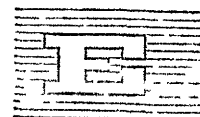


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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Final report on the situation of human rights in El Salvador,
submitted to the Commission on Human Rights by
Professor José Antonio Pastor Ridruejo in fulfilment of the
mandate conferred under Commission resolution 1983/29

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INTRODUCTION

1. At its thirty-fifth session, on 15 December 1980, the General Assembly, by 70 votes to 12, with 55 abstentions, adopted resolution 35/192, on the situation of human rights and fundamental freedoms in El Salvador. In this resolution the General Assembly expressed deep concern at the grave violations of human rights and fundamental freedoms in El Salvador and deplored a number of aspects of the human rights situation in that country. In addition, it requested the Commission on Human Rights to examine, at its thirty-seventh session, the human rights situation in El Salvador.
2. The situation in El Salvador was considered by the Commission on Human Rights at its thirty-seventh session under item 13 of the Commission's agenda, entitled "Question of the violation of the human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories". After the debate on this item, the Commission adopted resolution 32 (XXXVII), on the violation of human rights in El Salvador. In this resolution, the Commission requested its Chairman to appoint, after consultations with the Bureau, a Special Representative of the Commission whose mandate would be to investigate the reports about murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms which had taken place in El Salvador, on the basis of information from all relevant sources and to report on his findings to the Commission on Human Rights at its thirty-eighth session. It further requested the Special Representative of the Commission to submit an interim report to the General Assembly at its thirty-sixth session.
3. In fulfilment of the mandate conferred on him by the Commission on Human Rights, the Special Representative submitted an interim report to the General Assembly. 1/ On 16 December 1981, the General Assembly adopted resolution 36/155, by 68 votes to 22, with 53 abstentions.
4. The Special Representative submitted the final report to the Commission 2/ and did so in person on 4 March 1982. On 11 March 1982, the Commission, by 24 votes to 15, with 15 abstentions, adopted resolution 1982/28, which extended the Special Representative's mandate for a year.
5. In fulfilment of the mandate in that resolution of the Commission on Human Rights, the Special Representative submitted his interim report to the General Assembly 3/ and did so in person to the Third Committee on 29 November 1982. On 17 December 1982, the General Assembly adopted resolution 37/185.

1/ A/36/608, annex. Interim report on the situation of human rights and fundamental freedoms in El Salvador prepared by the Special Representative of the Commission on Human Rights; 28 October 1981.

2/ E/CN.4/1502, Final report on the situation of human rights in El Salvador submitted by Professor José Antonio Pastor Ridruejo in discharge of the mandate conferred by Commission resolution 32 (XXXVII).

3/ A/37/661, annex. Interim report on the situation on human rights and fundamental freedoms in El Salvador prepared by the Special Representative of the Commission on Human Rights, 22 November 1982.

6. The Special Representative submitted his final report 4/ in person to the Commission on Human Rights on 28 February 1983. On 8 March 1983, the Commission, by 23 votes to 6, with 10 abstentions, adopted resolution 1983/29, extending the Special Representative's mandate for a year.

7. In fulfilment of this resolution, the Special Representative submitted his report 5/ to the General Assembly, and did so in person to the Third Committee on 1 December 1983. On 16 December 1983, the General Assembly, by 84 votes to 14, with 45 abstentions, adopted resolution 38/101, reading as follows:

Situation of human rights and fundamental freedoms in El Salvador

The General Assembly,

Guided by the principles embodied in the Charter of the United Nations and in the Universal Declaration of Human Rights,

Conscious of its responsibility in all circumstances to promote and encourage respect for human rights and fundamental freedoms for all,

Reiterating that the Governments of all Member States have an obligation to promote and protect human rights and fundamental freedoms and to carry out the responsibilities they have undertaken under various international human rights instruments,

Determined to remain vigilant with regard to violations of human rights wherever they occur and to take measures to restore respect for human rights and fundamental freedoms,

Recalling that, in its resolutions 35/192 of 15 December 1980, 36/155 of 16 December 1981, and 37/185 of 17 December 1982, it expressed deep concern at the situation of human rights in El Salvador, especially in view of the death of thousands of people and the climate of violence and insecurity prevailing in that country, as also the impunity of paramilitary forces and other armed groups,

Bearing in mind Commission on Human Rights resolutions 32 (XXXVII) of 11 March 1981, in which the Commission decided to appoint a Special Representative on the situation of human rights in El Salvador, 1982/28 of 11 March 1982 and 1983/29 of 8 March 1983, whereby the Commission extended the mandate of the Special Representative for another year and requested him to report, inter alia, to the General Assembly at its thirty-eighth session,

4/ E/CN.4/1983/20, Final report on the situation of human rights in El Salvador, submitted to the Commission on Human Rights by Professor José Antonio Pastor Ridruejo in fulfilment of the mandate conferred under Commission resolution 1982/28, 20 January 1983.

5/ A/38/503, Annex. Interim report on the situation of human rights in El Salvador prepared by the Special Representative of the Commission on Human Rights, 22 November 1983.

Taking note with grave concern of the interim report of the Special Representative of the Commission on Human Rights, in which the continuation of a climate of violence and insecurity in El Salvador characterized by armed clashes, acts of economic sabotage and grave and large-scale violations of human rights, as well as the failure of the Salvadorian authorities to prevent these constant violations of human rights in that country, are confirmed,

Bearing in mind that in its resolution 37/185 the General Assembly observed that the elections which were held in El Salvador in March 1982 had not led to the cessation of violence or to improvement in the situation of human rights and fundamental freedoms in that country,

Noting with satisfaction that the Peace Commission, officials and special envoys of other Governments within and outside the region as also the representative political forces have initiated conversations in the search for a negotiated comprehensive political solution,

1. Commends the Special Representative for his interim report on the situation of human rights in El Salvador;

2. Expresses its deepest concern at the fact that, as indicated in the report of the Special Representative, the gravest violations of human rights are persisting in El Salvador and that as a result the sufferings of the Salvadorian people are continuing, and regrets that the appeals for the cessation of the acts of violence formulated by the General Assembly, the Commission on Human Rights and the international community as a whole have not been heeded;

3. Again draws the attention of the Salvadorian parties concerned to the fact that the rules of international law, as contained in article 3 common to the Geneva Conventions of 12 August 1949 and the additional Protocols of 1977, are applicable to armed conflicts not of an international character, such as that in El Salvador, and requests all parties to apply a minimum standard of protection of human rights and of humane treatment of the civilian population;

4. Takes note of resolution 1983/18 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of 5 September 1983 in which it recommends to the Special Representative that in his report he should give special attention to respect for and/or violations of humanitarian laws in armed conflicts;

5. Recommends that the reforms necessary for the solution of the economic and social problems which are at the root of the internal conflict in El Salvador should be put into effect so as to allow the effective exercise of civil and political rights in that country, and reaffirms the right of the Salvadorian people freely to determine their political, economic and social future without interference from outside and in an atmosphere free from intimidation and terror;

6. Calls upon the Government and the representative political forces to intensify their conversations and work for a comprehensive negotiated political solution which will put an end to the internal armed conflict and establish a lasting peace which will allow the full exercise both of civil and political rights and of economic, social and cultural rights by all Salvadorians;

7. Once again urges all States to abstain from intervening in the internal situation in El Salvador and to suspend all supplies of arms and any type of military assistance, so as to allow the restoration of peace and security and the establishment of a democratic system based on full respect for human rights and fundamental freedoms;
8. Expresses its deep concern at the reports which prove that government forces regularly resort to bombarding urban areas which are not military objectives in El Salvador, and its concern for the fate of several hundred thousand displaced persons who are currently located in camps in which they are subjected to abuse and even the minimum conditions of internment, in terms of either material needs or humane treatment, are not observed;
9. Likewise expresses its concern at the resurgence of disappearances and murders, for which the so-called "death squads" claim responsibility, committed against persons who belong to various sectors of the civilian population, and urges that these activities should be investigated with a view to punishing those responsible;
10. Expresses its concern at the consequences of the damage done to the economy of El Salvador as a result of the attacks on the economic infrastructure attributable for the most part, according to the Special Representative's report, to the opposition forces;
11. Reiterates its urgent appeal to the Government of El Salvador to fulfil its obligations towards its citizens and to assume its international responsibilities in this regard by taking the necessary steps to ensure that all its agencies, including its security forces and other armed organizations operating under its authority or with its permission, fully respect human rights and fundamental freedoms;
12. Urges the competent authorities of El Salvador to establish the necessary conditions to enable the judiciary to uphold the rule of law, prosecuting and punishing speedily and effectively those responsible for the grave violations of human rights which are being committed in that country;
13. Reiterates its appeal to all Salvadorian parties in the conflict to co-operate fully and not to interfere with the activities of humanitarian organizations dedicated to alleviating the suffering of the civilian population, wherever these organizations operate in the country;
14. Deplores the violent death of Marianella Garcia Villas, President of the Commission of Human Rights of El Salvador, and, given the contradictory reports on the matter, requests the Special Representative of the Commission on Human Rights to investigate the circumstances of her death;
15. Renews its appeal to the Government of El Salvador, as well as all other parties concerned, to continue to co-operate with the Special Representative of the Commission on Human Rights;
16. Decides to keep under consideration, during its thirty-ninth session, the situation of human rights and fundamental freedoms in El Salvador, in order to examine this situation anew in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

8. In view of the fact that, in his previous reports 6/ to the Commission, the Special Representative referred to the human rights situation in El Salvador during the last quarter of 1979 and the years 1980, 1981 and 1982, this report will deal primarily with the situation in 1983. The Special Representative likewise wishes to point out that there is a continuity between his previous reports and the present one, which should therefore be read in the light of the earlier reports.

9. In drafting this report, the Special Representative used information furnished by the Government of El Salvador and other Governments, intergovernmental and non-governmental organizations and other pertinent information concerning the situation of human rights in El Salvador.

10. The Special Representative considered that the report would greatly benefit from continuation of the co-operation extended to him by the Government of El Salvador in the drafting of his earlier reports, and to this end he sought from the Government, through its Ambassador to the international organizations at Geneva, authorization to revisit the country in September 1983. On 6 July 1983, the Ambassador informed the Special Representative that the Government agreed to his visit, but in his personal capacity and not as representative of the Commission on Human Rights, since the Government still had reservations of a legal nature concerning his mandate.

11. As in 1981 and 1982, the co-operation given to the Special Representative by the Government of El Salvador was full and open. The Salvadorian authorities not only granted the Special Representative extensive facilities and freedom of action and movement for the fulfilment of his mandate in the country, but also provided him with copious information and held frank conversations with him. The Special Representative once again expresses his gratitude for this co-operation, to which he attaches great importance.

12. Other sectors of the country, including the Church, human rights organizations, private associations and individuals, and left-wing opposition forces likewise gave substantial and valuable assistance in the preparation of the report. The Special Representative also expresses his appreciation for this co-operation.

13. The Special Representative arrived in El Salvador on Sunday, 11 September, and remained in the country until Saturday, 17 September. During his visit, he had interviews with the following authorities: His Excellency Sr. Alvaro Magaña, President of the Republic; Mr. Fidel Chávez Mena, Minister for Foreign Affairs, General Carlos Eugenio Vides Casanova, Minister of Defence; Mr. Ramiro Arturo Méndez Azahar, Minister of Justice; Mr. Manuel López Sermeño, Minister of the Interior; Mr. Carlos Aquilino Duarte, Minister of Education; Mr. Hugo Carmallo, Vice-President of the Constituent Assembly; Dr. Avila Moreira, Acting President of the Supreme Court of Justice; Mr. Mario Adalberto Rivera, Attorney-General of the Republic; Mr. Jorge Arturo Argueta, Director of the Salvadorian Institute for Agrarian Reform (ISTA); Colonel Galileo Torres, President of the Financiera Nacional de Tierras Agrícolas (FINATA - National Organization for the Financing of Agricultural Land); Mr. Alejandro Gómez Vides, Under Secretary for Foreign Affairs; Mr. Ricardo Alfredo Mita, President of the Central Council for Elections, accompanied by other members of the Council; Colonel Reynaldo López Nuilla, Director of the National Police; Colonel Aristides Montes, Director of the National Guard; and Colonel Nicolás Carranza, Director of the Rural Police.

6/ E/CN.4/1502 and E/CN.4/1983/20, op.cit.,

14. In San Salvador, the Special Representative also had interviews with: Monsignor Revello, President of the Episcopal Conference and member of the archdiocesan Commission for Justice and Peace; members of the Human Rights Commission (governmental) of El Salvador; Mr. Ernesto Arvizú Mata, President of the Amnesty Board; Mrs. María Julia Hernández, director of the archdiocesan Legal Protection organization; Mr. Juan Vicente Maldonado, Executive Director, National Association of Private Entrepreneurs (ANEP), accompanied by two other members; Mr. José Antonio Morales Erlich, Christian Democrat Party; and his Excellency Mr. Raúl Molina Cañas, Vice-President of the Republic, in his capacity as a member of the National Conciliation Party. The Special Representative also had interviews with diplomatic representatives of other countries accredited in El Salvador, and with Salvadorian private citizens.
15. During his stay in El Salvador, the Special Representative visited, among other places: the detention cells at the headquarters of the National Police, National Guard and Rural Police in San Salvador, where he was able to talk to political prisoners on a completely confidential basis; the women's prison at Ylopango and the men's prison at Mariona, where he also had confidential talks with the leaders of the Committee of Political Prisoners of El Salvador (COPPES); the premises of the International Fair in San Salvador, where some persons benefiting from the Amnesty Act were housed; the Caritas Camp for Displaced Persons at San Vicente; the farming village of San Lorenzo, in the Department of San Vicente, which had suffered particularly heavily in the conflict, and in which he spoke to local inhabitants; and the San Salvador Military Hospital, where he had confidential talks with guerrilla fighters being treated there.
16. In Mexico City, the Special Representative had interviews with: Mr. José Armando Oliva Muñoz and Mr. Sergio Inestrosa, of Christian Legal Aid; Mr. Roberto Lara Velado, President of the (non-governmental) Human Rights Commission of El Salvador; representatives of the Marianela García Villas Committee of Relatives for the freedom of persons detained or missing for political reasons in El Salvador (CODEFAM); Dr. Miguel Ángel Saenz Varela, a leading member of the Committee of Health Professionals (COPROSAL); Mr. Héctor Dada, of the National Revolutionary Movement (MNR); Mr. Héctor Oqueli and Mr. Salvador Zamalloa of the Political and Diplomatic Commission of the FDR-FMLN; and several former political prisoners who had moved to Mexico after being granted an amnesty.
17. In Washington, among the persons with whom the Special Representative had talks were: Ambassador Richard Stone, Special Envoy of the President of the United States; Mr. Henry Kissinger, President of the Bipartite Commission for Central America, established by President Reagan in July 1983; Mr. Edmundo Vargas Carreño, Executive Secretary of the Inter-American Commission on Human Rights; and Miss Heather Foote of the Washington Office on Latin America.
18. In New York, the Special Representative had conversations with the local representative of the Political and Diplomatic Commission of the FDR-FMLN and with Miss Karen Parker, a United States national and author of a study on the observance of the Geneva Conventions and Protocols in the Salvadorian conflict.
19. After preparing the interim report to the General Assembly, the Special Representative had conversations in New York with delegations accredited to the Third Committee and with a representative of the FDR-FMLN, and later on, in Geneva, with the Ambassador of El Salvador to the International Organizations with their headquarters in Geneva.

