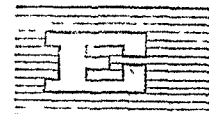


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QUESTION OF THE VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS  
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND  
OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Guatemala prepared by the  
Special Rapporteur, Viscount Colville of Culross pursuant to paragraph 9  
of Commission on Human Rights resolution 1983/37 of 8 March 1983

GE.84-10552

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## 1. INTRODUCTION

1.1 The Commission on Human Rights considered the situation of Guatemala at its thirty-fifth session, when it adopted decision 12 (XXXV) by which it decided to send a telegram to the Government of Guatemala concerning the assassination of Dr. Alberto Fuentes Mohr, Deputy of the Guatemalan Congress, ex-Minister for Foreign Affairs and a former member of the United Nations Secretariat. The telegram stated that the Commission would welcome information on that matter.

1.2 At its thirty-sixth session, the Commission had before it for consideration a number of documents containing reports of other cases of assassinations which had occurred in the country and the responses of the Government of Guatemala. On 11 March 1980, the Commission adopted resolution 32 (XXXVI) entitled "The situation of human rights and fundamental freedoms in Guatemala", in which it expressed its profound concern at the situation of human rights and urged the Government to take the necessary measures to ensure full respect for the human rights of the people of Guatemala.

1.3 It noted with satisfaction the decision of the Government to invite the Inter-American Commission on Human Rights (IACHR) to visit the country and to prepare a report on the human rights situation. The Commission decided to keep the situation under review at its thirty-seventh session on the basis of the information received from all relevant sources.

1.4 The Commission had before it at its thirty-seventh session a document (E/CN.4/1439) containing information received from Governments, non-governmental organizations in consultative status and private sources and it adopted resolution 33 (XXXVII). In this resolution the Secretary-General was requested to continue his efforts to establish direct contacts with the Government of Guatemala and to collect information thereon from all relevant sources.

1.5 At its thirty-sixth session, the General Assembly considered a report of the Secretary-General (A/36/705) regarding his efforts to establish direct contacts with the Government of Guatemala. On 16 December 1981, the Assembly adopted decision 36/435, by which it (a) requested the Secretary-General to continue his efforts and (b) requested the Government of Guatemala to co-operate further with the Secretary-General.

1.6 At its thirty-eighth session, in February 1982, the Commission on Human Rights considered the information collected on the human rights situation in Guatemala (E/CN.4/1501) and requested the Chairman of the Commission to appoint, after consultations with the Bureau, a Special Rapporteur to make a thorough study of the human rights situation in Guatemala to be presented to the Commission at its thirty-ninth session (resolution 1982/31).

1.7. At its thirty-seventh session, the General Assembly invited the Government of Guatemala and other parties concerned to co-operate with the Special Rapporteur and requested the Commission on Human Rights to study carefully the report of its Special Rapporteur and to consider, in the light of that report, further steps for securing human rights and fundamental freedoms for all in Guatemala (resolution 37/184).

1.8 At its thirty-ninth session, on 8 March 1983, the Commission on Human Rights adopted resolution 1983/37. The Commission expressed its disappointment that a Special Rapporteur had not been in a position to make a thorough study of the human rights situation in Guatemala and requested once again that the Chairman appoint with the shortest possible delay, after consultation with the Bureau, a Special Rapporteur of the Commission whose mandate would be to make a thorough study of the human rights situation in Guatemala, based on all information which he/she might deem relevant, including any comments and information which the Government of Guatemala might wish to submit.

1.9 Following consultations with the Bureau, the Chairman decided to appoint Viscount Colville of Culross QC of the United Kingdom of Great Britain and Northern Ireland as Special Rapporteur under the resolution mentioned above. The appointment was announced at the 57th meeting, on 11 March 1983.

1.10 In this connection the Chairman received the following communications: a letter from Lord Colville expressing his readiness to serve as Special Rapporteur, and a letter from the Permanent Representative of Guatemala in Geneva, the relevant part of which reads as follows:

"According to instructions received from the Ministry of Foreign Affairs of Guatemala, I wish to inform you that the Government of Guatemala accepts with pleasure the appointment of Viscount Colville of Culross QC as Special Rapporteur of the Commission, and that he will be given all the facilities and co-operation in the discharge of his mandate" (E/CN.4/1983/61, para. 3 (b)).

1.11 Pursuant to paragraph 9 of resolution 1983/37, the Special Rapporteur is requested to present an interim report to the General Assembly at its thirty-eighth session and a final report to the Commission at its fortieth session.

1.12 Thus I came upon the scene, having heard the distinguished representative of Guatemala welcoming the operative paragraph of resolution 1983/37 which led to this appointment.

1.13 As the earlier resolution had not resulted in the appointment of a Special Rapporteur, I considered that the sooner I accepted the Guatemalans' welcome the better. Accordingly I visited Guatemala from Saturday, 25 June to Tuesday, 5 July 1983. After this visit there occurred the change of Government on 8 August. It was only possible to include some very initial comments on the effect of this change in the interim report (A/38/485). It had always been clear that a report based upon material collected in summer 1983 would, for the Commission's purposes, be out of date. Moreover the activities of the new Government deserved proper attention. Accordingly I again visited Guatemala from Thursday, 24 November to Tuesday, 29 November 1983. I then went to New York where I introduced the interim report by recounting briefly certain of the important developments which had occurred. I listened to part of the ensuing debate and have studied the texts of the other relevant speeches. Subsequently resolution 1983/100 was passed by the General Assembly, the text being at annex I.

1.14 On both visits the Guatemalan Government's welcome proved indeed to be genuine. I found all doors open; a willingness frankly to discuss all aspects of what is undoubtedly a daunting situation; and acceptance of my desire to travel freely in the areas of conflict with the minimum of military presence, and to visit places chosen entirely by myself. As a result, I had access to any department of Government and full co-operation of the military. I did, of course, also go to certain other places where the Government had projects which they wished me to see. Thus, despite a tight schedule it was possible, on both visits, to reach some extremely inaccessible areas and villages, so as to explore the situation on the spot. The plans in the annexes show the extent to which it was possible to visit remote places. I am convinced that this is an invaluable way of seeking to form an assessment.

1.15 The refugees in the Mexican State of Chiapas - just across the frontier to the north of Guatemala - have been a subject of interest across the world. I am greatly indebted to the Comisión Mexicana de Ayuda a Refugiados (COMAR), the official Mexican agency which is charged with the refugees' care. It is not easy to get to the camps, nor indeed, to get out. Those concerned will know that my gratitude for their help is sincere.

1.16 I have discussed various aspects of the current problems of Guatemala, and their origins, with numerous people in several countries. The members of the Commission of Human Rights of Guatemala (CDHG) are to be singled out because they co-ordinated a substantial number of people who wanted to make personal representations, of great value to me, and put themselves to considerable trouble to assist. I value, however, all the advice and opinions which I received, without distinction. In particular I have taken account of the remarks by Distinguished Delegations in the Third Committee and in the General Assembly, as well as certain further informal discussions about the interim report with numerous persons in New York in early December.

1.17 The report by the Inter-American Commission of Human Rights (IACHR) based on an eight-day visit in September 1982, was not available to me before my first visit to Guatemala. I have since had an opportunity to read the report, and also the comments on it by the Ministry of Foreign Affairs of Guatemala. I note that the Commission has made a thorough technical examination of the situation, as it was then presented to it; it had referred to an earlier analysis of the Constitution of 15 September 1965 and proceeded to examine in some detail the Fundamental Statute of Government - Decree Law 24-82 and subsequent decrees, notably on the state of siege and the creation of the Special Tribunals.

1.18 It is shown below that there has been a series of earlier Constitutions in Guatemala, the last of which dated from 1965; I have also summarized the relevant legislation promulgated by the Government headed by President Rios Montt. However, for the purpose of both my reports I have adopted the policy of looking very much at the reality of the situation on the ground. It is not to be denied that a comparison between basic constitutional decrees and internationally accepted standards is of great interest and importance. At this point, however, it seems to me of greater concern to the international community to receive an indication of the way in which the stated policies are being pursued. The termination of the state of siege on 23 March 1983 has produced a legal situation which is entirely different from that presented to IACHR. There is now also the change in the Government, combined with certain immediate reforms and other statements of policy which have ensued. Thus the approach of this report is to recognize the historical and political background against which the new policies are to be viewed; to attempt to gauge the extent to which progress is being made; and to remind readers that reforms of the magnitude now proffered cannot, as has been said on all sides, be totally achieved overnight.

1.19. Such a visit is fruitless without preparation, efficiency in arrangements and note-taking. My accompanying teams were presented with a formidable task. I would like to commend their initiative, kindness, endurance and competence to the United Nations authorities.

## 2. INTERNATIONAL INSTRUMENTS

2.1 Guatemala has ratified the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Political Rights of Women, the Convention on the Nationality of Married Women and the Convention on the International Right of Correction. Guatemala has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Practices Similar to Slavery. It also ratified, on 25 May 1979, the American Convention on Human Rights, with a reservation to article 4. In the field of labour Guatemala has ratified the International Labour Organisation's Convention concerning Freedom of Association and Protection of the Right to Organize of 1948 (No. 87) and its Convention on the Right to Organize and to Bargain Collectively of 1949 (No. 98).

2.2 Guatemala has also adopted Decree-Law 34-83, dated 29 March 1983, by which it approved the Convention relating to the Status of Refugees of 28 July 1951 and the Protocol relating to the Status of Refugees of 31 January 1967.

2.3 For technical reasons Guatemala has not ratified either of the International Covenants on Human Rights. However, there has been no disagreement with the proposition that standards set by the Covenants are a proper foundation for this report. This may be thought constructive in that the Covenants are not only to be used as a foundation for complaints, but more positively to enable the international community to offer guidance to a receptive Government.

## 3. HISTORICAL BACKGROUND

3.1 Guatemala is essentially a rural society. More than three fourths of its total population of 7.8 million live in small communities scattered over the mountains and valleys. Over 50 per cent are indigenous Mayan peoples, who speak 23 different languages and have a rich and varied culture of their own.

3.2 Although most Guatemalans depend on agriculture for their livelihood, the majority live in the highlands where good farm land-holdings are very small and **some of the land** is not good anyway. The more fertile lowland areas of the coastal plains and elsewhere are sparsely populated and often held by landlords in very large units, known as latifundios.

3.3 The areas of high population density lie in the western and central highlands. The areas of low density are in the lowlands located in the Pacific and the Atlantic coastal areas and the plains of El Petén in the north. This demography has remained constant throughout Guatemala's history. Successive administrations have been aware of this imbalance between population distribution and resources. Attempts by Governments to carry out land reform programmes and social changes have noted successes and failures.

3.4 There is one period of reform, from 1944 to 1954, to which reference is persistently made as the most enlightened in Guatemalan history. First, in 1944, President Jorge Ubico was overthrown and succeeded by President Juan José Arévalo Bermejo. During his administration, certain basic reforms were introduced. A new Constitution, liberal in its character, containing ambitious political, economic and labour reforms was adopted in 1945.

3.5 An elaborate Labour Code was enacted in 1947 (which is still in force with amendments) giving labour the right to organize, to bargain collectively, to strike, and to receive severance pay when discharged without just cause. Freedom of speech and of the press was encouraged and political parties were permitted to organize and function. In carrying out these reforms President Arévalo met a great deal of opposition. Nevertheless, he served his full six-year term. The most likely candidates to succeed him were Francisco Arana and Jacobo Arbenz Guzmán. Arana was assassinated and Arbenz Guzmán became the official candidate. He was elected, with leftist support, defeating General Miguel Ydígoras Fuentes, and assumed office in March 1951.

3.6 During the Arbenz Guzmán administration the Guatemalan Communist Labour Party (PGT) was legalized in 1951. Its Congressional strength was limited since it only held four seats out of 56. Nevertheless, the PGT leaders played an active role in the agrarian reform and in the formation of trade unions and peasant leagues. The Agrarian Reform Law was enacted in June 1952. By this law, unused large land-holdings (latifundios) were to be expropriated and distributed in smaller parcels for use by landless sectors of the population. The agrarian reform was moderate in tone. Only uncultivated portions of farms larger than 90.25 hectares would be touched. Expropriation benefited 100,000 peasant families, who were granted 607,000 hectares of farmland. In February 1953, a move was initiated to expropriate 91,065.25 of the 121,408.33 hectares owned and exploited by the American-owned United Fruit Company, and it was stipulated that compensation would be paid at the declared taxable value. Protests over the constitutionality of the law arose, when a private individual affected by this measure appealed to the Courts for an injunction against the expropriation. The Supreme Court, in a split decision issued an injunction against the application of the Agrarian Law until such law could be studied more thoroughly. The Supreme Court's Justices were dismissed on the grounds of incompetence and immediately replaced. A direct threat to powerful corporate interests was seen to have arisen. In addition, workers and peasants seized property unlawfully, leading to open conflicts between landlords and workers, often difficult to control. On 27 June 1954, President Arbenz Guzmán was forced to resign. Colonel Carlos Enrique Díaz de León, Chief of the armed forces, took office and stayed in power until 3 July 1954.

