts with those immediately concerned in such matters. The Chairman, in his letter added that, to this end the Group wished to reiterate its desire to know if the Government of Guatemala would be disposed to issue an invitation to the Group to establish direct contacts through a visit to that country.

115. As of the date of the adoption of the present report no communication has been received from the Government of Guatemala.

Statements made by representatives of associations or organizations directly concerned with reports of enforced or involuntary disappearances

116. During its second session the Group heard a statement by a representative of an organization directly concerned with reports of enforced or involuntary disappearances in Guatemala. In order to provide the Commission with an overview of the information presented to the Group, and of the expressions of concern and requests addressed to the Group, the most pertinent parts of the statements are reproduced in Annex XIV.

G. Analytical summary of information received concerning Indonesia and communications with the Government of that country

Source and character of the information

117. The Working Group received information from one non-governmental organization in consultative status with the Economic and Social Council concerning 22 cases of enforced or involuntary disappearance which reportedly occurred in East Timor between 1977 and 1979. That information included the names of the missing persons, and the reported dates of disappearance. According to the reports, some of these people were at one time under detention by the Indonesian Forces and others disappeared after having been arrested by, or having surrendered to these Forces; the dates of surrender or arrest were given. Most of the persons reported to have

disappeared belong to the Frente Revolucionaria de Timor Leste Independente (Fretilin). 14/

Information transmitted to the Government and the question of establishing direct contacts

118. The Chairman of the Working Group, in a letter dated 30 September 1980 addressed to the Permanent Representative of Indonesia to the United Nations Office at Geneva, transmitted to the Government of Indonesia a list of 22 cases of enforced or involuntary disappearance which have reportedly occurred in East Timor from 1977 to 1979, together with the request that the Government transmit to the Group such information as it might wish. The Group also asked the Government for any information it might wish to submit concerning any particular measures adopted at the national or local level to determine the whereabouts of persons alleged to have suffered enforced or involuntary disappearance. The Chairman in his letter, added that the Working Group hoped that this exchange of information would be the basis for a fruitful dialogue between it and the Government of Indonesia. The question of establishing direct contacts with those immediately concerned with reports of enforced or involuntary disappearances in the terms mentioned above in paragraph 31 was raised by the Chairman in a letter dated 23 June 1980 addressed to the Permanent Representative of Indonesia to the United Nations Office at Geneva. In that letter the Chairman asked if the Government of Indonesia would be disposed in principle to issue an invitation to the Group to establish such direct contacts through a visit to Indonesia by one or two of its members should the information before the Group in the future make such direct contacts desirable.

Information and views transmitted by the Government

119. In a note verbale dated 19 November 1980, the Permanent Mission of Indonesia to the United Nations Office at Geneva stated that in 1976 the people of East Timor had exercised their right to self-determination and had opted for integration with Indonesia, that since then East Timor had become an integral part of the Republic of Indonesia and any occurrence in that territory is a domestic affair of Indonesia. The Government, in that note verbale, stated that it was transmitting information and views to the Group on a voluntary basis. That note verbale, after recalling that in 1974/1975, before integration with Indonesia, a bitter and bloody civil war had raged in what was then Portuguese East Timor, reads, in part, as follows:

"After integration, members of the FRETILIN who opposed integration fled to the mountains from where they were undertaking terrorist actions against the population. When they realized that they were not getting the support of the people, many of them later came down from their hide-outs to surrender to the security forces. In the process some of them may have been killed by the population as a revenge for the murders and other atrocities committed by the FRETILIN during the bloody civil war of 1974/1975 and afterwards.

14/ The information contained in these reports is available with the Secretariat for consultation by members of the Commission.

"In carrying out its task to restore peace and security to the people in East Timor, the Indonesian Government is doing its best to prevent such excesses and will continue to do so. The members of the Working Group will appreciate that this is not an easy task, considering the deep bitterness left over from the civil war exacerbated by the difficult terrain in East Timor and a bad communication system which is a legacy of several centuries of Portuguese colonization (East Timor has mountain peaks over 9000 feet high, a very backward infrastructure and lies about 2000 km from the capital). In spite of the efforts of the Indonesian Government, it is not always possible to prevent people from taking matters into their own hands sometimes.

"Nevertheless, great improvement has been made since 1976, not only in ending widespread bloodshed and suffering and in restoring peace and security, but also in elevating the living standard and general well-being of the population of East Timor. ..."

120. During its third session the Working Group met with the Deputy Permanent Representative of Indonesia to the United Nations Office at Geneva. The representative of Indonesia reviewed developments in his country and provided information concerning the situation in East Timor. He said that over a period of more than 15 years his Government had received numerous lists of names, seeking information about the persons mentioned therein. The Government of Indonesia, he stated had not checked the names on the list the Group had submitted; the Government was convinced that the case of each and every disappeared person was an important issue, but had decided as a matter of principle that their limited resources must at present be used for other purposes.

121. The Group thanked the representative of Indonesia for meeting with it and for the information he had provided. The Group requested him to inform his Government of the Group's desire to continue the dialogue thus established and of its wish to receive any further information the Government might wish to submit with regard to the reports of enforced or involuntary disappearances the Group had transmitted to it.

H. Analytical summary of information received concerning
Mexico and communications with the Government
of that country

Source and character of the information

122. The Working Group received from an organization located in Mexico and from a non-governmental organization in consultative status with the Economic and Social Council outside the country, a list of 570 persons who reportedly disappeared in Mexico. In addition, with regard to a few cases the Group received from individuals, usually relatives, reports concerning the circumstances of the disappearance including statements that the missing person or persons had been seen in clandestine detention centres.

Analytical summary of reports

123. The list of 570 persons reported missing contains the names, and with some exceptions, the date and place of disappearance of the persons con-

cerned and covers the period 1971 to 1979. The largest annual number of these disappearances - 179 - reportedly occurred in 1974, with 68 each reported for 1976 and 1977, 42 for 1978, 22 for 1979, 13 for 1972 and 9 for 1971. In 76 cases no date of disappearance was given. The place of disappearance was given by state, with a substantial majority of the disappearances reported being from the states of Guerrero, Sinaloa, Oaxaca, Jalisco, Chihuahua and Mexico. The few individual reports of disappearances contain information on the circumstances of the arrest of the missing person which usually took place in the home and was carried out by armed men wearing civilian clothes who reportedly were members of paramilitary groups such as the "Brigada Blanca" (White Brigade). Information was also given by persons who state that they are former detainees and had been held with the missing persons in a military camp or gaol. 15/

Communications with the Government and the question of establishing direct contacts

124. The Chairman of the Working Group, by a letter dated 23 June 1980, addressed to the Permanent Representative of Mexico to the United Nations Office at Geneva, stated that during its first session the Group had received expressions of concern relating to reported enforced or involuntary disappearances which appeared to have occurred in Mexico. In that same letter, the Group's Chairman raised the question of establishing direct contacts with those immediately concerned with reports of enforced or involuntary disappearances in the terms mentioned in paragraph 31 above. The Chairman inquired if the Government of Mexico would in principle be disposed to issue an invitation to the Group to establish such direct contacts through a visit to Mexico by one or two of its members, should the information before the Group in the future make such direct contacts desirable.

Information and views transmitted by the Government

125. In a letter dated 7 August 1980 addressed to the Chairman of the Working Group, the Permanent Representative of Mexico to the United Nations Office at Geneva stated that the Government of Mexico was disposed, in principle, to establish direct contacts with the members of the Working Group if the members considered it necessary. Furthermore, by a letter dated 19 August 1980, he transmitted seven files of information concerning reported enforced or involuntary disappearances in Mexico. Those seven files, which are available for consultation by members of the Commission in the Secretariat, were described in the letter as follows:

- File 1 Letter dated 31 July 1980, from Mr. Oscar Flores Sanchez, Attorney-General of the Republic, to the United Nations Commission on Human Rights;
- File 2 Information concerning the persons reported to be missing;
- File 3 Statements by persons seeking to inquire about missing relatives;

15/ The list of 570 persons reported missing and summaries of the individual reports are available with the Secretariat for consultation by members of the Commission.

- File 4 Press Release of the Office of the Attorney-General of the Republic and text of the Press Conference given by Mr. Oscar Flores Sanchez, Attorney-General of the Republic, on 24 January 1979;
- File 5 Photocopies of press cuttings referring to the alleged disappearance of Mr. Jesus Piedra Ibarra;
- File 6 Photocopy of page 28-A of the 16 December 1977 issue, of the newspaper "Excelsior" containing an open letter to the President of the Republic from the National Committee for the Defence of Persons in Prison, Persecuted, Missing or Exiled for Political Reasons;
- File 7 Photocopies of pages 10-A and 11-A of the 10 January 1978 issue, of the newspaper "Excelsior", in which Mr. Raul Jimenez O'Farril, Director of Public Prosecutions at the Office of the Attorney-General of the Republic, replied to the letter referred to above.

126. The letter mentioned in File 1 makes reference to reports of disappearances by the International League for Human Rights, the Federation Internationale des Droits de l'Homme (Paris) and Pax Romana, including the following passages :

"I would point out that the complaints assert, without any reason or justification whatsoever, that 301 persons are missing in the Mexican Republic and a list is given of alleged cases known to Amnesty International in May 1980. In this connexion I must point out that in a "paid announcement" on page 28-A, of the newspaper Excelsior, for Friday, 16 December 1977, the National Committee for the Defence of Persons in Prison, Persecuted, Missing or Exiled for Political Reasons, in response to what it calls a challenge from the undersigned, gives a list - one that is false, moreover - of names of "political prisoners" in Mexico and of persons abducted by police agencies and held in clandestine prisons and military camps; it also gives the addresses of the persons named. 16/

"In an open letter published on 10 January 1978, by agreement with the Attorney-General of the Republic, the Director of Public Prosecutions, Raul Jimenez O'Farril, issued a reply discussing the matters in the publication point by point, showing that they were untrue, revealing the unquestionably bad faith of the actions of the Committee for the Defence of Persons in Prison, Persecuted, Missing or Exiled for Political Reasons and demonstrating that the 'so-called political prisoners' were simply common criminals, tried for common criminal offences; in addition, some of them were not in prison despite the assertions of the oft-quoted publication and some were alive and had changed their names. 17/

"In a press conference held on 24 January 1979, the

16/ Contained in file 6.

17/ Contained in file No. 7.

Attorney-General of the Republic stated that, even though his Office was not in many instances the one required to investigate the affair because it involved acts attributed to municipal authorities, out of respect for public opinion it had made the necessary investigation to clear up the situation regarding the persons who were said to be missing or were political prisoners. 18/

"I venture to point out, as an example, that Mrs. Rosario IBARRA de PIEDRA had asserted on various occasions that her son Jesus PIEDRA IBARRA, mentioned in the paid announcement I referred to above, was missing. After an investigation of the complaint in question, it was possible to establish that PIEDRA IBARRA was a founder-member of the Committee of Revolutionary Students, allied to the '23 September' Communist League, that he had taken part, among other things, in the attempted abduction and murder of Eugenio GARZA SADA and his two companions on 16 September 1973, in innumerable hold-ups, and was an accomplice in the deaths of several policemen. Jesus PIEDRA IBARRA had taken over control of the political bureau of the League from Jesus Angel Garcia Martinez, alias "El Gordo", and together with Alberto Zapata Castaneda, Hector Marroquin Martinez and Maria de la Paz Quintanilla de Flores was involved on 22 April 1974 in a clash with policemen in Calle Platon Sanchez and Calle Plan de Ayutla, Colonia Terminal, in Monterrey, Nuevo Leon; he was wounded in the clash and was carried away by his companions. His whereabouts are unknown and it is assumed that, as a result of his injuries, he died and was buried by his companions. 19/

"Mrs. Rosario Ibarra Piedra, for unfathomable political motives, felt obliged to continue her campaign of defamation, but as can be seen from the accompanying documents, her son, JESUS PIEDRA IBARRA, was never apprehended and still less persecuted by the police for political reasons. He was simply a common criminal, but a dangerous one. It is also claimed that ABUNDIO ONOFRE CAMPOS and SANTIAGO ONOFRE CAMPOS were killed in clashes with the police.

"Nevertheless, Mrs. Maria Campos Iturria, the mother of the persons in question, came to this Office and stated that her sons were alive and free, living under other names, and that their own names had been given to those who had died, in keeping with the custom amongst the so-called guerrillas.(...)

"I attach, for this purpose, files containing the outcome of the exhaustive investigation carried out in the Federal District and in a number of States in the Republic 20/; files relating to persons who inquired about missing relatives 21/; a press release following a press conference given by Oscar Flores, Attorney-General of the Republic, on 24 January 1979; a number of photocopies of newspapers

18/ Contained in file No. 4.

19/ Contained in files Nos. 4 and 5.

20/ Contained in file No. 2.

21/ Contained in file No. 3.

relating to Jesus Piedra Ibarra, a photocopy of page 28-A of the newspaper Excelsior for 16 December 1977 and a photocopy of pages 10-A and 11-A of the 10 January 1978 issue of the same newspaper.

"It should be noted that many of the persons on the Amnesty International list of May 1980 have been investigated and the results are to be found in the file mentioned above. ...

"In view of the foregoing, I would ask the Commission to examine carefully the accompanying documents and, from them, come to the conclusion that the gratuitous accusations against Mexico are false."

127. File 2 transmitted by the Government of Mexico contains detailed information on reportedly missing persons. Most of these persons reported on by the Government are stated to be criminals responsible for homicides, abductions, assaults and acts of terrorism; in the case of 22 of them there was no report of criminal records. The majority of the persons concerned, were said by the Government to be active members of illegal or subversive groups. 22/ According to the Government of Mexico, 154 out of the total reported missing persons dealt with in file 2 had in reality died as a result of fights against the governmental public forces in rural areas of Guerrero, Oaxaca, Sinaloa, or Chiapas or else in urban and industrial areas of the Federal District of the United States of Mexico, Oaxaca, Jalisco, Nuevo Leon, Sinaloa, Chihuahua and Michoacan. Further, 18 were reported by the Government to have been executed by their own organization for treason against their movement; 20 people reportedly died as a consequence of fights between rival groups, because of family or political disputes or because of their participation in groups of drug traffickers; two had been shot dead in their attempt to escape from prison; one died when a bomb which he was making at home exploded and one died from an unspecified disease. In some cases the Mexican authorities report that the families of the reported missing people had identified their missing relatives through photographs of injured or dead people who were referred to under a false name or a nickname. In addition, the Government reported that three persons had been judged and found guilty and were officially kept in detention in different prisons of Mexico and 89 had absconded or were in hiding from the Mexican authorities in unknown places.

128. File 3 relates to meetings between the Mexican authorities and relatives of reportedly missing persons during which the relatives were

22/ The following parties or groups were mentioned: The PARTIDO DE LOS POBRES (Party of the Poor) (31); LIGA COMUNISTA 23 DE SEPTIEMBRE (Communist League of 23 September) (57); FUERZAS ARMADAS REVOLUCIONARIAS DEL PUEBLO (People's Revolutionary Armed Forces) (seven); PARTIDO PROLETARIO UNIDO DE AMERICA (United Worker's Party of America) (two); MOVIMIENTO DE ACCION REVOLUCIONARIA (Movement of Revolutionary Action) (10); FUERZAS ARMADAS DE LIBERACION (Armed Forces Liberation) (three); VANGUARDIA ARMADA REVOLUCIONARIA (Revolutionary Armed Vanguard) (one); COALICION OBRERO-CAMPESINO DEL ISTMO (Coalition of Workers and Peasants of the Isthmus) (one); FUERZAS REVOLUCIONARIAS DEL PUEBLO (Revolutionary Forces of the People) (one); FUERZAS DE LIBERACION NACIONAL (Forces for the National Liberation) (one).

informed of the information the authorities possessed on the missing person; the relatives were told that they could present further information to the authorities.

129. During its third session the Working Group met with the Permanent Representative of Mexico to the United Nations Office at Geneva; who reviewed the communications of the Government of Mexico to the Group, including the information submitted by the Government. He reiterated the view of the Government of Mexico that an examination of the information supplied to the Group by the Government (see paragraphs 125 to 128 above) would show the allegations of enforced or involuntary disappearances to be unsubstantiated. The representative of Mexico repeated the wish of the Government of Mexico to co-operate with the Group and mentioned the Government's favourable response to the Group's request to establish direct contacts through a visit to that country should that be necessary.

130. The Group discussed with the representative of Mexico the information submitted by the Government, in particular information to the effect that certain of the persons reported disappeared had in fact been wounded in armed clashes, had escaped from prison or had been abducted. The Group asked if the Government would transmit further details in these cases.

I. Analytical summary of information received concerning
Nicaragua and communications with the Government
of that country

Source and character of the information

131. The Working Group received information on 70 reported cases of enforced or involuntary disappearance in Nicaragua from reports made by individuals, generally relatives of the persons reported missing, transmitted through of a private human rights organization in Nicaragua. In some instances the information transmitted included copies of documents submitted to the courts, court decisions, communications, certificates and other documents produced by administrative and judicial authorities.

Analytical summary of reports 24/

132. The Group analysed the information submitted in the 70 cases and the following is a summary of the principal characteristics of that information. Most of the sources of the 70 cases analysed are close relatives of the persons who reportedly disappeared and they generally report having a direct knowledge of the circumstances of the disappearance. The persons who are reported missing are identified by name, family name and usually two given names. Generally such information as nationality, profession, marital status, date of birth or age is also given. The disappearances, in the cases analysed, cover the period June 1979 to October 1980 with the

24/ The detailed analyses of the reports on which this summary is based are available with the Secretariat for consultation by members of the Commission.

largest number reportedly occurring between June and October 1979. ^{25/} The Group noted the change of regime and the coming to power of the present Government of Nicaragua on 19 July 1979.

133. In 34 of the 70 cases mentioned above the person who had disappeared was reportedly a member of the National Guard; a few former members of the Frente Sandinista de Liberacion Nacional (Sandinista Front for the National Liberation) were also reported to have disappeared. The professions and occupations of the other persons reported disappeared include farmer or agricultural labourer (eight cases), watchman (three cases), mayor, customs officer, policeman, student, "Jueces de mesta" (rural judges who have jurisdiction over disputes which arise between farmers) (four cases). With regard to the ages of the persons reported disappeared, three were between 17 and 19 years old, 63 were between 20 and 57 years old, and two were between 65 and 70 years old. In most of the cases the missing person was reportedly last seen or heard of in prison; the prison authorities reportedly informed the relatives that the missing person had been released or transferred or that he was no longer there. In other cases, the person reported disappeared was last seen when he was arrested at his home, at his place of work or in the public street. The persons making the arrest of the person reported disappeared, are reported to have been militiamen, members of the Frente Sandinista de Liberacion Nacional, the Milpas (Milicias Populares Anti-Somocistas, - Anti-Somoza Popular Militia), other branches of the popular army, the police, National Guard, and the State security forces.

134. No reports were received concerning the places where the persons reported disappeared were held in Nicaragua subsequent to their detention. In 25 of the 70 cases, the authors state that they received unconfirmed reports that the missing person had been killed.