I. GENERAL POLITICAL SITUATION

20. It is public knowledge that the situation of generalized civil violence unfortunately continued in El Salvador in 1983. Accordingly, the Salvadorian authorities continually extended the state of siege which was decreed on 6 March 1980 and was lifted only on the occasion of the elections in March 1982. Again, the hostilities continued with great intensity and, according to reports received, slackened off only in connection with the visit to El Salvador by His Holiness John Paul II in March 1983.

21. The Special Representative does not consider that his mandate calls for a complete and detailed account of the political and military developments in El Salvador. Suffice it to say that the Government of National Unity that emerged from the elections on 28 March 1982 remained in power in El Salvador in 1983. There have been very few changes in the Government, the most important being the replacement on 12 April 1983 of General José Guillermo Garofa as Minister of Defence by General Carlos Eugenio Vides Casanova, the former head of the National Guard. The latter post was taken over by Colonel Aristides Montes. Another change that should be mentioned is the replacement of Colonel Francisco Morán by Colonel Nicolás Carrera as head of the Rural Police. According to recent reports in the international press, ^{7/} Major D'Aubuisson has resigned as President of the Constituent Assembly and Mrs. María Julia Castillo has been elected to that post.

22. The Special Representative has been informed of two important political developments which, owing to their direct relationship with the question of human rights call for special attention. These are the proposal to hold fresh elections and for a dialogue between the Government and the left-wing opposition forces.

23. With regard to the future elections, according to press reports ^{8/} the President of El Salvador officially announced on 30 July 1983 unavoidable postponement until the first quarter of 1984 of the presidential elections initially scheduled for December 1983. In conversations on the subject in San Salvador with the President and members of the Central Council for Elections, the Special Representative was informed of the measures taken in preparation for the forthcoming elections, and in particular the compilation of a complete and accurate electoral roll; he was told that from 15 February 1984 onwards the technical requirements for holding new elections would be fulfilled. The Special Representative also learned that, under a transitional provision of the draft Constitution, it is the Constituent Assembly which decides ^{9/} the character of the elections. According to later public announcements, ^{9/} the Constituent Assembly of El Salvador decided to hold the presidential elections on 25 March 1984. Furthermore, in conversations with representatives of the various political parties currently active in El Salvador, the Special Representative noted the great interest these parties are taking in the elections.

24. On 15 December 1983, the Constituent Assembly of El Salvador adopted the new Constitution, ^{10/} which entered into force on 20 December. The Constituent Assembly also decided that the current President of the Republic, His Excellency Mr. Alvaro Magaña, will on 1 June 1984 hand over power to the new president emerging

^{7/} Le Monde, 27 December 1983.

^{8/} Le Monde, 2 August 1983.

^{9/} Government of El Salvador, Diario Oficial, vol. 281, No. 254, 16 December 1983.

^{10/} Government of El Salvador, Ministry of Foreign Affairs, Boletín Informativo "Seinform", No. 6, 8 December 1983.

from the elections on 25 March. 11/ In addition, according to a communiqué by the Minister of Defence, the Salvadorian army must stand aside from political movements in connection with the forthcoming presidential elections. 12/

25. The Special Representative cannot fail to endorse the exercise by Salvadorian citizens of the right to express their will through democratic elections (article 21 of the Universal Declaration of Human Rights, and article 25 of the International Covenant on Civil and Political Rights), but he would reiterate the idea expressed in his first report 13/ that certain conditions must exist for the holding of elections, more particularly a climate of social peace that allows for free expression of the will of the people through participation by all political parties in such a way as to ensure the lives, physical integrity and freedom of all candidates without exception. Indeed, the Special Representative considers that the elections are not an end in themselves; conceived in terms of the individual, they are a means for restoring peaceful, democratic and pluralist coexistence with respect for human rights. To the extent that the elections do not, in whole or in part, achieve such an outcome, the advisability of holding them could well be open to question.

26. With regard to the dialogue with the left-wing opposition, recommended by the Special Rapporteur in his previous report, 14/ there are reports, reliably confirmed to the Special Representative, that representatives of the FDR-FMLN met at the end of August in Bogotá with the El Salvador Peace Commission set up under the Apaneca Pact, in the presence of Mr. Belisario Batancourt, the President of Colombia. Later, representatives of these fronts met in San José, Costa Rica, with Mr. Richard Stone, Special Envoy of the President of the United States, in the presence of Mr. Luis Alberto Monge, the President of Costa Rica. According to those reports, however, in both conversations a radical difference of views emerged on the question of the elections: the left-wing opposition would agree to stand for election only if it was given the guarantee of a national conciliation government in which it would participate and if the guerrilla fighters were incorporated in units of the armed forces, conditions that were unacceptable to the Salvadorian Government.

27. According to later press reports, 15/ on 30 September 1983 a further meeting was held in Bogotá between the El Salvador Peace Commission and representatives of the FDR-FMLN. According to this source, the latter rejected the proposal that they should participate in the election scheduled for 1984 and submitted three counter proposals: that negotiations should continue with a view to forming a new government to supervise the elections, that a national debate should be held on the situation in the country, and that the next meeting should be held in El Salvador.

28. A communiqué issued by the Peace Commission on 7 October 1983 16/ expressed readiness "to carry on the search for appropriate ways and means to renew the dialogue, confirming first that the dialogue ... must not and cannot be used as a means of propaganda".

29. The Special Representative welcomes the fact that it has been possible to embark on some kind of dialogue and expresses his fervent hope that it will contribute to a genuine improvement in the human rights situation in El Salvador.

11/ Ibid., No. 2, 4 January 1984.

12/ International Herald Tribune, 26 November 1983.

13/ E/CN.4/1502, op.cit., para. 134.

14/ E/CN.4/1983/20, op.cit., para. 124.

15/ The New York Times, 30 September 1983.

II. THE SITUATION WITH REGARD TO THE ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

30. As stated by the Economic Commission for Latin America (ECLA), 17/ "in 1982 Salvadorian economic activity declined for the fourth consecutive year, on this occasion by 5 per cent, measured by GDP, and there continued to be varying degrees of imbalance, especially in the balance of payments, the budget and employment. Even allowing for the fact that some of the population emigrated for economic and other reasons, the per capita product declined by almost one third between 1978 and 1982 (from \$510 to \$360 in 1970 United States dollars), which represented a retrogression to the situation of over 20 years ago ... Furthermore, although it is difficult to state precisely the extent of complete unemployment, it may be asserted that it affected about one third of the work force, in spite of emigration"

31. ECLA also points out the adverse effects of the Salvadorian conflict on the economy and the doggedness with which various private economic agents have maintained their activities, without which the situation would be even more desperate. It refers to the steady decline of private investment, the outflow of foreign exchange, the emigration of entrepreneurs and professional personnel, physical damage to the infrastructure and the continual shrinking of the market, all of which have severely affected productive activity.

32. In his previous reports, the Special Representative referred at length to the agrarian reform programme undertaken by the Revolutionary Government Junta. 18/ The agrarian reform comprised three phases, concerning which the following information should now be added.

33. With regard to the first phase - affecting farms of over 500 hectares, according to information given to the Special Representative by senior members of the Salvadorian Institute for Agrarian Reform (ISTA), 19/ the number of properties affected is 438, with a total area of 219,832 hectares, there are 32,300 direct beneficiaries and 193,900 beneficiaries in all. One hundred and forty-three landowners have already received compensation and settlement is pending in the case of a further 183.

34. According to information given personally to the Special Representative in El Salvador, execution of the second phase of the agrarian reform, affecting farms of between 125 and 500 hectares, continues to be deferred.

17/ E/CEPAL/MEX/1983/L.17, Economic Commission for Latin America, Notas para el Estudio Economico de América Latina, 1982 El Salvador, 22 April 1983.

18/ E/CN.4/1502 and E/CN.4/1983/20, op. cit.

19/ Salvadorian Institute for Agrarian Reform, Planning Office, Agrarian Reform in the Republic of El Salvador. Document prepared for the second international consultation on Latin America and the Caribbean concerning the execution of the programme of action of the World Conference on agrarian reform and rural development Quito, Ecuador, 5-8 July 1983.

35. With regard to the third phase - assignemnt and transfer of agricultural land to those who work it, as provided for under Decree No. 207 of the Revolutionary Government Junta, according to information given to the Special Representative in San Salvador by the Financiero Nacional de Tierras Agrícolas (FINATA), 20/ as at 26 August 1983, 68,234 requests had been received, there had been 53,848 direct beneficiaries and 323,088 beneficiaries in all; 119,540 hectares had been assigned, 44,405 provisional deeds of ownership and 3,167 final deeds had been issued, and compensation had been paid for 6,333 plots.

36. With regard to the implementation of Decree No. 207, the Special Representative has read in the San Salvador press 21/ the complaints of the Farming Enterprises Board to the management of FINATA that employees of the latter were encouraging the take-over of land not subject to the Decree, with the object of enabling the intruders later to claim the relevant benefits under the Decree. According to this report, the Director of FINATA rejected the accusations, maintaining that it was bogus peasant associations that were encouraging the illegal seizures; in any event, the Director of FINATA undertook to ensure that the law was scrupulously complied with.

37. The Special Representative has also received information about cases in which peasants benefiting from the agrarian reform have subsequently been dispossessed. According to The Guardian, 22/ such cases have occurred in the west of the country. The same source 23/ reports the announcement by the Salvadorian Trade Union - a peasants' organization - that more than nine peasants who had benefited under the agrarian reform had subsequently been evicted by the former owners or members of the army.

38. The Special Representative also wishes to draw attention to the report which appeared in the international press 24/ that on 27 September 1983 some 15,000 people - 11,000 peasants and 4,000 members of the Christian Democrat Party - held a march in San Salvador in support of the agrarian reform programme. According to this report, articles 103, 104 and 105 of the draft Constitution could create a serious setback in the agrarian reform programme, since they would allow the large landowners to divide up their estates among members of their families, thus reducing the size of individual plots and evading the scope of the laws in force. The purpose of the march was reportedly to call on the Constituent Assembly to support the process of reform and to call for an end to violence and for respect for human rights.

20/ Financiera Nacional de Tierras Agrícolas (FINATA), Los derechos humanos en la perspectiva del actual proceso de reforma agraria, San Salvador, September 1983.

21/ La Prensa Gráfica, San Salvador, El Salvador, 13 September 1983, El Diario de Hoy, San Salvador, El Salvador, 14 September 1983.

22/ The Guardian, 9 June 1983.

23/ The Guardian, 13 August 1983.

24/ The New York Times, 28 September 1983.

39. According to later reports in the international press, 25/ on 13 December 1983 the Constituent Assembly adopted an article in the Constitution whereby any natural or legal person may own up to a maximum of 245 hectares. Such a provision was said to have been adopted with the votes of ARENA, the National Conciliation Party, the Salvadorian People's Party and the Salvadorian Authentic Institutional Party, whereas the Christian Democrat Party voted against it. In the opinion of Mr. Jorge Camacho, President of the Association of Integrated Agricultural Products Co-operatives, the provision in the Constitution would mean an end to agrarian reform in El Salvador.

40. The Constitution entered into force on 20 December 1983, and hence the article in question, i.e. article 105. 26/ The Special Representative wishes to point out that under article 265 of the Constitution "all laws and decrees relating to the process of agrarian reform are recognized as operative in all matters in which they do not conflict with the text of this Constitution"; that under article 266 "it shall be the obligation of the State to establish the necessary facilities to guarantee payment of the price of or compensation for expropriated ... immovable property ..."; and that under article 267 "if the land in excess of the maximum limits established in article 105 ... is not transferred within the period specified therein for reasons attributable to the owner, it may be expropriated by law and the compensation may not be payable in advance".

25/ ABC, Madrid, 17 December 1983; The New York Times, 14 and 15 December 1983
26/ Diario Oficial, op. cit., vol. 281, No. 234, 16 December 1983.

III. THE SITUATION WITH REGARD TO RESPECT FOR
CIVIL AND POLITICAL RIGHTS IN EL SALVADOR

41. For the reasons explained in greater detail in his previous reports to the Commission on Human Rights, 27/ the Special Representative considers that, in view of the consistent pattern of gross violations of civil and political rights of all kinds in El Salvador, it is difficult to engage in a detailed, case-by-case review of each event in the light of the specific provisions of the domestic and international legal instruments which are binding on the Republic of El Salvador in this matter. He has felt it preferable to adopt a different method, namely, a classification that takes comprehensive account of the most serious violations and the actual circumstances in which these violations take place. This classification, which in no way implies any rigid distinctions between the various categories, is as follows: (1) murders; (2) torture and cruel, inhuman or degrading treatment; (3) abductions and disappearances; (4) political prisoners; (5) attitude of Salvadorian criminal justice; (6) human rights violations attributed to the guerrillas.