3.7. A summary of events between 1954 and early 1982 can be found at annex II. It recounts events in a period when rebellion first began in 1960, and increased into a full-scale insurrection accompanied by copious killings both of combatants and civilians. Note should be taken of the fact also, that, in effect, since 1963 there has continuously been a military government in the country. The present situation can only be comprehended against this background. I will resume the detailed narrative with events leading up to the 1982 coup. It seems to be logical to begin an assessment of human rights in Guatemala with the Government which then took office; they first accepted the appointment of a special rapporteur; Ministers and appointees were available during my summer visit to explain from their own knowledge events and policies.

3.8 In 1981 the Government called for elections. They were held on 7 March 1982. The official candidate was the Minister of Defence, General Aníbal Guevara. The others were Mario Sandoval Alarcón (MLN) and Alejandro Maldonado Aguirre (DCG). Once again the final decision was made by the Congress. On 13 March 1982, the Congress met and confirmed General Guevara as President by 39 votes to 13. However, 14 out of 66 members of the Congress failed to participate.

3.9 On 23 March 1982, a group of junior army officers carried out a coup. They denounced the election as a fraud and the "regime of terror by a corrupt minority". This group called upon General Ríos Montt to assume power and lay the foundation for a genuine democratic regime.

3.10 In his first statement General Ríos Montt recalled he had been prevented by fraud from assuming the presidency eight years earlier. He also charged that fraud had been committed in the presidential elections of 1978 and 1982.

3.11. On 30 March a new cabinet or junta was appointed which consisted of five military officers and six civilians. General Ríos Montt headed this group and also assumed the post of Defence Minister.

3.12 On 27 April the governing military junta promulgated Decree-Law 24-82. It went into force on the following day. This document bears the title: Fundamental Statute of the Government and consists of 120 articles which are grouped in 17 chapters. According to article 2, the State shall "temporarily" be governed by the provisions of this statute. It is designated as a "higher law" and thus "no law may contradict its provisions". Article 3 states that "public authority shall be exercised by a Governing Military Junta, composed of a President and two members". The Junta is vested with legislative and executive powers (article 4).

3.13 The structure of power was altered on 9 June, when General Ríos Montt dissolved the Junta and assumed supreme power in all civilian and military affairs.

3.14. The independence of the Judiciary is guaranteed in the Statute (article 6) and the respect for human rights is considered as one of the principles of Guatemala's internal order and international relations.

3.15 The following Decree-Laws were subsequently adopted:

1. Decree-Law 33-82 of 24 May 1982, and Decree-Law 34-82 of 27 May 1982, which constitutes the Amnesty Act for "political and related non-political crimes". The Act was in force for a period of 30 days (June).
2. Decree-Law 46-82 of 1 July 1982, which established special courts. These courts could impose the death penalty for "acts of terrorism", as defined in article 4 of the Decree-Law. Article 7 provides that the members of such courts shall be appointed by the President of the Republic. The Decree-Law established a summary procedure and reduced safeguards by disallowing appeals against a decision of the special court (article 33).



3. Decree-Law 67-82 of 17 August 1982, which established the Council of State as a body with advisory status.
4. Decree-Law 111-82 of 14 December 1982, established a recourse of appeal for the death penalty contemplated by article 4 of Decree-Law 46-82, of 1 July 1982, as a result of recommendations by the IACHR, a mission from which visited Guatemala in September 1982.

3.16 By a letter dated 28 March 1983, the Representative of the Permanent Mission of Guatemala to the United Nations at Geneva provided the following information: On 23 March 1983, the "state of siege" was lifted in Guatemala. In addition, three new laws were issued "which constitute maximum and far-reaching importance for the national political scene", those being:

Legislative-Decree No. 30-83, Supreme Electoral Tribunal Organizational Law, of 23 March 1983. This law establishes a permanent autonomous Supreme Electoral Tribunal, with jurisdiction throughout the country. It governs the organization, functioning and powers of the Supreme Electoral Tribunal.

Legislative-Decree No. 31-83, Citizens' Register Law, of 23 March 1983. Establishes the Citizens' Register as a technical department of the Supreme Electoral Tribunal.

3.17 On 8 August 1983 the Council of the Armed Forces relieved President Ríos Montt of his position and installed General Oscar Humberto Mejía Victores as President and Minister of Defence, the latter being the office he had previously held. The Proclamation, among other things, reaffirms a determination to eradicate corruption at all levels; the intention to continue the return to democratic constitutionality with the co-operation of all sectors of the community; new measures of reform were promised, as well as the continued struggle against "Marxist-Leninist" subversion.

3.18 Successive amnesties have been in force since March 1982; in November I was informed that the one then current would continue until 17 March 1984. <sup>1/</sup> Advantage of these has been taken by very substantial numbers of people, including active guerrillas as well as country people who had followed them into the mountains. The Government considers that amnesty is very effective in fighting the guerrillas.

#### 4. THE CURRENT CONFLICT

4.1 It is against the background of ancient history and modern injustices and disappointments since 1954 that revolutionary movements developed. There are long-standing parties which advocate reform by constitutional means, such as the Socialist Democratic Party, not least because, as they observed at their Congress in February 1983, 20 years of armed conflict has not proved particularly successful.

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<sup>1/</sup> See Decree-Law 1-84, 16 January 1984.

4.2 Others have taken to arms, in desperation, they say, of finding any other method of achieving reforms. The main revolutionary groups combined in January 1982 into the Guatemalan National Revolutionary Union (URNG); discussions continue to bring certain remaining factions of the PGT - the traditional Communist Party - into the Union. One other organization, the Revolutionary Movement of the People (MRP-IXIM) rejects membership of the URNG and has operated separately since July 1982. The URNG leaders informed me, in summary, that they strive for respect for the right to life and the rights contained in the two International Covenants: an economic transformation, including agrarian reform; guarantees of equality for the indigenous and Ladino (those of mixed race or indigenous persons who have given up their traditional way of life) peoples with those of European origin, together with all democratic sectors of society including all Christian elements.

4.3 Those are the guerrillas. The movement is, by all accounts, almost entirely home-grown with little foreign influence or involvement. The leaders include well-educated people of European origin; a few officers appear to have been trained abroad and some of their arms derive from an international market. In their own publications, however, they claim the capture of weapons and ammunition from the Guatemalan army (the Organización Revolucionaria del Pueblo en Armas (ORPA), who operate in the South and West Guatemala, published in September 1983 a document which among other matters listed the arms and ammunition captured in the previous 12 months); the active forces consist largely of indigenous people and ladinos. This is not only their claim, for instance in publications by the E.G.P. (Guerrilla Army of the Poor), but is entirely consistent with everything said by the internal refugees and by former guerrillas themselves who have profited from the amnesty and to whom I spoke on both visits.

4.4. These forces have been operating mainly in the countryside, though a subterranean hideout of the PGT, not the first, was found in Guatemala City on 2 June 1983, and others have since been discovered. I have also clear indications that they have been operating, to some extent, from across the Mexican border, though not, I think, actually from the refugee camps themselves. This is totally against the policy of the Mexican Government, who have instituted strict control of the sale of armaments, and make every possible attempt to avoid the use of their territory as a sanctuary. Nevertheless a large length of the border between Guatemala, in the north of the Departments of Huehuetenango and El Quiché, and the Mexican State of Chiapas is unmarked and lies in remote and trackless rain forest where even the most strenuous Mexican efforts may not prevail. One of several sources of this information is the details given to me by two former guerrillas, caught by the army, whom I interviewed in Huehuetenango City; they have received the advantage of the amnesty. Another is the story which I heard at the village of Agua Zarca (annex III, No. 17), which is about 2 km from the Mexican border - so close that the villagers do their shopping in Mexico. The village was attacked by a large group of armed men, about 80 strong, on 25 May 1983 and I heard the details of the battle from members of the civil patrol who had been involved and had lost four of their members together with an army officer. All the facts tend to show that the group came from across the border, although they were mostly indigenous Guatemalans.

4.5 During my second visit both the Head of State and the minister of the Exterior indicated that the extent of subversive activities has now been restricted to small and specific areas; and that some of the guerrillas' efforts were now being directed into criminal operations to obtain funds. By contrast the guerrillas published material emphasizes their continuing armed attacks, with details of ambushes and confrontations continuing into the autumn of 1983. Maps are available showing the spheres of influence of the three main components of URNG. There was for example an ambush which inflicted military casualties in the Department of Sololá in November 1983, and, as widely reported, the army was in the same month engaged in a considerable operation in the Chamá range of mountains, towards the north of the Departments of El Quiché and Alta Verapaz; this was confirmed to me during my stop in November at Lancetillo (annex V, No. 3) on the southern fringe of that area. Now as before they roam the remote afforested countryside in the north and north-west of the country and to some extent elsewhere, where they are heavily dependent on the local population whose life-style is described below. The pattern of their activities is remarkably consistent, and I have been able to hear of it at first hand from groups of people, all over the Altiplano, who finished up as internal refugees until they returned to the various protected village or resettlement centres which are described in paragraphs 7.3.1 to 7.3.7.

4.6 In some cases they began by using rural villages as bases, and were looked after and fed by the villagers. If the army's attention became too close, or in other cases without any such reason, they forced the villagers to accompany them to the mountains, where they were required to grow food while the women washed the guerrillas' clothes and prepared meals. They were also pressed to take an active part in offensive operations against the army, such as joining in attacks or at least making the Claymore anti-personnel mines which have been much used in the conflict. Nobody would admit actually having done so, but they were clearly in many cases familiar with these mines. The leader of one group of 70 indigenous people whom I saw in Cobán (annex III, No. 9) the day after they returned from 13 months in the forests said he was forced to take charge of the group and give political talks to them. The guerrillas had obtained or enforced the assistance of such groups by promises that they would defeat the army, obtain power and introduce a more just society. There seems to have been minimal ideological content to their discourses. In many cases, if not all, they added violence and terror to their promises: they might burn the village, or murder successively leaders of the community. Once in the mountains the villagers were controlled by threats to kill them if they tried to escape: this threat was not infrequently carried out. They also told the people that the army would kill them if they surrendered. Since many of these groups had been in the mountains since at least early 1982, the army's attitude and activities from that period and before must have been well known to them, so that what the guerrillas said accorded with what they themselves feared. Thus, despite great hardship, sickness and up to 50 per cent mortality, they remained in the mountains with the guerrillas.

4.7 This pattern, with insignificant variations, was recounted by many different groups, often newly arrived, over a large geographical area. It seems impossible to discount as an invention, particularly as it supports the guerrillas' own claim that they had, at least until recently, the co-operation of a large proportion of the rural population.

4.8 Faced with this degree of guerrilla success, the army appears to have adopted ruthless tactics. At least until the new policy whereby the army was to assist the rural population began actually to be implemented, the army suspected most of the rural population of having subversive inclinations, at the very least. As the guerrillas seldom wore any uniform during the day, differentiation

was virtually impossible. It is illuminating to recall that the inhabitants of Choatalun (see annex III, No. 22), in the well-known municipality of San Martín Jilotepeque in North Chimaltenango, admitted to me that at one period the whole village went over to subversion. Nor was it a matter of trivial engagements so much as full-scale civil war. The guerrillas used, and still use, all sorts of rifles and guns, as well as the Claymore mines mentioned above. Those, hidden at about shoulder-height in a tree, rock or wall, are triggered by a hidden combatant as a patrol passes, and an explosion scatters shrapnel in all directions. Other devices include the familiar deep pit dug in a path, filled with pointed stakes and camouflaged. This is all current, and I saw the victims of all these weapons and devices in the hospitals at Playa Grande (annex III, No. 6) and in Guatemala City (annex III, No. 1). While I was on the way to Nebaj in June, an army patrol was ambushed, leaving two soldiers dead and two others wounded, one very severely. About 18 days earlier the army had killed 14 guerrillas in the same area, three soldiers being wounded.