Information transmitted to the Government and the question of establishing direct contacts

135. The Chairman of the Working Group, in a letter to the Permanent Representative of Nicaragua to the United Nations Office at Geneva dated 23 June 1980, stated that during its first session, held at the United Nations Office at Geneva from 9 to 13 June 1980, the Group had received expressions of concern relating to reported enforced or involuntary disappearances which seemed to have occurred in Nicaragua. The Chairman also expressed the wish of the Group to know if the Government of Nicaragua would in principle be disposed to issue an invitation to the Group to establish direct contacts with those immediately concerned with allegations of enforced or involuntary disappearances through a visit to Nicaragua by one or two of the Group's members.

136. The Director of the Division of Human Rights, acting on behalf of the Chairman of the Working Group, transmitted to the Nicaraguan Government, by letter dated 29 October 1980, information on the 70 cases of reported disappearances, described above together with a request that the Govern-

^{25/} A total of 60 cases: eight in June, 25 in July, 17 in August, five in September, five in October. There were no cases reported for November and December 1979 and only six more cases by August 1980 (one each in January, April, June and July and two in August).

ment of Nicaragua transmit to the Group such information as it might wish. That letter also stated that the Group would appreciate receiving any information which the Government of Nicaragua might wish to submit concerning any particular measures adopted at the national or local level to determine the whereabouts of persons alleged to have suffered enforced or involuntary disappearance and steps taken to prevent such disappearances.

Information and views transmitted by the Government

137. In a letter dated 7 August 1980, the Permanent Representative of Nicaragua to the United Nations Office at Geneva replied to the above-mentioned letter of the Working Group and accepted the suggestion that the Working Group should be invited to visit Nicaragua in order to establish direct contacts with those immediately concerned with enforced or involuntary disappearances. It was also suggested, in the Permanent Representative's letter, that the time and conditions of the visit should be arranged between the Working Group and Dr. Leonte Herdocia Ortega, National Commissioner for Human Rights and Humanitarian Matters of Nicaragua.

138. During its third session the Working Group met with the National Commissioner for Human Rights and Humanitarian Matters of Nicaragua. The Nicaraguan representative stated that he had come to the Working Group on behalf of his Government with full powers to speak honestly and sincerely about the implementation of human rights in Nicaragua, and in particular, about the situation with respect to enforced or involuntary disappearances in his country. He preferred to make an oral statement since that, in his view, would reflect better the spontaneity and truthfulness of his account of the matter, rather than to provide the Group with an elaborate written answer. His Government, the representative said, was fully committed to safeguarding, guaranteeing, and implementing human rights inside the country, as well as to defending such rights in the international forum. He pointed out that Nicaragua had had an appalling record of gross violations of human rights under the regime of the Somoza family for the past 45 years. The new regime of Nicaragua, which was the result of a tragic civil war, was composed of pacifists and had, therefore, an historical responsibility and commitment to defend both democracy and human rights.

139. Nicaragua was willing to co-operate with the Group within the lines of the policy of "open door" to all international human rights organizations which his Government was implementing. The recent visits of the Inter-American Commission on Human Rights, the International Commission of Jurists, Amnesty International and the International Committee of the Red Cross to Nicaragua, the facilities that those organizations had received and the complete freedom of movement that they had enjoyed, proved that. The representative of Nicaragua mentioned expressly the wish of his Government to help the Working Group in its task to determine the whereabouts or fate of people reported missing in Nicaragua. That was, in his view, not a matter of interference in internal affairs.

140. The representative of Nicaragua acknowledged receipt of information on enforced or involuntary disappearances transmitted by the Group on 29 October 1980. He referred to violations of human rights before, during and immediately after the assumption of power by his Government on 19 July 1979. The violations of human rights which had taken place immediately after that change had been attributable to the fact that when General

Somoza left Nicaragua, the new regime had been unable to control the popular outbursts of revenge which had occurred in the country. At that time there was neither an adequate police force, nor a parliament nor a judiciary. In cities like Granada, Leon or Masaya, people had reacted angrily against members of the Somoza regime in defiance of express orders to the contrary by the Central Government. That situation had existed in some areas of the country until the end of 1979. Even in September 1980 people had still taken over courts and land in some areas of the country. Nevertheless, at present, his Government was in effective control of Nicaragua.

141. The representative pointed out that there had been allegations of violation of human rights, in particular disappearances, falsely attributed to the present regime. He mentioned that in some of the cases transmitted by the Group, the person reported disappeared, had in fact, been arrested prior to the change of regime of 19 July 1979. The impossibility of effectively controlling the country, the lack of any reliable infra-structure, together with the traditionally inherited suspicion of people in Nicaragua of any institutionalized power explained the difficulty of the present Government in providing the Group with an accurate account of what had really happened during and immediately after the Sandinista revolution. It was extremely difficult to find out the whereabouts or fate of the people reported missing or to identify the persons responsible for such actions. A large number of persons had left Nicaragua and travelled to neighbouring countries where a check on their identity was difficult. The representative of Nicaragua told the Group that he was prepared to make an additional effort to determine the whereabouts or fate of the people reported missing in the information that had been transmitted by the Group to his Government.

142. With regard to a visit of two members of the Group to Nicaragua, which the Government has accepted in principle, the period which had been suggested by the Group for such a visit coincided with the already scheduled visits to Nicaragua by representatives of other international organizations, and the Government would not have been able to provide the needed support for a visit by the Group.

143. The Group discussed with the representative of Nicaragua certain aspects of the information contained in his statement and the question of a visit by one or two of its members to his country. The Group requested further information on reports of enforced or involuntary disappearances which had been transmitted to the Government, in particular those cases which reportedly had occurred late in 1979 and in 1980.

Statements made by representatives of associations or organizations directly concerned with reports of enforced or involuntary disappearances

144. During its second session the Group heard a statement by a representative of an association directly concerned with reports of enforced or involuntary disappearances in Nicaragua. In order to provide the Commission with an overview of the information presented to the Group and of the expressions of concern and the requests addressed to the Group in that statement, the most pertinent parts of the statement are reproduced in annex XV.

J. Analytical summary of information received concerning
the Philippines and communications with the Government
of that country

Source and character of the information

145. The Working Group received information on enforced or involuntary disappearances in the Philippines from a private human rights organization in that country and organizations outside the Philippines, including a non-governmental organization in consultative status with the Economic and Social Council. The Group also received a few reports from individuals in the Philippines, generally relatives of the persons reported missing. The reports received generally were not as detailed as those relating to other countries. No direct reports concerning the functioning of legal remedies in cases of reported disappearance have been received.

Analytical summary of reports 25/

146. For the period 1975 through April 1980 the Group received reports, from one organization, of 231 disappearances divided into three categories: 196 in category I - disappearances with no evidence of death; 25 in category II - disappearances ending in death, known by the euphemism "salvaging"; and 10 in category III - disappearances for a prolonged period followed by appearance in official detention centres. 26/ These reports generally include the name and surname of the person reported missing and information on nationality, sex, civil status, number of children, occupation, date and place of disappearance and, in most cases, a short description of the circumstances of the reported disappearance. About half the reports contain no indication of the profession of the missing person, but for those which do provide such information the persons who had disappeared were reported to be farmers (23) and students, lawyers, journalists, and economists. In many of the cases, information is given on the arrest of the missing person, including reports that the arrest was carried out by armed men belonging to an identified military organization or to a police unit such as the Philippine Constabulary (P.C.), the Central Intelligence Unit (CSU), the Military Police (MIG), the Integrated National Police (INP), the Advanced Commando Post (ACP), and other organizations which are identified by acronyms. In other cases the arrests are ascribed to "military men", "policemen", "soldiers", or "Government troops". In 16 cases the names of those making the arrest are given.

Reports on the whereabouts of disappeared persons

147. In most of the cases reported no information is given about places in which the person who had disappeared might have been held. However, in a few cases (eight) the missing person is reported to have been seen in detention

25/ The detailed analyses of the reports on which this summary is based are available with the Secretariat for consultation by members of the Commission.

26/ The annual totals for the three categories combined are: 1975, 11 cases; 1976, 50 cases; 1977, 36 cases; 1978, 40 cases; 1979, 75 cases; January - April 1980, 19 cases.

by other detainees who had been released, or by their relatives in military or police centres, such as the Police Station of Toril (Davao City), the Police Constabulary Barracks of Davao City, the Panabo Provincial Jail, the Nueva Ecija Police Constabulary (Provincial Command of Cabanaman City) or the Camp Rafael Rodriguez, 414 Company. As stated above, in certain cases it is reported that the person who had disappeared was killed after having been detained, and in a few cases the person, subsequent to his arrest and disappearance, reappeared in official custody.

Information transmitted to the Government and the question of establishing direct contacts

148. The Chairman of the Working Group, in a letter dated 23 June 1980 addressed to the Permanent Representative of the Philippines to the United Nations Office at Geneva, stated that during its first session the Group had received expressions of concern relating to reported enforced or involuntary disappearances which appeared to have occurred in the Philippines and that while the Group had not formed an opinion on the subject, it considered that it might have to go into the matter in more detail at a future session. In that letter the Chairman also raised the question of establishing direct contacts with those immediately concerned by reports of enforced or involuntary disappearances in the terms mentioned in paragraph 31 above and the Chairman asked if the Government of the Philippines would be disposed in principle to issue an invitation to the Group to establish such direct contacts through a visit to the Philippines by one of two of its members, should the information before the Group in the future make such direct contact desirable. The Permanent Representative of the Philippines to the United Nations Office at Geneva, in a letter dated 3 July 1980, acknowledged the Chairman's letter of 23 June 1980 and stated that it would be appreciated if the Group could transmit detailed accounts and specific data relative to the alleged disappearances in order to enable the Philippine Government to make an appropriate decision on the request.

149. By letters dated 7 July 1980 and 30 September 1980, the Working Group transmitted to the Philippine Government information on some 200 cases of enforced or involuntary disappearance which had reportedly taken place in the Philippines, together with a request that the Government transmit to the Group such information as it might wish. The Group also asked the Government for any information it might wish to submit concerning any particular measures adopted at the national or local level to determine the whereabouts of persons alleged to have suffered enforced or involuntary disappearance and steps taken to prevent such disappearances. Receipt of the above-mentioned communications was acknowledged by the Philippine Government in letters dated 15 October 1980 and 30 October 1980. As of the date of the adoption of the present report no further information has been received from the Government on this matter.

K. Analytical summary of information received concerning Uruguay and communications with the Government of that country

Source and character of the information

150. The principal sources of information received by the Group concerning reported cases of enforced or involuntary disappearance in Uruguay are the communications addressed to the Group by individuals, generally close relatives of the missing persons and the reports submitted by two private human rights organizations. The Group also received information from the International Labour Organisation and from one non-governmental organization in consultative status with the Economic and Social Council. These reports deal with persons said to have been arrested in Uruguay or abroad by Uruguayan security forces or by groups partly composed of such forces; in some of the latter cases the disappeared person was reportedly transferred to Uruguay. The Group also received reports of Uruguayan nationals who have disappeared in other countries but those reports contained no indication of the direct involvement of Uruguayan authorities; these latter cases have been dealt with under the respective country of disappearance.

151. The information transmitted to the Group included statements by witnesses of the arrest or detention of the missing persons, full and detailed dossiers on cases of disappearance, lists of missing persons, photographs, and reports on the general problem of missing persons and on some specific situations, such as that of missing children. The Group received reports by persons stating they had been detained in clandestine detention centres with persons reported disappeared, and one statement from a former member of the Uruguayan Army which provides information about detention by Uruguayan security forces of one individual reported missing. During the Group's third session, the Brazilian Bar Association (Ordem dos Advogados do Brasil) and a non-governmental organization in consultative status with the Economic and Social Council transmitted to the Group testimonies relating to a number of reported enforced or involuntary disappearances in Uruguay, which had been gathered during hearings held in Brazil from 27 to 30 October 1980. Lack of time prevented the Group from analysing this information which is, therefore, not reflected in the following paragraphs.

Analytical summary of reports 27/

152. The cases of disappearance reported to the Group cover the period 1974-1980, with most of them reportedly occurring in the years 1976 and 1977. Some 30 reports concern Uruguayan citizens who disappeared after having been abducted abroad, particularly in Argentina, by people reportedly belonging to the Uruguayan security forces or by groups partly composed of those forces. Another 12 reports relate to persons who disappeared after having reportedly been arrested in Uruguay by the Uruguayan security forces. The reports of disappearances occurring inside and outside Uruguay identify the persons reported missing by name, sex, age and nationality and, in many cases, provide information as to marital status, last domicile, profession

27/ The detailed analyses of the reports on which this summary is based are available with the Secretariat for consultation by members of the Commission.

and political or trade union activities. In some cases the number of the person's identity card or passport is also given. According to the reports, the profession of the missing persons include those of doctor, teacher, student, journalist, lawyer, employee, and skilled worker.

153. In the reports of Uruguayan citizens abducted outside the country, details are usually provided of the circumstances of the arrest of the missing persons, including the place and time of the arrest, identification of the forces which carried it out and identification of the witnesses. Two-thirds of these reports indicate that the missing person was arrested in his domicile, in the street or in another public place, while one-third do not contain information in this regard. In one-half of the cases, the arrest is reported to have been witnessed, and many times the identification of the witnesses is provided. In the large majority of these cases it is stated that the people carrying out the arrest belonged to the Organization for the Co-ordination of Anti-subversive Operations (Organismo Coordinador de Operaciones Antisubversivas, OCCOA), an organization reportedly under the authority of the Uruguayan army. The majority of the reports state that the person reported missing was a refugee under the mandate of the United Nations High Commissioner for Refugees. The reports also provide information about the steps taken at the national and international level to determine the whereabouts of the persons reported missing.

154. With regard to cases where the disappearance reportedly occurred in the territory of Uruguay, the type of information received by the Group is generally similar to that described in the preceding paragraph. Among the people reported as carrying out the arrests are, in addition to members of the OCCOA, personnel of the 6th Regiment of Cavalry, of a Navy unit known as FUSNA, of the 5th Department of Information and Intelligence of the Police of Montevideo and of the Joint Forces (Fuerzas Conjuntas). One of the cases transmitted to the Group relates to a person who was taken by force from the premises of the Venezuelan Embassy in Montevideo by a group of people reportedly belonging to the Uruguayan security forces. 28/

Reports on the whereabouts of disappeared persons

155. The information received by the Group identifies several places in Uruguay where missing people are reported to have been held; these include the 6th Regiment of Cavalry at Montevideo, Infantry Battalion No. 13 at Montevideo, the La Paloma No.1 Anti-aircraft Infantry Battalion at Montevideo and the 5th Department of Information and Intelligence of the Police at Montevideo. In addition, the reports identify several secret detention centres where missing persons reportedly were held which, although located in Argentina, were reportedly run by members of the Uruguayan and Argentine security forces. The reports provide some detailed information about these centres; three photographs of one of the centres are included. One of the reports also includes a photograph of two persons reported missing, reportedly taken in a detention centre. The centres described in these

28/ In a letter dated 3 October 1980 addressed to the Permanent Representative of Venezuela to the United Nations Office at Geneva, the Government of Venezuela was informed of this report and a request was made for any information the Government might wish to transmit to the Group in relation to that report.

reports are "El Jardín" or "Automotores Orletti", located in Venancio Flores and Emilio Lamarca, at Buenos Aires and "Pozo de Quilmes", located in the Province of Buenos Aires; reference is also made to one centre known as "Pozo de Bandfield" (see paragraph 58 above).

Survey of information transmitted to the Government and the question of establishing direct contacts

156. By letters dated 14 July and 8 October 1980, the Group transmitted to the Government of Uruguay information concerning 15 cases of enforced or involuntary disappearances, 9 of which reportedly occurred in the territory of Uruguay, 5 in the territory of Argentina with the alleged participation of members of the Uruguayan security forces and one concerning a Uruguayan citizen who was reportedly arrested at Asunción, Paraguay, and sent to Uruguay. ^{29/} One of the cases transmitted to the Government relates to 1974, two relate to 1975, six to 1976, four to 1977, one to 1978 and one to 1980. With respect to eight of the cases, the Group transmitted to the Uruguayan Government full dossiers which included copies of the relevant documents supporting the reports, among them copies of or excerpts from testimonies by witnesses of the arrest or detention of the missing persons, many of whom state they are former detainees. With respect to seven cases, the Group transmitted to the Government of Uruguay summaries which contained a general description of the elements of each case. The above information was transmitted together with a request that the Government transmit to the Group such information as it might wish. In the letter dated 14 July 1980 the Group also asked the Government for any information it might wish to submit concerning any particular measures adopted at the national or local level to determine the whereabouts of persons alleged to have suffered enforced or involuntary disappearance. The above-mentioned letter of 8 October 1980, referring to the Group's request for information, stated :

"The Working Group hopes that this exchange of information will be the basis for a fruitful dialogue between it and your Government. The Group would like to underline the importance of such a dialogue and it looks forward to the co-operation which your Government may wish to extend to the Group. This co-operation is indispensable for solving the problems which the Commission on Human Rights requested the Group to examine".

157. The question of establishing direct contacts with those immediately concerned with reports of enforced or involuntary disappearances in the terms mentioned in paragraph 31 above, was raised by the Group's Chairman in a letter dated 23 June 1980 addressed to the Permanent Representative of Uruguay to the United Nations Office at Geneva. In that letter the Chairman asked if the Government of Uruguay would in principle be disposed to issue

^{29/} The latter cases were also transmitted to the Governments of Argentina and Paraguay respectively, with the request that those Governments transmit to the Group any information they might wish. The report relating to the Uruguayan citizen arrested in Paraguay was also transmitted to the Argentine Government as, according to certain information, he would first have been transferred to Buenos Aires, Argentina, in an Argentine military aeroplane, and then taken to Montevideo, Uruguay.

an invitation to the Group to establish such direct contacts through a visit to Uruguay by one or two of its members, should the information before the Group in the future make such direct contacts desirable. The Chairman of the Working Group, by a letter dated 18 September 1980 addressed to the Permanent Representative of Uruguay to the United Nations Office at Geneva, stated that the information received by the Group during its second session reinforced its opinion that one of the means through which it might best deal with allegations of enforced or involuntary disappearances and gain an understanding of the circumstances surrounding such allegations would be for it to establish direct contacts with those immediately concerned in such matters. The Chairman, in his letter, added that, to that end, the Group wished to reiterate its desire to know if the Government of Uruguay would be disposed to issue an invitation to the Group to establish direct contacts through a visit to that country.