1. Murders

42. Regrettably, the Special Representative has continued to receive a great deal of information concerning political murders of civilian non-combatants in El Salvador. The Special Representative is fully aware of the difficulty of accurately determining the exact number of crimes of this kind and considers that this difficulty is due to a variety of causes. The first is the unfortunately very great magnitude of the figures involved. Another is that in many cases information on murders comes to light only when bodies are found and it is thus very difficult to determine whether they were really prompted by political motives or were simply ordinary murders. There is also the fact that a regular army and a guerrilla organization are engaged in armed conflict and it may sometimes be difficult to determine whether those killed are civilians or combatants. The Special Representative considers that this is an area in which figures must be treated with great caution, since there is no way of being sure that the reported figures for political murders of civilians are completely reliable; the discrepancies between the lists provided by the various sources point to the need for circumspection.

43. According to a cable dated 23 June 1983 sent direct from Mexico to the Special Representative by the Human Rights Commission of El Salvador (non-governmental), between 1 January and 15 June 1983 the number of people murdered was 2,707. The breakdown is as follows: in January 672; in February 350; in March 440; in April 759; in May 342; and between 1 and 15 June, 144.

44. On the other hand, according to Christian Legal Aid, 28/ during the period 1 January to 30 June 1983 there were 2,823 arbitrary executions of civilians, responsibility being attributed to members of the armed forces (1,657 executions), irregular paramilitary groups (1,052 executions) and civil defence organizations (114 executions). This source compares the figures with those for previous periods: 2,958 executions of civilians in the first six months of 1982 and 2,907 in the second half of 1982. Hence, according to this source, generally speaking the figures remain substantially the same.

27/ E/CN.4/1502, op. cit., paras. 62-63; E/CN.4/1983/20.

28/ Christian Legal Aid "Archbishop Oscar Romero" of El Salvador, San Salvador, Solidaridad No. 18, Época III, June 1983.

45. The above figures are similar to those provided by other sources. According to the Americas Watch Committee, 29/ the Archdiocesan Legal Protection Office recorded 2,527 murders of non-combatant civilians by security forces and associated paramilitary forces during the first six months of 1983. This represents an increase on the 2,340 murders recorded by Legal Protection in the last six months of 1982. In addition, Legal Protection recorded 326 disappearances after abductions with violence during the first six months of 1983, and since this source presumes that those who do not reappear after 15 days are dead, it combines the figure for disappearances with that for murdered civilian non-combatants, giving a total of 2,853.

46. For July 1983, Christian Legal Aid 30/ stated that it had received information about the extra judicial execution of 434 non-combatant civilians, for which members of the armed forces, paramilitary groups and the civil defence organization were reported to be responsible. Legal Protection 31/ gave a figure of 424 murders. In August 1983, according to Legal Protection, 318 murders were attributable to the army, the civil defence organization and unidentified paramilitary squads, 32/ and according to Christian Legal Aid 33/ the figure was 262; for September, Legal Protection 34/ reported 409 murders and Christian Legal Aid 35/ reported 403.

47. Summing up the data from Christian Legal Aid and Legal Protection, according to the first of these sources the number of persons murdered in 1983 from January to September inclusive was 3,922, and according to the second source 3,904. Subsequent information from Legal Protection 36/ gives the number of civilians murdered by members of the army, security forces and death squads in November as 441. The Special Representative has been unable to obtain information on the last two months of 1983, but wishes to point out that, according to a report in the international press, 37/ a high-ranking Church authority in El Salvador placed the number of murders committed in 1983 by the armed forces and the right-wing death squads at 4,736.

48. However, other sources give lower figures for political murders of civilians. Thus, according to information communicated personally to the Special Representative by the Human Rights Commission of El Salvador (governmental), during the first six months of 1983 the number of non-combatants who were victims of political violence was 968, i.e. 222 murders as a result of terrorist acts, 27 as a result of

29/ Americas Watch Committee and the American Civil Liberties Union, Third Supplement to the Report on Human Rights in El Salvador, 18 July 1983, p. 71.

30/ Solidaridad, op. cit., No. 19, Epoca III, July 1983.

31/ Archdiocesan Legal Protection Office, Archdiocesan Commission on Peace and Justice, San Salvador, El Salvador, report No. 15, July 1983.

32/ Ibid., report No. 16, August 1983.

33/ Solidaridad, op. cit. No. 21, September 1983.

34/ Legal Protection, report No. 17, September 1983.

35/ Solidaridad, No. 21, September 1983.

36/ Legal Protection, op. cit., report No. 18, October 1983.

37/ International Herald Tribune, 27 December 1983.

military operations, 676 as a result of acts by unidentified persons, and 43 attributed to unidentified organizations. Data by the same Commission for the second half of 1983 give a figure of 617 murders, i.e. 485 committed by unidentified persons, seven by unidentified organizations, and 124 as a result of terrorist acts. 38/

49. According to information based on press reports and submitted to the Special Representative by the United States Embassy in El Salvador, 39/ during the first eight months of 1983, 1,286 civilians were murdered for political reasons, i.e. 143 by guerrillas, 435 by unknown assailants and 708 persons found dead. This over-all figure is lower than the one given by the same source for the period 1 January - 15 September 1982: 2,333 persons. 40/

50. With regard to responsibility for the murders, the information in the foregoing paragraphs suggests that most of the murders are attributable to members of the armed forces and security agencies and to extreme right-wing paramilitary organizations -- particularly the death squad -- connected with or protected by members of the armed forces or security agencies. It is worth noting in this respect the statements made in October 1983 by Mr. D'Aubuisson, President of the Constituent Assembly of El Salvador, that the death squads are from the Salvadorian army and headed by some of its officers 41/ The international press 42/ has also reported a further outbreak in the activities of the death squads in recent months.

51. The guerrilla opposition forces are also responsible for murders, which will be discussed later. 43/

52. The Special Representative finds it very difficult to determine whether the number of murders committed in 1983 shows a downward trend as compared with 1982. All he can say is that, according to Christian Legal Aid and the Archdiocesan Legal Protection Office, the number of murders did not change to any great extent; however, according to information collected by the United States Embassy in El Salvador there is a downward trend; information supplied by the Human Rights Commission of El Salvador (governmental) reveals nothing on this matter since the organization did not exist in 1982. Subject to these clarifications and reiterating the need for caution mentioned at the beginning of this section, the Special Representative notes with regret that the number of civilians murdered for political reasons in El Salvador continues to be very high. This is, unfortunately, the most worrying feature of the human rights situation in El Salvador.

53. Apart from these over-all figures, the Special Representative wishes to refer to some particularly grim cases of massacres and murders of human rights leaders and political leaders. Naturally, this is not a complete account but simply a selection of events.

54. The Special Representative first wishes to refer to the massacre perpetrated in the canton of "Las Hojas", Department of Sonsonate, and for this purpose will make

38/ Government of El Salvador, Ministry of Foreign Affairs, Telex to the Permanent Mission of El Salvador to the United Nations Office at Geneva, 11 January 1984

39/ Embassy of the United States of America in El Salvador, San Salvador, Summary of violence reports based on press reports, January-August 1983.

40/ E/CN.4/1983/20, op. cit. para. 56.

41/ International Herald Tribune, 19 October 1983; Washington Post, 18 October 1983.

use of the information furnished to him by the Human Rights Commission of El Salvador (governmental). 44/ From the investigation undertaken by the Commission, it appears that in the early hours of the morning of 22 February 1983 members of the armed forces from the Sonsonate detachment, accompanied by a number of civilians, forced 18 peasants to leave their homes and then killed them on the banks of the river Cuyuapa, although one witness states that the local people believe 74 persons were killed. It should be noted that, according to the statement of one witness, the reason for these killings was a dispute over the route to be taken by a road across the land of an indigenous co-operative to which the murdered men belonged. This witness said that, faced with the opposition to the road by the members of the co-operative, the person concerned accused the indigenous inhabitants of being subversive, thus affording the army a reason to intervene. The Human Rights Commission brought the facts to the attention of the Office of the President of the Republic and the Attorney-General with results that will be mentioned below in discussing the general situation of Salvadorian justice.

55. Another massacre about which the Special Representative has received information was perpetrated on 7 May 1983 at about 8.30 p.m. on the road to San Luis de Mariona (20 kilometres north of San Salvador). According to information received from the Archdiocesan Legal Protection Office and Christian Legal Aid, at the place and on the date mentioned members of the armed forces machine-gunned nine people whom they had dragged out of their homes in Mejicanos (a district in San Salvador) and then finished them off with revolvers. One of the persons, however, was not finished off with a revolver and did not die. He was subsequently picked up by members of the International Committee of the Red Cross (ICRC) and taken to hospital, where he made a statement. Legal Protection provided the Special Representative with a copy of his testimony. 45/

56. Again, according to the international press, 46/ on 5 November 1983 a Salvadorian army unit massacred some 118 people - men, women and children - in the area of the San Nicolás, in the northern part of the country.

57. In previous reports, 47/ the Special Representative referred to the murder of human rights leaders. On this occasion, he is particularly grieved to record the report of the death of Mrs. Marianela García Villas, President of the Human Rights Commission of El Salvador (non-governmental), with whom he had talks on previous occasions.

58. According to an official report issued by the Armed Forces of El Salvador on 8 April 1983 about the death of Mrs. Marianela García Villas, which was made

44/ Human Rights Commission of El Salvador (governmental), Análisis jurídico del caso "Las Hojas" (Legal analysis of the "Las Hojas" case), San Salvador, March 1983.

45/ Legal Protection, report No. 16.

46/ The Times, 18 November 1983; Le Monde, 19 November 1983.

47/ E/CN.4/1502 and E/CN.4/1983/20.

available to the Special Representative by the Salvadorian Ambassador to the international organizations at Geneva, an army patrol moving between the canton of Palacios and Tenango, near La Bermuda, on 14 March 1983, with the mission of locating extremists in order to protect CEL workers, met with subversive elements and a fight lasting one hour ensued, with the result that 21 subversives and one soldier were killed. When the bodies of the subversives were being inspected, that of a woman with features uncommon among Salvadorians was found, along with photographic equipment, for which reason it was first thought - and so reported - that she was a foreign journalist, since papers in Dutch were found on her. In view of the uncertainty as regards identity, the body was sent to San Salvador, where a post-mortem examination of the fingerprints ascertained that it was the body of Marianela García Villas. In the same report, it is stated that Mrs. García Villas was known as "Commandante Lucía" and that she was a member of the subversive movement. It was also stated that she had entered Salvadorian territory illegally.

59. On the other hand, according to information supplied on 15 March 1983 by the Press Committee of the Armed Forces (COPREFA), "a man and a woman, presumed to be foreign journalists, were found among the dead when a military patrol was attacked in the La Bermuda area, Suchitoto, by a group of terrorists". This report adds that the woman was Caucasian and was carrying photographic equipment, and the man was black, but neither could be identified because they were carrying no papers. 48/ In the report on the following day, 16 March 1983, COPREFA said that Marianela García Villas was one of the terrorists killed in the La Bermuda area, where she was moving about as Commandante Lucía; the report added that a large number of documents were found on her. 49/

60. According to information from Legal Aid, 50/ Judge Quinto de Paz of San Salvador, in examining the corpse, stated: "(There were) multiple gunshot wounds in the chest, with partial severance of the upper right arm owing to these injuries, also many wounds on the thighs, I am of the opinion that multiple gunshot wounds were the obvious and direct cause of her death". On 16 March, a Legal Aid team examined the corpse and issued the following statement: "The corpse has a large-calibre bullet wound on the side of the chest, i.e. in the lower part of the right armpit, apparently from an explosive projectile, since it has affected the tissue of internal organs in the pectoral region and the jaw-bone on the right-hand side. The bullet wound has been bandaged in order to maintain the shape of the body. The anterior and interior surfaces of the arm and the anterior wall of the armpit on the right side have been damaged by the impact of the bullet. There are large-calibre bullet wounds in both thighs, presumably from explosive projectiles which caused considerable damage to the tissue of the internal organs at the knee-cap level. The bones in this area are fractured and a large wound is

48/ Government of El Salvador, Armed Forces, Press Committee of the Armed Forces (COPREFA), Press communiqué, 15 March 1983.

49/ Ibid., 16 March 1983.

50/ Christian Legal Aid "Archbishop Oscar Romero", San Salvador, El Salvador, 22 March 1983.

covered with a dressing. The anterior and interior faces of the right thigh are completely covered by a hematoma. The back of the left hand has a third-degree burn and on the left cheek there is slight grazing and a burn: it is difficult to determine the cause of these injuries and whether they occurred before or after death. Minor injuries include marks caused by splinters of some explosive device over the whole of the frontal and pectoral region, but it was not possible to establish whether there were signs of gunpowder markings". To sum up, in the view of Christian Legal Aid, the violent death of Mrs. García Villas occurred in the same circumstances as innumerable unlawful executions (political murders) and indiscriminate large-scale military actions against the non-combatant civilian population in disputed rural areas.

61. The Fédération Internationale des droits de l'homme (FIDH) 51/ gives an account of the return of the mission of inquiry, headed by Mr. Antonio García, a Spanish lawyer, and also composed of Mrs. Katz and Mrs. Zumstein, who collected a large amount of documentation and testimony during a stay of 10 days in Latin America. From the inquiry it appears that, contrary to the official version, Mrs. García Villas was captured alive on the night of 14 March and taken by helicopter to San Salvador Military College, no doubt in order to be interrogated. The account adds that it was after this session that her body suffered the gunshots and mutilation. This is also the version given by the Human Rights Commission of El Salvador (non-governmental). 52/

62. However, the opinion of the Americas Watch Committee, 53/ based on interviews conducted in El Salvador, is that Marianela García Villas had returned legally to El Salvador, where she had started investigating the use of chemical weapons. To that end, she went to an area close to the town of Suchitoto, where she wanted to collect statements from residents and take photographs. Finding herself in a difficult situation during a bombing attack, she joined a group of displaced persons who were heading towards Suchitoto. Apparently thinking that the refugees were guerrillas, an army patrol ambushed them and Marianela was killed in the shooting that followed. The Americas Watch Committee says it has not found any confirmation of the version that Mrs. García Villas was captured alive and subsequently executed.

63. The Special Representative wishes to record that he has received many letters from private individuals and humanitarian organizations denouncing the death of Mrs. García Villas and calling for an exhaustive inquiry. He has also received a letter from the Ambassador of Sweden to the United Nations at Geneva stating that his Government is interested in clarification of the circumstances of the death and

51/ Lettre de la FIDH, No. 4, "Salvador: Retour de la mission d'enquête",
21 April 1983, pp. 2 and 3.