4.9 This continuing military activity gave full credence to the guerrillas' claim that they had not been defeated. As indicated above this still seems to be true. I gained the impression, however, that by the end of 1982 the army had broken the guerrillas' grip on the rural population. Amnesties have continued to be announced, and an active campaign began to persuade the internal refugees to return from the mountains. The groups that have done so were in agreement that the air-drop of leaflets and the radio broadcasts had begun to have an effect. In addition to their hardships, they were also in some cases abandoned by the guerrillas: their promises had not been fulfilled. In other cases the guerrillas maintained that the broadcasts were lies; that, for instance, one broadcast in the Ixil language was a tape recording since they had killed the broadcaster (in fact he was standing beside me while the story was told at the airstrip in Nebaj (annex III, No. 12)). Scouts were sent to the centres of population. Once a group had sought refuge in the centres, they would tell of other groups still in hiding. On my first visit to Cobán (annex III, No. 9) such a group had been reported and a search party was to be sent out. On my return three days later they had been found and brought in. Other groups were found or caught by the army or civil patrols. All said that they had been terrified of what would happen and had been surprised at the reception granted to them.

4.10 This leads to the other side of the story, relating to the reason why the guerrillas so successfully played upon the population's fear of the army. I was told by a senior officer in Huehuetenango (annex III, No. 16) that until 1982 the army had no clear idea of the strategy that was being used. Once the strategy was understood - that the guerrillas' objective was control of the population - the army changed its methods. Before 1982, the concept of helping the population did not exist. It is necessary to comment that the evidence indicates that even after 23 March 1982 not all of the army changed its tactics immediately.

4.11 Except in so far as it explains the position of the refugees in Mexico (see paras. 4.4 and 7.2.1 to 7.2.7), I do not propose to comment on events prior to President Ríos Montt's accession. Thereafter, however, there continue to be allegations of massacres by the army. I tested to the utmost of my skill an eye-witness account of a massacre at Chichupak in Baja Verapaz. The small details and circumstantial evidence could not possibly have been known by my informant to be corroborative of other material from different sources. Similarly, having met Fr. Ricardo Falla I cannot doubt that his account of the killings at San Francisco, Nentón, in Huehuetenango is true. Again it contains small and inconsequential details which it seems incredible that anyone could invent.

4.12. This does not, however, mean that every such allegation must be believed. Fr. Fall's own comment on the conveyance of these horrific stories should be repeated:

"Another reason for studying the San Francisco massacre in depth is that it was the principal detonator of the flight of some 9,000 refugees from Northern Huehuetenango to Mexico (in July/August 1982). Following the path of the news from the village itself to neighbouring villages ... and later to the refugee camps and major newspapers allows us to see how the news alters as it passes from mouth to mouth. Even though variations occur, the basic truth remains. Some testimonies pass through second- or third-hand sources, but they should not be dismissed because some of the data are mistaken or the numbers changed."

I agree, but would go further. Certain stories are intentionally selective, for reasons on which I will not speculate. One alleged massacre of civilians of which I was told by an eyewitness emerged, on further inquiry, to be a case of villagers in a notoriously subversive area caught in cross-fire, after which both civilian and military casualties were taken to hospital by military helicopters. Similarly, there has been widely reported a grim massacre of civilians by the army on 22 December 1982 at a village called Farraxtut in Western Quiché. It so happens that this village had been visited in September by the IACHR mission. It is said that 350 people were killed in December, but I now have at hand a document prepared by an experienced civilian in June 1983 who, after exhaustive discussion with the inhabitants on the spot has concluded that the story is a total fabrication and had not previously been checked by any outside press reporter before its publication. There are, however, other allegations that on, probably, five occasions in early 1982 some people from this same village were killed, but nobody appears to have investigated this matter either. Again this report poses problems. The incidents occurred before the Inter-American Commission on Human Rights' visit but evidently were not mentioned to the members of the Commission by the villagers, although an earlier incident in 1980 was described by them.

4.13. It follows that I cannot recommend acceptance at face value of all the available accounts heard. As another example, various reports tell of children being bayoneted by the army, but as I saw for myself the army does not carry bayonets nor are their weapons of a type to which a bayonet can be fitted. For all that I am bound to conclude that even under the presidency of General Ríos Montt atrocities were committed which defy any notion of fundamental human rights. The question now arises whether or not such practices continue under the Government of General Mejía. In the armed forces of every country there are persons who commit offences of a greater or lesser degree of gravity. The same applies to irregular units of the sort exemplified by the civil patrols in Guatemala. What is of critical concern to the subject of human rights is the extent of the discipline exerted to prevent such abuse of power, to inquire into allegations of any such occurrence, and to deal with those found to be responsible. I will return to this topic in paragraph 6.4 below.

4.14 A subsidiary objective of my visiting the areas on or adjacent to the Mexican frontier was to see if there were visible signs of a "scorched earth" policy or a "cordon sanitaire" in that area. The only signs of fire were a few small areas in Northern Quiché where "slash and burn" methods of growing crops, a technique not confined to that part of the Altiplano, had resulted in burnt patches. I also saw one abandoned, but intact village in the Ixcán (annex III, No. 7) area. Otherwise the area seems to be sparsely populated anyway and heavily afforested. I cannot therefore record any evidence which supports this allegation. In north-west Huehuetenango the village of Agua Zarca (annex III, No. 17), some 2 km from the border, indicates that in that area at least the population of the border zone is being maintained and supported (see para. 4.4).

## 5. INTRODUCTION OF REFORMS

5.1 As already indicated, the troubles in Guatemala have arisen very largely from the long-standing inequitable treatment of the indigenous population. This in itself has amounted to a basic denial of economic social and cultural rights. Although the reforms now commencing or under discussion are designed to benefit all Guatemalan citizens, they have particular reference to the indigenous peoples.

5.2 These are of the same race which created the great Mayan civilization. I met a considerable number of them, and they impressed me as being friendly, hard-working and long-suffering. Those in a position of responsibility, such as the indigenous members of the former Council of State, local mayors or the young accountant (technically a ladino) who showed me over an experimental Government agricultural station were able to demonstrate their abilities. Something of their history should be recounted. A Guatemalan elder statesman told me that in the first half of the sixteenth century, almost as soon as the conquistadores had occupied the country, Popes Clement VII and Paul III pronounced that they were to be considered as human beings in every sense. For nearly 450 years there has, however, prevailed an attitude towards them which in its extreme form is characterized by the saying "To kill an Indian is not to kill a man". The word "Indian" is not used elsewhere in this report since in Spanish it can carry derogatory implications. A large number have migrated to the fringes of the larger cities, but the remainder have small holdings on the poorer soil, or no land at all. They barely manage to subsist. Corn, the staple diet, will grow on slopes of great steepness; it can be planted where the forest has been cut and burned. Serious soil erosion results and terracing is not part of the indigenous culture (though it is now being introduced as a technique - see below).

5.3 The resultant poverty has traditionally driven this part of the population to migrate once or twice a year to work on the coastal, or other large estates, in order to earn a little money on which to survive. Since these estates specialize in crops such as coffee, sugar and cotton, which require intensive manual labour on a seasonal basis, migratory workers have been essential. This situation is reflected in labour legislation dating back to 1877 called "Reglamento de Jornaleros", concerning general regulations on labour contracts, which was revised in 1894, but which remained in force, with minor changes, until 1934. According to this law, agricultural workers were divided into three broad groupings: "colonos", "jornaleros habilitados" and "jornaleros no habilitados". The basis for this distinction was the duration of the contract and whether the farm worker lived on the plantation or not. All workers were required by law to carry "libretos", or booklets in which the employer noted the debits and the credits. The fact that most workers were illiterate gave rise to much injustice and exploitation. Some of them were kept perpetually in debt, and thus required by law to work continuously on the plantation. Later in 1934, the Vagrancy Law was enacted, under which anyone who did not till land of specified dimensions had to work a minimum number of days for someone else. The workers had to carry at all times a card in which employers would note the number of days worked. If the minimum number of days was not fulfilled, the person could be punished as a vagrant. All this was radically changed by the 1945 Constitution: admirable precepts for the rights of workers were incorporated, including minimum wages and the creation of the Labour Tribunals as a separate judicial body to settle disputes involving labour. The 1947 Labour Code spelled this out in much greater detail.

5.4 Since then, however, new restrictions have usually been in force on matters such as the formation of trade unions in the countryside (and elsewhere). Complaints have continuously been made that minimum wages are not in fact being paid, and the conditions in which the migrant workers lived while on the estates have been heavily criticized. That all this can be put right was vividly demonstrated to me by a visit to the sugar estate of Amulco in Escuintla (annex III, No.2). The permanent work-force is being progressively housed off the estate in property which can be bought on easy terms. Thereafter they need not remain in the estate's employment. Health care, sporting and social facilities are provided and, by comparison with conditions in a house in the Altiplano, accommodation for the seasonal work-force is far from unreasonable. It is certain that the standards set by the enlightened family who run this estate are not widespread, though they have the economic effect of positively attracting migrant labour. This situation seems highly relevant to articles 7 and 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights.

5.5 Allied to this problem is the inequitable distribution of land. Sixty per cent of the privately-owned land belongs to 2 per cent of the population; on the large estates part of the land is not cultivated at all. Apart from the agrarian reform begun during the period 1944 and 1954, this principle has largely existed in theory rather than in practice. There is a rich area stretching from North Quiché across the South of El Petén and North Alta Verapaz to the Caribbean coast called the Franja Transversal del Norte. Not only is this the region where the oil and nickel resources are found but the land is fertile, and largely State-owned.

5.6 Promises were made in the 1970s that, in conjunction with the opening up of the area by construction of a new road network, land would be distributed to some of the rural population, but the promises were not kept, causing a bitter reaction, whereas large estates were acquired by members of the establishment.

5.7 One important aspect of the Ríos Montt administration was the frank recognition of the numerous irregularities suffered for centuries by the indigenous population, and the Ladinos so far as they too have been similarly affected. The marginalization of this sector of the population in the economic field, as well as in the political sphere, is a matter to which the present intended reforms are specifically directed. President Mejía's speech of 8 August 1983 mentions both these aspects as policies to be actively pursued. They go hand-in-hand with the wider plans for a reconstruction of the country and resettlement of the displaced population of which I heard and saw more during my November visit.

5.8 The three pillars of the Ríos Montt administration's policy were the suppression of insurgency, the institution of a much wider measure of democratic participation in a choice of government than, probably, has ever before prevailed, and a large range of measures aimed at reconstructing a country racked by violence while at the same time beginning to reduce the disparities in standards of living and all other opportunities as between different sectors of society. The new Government is actively pursuing most of the same policies, although with certain variations.

5.9 It is not necessary to emphasize the desirability of peace, as a foundation for improvement of human rights. Displacement of the population, destruction of schools, municipal buildings and other infrastructure, together with other miseries need to be put right before any advance can be made. A start has been made but while violence continues the future is bound to be uncertain. For instance the work of the National Reconstruction Committee (CRN) in the vast Northern Department of El Petén is being disrupted at the moment by subversive activity.

5.10 Democratic elections: Article 25 of the International Covenant on Civil and Political Rights.

5.10.1 Reference has been made to Decree-Law 30-83, establishing an autonomous Supreme Electoral Tribunal. The first step was the appointment by the President of the Supreme Court, Sr. Ricardo Sagastume Vidaurre of a 7-man Nominations Committee consisting of distinguished and independent university dignitaries. On 19 May 1983 they presented to the members of the Supreme Court the names of 20 lawyers, out of which the Court was to choose five members. On 23 May the following, all magistrates, were thus elected:

Arturo Herburger Asturias (Chairman)  
Gonzalo Menéndez de la Riva  
Manuel Ruano Mejía  
Ricardo René Búcaro Salaverría  
Julio César Ordoñez Polanco

The Tribunal was officially installed (despite the proclamation of the State of Alarm) on 30 June 1983.

5.10.2 The Tribunal has three main immediate tasks; to organize the compilation of a new electoral register; to oversee the process whereby Committees are duly qualified to operate as the core of future political parties who will participate in elections; and to prepare a complete electoral law for submission to the Head of State. At, and immediately after my meeting with the Tribunal on 25 November, progress was as follows:

5.10.2.1 The previous administration had ordered a sophisticated electronic system, which was in itself the subject of grave suspicion as being a possible infringement of privacy. <sup>2/</sup> It had transpired not only that this equipment would be extremely expensive but also that delivery was uncertain; it has been cancelled. Instead a system is being operated based on the normal identity card (cedula de vedindad) carried by citizens. On presentation of this a person is registered in his or her own municipality as an elector. The literate are required to register, but it is optional for the illiterate.