Information and views transmitted by the Government

158. With regard to the question of establishing direct contacts with those immediately concerned with reported enforced or involuntary disappearances through a visit to Uruguay, the Permanent Mission of Uruguay in a note verbale dated 10 November 1980 stated that the Uruguayan Government was considering the Working Group's proposal, but that it was not in a position at that time to receive a visit from the Group. By a note verbale dated 15 December 1980, the Permanent Mission of Uruguay to the United Nations Office at Geneva transmitted to the Working Group information on eight cases on which the Group had requested information. With respect to four of these cases the Uruguayan Government stated that warrants had been issued for the arrest of the persons concerned because of their connexion with subversive activities. With respect to the fifth case it was reported that a warrant had been issued for the arrest of the person concerned because he had failed to present himself voluntarily before a military tribunal when requested to do so. With respect to the sixth case, it was stated that the person concerned went abroad (the destination, date and flight number were indicated) and that his whereabouts were unknown. With respect to the seventh case it was reported that the person concerned was subjected to a criminal trial in 1969, and that she had remained in detention from October 1969 until October 1970; in May 1975 a new arrest order had been issued because of her involvement in subversive activities. With respect to the eighth case, the Government stated that the person concerned had been arrested in May 1976 because of his connexion with subversive activities and that in June 1976 he had escaped from prison; that person had subsequently been sought without success.

159. By a letter dated 16 December 1980, the Government of Uruguay made available to the Working Group other information relating to reports of enforced or involuntary disappearances in Uruguay.

160. During its third session, the Working Group met with the representative of Uruguay to the Commission on Human Rights. The representative of Uruguay made a general statement on events in his country and on the question of disappearances. He denied the complicity of the Uruguayan authorities in any enforced or involuntary disappearances. He stressed that even during the period when the country had been fighting against the subversion, Government forces had acted in a humane manner and in accordance with the law. He pointed out that during that period a large number of people had been brought to trial because of their involvement in subversive activities. He

further stated that the number of people reported missing in his country was very small and that in the last four or five years there had been no reports of disappearances. The representative of Uruguay also said that during the period referred to there had been three massive escapes from Uruguayan prisons, involving about 140 persons who belonged to subversive forces; some of those people had gone into hiding and some may well have gone abroad without the knowledge of the authorities, since the characteristics of the Uruguayan frontiers are such that they can easily be crossed at points where there is no control.

161. The Representative of Uruguay further stated that each reported disappearance was of concern to the Government, which had established a special bureau - the Oficina de Informacion de Personas - to assist relatives of detainees and missing persons, including those who had reportedly disappeared abroad. He said that his Government wished to co-operate with the Group and handed to the Chairman the above-mentioned note verbale dated 15 December 1980 transmitting information on eight cases of reported disappearance. He stated that other investigations were under way and that the results would be transmitted to the Group.

162. The Group discussed the information transmitted by the Government with its representative and requested clarification of information on one case, and further information on measures taken by the authorities to investigate reports of disappearances, including the establishment of the special bureau mentioned above.

Statements made by representatives of associations or organizations directly concerned with reports of enforced or involuntary disappearances

163. During its second session the Group heard a statement by a representative of an association directly concerned with reports of enforced or involuntary disappearances in Uruguay. In order to provide the Commission with an overview of the information presented to the Group and of the expressions of concern and the requests addressed to the Group in that statement, excerpts reflecting the most pertinent parts of that statement, are reproduced in annex XVI.

L. Other information received by the Working Group

Bolivia

164. The Working Group received information from a non-governmental organization in consultative status with the Economic and Social Council that a former Methodist bishop who was the Secretary-General of the Confederation of the Methodist Evangelical Churches of Latin America had been arrested on 26 August 1980 at his home in Cochabamba, Bolivia, and that he had disappeared. The report stated that armed men in civilian clothes had carried out the arrest and that the person reported disappeared had been driven away in an ambulance. At the request of the Chairman of the Group, information on this reported disappearance was transmitted to the Government of Bolivia by a cable dated 28 August 1980. The cable stated that the Group would appreciate receiving as soon as possible any information on that report which the Government might wish to submit. The Group received information in October 1980 that the person reported missing had been released from prison and expelled from Bolivia.

Brazil

165. In a letter dated 23 June 1980 addressed to the Permanent Representative of Brazil to the United Nations Office at Geneva, the Chairman of the Working Group stated that during its first session the Group had received expressions of concern relating to reported enforced or involuntary disappearances which appeared to have occurred in Brazil. That letter also stated that the Group had at that time formed no opinion whatsoever on the subject but that it considered that it might have to go into the matter in more detail at a future session. The Chairman, in his letter, also asked if the Government of Brazil would in principle be disposed to issue an invitation to the Group to establish direct contacts with those immediately concerned with reports of enforced or involuntary disappearances through a visit to Brazil by one or two of its members, should the information before the Group in the future make such direct contacts desirable. In reply, a letter dated 8 July 1980 from the Deputy Permanent Representative of Brazil to the United Nations Office at Geneva stated, in part:

"I have been instructed by my Government to convey to you that the Brazilian Government does not deem it necessary for the Working Group on Enforced or Involuntary Disappearances to visit Brazil. Nevertheless, the Brazilian Government, in accordance with paragraph 4 of resolution 20 (XXXVI), will not fail to co-operate with the Working Group in the performance of its tasks, furnishing all information that might be required to elucidate eventual allegations of enforced or involuntary disappearances supposedly taken place in Brazil."

Peru

166. During the second half of June 1980 the Group received several urgent reports, some in considerable detail, from a human rights organization in Peru, individuals outside the country and a non-governmental organization in consultative status with the Economic and Social Council, to the effect that five Argentine citizens had been arrested in Lima, Peru, between 12 and 13 June 1980 and had subsequently disappeared. The arrests were reportedly made by Peruvian and Argentine military personnel. Two of the persons reportedly disappeared in Peru, and three reportedly disappeared after expulsion to Bolivia. ^{30/} It was stated that one of the persons reported missing was an active member of an association of relatives of missing persons. On 26 June 1980, at the request of the Chairman of the Group, information on these reported disappearances was transmitted to the Governments of Peru and Bolivia through their respective Permanent Representatives at Geneva, and on 2 July 1980, also at the Chairman's request, more detailed information giving, for example, the names of witnesses, information on the identity of persons taking part in the arrests, the place to which the persons reported missing had been taken after arrest, and other details, was transmitted to the Governments of Peru and Argentina through their respective Permanent Representatives at Geneva. Each of the above-mentioned letters stated: "In order to contribute to the clarification of these reports and in view of their urgent nature the Group would appreciate receiving as

^{30/} In the months following these events the Group received extensive dossiers containing information on them. One dossier was transmitted by a Group of Peruvian Parliamentarians.

soon as possible any information which your Excellency's Government might wish to transmit".

167. On 6 August 1980, the Permanent Mission of Peru to the United Nations Office at Geneva transmitted an official communique of the Ministry of Interior of Peru dated 19 June 1980 (see annex XVII) which stated that three of the persons reported disappeared had been arrested and handed over to the Bolivian immigration authorities who had provided a document showing that they had received the three persons in question. The communique stated that the three persons were criminal subversives illegally in Peruvian territory. 31/ 32/ By a letter dated 8 October 1980 addressed to the Permanent Representative of Peru to the United Nations Office at Geneva the Chairman of the Group thanked the Government of Peru for the information transmitted and for its concrete expression of willingness to co-operate with the Group. In that letter, the Chairman transmitted information on the reported arrest in Lima of the two persons not covered by the above-mentioned communique of 19 June 1980, together with the request that the Government submit to the Group any information it might wish in that regard.

168. During its third session, the Working Group met with the Permanent Representative of Peru to the United Nations Office at Geneva, who informed the Group of his Government's willingness to co-operate with it and reviewed the information already submitted to the Group. He drew attention to the change in Government which had occurred on 28 July 1980 in his country.

169. The Group thanked the representative of Peru for the information his Government had submitted and its co-operation with the Group and inquired, inter alia, if the Government would wish to transmit information on any official investigations undertaken into the above-described events and if the Government would be able to inform the Group concerning the two persons not mentioned in the communique of 19 July 1980. The Group further inquired whether the Government of Peru would be disposed to issue an invitation to the Group to establish direct contacts with those immediately concerned with the events described above through a visit of one or two of the

31/ On 26 August 1980, at the request of the Group's Chairman, a copy of that communique was transmitted to the Government of Bolivia through the Permanent Mission of Bolivia to the United Nations Office at Geneva with the request that the Government submit any information to the Group which it might wish. No information in that regard has been received to date.

32/ The Group received information that on 21 July 1980 the body of one of the persons reportedly missing had been found in Madrid, Spain. This was one of the persons the Government of Peru reported having expelled to Bolivia. Information on this occurrence was requested from the Permanent Representative of Spain to the United Nations Office at Geneva in a letter dated 25 August 1980.

The Permanent Representative of Spain to the United Nations Office at Geneva in communications dated 27 and 29 August 1980 and 4 December 1980 transmitted information on the investigation being carried out by the Spanish judicial authorities into the matter. The Group appreciates the co-operation of the Government of Spain.

Group's members to Peru. The representative of Peru stated he would transmit the Group's requests to his Government.

Disappearances of women and children

170. The Working Group has received a number of reports of enforced or involuntary disappearances of women - particularly pregnant women - and children, including lists of women who have disappeared; reports on some 60 cases of disappearance of pregnant women in Argentina; a file containing information on some 50 cases of children reportedly disappeared in Argentina; a file containing several cases of Uruguayan children who reportedly disappeared in Argentina; and a report on the re-appearance in Chile of two Uruguayan children who had disappeared in Argentina together with their parents. The Group also received communications on disappearances of children which reportedly occurred in Cyprus, El Salvador and the Philippines; and expressions of concern relating to the enforced or involuntary disappearances of women in Chile. As noted in paragraph 22 above, the World Conference of the United Nations Decade for Women (Copenhagen, 14-30 July 1980), in its resolution 23, expressed its grave concern at the increasing number of missing and disappeared persons, including women and children, and stressed that women and children are affected both as direct victims and as relatives of victims. That resolution drew the attention of the Working Group to the effects of enforced or involuntary disappearance on women, both as direct victims and as relatives of victims. Similar expressions of concern were also received from private associations and individuals.

171. Most of the cases of the reported disappearance of children in Argentina relate to children born or presumed to be born of mothers who were themselves missing and reportedly held in secret detention centres at the time of their delivery. In a number of cases, information about the fact of the delivery is provided by people who report having been themselves detained in such centres and to have direct knowledge of the birth. According to the information received, a large number of women - many of them pregnant - were held in one particular detention centre which reportedly had some facilities to attend to women in childbirth. In other cases it is reported that women were taken to a military hospital for the birth. The reports, in a number of cases, indicate that children born in the above circumstances were handed over to relatives, generally their grandparents. This information coincides with that provided by relatives of pregnant women reported missing to the effect that they were given new-born babies by members of the security forces or civilians who informed them that the person reported missing had given birth to the child; the relatives were warned not to make any inquiries or comments on the matter. In one case, the parent of a pregnant woman who had disappeared reports that a group of unknown persons brought her home, where she left her child; she then was taken away again and is still missing. A report received from two people who state they were detained in the same detention centre together with the pregnant woman in question confirms this. The Group also received reports relating to children who were abducted together with the parents and are still missing. Reports of cases of disappearance of minors who were reportedly arrested on their own were also received.

172. According to a report received from the International Federation of Human Rights and the International Movement of Catholic Jurists containing information collected during a mission carried out in 1979 to Argentina,

Brazil, Chile and Uruguay, two Uruguayan children, aged one and four years old, who had been abducted in Buenos Aires, Argentina, together with their parents, (the parents are still missing) appeared three months later abandoned on a street in Valparaiso, Chile. The children were first put into a children's home and then placed by a judge in the custody of a couple who later applied for an adoption order. In the meantime, the Chilean authorities had issued birth certificates stating that the children had been born in Chile of the couple in whose custody they had been placed. The real identity of the children was revealed in 1979, following a search by their grandparents. According to the above-mentioned report, the identity of the children was recognized by the foster parents, who have agreed to review the whole situation should the children's parents reappear.

Disappearances involving the security forces of more than one country

173. The Group received numerous reports of cases of enforced or involuntary disappearances in which members of the security forces of more than one country are alleged to have been involved. A considerable number of these reports relate to Uruguayan citizens living in Argentina who were reportedly arrested or abducted by members of the Argentine security forces who were in some cases acting together with members of the Uruguayan security forces; some of the detained persons were either sent to Uruguay or kept in secret detention centres in Argentina where they were interrogated by Uruguayan personnel. One of these reports concerns a Uruguayan citizen who was reportedly abducted in Paraguay, then taken to Argentina in an Argentine military aeroplane and eventually transferred to Uruguay. In the case involving the reported arrest, in Lima, Peru, and subsequent disappearance of five Argentine citizens, collaboration between the Peruvian and Argentine security forces has been alleged (see paragraphs 166-169 above). The above-mentioned report of the re-appearance in Chile of children reportedly abducted with their parents in Argentina might also be relevant to this question.

174. The Group noted that many of the above reports related to people who had refugee status under the Statute of the United Nations High Commissioner for Refugees and that the reports alleged that they were returned to their countries of origin. Such returns might involve a violation of the generally accepted principle of non-refoulement set forth, inter alia, in article 33 of the Convention relating to the Status of Refugees adopted on 28 July 1951.

IV. THE PROBLEM OF ENFORCED OR INVOLUNTARY DISAPPEARANCES
IN SOUTH AFRICA AND NAMIBIA

South Africa

175. The situation in South Africa is different from that in other countries studied by the Working Group. Parliament in South Africa has passed legislation, the effect of which is that a person may disappear, even for a prolonged period, in the custody of the authorities, but that disappearance is entirely lawful. Much has been written in numerous United Nations reports about various aspects of these laws, but it is important for the purposes of this report to confine comment to the matter strictly before the Group. Incommunicado detention, for whatever period, with or without trial, for example, does not constitute a disappearance if the authorities acknowledge that the person is in detention. It should be said at once that information received from one non-governmental organization in consultative status with the Economic and Social Council suggests that, when a person is arrested even under the laws referred to below, the relatives are usually able, by going round the police stations, to discover from the police where that person is being held. Whether this will continue to be the case after the passing of the Police Amendment Act 1980 (see below) is not yet clear. However, the Group has identified certain clear instances of what seem to be disappearances. Research and collection of information has taken some time; indeed some material promised from South Africa has still not arrived. The Chairman is now in a position to write to the Government of South Africa on certain of the cases and did so on 29 December 1980.

176. The apparatus of statute law which has been enacted in South Africa includes the following provisions:

(a) The Internal Security Act 1950 (Act 44 of 1950), S.10(1)(a) (bis) as inserted by S.4 of the Internal Security Amendment Act 1976 (Act 79 of 1976) enables the Minister of Justice, if he is satisfied that any person engages in activities which endanger or are calculated to endanger the security of the State or the maintenance of public order, by notice to prohibit him from absenting himself from a place or area which is, or is within, a prison, and the person shall be detained in custody there for such period as the notice is in force. There appears to be no limit on the period during which the notice may remain in force. However, the 1976 Act provides, in S.6, for a new S.10 sex. to be inserted in the 1950 Act. This sets up a review committee, of three persons with a judge or magistrate as chairman; this body investigates the Minister's action after two months of the original notice and every six months thereafter. Written and oral representations are allowable, and the committee makes a recommendation to the Minister, which he notifies to the detainee; but he need not give effect to it, and if he does not he must report to Parliament the recommendation, the name of the person and the fact that he has not given effect to the recommendation; otherwise the committee's proceedings are private, cannot be disclosed and cannot be questioned in any court of law.

(b) The Internal Security Act 1950 was further amended, by the 1976 Amendment Act, by the insertion of a new S.12B. In 1977, the Criminal Procedure Act (Act 51 of 1977) was passed which included S.185. Both these were amended by the Criminal Procedure Matters Amendment Act 1978 (Act 79 of 1978). These measures provide for the detention of potential witnesses for the State in relation to a charge under a range of security offences under the 1950 Act, the Terrorism Act, sedition, treason and conspiracy and any other offence which the President may, by mere Proclamation, add. Such a witness may be arrested and detained if the Attorney-General considers that he might be intimidated, tampered with, might abscond, or that his interests or those of justice so require. None may have access to him without the Attorney-General's consent except that a magistrate visits him once a week. He is to be detained until the end of the relevant criminal proceedings unless either the Attorney-General orders his earlier release, or the proceedings have not begun within six months of his arrest, in which case he is then released. No court can order his release, nor pronounce upon the validity of refusal to allow access to the detainee. This is the "180 day law".

(c) The Criminal Procedure Act 1955 (Act 56 of 1955) was amended in 1965 by Act 96 of that year which added S 215 bis and Part II bis of the Second Schedule. These provisions allow the arrest and detention of any person likely to give evidence for the State in trials of a long list of serious crimes including sedition, sabotage, offences under the 1950 Act and incitement conspiracy or attempt to commit such crimes. The maximum period of detention is again six months and the provisions are similar to those described in (b) above.

(d) Section 6 of the Terrorism Act 1967 (Act 83 of 1967) is the provision to which the Working Group's attention has been particularly drawn. It gives powers to any police officer of or above the rank of Lieutenant-Colonel to arrest without warrant and detain for interrogation any person whom he has reason to believe is a terrorist or is withholding information about terrorists. The definition of "terrorist" is found in S.1 (VI) as "any person who has committed an offence under S.2 or an act which had or was likely to have had any of the results referred to in S.2(2)". Section 2 must, therefore be set out in its entirety, so that the extent of this Act may be understood. It reads:

"2. (1) Subject to the provisions of subsection (4), any person who :

(a) with intent to endanger the maintenance of law and order in the Republic or any portion thereof, in the Republic or elsewhere commits any act or attempts to commit, or conspires with any other person to aid or procure the commission of or to commit, or incites, instigates, commands, aids, advises, encourages or procures any other person to commit, any act; or

(b) in the Republic or elsewhere undergoes, or attempts, consents or takes any steps to undergo, or incites, instigates, commands, aids, advises, encourages or procures any other person to undergo any train-

ing which could be of use to any person intending to endanger the maintenance of law and order, and who fails to prove beyond a reasonable doubt that he did not undergo or attempt, consent or take any steps to undergo, or incite, instigate, command, aid, advise, encourage or procure such other person to undergo such training for the purpose of using it or causing it to be used to commit any act likely to have any results referred to in subsection (2) in the Republic or any portion thereof; or

(c) possesses any explosives, ammunition, fire-arm or weapon and who fails to prove beyond a reasonable doubt that he did not intend using such explosives, ammunition, fire-arm or weapon to commit any act likely to have any of the results referred to in subsection (2) in the Republic or any portion thereof,

shall be guilty of the offence of participation in terroristic activities and liable on conviction to the penalties provided for by the law for the offence of treason: provided that, except where the death penalty is imposed, the imposition of a sentence of imprisonment for a period of not less than five years shall be compulsory, whether or not any other penalty is also imposed.