52/ Human Rights Commission (non-governmental) - first six months of 1983,
Los derechos humanos en El Salvador, pp. 25 et seq.

53/ Third supplement, op. cit., pp. 32 et seq.

that Mrs. García Villas was highly respected in Sweden for her idealism and the efficient manner in which she was conducting her mission under very adverse conditions. 54/

54. On 10 November 1983, the Acting Permanent Representative of the Kingdom of the Netherlands to the United Nations Office and other International Organizations at Geneva sent the Special Representative a letter together with the report of the Human Rights Commission of El Salvador (non-governmental) and the report by Pax Christi International on the death of Marianela García Villas. The letter states: "Although the Netherlands Government does not have at its disposal the channels or means to verify all of the detailed information contained in the two reports ..., it is inclined to accept the conclusion that Mrs. García Villas was taken alive by the Salvadorian Army and was killed in a gruesome manner".

55. In operative paragraph 14 of resolution 38/101, on the situation of human rights and fundamental freedoms in El Salvador, the General Assembly requests the Special Representative to investigate the circumstances of the death of Mrs. García Villas. Regrettably, in the brief lapse of time between the adoption of the resolution and the date on which the Special Representative was compelled to complete this report, he was able to do very little to look further into the circumstances of the death of Mrs. García Villas. Nevertheless, he wishes to point out that, in a conversation last December in New York with an FDR-FMLN representative, the latter said it was his impression that Mrs. García Villas had not been taken alive and killed later in San Salvador but that she had been killed when army units fired indiscriminately at a group of peasants who happened to include Mrs. García Villas.

66. The Special Representative has also received reports of murders of political leaders. Thus, according to the Americas Watch Committee, 55/ the Christian Democrat mayor of El Carmen, Department of Cuscatlán, was murdered in April 1983 by the security forces operating in the region. According to the same source, during the week 6-12 June 1983, two Christian Democrat politicians and a secretary of the United Federation of Salvadorian Trade Unions were abducted by security forces.

67. Lastly, in a newspaper published in San Salvador, 56/ the Special Representative has read of threats by the "Maximiliano Hernández Martínez Anti-communist Brigade" against Monsignor Rivera y Damas, the Archbishop of San Salvador, and Monsignor Rosa Chávez, Auxiliary Bishop of the Diocese. In fact, a communiqué issued by the Anticommunist Brigade says that "Monsignor Rivera and Monsignor Chávez are duly warned that they must put a stop at once to their subversive sermons; otherwise drastic steps will be taken against them and they will not be able to escape by hiding behind their position in the Church". The Episcopal Conference of El Salvador answered this communiqué with another 57/ on 10 November 1983, expressing its solidarity with the Bishops being threatened and vigourously rejecting the accusations against them.

54/ Letter dated 15 April 1983 from the Ambassador of the Swedish Mission, addressed to the Special Representative, Geneva.

55/ Third Supplement ..., op. cit., pp. 37 et seq.

56/ La Prensa Gráfica, San Salvador, El Salvador, 2 November 1983.

57/ Episcopal Conference of El Salvador, Communiqué, San Salvador, 10 November 1983.

2. Torture and cruel, inhuman or degrading treatment

68. According to information received by the Special Representative, persons detained by the armed forces or security bodies have on occasion been subjected to torture and cruel, inhuman or degrading treatment. There are also reports that some persons have been tortured before being murdered.

69. In the opinion of Christian Legal Aid, recorded by the Americas Watch Committee, 58/ those who survive abduction by the security forces are invariably tortured; torture is practised not in Mariona Prison (for men) or in Ylopago Prison (for women), but in the days immediately following the abduction while the prisoners are in the custody of the security forces who seize them. This conclusion by Legal Aid, the Americas Watch Committee report adds, concurs with statements made by former political prisoners. The Special Representative places on record the fact that some of the testimony given before him by former political prisoners does refer to torture in these circumstances.

70. Christian Legal Aid 59/ reports that, between 1 January and 30 April 1983, there were 75 cases of physical torture and cruel or degrading treatment, 18 cases of decapitation in the central zone of El Salvador alone and, in the same zone, 10 cases of women murdered after being raped. The same source 60/ states that it examined, over the period 1 January-30 July 1983, as many as 175 bodies of people arbitrarily executed and showing unmistakable signs of torture prior to death; during the months of April, May and June, 32 decapitated bodies were examined.

71. The Centre for Human Rights received a letter dated 19 May 1983 from the American Association for the Advancement of Science forwarding a copy of the report from the medical fact-finding mission which visited the country from 11 to 15 January 1983. The conclusions of the report are as follows: "The mission team found evidence that health professionals have been singled out for harassment, 'arrest' and 'disappearances' because of their professional duties, notably providing medical assistance to all those who request it." Furthermore, "the mission found evidence which strongly suggests that torture and other forms of cruel, inhuman and degrading treatment are carried out on a routine basis by security forces during interrogation of suspected political offenders. These forms of physical and psychological abuse include the application of electric shocks and burns to the body, forced standing for long periods of time, rape and sexual abuse, severe beatings and the withholding of food and drink or sleep for extended periods of time".

3. Abductions and disappearances

72. The Special Representative has continued to receive information about abducted or arrested persons, many of whom are reported as missing. He again wishes to observe in this connection that the figures must be treated with the greatest caution. This must be done, firstly, because subsequent to their arrest or abduction the bodies of such persons are sometimes found and these cases are counted as murders. In other cases, it is discovered that abducted persons are

58/ Third Supplement ..., op. cit., p. 28.

59/ Christian Legal Aid, "Archbishop Oscar Romero", San Salvador, El Salvador, May 1983.

60/ Solidaridad, op. cit., No. 18.

alive in detention centres belonging to the armed forces or security bodies and these are counted as political prisoners. In still other cases, the abducted persons are released. Finally, there are cases in which those abducted are not found, presumably because they have been murdered and their bodies hidden; only then is it possible to speak properly of disappearances. The Special Representative has considered it necessary to give these explanations before including in his report information on figures concerning abductions and disappearances which, in many cases, overlap with those for murders and political prisoners.

73. According to a cable from Mexico, dated 23 June 1983 and addressed to the Special Representative by the Human Rights Commission of El Salvador (non-governmental), 345 persons were detained in premises belonging to the army and security forces between 1 January and 15 June 1983, i.e. 40 in January, 41 in February, 52 in March, 55 in April, 107 in May and 50 between 1 and 15 June.

74. According to later information from Christian Legal Aid, 61/ over the period 1 January to 30 June 1983, 554 cases of arbitrary arrest were recorded; in 62/ cases the armed forces were responsible and in 19 the guerrillas. It is also 63/ stated that during the same period 324 persons disappeared. To these figures should be added the 40 arrests reported by Legal Aid for the month of July 1983 62/ and a further 25 for the month of August. 63/

75. According to the Americas Watch Committee report 64/ which uses data from the Archdiocesan Legal Protection Office, 326 persons disappeared during the first six months of 1983 after being abducted by security forces and paramilitary groups. These figures were added to those for murders. It is reported that altogether 541 persons were abducted and 215 of them reappeared, mostly in Mariona Prison or on National Police premises.

76. For July 1983, Legal Protection 65/ reported the arrest of 78 persons; 19 of them reappeared, 2 were subsequently found murdered and 57 disappeared.

77. The Human Rights Commission of El Salvador (governmental) 66/ reports that for the second half of 1983 there were 283 abductions and 83 disappearances, but does not specify who was responsible.

78. Subsequent information indicates that abductions and disappearances are still continuing. Thus, according to Christian Legal Aid, 67/ for August 1983 there were 25 reports of arrests, including 15 cases of disappearances at that time. In September, according to the same source 68/ there were 91 reports of arrests,

61/ Solidaridad, No. 18, op. cit.

62/ Ibid., No. 19, op. cit.

63/ Ibid., No. 20, op. cit.

64/ Third Supplement ..., op. cit., p. 28.

65/ Legal Protection, report No. 15, op. cit.

66/ Government of El Salvador, Ministry of Foreign Affairs, Telex to the Permanent Mission of El Salvador to the United Nations Office at Geneva, 11 January 1984.

67/ Solidaridad, No. 20, op. cit.

and 37 of the persons concerned had disappeared at that time. Legal protection 69/ also gives a figure of 91 arrests in September, but 48 for disappearances. The same source 70/ states that, in October, there were 54 reports of abductions, and 24 disappearances.

79. According to information submitted by the United States Government, 71/ based on press reports: "civilian disappearances ... during the first half of 1983 continued at about the same rate as during the last six months of 1982, about 39 per month. Elements of the government security forces are believed to have been involved in or responsible for many of these disappearances. In some cases, the individuals were later found to be in government custody; in other cases, rightist and leftist terrorist groups are believed to have been responsible."

4. Political prisoners

80. According to information supplied to the Special Representative by the Minister of Justice of El Salvador, 72/ the number of political prisoners under his Ministry's authority on 14 September 1983 was 421, of whom 53 were women being held in Ylopango Prison and 368 were men being held in Mariona Prison. The Special Representative notes that these figures are lower than those issued on 18 September 1982, 73/ when the total number of prisoners under the Ministry's authority was given as 629, including 61 women in Ylopango and 568 men in Mariona. The application of the Amnesty and Rehabilitation of Citizens Act is undoubtedly the cause of this decrease in numbers.

81. With regard to political prisoners detained in the headquarters of the security forces, the respective chiefs gave the Special Representative the following figures. On 12 September 1983, four political prisoners were being held in the detention cells of the Rural Police. 74/ On the same date there were 23 detainees in the headquarters of the National Police. 75/ The detainees in the headquarters of the National Guard numbered 13.

82. The Special Representative visited Mariona Prison for men, which was, generally speaking, well ventilated and clean. There he talked privately with leaders of the Committee of Political Prisoners of El Salvador (COPPE), namely, Mr. Jorge Alberto Artigas Bonilla (who said he had been under detention for 3 years and 20 days), Mr. Salvador Castro Riveros (who said he had been under detention for 10 months) and Mr. José Luis Hernández Sarmiento (who said he had been in prison for 10 months). The Special Representative also visited the Ylopango Prison for women, which, in addition to being well ventilated and clean, had a garden.

69/ Legal Protection, report No. 17.

70/ Ibid., report No. 18.

71/ United States Government, Department of State 203257/5, "Text of Certification Report as delivered to Congress, 20 July 1983".

72/ Government of El Salvador, Ministry of Justice, Informe estadístico al 14 de Septiembre de 1983.

73/ E/CN.4/1983/20, op.cit., para. 77.

74/ Government of El Salvador, Armed Forces, Rural Police, Situación de reos que se encuentran en las bartolinas de este cuartel central por diferentes delitos y faltas correspondientes al día 12 de Septiembre de 1983, San Salvador.

75/ Government of El Salvador, Armed Forces, National Police, Cuadro de reos detenidos en vías de investigación o "seat", San Salvador, 12 September 1983.

There he talked privately with leaders of COPPES in the prison, specifically Mrs. Isabel Quesada, Mrs. Irma Soto, Mrs. Roseta Rubio, Mrs. Ana Raquel Cruz Vazquez and Mrs. Sonia Aguiñada Carranza, who stated they had been under detention for six months, three months, two months, one year and nine months respectively. All these prisoners - men and women - said that they had "won" certain privileges, such as being locked up only at night, being able to work and have proper drinking water and, in the case of Ylopango Prison, being allowed to display ideological propaganda in the quarters allocated to political prisoners. The Special Representative was able to examine this propaganda.

83. The Special Representative had private interviews with several political prisoners in the detention cells at the headquarters of the three security forces. In the headquarters of the Rural Police, he spoke with a Costa Rican national, Mr. Julio S. Romero Talavera, who said he had been detained on 25 January 1981 as a mercenary pilot suspected of having helped the guerrillas. Mr. Romero was confined to a room in which he had a television set provided by the ICRC; he told the Special Representative about his restlessness and anxiety at the long time that had elapsed without his being brought to trial.

84. In Mexico City, the Special Representative talked with former political prisoners who had been released under the Amnesty.

85. Some of the people interviewed told the Special Representative that for some time there had been no torture of political prisoners in Ylopango or Mariona, but torture did indeed occur during interrogations in secret centres of the army and the security forces and in secret prisons. According to statements made to the Special Representative, the torture was sometimes physical and sometimes psychological. Some political prisoners also complained that the time limits specified in Decree No. 507 had not been complied with.

86. The Special Representative was reliably informed that, as in previous years, ICRC representatives were able freely to visit the various detention centres. Some former political prisoners, however, told him that there were secret detention centres about which the ICRC had not been informed and in which, therefore, it could not carry out its work. These former prisoners said that it was precisely in these secret places that torture was practised.

87. Lastly, the Special Representative would recall the information relating to the implementation of the Amnesty and Rehabilitation of Citizens Act mentioned in Chapter IV of this report, under which 570 political prisoners have been released.

5. Attitude of Salvadorian criminal justice

88. In previous reports, ^{16/} the Special Representative expressed his concern at the general inactivity and passivity on the part of Salvadorian criminal justice in the face of the violations of human rights, although he acknowledge the

^{16/} E/CN.4/1702 and E/CN.4/1933/20, op. cit.

difficulties arising from the situation of generalized violence and noted certain attempts to give fresh impetus to judicial activities. With regard to 1983, the information received on the subject is not exactly encouraging nor does it give grounds for optimism. In the following paragraphs, the Special Representative will describe and analyse this information.

89. In a document handed to the Special Representative by the Attorney-General of the Republic on 16 September 1983, 77/ it is stated that during 1982, of the 807 cases brought to trial, 132 were found guilty and 675 were acquitted, the explanation for the high number of acquittals being the fears of the jurors. The Special Representative has been unable to find out how many of these completed proceedings related to ordinary offences and how many to politically-motivated violations of human rights of the type which come within his mandate and are documented in this report, but he thinks that the great majority relate to ordinary offences. In any case, even on the unlikely assumption that all or nearly all the guilty verdicts - 132 - related to violations of human rights, this figure bears no reasonable relationship to the large number of human rights violations which the Special Representative is morally certain were committed up to 31 December 1982.