5.10.2.2 In view of the history of electoral fraud, this arrangement has also been criticized for the possibility of multiple registration. It is said, for instance, that the identity cards of the dead could be presented to provide an extra name and vote. One safeguard is that identity cards carry a photograph.

5.10.2.3 Another serious problem derives from the violence of recent years. Many people have lost their identity cards, or have had them removed, it is said, by the guerrillas. A replacement may be obtained by production of a birth certificate. These are available at the municipal centre. However, as has been said, municipal buildings have been the target of subversive attacks and many were burnt: with the fire the records were destroyed. This problem was graphically described to me by the mayor in San Andrés Semetabaj, Department of Sololá (annex V, No. ) in November and help from central government was promised. In that town the municipal buildings had been burnt two years ago. It is a widespread difficulty.

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<sup>2/</sup> See A/38/485, para. 140 (10).



5.10.2.4 Registration began in the capital and other urban areas. A press statement of 1 December 1983 stated that the registration process was proceeding well, and that 210,000 citizens had been registered. In the outlying areas registration centres were being set up, the next Departments to be covered lying around and to the south of the capital. Radio will be used to give the details and stress the need for registration. Most people, even in the remotest areas of Guatemala, have access to transistor radio. The latest Press Statement says that at the end of 1983 registrations stood at 519,205 in the Department of Guatemala, 52,624 in Sacatepequez, 35,631 in Jalapa, 49,241 in Zacapa and 28,760 in El Progreso.

5.10.2.5 Committees have been making application for their registration as the basis of political parties. It is not entirely clear how many have fulfilled the requirements: the Government suggested 25 to 30 but the Tribunal's press statement said 12. One independent source says 34 groups are organizing themselves as Committees. Applications, evidently, have come from a fairly broad political spectrum. It is to be noted that overtures are still being made to a number of parties, including the P.S.D. to participate.

5.10.2.6 The draft electoral law is ready, as established by Decree 3-84.

5.10.3 The Supreme Electoral Tribunal will in due course have a final task. It will act in a judicial capacity to decide upon any dispute arising out of the electoral process. In anticipation of this role it is confining its activities and publicity to technical details of the registration and electoral processes. It has no intention of seeking to encourage Guatemalians actually to involve themselves in political activities, or even to vote, this being left to the parties themselves.

5.10.4 The time-table for the return to democracy is as follows, partly now laid down in Decree-Law 3-84.

(a) Constitutional elections to be convoked March 1984 or sooner, for 65 constituency based deputies and 23 on a national basis: (The Supreme Electoral Tribunal is concerned about such a mixed system in a single chamber).

(b) Election of a constituent assembly, 1 July 1984.

(c) The constituent assembly to be installed by 31 August 1984 at the latest (or earlier if any legal proceedings are avoided or resolved), to draft a new Constitution, electoral law, and laws on amnesty, habeas corpus and constitutionality.

(d) Institution of a new constitutional Government not later than 1 July 1985: (this is not contained in Decree-Law 3-84).

The general indication was that dates would be brought forward if possible (but not so as to prejudice full opportunities for new political parties to form themselves). This seems to be the pattern which is emerging.

## 5.11 The Council of State

5.11.1 The first administration set up a Council of State. This was a nominated body, but its membership covered a very wide field of representation. Without in any way underestimating the quality of other members, a notable feature was the inclusion, for the first time in the country's history, of a number of representatives of the indigenous peoples. I spent several hours in session with the Council in June. There was general support for the "beans and rifles" programme (see below), and the "political opening" was agreed to be the best thing which had happened to Guatemala, although the need for political education in the rural area was underlined. This support for certain Government policies is not intended to indicate that the Council was a mere puppet organization. Members were both vocal and critical of other things. The stated duty of the Council was to draw up the initial proposals for the Supreme Electoral Tribunal. This it did and, as has been seen, they were incorporated in Decree Law 3083. By the summer of 1983, however, members, not least the indigenous, were beginning to develop contacts with their "constituents".

5.11.2 The Council was abolished in August 1983 by the new administration on the ground that its task was done, and it had become a financial burden. The Head of State was only able to assure me that for the present the indigenous population is participating in the process of government through the persons of the head of INTA (the national body which adjudicates on and grants title to land) and a senior member of the Ministry of the Economy, both of whom are either indigenous or have such background.

5.11.3 I have to say that, in view of the long process needed for the installation of a democratic government, I regret the passing of the Council of State. It was non-elected and would only have exercised an advisory vote, but it seems to have acted as a useful bridge between the people and Government.

## 5.12 Social and economic reforms

5.12.1 After my first visit to Guatemala I wrote as follows: It would be incorrect to stray too far into the purely economic field, but Guatemala is heavily dependent on imports of many basic substances, such as manufactured metal goods of every kind, including corrugated roofing and blades for machetes. The balance of payments and increase in the gross national product were not unsatisfactory until quite recently, when the world prices fell sharply for the traditional agro-export products of coffee, cotton and sugar. Neither the oil nor the nickel resources are readily accessible - world prices are low and the level of taxation on the companies that wish to exploit these riches is as controversial as in many other countries. Thus the enterprises which will earn funds for the nation are relevant to the amount of money which will be available to carry through projects of social reform and advancement. It was encouraging to have very constructive discussions on attitudes to these problems with various people, in particular representatives of the Chamber of Agriculture, Commerce, Industry and Finance (CICFI). There are signs that, through private enterprise and the encouragement of co-operatives, including transport facilities, the range of products earning foreign exchange could be greatly widened. Cardamom, garlic, potatoes, paprika and flowers are already being grown. There is a market in the United States of America for vegetables, especially if they could be frozen. I saw an experimental estate on the border of the Departments of Suchitepequez (annex III, No. 3) and Peten (annex III, No. 4) where palm kernels were being grown and processed, and other new or improved crops developed. This was

run by the Ministry of Agricultura. Guatemalan honey is world-famous (and there are apiaries, along the road sides in the Mexican State of Chiapas, and even on the banks of the Lacantun River). What is required is a better road system, and technical training in marketing and distribution. Another export which would flourish in world markets is hard-wood, such as mahogany, which matures remarkably quickly in the sub-tropical climate of the Franja Transversal del Norte; there is a trial plantation at Chisec (annex III, No. 10).

5.12.2 The point of this is that, on the evidence of indigenous people, such as those in the Mexican refugee camps at Puerto Rico (annex III, No. 4) and Chajul (annex III, No. 5), Guatemalans are prepared to give up their traditional subsistence way of life in their villages and move to join co-operative enterprises which offer an opportunity to add a cash crop to their basic family food production. There are other examples, such as at San Andrés Semetabaj and in Quezaltenango and in areas closer to the capital. This type of development demonstrably conduces to the standards set by article 11 of the Covenant on Economic, Social and Cultural Rights.

5.12.3 The Government's own initiatives tie in very well with such enterprises. The slogan names - "Frijoles y Fusiles" (beans and rifles) or "Techo, Trabajo y Tortillas" ("the three T's" - home, work and food) - should not disguise either the achievements or the aspirations of the ministries and agencies concerned. There is in fact an integrated policy, parts of which have survived since the mid-1970s in concept as well as execution. As the then Minister of the Interior told me, "The indigenous area has been abandoned during the whole history of Guatemala. Subversion made us aware of this and our Government cannot ignore this fact any more".

5.12.4 The two programmes merge into a larger practical plan for do-it-yourself reconstruction and self-defence, with all the logistic and technical support that central and departmental government can provide. In places where the population has been concentrated and where the internal refugees are settled (initially, at least), there is an urgent need for basic foodstuffs. Beans, corn, flour, milk, fish and garlic are said to be distributed among some of the population, the World Food Programme having given the milk and fish; however, in most places the contents of the sacks which I saw were corn and black beans, which are the staple diet of the Altiplano. These are delivered regularly by the army along the incredibly bad roads, where any exist, or by air elsewhere. It is instinctive to the indigenous people that they should wish to work; the group of war-widows with their children whom I met in Nebaj (annex III, No. 12) insisted that, even if they were too old, in some cases, to learn new skills, they could all grow food for their family and weave their traditional cloth. In that case, they already had plots of land, though no money for weaving materials. Thus the distribution of land is the urgent problem, as the CRN emphasized. The policy is to begin with the State-owned land since, as the then Minister of the Interior said, it is better for a democratically elected Government to tackle the major problem of redistribution of privately owned property. The agency in charge of the distribution of State-owned land is the National Institute for Agrarian Transformation (INTA). This was set up originally in 1962, but has been subject to numerous modifications. It has power to adjudicate upon possession of land, and there are eight different types of adjudication, three for individual and five for collective holdings. It has been running a pilot plan in the two Verapaz departments with the objective of benefiting 35,000 families, and is currently implementing a programme across the whole Franja Transversal del Norte, from Ixcán

(annex III, No. 7) in North Quiché to Livingston in Izabal, part of which I saw in Chisec (annex III, No. 10); this programme includes agricultural training. Impressive statistics are available, and INTA has admirable objectives: the improvement of the economic level of tenant farmers, legalization of land ownership, development of profitable crops and infrastructure support, all to be assisted by training programmes. This activity must be wholly commendable, though much of it lies outside the scope of a report on human rights. For the purposes of the right to an adequate standard of living, including adequate food, and a continuous improvement in living conditions, the most urgent need, as exemplified by the situation in Chisec, appears to be a speeding up of the process whereby title to land is finally adjudicated; until this is accomplished families do not have the security to develop the full productivity of the land.

5.12.5 In relation to article 11, paragraph 2, of the Covenant on Economic, Social and Cultural Rights, the then Minister of Agriculture has explained that two programmes are already in operation; these reverse the former method of planning since the wishes and participation of the local population are the starting point for the choice of a project, which is then allocated the necessary national resources and technical assistance. The first step is to give priority to projects satisfying the basic needs of nourishment, and the creation of community projects for producing vegetables, fruit, small animals, fish, etc., which enhance the protein and vitamin content of the diet. In different parts of the country over 1,600 of the rural population have already benefited from 14 such schemes. The then Minister was also in the process of preparing a draft law whereby a variety of methods would be available to larger landlords voluntarily to sell, for just value, land to landless peasants, or to participate with them in joint agricultural ventures. He said he was receiving a response to those ideas: it may be hoped that this initiative will be further pursued.

5.12.6 The "beans" concept is thus an elaborate set of projects, but is in the early stages of implementation. It is allied to the housing and work element of the "three T's". Until agricultural production can be resumed and improved the population is earning free food by work projects under a number of different projects. I was not made aware of any opposition to this idea, and the second-in-command of the military zone of Huehuetenango (annex III, No. 16) said that there had been a very positive reaction from the population. So far as concerns housing, the National Reconstruction Committee provides the corner posts and roofing, together with supervision; the army also assists. The construction itself is carried out by the family, who then have to find material for walls, which never in Guatemala need to be very substantial.

5.12.7 As for the work projects, these not only provide a way for resettled people to gain their living but also help to alleviate the serious problem of unemployment in Guatemala: in both cases this is relevant to article 6 of the Covenant on Economic, Social and Cultural Rights. Two major programmes have been adopted, as the Minister of Labour explained, under five elaborate plans. These are intended to give jobs to 54,000 people, on these schemes:

- (a) Local road building,
- (b) Irrigation for 40,000 hectares;
- (c) Soil conservation for 67,000 hectares including terracing, preparation of grass-land and aqueducts;
- (d) Reafforestation on 30,000 hectares in 12 departments of the Altiplano.

The work-for-food projects include road construction and improvement, and the army organizers and other Government agencies are also directly engaged in road construction to open up remote areas, such as that north of Nenton (annex III, No. 18). where I saw the engineering works, of a massive nature. These infrastructure improvements also have the indirect effect of making possible a better standard of living for the inhabitants of those remote areas.

5.12.8 Again, I obtained the impression that, except for roads where there is already much to show, the programmes are in a comparatively early stage of implementation.