(2) If in any prosecution for an offence contemplated in subsection (1)(a) it is proved that the accused has committed or attempted to commit, or conspired with any other person to aid or procure the commission of or to commit, or incited, instigated, commanded, aided, advised, encouraged or procured any other person to commit the act alleged in the charge, and that the commission of such act, had or was likely to have had any of the following results in the Republic or any portion thereof, namely:

(a) to hamper or to deter any person from assisting in the maintenance of law and order;

(b) to promote, by intimidation, the achievement of any object;

(c) to cause or promote general dislocation, disturbance or disorder;

(d) to cripple or prejudice any industry or undertaking or industries or undertakings generally or in the production or distribution of commodities or foodstuffs at any place;

(e) to cause, encourage or further an insurrection or forcible resistance to the Government or the administration of the territory;

(f) to further or encourage the achievement of any political aim, including the bringing about of

any social or economic change, by violence or forcible means or by the intervention of or in accordance with the direction or under the guidance of or in co-operation with or with the assistance of any foreign or international body or institution;

(g) to cause serious bodily injury to or endanger the safety of any person;

(h) to cause substantial financial loss to any person or the State;

(i) to cause, encourage or further feelings of hostility between the white and other inhabitants of the Republic;

(j) to damage, destroy, endanger, interrupt, render useless or unserviceable or put out of action the supply or distribution at any place of light, power, fuel, foodstuffs or water, or of sanitary, medical, fire extinguishing, postal, telephone or telegraph services or installations, or radio transmitting, broadcasting or receiving services or installations;

(k) to obstruct or endanger the free movement of any traffic on land, at sea or in the air;

(l) to embarrass the administration of the affairs of the State;

the accused shall be presumed to have committed or attempted to commit, or conspired with such other person to aid or procure the commission of or to commit, or incited, instigated, commanded, aided, advised, encouraged or procured such other person to commit, such act with intent to endanger the maintenance of law and order in the Republic, unless it is proved beyond reasonable doubt that he did not intend any of the results aforesaid."

Any such person, therefore, may be arrested and detained, until the Commissioner of Police orders his release when satisfied that he has satisfactorily replied to all questions at the interrogation, or that no useful purpose will be served by his further detention, or his release is ordered by the Minister of Justice. The Minister is to be told of a person's arrest and thereafter, monthly, why the police say he should not be released. The detainees may make representations to the Minister, and "if circumstances so permit" shall be visited by a magistrate in private at least once a fortnight. Otherwise no person may have access to a detainee, or be entitled to any official information relating to him. The courts can neither pronounce on the validity of any action taken under S.6 nor order the release of a detainee.

(e) The Police Amendment Act 1980 prohibits the publication without

police permission of the name of anyone arrested under the Terrorism Act. Similarly details of police action against terrorist activities, which, it is understood, includes any arrest, can only be published with police permission. There are also provisions prohibiting publication without such permission of detentions under the Criminal Law Amendment Act 1966 (Act 62 of 1966); this Act, by S.22, authorises arrest without warrant and detention for 14 days, of a "terrorist" and persons who engage in a further wide range of essentially political activities. The Group would not refer to the 1966 Act, since the 14 day limit on detention might be considered too short to involve a "disappearance", were it not for the prohibition on publication, under the 1980 Act, of arrests under the 1966 Act. It must also be pointed out that detention under the 1966 Act can lawfully be continued under S.6 of the Terrorism Act.

177. It is therefore clear that the machinery is available whereby a person may be detained by the police against his will not only incommunicado, but without his relatives being entitled to any information at all. It is this latter point which concerns the Working Group. The Ministry of Justice has made it known that in the calendar years 1978 and 1979 there were respectively 501 and 333 persons detained under the legislation referred to above. The names are not given, and the Group has no means of knowing whether any of these persons was detained without acknowledgement by the authorities. Indeed, in 1980, the Group is informed of three occasions when the Minister of Police or the Police Directorate of Public Relations has disclosed numbers of persons detained, on two occasions specifically under S.22 of the Criminal Law Amendment Act 1966, but has refused to give names or any other information.

178. The Working Group has been informed of three cases in 1976, 1977 and 1978 where men were detained under the legislation referred to above, with the knowledge of their families. However, further inquiries of the authorities brought replies that each man had been released, in two cases on a given date. In the third case the police returned some of the man's clothing to his mother. None of these men has been seen again by his family or anyone else, so far as is known.

Namibia

179. In the case of Namibia, the Working Group has not yet satisfied itself about some of the information that has been made available to it. This is not to say that the information has been rejected. However, in an area where armed conflict has been taking place, and which is the subject of international concern and debate, it would not be helpful if this report were to mention cases of alleged disappearance unless the information available seemed to be based upon well-substantiated fact. Thus the Group's comments are at the moment confined to two matters, both of which have been communicated to the Government of South Africa by the Chairman in his letter referred to above (paragraph 175).

180. On 27 October 1979 an urgent application was brought before the Windhoek Supreme Court for an interdict against the South African Minister of Police and Defence. The application sought the immediate release from detention of three men from northern Namibia. The applicants were their wives who, in their affidavits, gave detailed information about the circum-

stances in which their respective husbands had disappeared, including indications that the Police or Defence Forces had been involved. In one case the authorities had said that the man was being held at an army camp, but this had later been denied.

181. Counsel for the Government said that the Police and Defence Forces had told the applicants that they had not detained those men, and that they had no information about them. The hearing was then adjourned. The Working Group has, as yet, no further information about what, if anything, has since ensued.

182. There have been a number of raids made by the South African armed forces into Angola. Of these the Group wishes at present to mention only one, which took place in May 1978 at Kassinga, in southern Angola. People were killed, but in addition others were taken prisoners, of whom the South African press indicated that some 68 were released in the course of the next few weeks. The remainder appear to number about 120, and the Group has evidence from a non-governmental organization in consultative status with the Economic and Social Council that the South African authorities have denied the detention of these persons. There is, however, a suggestion that detainees are being held at a camp in southern Namibia near Hardap Dam, Mariental. The International Committee of the Red Cross has recently published information that its representatives visited, in 1980, certain security detainees at Mariental. The Group is accordingly seeking information whether these detainees are the same as, or include, those taken prisoner at Kassinga.

183. In the case of South Africa, the information collected by the Group, if accurate, demonstrates that the State has equipped itself with a body of legislation which can ensure that, quite lawfully, a person may disappear without the relatives being able to obtain any information about him.

V. SPECIFIC HUMAN RIGHTS DENIED BY ENFORCED OR
INVOLUNTARY DISAPPEARANCES

184. The information reflected in the present report shows that in instances of enforced or involuntary disappearance a wide range of human rights of the victim himself and of his family may be denied or infringed. These include civil and political rights as well as economic, social and cultural rights. With regard to the person who is subjected to enforced or involuntary disappearance, the following may be identified as the principal human rights which he is denied.

- (a) The right to liberty and security of person 1/ This is the principal human right denied by the very fact of enforced or involuntary disappearance. Connected rights, such as the right to freedom from arbitrary arrest, 2/ the right to a fair trial in criminal matters 3/ and the right to recognition as a person before the law, are all involved; 4/
- (b) Right to humane conditions of detention and freedom from torture, cruel or degrading treatment or punishment. 5/ Some of the information before the Group deals with the conditions of detention, including ill-treatment, suffered by the missing or disappeared persons;

1/ See Universal Declaration of Human Rights, article 3; International Covenant on Civil and Political Rights, article 9; American Declaration of the Rights and Duties of Man, article I; American Convention on Human Rights, article 7; and European Convention on Human Rights article 5.

2/ See Universal Declaration of Human Rights, article 9; International Covenant on Civil and Political Rights, article 9; American Declaration of the Rights and Duties of Man, article XXV; American Convention on Human Rights, article 7; European Convention on Human Rights, article 5.

3/ See Universal Declaration of Human Rights, articles 10 and 11; International Covenant on Civil and Political Rights, article 14; American Declaration of the Rights and Duties of Man, articles XVIII and XXVI; American Convention on Human Rights, article 8; European Convention on Human Rights, article 6.

4/ See Universal Declaration of Human Rights, article 6; International Covenant on Civil and Political Rights, article 16; American Declaration on the Rights and Duties of Man, article XVII; American Convention on Human Rights, article 3.

5/ See; Universal Declaration of Human Rights, article 5; International Covenant on Civil and Political Rights, articles 7 and 10; American Declaration of the Rights and Duties of Man, article XXV; American Convention on Human Rights, article 5; European Convention on Human Rights, article 3.

- (c) Right to life, 6/ Portions of the information received by the Group indicate that during detention the missing or disappeared person may be killed.

185. Disappearances of the sort under consideration by the Group also involve infringements of certain of the "Standard Minimum Rules for the Treatment of Prisoners" approved by the Economic and Social Council in its resolution 663 C (XXIV) of 31 July 1957.7/ Relevant to enforced or involuntary disappearances are the following rules of a general nature which, under rule 4, are applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to "security measures": rule 7, which requires that detailed records shall be kept for each prisoner; rule 37, which ensures that prisoners shall be able to communicate with their family; and rule 44, which requires the authorities to inform a prisoner's spouse or nearest relative in the case of his death, or serious illness, and affords the prisoner the right to inform at once his family of his imprisonment or his transfer to another institution. Rule 92, which applies to untried prisoners also recognizes the prisoner's right to communicate with his family and to inform his family immediately of his detention.

186. If these may be said to be the principal human rights of the missing person who suffers enforced or involuntary disappearance, a reading of the Universal Declaration and the International Covenants on Human Rights shows that to a greater or lesser degree practically all basic human rights of such a person are infringed. Particular concern has been expressed to the Group about the right to a family life of the persons 8/ who suffer enforced or involuntary disappearance and of their relatives. In the case of pregnant women, children and refugees who suffer enforced or involuntary disappearance, their specific rights, as contained in the international human rights instruments, are infringed; for example the right of every child to measures of protection.9/ A review of the economic, social and cultural rights guaranteed by the various international human rights instruments shows that most of them are denied to greater or lesser extent by enforced or involuntary disappearances.

6/ See Universal Declaration of Human Rights, article 3; International Covenant on Civil and Political Rights, article 6; American Declaration of the Rights and Duties of Man, article I; American Convention on Human Rights, article 4; European Convention on Human Rights, article 2.

7/ See document ESA/SDHA/1.

8/ See Universal Declaration of Human Rights, articles 12 and 16; International Covenant on Civil and Political Rights, articles 17 and 23; American Declaration of the Rights and Duties of Man, articles V and VI; American Convention on Human Rights, articles 11 and 17; European Convention on Human Rights, articles 8 and 12.

9/ See Universal Declaration of Human Rights, article 25; International Covenant on Economic, Social and Cultural Rights, article 10; International Covenant on Civil and Political Rights, article 24; American Declaration of the Rights and Duties of Man, article VII; American Convention on Human Rights, article 19.

187. The information before the Group shows that various human rights of the members of the family of a missing or disappeared person may also be infringed by that person's enforced absence. Their right to a family life may be seen as the principal right involved but other rights of an economic, social and cultural nature can also be directly affected; for example, the family's standard of living, health care and education may all be adversely affected by the absence of a parent. The adverse impact of the disappearance of a parent on the mental health of children has been pointed out elsewhere.^{10/} Finally, the Additional Protocol I to the Geneva Convention of 12 August 1949 has recognized "the rights of families to know the fate of their relatives" and this right of relatives to be informed of the whereabouts and fate of missing or disappeared family members has been reflected in resolutions of United Nations bodies.^{11/}

^{10/} See for example, the report of the Ad Hoc Working Group on the Situation of Human Rights in Chile to the General Assembly at its thirty-third session, A/33/331, para. 376.

^{11/} See for example, the most recent resolutions of the General Assembly on the situation of human rights in Chile, 34/179 and 35/188.

VI. OBSERVATIONS AND RECOMMENDATIONS

188. The present report reviews in an analytical and summary form material on enforced or involuntary disappearances which has been transmitted to the Working Group from a wide variety of sources and reflects the methods of work adopted by the Group. The amount of information is formidable and the phenomenon is complex, varying from country to country. In the six months between its first session and the adoption of this report the Group has only been able to begin the task of analysing and following up the information before it. The Group has tried to give the Commission as complete and accurate a picture as possible of the information it has been able to assimilate, but can do no more at this time than make observations and recommendations of a general nature. A very great deal remains to be done.

189. The information on enforced or involuntary disappearances received by the Group warrants the deepest concern both for the danger to the life, liberty and physical security of the disappeared persons and for the anguish and sorrow caused to their relatives. Cases have been reported in different countries over a period of years (not necessarily the same in each case) and therefore they present a persistent problem. The concern of the international community referred to in chapter I is, in the Group's opinion, fully justified. As this report shows, enforced or involuntary disappearance of persons have continued to occur since the last session of the Commission on Human Rights; the Group has taken special action with regard to urgent reports of disappearances occurring since it first met and these steps have met with some results.

190. The Group is convinced of one thing: that the international community, and in particular the United Nations, should continue to give the closest attention, as a matter of priority, to enforced or involuntary disappearances for the purpose of seeking a solution to the problem and of determining the whereabouts and fate of the missing or disappeared persons. The Group believes that a working group such as itself has proved to be a viable method of dealing at the international level with enforced or involuntary disappearances. It has the potential for intense scrutiny of information and flexible action; the possibility of establishing direct contacts with those having first-hand knowledge of enforced or involuntary disappearances, through visits by members of such a group to the country concerned, and may be a major element in achieving a better understanding of the problem and reaching desired solutions.

191. The Group has placed great emphasis on seeking the co-operation of Governments as an essential element in reaching the objectives which the Commission on Human Rights set for it. The Group notes with satisfaction the co-operation received from some Governments; it also notes that in a number of instances, as mentioned in the report, Governments have adopted special measures to deal with reports of enforced or involuntary disappearances, for example by establishing a special investigating commission, or a bureau to assist relatives of missing persons, or by undertaking investigations into reports and informing the relatives of the outcome.

192. The Group has also received help from relatives of missing persons, associations or organizations directly concerned with reports of enforced or involuntary disappearances and other organizations. It would like to express its sincere gratitude to them. The Group understands the deep sor-

row and pain felt by the relatives of missing persons in their quest to find their family members and it recognizes the courage displayed by many in their activities. The Group strongly believes they have a right to learn what happened to their relatives.

Recommendations

193. The Group's principal recommendation is that the Commission should continue to give close consideration, as a matter of priority, to enforced or involuntary disappearances of persons and the underlying causes for such disappearances. Because such occurrences have continued to be reported throughout 1980, and in the light of the indication that urgent action on such reports may have had some positive results, the Group recommends to the Commission that it select a mechanism whereby the relevant action can be taken between sessions of the Commission. The Commission should consider the possibility of an interim measure in urgent cases, between the end of the Commission's 1981 session and the subsequent approval by the Economic and Social Council and entry into operation of whatever further mechanisms may be established. Because of the size and difficulty of the problem, the Commission should consider making suitable provision for carrying out, effectively, an intensive examination of the information received and it should consider the advisability of achieving some continuity of membership which could be important for a thorough understanding of the available material and for ensuring that the recommendations made are the most practical.

194. The information before the Group shows that enforced or involuntary disappearances involve the denial of a number of fundamental human rights provided for in various United Nations instruments, in particular the International Covenant on Civil and Political Rights. It certainly seems that enforced or involuntary disappearances may be the result of the failure to implement fully the provisions of, in particular, the international Covenant on Civil and Political Rights. The Group recommends to all States the ratification, where necessary, and in any case the full implementation, of that Covenant and other United Nations instruments relevant to human rights.

195. The co-operation of Governments is an essential element in dealing with enforced or involuntary disappearance of persons. The Group recommends to the Commission that it call upon all Governments to co-operate with the United Nations and its organs in their work on enforced or involuntary disappearances, to furnish all information required, to ensure the cessation of all disappearances and to undertake an urgent and thorough investigation of such cases as have occurred. There is no avoiding the fact that Governments have a responsibility for what happens within their borders.

196. The Group is aware that the effectiveness of United Nations action to solve the problem of enforced or involuntary disappearances depends in part on widespread public knowledge of what the United Nations is doing. The Group therefore recommends that the Commission take the appropriate steps to make known throughout the world the measures the United Nations has taken and may in the future take in this matter.

VII. ADOPTION OF THE REPORT

197. At the meeting of 18 December 1980 the present report was adopted and signed by the members of the Working Group on Enforced or Involuntary Disappearances:

Kwadwo Faka Nyamekye (Ghana)
Chairman/Rapporteur

Viscount Colville of Culross (United Kingdom)

Waleed M. Sadi (Jordan)

Ivan Tosevski (Yugoslavia)

Luis A. Varela Quiros (Costa Rica)

ANNEX I

General Assembly resolution 33/173

(Adopted at the 90th plenary meeting of the thirty-third session,
on 20 December 1978)

Disappeared personsThe General Assembly,

Recalling the provisions of the Universal Declaration of Human Rights, a/ in particular articles 3, 5, 9, 10 and 11 concerning, inter alia, the right to life, liberty and security of person, freedom from torture, freedom from arbitrary arrest and detention, and the right to a fair and public trial, and the provisions of articles 6, 7, 9 and 10 of the International Covenant on Civil and Political Rights, b/ which define and establish safeguards for certain of these rights,

Deeply concerned by reports from various parts of the world relating to enforced or involuntary disappearances of persons as a result of excesses on the part of law enforcement or security authorities or similar organizations, often while such persons are subject to detention or imprisonment, as well as of unlawful actions or widespread violence,

Concerned also at reports of difficulties in obtaining reliable information from competent authorities as to the circumstances of such persons, including reports of the persistent refusal of such authorities or organizations to acknowledge that they hold such persons in their custody or otherwise to account for them,

Mindful of the danger to the life, liberty and physical security of such persons arising from the persistent failure of these authorities or organizations to acknowledge that such persons are held in custody or otherwise to account for them,

Deeply moved by the anguish and sorrow which such circumstances cause to the relatives of disappeared persons, especially to spouses, children and parents,

1. Calls upon Governments:

(a) In the event of reports of enforced or involuntary disappearances, to devote appropriate resources to searching for such persons and to undertake speedy and impartial investigations;

(b) To ensure that law enforcement and security authorities or organizations are fully accountable, especially in law, in the discharge of their duties, such accountability to include legal responsibility for unjustifiable excesses which might lead to enforced or involuntary disappearances and to other violations of human rights;

a/ Resolution 217 A (III).

b/ Resolution 2200 A (XXI), annex.

(c) To ensure that the human rights of all persons, including those subjected to any form of detention and imprisonment, are fully respected;

(d) To co-operate with other Governments, relevant United Nations organs, specialized agencies, intergovernmental organizations and humanitarian bodies in a common effort to search for, locate or account for such persons in the event of reports of enforced or involuntary disappearances;

2. Requests the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations;

3. Urges the Secretary-General to continue to use his good offices in cases of enforced or involuntary disappearances of persons, drawing, as appropriate, upon the relevant experience of the International Committee of the Red Cross and of other humanitarian organizations;

4. Requests the Secretary-General to draw the concerns expressed in the present resolution to the attention of all Governments, regional and interregional organizations and specialized agencies for the purpose of conveying on an urgent basis the need for disinterested humanitarian action to respond to the situation of persons who have disappeared.