90. In the view of the Special Representative, this conclusion is supported by other data contained in the Attorney-General's report, which makes express mention of 10 cases that are described as being "of international relevance". However, although there is considerable pressure for such cases to be concluded promptly, a verdict of guilty was returned in only one of them and the judge concerned has yet to impose a sentence; this is the case of the murder by a cantonal commander of a seminarist in November 1981. In two recent cases in which the accused belong to leftist organizations - the murder of Colonel Albert A. Schaufelberger III on 25 May 1983 and that of Deputy René Barrios Amaya on 18 June 1983 - according to the Attorney-General's report, the presumed offenders have been arrested and proceedings are for the time being following their normal course. The proceedings against Mr. Roeder, accused of abductions committed in December 1981, have reached the trial stage and, according to the Attorney-General, the jury will shortly be asked to consider its verdict. In another case of murder which took place on 26 August 1983 and in which the victim was retired Colonel José Larios Cuevas, the proceedings are at the investigation stage and the presumed perpetrators have not been found. In two cases of murder in which the victims were United States nationals - the four nuns killed on 4 December 1980 and the United States trade union advisers killed on 3 January 1981, proceedings are continuing, although at a rate which seems excessively slow. The proceedings relating to the "Las Hojas" massacre on 22 February 1983 are, according to the Attorney-General's report, at the judicial investigation stage. Lastly, the Attorney-General reports that proceedings are also being instituted in connection with the death on 17 March 1982 of the four reporters from the Netherlands and the death on 14 June 1983 of Mari-nela García Villas. The impression given by the Attorney-General's report on the last two cases is that proceedings are at a standstill, in both of them it is stated that investigation is difficult or impossible.

77/ Office of the Attorney-General of the Republic, "Competencia de la Fiscalía General de la República en relación al respeto de los derechos humanos en El Salvador", 14 September 1983, information supplied to Professor José Antonio Pastor Ridruejo, San Salvador, 16 September 1983.

91. The Special Representative expresses sincere thanks to the Attorney-General of the Republic of El Salvador for his co-operation, although he cannot conceal a certain uneasiness at the fact that he has not received information about the institution of proceedings in very many other cases of violations of human rights in which the victims were ordinary Salvadorian citizens. The Special Representative considers that this is a matter in which cases should not be singled out, regardless of the international pressure exerted in respect of some of them. From the human rights standpoint, all cases should receive equal attention and treatment by the judiciary.

92. The Special Representative has received information from other sources about some of the cases mentioned in the Attorney-General's report. For example, in connection with the proceedings relating to the murder on 4 December 1980 of the four American nuns, the Special Representative would refer to the resolution adopted on 30 June 1983 by the Inter-American Commission on Human Rights, 78/ which deplors "the delay and the denial of justice which means that, in spite of the time which has elapsed, it has so far not been possible to bring to trial and punish the perpetrators of the murders and outrages committed against the American nuns ...".

93. According to reports in the Salvadorian press, 79/ the case against the persons suspected of killing the nuns was brought before the court on 28 October 1983.

94. With regard to the proceedings instituted in connection with the "Las Hojas" massacre, the Special Representative wishes to place on record the serious irregularities complained of in the document issued by the Human Rights Commission of El Salvador (governmental). According to this information, 80/ valid up to 22 July 1983, the regular judge at Sonsonate court, who was the investigating magistrate for the proceedings, had asked for extended leave, and his surrogate had not yet (the killings occurred on 22 February 1983) announced any important decision such as the arrest or prosecution of those suspected of being responsible for the massacre. Moreover, the court has instituted proceedings against the father of one of the victims for the attempted murder of one of the presumed perpetrators of the massacre. And what is more, according to this information, the court has even ordered the detention of this man, while the presumed murderer of his son remains at liberty.

78/ Inter American Commission on Human Rights, resolution No. 17/83, case 7575 (El Salvador).

79/ El Diario de Hoy, 29 October 1983.

80/ Análisis jurídico del caso "Las Hojas", op. cit.

95. As in the previous year, the military authorities of El Salvador provided information to the Special Representative about the institution of judicial measures and the adoption of disciplinary measures against members of the army and security forces. Thus, according to information given to the Special Representative by the Salvadorian military authorities, 31/ during 1983, 78 cases of ordinary offences committed by members of the armed forces resulted in proceedings being instituted by various judges and courts, the number of persons being more than 78, since in some cases several people were charged. However, no mention is made in this report of the stage reached in the proceedings.

96. Another document given to the Special Representative by the Salvadorian military authorities 32/ contains information for the first part of 1983 about 211 cases in which members of the armed forces and security bodies were subjected to disciplinary measures or judicial proceedings were instituted against them for various offences and crimes. The Special Representative believes that this report also covers cases mentioned in the report referred to in the previous paragraph. He would point out that the report likewise does not mention the stage reached in the judicial proceedings and that it is difficult to determine which cases relate to ordinary crimes and which to politically-motivated crimes.

97. Without any doubt the Salvadorian authorities themselves are not satisfied with the way the system of criminal justice is functioning and they have for precisely this reason embarked on a process of reform with the object, according to explanations given to the Special Representative during his visit to the country, of instituting a system which will function rapidly and effectively. It is intended, inter alia, that it should be equipped with adequate means of investigating facts. The Special Representative would like to refer in this connection to Decision No. 96 of the Supreme Court of Justice, which was adopted on 9 September 1983 and a copy of which was given to him by the acting President of the Supreme Court. The decision was to set up a commission to draft preliminary proposals for the reform of the Penal Code and the Code of Penal Procedure within a period of five months from the time when the members of the commission assumed their functions. In addition, the Special Representative learned in San Salvador that the President of the Republic intended to set up another commission to study other aspects of criminal justice reform, this commission was to work in close collaboration with the first-mentioned commission. The Special Representative welcomes these attempts at reform and fervently hopes that they will soon lead to effective results so that criminal violations of human rights do not go unpunished.

31/ Government of El Salvador, Armed Forces Nómina de elementos de la Fuerza Armada que han sido capturados y consignados a tribunales comunes por delitos cometidos, Período del 15 de octubre 1979 al 10 de septiembre 1983, San Salvador, 10 September 1983.

32/ Government of El Salvador, Armed Forces, Información sobre la violencia política y las medidas de Fuerza Armada para tratar a la población civil, a los terroristas y para resolver los actos violatorios de los derechos humanos por parte del personal militar, San Salvador, September 1983.

6. Human rights violations attributed to the guerrillas

98. The Special Representative has received information from various sources about murders of non-combatants by the armed left-wing organizations. He again wishes to state that, for the reasons given in paragraph 48, it is very difficult to determine accurately the precise figures for this type of crime. Consequently, the figures under this heading too should be treated with great circumspection, since it is impossible to be certain that they are completely reliable, the discrepancies between the lists provided by various sources clearly indicate the need for caution.

99. According to the Americas Watch Committee report, 83/ Legal Protection recorded, during the first six months of 1983, 46 cases of murder of civilians by the guerrillas; most of the deaths were said to be caused by guerrilla attempts to hold up buses on main roads; a smaller number appeared to be executions of civilians regarded as collaborating with the army in repressive actions. In July 1983, according to Legal Protection, guerrillas were responsible for eight murders of civilians; 84/ according to the same source, 85/ guerrillas were also responsible for five murders in August 1983. Thus, taking into account the previous figures, the total number of murders of non-combatants attributed to guerrillas during the first eight months of 1983 was 59.

100. According to Legal Protection, 86/ guerrillas murdered a further six civilians in September 1983, and five more in October, 87/ making a total of 70 persons during the first 10 months of the year.

101. Other sources give higher figures for civilians murdered by guerrillas in 1983. Thus, according to the Human Rights Commission of El Salvador (Governmental), 88/ during the first six months of 1983, 222 civilians were killed as a result of guerrilla action, and 124 in the second half of the year. 89/ The number of murders in the first six months of 1983 attributed to the guerrillas by the Salvadorian military authorities exceeds 250. 90/ The figure supplied to the Special Representative by the Embassy of the United States in El Salvador, 91/ based on press reports, was 143 civilians murdered by the guerrillas in the first eight months of 1983, this figure is lower than that given by the military authorities and by the Human Rights Commission (Governmental) but higher than that given by the Archdiocesan Legal Protection Office.

102. The Director of the National Police of El Salvador gave the Special Representative a selective list of murders by the guerrillas of Government officials and members of the diplomatic corps, banks, commercial enterprises and

83/ Third Supplement ... op. cit., p. 65.

84/ Legal Protection, report No. 15, op. cit.

85/ Ibid., report No. 16, August 1983.

86/ Ibid., report No. 17.

87/ Ibid., report No. 18.

88/ Human Rights Commission of El Salvador, Información de la Comisión de Derechos Humanos, op. cit.

89/ Government of El Salvador, Ministry of Foreign Affairs, Telex to the Permanent Mission of El Salvador to the United Nations Office at Geneva, 11 January 1984.

90/ Government of El Salvador, Armed Forces, Hoja de trabajo de actividad terrorista, "Acción de Asesinato y Secuestro 'B' en los seis primeros meses de 1983".

other representative organizations of the Salvadorian people. 92/ For 1983, this list includes the following murders: Deputy René Barrios Amaya, murdered on 28 June 1983, the murder being attributed to members of the FPL; Mayor Eleazar Cruz Iraheta, murdered on 4 April 1983 by an unidentified group; Professor Elías Miguel Castro Miranda, murdered on 30 January 1983 by an unidentified group; Professor Carlos Angel Hernández Coreas, murdered on 29 April 1983 by an unidentified group; Professor Rosa Isabel Benitez de Argueta, murdered on 14 July 1983 by an unidentified group; retired Colonel José Larios Cuevas, murdered on 26 August 1983, the murder being attributed to the FPL; and Vittorino Andretto, an Italian engineer, murdered on 23 August 1983 by an unidentified group.

103. The Special Representative also wishes to refer to the murder of Colonel Albert Schaufelberger, United States military adviser, who was shot in his car on 25 May 1983 in the vicinity of the Central American Catholic University. According to information from the Government of El Salvador and the international press, the FPL claimed responsibility for this murder. 93/

104. In a note dated 4 October 1983 from the Government of El Salvador, an account is given of a guerrilla attack on the village of Tenancingo in the Department of Cuscatlán on 24 and 25 September 1983, in which "a large number of civilians were killed, considerable damage was done to property, and the population, including many children, elderly persons and women left for neighbouring villages". The report adds that during the attack, "... two officers, Second Lieutenant José Humberto Guzmán Lara and Captain Tomás A. Calvo Alfaro, were abducted and have since been missing". 94/

105. The Special Representative has received information that the guerrilla organizations also made a number of arbitrary arrests in 1983. The information varies according to the source and the Special Representative would once again mention the need for caution in considering the figures.

106. According to Legal Aid, during the first six months of 1983, the guerrillas were responsible for 19 cases of arrests of this type. According to Legal Protection, 95/ guerrillas abducted three soldiers, two labourers and a clerk in September 1983, and one person in October. 96/ However, the information on the subject provided by the Government of El Salvador to the Special Representative 97/ contains higher figures, stating that in the first eight months of 1983 over 300 persons were abducted by guerrillas. The Special Representative wishes to point out that, according to this list, some of those abducted were members of the army or security bodies; he would also emphasize that in some cases the persons abducted were reported to have been released.

92/ Armed Forces of El Salvador, National Police, Information Department, Resúmen sobre asesinatos cometidos por organizaciones terroristas contra funcionarios de Gobierno, Cuerpo Diplomático, banca, comercio y otros organismos representativos del pueblo salvadoreño, San Salvador, 11 September 1983.

93/ Boletín Informativo Seinform, op. cit., May 1983.

94/ Government of El Salvador, Note MP NU DH 360 83 addressed to the Director of the Centre for Human Rights, 4 October 1983.

95/ Legal Protection, report No. 17, op. cit.

96/ Ibid., report No. 18.

97/ Government of El Salvador, Armed Forces, Hoja de trabajo de actividad terroristas. op. cit.

107. An allegation of a different sort against the armed guerrilla forces is that on occasion they forcibly recruit young men. Thus the Americas Watch Committee 98/ "through independent sources ... has ascertained that such recruitment does occasionally take place in areas controlled by the FMLN. We also heard", the report adds, "that, at least in some cases, these actions were later reversed and the young men were allowed to return to their homes". In El Salvador, private individuals assured the Special Representative that forced recruitment of that kind had indeed occurred.

108. Furthermore, the Special Representative received a great deal of information about the continued systematic sabotage by the guerrilla forces of the economic infrastructure of the country. An exhaustive list of such attacks during part of 1983 was provided by the Salvadorian Government, 99/ but the Special Representative thinks that the list would be much too long and detailed to reproduce in this report. He considers it preferable to quote some of the abundant reports on the subject contained in the international press and other sources, and subsequently to provide information on the estimated value of the damage done.

109. Thus, El País reported on 17 May that the guerrilla forces "... exploded five bombs which destroyed two pylons and three posts of the high-tension power lines, blacking out several districts of the capital. Furthermore, the guerrillas claimed that they had seriously damaged the large sugar refinery at Injiboa". 100/

110. According to The Times of 30 March 1983, the guerrillas blew up a power pylon in San Vicente and blacked out most of the eastern portion of El Salvador for about six hours. They had previously left half of the country blacked out by sabotaging power lines at the end of February. 101/

111. In attacks against the transport system in Suchitoto at the beginning of April, the guerrillas stopped passengers and demanded payment of a "war tax". 102/

112. According to Government information contained in the seinform bulletin of 11 April 1983, 103/ between 6 and 7 April subversive elements besieged and subsequently invaded San José Cancastecue in the Department of Chalateango. When invading the town, the attackers engaged in all kinds of looting, destroyed the archives of the local town hall, desecrated the church, from which they removed sacred objects, and raped women.

98/ Third Supplement ..., op. cit.

99/ Government of El Salvador, Armed Forces, Hoja de trabajo de actividades terrorista, op. cit., "Acción de Sabotaje"

100/ El País, 18 March 1983.

101/ The Economist, 28 February 1983.

102/ El País, 6 April 1983.

103/ Boletín Informativo Sienform, op. cit., No. 5, 11 April 1983.