5.12.9 On the other hand the National Reconstruction Committee, which has been operating under three administrations prior to that now in office, can show impressive results in terms of projects completed. In addition to their over-all responsibility for the "beans" programme, they have carried out many small developments in rural villages, in accordance with the priorities indicated by the inhabitants themselves. The progress chart in the annex III to the preliminary report <sup>3/</sup> shows by Departments the work accomplished in the construction of schools, community centres, clinics, water-supply systems, churches, roads, landing strips and minimal roofs; the work is done by the local population with technical supervision provided through the Committee. This is of particular importance in the case of schools, many of which are the first ever available in the villages concerned. As an example of the need even for primary education, the information for the Department of Huehuetenango is that 90 per cent of the schools were closed because of subversion. A population census in 1982 gave a figure of 30,000 children, but the figure is now 68,000. The majority of the teachers have now returned but there are only 152 original schools, to which 37 new ones have recently been added. In Nenton (annex III, No. 18) all the primary schools have been rebuilt after their destruction. I have ready complaints such as there is no freedom of education in Guatemala, in that the curriculum is organized by the Ministry of Education (surely no unique situation). However, article 13, paragraph 13 (a), of the Covenant on Economic, Social and Cultural Rights says that primary education shall be compulsory and available free to all. While there is an acute shortage of school buildings, teachers, and (as I heard in Nebaj) pencils, exercise books and text books, it appears correct that the Government should concentrate on making good these deficiencies as a priority.

5.12.10 This account now requires to be brought up to date. The Government emphasizes that the whole process involving the resettlement and subsequent advancement of the rural population is being carried out under a three-stage plan. This is the Plan of Action for the Areas of Conflict (PAAC) initiated in July 1982 and still official policy. This plan envisaged a recovery from the multiple effects of years of violence as requiring -

(a) A survival stage in which internal refugees are received after their flight into the countryside: they are given food, clothing and provided with work, under military protection.

(b) Relocation either in their original villages or larger regroupings of population, according to peoples' wishes, with measures for security.

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<sup>3/</sup> See A/38/485, annex III.

(c) Development, in which the supporting State institutions, including experts within the army, proceed with building and technical support in the sphere of infrastructure and agriculture.

It is important to view a number of issues, including the so-called "model villages" (see paragraph 7.3 below), against the background of this global scheme.

5.12.11 There have been organizational changes so as better to implement this plan; and the process of development has been to comprise the whole country. Since June 1983 each Department has had an army officer as, in effect, its Governor. The CRN has, however, recently assumed a key role in the process of development. This body, first established in 1976, is directly responsible to the Presidency. A governmental order dated 18 October 1983 created inter-institutional co-ordinating committees at national, departmental and local levels. All government departments and institutions, so far as they may have a presence in the area, together with any non-governmental aid organizations are now collaborating under the direction of the CRN. The needs of each Department are assessed. As an example of this co-ordination, there are being built in the Department of Chiquimula, on the border with Honduras, 17 schools and three health centres; while in conjunction with CACIF (the national private body representing Commerce, Industry, Finance and Agriculture) a plan to increase the production of the small farmers of that area is in operation. Again in a valley in the adjoining Department of Zacapa there is an irrigation project for 850 acres, bringing into existence a co-operative of 400 members. Grapes are being grown experimentally and 80 of the 160 varieties tried have proved viable. The numbers and type of projects by Department completed in the period June to November 1983 appear as annex VI. There are two particular projects, new villages at San Juan Acul near Nebaj, Quiché, and Yalijux, Alta Verapaz (see paragraph 7.3 below), which amount to a regrouping and reconstitution of complete communities; the funds in the first case came from central finance, and in the second from CRN funds with the villagers' own assets. Fifteen agencies are involved in Acul.

5.12.12 Larger scale projects are now being prepared, the first for an area of 50,000 hectares, an estate owned by INTA, at Chocón, inland from Livingston in the Atlantic Department of Izabal. The population is 13,500, some at least being Kekchis who have immigrated from further west. The objectives are to perfect the exercise in co-ordination with the participation of the local community, to test the area's productivity and ensure a greater sufficiency in basic foodstuffs. In woodland areas crops such as rubber, nut trees (corozo) and cardomom are planned. The National Reconstruction Committee (CRN) advise that improved agricultural techniques could raise crop yields thus (in tonnes per hectare):

	<u>Traditional Technique</u>	<u>Improved Technique</u>
Rice	1.04	4.5
Maize	1.3	3.9
Beans	0.6	1.4

Crop rotation will include the achiote bush whose berries provide essential vitamins. It is obvious that with improved marketing and communications, and the introduction of facilities for water supply, education and health, the local population's standard of living would be substantially improved.

5.12.13 The Minister of Agriculture who, in November, had just taken office, is a soil scientist with a chair at two universities. He endorsed this integrated rural programme, together with projects for marketing and irrigation; all this would also encourage crop diversification. He was not pursuing the plans of his predecessor-but-one (under the previous regime) to seek some voluntary scheme whereby private landowners could share part of their land with landless country-people. Rather he thought that land owned by the State should be used for the permanent resettlement of the population. I was told, and also saw from the newspapers, that INTA has been issuing documents of title to such land, for example at Chisec and in Izabal.

## 6. UNRESOLVED INDICATIONS OF ABUSES

### 6.1 Special Tribunals (Tribunales de Fuero Especial).

6.1.1 In my interim report the origin of these Tribunals was described. They seemed necessary to the then President Ríos Montt because of the assassination of over 80 judges, magistrates and lawyers concerned in criminal trials, together with formidable threats to others and to court staff. The Tribunals were established by Decree-Law 36-82 in July 1982; an appeal procedure was added by Decree-Law 111-82 following a recommendation by the Inter-American Commission on Human Rights. They lasted just over 13 months, having been abolished by Decree-Law 93-83, with effect from 1 September 1983: all proceedings in train at 8 August 1983 were to continue, but other persons arrested for offences within the Tribunals' jurisdiction were to be transferred to the ordinary courts. There is no indication that cases were thus transferred; on the other hand the Tribunals during August rapidly completed a number of trials and appeals.

6.1.2 The Tribunals have been severely criticized from their beginning. I investigated their procedures thoroughly in June and July, speaking to a person who had undergone the entire process and had completed his sentence, a lawyer with experience of acting for the defence and a number of detainees awaiting trial in the Second Police Corps Headquarters, with whom I was allowed an entirely uninhabited conversation, out of any official earshot. I also talked with families of detainees. I have come to the conclusion that the criticisms were entirely justified. In particular the accompanying phenomenon of disappearances is referred to below.

6.1.3 The names of those convicted by the Tribunals were published in Prensa Libre on 8 September 1983, together with their offences. The list gives the names of 61 persons, of whom it is said that two had been freed. A study reveals certain inconsistencies; for instance two brothers on the list are also said, by other sources, to have been freed, while the name of another person, whom I was told by the Government had been convicted and then later freed does not appear; nor is there reference to two other persons whose families told me that they had been convicted, and one of whom I met in June in the Second Police Corps Headquarters. The convicted persons are in the prison called La Granja Penal de Pavón near the capital. Their cases give rise to certain problems which need urgent resolution. These arise from the following factors -

- (i) The Tribunals' jurisdiction primarily related to crimes of subversion, violence, carrying arms and accompanying conspiracies: however, the Tribunals had powers to extend criminality beyond the terms of the criminal code, to an undefined and vague extent - Decree-Law 36-82 articles 3 (II) and (III) and 39. If in any case this was done there may now be a case for review.

- (ii) One feature of detention on charges within the Tribunals' competence is widely attested by detainees, and is a serious violation of human rights. After arrest, they were held for interrogation in a variety of places, during which time the authorities denied all knowledge of their whereabouts. This period could be six to eight weeks or even more. Some indicated to me that they were tortured. Only when a confession had been signed were they announced by the authorities to be in detention. Such confessions (signed, as one person told me, in the belief that he would be able to bring evidence to disprove it) seem to have been at the centre of the trials; thus obtained their reliability is seriously open to question.
- (iii) The procedures made the task of the defence exceedingly difficult. Appeals (see Art. 14 of the Covenant on Civil and Political Rights) were also heard in secret and subject to a perfunctory procedure.
- (iv) Guatemalan law makes it technically impossible for the Supreme Court to review these cases by way of a full rehearing as to the facts and the law. In two cases, the President of the Supreme Court told me, a timely application for amparo was made, in August, when the Tribunal's conviction and sentence remained unconfirmed; this delayed matters until the abolition of the Tribunal, so that the case was referred to a normal appellate court. Otherwise the criminal courts can only review sentences, on the principle that the most benign law should be applied, and this is already in progress.

For reasons such as these I urgently support the initiative of the Bar Association for the necessary special legislation to enable all persons convicted under this system to be retried from the beginning. The prisoners invited me to visit them to discuss the details of the Tribunals' procedure. I regret that I had not time on this last occasion to go to the prison. In fact, as indicated above, I had received much information about the way in which the Tribunals conducted trials. What is more important, the Supreme Court has already pronounced upon its own jurisdiction to review the procedures of the Tribunal, holding that there is very little indeed that it can do. Accordingly the reality of the situation is that new legislation should provide for a new trial (if so desired) in accordance with normal procedure; this seems to be the most appropriate remedy.

## 6.2 Disappearances

6.2.1 At the time of my visit in June there was a substantial number of reported disappearances in Guatemala under the Ríos Montt administration. This was a continuation of such reports going back a number of years. Enforced or Involuntary Disappearances constitute the violation of a large range of human rights; the details can be found in chapter V of each of the reports of the Commission's Working Group on this subject - E/CN.4/1435, E/CN.4/1492 and E/CN.4/1983/14. Current figures can be found in the Working Group's fourth report to be presented to the fortieth session of the Commission. 4/

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4/ See E/CN.4/1984/21, chapter II, E.



6.2.2 After I had, in June, submitted a sample list of cases occurring within the previous 12 months from among persons belonging to the University of San Carlos, the Government replied with information that a few of these were being held, or had been held, for trial by the Special Tribunals. In view of the system described in paragraph 6.1.3 (ii) above, I recorded in my preliminary report that the abolition of the Tribunals would probably clear up a number of outstanding cases of alleged disappearances. It has, however, not done so. The number of people admitted earlier in the year to have been held on crimes within the jurisdiction of the Special Tribunals greatly exceeds the number of 61 (incomplete though I fear this itself to be) published in the Prensa Libre. There continue to be rumours current in Guatemala about people secretly detained, for example in the Cuartel General de Matamorros (an old fortress) or in police stations.

6.2.3 In November the Head of State categorically denied to me that anybody is held in a secret detention centre or that such places exist. The Vice-Minister of the Interior informed me that disappearances are the product of violence, that they had happened over previous years and that the police spared no effort to trace the victims; and the Government tries to prevent them. Some, if not most, he said, have a political connotation; the extreme right and extreme left are often responsible.

6.2.4 The Commission may recall from reports by the Working Group that other Governments have given explanations of this sort for disappearances in their country. Disappeared persons are also said to have been subversively motivated, to have gone underground or abroad to pursue their activities. Even if there is an element of truth in this, however, it does not explain the fact that many of the reports of disappearances in Guatemala say that the person concerned was physically arrested, the place and date being specified. Nor are the Special Tribunal cases, otherwise unaccounted for, thus explained. Nor again do these seem to be criminal kidnap cases since there is no indication that any ransom has been demanded, according to testimony by many families, some of whom I have personally interviewed: if they were political abductions their bodies have not usually been found so that they are probably still being detained somewhere by their captors, whoever these may be.

6.2.5 The Governing Body of the International Labour Organisation in its report GB.224/9/17, dated November 1983 examined a complaint about the disappearances of Mrs. Yolanda Urizar Martínez de Aguilar, legal adviser to a trade union, which included an indication that her capture was witnessed, and that she was detained at the Berlin Military base in Quetzaltenango. The ILO Committee expresses concern that after seven months of police inquiries no progress on this case has been made.

### 6.3 A new wave of killings and kidnapping

6.3.1 One major change between my two visits could be seen from the newspaper headlines. It is now a relatively common occurrence for gun battles to take place in the streets, in which the victims include innocent passers-by. In other cases the bodies of victims, with severe and multiple wounds, have been found in the street; such persons have clearly been killed for some specific reason. Additionally, kidnappings have occurred, usually with a financial or political demand by way of ransom.

6.3.2 These phenomena have reappeared since September. They are not confined to the capital, but are also reported in the period up to mid-November 1983, from all but six of the 23 Departments to a larger or smaller degree. It is far from clear who is responsible, the victims include the school-girl daughter of the Chief of Police in Santa Rosa, a newspaper editor, sisters of the Head of State and of General Ríos Montt (all three of whom were released) and 13 ordinary citizens, two killed and 11 wounded, caught in a mid-morning street battle in Guatemala City on the last day of my November visit. A great deal of money had been paid for the editor's freedom.