ANNEX II

Economic and Social Council Resolution 1979/38
(Adopted at the 15th plenary meeting of 1979, on 10 May 1979)

Disappeared personsThe Economic and Social Council,

Recalling General Assembly resolution 33/173 of 20 December 1978, in which the Assembly, inter alia, expressed deep concern at reports from various parts of the world relating to enforced or involuntary disappearances of persons,

Noting that the Commission on Human Rights at its thirty-fifth session was unable, for lack of time, to take a decision on the matter,

1. Requests the Commission on Human Rights at its thirty-sixth session to consider as a matter of priority the question of disappeared persons, with a view to making appropriate recommendations;

2. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider the subject at its thirty-second session, with a view to making general recommendations to the Commission on Human Rights at its thirty-sixth session;

3. Also requests the Sub-Commission to consider communications on disappeared persons in accordance with the relevant resolutions.

ANNEX III

Sub-Commission on Prevention of Discrimination and
Protection of Minorities resolution 5 B (XXXII)
(Adopted at the 853rd meeting on 5 September 1979)

Question of the Human Rights of Persons Subjected
to any Form of Detention or Imprisonment

The Sub-Commission on Prevention of Discrimination and Protection
of minorities,

Recalling General Assembly resolution 33/173 of 20 December 1978 concerning disappeared persons, in which the Assembly inter alia expresses deep concern at reports from various parts of the world relating to enforced or involuntary disappearances of persons,

Bearing in mind Economic and Social Council resolution 1979/38 which requests the Sub-Commission to make general recommendations concerning this situation to the Commission on Human Rights,

1. Points out that according to information brought to its notice, enforced or involuntary disappearances of persons as a result of excesses on the part of law enforcement or security authorities or similar organizations continue to occur, and that the danger involved for such persons warrants urgent reaction on the part of all individuals and institutions as well as of the Governments;

2. Considers that the resolution in question places not merely a legal but also a moral obligation, based on the principles of elementary humanity which inspire the international community, on all those participating in United Nations activities to take account at every appropriate opportunity of disappearances brought to their knowledge and to combine their efforts to try to locate the missing and disappeared persons in different regions of the world;

3. Proposes that the emergency action called for by this situation might be entrusted to a group of experts of the Sub-Commission, which would be given all the information available for locating the missing and disappeared persons in different regions of the world and would make the necessary contacts with the Governments and families concerned; and requests the Commission on Human Rights to authorize members designated by the Chairman of the Sub-Commission to undertake the task;

4. Transmits to the Secretary-General for action, pending the decision by the Commission, in accordance with the appropriate procedures and also, to such extent as he deems possible, as part of the good offices urged upon him by the General Assembly resolution, the lists of missing persons communicated to him by members of the Sub-Commission;

5. Suggests that if this phenomenon were to continue, its extreme gravity would justify envisaging some form of emergency remedy, based on the notion of habeas corpus or any other type of legal protection, designed to induce official organs to devote the necessary means to the search for the missing and disappeared persons in different regions of the world.

ANNEX IV

Commission on Human Rights resolution 20 (XXXVI)
(Adopted at the 1563rd meeting, on 29 February 1980)

Question of missing and disappeared persons

The Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, which requested the Commission on Human Rights to consider the question of missing or disappeared persons with a view to making appropriate recommendations,

Taking into account resolution 1979/38 of 10 May 1979 of the Economic and Social Council, which requested the Commission to consider the question as a matter of priority, and resolution 5 B (XXXII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Convinced of the need to take appropriate action, in consultation with the Governments concerned, to promote the implementation of the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing and disappeared persons,

1. Decides to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons;
2. Requests the Chairman of the Commission to appoint the members of the group;
3. Decides that the working group, in carrying out its mandate, shall seek and receive information from Governments, intergovernmental organizations, humanitarian organizations and other reliable sources;
4. Requests the Secretary-General to appeal to all Governments to co-operate with and assist the working group in the performance of its tasks and to furnish all information required;
5. Further requests the Secretary-General to provide the working group with all necessary assistance, in particular staff and resources they require in order to perform their functions in an effective and expeditious manner;
6. Invites the working group, in establishing its working methods, to bear in mind the need to be able to respond effectively to information that comes before it and to carry out its work with discretion;
7. Requests the working group to submit to the Commission at its thirty-seventh session a report on its activities, together with its conclusions and recommendations;

8. Further requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to continue studying the most effective means for eliminating enforced or involuntary disappearances of persons, with a view to making general recommendations to the Commission at its thirty-seventh session;

9. Decides to consider this question again at its thirty-seventh session under a subitem entitled "Question of Missing and Disappeared Persons".

ANNEX V

Sub-Commission on Prevention of Discrimination and Protection of
Minorities resolution 18 (XXXIII)

(Adopted at the 892nd meeting, on 11 September 1980)

Question of the human rights of persons subjected to any form
of detention or imprisonment

The Sub-Commission on Prevention of Discrimination and Protection
of Minorities,

Recalling General Assembly resolution 33/173 of 20 December 1978 entitled "Disappeared persons",

Bearing in mind resolution 5 B (XXXVI) on the question of enforced or involuntary disappearances of persons,

Taking account of resolution 20 (XXXVI) of the Commission on Human Rights and welcoming the establishment of the Working Group on Enforced or Involuntary Disappearances,

Noting resolution 23 of the World Conference of the United Nations Decade for Women entitled "Question of Missing and Disappeared Persons" which, inter alia, laid great stress on measures to prevent disappearances of persons,

Gravely concerned at reports of continuing occurrences of enforced or involuntary disappearances in various parts of the world,

Expressing its deepest concern at the danger to the life, liberty and physical security of persons subjected to enforced or involuntary disappearances and for the anguish and sorrow caused to relatives of those persons,

Emphasizing the importance for Governments, relevant United Nations organs, specialized agencies, intergovernmental organizations and humanitarian bodies to co-operate for the purpose of bringing an end to the occurrence of enforced or involuntary disappearances and of determining the whereabouts or fate of missing or disappeared persons,

1. Urges the Commission on Human Rights, in view of the continuing seriousness and scale of the question of missing and disappeared persons, to extend the mandate of its Working Group on Enforced or Involuntary Disappearances;

2. Emphasizes that the extreme gravity of enforced or involuntary disappearances necessitates emergency action by the Working Group of the Commission, by other organs in the United Nations system, as well as by the Secretary-General;

3. Urges the Secretary-General to continue to exercise his good offices, as requested by the General Assembly, in cases of enforced or involuntary disappearances of persons, paying particular attention to urgent cases where action is necessary to preserve the life or integrity of individuals;

4. Decides to study further, at its thirty-fourth session, the question of missing persons and of enforced or involuntary disappearances of persons, especially as regards:

(a) The adequacy of methods utilized at the domestic and international levels in searching for missing and disappeared persons and in undertaking speedy and impartial investigations;

(b) The adequacy of methods for ensuring that law enforcement and security authorities or organizations are fully accountable especially in law, in the discharge of their duties, taking into account, as stated by the General Assembly, that such accountability includes legal responsibility for unjustifiable excesses which might lead to enforced or involuntary disappearances and to other violations of human rights;

(c) Procedures for regarding as official the detention without trial as an emergency preventive measure of any person held on premises whether or not intended for that purpose;

(d) The adequacy of the protection of persons who provide information about disappeared persons, particularly the protection of witnesses and journalists who furnish such information;

(e) Procedures for effective reporting, monitoring and appraisal of cases of missing persons and of enforced or involuntary disappearances, including cases in which an authority implicated on the basis of relevant facts contents itself with replying by denials without due investigation and without showing itself ready to investigate and to set up an inquiry for the purpose, and when such situations occur, procedures providing for publication of findings relating to such situations;

5. Requests the Secretary-General to invite Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations to transmit to the Commission at its thirty-seventh session and to the Sub-Commission at its thirty-fourth session, through the Secretary-General, information, views or comments on the matters mentioned in the preceding paragraph;

6. Decides to consider the question of missing and disappeared persons as a matter of high priority at its thirty-fourth session under the agenda item on the question of the human rights of persons subjected to any form or detention or imprisonment.

ANNEX VI

General Assembly resolution 35/193

(Adopted at the 96th plenary meeting of the thirty-fifth session,
on 15 December 1980)

Question of involuntary or enforced disappearances

The General Assembly,

Recalling its resolution 33/173 of 20 December 1978 entitled "Disappeared persons",

Bearing in mind resolution 20 (XXXVI) of the Commission on Human Rights, resolution 1979/38 of the Economic and Social Council and resolution 23 of the World Conference of the United Nations Decade for Women,

Convinced of the need to take appropriate action, in consultation with the Governments concerned, to promote the implementation of the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing and disappeared persons,

Expressing again its emotion at the anguish and sorrow of the relatives of victims of involuntary or enforced disappearances,

1. Welcomes the establishment by the Commission on Human Rights of the Working Group which has been asked to examine questions relevant to enforced or involuntary disappearances of persons and to submit to the Commission at its thirty-seventh session a report on its activities, together with its conclusions and recommendations;

2. Requests the Commission on Human Rights to continue to study this question as a matter of priority and to take any step it may deem necessary to the pursuit of its work on the question of involuntary or enforced disappearances when it considers the report to be submitted to it by the Working Group at its thirty-seventh session;

3. Appeals to all Governments to co-operate with the Working Group and the Commission on Human Rights and to enable them to perform their task effectively and in a humanitarian spirit;

4. Requests the Secretary-General to draw the concerns expressed in the present resolution to the attention of all Governments, regional and interregional organizations and specialized agencies.

ANNEX VII

Communiqués issued by the Working Group on Enforced or Involuntary
Disappearances

A.

Communiqué issued at the end of its first session

13 June 1980

The Working Group on Enforced or Involuntary Disappearances held its first session at the United Nations Office at Geneva from 9 to 13 June 1980.

The Working Group has its origin in resolution 20 (XXXVI) of the Commission on Human Rights in which the Commission decided to establish for a period of one year a working Group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons. The Commission requested the Group to submit to the thirty-seventh session of the Commission (February-March 1981) a report on its activities, together with its conclusions and recommendations. Resolution 20 (XXXVI) requested the Chairman of the Commission to appoint the members of the Group and on 13 March 1980 the Chairman informed the Commission of the following composition of the Group: Mr. Luis A. Varela (Costa Rica); Mr. Kwadwo Faka Nyamekye (Ghana); Mr. Mohamed Al-Jabiri (Iraq); Viscount Colville of Culross (United Kingdom); Mr. Ivan Rosevski (Yugoslavia). Mr. Al-Jabiri did not attend the first session of the Group.

The Group elected Mr. Kwadwo Faka Nyamekye its Chairman/Rapporteur.

At its first session the Group had before it reports of enforced or involuntary disappearances relating to some 15 countries from various parts of the world which had been transmitted by such sources as Governments, the International Labour Office, the European Commission of Human Rights and non-governmental organizations in consultative status with the Economic and Social Council. After reviewing these reports, and without prejudicing its future decisions in particular instances, the Working Group concluded that the information before it warranted the deepest concern, in particular for the danger to the life, liberty and physical security of persons subjected to enforced or involuntary disappearances and for the anguish and sorrow caused to relatives of those persons.

The Working Group decided to approach its tasks in a humanitarian spirit and to seek the co-operation of all concerned for the purpose of bringing an end to the problem of enforced or involuntary disappearances and of determining the whereabouts or fate of missing or disappeared persons.

In accordance with the terms of Commission resolution 20 (XXXVI) the Group has adopted methods of work designed to permit it to perform its functions in an effective and expeditious manner, and to respond as effectively as possible to information coming before it. The Group also adopted methods of dealing with urgent reports of enforced or involuntary disappearances in

cases where immediate action might be effective to save lives. The Group also decided, as was requested by the Commission, to carry out its activities with discretion.

The Group took various decisions with regard to the reports of enforced or involuntary disappearances relating to the countries concerning which information had been received. The Group decided to explore the possibilities of establishing direct contacts with governments and others. To that end, the Group expressed its readiness, in the event of an invitation being received, to visit countries.

The Group also expressed a desire to be informed of any special procedures established with a view to determining the whereabouts of persons subjected to enforced or involuntary disappearances and steps taken to prevent the occurrence of enforced or involuntary disappearances.

The Working Group is aware that because of the magnitude and the complexities of the problem of enforced or involuntary disappearances it cannot pretend at present to deal adequately with each of the numerous reports it has received nor can it supplant existing procedures. This is especially true in the light of the fact that it will have to adopt its report by January 1981. In this regard, the Group recognizes the importance and the contribution of the existing international procedures on the universal or regional level towards the solution of the problem of enforced or involuntary disappearances. The Group looks forward to cooperating with such procedures for the benefit of the interested parties.

The Group decided to schedule its second session from 15 to 19 September 1980. In preparation for that session the Group requested the Secretariat to carry out a number of tasks. Information destined for the Group may be submitted in writing to the Division of Human Rights, United Nations Office at Geneva, Palais des Nations, Geneva, Switzerland.

B.

Communique issued at the end of its second session

19 September 1980

The Working Group on Enforced or Involuntary Disappearances held its second session at the United Nations Office at Geneva from 15 to 19 September 1980. The Working Group was established by resolution 20 (XXXVI) of the Commission on Human Rights in order to examine questions relevant to enforced or involuntary disappearances of persons. The Commission requested the Group to submit to the thirty-seventh session of the Commission (February-March 1981) a report on its activities, together with its conclusions and recommendations. Resolution 20 (XXXVI) requested the Chairman of the Commission to appoint the members of the Group and on 13 March 1980 the Chairman informed the Commission of the following composition of the Group: Mr. Luis A. Varela Quiros (Costa Rica); Mr. Kwadwo Faka Nyamekye (Ghana); Mr. Mohamed Al-Jabiri (Iraq); Viscount Colville of Culross (United Kingdom); Mr. Ivan Tosevski (Yugoslavia). At its first session, held from 9 to 13 June 1980, the Group elected Mr. Kwadwo Faka Nyamekye its Chairman/Rapporteur. By a letter dated 9 September 1980, Mr. Al-Jabiri submitted his resignation from the Group. The Chairman of the Commission on Human Rights has been informed of Mr. Al-Jabiri's resignation.

At its second session the Group reviewed the information before it on enforced or involuntary disappearances including very extensive information collected since its first session. This information related to a number of countries from diverse regions of the world. The Group's review of the information before it reinforced its conclusion, expressed at the end of its first session, that this information warranted the deepest concern, in particular for the danger to the life, liberty and physical security of persons subjected to enforced or involuntary disappearance and for the anguish and sorrow caused to relatives of those persons.

The Group was particularly alarmed by the reports it had received that enforced or involuntary disappearances continue to take place in several countries. The Group also reviewed the action which had been taken between its first and second sessions in response to urgent reports of enforced or involuntary disappearances in cases where immediate action was warranted to save lives.

The Group was informed of resolutions adopted by international bodies since its first session, in particular resolution 23 of the World Conference of the United Nations Decade for Women expressing the Conference's grave concern at the increasing number of missing and disappeared persons, including women and children; the resolution of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders referring to the connexion between enforced or involuntary disappearances and extra-legal executions, and the resolution of the Sub-Commission on Prevention of Discrimination and Protection of Minorities expressing the Sub-Commission's grave concern at reports of the continuing occurrences of enforced or involuntary disappearances in various parts of the world.

The reaction of Governments to the Group's initial approach has varied. Apart from the official invitation referred to below, one Government has presented detailed information and another has offered co-operation in examining individual cases. The remainder have not fulfilled the Group's expectations and consequently it decided to renew its appeal to those Governments to co-operate with the Group. The Group also expressed its thanks to the Secretary-General for having appealed to Governments, pursuant to paragraph 4 of resolution 20 (XXXVI), to co-operate with and assist the Working Group in the performance of its task and to furnish all information required.

During its second session the Group met with Government representatives and with representatives of organizations or associations directly concerned by reports of enforced or involuntary disappearances. It also met with the Special Rapporteur on the situation of human rights in Chile, Mr. Abdoulaye Dieye, to discuss matters of common concern. These meetings were of great importance to the Group for the appraisal of the problems with which it is faced. The Group is appreciative of the contacts thus established.

The Group took various decisions regarding the reports of enforced or involuntary disappearances which were before it and, in appropriate instances, it requested, in accordance with paragraph 3 of resolution 20 (XXXVI), further information from Governments, humanitarian organizations and other reliable sources. The Group decided to thank the Government which had indicated its willingness to invite the Group for a visit to establish direct contacts and the Group decided to explore the practical realization of the visit which it hoped would take place in the near future. The Group also decided to renew its expression of readiness to accept invitations to visit other countries in order to establish direct contact with Governments and others concerning matters within the Group's mandate.

The Group decided to schedule its third session at the United Nations Office at Geneva from 8 to 19 December 1980. Information destined for the Group may be submitted in writing to the Division of Human Rights, United Nations Office at Geneva, Palais des Nations, Geneva, Switzerland.

C.

Communique issued at the end of its third session

19 December 1980

The Working Group on Enforced or Involuntary Disappearances held its third session at the United Nations Office at Geneva from 8 to 19 December 1980. The Working Group was established by resolution 20 (XXXVI) of the Commission on Human Rights in order to examine questions relevant to enforced or involuntary disappearances of persons. The Commission requested the Group to submit to the thirty-seventh session of the Commission (February-March 1981) a report on the activities, together with its conclusions and recommendations. The Working Group is composed as follows :

1. Mr. Kwadwo Fake Nyamekye (Ghana), Chairman/Rapporteur
2. Viscount Colville of Culross (United Kingdom)
3. Mr. Waleed M. Sadi (Jordan)
4. Mr. Ivan Tosevski (Yugoslavia)
5. Mr. Luis A. Varela Quiros (Costa Rica)

At its third session the Group considered the information before it on enforced or involuntary disappearances, and reviewed the action taken between its second and third sessions in respect of urgent reports of enforced or involuntary disappearances.

The information on enforced or involuntary disappearances received by the Group from various parts of the world warrants the deepest concern both for the danger to the life, liberty and physical security of the disappeared persons and for the anguish and sorrow caused to their relatives

At its third session the Group adopted its report to the Commission on Human Rights at its thirty-seventh session.

ANNEX VIII

Letter dated 23 June 1980 addressed by the Chairman
of the Working Group to Governments concerning
the establishment of direct contacts

Sir,

I am writing to you at the request of the Working Group on Enforced or Involuntary Disappearances. As you know, the Commission on Human Rights at its thirty-sixth session adopted resolution 20 (XXXVI) by which it decided to establish for a period of one year a working group consisting of five of its members to examine questions relevant to enforced or involuntary disappearances of persons. The Commission requested the Group to submit a report to its next session together with the Group's conclusions and recommendations. The Economic and Social Council at its first regular session of 1980 approved the Commission's decision to establish the Group. A copy of Commission resolution 20 (XXXVI) is attached.