113. According to a later bulletin dated 14 April 1983, 104/ in the city of San Miguel terrorist groups carried out attacks on the warehouses and installations of the Department of Town Planning and Architecture, the Chaparranstique refinery, the Cadena Central Broadcasting station, the San Miguel Co-operative Transport Association and private houses, causing property damage estimated at several million colones.
114. The International Herald Tribune reported that during the week of 15 April, in the Department of San Miguel, guerrillas blew up "about 20 trucks" which were carrying medical supplies to Honduras. 105/
115. The Government bulletin Seinform 106/ reported on 18 April that 14 heavy trucks had been blown up at 1.10 a.m. on 17 April at the Diana Works, situated at kilometre 70 on the road to Candelaria de la Frontera, north-east of the city of Santa Ana.
116. According to a report in The Times of 21 April 1983, guerrillas attacked a farm owned by former President Fidel Sánchez Hernández and blew up power pylons near Santa Ana, the second largest city in El Salvador.
117. According to the same source, during the month of April "... guerrillas attacked a food-processing plant in Santa Ana (western El Salvador) belonging to a member of the Constituent Assembly, and in San Miguel (eastern El Salvador) they wrecked a sugar refinery a bus terminal and two warehouses. They also attacked a gold mine in the eastern Department of La Unión, killing 10 soldiers, causing damage estimated at \$1 million and stealing an unknown quantity of dynamite".
118. Several articles 107/ reported guerrilla attacks in three eastern provinces on 3 April 1983. It was reported that in these attacks the guerrillas blew up six bridges, including a bridge in El Amatillo which links El Salvador with Honduras. According to reports, residents of the towns of El Amatillo and Santa Rosa de Lima, along the Honduran border, expressed fear that the destruction of the bridges could lead to the collapse of trade between Honduras and El Salvador, as well as prevent shipments from other Salvadorian cities reaching them. It was reported in the International Herald Tribune of 2 May 1983 that in the guerrilla attack on the town of El Amatillo, "rebels killed 9 policemen and 11 civilians, and according to reports 9 of those killed were sleeping truck drivers who were trapped inside their vehicles when the rebels rolled sticks of dynamite underneath them". According to another source, eight soldiers and eight civilians were killed. 108/

104/ Boletín Informativo Seinform, op. cit., No. 8, 14 April 1983.

105/ International Herald Tribune, 15 April 1983.

106/ Boletín Informativo Seinform, op. cit., No. 10, 18 April 1983.

107/ The Times, 2 May 1983, International Herald Tribune, 2 and 3 May 1983.

108/ The Times, 2 May 1983.

At least 20 trucks were reported destroyed in the attack, including trucks from Honduras and Guatemala. 109/ The attack severed the Pan American Highway, the main road link among Central American countries. Several factories in the area along the Honduran border were also reported badly damaged by guerrilla forces. In the attack on the town of Santa Rosa de Lima, guerrillas were reported to have looted a bank and jewellery shops. 110/

119. The International Herald Tribune reported on 30 April that guerrillas had burned eight buses on the Pan American Highway in San Miguel, 70 miles east of San Salvador.

120. According to a report in El Mundo of San Salvador, 111/ the Armed Forces Press Committee announced on 2 May that at the Moncagua turn-off in San Miguel on the Pan American Highway, groups of subversives had stopped and destroyed six buses operating on interdepartmental and international routes. The report stated that, while one group of extremists were engaged in destroying the buses, others robbed the drivers and passengers of their money, clothing and other belongings, saying that it was not a hold-up but "payment of the war tax". According to the same source, 112/ a number of subversives attacked the installations of the Duralita de Centro América plant situated at kilometre 27 on the San Salvador-Sonsonate road. The extremists stole 7,000 colones in cash and a vehicle belonging to the plant.

121. On 4 May, El Mundo reported officials of the El Salvador National Railway as stating that a bridge had been blown up and destroyed. As a result of this further attack on the railway system, it was estimated that railway traffic to the eastern part of El Salvador would be brought to a standstill for approximately 10 days.

122. The Salvadorian press reported that on 4 May, in the Department of Santa Ana, groups of extremists simultaneously set off four high-power bombs (according to another source, five bombs) which destroyed four or five posts and transformers of the electric lighting system. 113/ El Mundo reported that on the same date four bombs were exploded by extremists in the Department of San Vicente, destroying electric lighting installations. 114/

123. Terrorist action destroyed the Esso Apopa petrol station on the Quezaltepeque turn-off in the Department of La Libertad. The damage was estimated at some 300,000 colones or approximately \$120,000. 115/

109/ Ibid., International Herald Tribune, 2 May 1983.

110/ The Times, 2 May 1983, International Herald Tribune, 3 May 1983.

111/ El Mundo, San Salvador, El Salvador, 2 May 1983.

112/ Ibid.

113/ El Mundo, op. cit., 4 May 1983, El Diario de Hoy, San Salvador, El Salvador, 7 May 1983.

114/ El Mundo, op. cit., 5 May 1983.

115/ El Mundo, op. cit., 5 May 1983.

124. The Salvadorian press 116/ reported that, according to the Armed Forces Press Committee, a peasant had been murdered by a group of extremists in the canton of Tecomatepe de San Pedro Perulapán when he was attending the funeral wake of a friend. The Press Committee had also reported the destruction of a motor rail car of FENADES (El Salvador National Railways) which was stopped by extremists in the canton of San Juan, Jiquilisco district, Usulután. The extremists forced the occupants to leave the car and, after having stolen tools and equipment, they exploded an incendiary bomb which destroyed it totally.

125. The guerrillas attacked a coffee plantation in the Department of San Miguel (some 150 kilometres east of the capital), burning 37,000 quintals of coffee ready for export. Damage was estimated at \$1 million. They also blew up a number of power pylons, blacking out the four eastern departments: Morazán, La Unión, San Miguel and Usulután. 117/

126. According to reports in El País, in a guerrilla attack on the town of Cinquera the guerrillas summarily executed at least 16 civilians and caused the death of about 100 civilians. In another town close to Cinquera it was reported that the guerrillas machine-gunned a bus carrying soldiers and peasants, killing 10 of them. 118/

127. According to The Times, a large guerrilla force dynamited a key bridge on the Pan American Highway, the main route through El Salvador. They also dynamited power pylons nearby, leaving 1.6 million people without electricity in eastern El Salvador. 119/

128. The microwave system in the telecommunications centre at El Pacayal in the Department of San Miguel was blown up by subversive groups on 6 June, cutting communications between El Salvador and the rest of Central America. The Salvadorian Government reported that in the attack modern telephone, telex, television and telegraph equipment was destroyed. 120/

129. It was reported in the international press that on 8 July 1983 guerrillas attacked the town of Nueva Grande, 62 miles east of San Salvador, where according to inhabitants, "5 of the 16 people killed had their hands tied behind their backs, were then stood against a wall and shot". According to witnesses, "the five were civil guards who ran out of ammunition and surrendered". According to one source, the Ministry of Defence was reported as saying that 12 civil defence guards were shot. According to one report, about 250 leaflets were said to have been left behind signed by the Popular Liberation Forces. 121/

116/ El Mundo, op. cit., 6 May 1983.

117/ El País, 12 May 1983.

118/ El País, 14 and 18 May 1983.

119/ The Times, 27 May 1983.

120/ Boletín Informativo Seinform, op. cit., 7 June 1983.

121/ The Times and The Guardian, 11 May 1983.

130. Finally, according to press reports, 122/ on 1 January 1984 guerrilla forces attacked and destroyed the Cuscatlán bridge on the river Lempa, a major communication route between the eastern and western parts of the country. The damage caused by the destruction of the bridge was estimated at 80 million colones (over \$US 20 million), 123/ and it was hoped that a temporary vehicle bridge costing 800,000 colones (about \$US 200,000) would be ready on 18 January. 124/

131. According to information provided to the Special Representative during his visit to the country by the National Association of Private Entrepreneurs, 125/ the estimated cost of the damage caused by guerrilla acts of sabotage during the period 1979 to 1983 was as follows: agricultural sector: 1,400,694,730.00 colones (\$US 560,277,892.00); commercial and industrial sector: 265,314,634.00 colones (\$US 106,125,853.60); economic infrastructure: 321,043,650.00 colones (\$US 128,417,460.00). This gives a total of 1,987,053,014.00 colones (\$US 794,821,205.60).

132. In a document given to the Special Representative, the FDR-FMLN 126/ "admits that it has carried out, as part of its military campaigns, acts of sabotage against communications, power supply systems, production of export goods, etc., ..., but denies that such activities are terrorist acts. They are military operations because such installations are in reality military objectives, although some of them appear to be civilian property". The FDR-FMLN maintains that roads, bridges, telecommunication systems and electrical installations "fall clearly under the heading of military objectives", within the meaning of Additional Protocol I to the 1949 Geneva Conventions and, although it recognizes that these activities are harming the economy of the country, it alleges that without doubt the group mainly responsible for the current economic decline is not the FMLN but the Salvadorian oligarchy. The document quotes an inquiry conducted by the Embassy of the United States in El Salvador according to which, the total cost of direct damage caused by the war (not only by the FMLN) amounts to \$US 446.3 million, private capital remitted abroad by the oligarchy has been approximately \$1 billion.

133. Furthermore, a representative of the FDR-FMLN explained to the Special Representative that, in the current state of siege, acts of sabotage against the economy constituted a means of expressing the views of those fronts.

122/ El País and ABC, 3 January 1984

123/ Boletín Informativo deinform, op. cit., No. 4, 5 January 1984.

124/ Ibid., No. 5, 6 January 1984.

125/ Asociación Nacional de Empresarios Privados, Informe sobre daños y pérdidas ocasionados por causa de la violencia terrorista en El Salvador, período comprendido de 1979 a 1983, San Salvador, September 1983.

126/ Political and Diplomatic Commission of the FDR-FMLN of El Salvador, La situación de los derechos humanos en El Salvador a la luz de los Convenios de Ginebra, September 1983.

IV. THE SITUATION OF REFUGEES AND DISPLACED PERSONS

134. As in his previous reports, the Special Representative intends to report on the situation of the many Salvadorian citizens compelled to leave their homes, either in order to move to other parts of the country (displaced persons) or to seek refuge in other countries (refugees). The Special Representative considers that the violence prevailing in El Salvador is an important, but not the only, cause of these mass exoduses, since with regard to emigration in particular he agrees with ECLA 127/ that it is due not only to non-economic factors but also to economic factors.

135. According to information supplied to the Special Representative by the National Commission for Assistance to Displaced Persons (CONADES), 128/ displaced persons numbered 262,231 on 31 August. The Salvadorian Minister of the Interior informed the Special Representative of the measures taken by the Government to cope with the needs of these persons. In addition, the Special Representative visited a camp for displaced persons in the town of San Vicente; the camp receives assistance from a religious organization and the harsh minimum-subsistence conditions of the persons living there were readily apparent.

136. With regard to Salvadorian citizens who have sought refuge abroad, according to a letter addressed to the Special Representative by the Office of the United Nations High Commissioner for Refugees (UNHCR), 129/ as at 31 July 1983 there were 244,000 Salvadorian refugees in the countries of Central America and Mexico; of these 7,000 were in Belize, 10,000 in Costa Rica, 18,500 in Honduras, 120,000 in Mexico, 17,500 in Nicaragua and 1,000 in Panama. Of this total only 35,141 are reported to be receiving assistance. It is further stated in the letter that of this number 3,000 refugees entered the above-mentioned countries in 1983 and that the sources for the figures were governmental.

137. In addition, according to the report by the Americas Watch Committee, 130/ some 500,000 Salvadorians have gone to the United States of America since October 1979.

V. RESPECT FOR HUMAN RIGHTS IN THE COURSE OF ARMED CONFLICTS

138. The Special Representative considers it appropriate to recall that the Republic of El Salvador is a party to the four Geneva Conventions of 12 August 1949 and to the Additional Protocols of 10 June 1977. He considers that article 3 of each of the above-mentioned Conventions, together with Protocol II, which relates to the protection of the victims of non-international armed conflicts, are applicable to the conflict in El Salvador.

127/ E/CEPAL/MEX/1983/L.17, op. cit.

128/ Government of El Salvador, Ministry of the Interior, Comisión Nacional de Asistencia a la población desplazada (CONADES), Cuadro resumen de la población desplazada a nivel nacional, al 31 de agosto de 1983 (Summary of displaced persons at the national level at 31 August 1983).

129/ Letter from the Chief of the Regional Office for the Americas and Europe, Office of the United Nations High Commissioner for Refugees, 19 August 1983.

130/ Third Supplement ... , op. cit., p. 45.

139. In this connection the report of the Americas Watch Committee 131/ states that when the regular armed forces of El Salvador use Cessna A 37 B Dragonfly aeroplanes against the zones controlled by the FMLN, no effort is made to minimize damage or to distinguish between military and civilian objectives, although the Committee acknowledges that because of the nature of the war in El Salvador it is unusually difficult to minimize damage to the civilian population.

140. More detailed information on this matter is supplied by Christian Legal Aid. 132/ According to this source, during the period January-June 1983 there were 37 large-scale military operations which very seriously affected sizeable groups of the civilian population, mainly non-combatant peasants. It adds that certain mainly rural parts of the territory were heavily bombed and shelled by air and by land, without any attempt at discrimination.

141. The Special Representative has received reports on the alleged bombing of the village of Tenancingo by the El Salvador Air Force on 25 September 1983. In his sermon on Sunday, 2 October, the Auxiliary Bishop of San Salvador, Monsignor Rosa Chávez, gave the following account of the bombing: "It all began very early last Sunday, when the guerrilla forces entered the village, whose population was protected by a contingent of at least 300 soldiers from No. 6 Detachment. A few hours later some helicopters arrived and machine-gunned some areas on the outskirts of the village. But the civilian population became terrified when the bombing of the built-up area of the village began in the morning. Many people tried to flee from Tenancingo by the main road, under the protection of Green Cross volunteers, but they too were attacked by a military plane. We can imagine the panic and indescribable suffering of our defenceless brethren. The number of dead among the civilian population is high, and many soldiers and guerrillas also died in the village. Tenancingo is now virtually deserted and there are about 300 refugees in the church of Santa Cruz Michapa". 133/ The international press 134/ also reported the bombing of Tenancingo, said to have caused 18 dead among the civilian population.