6.3.3 On the first day of my November visit the ex-rector of the University of San Carlos was shot dead at 8.40 a.m. in his faculty car park by four unidentified assailants. Three years ago the then Rector was also assassinated, a crime never cleared up. The Press asked me if I thought the latest murder had been committed in order to take advantage of my presence in Guatemala, to harm the country's image. I doubted it then, and am reinforced in that view by a catalogue of violence published in Prensa Libre on 21 November 1983. The superior of a monastery in Antigua was assassinated on 7 November. Between 1 and 17 November 23 other people were assassinated or murdered, including four policemen and a soldier, 16 kidnapped, 16 wounded, four kidnapped persons were found dead, and three bodies were found incinerated in cars; one kidnapped person was released on payment by his family of a formidable sum (fuerte suma) of money, and eight persons were arrested. These were blatant crimes of violence, occurring in various parts of the country as well as in the capital: the numbers exclude crimes of a nature which indicate murders within families, normally recognized as domestic crimes.

#### 6.4 The Army's activities

6.4.1 In chapter 4 above I have said that I accept the truth of two out of four of the massacres there mentioned. There are, of course, many other accusations against the Security Forces in circulation, some relating to alleged incidents occurring as late as August or September 1983. A few of these I attempted personally to investigate during my November visit. One matter which arose is still being investigated by the Government at my request.

6.4.2 Whatever might be the truth of that incident it is unlikely that the Government has been completely surprised by the unpleasant conclusions on this subject recorded in my preliminary report and repeated in chapter 4. In June Ministers and other persons in authority candidly admitted that I would find many bad things, that the situation has not been easy and that change takes time. Mgr. Flores, Bishop of Verapaz, told me that military personnel do not deny their arbitrary actions, but rather try to correct them.

6.4.3 Army discipline is enforced by military law. Under the last regime a code of conduct was issued to each soldier setting out compulsory rules for exemplary conduct towards the civilian population. Disciplinary offences are in practice punished. An example was given me in Huehuetenango (annex III, No. 16) by a senior military spokesman who said that nine of the garrison soldiers had been taken to court and convicted of abuse of women or robbery, and are in jail. An officer was at the time (June 1983) on trial for abuse of his powers. In February 1983 four persons disappeared in the Department of Huehuetenango and are said to have been killed. An army sub-lieutenant and four military policemen were accused of the crime and court-martialled. I do not know what happened to the four military policemen, but the sub-lieutenant was ultimately

acquitted, the verdict having been confirmed by the 8th Division of the Court of Appeal sitting at Quetzaltenango City in July 1983. I have an army press statement. The record of the court-martial and of the appeal are public documents, which I have asked to see, but they are not yet available. I believe that they deserve study. This is a controversial case. The press statement indicates that the two bus drivers, on whose statements the case was founded, did not substantiate their evidence at the court-martial. The officer put forward an alibi which was supported by members of his platoon.

6.4.4 What is in general much less clear-cut is the way in which the army behaves when it is carrying out operations against the guerrillas. The difficulty in differentiating between active guerrillas, their supporters and entirely innocent villagers is referred to in paragraph 4.6. As subversion in the countryside has been contained the problem has reduced in size but not in nature. Guerrillas recruit women, and children of about 12 years and older as well as men; entire populations admit that they co-operated. The allegations now concern small numbers per incident by comparison with those relating to 1981 or 1982. The claim, however, remains the same, that the army kills innocent civilians. Just how hard this is to investigate may be illustrated by the case of Acul, mentioned elsewhere. Before the present new settlement was started, the original village was widely scattered over the valley, each house beside its milpa. There was the small church, a school dating from 1976 and a small finca whose owners, of Italian origin, had taught the villagers to make cheese. The only access was by a steep path over the shoulder of the mountain which separates the valley from Nebaj. Some two years ago a number of the villagers were, I am told, killed. Certainly some of the more isolated houses have been burnt down within comparatively recent times. Who was responsible? It is alleged in certain quarters to have been the army; the official view is that the guerrillas did it. This has been an area of active conflict for some time. One villager told me in November that two years before they were fighting on the side of the guerrillas. Then, after the guerrillas had taken their food and maltreated them, they surrendered to the army. I saw them newly arrived in Nebaj last June, in a miserable state. At some stage, at least three traps, consisting of concealed pits with pointed stakes, were prepared, one on a main path outside the door of a house, one in the entrance to the church and, if that was avoided, another two or three metres further into the church. I saw the holes. Unfortunately I only learnt of the claim that it was the army who killed the villagers when I reached New York, and so did not inquire on the spot. There must, however, be two possible organizations who might be responsible.

6.4.5 As to this or any other similar incident, it may be argued that the army would be likely to give itself the benefit of the doubt that the persons killed were indeed subversives: I have no evidence to confirm or rebut this. The guerrillas could have propaganda motives in representing the death of their supporters as the murder of innocents. I can only repeat that those who make or pass on these allegations fall into three groups: those who have checked the facts and can provide convincing evidence; those who honestly say that their information is second-hand and needs verification; and those who, to put it at its lowest, do not seem to have made any effort at all to discover whether their claims are true.

6.4.6 The army's activities in the areas of conflict have been one of the most fruitful causes of complaint about human rights violations in recent years. The present members of the Government expressed shock and astonishment at the allegations made. I do not disbelieve this. However, at present, the remedy for the military reputation and for that of the country as a whole lies largely in their hands. For myself, I have been taken whenever I have requested, however sensitive or remote the place. However no Special Rapporteur can set the entire record straight. Something dependable and much more comprehensive is needed.

## 6.5 The civil patrols

6.5.1 These are local organizations of civilians who, under control (now) of the Departmental army command, exist in almost every rural village. In some places they predate the Rfos Montt regime, since one in Southern Quiché, at Semejá (annex V, No. 9), was preparing to celebrate its second anniversary in December 1983. They are variously armed, according to the degree of local subversive activity; a few have been issued with army rifles.

6.5.2 The system has been subject to numerous criticisms, for instance

- (i) The men of the village are forced to join, even to the extent that reluctance is an indication of subversive tendencies and is dealt with accordingly.
- (ii) The duty rosters are arduous and seriously interfere with members' normal activities as bread-winners for their families.
- (iii) The power thus obtained is abused by the patrols who settle old quarrels and rivalries by force, sometimes attacking other villages.
- (iv) They are used by the army as a vanguard force to take the main impact of guerrilla attacks.
- (v) They have been forced by the army to take part in killing inhabitants of neighbouring villages.

6.5.3 By contrast, the system's merits are claimed to be many. By providing a first line of defence for a village, they have a beneficial psychological effect in restoring confidence to the population. They operate under a strict code of practice and discipline, printed on the official identity card issued to each member; offenders are taken to court and punished. They are confined to the area of their own village and are not allowed to operate outside it. They are trained at least in the use of their weapons and sometimes in methods used by guerrillas, with the intention that they should detect guerrilla activity and call in the regular army rather than do battle themselves. The security they provide, particularly to remote communities, enable the population to continue living in their traditional villages, whereas the army could not possibly provide such protection.

6.5.4 I do not believe that on many of these points it is possible to generalize, and I cannot advise the Commission to accept as an over-all criticism facts which relate to an individual event, or conditions in an individual village. The number of people involved is very large - 66,000 in El Quiché Department alone, last summer. Not surprisingly, therefore, there are great variations and the position is far more complex than certain published comments might suggest. Beyond doubt there have been abuses, not all of which have been corrected or punished. Policies vary according to the way in which the local army commandant chooses to train and deploy the patrols in his area.

6.5.5 I now proceed to comment on the advantages and disadvantages mentioned above.

(a) Compulsory service

The degree of pressure exerted upon members of a community to join the civil patrol varies greatly. If numbers are small, service could be a great burden unless it is widely shared so that refusal to join would be unacceptable. Alternatively, the local military command may issue orders, as the Press reports as having occurred in the Department of Guatemala in November 1983: a circular is said to have been issued requiring all men between 13 and 50 to join, even if they work in the capital, week-ends included. Refusal would be regarded as an indication of subversive tendencies.

It is far from clear that a form of local conscription, such as is constituted by the "rifles" part of the beans and rifles programme, contravenes any human right. The obligation, however, ought to be officially described and reasonable exceptions should be allowable. A threat to treat objection to service as giving suspicion of some connection with delinquency or subversion is, in the current climate in Guatemala, a threat to liberty and safety of the person.

(b) Arduous duty rosters

There is a large variation in the frequency with which members have to take turns of duty: examples are as follows,

San Cristóbal Verapaz (annex III, No. 11), once in 12 days (the 75 members specifically said they were volunteers, and those in employment are paid while on duty by their employer).

Semejá (annex V, No. 5), once in 14 days.

Pachimulin (annex V, No. 5), once in two months.

Lancetillo (annex V, No. 3), once in four days (they would much prefer once in eight days).

The variation reflects the available personnel, and the degree of insurgency in the area. There is no doubt that this form of service does take men (and in some cases women too, who are patrol members) from working their fields,

leaving the rest of the family to labour over longer hours. On the other hand civil patrolmen all over the Altiplano do assert the value of the patrols in ensuring peace and an improved morale.

In this connection it is worth noting that there was a huge harvest last autumn - to the extent that the Head of State told me that surplus may have to be bought in at an intervention price for redistribution by the CRN. It is certainly true that from the air it was possible to see the remnant of the corn harvest on numerous plots; I was told that some of those areas had not been farmed recently until, perhaps, a year ago. The civil patrol system must have contributed to this improvement in security and so productivity.

(c) Abuse of power

There are many allegations about this, but again they are not easy to check. I propose to ask the Government to investigate one incident in South Quiché of which I collected first-hand evidence in November. In my preliminary report I described another incident elsewhere in that Department dating from February 1983, in a municipality called Chiché. One local civil patrol, according to the Press, complained of being harassed by the patrol from the neighbouring village; alternatively from the neighbouring municipality. The story centres on the detention of one patrolman, and the cutting off of his ear. This version was confirmed by the Commander of the Quiché military zone: he said that the patrol from the next village accused the victim of having a secret storage place to feed the guerrillas and they arrested him and locked him up. After a festivity, drunken members of the patrol and a policeman attacked him and cut off his ear. He was taken to a clinic. The offenders were tried and convicted, and the commander of the unit replaced.

It seems likely that such incidents do occur. The patrols only consist of the ordinary villagers. They receive basic training, and are under military discipline, but from a distance. In many cases I found a great esprit de corps. However, they are allowed to carry arms while on duty. This imbues them with great power over the village population. Everything in paragraph 7.1 below about the desirability of a system of inquiry into alleged abuses applies as much to the civil patrols as to the regular army.

(d) Use as a first line of defence

According to the Government, and to military commanders, the civil patrols have specific orders not to engage any subversive forces whom they may encounter, but to call for help from the army. This is all very well if there is an army contingent in the immediate area. Few patrols, however, have access to a telephone, let alone radio, and consequently they have become involved in bloody battles, as at Agua Zarca (annex III, No. 17). Naturally the family suffers if a patrolman is killed. However I did not detect a reluctance to go out on patrol: I was invited at Nebaj (annex III, No. 12) to accompany the night patrol (but my advisers restrained me, as it was too risky). There is no denying that

they act as an extension of the army's own presence. What has to be balanced is the danger and hardship thus imposed as against the security which they widely achieve. This security could only be replaced by massive conscription into and deployment of the regular army, with a strong probability that many of the same people would be involved in that different capacity, with even greater disruption to the lives of themselves and their families.

(e) Forced by the army to kill inhabitants of neighbouring villages.

I have no personal discoveries which throw any light on this sort of allegation. It is, however, worthy of note that an allegation of this sort features in the story of the Parraxtut in December 1982. The published account tells of the army arriving at the village of Chiul in the neighbouring municipality of Cunen, and 9.5 km west of Parraxtut and summoning all male members of the civil patrol. Three hundred and fifty were assembled and told to march to Parraxtut where they would be expected to demonstrate their masculinity. An army contingent joined them, but the rounding up and killing of the men and later the women was entrusted to the civil patrolmen, using rifles given by the army. The origin of this story is said to have been a member of the Chiul civil patrol. When the investigator, mentioned above, visited Parraxtut in June 1983 he specifically asked the villagers whether they had had any trouble with people from Chiul and they denied it. The investigator met the Parraxtut civil patrol, a 70-year old storekeeper and several customers, the mayor and a score or so of villagers. Victims of the December massacre are variously numbered between 350 and 500. It may be wondered how all these informants survived: a sparsely populated village might have been expected. I have already stated that I reject the Parraxtut massacre of December 1982 as being fiction; and with it the involvement of the Chiul civil patrol. Where other incidents of this nature are alleged, however, I would urge a full investigation.