In accordance with the request made in paragraph 2 of resolution 20 (XXXVI), the Chairman of the Commission announced on 13 March 1980, his appointment to the Group of Mr. Luis A. Varela Quiros (Costa Rica); Mr. Kwadwo Faka Nyamekye (Ghana); Mr. Mohamed Al Jabiri (Iraq); Viscount Colville of Culross (UK); and Mr. Ivan Tosevski (Yugoslavia). These members have been appointed to serve as experts in their individual capacities.

The Working Group held its first session at the United Nations Office at Geneva from 9 to 13 June 1980. At that session it decided to approach its tasks in a humanitarian spirit and to seek the co-operation of all concerned. In accordance with the terms of Commission resolution 20 (XXXVI), the Group adopted methods of work designed to permit it to perform its functions in an effective and expeditious manner, and to respond effectively to information coming before it. Also, as requested by the Commission, the Group decided to use discretion in carrying out its activities.

During its first session the Group received expressions of concern relating to reported enforced or involuntary disappearances which appear to have occurred in your Excellency's country. The Group has at this time formed no opinion whatsoever on this subject but it considers that it might have to go into the matter in more detail at a future session.

The Working Group is of the opinion that one of the means through which it might best deal with allegations of enforced or involuntary disappearances and gain an understanding of the circumstances surrounding reports would be for it, through one or two of its members, to establish a direct

contact with those immediately concerned in such matters. In this regard the Group would wish to know if your Excellency's Government would in principle be favourably disposed towards issuing an invitation to the Group to establish such direct contacts through a visit to your Excellency's country should the information before the Group in the future make such direct contacts desirable.

(signed) Kwadwo Fake Nyamekye

Chairman
Working Group on Enforced or
Involuntary Disappearances

ANNEX IX

Extract from letter dated 8 December 1980 from the Permanent Representative Argentina to the United Nations Office at Geneva addressed to the Chairman of the Working Group a/

Sir,

1. I wish to refer to note E/SO 217/1 ARG CONF, dated 25 September 1980, addressed to me by the Director of the Division of Human Rights on behalf of the Working Group on Enforced or Involuntary Disappearances in connection with the procedures laid down under Economic and Social Council resolutions 728 F (XXVIII) and 1503 (XLVIII), with a view to confirming the Group's viewpoints on this matter.

The note states that various co-existing procedures have been established in the United Nations with regard to alleged violations of human rights, in order to deal with different problems or situations. In this regard, it starts from the premise that the procedures are all of equal weight and independent status. With reference to an earlier note from my Government, it states expressly "...To argue that one procedure should be governed by another would be to frustrate the intention of the General Assembly, the Economic and Social Council and the Commission on Human Rights in devising methods and approaches for dealing with specific problems or phenomena which the international community has regarded as questions of a special nature..."

2. In this respect, it should be emphasized that the Argentine Republic has never denied the existence and development of various United Nations procedures for considering violations of human rights. These procedures flow from the provisions of the Charter in accordance with which Member States have undertaken to ensure, in co-operation with the United Nations, universal and effective respect for fundamental human rights and freedoms. But where our view departs from that held by the Working Group is that the latter considers all these procedures to be on a footing of absolute equality. By contrast, our view, based on the resolutions of the relevant bodies in the United Nations, is that two major categories of systems or procedures have been evolved to ascertain compliance by States with the obligations laid down under the Charter, and the legal bases reflect the special nature of the subjects of law involved, namely:

I. Consideration of complaints submitted by one State against another;

II. Consideration of complaints submitted in communications from individuals.

The first category is concerned with international personality and with the fact that States, as members of the United Nations, have rights and obligations which derive from the Charter of the Organization. The second is

a/ The remainder of this letter is reproduced in paragraphs 74 and 76 of the report.

concerned with the right of petition, whereby the complaints of individuals and non-governmental organizations may present features which enable United Nations bodies to take appropriate decisions even if the complaints, taken individually, are not of such substance as to assert a right at the international level.

3. Recognition of the "right of petition" was slow to develop and, not being expressly recognized in the Charter of the Organization, did not figure in the Universal Declaration of Human Rights either. Its present significance stems from resolutions of the organization dating back to Economic and Social Council resolution 75 (V). On the basis of a very limited competence, whereby the Commission on Human Rights was not authorized to take any action, a refinement of procedures has been achieved and their basic features are set out in Economic and Social Council resolutions 728 F, 1235 and 1503. The procedure of confidential communications was introduced in the first of those resolutions; under the terms of the resolution, the procedure consisted solely in conferring a power to accept such complaints from physical and legal persons, without any possibility of adopting the slightest measure in that regard, and States did not incur liability as a result of a complaint from an individual.

With the adoption of Economic and Social Council resolution 1235, the Commission on Human Rights was entrusted with the task of examining information relevant to gross violations of human rights and was empowered to report on such situations to the Economic and Social Council. But Economic and Social Council resolution 1503 later extended the scope of the confidential procedure for considering complaints by individuals, which consists in verifying alleged violations of human rights and adopting decisions, to cases in which the requirements laid down by that resolution are deemed to have been met, which is not the case under the terms of Economic and Social Council resolution 728 F (XXVIII). It should be noted that, at the time, many delegations objected to the changes, pursuant to resolutions 1235 and 1503, in these procedures and deemed them unacceptable since they considered that they violated the Charter of the United Nations and, in particular, the provisions of Article 2, paragraph 7; the procedures contravened or placed an erroneous interpretation on the relevant resolutions and decisions of United Nations bodies and, in particular, on Economic and Social Council resolution 728 F (XXVIII). They disregarded the norms of international law, which do not recognize the international personality of individuals and protect States against procedures to which they have not given their consent under a treaty; they constituted an unauthorized and unlawful substitute for the procedure for reviewing complaints provided for in the Optional Protocol to the International Covenant on Civil and Political Rights; they tended to undermine the Commission's powers to deal with flagrant violations of human rights, except in the case of the Sub-Commission, under resolution 1235; and they exceeded the powers of both the Commission and the Sub-Commission which would be acting ultra vires by approving and implementing it.

4. Subsequently, despite the objections to these procedures, which start out by selecting communications which "appear to reveal a consistent pattern of gross and reliably attested violations", they have been implemented. This is due to the fact that their practical application has been governed by two concepts which the Argentine Republic regards as fundamental:

- (i) The principle of confidentiality, which is laid down in paragraph 8 of Economic and Social Council resolution 1503. In our view,

this principle is of basic importance if the rights of States are to be protected against attempts at politicization and abuse in matters of human rights.

The Argentine Republic has submitted the following comment on this principle:

"(1)...the Argentine Government considers it in no circumstances advisable that there should be a de facto parallelism of activities and/or superposition of powers in dealing with situations relating to violations of human rights. The object pursued in guaranteeing and rendering effective the single and indivisible application of the principle of confidentiality is not only to ensure an objective examination of the facts by the relevant United Nations bodies but also to afford protection to States during the procedure for verifying such facts. Experience has shown that such a procedure is the sole means of ensuring a free-flowing and constructive dialogue and at the same time it acts as a filter against machinations which might ultimately affect the United Nations as a whole by undermining its efforts to strengthen mutual understanding and ensure friendly relations among peoples". (See document E/CN.4/1273/Add,1).

(ii) The rules which lay down the procedure to be followed for the admissibility of communications. This procedure has been expressly regulated by resolution I (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and, on the basis of Economic and Social Council resolutions 728 F, 1235 and 1503, it stipulates the standards and criteria which communications must meet, from whom communications may originate, what their content must be, the features which may render them inadmissible and the time-limit for submitting them.

On the basis of the foregoing, the Argentine Government has repeatedly expressed the view that communications submitted by individuals, even in the case of disappeared persons, must comply with the requirements and respect the procedures laid down in Economic and Social Council resolution 1503 (XLVIII) and related resolutions, since this resolution incorporates the elements which afford Member States the guarantees that are indispensable for considering such communications, namely, confidentiality and admissibility. According to its interpretation of General Assembly resolution 33/173 and Economic and Social Council resolution 1979/38, in the note to which we are replying, the Working Group, however, considers that a specialized procedure has been established "for dealing with the problems of missing and disappeared persons which would be complementary to other existing procedures and which would not be subordinated to any pre-existing procedures" and, in accordance with paragraph 3 of resolution 20 (XXXVI) of the Commission on Human Rights, it maintains that the Group may receive and handle information relating to disappeared persons submitted by or concerning individuals.

5. The Argentine Republic takes a different view and, in the case of complaints by individuals, cannot agree to a procedure that differs from the one laid down under Economic and Social Council resolution 1503 and related resolutions. This has already been the subject of a number of formal reservations entered by Argentine delegations. In this connexion, when Economic and Social Council resolution 1979/38, relating to disappeared persons, was

adopted, paragraph 3 was included and it reads:

"Also requests the Sub-Commission. to consider communications on disappeared persons in accordance with the relevant resolutions".

When this resolution was adopted on 4 May 1979, the delegations of the United Kingdom (on behalf of the sponsors of the relevant draft resolution) and Argentina made the following statements:

United Kingdom:

"As I said this morning, it is my understanding that communications will automatically be considered under the confidential procedure laid down in (Economic and Social Council) resolution 1503. We have, however, heard the views expressed by the representative of Argentina this morning and, to take account of his opinion, we have therefore submitted this new wording which I trust will be generally acceptable...". b/

Argentina:

"I wanted to speak immediately after the distinguished representative of the United Kingdom, with whom we have worked very hard on this question. I would like to make it quite clear that I wish to see reflected in the summary record of this Committee of the Economic and Social Council a point which is of cardinal importance to us and will be the key to whether or not this consensus will actually materialize. The distinguished representative of the United Kingdom, speaking on behalf of the sponsors, has indicated that, as regards the special question which we are considering, resolution 1503 (XLVIII) applies to the case of disappeared persons and does not cover other special cases for which a different criterion could have been adopted. This must be made quite clear. If difficulties arise in future as a result of different interpretations, we would like it known that our consent is given on the basis that resolution 1503 (XLVIII) is the basis for this understanding".

Again when resolution 20 (XXXVI) was adopted by the Commission on Human Rights, the Argentine delegation made the following statement during the relevant part of its explanation of vote:

"...the method of work which the group adopts must not be superimposed on or affect the proper operation of the existing procedures for allegations by individuals, as laid down in (Economic and Social Council resolution 1503 and related resolutions), - it is in the same spirit that we interpret the notion of 'discretion' in the text that has been adopted, which we regard as a key element in the effective fulfilment of the Working Group's task my delegation also understands that the information submitted to the Working Group is governed by the same rules of admissibility as have been especially evolved, inter alia, by resolution 1 (XXIV) of the Sub-Commission on Prevention of

b/ Translation from Spanish by the United Nations Secretariat.

Discriminations and Protection of Minorities".

These views were repeated before the Working Group by the undersigned at the meeting which we held on 18 September 1980, when the view was expressed that the Group should abide by existing procedures and should not create an ad hoc procedure which could only take effect upon the adoption of an express decision by the Commission on Human Rights, confirmed by the highest organs of the Organization, that is, the Economic and Social Council and the General Assembly.

6. It should be borne in mind that Commission on Human Rights resolution 20 (XXXVI), concerning the question of missing and disappeared persons, invites the Group, in operative paragraph 6, "... in establishing its working methods, to bear in mind the need to be able to respond effectively to information that comes before it...". Our interpretation of the usual meaning to be attributed to these words is that the Working Group has only been empowered to agree on its own internal arrangements, that is, to decide among its members on the way in which it is going to work. Hence the Group will be able to deal with the information which is voluntarily submitted to it in accordance with operative paragraphs 3 and 4 of the same resolution, but it does not imply - nor does the text so state - that such a power is tantamount to authorization to establish a new procedure for considering communications submitted by individuals - a power which, moreover, the Commission on Human Rights does not have. So it would be rash to assert, as does the note to which we are replying, that "... there is nothing in resolutions 728 F and 1503 to the effect that the procedures adopted subsequently should be governed by their provisions ..." simply because no procedure was adopted under resolution 20 (XXXVI). If the intention had been to adopt a new procedure, rules of a kind similar to those laid down in the resolutions invoked by the Argentine Republic should have been expressly specified, particularly in the case of those relating to the "admissibility" of communications. Otherwise, if the Working Group's interpretation were followed solely because information was submitted, admissibility would be automatic even when, for example, it was politically motivated.

On the other hand, the fact that communications from individuals are dealt with in the context of Economic and Social Council resolution 1503 and related resolutions certainly does not mean that this affects the Working Group's competence to receive information from Governments, either through other information available to the bodies referred to in that resolution or in the course of the direct contacts with the Group which we hope to have in the near future.

7. The insistence on the need for a special procedure in regard to admissibility is especially relevant in the case of "alleged disappearances", more particularly because of the objectives and motivations of many of the communications in question, and it cannot be regarded as a matter of legal niceties. Argentina's experience in this respect points to the existence of well-defined political interests hiding behind what is seemingly a concern to search for disappeared persons.

ANNEX X

Letter dated 25 September 1980 from the Director of the Division of
Human Rights to the Permanent Representative of Argentina to the
United Nations Office at Geneva

Sir,

I am referring to your letter no. 218/80, dated 10 September 1980, addressed to me in connexion with the mandate and activities of the Working Group on Enforced or Involuntary Disappearances, established under resolution 20 (XXXVI) of the Commission on Human Rights. The Working Group had already the opportunity to discuss with you the various aspects raised in your letter during the meeting on 18 September.

Since the second part of your letter touches upon issued of principles concerning the Group's methods of work and the role of the Secretariat in this regard, and more in particular the relationship between the Group's procedures and the procedures established in Economic and Social Council resolutions 728 F (XXVIII) and 1503 (XLVIII), the Group has authorized me to confirm in writing the following considerations and views which reflect the position of the Group.

In considering the relationship between different United Nations procedures for dealing with human rights problems or with allegations of violations of human rights, it is necessary to bear in mind the original motives of the General Assembly and the Economic and Social Council in developing such procedures. On 5 August 1966, the Economic and Social Council welcomed the Commission on Human Rights' decision to consider its tasks and functions and its role in relation to violations of human rights and concurred in the Commission's view that it would be necessary for the Commission to consider the means by which it might be kept fully informed of violations of human rights, with a view to devising recommendations for measures to put a stop to these violations. On the recommendation of the Council, the General Assembly, on 26 October 1966, adopted resolution 2144 (XXI) in which, inter alia, it invited the Economic and Social Council and the Commission on Human Rights to give urgent consideration to ways and means of improving the capacity of the United Nations to put a stop to violations of human rights wherever they may occur.

In pursuit of the goal of improving the capacity of the United Nations to put a stop to violations of human rights wherever they may occur, various co-existing procedures have been established in order to deal with different problems or situations. Examples of these are: regular consideration by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities of allegations of violations of human rights; the procedure for undertaking thorough studies under resolution 1235 of the Council; the procedure for handling communications under resolutions 728 F (XXVIII) and 1503 (XLVIII) of the Council; the appointment of ad hoc working groups or special rapporteurs (regarding such human rights situations as in Chile, Equatorial Guinea, Kampuchea); the procedure concerning infringements of trade union rights; the carrying out of direct contacts; the annual reviews on the rights of persons detained or imprisoned; the question of slavery and the slave trade in all their practices and manifestations. (On a wider scope, reference may also be made to procedures estab-

lished to deal with decolonization, apartheid, Namibia and Palestinian rights).

Since the various procedures within the human rights programme have been established by, upon the request of, or with the consent or approval of, superior organs such as the General Assembly and the Economic and Social Council, they are all of equal weight and independent status. To argue that one procedure should be governed by another would be to frustrate the intention of the General Assembly and the Economic and Social Council and the Commission on Human Rights in devising methods and approaches for dealing with problems or phenomena which are being considered by the international community as matters of special concern and requiring special treatment. There is nothing in resolutions 728 F or 1503 to the effect that procedures adopted subsequently should be governed by their provisions. It is a general principle of interpretation that if the same organ adopts two or more decisions pertaining to the same or related subject matters, the latest decision should be accorded precedence unless the contrary is expressly provided for. (See in this connexion the principles stated in article 30 of the Vienna Convention on the Law of Treaties, particularly paragraph 3).

In the case of the Working Group on Enforced or Involuntary Disappearances, the General Assembly, in requesting the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations, was particularly concerned "at reports of difficulties in obtaining reliable information from competent authorities as to the circumstances of" missing and disappeared persons. At its thirty-sixth session in 1980, the Commission on Human Rights, bearing in mind General Assembly resolution 33/173 and taking into account ECOSOC resolution 1979/38, decided to establish the Working Group on Enforced or Involuntary Disappearances, being "convinced of the need to take appropriate action in consultation with governments concerned to promote the implementation of the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing and disappeared persons".

From the above-mentioned provisions it is clear that the General Assembly, the Economic and Social Council and the Commission on Human Rights intended to establish a specialized procedure for dealing with the problems of missing and disappeared persons, which would be complementary to other existing procedures and which would not be subordinated to any pre-existing procedure. Therefore, the contention that the Working Group on Enforced or Involuntary Disappearances should be subordinated to the procedure laid down by Council resolutions 728 F and 1503 cannot be sustained.

In paragraph 3 of its resolution 20 (XXXVI) establishing the Working Group, the Commission on Human Rights decided "that the Working Group, in carrying out its mandate, shall seek and receive information from governments, intergovernmental organizations, humanitarian organizations and other reliable sources". On the basis of this provision it is quite proper for the Working Group to receive and handle in accordance with resolution 20 (XXXVI) of the Commission and decision 1980/128 of the Council information concerning disappearances submitted by or concerning individuals. It should, moreover, be pointed out that the information which is being handled by the

Group was particularly addressed to the Group in the light of its terms of reference and that it is up to the Group to decide on its methods of work in accordance with Commission resolution 20 (XXXVI) as approved by decision 1980/128 of the Economic and Social Council.

Accept, Sir, the assurances of my highest consideration.

ANNEX XI

Note dated 7 March 1980 from the Argentine State Attorney-General
to Officials of the Public Prosecutor's Department concerning
Act No. 22,068 on presumption of death

(Transmitted by a letter dated 19 September 1980 from the Permanent Representative of Argentina to the United Nations Office at Geneva).

I have the honour to refer to article 2 of Act No. 22,068, which states that the action provided for in article 1 of that Act "may be taken by the spouse, by any persons related by blood or marriage within the fourth degree or by the State through the Public Prosecutor's Department in the jurisdiction concerned".

As is well known, the institution, which was originally established in articles 110 et seq. of the Civil Code and, subsequently, in articles 15 et seq. of Act No. 14,394, is designed to prevent uncertainty about a person's existence from infringing legal interests which arise in relation to that person and which are either of a hereditary nature (see Statement of reasons for Act No. 14,394, National Senate Chamber, 1954, 2, p. 1131, paragraph 6) or of an extra-hereditary nature (relating, in particular, to family rights).

In this connexion, article 113 of the Civil Code and article 17 of Act No. 14,394 relating to mere absence authorize the request to be made by the Public Prosecutor's Department, except that article 24 of that Act restricts entitlement to request the declaration of presumed death to "those who might have some right arising out of the death of the person concerned".