142. A more detailed report on the bombing of Tenancingo was given to the Special Rapporteur by Christian Legal Aid. 135/ According to that information, based on eye witness reports, during the fighting between the army and guerrilla groups a number of Government helicopters bombed and strafed the outskirts of the village, partly destroying some civilian housing. When the civilian population

131/ Third Supplement ..., op. cit., pp. 55 and 56.

132/ Solidaridad, No. 18, op. cit.

133/ Orientación, weekly publication of the Archdiocese of San Salvador, San Salvador, El Salvador, 9 October 1983, p. 6.

134/ New York Times, 1 October 1983.

135/ Christian Legal Aid, Informe relativo a los acontecimientos violentos y bombardeo aéreo de la villa de Tenancingo, El Salvador, 25 de septiembre de 1983.

then gathered in some houses in the village for protection, an Armed Forces aircraft indiscriminately bombed the village, killing many of the inhabitants. According to the report, as some 55 civilians were being evacuated by Green Cross health officials conspicuously wearing the organization's emblem, they were hit by a bomb dropped from a Government aircraft, which killed both the group and the Green Cross officials. The report adds that by 28 September 1983 the humanitarian agencies had recovered as many as 75 bodies in Tenancingo, and still more were found later. Survivors were evacuated from Tenancingo, and on 29 September 1983 there remained only 178 of the estimated 3,000 inhabitants of the village before the bombing began.

143. According to an extract from the Armed Forces Press Committee (COPREFA), 136/ however, the events in Tenancingo occurred as follows: "Over a thousand extremists launched an indiscriminate attack against the civilian population of Tenancingo at midnight on Saturday, using 81 mm mortars, RPG-2 rocket launchers, 90 mm guns and other weapons; a company of No. 6 Military Detachment commanded by Captain Tomás Calvo resisted and withdrew in the face of superior numbers; unfortunately, the commanding officer was abducted by the terrorists. When the armed forces relieved Tenancingo, the terrorists sheltered behind the population. The army's action focused on the main road and on the outskirts of the town to avoid involving the innocent".

144. Again, concerning the incidents in Tenancingo a public information bulletin of the International Committee of the Red Cross (ICRC) 137/ contains the following: "Following heavy fighting in the village of Tenancingo (Department of Cuscatlán) during the last days of September, relief delegates had to ensure the proper burial of victims".

145. The report of the Americas Watch Committee 138/ further states that in 1983 "the Salvadorian security forces continue to persecute doctors and other health professionals suspected of providing medical care to activists in the FMLN or the FDR or to other opponents of the Government. In this, the Salvadorian security forces persist in violating established principles of international humanitarian law that recognize the responsibility of doctors and other health professionals to provide medical care to all". The impression of the Americas Watch Committee was reiterated to the Special Representative in Mexico City by Mr. Miguel Ángel Sáenz Varela, a Salvadorian and a member of the Committee of Health Professionals of El Salvador (COPROSAL).

146. With regard to the treatment by the Salvadorian military authorities of guerrilla fighters captured in combat, it is maintained in the document communicated to the Special Representative by the Political and Diplomatic

136/ Government of El Salvador, Ministry of Foreign Affairs, Telex to the Permanent Mission of El Salvador to the United Nations at New York, 8 December 1983.

137/ International Committee of the Red Cross, Salvrep, No. 22, October 1983.

138/ Third Supplement ..., op. cit., p. 43.

ommission of the FMLN-FDR 139/ that "the armed forces of the regime do not usually take prisoners of war". The Special Representative has heard this opinion expressed in other media. Nevertheless, when he asked the Salvadorian military authorities about the treatment of captured guerrillas, the reply was that after interrogation they were held in Mariona prison and that some of them had benefited from the Amnesty Act. The military authorities further stated that, in all events, the number of guerrillas captured in combat was not large because in most cases they would fight courageously to the death. However that may be, the Special Representative wishes to state that at San Salvador Military Hospital he had occasion to visit two recently-captured guerrilla fighters who were receiving medical attention; both said that they were being well treated. The presence of these two guerrilla fighters in this hospital indicates that there are cases in which the Salvadorian regular army respects the lives of prisoners and even extends humanitarian treatment to them. Nevertheless, the Special Representative is unable to determine the number of such cases.

47. With regard to the treatment by the guerrilla forces of soldiers of the regular army captured in combat, the Special Representative drew attention in his previous report 140/ to various cases in which the FMLN released soldiers under the auspices of the International Committee of the Red Cross (ICRC). A representative of the Political and Diplomatic Commission of the FDR-FMLN told the Special Representative that the guerrilla forces were persisting in their policy of releasing captured soldiers, although recently such soldiers had not been released through ICRC, but directly and shortly after capture. According to the representative quoted, that change of policy was prompted by the difficulties faced by the FMLN in providing for the material needs of prisoners over a long period.

48. In any case, the Special Representative received reports that in 1983 the guerrilla forces, on at least three occasions, murdered members of the Salvadorian regular army who had surrendered.

49. According to the report of the Americas Watch Committee, 141/ the first incident of this nature occurred on 5 May 1983 at Cinquera Cabañas, where 16 members of the Civil Defence of El Salvador who had surrendered to FMLN forces were executed by them. A representative of the Political and Diplomatic Commission of the FDR-FMLN who gave an interview to the Special Representative in New York did not deny that at the place and on the date in question incidents of that nature had occurred, although he alleged in defence of the FMLN that the civilian population had been subjected to severe repression and that moreover it had been lured to Cinquera by the army itself in order to deter the FMLN from attacking; in those circumstances, the FMLN had taken into account the sufferings and feelings of the civilian population.

139/ Political and Diplomatic Commission of the FMLN-FDR of El Salvador, La situación, op. cit., p. 30.

140/ E/CN.4/1983/20, op. cit.

141/ Third Supplement ..., op. cit., p. 67.

150. According to the report by the Americas Watch Committee, 142/ a second case of execution by guerrilla forces of regular soldiers who had surrendered occurred at Quebrada Seca on 25 May 1983. The Special Representative had occasion to speak about this incident in the barracks in the town of San Vicente, near Quebrada Seca, with a captain and two sergeants - one of them a medical sergeant - of the United States military adviser corps. These men said that at 6 a.m. on 25 May a military truck arrived at San Vicente barracks from Quebrada Seca carrying three civilians who had been wounded in the ambush at Quebrada Seca, and that at 10 a.m. on the same day two more trucks arrived at the barracks with the bodies of 42 soldiers who were identified by their companions. The United States military advisers added that 33 of the bodies bore bullet wounds on the head with gunpowder marks which indicated that they had been shot at close range, and that their hands were tied. According to the testimony of the Salvadorian soldiers who collected the bodies, 25 of the bodies had been laid in line and that, of course, all of them had been stripped of their regulation uniforms. A representative of the Political and Diplomatic Commission of the FDR-FMLN, speaking to the Special Representative, denied that the guerrilla forces had committed these acts.

151. Lastly, according to the Americas Watch Committee, 143/ "subsequent to the Americas Watch visit to El Salvador, and therefore not independently checked by us in connection with this report, newspaper accounts appeared on yet another series of executions by guerrilla forces following a battle. At Nueva Granada, guerrillas are said to have executed either eight civil defence members, according to Radio Venceremos, or five according to townspeople".

152. According to later reports, the guerrilla forces have continued their practice of releasing prisoners of war. In this connection, the Special Rapporteur wishes to quote from the letter addressed to him on 15 December 1983 by a member of the Political and Diplomatic Commission of the FDR-FMLN, according to which the Revolutionary Council at a plenary meeting last August made a detailed study of "the circumstances leading to the isolated cases of the execution of prisoners of war. The Revolutionary Council took steps to avoid the recurrence of such exceptional cases, and decided to continue and step up its policy of taking prisoners, treating them well and releasing them". Subsequent information indicates that the FDR-FMLN is following such a policy. The Auxiliary Bishop of San Salvador, Monsignor Rosa Chávez, said, with regard to the events in Tenancingo, in his sermon on 2 October 1983: 144/ "We know that 53 soldiers were released last Thursday, and we rejoice at this because it shows that the guerrillas are prepared to abide by the Geneva Conventions and observe the requirements of human rights which also remain in force in time of war. We hope that the FMLN will also treat the officers captured in Tenancingo, Captain Tomás Antonio Calvo Alfaro and Sub-Lieutenant José Humberto Guzmán Lara in a humanitarian manner and show flexibility in the negotiations which could lead to their release". The international press 145/ also reported that in November the guerrillas handed over to the ICRC 135 soldiers who had surrendered east of the town of Anamoros.

142/ Third Supplement ..., op. cit.

143/ Ibid., p. 69.

144/ Orientación, op. cit., San Salvador, 9 October 1983.

145/ New York Times, 27 November 1983.

153. The ICRC itself recently reported the release of captured soldiers by the guerrilla forces. An ICRC public information bulletin states the following: "On 20 October, four members of the Salvadorian armed forces captured by the guerrillas of the Farabundo Martí National Liberation Front (FMLN) were released and handed over to ICRC delegates in the Department of Cuscatlán. Delegates were also able to visit two officers and six soldiers still detained by FMLN and to whom they delivered family messages. On 21 October, 10 soldiers captured by the FMLN were also released and handed over to the ICRC in the Department of Usulután. The 14 persons released were subsequently transferred by the ICRC to the closest military garrison". 146/

154. According to subsequent reports in the international press, 147/ at the beginning of January 1984 the guerrilla forces released 162 regular army soldiers captured in the attack and seizure of the garrison of El Paraíso (Department of Chalatenango), although it is reported that about a dozen middle-rank officers still remain in the hands of the guerrillas.

146/ Salvrep No. 22, op. cit.

147/ International Herald Tribune, 9 January 1984.

VI. CONCERN OF THE GOVERNMENT OF EL SALVADOR FOR HUMAN RIGHTS

155. As in the previous year, in September 1983 senior authorities of the Republic of El Salvador assured the Special Representative of their concern to improve the situation of human rights in the country. The Special Representative has no doubt about the sincerity of these sentiments and he fervently hopes that they will be put into practice effectively and promptly. The Special Representative considers that some of the measures adopted during 1983 by senior political authorities in El Salvador, which will be mentioned in this report, meet that concern. Nevertheless, in the light of all the information received, the Special Representative is obliged to say that, sadly, serious and massive violations of human rights, and particularly of the fundamental right of the individual - the right to life - continue to occur in El Salvador.

156. Some of the measures adopted by the Salvadorian political authorities to improve the human rights situation are worth mentioning in this report. The Special Representative will refer below to these measures, outstanding among which, in his view, are the efforts of the Human Rights Commission (governmental) established under the Apaneca Pact 148/ and the implementation of the Amnesty and Rehabilitation of Citizens Act proclaimed by the Constituent Assembly of El Salvador in Decree-Law No.210, of May 1983.

157. The rules of procedure of the Human Rights Commission were laid down by Decree No.30, 149/ of 1 December 1982, of the Executive Power of the Republic of El Salvador. In the preamble to this decree, it is stated that "one of the objectives of the Government of national unity set forth in the basic platform of government is to achieve fully effective human rights, for which purpose the Commission has been established": in fulfilment of its functions, the Commission may receive and deal with complaints, institute inquiries where appropriate, contact State officials, authorities or individuals, and receive evidence concerning the facts of which it is aware (article 16); it may also request the Office of the Attorney-General of the Republic, ministries, courts, security bodies and other State agencies to institute procedures for investigating situations or cases within its knowledge (article 18); it may likewise have access to detention centres, prisons, barracks and military installations, for the purpose of inquiring into the whereabouts of persons allegedly detained (article 20); in extremely serious cases or in situations that may affect the fundamental rights of any person subjected to detention, it may request action by senior State authorities (article 21); and it is also required to undertake study and promotional activities in order to further respect for human rights (articles 28 et seq.).

158. According to the information on the activities of the Human Rights Commission given to the Special Representative during his visit to the country, 150/ this organization considered 504 complaints during the first six

148/ See previous report, E/CN.4/1983/20, op. cit.

149/ Diario Oficial, op. cit., No.30, vol. 277, No.221, 1 December 1982.

150/ Human Rights Commission of El Salvador, Información de la Comisión de Derechos Humanos de El Salvador (CDH), "Informe de Labores Desarrolladas por la Comisión de Derechos Humanos (CDH) en el Primer Semestre de 1983 (de enero a junio)", San Salvador, September 1983, p.4.

six months of 1983, with the following results: 45 persons detained in military establishments were released; 91 missing persons were located in various military centres; 36 persons who considered their personal or family safety to be threatened received protection; the Commission succeeded in bringing before the courts persons suspected of having committed three murders; it arranged for 152 persons benefiting from the Amnesty Act to be received by the Governments of Canada, Australia and Belgium; it gave assistance to foreigners detained in military establishments and informed the relevant diplomatic missions of their detention; and it conducted campaigns in various sectors and institutions - including the armed forces and security bodies - for the promotion and protection of human rights. As to the second half of 1983, 151/ the Commission reported 47 cases of persons under protection; 205 cases under investigation; 37 cases of persons being brought to court; 90 cases of persons who had been released; 18 persons amnestied; and 127 persons who had been located. Independently of these activities, the Commission undertook an intensive investigation into the "Las Hojas" massacre, to which reference has already been made 152/ and about which it submitted a confidential report to the President of the Republic. Lastly, as stated in the report of the Americas Watch Committee, 153/ the Commission's efforts have no effect on political murders by the security forces, which constitute the crucial human rights problem in El Salvador, but they do play a modest role with respect to another important problem: disappearances following abduction by the security forces. The Committee's report says it also seems possible that, by taking an interest in an abducted person, the Commission may help to save his life or mitigate any torture to which he may be subjected.