6.6 Religious freedom

6.6.1 Guatemala, 450 years after the arrival of the Spanish conquistadores, is fundamentally a Roman Catholic country. In the indigenous areas, Roman Catholicism has embraced certain aspects of earlier religious festivals and attitudes, without, however, detracting from the devoutness of local religious fervour. At the same time, for just over 100 years, there has been a Protestant Christian presence in the country, comprising a number of different denominations. Not least in Guatemala, as in the whole of Central America, certain fundamental evangelical sects, mainly deriving from the United States, have been carrying out work of proselytism. The fact that substantial funds are available to these organizations to further their work is, in a country starved of foreign exchange, an added attraction. The fact that former President Ríos Montt was (and is) an evangelical Protestant, who broadcasts on radio and television every Sunday evening, led me to inquire, mainly in July, whether any undue pressure or influence was being exerted by Protestant sects or their members.

6.6.2 Although this is now an academic point, my inquiries may be of interest. Neither overseas nor in Guatemala did I receive any suggestion that there was any political connection between Protestantism, policy and State-derived assistance. The acting Archbishop of Guatemala (Cardinal Casariego having died some few days before my arrival) saw the then President's religious beliefs as giving

encouragement to Protestant evangelists in the country; but not on a national basis so much as part of a larger Central American campaign, conducted from the United States. Funds and resources have undoubtedly induced people to join Protestant sects. However, Protestantism is not, so far as I could ascertain, otherwise divisive. There are flourishing Protestant congregations in places like Escuintla (annex III, No. 2) (one of whose services I attended, listening to a sermon which would have been acceptable in almost any Christian congregation world-wide), and I came upon a newly resettled village called El Buen Samaritano (annex III, No. 8) referred to above, where the Protestants had stayed together and were now protected by the army.

6.6.3 Whatever may have been the relationship under President Ríos Montt between protestantism and the Government, the present Head of State evidently considered there was too close a connection, and reasserted in August the traditional separation between church and State.

6.6.4 The right to manifest religion in worship, observance and practice is differently available to the sects in Guatemala. Protestant rites are capable of administration more broadly than those of Roman Catholicism. There is in the rural area a grave shortage of Roman Catholic priests. The entire diocese of El Quiché was disbanded some few years ago, the former bishop has retired and a new one has just taken office. I was sorry that the acting Archbishop was not able to give me details of the current situation, but the picture emerged as the visit progressed. There have been repeated allegations that the army, in the early 1980s, attacked priests and catechists, and sequestered ecclesiastical property. I have no doubt that this is true: though property is now being handed back where there is a demand. Otherwise the army makes the point that its destruction is being prevented by their use of the buildings and I saw an example in Chajul (annex III, No. 13) to support this assertion.

6.6.5 There was, however, a reason for the army's activities. Given that a virulent anti-guerrilla campaign was the policy, certainly under President Lucas García and, it seems, in the earlier months of General Ríos Montt's Presidency, there is irrefutable evidence that some of the Roman Catholic clergy and catechists in the conflict areas had taken an actively pro-guerrilla line, in teaching and action. Written material, such as "Christo Compañero", which the Bishop himself disavowed, had been circulated in the diocese of Verapaz. Its purveyors had in fact been deported. In Central Quiché (annex III, No. 14) (the Ixil triangle of Nebaj (annex III, No. 12)), San Juan Cotzal (annex III, No. 14) and Chajul (annex III, No. 13) the three towns contain magnificent churches with, in two cases, important and venerated religious statues. They were, as I saw in July, still open for individual worship and were being so used with people praying and candles lit. In Nebaj (annex III, No. 12) the chancel which was wrecked by the 1976 earthquake, was being rebuilt last July and appeared complete, from an exterior view, in November. The west end of the church at Cotzal (annex III, No. 14) was full of bags of corn and beans, because, said the mayor, there is nowhere else to store food provided by the CRN. There is no pilfering of such stores. And there are no priests.

6.6.6 The 12 elders of the indigenous Catholic group in Nebaj, called the "cofradías", told how the priest became involved in active support of the guerrillas, and is now, accompanied by his sacristan, in the mountains with



them. The same is said to have occurred in Chajul (annex III, No. 13). At San Juan Acul (annex V, No. 2), unlike the school, was not damaged during the period when the village was left deserted. It was in November being used for stores and sleeping accommodation. Again I was told that the priest had joined the guerrillas.

6.6.7 In the interval until the new bishop can appoint priests, one will come to the towns and villages visited by myself on both occasions, every once in a while and say Mass, but very seldom. It is exceedingly difficult for people to take First Communion, get married, receive last rites or be buried in Christian ceremonies. Similarly, on arriving in San Lucas (annex III, No. 21) in the East of Alta Verapaz, 5/ I found many of the villagers engaged in their home-made Sunday service but with no priest.

6.6.8 I do not think there can be any doubt that certain elements of the Roman Catholic church became so disillusioned with the inability, through lawful means, to establish any social reform in the indigenous areas that they embroiled themselves in subversive activities. This is not lightly said. When first I heard this proposition asserted, by the former Jesuit priest Luis Eduardo Pellecer Faena, on a video-cassette some two years ago, I found his story hard to believe. It can now be read, with his answers to the Press conference which followed his statement, in E/CN.4/1501, annex, pp. 11-35. It is borne out by what I have now heard as a clear message from all levels of the Roman Catholic hierarchy. There is further corroboration in his mention (p. 23) of the Spanish former Jesuit priest Fernando Hoyos. I have a pamphlet recently published by the EGP which describes him as a member of the national directorate of that organization and tells of his activities; he was killed in a major confrontation with the army at Choczunil in Huehuetenango in June 1983.

6.6.9 Apart from that case, there are many allegations that the army has harassed, abducted or killed priests and catechists in various parts of the Altiplano. Given the overt or covert support by many of them for subversion this is hardly surprising although I have not checked individual examples; nor is it easy to accept the justice of every attack upon priests and catechists. There remains a shortage of new priests, whether native Guatemalan or, as often in the past, recruits from abroad who have made up for the national deficiency. I fear that the suspicions aroused over recent years will not easily be dispelled. The sufferers will be much of the Roman Catholic population of the Altiplano to whom the religious freedoms mentioned in article 18 of the Covenant on Civil and Political Rights are not currently available.

6.6.10 In November I was asked by members of the Hare Krishna sect to support their application for registration in Guatemala as a religious organization. This had been refused, but was under appeal. No doubt their case will be properly considered.

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5/ See A/38/485, para. 116.

## 7. GENERAL CONCERNS ABOUT ALLEGED VIOLATIONS OF HUMAN RIGHTS

### 7.1 Problems of verification

7.1.1 It will be clear from passages in Chapters 4, 6 and in this Chapter below that I am well aware of numerous allegations which I have not been able to investigate. Since some of them have proved, where an inquiry was possible, to be untrue, it seems unwise for me to endorse any of these without a check. Accounts of what has been happening in Guatemala range from balanced and factual accounts by persons who have spent considerable periods in the country and who explain what they themselves heard and saw; to dramatic accusations of atrocities. I have carefully read all the documents available to me, and am grateful to those who have taken the trouble to give or send me copies of their own reports. They speak for themselves and the Commission can judge, from the evidence presented, the extent to which it may safely rely on the contents. I invite the Commission to test my own report with equal thoroughness.

7.1.2 The reality of the situation is that many reported violations are said to have occurred in extremely remote and inaccessible places. Others refer to the name of a small village without mentioning the municipality or even the Department concerned. There are numerous places called San Francisco or Semuy in Guatemala. It is usually not easy to reach the place concerned without help, and indeed permission, from the army. There was considerable doubt whether even in a helicopter I could be landed near enough to visit one village which I had chosen.

7.1.3 All this is less than satisfactory from every point of view. Lack of reliable verification makes difficult any assessment by the international community; it does nothing to help Guatemala's reputation; above all it means that no contribution is being made towards an understanding by all those in authority of the reason for insisting on human rights: this is not liberal sentimentality, but a respect for human life and dignity which, in so far as it ever existed towards the indigenous peoples, has worn very thin during nearly two decades of violence. I have no doubt that there are many in the upper tiers of Government who understand this very well. They are faced with the task of making sure that their own approach is universally shared. The alternative may be a vicious circle where what may have been a minor incident is exaggerated and denounced in shrill tones around the world. Unable to compete with this propaganda, or demonstrate convincingly what really happened, authorities tend to close their eyes and ears. Inaction leads to indifference and the next incident could be far more serious. Uninvestigated the abuses can grow.

7.1.4 The work of investigating allegations about violation of individuals' human rights is not normally for organs of the United Nations. Only national authorities have the time and resources for comprehensive inquiries. Accordingly I would suggest that the Government should apply their minds to the installation of some body to fulfil this purpose. It is being demonstrated currently in Guatemala that impartial and authoritative institutions can be set up. One example is the Supreme Electoral Tribunal. I also note that the President of the Supreme Court reassured me in June about the courts; as a result of the new appointments, he said, this is the first time in the country's history that the Supreme Court has broken its ties with political parties and other private interests. He is working with an absolutely reliable court. It is not for me to express any strong preference for any particular system. Perhaps it could be grafted on to the existing role of the Attorney-General, with the recourse to the courts; this would be an organic development with strong roots in history and previous constitutions. My real concern is to avoid suspicions that any investigator or critic is inspired by sympathy with subversion, which would nullify such an institution's effectiveness.

7.1.5 Allied to this is the urgent necessity to get rid of the form of violence which is exemplified in paragraphs 6.2 and 6.3. The climate of fear thus created indicates that something has again gone badly wrong. That such actions are not inevitable in Guatemala is demonstrated by the fact that killings and kidnappings virtually ceased under the Ríos Montt regime. The political opening provides another road for political ambitions; no doubt in Guatemala as elsewhere certainty of detection is the best method of preventing crime. This, therefore, seems to be another priority for the Government's attention.

## 7.2 The refugees in Mexico

7.2.1 I wrote in my interim report about my visit to two refugee camps in the State of Chiapas, southern Mexico. The information is repeated below. However, matters have changed to some extent since July 1983. On my last visit to Guatemala, the Minister for Foreign Affairs spoke of the enormous variations in estimates of the number of people involved, ranging from 6,000 to 100,000 according to the source. He thought that a thorough census should be taken in Mexico. In mid-December I received from the Mexican Mission to the United Nations in New York the result of a census taken on 11 October 1983, by COMAR. This showed that in there were 70 camps in which were 33,356 refugees, subdivided as 9,593 men, 9,369 women, 9,776 boys and 9,618 girls. On my visit, I was told that some had arrived as late as May 1983; the Mexican Government says that numbers are still increasing, though the Guatemalan Government did not accept this at the General Assembly.

7.2.2 The problem of the refugees is under active discussion between the Mexican and Guatemalan Governments. The United Nations High Commissioner for Refugees (UNHCR) is also involved. There are certain practical limitations on the refugees' own activities while in Mexico, although they are co-operating in projects seeking to increase their self-sufficiency. In broad terms there can be no doubt that, like many other refugees, their human rights are suffering. Without going into details, however, there is no indication that the current efforts of the Mexican Government and the UNHCR to look after their food, health and education fall short of what can reasonably be achieved. There are other sensitive issues which arise from the presence of so many Guatemalan citizens living immediately across the border in Mexico but these do not appear to fall within my mandate.

7.2.3 It appears that in other of the camps the refugees had come from a number of places in Guatemala, including smaller villages. I visited two major camps, Puerto Rico and Chajul, which are situated in the subtropical rain forest beside the Lacantún River. The Puerto Rico (annex IV, No. 4) population (so called because of the name of the river flowing through the camp) came from co-operatives not far south of the border in the Ixcán area of north Quiché. Those in Chajul (annex IV, No. 5) camp emanated from further south in the Department of Quiché, where they had lived and worked in co-operatives in the municipality of Chajul - hence the camp's name. Each original community in the co-operative has its leader and spokesman and retains its identity. Despite being told to many visitors, their account is not merely a well-rehearsed rote, since other members of the groups can fill in useful and consistent details.

7.2.4 In the case of the refugees in those two camps, their tale begins with their leaving their small villages of origin from a wide area of the Altiplano. They had heard that land was being distributed in the two areas concerned and the co-operatives were formed during the presidency of General Laugerud García, in the one case by a Roman Catholic priest and in the other by an army colonel. The land belonged to the State, and sophisticated agricultural co-operatives

were gradually built up, with community buildings and facilities. Cash crops were produced and sold to augment the families' incomes: initially these were taken to market by air. The people were able to buy their own land within the settlement for reasonable yearly payments.