Article 2 of Act No. 22,068 contains a provision which is similar to that of the original text of article 113 of the Civil Code, but it should be pointed out that the note in which the Ministers of Justice and the Interior submit draft Act No. 22,068 to the Executive Power for consideration states that fundamental reasons of order are the specific cause of the situations in which a number of Argentine families find themselves as a result of the prolonged absence and fate of some of their relatives and of the family problems to which they give rise.

For all these reasons and without prejudice to the action which must be taken by the Public Prosecutor's Department in possible proceedings to be instituted because legal interests related to the status of individuals are at stake, I consider that action relating to the presumed death of anyone in the situation covered by Act No. 22,068 should only be requested by the Public Prosecutor's Department when the State "may have some right arising out of the death of the person concerned", i.e. when articles 3,588 and 3,589 of the Civil Code apply or in the absence of a spouse or relatives in line for inheritance.

an unequivocal commitment to humanitarian solidarity.

But there are the others, the weak, the defenceless, the intimidated, who, in spite of our exhausting efforts and labour, have not managed to find a place on our list of complaints. We are quite certain that there are many mothers and relatives who suffer the same grief as ourselves as a result of the imprisonment and harassment to which their children and relatives have been, and continue to be, subjected. On behalf of this unknown host of missing persons who are not included in the collective complaints we also petition. May our voice also speak for those who cannot and could not overcome the threats of the machinery of repression and who, against their will and desire, are prevented from using their own voice in order to make themselves known to us and to humanitarian movements in Argentina, and to ensure that the names of their humble children and relatives, caught up in the Government's indiscriminate man-hunt, are included in the complaints submitted to the international forums.

Consequently, we believe as a rough estimate that the missing detainees in our country number between 25,000 and 30,000. On behalf of them all we ask: How many lives have been saved? In how many cases has justice been done? Where do we go from here?

The Government has organized an efficient and bloodthirsty system of repression. It is often said that disappearances are on the decrease; what is not said is that they could hardly continue in the frightening numbers which were reached in the years 1976, 1977 and 1978. They ran out of human beings to kidnap, but the machinery exists and operates as required. The disappearances continued in 1979 and are continuing in 1980. The documentation is attached. Gentlemen of the Working Group, what is to be done?

We have used all the procedures available in Argentina. When all the possible means in our country had been exhausted, we appealed to international organizations such as the Organization of American States, the United Nations, UNESCO and Amnesty International. In all international organizations the complaints are handled in virtually the same way: when the evidence arrives, the organization transmits it to the Ministry of the Interior of the country concerned. The answer, like the answer to our habeas corpus applications, is always the same: "Case No. X - the Government has found no trace of a warrant of arrest but it will continue investigations." When this routine procedure has been complied with, the case of the missing persons is kept open in the local organizations. So we, as mothers, respectfully ask a simple but heartrending question: What further inquiries can be made? Will justice be done to our missing ones?... ..

The Working Group is in possession of testimonies and complaints, and the report of the Inter-American Commission on Human Rights, produced in Argentina, confirms what we maintain. The Government alone is responsible for the violations. We say this, basing ourselves on statements made by the high command of the armed forces. The statements of General Sociain, the speech which General Riveros made in Panama on taking leave of the Inter-American Military Board and the speech by General Bustamante in Santa Fe, Argentina, leave no room for doubt and we have annexed them to our submission. We ask your Working Group to take all the necessary steps to ensure that the Argentine Government solves the problem of the missing persons by giving a reply about the situation of each one of them. In order to achieve this objective, we have decided, in spite of the fact that the

Argentine Government has stated that it will never again allow itself to be investigated, to ask you to request permission to visit our country, with full rights to carry out such inquiries as you deem appropriate, with the object of finding a final solution to this terrifying problem. On behalf of all missing detainees, the mothers of Plaza de Mayo affirm before you the truth of what has been stated and request that, as an act of human solidarity, ethics and justice, this matter should be fully clarified... ..

Many children have been victims of the repression in Argentina and I shall refer to the direct victims rather than to the many indirect ones who have witnessed the abduction, torture and even killing of their parents as a result of the brutality with which the soldiers have acted. Children have been abducted in Argentina either on their own or with their parents. The children's ages vary. Babies of a few months up to adolescents have been abducted. Some babies have been born while their mothers, who had been taken away when they were pregnant, at various stages of pregnancy, were in prison, and we have conclusive proof, from the evidence of persons who were present but were later released, that these infants were born and were given away or sold. The matter is so serious that urgent measures are called for before irreparable harm is done to these infants and the problem can no longer be solved. Specifically we are asking that the fate of the children who have disappeared in our country during the past four years be cleared up; that a thorough investigation be held concerning the persons responsible for their disappearance; that inquiries be made into the true origins of the children adopted during this period; and that inquiries be made into the origins of children registered outside the legal period or in connection with affiliation proceedings. As the children cannot be accused of anything, we are of course asking that they be returned to us and that they rejoin their relatives in keeping with their rights to life, to maintain their identity and to live with their family.

(b) Excerpts from statements made by representatives of the
"Familiares de Desaparecidos y Detenidos por Razones Politicas"
(Relatives of Persons Missing and Detained for Political Reasons)

I belong to the Group called "Relatives of Persons Missing and Detained for Political Reasons", representing a committee of 14 who, in some way, represent thousands of people who come to us in search of a solution for the very serious problem common to us all.

I shall refer constantly to the perpetrators of the disappearances, the Argentine Government. The Government talks about a dirty war, a war against subversion, in which they have had to take up arms to defend the country in a war, in a struggle against subversion. We have made a series of charts based on a thousand individual testimonies in our possession, signed by relatives of missing persons. We think that, in showing how and where these 1,000 people were abducted, we are giving a sample which, like all statistics, reflects reality. We have found that 58% of the abductions took place in homes: people were snatched from their homes, almost always at night, by heavily armed members of the security forces who gave no kind of explanation, who made searches without any document authorizing them to do so, and who took away the missing persons, and sometimes as many as five people from the same household, without any form of explanation. Almost 10% of the abductions occurred at places of work, in the presence of workmates, employers or the owners of the places where they were seized, and almost

always credentials were submitted to enter the factory or work places showing that the persons concerned belonged to the State security forces.

Almost 15% occurred on the street in the presence of witnesses. People have testified that such persons were snatched from cafes, from bus queues or from their cars, but in every case there were witnesses of the fact that they were always taken away by heavily armed personnel, in some cases in uniform, in other cases in plain clothes.

Lastly, 2.2% were abducted on the premises of the security services. Some were doing their military service: they had been called up and disappeared from the very regiment in which they were performing their duties. Others were abducted from stations, and yet others were allegedly released from prisons where they had been serving sentences but never turned up again anywhere. This accounts for about 84.3% of the disappearances. This means that only about 15% of the complaints we have analysed relate to cases in which there were no witnesses as to how or by whom the victims were abducted. So we ask, if 85% of the abductions occurred in the conditions I have described, where is the war that the Government talks about? It is a war that we did not see. The Argentine people did not live through a war. The Argentine people lived through a series of acts of violence which, moreover, did not take place during the period when abductions were daily occurrences. At that time, there was no war, if, indeed, there ever was one. We annex to this document some cases which are typical of the manner of all the cases: we have selected 18 cases which we consider particularly conclusive and which we leave for your consideration... For your better information, we would like to request the Working Group to come to our country.

We wish to say that on various occasions and in various documents, we relatives of missing persons and political detainees have noted public acknowledgement by the military authorities of facts which confirm the existence of missing persons and the authorities' participation in, and responsibility for, those facts, although efforts are being made through expressions such as dirty war, drawing a veil, shroud of silence, assent of the Argentine people, etc. to present anything concerning the missing people, where they are and why, as a matter which can be neither approached nor tackled.

We annex transcriptions of paragraphs and documents relating to these acknowledgements. Furthermore, thousands of our people, who run very grave risks in speaking their minds, have signed a petition, the text of which we submit herewith, asking the Government to publish a list of missing persons stating their whereabouts and the reasons for their disappearance. In addition, well-known Argentine personalities, in a communication published on 12 August 1980 by the newspaper Clarin, make the same request and throughout the world this petition has been reproduced, signed by eminent people and handed in to the Argentine embassies of every country.

In view of the powers of decision of this Working Group, which, in submitting its conclusions to the United Nations at the next General Assembly, must assume responsibility for making a proposal, our movement ventures to ask you to endorse the call to the Argentine Government to publish lists of missing persons stating where and why they are being detained. We base this request on the official acknowledgement of participation in the disappearances, on the conclusions reached by the Inter-American Commission

on Human Rights, on the voluminous documentation which is undoubtedly in the possession of the Working Group, on the national and world-wide petition to this effect, and on the need to provide a legitimate answer to the claims of the relatives of the missing persons.

(c) Excerpts from statement made by the representative of the "Centro de Estudios legales y Sociales" (Centre for Legal and Social Studies)

The Centre for Legal and Social Studies is an institution which has been set up to supplement the work done by the Assembly (Permanent Assembly for Human Rights) and to provide support for the groups of relatives represented here, namely, the Plaza de Mayo Mothers and the Relatives of Persons Missing and Detained for Political Reasons. It is an essentially professional body whose role is to institute judicial proceedings and thus to campaign mainly in the legal sector. At the moment, our primary concern, or our basic programme, is to bring before the courts cases of arrests and disappearances where there is convincing evidence that the arrest was carried out by the military or security forces.

Among the documents which I have brought with me is the judicial file of a case which has already received publicity in my country. It concerns a group of 15 persons led by Beatriz Perozio, the chairman of the Association of Psychologists of Argentina, who were arrested in October 1978. Eight other persons were arrested at the same time but have been granted release in various forms and are now out of the country. One of them, Estrella Iglesias, was released as a result of the personal intercession of the King of Spain, Juan Carlos I, on the occasion of his visit to Argentina. The statements of those released show that they were held at a military unit, together with the 15 other persons who had disappeared during that period of 1978. Eight were released; it is not known what became of the 15 others. But there is no question, and, I repeat, convincing evidence exists, that they were all together at the same military unit.

We are under no illusions as to the capacity of the Argentine judiciary to investigate these cases. Up to the present, despite the theoretical rulings of the Supreme Court of Justice ... the Argentine judiciary has been an accessory to this situation and has accepted the truth of the Government's assertions automatically and as a matter of course. I shall confine myself to raising three or four points which I consider important and fundamental as a background for the work of this Group.

Firstly, the period during which the detentions and subsequent disappearances took place. We are not dealing here with a chaotic situation, a period of confusion, civil war or lack of authority. I shall not attempt to make a value judgement concerning the situation in Argentina at the time of the military coup of 24 March 1976. From a personal point of view, and this is of course a personal opinion, I believe that the military coup was unjustified and that the circumstances existing at that time have been exaggerated after the event. As has already been said at this meeting, there was no civil war, and both the military and security forces were dealing effectively with the outbreaks of violence. So much so that, on the admission of the chiefs of the armed forces themselves, by December 1975 the operational capacity of the so-called subversive groups had been terminated. The operations centre of the province of Tucuman had ceased its activities by October 1975, and the last significant attempt at guerilla

activity took place at the Monte Chingolo barracks on 22 or 23 December 1975. From then on, there was no further subversive activity of any significance in Argentina. There were a few isolated acts, such as the placing of bombs, and individual murders just like those which, unfortunately, occur in many countries, but quite clearly the operational capacity of the so-called subversive groups had been destroyed. Nevertheless, from 24 March 1976 onwards, when the armed forces assumed power, the so-called disappearances began to occur on a massive scale, as the figures given to you demonstrate. Argentine citizens, young people, children, adolescents, old people, but particularly, of course, young people - more than 80% of the missing persons are between the ages of 18 and 30. However, the detainees include persons 80, 75 and 72 years of age, children, more than 300 adolescents aged 16 or 17, children aged 2 years, 1 year, and even a few months who have never been seen since, who cannot be considered subversives and who were abducted by the military or security forces.

This process has been going on for the past four and a half years and is still going on. In other words, it is demonstrably a premeditated course of action, systematically carried out and unnecessary from the military standpoint or from the standpoint of law and order. If these individuals were suspected of subversive activities, the State, which has full powers - for in Argentina, as the military authorities say, there is order and there is security, except in dealings with the security forces, but there is security - was in a position, as were the armed forces, to arrest each one of them and bring them before the civil or military courts, since there is adequate legislation for this. The Argentine Penal Code provided for the death penalty before the military coup. It has never been imposed; the military Government has never signed a death sentence; no civil judge or military court in Argentina has passed a death sentence. And every Argentine knows that death sentences have been carried out secretly in thousands of cases throughout the country. I should therefore like to impress upon the Working Group the length of time over which this has taken place. Naturally, the number of disappearances in 1976 and 1977 amounted to many hundreds each month. The number declined slightly in 1978, and still further in 1979. However, the method continues to be used, and this is of the utmost importance, Mr. Chairman, because it demonstrates clearly that the so-called war policy carried out by the Argentine armed forces - which it would be more accurate to describe as the totalitarian ideology of collective security as the overriding value in a society - is still being pursued. A political and strategic decision was taken by the Commanders-in-Chief of the armed forces in mid-1975, firstly, to seize political power and, secondly, to take clandestine action against any dissidents... ..

This year we have 24 documented disappearances, the latest to have occurred, on 26 August of this year, being that of Mr. Guadix, whose family has contacted the Working Group. Mrs. Guadix is under arrest and is being brought to trial; she was arrested at the same time as her husband. We are pleased because it is significant that Mrs. Guadix is being brought to trial and is being tried by a federal judge for her alleged subversive activities. That should be the standard procedure. However, of her husband, who was arrested on the same day, the authorities assert that they know nothing; in other words, he has disappeared. Mrs. Guadix has told her family, who have had the opportunity to visit her in prison, that her husband had been with her at Campo de Mayo, where she had been for three days while missing. This in a constitutional State would be inconceivable, but in

Argentina it actually represents progress, a step forward. At Campo de Mayo they were, of course, brutally tortured. She was told that her husband was alive and, like herself, would be brought to trial. Nevertheless, his detention is denied. We have 23 other cases this year, some of them very blatant... ..

This is why the case of Argentina differs from many others. It is not a situation of chaos, or violence in the streets, or lack of authority resulting from the failure of the State to control its own officials. It is not a situation of individuals going missing on the battlefield or as a result of excesses on the part of members of the military or security forces. It is a political decision on the basis of which orders have been issued for the arrest of suspected persons or dissidents by the military or security forces, after the police have been previously instructed to stay away from the area, and a request for a so-called clear zone has been made, as in the case of my daughter, who was arrested at my home at 5 a.m. in front of me, my wife and her brothers, by naval personnel, and who has not been heard of since, even though everyone knows that she was tortured and held in the Naval School of Mechanics. I have also found out, from a confidential source, that the local police station had been requested to keep the area clear so that the forces involved in the operation - 15 men to take away one girl, who had never held a weapon in her life and who lived with her parents - could act without risking an encounter with the police... ..

I referred earlier to the role of the judiciary. According to the recipe for Argentina referred to by Brigadier Grafina, the judiciary is simply left aside. When an individual is believed to have disappeared, the relatives submit an application for habeas corpus. In Argentina, more than 100,000 applications for habeas corpus have been submitted, many of them being repetitions. They represent so many tons of unnecessary documents piling up in the courts. The judges request reports from the executive, from the commanders of the armed forces and from the federal police. The commanders, the police and the Ministry of the Interior reply with formal notes, signed and bearing numerous seals, stating that the person in question has not been arrested. The judges then place the case on file since, as we all know, an application for habeas corpus is a judicial act intended to ascertain whether a person is being held legally or not. Since, according to the reply, the person in question is not being held, the judge places it on file, even though he knows that the reply is mendacious or untrue, and that the person in question is being detained, but he abides by the official truth. Consequently, in the OAS Commission's report examining the attitude of the Argentine judicial authorities, it is stated that judges have never visited any of the places where they have been told that persons have been held secretly in order to investigate the matter personally, but have simply accepted the official reply as correct. Admittedly, the Supreme Court of Justice has stated, in a number of recent rulings, that judges must investigate applications for habeas corpus; but it is late, as a number of organs of the press have pointed out. It is also ineffectual, since the Court itself stated in a ruling concerning the Perez Smith case, of which I have brought a copy as the Division requested, that the executive does not provide the judiciary with the means to conduct investigations... ..

There is one final point which I shall not deal with myself, but which I shall ask the lady on the end to explain briefly, and that is the

done everything we can. There are people who for four years, for five years, have been looking, looking, looking, travelling all over the world searching for help to get their relatives back or to have some news of what has happened to a member of their family; that is why we have come here to ask you what the Commission is doing and what the Commission intends to do. You have sufficient information, including the speeches that the members of the Argentine Government itself have made and are making, very proud of what they are doing in what they call a war and what we call simply repression and murder. What steps are you taking to ensure that it is required of the Argentine Government, at some time or another and in some way or another, to explain everything that has happened, why it has happened and where these people are? Why they have been taken away? ... So what we really want to know is what is going on here; we have been coming before this Commission for four years, appearing twice a year, and we have never had a satisfactory answer, so we want to know what is going to happen. Now that a working group has been set up especially to deal with the problem of missing persons it is high time that something should really start to be done. I have raised a few questions and would like to know what you think about what I have said.

(f) Excerpts from statements made by representatives of the "Groupe d'avocats argentins exiles en France" (Group of Argentine Lawyers exiled in France)

In my country I have defended political and trade union prisoners. I am now an exile in France, where I belong to the Group of Argentine Lawyers Exiled in France, known as GAEF.

My aim is perhaps somewhat bold, since it is to seek support for some suggestions we have worked out for possible courses of action by international organizations to cope with the serious problem of the enforced or involuntary disappearance of persons in countries where this has become a consistent and widespread practice.

We have proceeded from the assumption, one which I believe has become clear, that a person who has disappeared is someone whose detention is not officially recognized; as the Organization of American States says in the report of its Inter-American Commission on Human Rights, such a person is a missing detainee. In view of the widespread practice of unrecognized detentions, it seems to us important that, from the standpoint of international law, a Government that acts in this way incurs responsibility under international law.

We might go so far as to say that the most advanced international legal thinking now qualifies such practices as crimes against mankind. It seems to us that the most useful thing we can do today is to try to work out some suggestions which are primarily practical in nature.

We have prepared six types of suggestions which, with the permission of the Chairman, I shall read out. The first, which I understand has already been recommended by the recent resolution of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, is for the establishment of a permanent working group on enforced or involuntary disappearances. We believe that this is necessary because this practice, especially in Argentina, far from belonging to the past, is all too regrettably

very common even now.

With regard to our second suggestion, we consider it necessary to arrive at the adoption of an international convention aimed at preventing and condemning enforced or involuntary disappearances caused by State authorities.