159. On 16 May 1983, the Amnesty and Rehabilitation of Citizens Act, contained in Decree No. 210 of the Constituent Assembly and promulgated on the initiative of the Acting President of the Republic, 154/ entered into force. Under this Act, amnesty is granted to all civilian nationals who, up to the date of its entry into force, have participated as principals or accomplices in political offences or ordinary offences connected therewith, whether or not proceedings against them have been instituted (article 1). The pardon of amnesty is granted to: (a) armed insurgents against the Government of the Republic or persons who have participated in other political offences or ordinary offences connected therewith, who voluntarily avail themselves of the benefits of the Act and are ~~not~~ in custody; (b) persons charged with an offence or offences for which the ~~maximum~~ maximum penalty for each offence does not exceed four years, and who complete or have completed six months' in custody; (c) persons in respect of whom an executable sentence has been handed down for the offences referred to under (b) above (article 3). The Act establishes an Amnesty Board composed of three members, one of whom, acting as Chairman, is appointed by the Peace Commission, another by the Human Rights Commission, and another, acting as secretary, by the Ministry of the Interior (article 4). The Act also establishes a Committee for the Rehabilitation of Amnestied Persons, the purpose of which is to take any urgent and necessary steps to guarantee the life, health, maintenance and employment of the persons concerned.

151/ Government of El Salvador. Ministry of Foreign Affairs. Telex to the Permanent Mission of El Salvador to the United Nations Office at Geneva, 11 January 1984.

152/ Chapter III, Murders, para. 5/ above.

153/ Third Supplement ..., op. cit., p. 71.

154/ Information submitted to the United Nations Centre for Human Rights by the Permanent Mission of El Salvador to the United Nations and the international

160. As to the implementation of the Amnesty Act, according to information given to the Special Representative in San Salvador by Mr. Arvizu, Chairman of the Amnesty Board, 155/ 1,137 persons had benefited from the amnesty; of these, 554 were political offenders and 583 were armed insurgents. The Amnesty Board and the Committee for the Rehabilitation of Amnestied Persons, the information adds, instituted specific programmes giving immediate attention to persons who voluntarily availed themselves of the benefits of the Act; providing material assistance to more than 500 adults and 200 children who were housed in the pavilions of the International Fair. With the co-operation of the Intergovernmental Committee for Migration (ICM) and certain Governments, migration programmes for amnestied persons have been put in hand; under these programmes 131 ex-prisoners and 159 members of their families left for Canada, 44 ex-offenders and 52 family members for Australia, and 8 ex-offenders and their families for Belgium. Mr. Arvizu told the Special Representative that arrangements were being made for other amnestied persons to travel to the United States, the Federal Republic of Germany, Sweden and Norway. The Special Representative was able to talk freely, in the International Fair pavilions at San Salvador, with a group of some 15 amnestied persons, who told him that they had deserted from guerrilla organizations and hoped to go abroad; they also said that they were being well treated and were staying voluntarily at the Fair premises in order to avoid possible attacks by the death squads or the guerrillas themselves.

161. However that may be, the Special Representative received information 156/ that, shortly after the Act entered into force, some amnestied prisoners were rearrested and subsequently murdered. The competent Salvadorian authorities told the Special Representative that these were not amnestied persons but persons released by judicial decision outside the scope of the Amnesty Act, and that the arrest and murder had been carried out by unidentified groups.

162. Another development showing the concern of the Salvadorian political authorities for human rights 157/ is the report on the prohibition, by legislative decree of the Constituent Assembly, of all armed paramilitary groups, whether of the left or right. The Special Representative fervently hopes that this provision can be effectively implemented, since such implementation would be an important step towards improved respect for human rights in El Salvador.

163. The Special Representative also wishes to mention the personal opinion expressed by authorized ecclesiastical circles in El Salvador to the effect that the channels of communication between those circles and the authorities of the Republic had improved in recent months and that the improvement had enabled particular cases to be resolved satisfactorily.

164. Another sign of the greater sensitivity of leading Salvadorian authorities to respect for human rights is the organization of educational campaigns on the subject. In addition to the activities of the Human Rights Commission, reference should be made to the instruction being given to teachers, which is

155/ Amnesty Board, Boletín Informativo, San Salvador, 17 August 1983.

156/ Third Supplement . . . , op. cit., p.59.

157/ International Herald Tribune and The Times, 19 August 1983.

in turn to be imparted to their pupils. In this connection, the Minister of Education told the Special Representative that the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948, is a compulsory subject in teacher training.

165. The Special Representative also wishes to refer here to the "Handbook on normal operative procedure for operations undertaken by the Armed Forces", a copy of which was given to him by the Minister of Defence of El Salvador. The Handbook extends to all the armed forces and security bodies the regulations that were for the National Police; 158/ the Handbook establishes as a general principle that a prime objective of operations shall be to "ensure respect for the laws, moral principles and inviolability of human rights". Individual provisions of the Handbook elaborate on this principle for specific situations. The Special Representative expresses the most fervent hope that the Handbook will be scrupulously observed by all members of the armed forces and security forces in El Salvador.

166. The Special Representative was recently informed that, in view of the further ~~serious~~ outbreak in the activities of the "death squads", the Minister of Defence announced in December a plan to set up a special unit to investigate and combat such activities. 159/ Furthermore, the Special Representative has read 160/ the Statement by the High Command of the Armed Forces and the Commanders of the Military and Security Bodies endorsing the appeal by the Minister of Defence to the people of El Salvador to denounce the activities of the death squads, reiterating the firm decision to fight them and calling on the judiciary to apply the law with the utmost severity. Similarly, 161/ the Minister of Defence of El Salvador ordered, in accordance with these proposals, that from 14 December 1983, in making arrests, security officials must, save in special circumstances, wear the proper uniform, that they must identify themselves, that military units might arrest persons only if their members were in uniform and had first identified themselves; that arrested persons be held only in official detention centres, that the arrests must be reported immediately to the General Staff of the Armed Forces, the International Red Cross, the Human Rights Commission and the family of the offender, and that the use of torture or any other means of pressure to obtain confessions was strictly prohibited. Once again, the Special Representative expresses the fervent hope that all these ~~proposals~~, statements and measures will be implemented promptly and effectively.

167. To sum up, the Special Representative takes note of the declared intention of the Salvadorian authorities to improve the human rights situation in the country, and finds that there have been some practical demonstrations of this intention. Taking account of the over-all situation of human rights in El Salvador during 1983, it should nevertheless be observed that there is a considerable gap between these intentions on the part of the Government and its ability to achieve results. This divergence probably reflects various political trends and views within the bodies exercising power in El Salvador.

158/ See previous report, E/CN.4/1983/20, op. cit., para. 21.

159/ La Prensa Gráfica, 13 December 1983.

160/ Ibid., 15 December 1983.

161/ Boletín Informativo "Seiaform", op. cit., No.13, 12 January 1984.

VII. CONCLUSIONS

168. After examining and conscientiously evaluating the foregoing information, the Special Representative is in a position to offer some conclusions which reflect his personal convictions. It should be pointed out, however, that owing to the terms of his mandate and the nature of the investigation made, these convictions do not relate to concrete and specific acts or events, but to the general situation of human rights in El Salvador during 1983. In fact, because of the massive character of the allegations of human rights violations in El Salvador during the year, the Special Representative has been unable to undertake the necessary investigations in order to try to ascertain the facts in each of the many cases about which he has received information.

169. With regard to economic, social and cultural rights, the Special Representative considers that, generally speaking, the situation described in his previous reports 162/ remains unchanged, although in this context he takes into account the serious economic difficulties being experienced by El Salvador, owing, inter alia, to the situation of generalized violence. In any event, the Special Representative considers that the situation with regard to these rights cannot improve overnight but only through a gradual process of reforms, including agrarian reform, which requires among other things a climate of genuine social peace. The Special Representative also notes with concern that the systematic attacks by the guerrilla forces on the economic infrastructure of the country, however much they are portrayed as being aimed at military objectives, seriously jeopardize future enjoyment by the Salvadorian people of economic, social and cultural rights of particular importance.

170. With regard to civil and political rights, the Special Representative is morally convinced that, regrettably, during 1983 and precisely because of the continuing serious civil conflict and the situation of armed confrontation afflicting El Salvador, serious, massive and persistent violations continued; particularly alarming and disturbing is the large number of political murders of non-combatants. In his previous report, 163/ the Special Representative concluded that the number of murders of this kind committed in 1982 showed a decline of 50 per cent in relation to the preceding year. In the present report, and taking it for granted that the figures must be considered with due circumspection, the Special Representative can only say about 1983 that, according to some sources, the trend has been maintained and, according to others, the decline has been accentuated. In any event, in view of the magnitude of the figures communicated for 1983, it may be concluded that the situation with regard to respect for human life in El Salvador continues to be very serious. As to responsibility for the violations of civil and political rights, the Special Representative considers that it must lie with members of the armed forces and security bodies, extreme right-wing paramilitary organizations presumably connected with, or tolerated by, members of the armed forces and security bodies, and left-wing guerrilla organizations; however, there are indications that violations involving attacks on the life, physical integrity, liberty and security of persons are largely attributable to members of the State apparatus and violent groups of the extreme right, but also to the guerrilla organizations, whereas the acts of sabotage against public and private property are mainly due to the last-mentioned organizations.

162/ E/CN.4/1502 and E/CN.4/1983/20, op. cit.

163/ E/CN.4/1983/20, op. cit.

171. The Special Representative continues to believe that the capacity of the Salvadorian judicial system to investigate and punish violations of human rights is patently inadequate. The large number of violations reported bears no reasonable proportion to the figure for proceedings instituted. Moreover, such proceedings are extremely slow, as is demonstrated by the fact that in the few proceedings initiated in the most notorious cases no action has been taken beyond the investigation phase or no sentence has been pronounced. The Special Representative takes note of the difficulties which exist in this connection and of the attempts to reform the system of criminal justice; he considers these attempts laudable and hopes that they will be reflected in effective and immediate practical results.

172. With regard to the continuing armed clashes between the regular army of El Salvador and the guerrilla organizations, the Special Representative stated in his interim report to the General Assembly that "the information received causes the Special Representative to take the view that, although in some cases both sides have extended humanitarian treatment to captured combatants, providing them with medical attention and even releasing them, on other occasions their conduct has not conformed to the most basic requirements of humanitarian law applicable in armed conflicts, as in the particular case of indiscriminate attacks on the civilian population by the armed forces or the murder by the guerrilla organizations of soldiers who have surrendered. Because of the difficulty of securing information on this matter, the Special Representative is for the moment unable to reach more precise conclusions". In the present report, after examining and evaluating the new information received, the Special Representative finds that, regrettably, indiscriminate bombing and shelling of the civilian population by the Salvadorian regular forces has continued and that, on the other hand, the guerrilla forces have resumed their policy of the previous year of releasing captured members of the Army.

173. As was the case in the previous year, the Special Representative noted in senior authorities in the Republic of El Salvador a sincere desire to improve the human rights situation in this country and even found that this desire has in some cases clearly manifested itself in practice, such manifestations included the promulgation and implementation of the Amnesty and Security of Citizens Act, the establishment and activity of the Human Rights Commission, and the efforts to establish civil peace through dialogue with the left-wing opposition. These achievements are commendable in themselves and the Special Representative wishes to place this on record, although in the light of the overall situation with regard to respect for human rights, he considers that there is an obvious gap between these intentions and the ability to achieve results, a gap which has very complex causes and probably reflects the existence of various political trends and leanings within the bodies exercising power in El Salvador.

174. Lastly, there is no doubt that, in accordance with the 1962 Constitution declared in force by Decree No. 3 of the Constituent Assembly and the international instruments binding on El Salvador in respect of human rights, the authorities of the Republic cannot be denied the power to adopt emergency measures in the light of the violence prevailing in the country. But neither these instruments nor the most elementary moral imperatives rooted in any normal conscience would allow indefeasible fundamental rights of the individual, including in particular the right to life, to be violated under the pretext of emergency measures.

VIII. RECOMMENDATIONS

175. In view of the concern expressed by the Government of El Salvador and other interested sectors at the violations of human rights, and bearing in mind in particular the quintessential character of the right to life and the fact that violations of that right are irreversible, the Special Representative again recommends most emphatically that both sides should urgently take adequate steps to put an end to attacks on human life.

176. The Special Representative further considers that the establishment of civil peace is a vital prerequisite for respect for civil and political rights and for gradual improvement of the situation with regard to economic, social and cultural rights. He therefore once again urges the Government of El Salvador and the left-wing opposition to take appropriate measures in order to bring peace to the country. In this connection, both sides should endeavour to ensure that in as short a time as possible the dialogue initiated culminates in a negotiated peace and will save the lives of Salvadorian citizens and establish in El Salvador peaceful, democratic and pluralist coexistence.

177. With regard to the future elections, the Special Representative cannot fail to recommend exercise by the citizens of El Salvador of the right to express their will through democratic elections (article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights), although he reiterates the view expressed in his first report to the Commission ^{164/} that the holding of elections requires the existence of certain conditions, in particular a climate of genuine social peace allowing free expression of the will of the people, inter alia through the participation of all political parties, in such a way that the lives, physical integrity and freedom of all candidates, without any exception whatsoever, are safeguarded.

178. In addition, the Government and political bodies of El Salvador should be recommended to adopt the following measures:

(1) The repeal of all legislative and other measures that are incompatible with the rules enunciated in the international instruments binding on the Republic of El Salvador in respect of human rights, and in particular the repeal of Decree No. 507 of 3 December 1980 containing the special law on procedure applicable to the offences covered by article 177 of the 1962 Constitution;

(2) The exercise by the Government of real and effective control over all members and units of the armed forces and security bodies and over all types of armed individuals and organizations, in order to ensure that they behave in conformity with the rules enunciated in the international instruments binding on the Republic of El Salvador in respect of human rights, including the Geneva Conventions of 1949 and the 1977 Protocols. The Government should endeavour, in particular, to put an end to the activities of the "Death Squads";

^{164/} E/CN.4/1502, op. cit., para. 134.

(3) The adoption by the Government and competent authorities of El Salvador of relevant measures to prevent, investigate and punish rapidly and effectively violations of human rights, including possible dismissal of civilian officials and heads, officers, non-commissioned officers and other members of the armed and security forces who have committed such violations. These measures should include a radical and comprehensive reform of the system of criminal justice, both substantive and procedural and in the investigation of facts, so that **criminal** violations of human rights do not go unpunished;

(4) The furtherance and intensification at all levels of mass campaigns to promote respect for human rights;

(5) The continuation and broadening in a genuinely human, social, democratic and pluralist spirit of the necessary administrative and social reforms, including agrarian reform, so that the people of El Salvador may enjoy to the fullest extent possible the economic, social and cultural rights proclaimed in the international instruments binding on the Republic of El Salvador.