Thirdly, in our opinion it should be possible to establish a standing procedure whereby requests for reports are made to Governments when such practices occur, in the way followed by the International Labour Organisation, which has set up a procedure for requesting reports from Governments in cases of alleged breaches of trade union conventions ratified by a member State. In this instance, it would be a matter of establishing a standing procedure for requesting reports from Governments on cases of disappearances, so as to obtain reliable information on the status of the investigation that has to be made by the judiciary.

Fourthly, it should be possible to have a working group on disappeared persons in a country where such disappearances have occurred, the aim being to make the public aware that a competent international body exists to investigate this serious problem and, at the same time, to request the people of the country to submit any information to the Working Group on the persons included in the lists.

Fifthly, in our opinion it should be possible to dispatch missions to countries where these practices occur - missions composed of experts from international bodies and from those with vast experience in the matter. These missions would perform on-the-spot observation and fact-finding functions such as those carried out by human rights working groups from the United Nations and from the regional organization - the Organization of American States. We are convinced of the usefulness of missions of this type and we believe that adequate experience has already been gained in this regard.

The last point concerns some recommendations we feel the Working Group could make to Governments.

The first recommendation is to publish comprehensive lists of disappeared persons, with information on their whereabouts and the cause and place of their detention. In our opinion, it would respond to the outcry in Argentina, where, as the Working Group knows, the public have frequently asked the Argentine military regime to do this.

Secondly, it would be possible to propose the creation of a register of enforced or involuntary disappearances. We are aware that the Council of Ministers of the European Economic Community made a somewhat similar proposal in July 1979 within the framework of the Community. If our interpretation of the document is correct, the idea of the Council of Ministers is basically to create a register of an administrative nature. The characteristics of the military regimes under which disappearances have become widespread lead us to believe that a register would only be of any value if it was organized on a judicial framework basis, in other words, if it was maintained by the judiciary. A register of this kind would have to establish lists for transmittal to international and regional bodies concerned with the protection of human rights.

I now turn to other suggestions in this respect. We believe that the United Nations, through the Commission on Human Rights, should be able to make recommendations to Governments. In our opinion, it is important to make a recommendation on habeas corpus so as to enhance the value of this remedy. In Argentina the remedy of habeas corpus is implicitly guaranteed in the national Constitution. Yet what has happened is that the remedy of habeas corpus has been stripped of its value in practice, for it is clear from the decisions of the Supreme Court that the judiciary has not met with sufficient co-operation from the executive in making this remedy effective.

There are three further suggestions with which I shall conclude my statement and I shall describe them briefly. One is that the Commission should make a recommendation aimed at providing the judiciary with the necessary means to investigate and severely punish any unlawful deprivation of liberty, because under Argentine criminal law and Latin American criminal law in general, a missing detainee is the victim of a crime which is punishable under criminal law and classified as "unlawful deprivation of liberty" and, in our opinion, the responsibility for this lies with the authorities of the State, the armed forces and the security forces, as is clearly demonstrated by the numerous reports before this Working Group.

However, the judiciary has been unable to investigate these unlawful deprivations of liberty. No punishment has been imposed on the ones responsible for these thousands and thousands of offences. Hence, the need to provide the judiciary with the requisite means to conduct investigations.

Lastly, we believe that priority attention should be given to the case of women and children when they are affected by these large-scale disappearances. We realize that this raises a specific problem for the international community and that it will be necessary to find specific solutions in the case of women and children.

ANNEX XIII

Excerpts from the statement made to the Working Group by the
representative of the "Comision de Derechos Humanos de
El Salvador" (El Salvador Human Rights Commission)

We have lists of persons missing since 1978, but we are particularly interested in reporting on those who were arrested, and have subsequently been missing, since 15 October last year, when the coup d'etat took place. I shall leave you a small file on some of the cases, because it was not possible to present all the cases reported to the Commission together with the relevant evidence, owing to an incident which took place on the 5th this month when a terrorist bomb exploded in our offices and destroyed a large part of our archives and much equipment. As a result of this, we do not have all the documentary evidence which was in our possession earlier, but we are in the process of reconstructing it because we did keep some papers elsewhere and we are restructuring our office again and we shall send you the complete documentary evidence at a later stage. The cases we are presenting are those which, fortunately, we did not keep in the Commission, namely, lists of persons we were preparing for submission, and I shall hand those over to you.

Regarding the national situation, I believe you all have some idea of the situation in El Salvador and I do not think it is really the purpose of this meeting to explain it to you, but I should like to give a brief summary of the position, particularly since the murder of Archbishop Romero, which occurred on 24 March this year. We emphasize this date because it has very special significance for us, in as much as it marks a new phase for us and one characterized by a much greater upsurge of repression. This upswing has been reflected not only in an increase in the number of murders but also in the number of persons abducted for political reasons, because they belonged to or were suspected of belonging to a popular mass organization or because they were thought to "look like subversives"; this expression has often been used by the security forces and the army of late to justify the arrest of various individuals in the street or at home. When they arrest someone they simply say that he "looks like a subversive" and arrest him, without any evidence. Later, in some cases, the corpse is recovered after torture and amputation, nearly always with the tongue cut out, the genital organs amputated and the entire body flayed. In other instances, the individuals appear before some court, but this is most unusual; for every 100 missing persons, only one or two at most are referred to the courts and brought before a military judge; they say there will be a military trial, but so far not one detainee has been given this kind of trial. They are simply under accusation and the statement of the Junta that they will be committed for this kind of trial, but in practice they are not tried and also their defence, the exercise of their defence is prevented.

As for the persons on the list I shall leave with you, we wish to draw attention to a number of cases of minors; we are particularly anxious to see what kind of action might be taken on their behalf. There is a girl of 14; there is a minor of 11 another of 15. There is also an eight-months-old baby arrested with its mother. These cases are really tragic because two of the minors are girls, one aged 11 and one aged 14. I only have two

copies but I could give you one of each at the end of the meeting... ..

"Speaking generally, we should like to raise with you the possibility of a delegation visiting El Salvador to look into this situation at first hand. In as much as we can keep complete files with the juridical assistance of the Archbishopric, we could submit direct testimony to a group which came to El Salvador and looked directly into the situation. It is extremely difficult for us to bring witnesses here so that they can appear before you and talk about the situation. But we can bring various persons together in El Salvador, including those who escape and take refuge in Costa Rica or Mexico, or neighbouring countries, as well as in Honduras. We could form a group of these people and they could be interviewed.

"We should like your reaction to this and, depending on whether or not it is possible, we should make a formal request if this were possible. We are also concerned about whether it is possible to take some kind of urgent action, as I said at the beginning, above all on behalf of the minors and the people who have been arrested in the present month, because we believe that these people may still be alive and if we could take some urgent action, we should be able to save most or some of them. We have seen this happen as a result of the pressure which we have exerted at the international level on behalf of people who have been arrested, particularly the electricity workers who were arrested, almost all the leaders, in the middle of August. There was also the clinic where the doctors, nurses and patients were arrested. We took action at the international level to exert pressure for the release of these people and we were at least able to secure the release of two doctors and two nurses and to ensure the detained leaders of the electricity industry workers being brought before military tribunals; the patients who were also arrested are still detained, but without trial. At least they reappeared and were located, and we know that when there is an immediate and urgent reaction from abroad it is often possible to save some if not all of these lives. For us they are not just numbers. We can talk in thousands, of more than 1,000 missing persons who have been reported to the Commission this year, but each of them is tremendously important for us and we do not see him as just another number, as another case of what happens in this world, but as a very special case, inasmuch as each of these persons has probably given his life and his freedom for a legitimate cause such as the defence of the most elementary rights... ..

"With regard to whether all the arrests were the outcome of activities by the official military or paramilitary forces or not, our basis is the testimony received directly from relatives of missing persons and from witnesses of arrests. The cases we have presented as special cases are those which are the best documented, that is to say, in addition to the relative's statement a statement has also been obtained from a witness to the arrest; and in 90% of the cases, this documentary evidence indicates members of the security forces or the army, who frequently carry out these actions wearing army uniform or the uniform of the security forces. One of the first things we do on receiving a report of an arrest or disappearance is to talk directly to the Junta and to the directors of the security forces. Frequently, in the barracks and in the security forces, we have been told that the person was indeed arrested, but he reappears in the hands of the security forces, so that he can not be seen by his family, nor is he handed over to the courts. He simply disappears when he gets into the hands of any security force ... / ...

ANNEX XIV

Excerpts from the statement made to the Group by a representative
of the "Frente Democrático contra la Represión (Guatemala)"
(Democratic Anti-Repression Front) (Guatemala)"

We have come on behalf of the Democratic Anti-Repression Front, which comprises some 150 popular, democratic and Christian organizations, and we are here to give some information that your Commission could work on in order to curb, even to the tiniest extent, the massacre that the Guatemalan people are suffering. With regard to this year, 1980, from January to August there have been more than 300 cases of disappearance in our country. I should also like to point out that Guatemala has no political prisoners, only dead people, and that abduction is the method used in this stage of generalized repression among democratic and popular elements as a weapon of terror to intimidate a people which is fighting in the courts and in other ways to defend its right to life, work, hearing by the courts and other basic human rights. In Guatemala, generally speaking, a person abducted by the police does not come back alive; only rare occasions.

A common place method of permanent disappearance has been developed for persons who are a nuisance. For example, union leaders, students who belong to some student organization, university teachers, labour lawyers and representatives of democratic forces. Of the disappearances on the list, which we shall submit as soon as possible, 99% are of poor people - peasants, workers, students, lawyers - who defend the rights of poor people, or persons who have shown some form of discontent with the current political, economic and social situation. The growing number of disappearances in recent months has been matched by the number of unidentified bodies found on roads, in ravines and in secret graveyards. These unidentified bodies are buried under the designation "XX".

An example of how the machinery of disappearance and death functions in Guatemala is the case of a little boy, Diego Domingo Perez, who disappeared from his village in San Miguel, Istaguaca Municipality, Department of Guguetenango. His dead body found on 25 July, terribly badly beaten and with his skull battered; an eight years old child.

In Guatemala there is no right of habeas corpus. What actually happens is that when a union leader is abducted or arrested by the police and his family asks for him to be produced, if they have the resources and courage to do so, they are told in the courts that the proceedings are inadmissible, or the fact is simply denied, as occurred in the case of a girl, Yolanda Aguilar Urizar, who while she was being tortured and raped by members of the first corps of National Police, had forty writs of habeas corpus rejected. Recently in the cases of raids, threats and arrests directed against the latest two groups of the National Federation of Workers (the first group consisting of 27 union members, the second group of 17 people arrested by the national and judicial police), when proceedings were brought the answer was that they were inadmissible since it was not known how these people disappeared, though there were witnesses to the fact that it had been the police who entered both the National Federation of Workers' premises and Casa Emaus, the retirement home of the Diocese of the South Coast, where the latter 17 were abducted.

ANNEX XV

Excerpts from the statement made to the Working Group by
a representative of the "Comision Permanente de Derechos Humanos
(Nicaragua)" (Permanent Commission for Human Rights (Nicaragua))

I am the national co-ordinator of the Nicaraguan Permanent Commission for Human Rights, which was set up on 20 April 1977 and was extremely active during the last two years of the Somoza dictatorship. We collected a vast amount of information which was submitted to the General Assembly of the Organization of American States in June 1978 and also to the United Nations Commission on Human Rights in February 1979, resulting in a resolution by the United Nations Commission on Human Rights requesting the Secretary-General to keep under continuing and specific review the situation in Nicaragua.

As soon as the Somoza dictatorship was overthrown, we reopened our office in Managua, thinking that our main task would be to address ourselves to the social, political and educational training of the Nicaraguan people, but we encountered a rather different situation. Our premises in Managua were virtually besieged by hundreds of people who came to us daily during the months of August, September and October, principally to tell us about the great number of prisoners who could not be found in the country's jails. We assembled this information and drew up a document which has been updated to the end of June; it lists some 600 names of missing persons. When we received Mr. van Boven's letter we started updating the cases again and so far have revised 70 cases, which we have brought with us now, since there was insufficient time to send them in advance. I can hand over these particulars here and now so that you may have an idea of the care with which the information has been collected; it includes a complete description of each case, a reproduction of the habeas corpus proceedings and various steps taken vis-a-vis the Nicaraguan authorities.

We should like to refer to some general aspects of the problem of disappearances, including the following: the fact that we are living through a revolution in Nicaragua conditions the attitude of the people towards the Government - they generally display an attitude of confidence in the authorities, that is, first they wait for the authorities to solve the problem, because they have confidence in them and only after some weeks or months do they resort to the Human Rights Commission when the case has turned out to be too difficult. This also conditions international public opinion, which certainly is and continues to be very positive and generally favourable to the Nicaraguan revolution, and so it regards with some suspicion, as we have been able to observe, any information on alleged human rights violations in Nicaragua. To take a specific example, the International Commission of Jurists has just published a long report - I think dated June or July of this year - in which there is no reference to the missing persons problem in Nicaragua. We wish to point out that the mission from the International Commission of Jurists stayed in Nicaragua for nearly three weeks and we, the Permanent Commission for Human Rights, had to go to the hotel to invite the representatives to visit us and we were visited on the last day by Mr. Artusio, who stayed with us for under an hour. This conduct really seems indefensible to us, since our organization was the main watchdog for human rights during the Somoza period and the report of the International Commission of Jurists itself includes various statements of ours against the Somoza dictatorship. So the natural thing on visiting our country to inves-

tigate the human rights situation would have been to make our organization the first port of call. We found in the report of the International Commission of Jurists a series of points, including legal points, which we shall venture to dispute and we shall do that in Nicaragua on our return, particularly since the Government of National Reconstruction itself on 12 September, that is to say four days ago, made a harsh attack on the Permanent Commission for Human Rights, using as a weapon the report of the International Commission of Jurists. I say this in an effort to explain the political background because there really is a problem about international public opinion.

We should like to point out that the Government of National Reconstruction has also consistently denied that there were summary executions in the country during the days or weeks following the overthrow of Somoza. The slogan has been "implacable in the struggle, magnanimous in victory" and on the basis of this official position of the Government the existence of the problem has been denied and hence no solution is being sought. Early in October we received information that a great many prisoners who had been held in the town of Granada had been executed; the wife of one of these prisoners sent us a sketch map and asked us to inspect the site. We went to the scene of the event and we have photographs which we can show if you wish to see them. We found skulls on or just below the ground, - bones, shoes, a room, - I mean an area approximately the size of this room where there were clear traces that the soil had been disturbed. We dug down and found a great many worms. Families continued to come to the Human Rights Commission. On 14 March 1980 we met about 40 families and between them they told us that they knew of another place where bodies had also been buried. On 17 March we made an inspection and confirmed that there were bodies at this place; we estimated that at this spot alone there were between 80 and 100 bodies. There is a survivor of these executions, a young man about 20 years old, who escaped wounded from the massacre and later gave us this information.

We also wish to refer to another problem, which is the existence of secret gaols, that is, places of imprisonment outside the national prison system. This we have also documented because, owing to the inexperience of some of the present officials, one of them issued a document, you can inspect the photocopy, which has the rubber stamp of the military unit and reads as follows: "These two prisoners are being held with other offenders on the orders of G.2 in a secret prison near this post". We have the testimony of prisoners who have left that prison and we also know that in the capital or nearly every department in the country there exist what are called security houses, which are local security headquarters and where there are also prisoners outside the national prison system. We wish to point out that this is not merely an old problem, as has sometimes been asserted. Some Somoza guardsmen were reportedly killed during the first hours after his overthrow. In fact, during the month of July, we received 20 reports of disappearances, of which 16 related to people who had disappeared during 1980, people arrested in 1980. Of course, we also have the problem of the death penalty being applied outside the Nicaraguan legal system. We know of four occasions on which prisoners were shot in the course of transfer from one prison to another and naturally the official version has been that this happened because they attempted to escape. The most recent case occurred on 28 August; we even have the evidence of the doctor who saw the prisoners, and his evidence is that the three of them had bullet wounds in the back of their necks.

We have another problem, perhaps a little more complicated, and that is of Nicaraguans who have disappeared in Guatemala. We have received reports of nine cases. The relatives of these prisoners have written a letter to Mr. Nyamekye requesting him to use his good offices, since another Government appears to be involved. The situation is further complicated by an unconfirmed report that some of these prisoners were transferred to Nicaragua under an alleged unofficial arrangement which enabled Nicaraguans who had taken refuge in the Guatemalan Embassy to leave and be transferred to Guatemala in exchange for a number of Nicaraguan prisoners in Guatemala. The Nicaraguan authorities deny this and therefore we only raise the case, without making any assertion on the subject. I shall now hand over to you this letter signed by some of the relatives of the missing persons, the most recent case dating from 24 July of this year.

ANNEX XVI

Excerpts from the statement made to the Working Group by a representative of the "Association des parents de disparus uruguayens" (Association of Relatives of Missing Uruguayans)

You have all our documentation and so we do not want to waste your time with details on what it is really like to have a missing relative. I myself can tell you that my daughter was imprisoned and I know what it is like to have a child in prison. Now I have known for four years what it is to have a missing child. You are well aware that all of us relatives have done our utmost both at the national and the international level. We have had no reply about any of our cases. Nothing. Just the opposite, there is always a denial. Habeas corpus gives no results. And they always say that a missing person is not in their hands when we know perfectly well that he or she is, because missing persons have been seen in places of detention. This is the case with my daughter, we know exactly how she disappeared and who took her away. And those in authority or the Uruguayan Government continue to deny that she was detained or disappeared. This case can serve as an example of the other cases of missing persons. So we are relying on the Group now because we see that we can do nothing either at the national or the international level. One of the things that we asked the Group and suggested in our letter was that it should visit Uruguay. Another suggestion we should like to make, which we included in the letter, is that governments should be required to give a specific reply about missing persons. Another point we have to raise is about the people who were brought back, those who at one time were missing and were then brought to Uruguay illegally. We should like to ask the Group to demand also that these detainees, who were really United Nations refugees and were brought to Uruguay illegally, should be handed over. The most specific case we have is that of the mother of a 20-days old child who has disappeared; the child was taken from her arms and has never been seen since, and the mother is detained in Uruguay. It is because of cases like this that we ask the Group to come to Uruguay where it could hear all these people, not only the testimony of relatives who know nothing about their children or their parents, but also those who were brought back illegally, who had disappeared, who disappeared for three or four months and then they bring them back.

We do not intend to express our views on all the countries or all the cases; we should like to state our views on missing Uruguayans since we are an association of relatives of missing Uruguayans. Of the Uruguayan nationals who have disappeared, the vast majority, i.e. over 100, as you can see from the dossier, have disappeared in the Argentine Republic; this is why we have suggested the visit to Argentina, Uruguay and Paraguay, because the vast majority of Uruguayan nationals who concern us in this case have disappeared in the Argentine Republic... ..

All the Uruguayan nationals who have disappeared have done so 100% as a result of, as we see it, the activities of the police and armed forces in the country in which they were, in collusion with the armed forces of our own country; and if you look through the statements in the dossier, in some cases you will even find the names of the Uruguayan officers implicated in these acts".