7.2.5 Then, in a period between 1979 and 1981 the army arrived, at first in small detachments. They were making a detailed intelligence assessment of the communities and became increasingly aggressive and intrusive. It ended in each group of co-operatives with large-scale kidnappings and killings in late 1981 and early 1982. Survivors and people from the rest of the group fled; it took some of them a considerable time to reach Mexico, and some of them did not entirely abandon their crops for a long time, living in huts in their fields or in the mountains. Some refugees in Puerto Rico (annex IV, No. 4) did not arrive until May 1983, having been living on the fringes of the co-operative or burning patches of forest to grow crops, harassed at the time by the army, particularly in helicopters.

7.2.6 There are two aspects of their situation on which I would like to comment, apart from saying that the original motives for destroying these flourishing enterprises go back to a period which I have not attempted to investigate:

(a) In the Ixcán (annex III, No. 7) and Chajul (annex III, No. 13) areas in Guatemala there has been a great deal of guerrilla activity. The army, in the early months of the Ríos Montt administration, continued a determined campaign to eradicate subversion, and it is not surprising that local populations who continued surreptitiously to tend their crops were suspected of aiding or at least supporting the guerrillas. There appears to have been no successful means of communication between the army and the indigenous population at this time;

(b) Even later, into 1983, the evidence from other parts of the Altiplano far from the border is that the guerrillas forced the local people to grow food for them in patches cut from the forest. These plots are easily seen from the air and have been taken for signs of subversive activity. It is therefore not surprising if entirely innocent civilians in Ixcán (annex III, No. 7), displaced as internal refugees and growing corn in forest clearings, were mistaken by the army for subversives, harassed and chased. These late arrivals may well have been the victims of what continues to be a tough campaign between the army and the guerrillas.

7.2.7 It is the experience of most people who have been to the camps that the refugees, if they are prepared to speak on the subject, would like to return to the settlements which they left, whether villages or co-operatives. I formed the impression that in the two camps which I visited the people realized that their co-operatives had been destroyed and would opt for resettlement on a co-operative basis wherever reasonably available. They had, after all, uprooted themselves to join the original co-operatives within the last 10 years, and they did not indicate any desire to return to the small villages from which they first came. What, however, they demand are safeguards for their future. It is for other United Nations agencies to explore and seek to overcome this problem. From the human rights aspect there must be advantages to them in returning to Guatemala to participate in the reconstruction programmes now in hand. They are, however, in much the same situation as the internal refugees. They have good reason to be afraid of the army, and this fear is sustained by the continuing contact which I believe exists between the guerrillas and the camps. From the other side it seems probable that agents for the Government are trying to persuade them to return. The

result is the same complete bewilderment and uncertainty which afflicted the internal refugees to whom I spoke during the period when they came into the mountains. That was the opinion which I formed last summer. Whatever may now be the position, the priority must be for arrangements to be made for the refugees to have the opportunity, if they so wish, to return to Guatemala, and for the purpose of making such a decision to be informed of the current situation inside the country. There were indications in January 1984 of support by the Contadora Group to set up a commission with members from several countries to address this problem.

### 7.3 Protected or model villages

7.3.1 Until recently the indigenous people in the Altiplano countryside have tended to live in very scattered communities. From the air isolated houses can be seen in the mountains and forests, with a plot of land and a long winding access track. Even in larger settlements the houses are often widely dispersed. Not only is it impossible to protect a population thus spread out, but it is also very difficult to provide modern infrastructure and facilities. As appears elsewhere in this report a large number of rural villagers became internal refugees, and the Government policy is to resettle them, initially at least, in larger villages. These are either being newly constructed, or are enlargements of existing settlements. From the viewpoint of improving the standard of living the advantages are set out in Chapter 5.

7.3.2 These villages are usually guarded by the army; in certain cases the population require passes to leave the vicinity, or did so at one time. The situation has given rise to serious criticism which may perhaps be summarized by a passage from a recent report by one highly respected ecclesiastical body: "We were given photographs of internal refugees surrounded by barbed wire in Government camps in the Alta Verapaz area where hundreds of peasants live in great fear under strict military control", (The location is not given.) The underlying suggestion is that these villages are part of a long-term militarization of the countryside.

7.3.3 In the course of two visits I went to several new, rebuilt or enlarged villages which have a military guard, and to another (the subject of two specific allegations of abuses by the army) which no longer has any military presence. I also saw numerous internal refugees, during my summer visit, often in temporary accommodation. Being aware of the overtones created by the phrase "protected" or "model" village as a result of events in Viet Nam or Zimbabwe (where I have a little personal experience), I recognize the concern. The difficulty is in assessing whether that concern is justified. If the object is to cut off communication with and support for the guerillas, there can be no doubt that the Government would accept that such settlements are effective. Active or passive support by the rural population is well known as the "water in which the fishes swim", and the army must be engaged in denying such support for subversion.

7.3.4 The point has been forcefully made that I was unlikely to be told the whole story when I visited the Altiplano. The helicopter, accompanying armed personnel, though mostly or entirely in civilian clothes as was the case on both visits, and the presence, often, of members of the army detachment among the audience is said to have vitiated the chance of my learning the truth. The Government respected my request to be attended by the minimum possible armed force. There was no indication that people were frightened of the helicopter:

I have my own photographs of the villagers' reaction to the machine, which do not indicate any concern, but rather show the inquisitive children who peered inside when it was on the ground, and a very normal congregation on its arrival and departure. Both in the summer visit, in the Ixil triangle which includes Nebaj, Cotzal and Chajul (annex III, Nos. 12, 14 and 13), and during a stay in November spent in Chimaltenango, Sololá and southern Quiché I travelled in jeeps bearing a United Nations flag, or in cars with private licence plates. In Cobán and San Cristóbal Verapaz (annex III, Nos. 9 and 11) I travelled in a private car with two or three uniformed officers.

7.3.5 It is impossible to say definitively to what extent people were inhibited in what they said. There are four points to make.

(a) If a Special Rapporteur is to gather information for the Commission by extensive travelling and copious conversations all over a country, it is difficult to see how such an exercise can be done less conspicuously. I was bound to say who I was; the Government were bound to give me protection (for which my teams and I are duly grateful) on a tight timetable only aircraft and helicopters could cover the terrain and the distances.

(b) Although to some extent it was necessary to give notice of the places I wanted to visit, only in Nebaj (annex III, No. 12) was there any organized reception: there a number of groups had asked to see me and were waiting at the airstrip. Otherwise there was no indication of pre-arrangement: rather, to the contrary, my arrival was apparently quite unexpected. At Choatalum in northern Chimaltenango (annex III, No. 22) we arrived on Sunday afternoon: the mayor was at home and had to be fetched, and other people gradually joined the gathering. In Chuabaj (southern Quiché) and Setzacbec (Isla Verapaz) (annex V, Nos. 8 and 5), it was necessary to wander into and around the village to find people with whom to talk.

(c) In any conversation with a group of people the atmosphere is easily noticed. In Guatemala a crowd tends to remain silent so long as they agree with what the speaker is saying: if not voices rise in dissent. It is impossible to stand, surrounded by people listening in considerable interest, without picking up indications of tension, stress or fear, or an absence of these.

(d) The number and variety of people with whom I spoke, at different times and in different places was large, and included women and children as well as men: all were approached at random. A considerable number of those with whom I talked in the summer were internal refugees, newly arrived, a day or so before, after long stays in the mountains. The locations were widely separated. It is impossible to believe that they had with one accord all learned to rehearse a line of Government propaganda for my benefit.

My conclusion is that there may have been some reservations, but that on the whole people were prepared to talk with remarkable candour. I do not accept that I was consistently told half-truths or lies, that the information given me is wholly unreliable.

7.3.6 Accordingly I will recount what I both heard and saw in a number of settlements.

(a) Three small villages in Ixcán, northern Quiché. These lie about 25 km from the Mexican frontier. The inhabitants had in each case abandoned their homes but by June 1983 had, mainly, returned and were rebuilding their lives. At

Cetón (annex III, No. 6) there were also some 24 newly-arrived internal refugees from another village, called Ixloco, who had been found by the civil patrol after two years in the mountains; they would be gradually integrated and settled in the community. Private enterprise had just established a small cardomum processing plant in the village. Nearby at Santiago Ixcán (annex III, No. 7) a group of Ixils had been resettled by the army after a long absence as refugees in Huehuetenango Department, a small clinic had been built, with a doctor attending 20 days a month, and an airstrip was under construction. The third village, El Bueno Samaritano (annex III, No. 8) was still being actively protected by the army, both round the settlement and in the fields. Thirty soldiers were looking after 160 inhabitants of the Mam group. Raw materials for house building were available, and there was a small school open 20 days a month. There was no barbed wire.

(b) Chisec, in North Alta Verapaz (annex III, No. 10) is a substantial settlement consisting of three newly built groups of houses. I asked to visit because there was the suggestion that coercion was being applied to the inhabitants. The entire original settlements had been destroyed and the present inhabitants had reassembled into a more compact community. Stage 2 of the PAAC had been reached: houses were built each with a plot 14 by 40 metres. There was a well, dug by army engineers, and the community's chosen priority for infrastructure was a piped water supply and sewage system. Although the original cattle, poultry and bees had been lost, families had been provided with 12 chickens each, and, in June, provisional possession of parcels of land near the villages for further agricultural projects. In November I read that this was an area where INTA have been bestowing definitive titles to the land. This was no demoralized or terrified community. I arrived unannounced in the middle of a festive luncheon, with all the local dignitaries present; traditional dances were later performed. Nobody paid much attention to the military detachment, the helicopter or my team, though the mayor and others explained readily the facts summarized above.

(c) On 1 July 1983 I visited Nebaj, San Juan Cotzal and Chajul in central Quiché (annex III, Nos. 12, 14 and 13). Each of these small towns had grown with the advent of refugees from the surrounding countryside. In Nebaj I met a group of 40 people from a hamlet called Pulay (annex III, No. 15) which lies beside the road to the two other towns, and to judge by its appearance had been burnt about a year before. They would have liked to return there but, like others in these towns, recognized that this was neither feasible nor safe. They were content for the time being to remain in Nebaj: their children were being taught in Ixil and (later) Spanish in the primary school, having forgotten all that they had earlier learnt from the teachers who came to Pulay. In Cotzal I met two refugees from each of the villages of Chisis and Xecal; they said their villages were destroyed and they would stay in Cotzal to find work. In Chajul there was a group of women and children who had survived a battle between the guerillas and the civil patrol in which the members of the patrol had been killed. A similarly forlorn party of Ixils whom I met in Nebaj had abandoned their village at Acul.

There are army contingents in these areas, but no sign of barbed wire. Roads of a sort lead in from the south and between the towns; there is a bus service, evidently well used.

(d) The situation at Nentón (annex III, No. 18) is not dissimilar to that at Chisec. Life was returning to normal after the complete desertion of the town under harassment by the subversives. This had taken the form of selective killings, burning of houses, propaganda and threats (the mayor, in office before as well as after these events, had been subject to threats from the time he

announced his candidature). After massive destruction, which included the municipal building, the town was largely rebuilt and most families had returned, the missing ones being in Mexico whence others had come back.

The bus service to Huehuetenango City has been resumed. There was a military presence, but no sign of restriction on movement.

(e) In Verapaz, a person of great authority, not connected with Government, told me there were concentration camps where refugees were surrounded by barbed wire and needed passes to get out. He named three, all remote; he admitted that he had not visited them, and was aware of the connotation of the phrase "concentration camp". Unfortunately he was not able to accompany me when, three days later, I visited one of the named villages, San Lucas (annex III, No. 21) which lies on the Alta Verapaz-Izabal border near Talemán and is indeed remote. The population were Kekchis; they had lived in eight villages in the vicinity, and still work their traditional land, but live centrally with a small army contingent. The civil patrol sometimes accompanies those who work the outlying fields. I viewed the village boundaries (and have photographs). There is no barbed wire, except for a short and rusty stretch within the settlement which helps to contain a solitary cow. Passes are indeed issued by the army lieutenant for people to go out on trips such as to attend catechism or play football away from home. None had ever been refused, and their object was to demonstrate to an army or civil patrol that the person was on legitimate business. There was guerilla activity in the area; the day before my visit the inhabitants of San José, one of the eight original villages, had found armed strangers harvesting the corn on the villages plots, who fled at the army's approach.

(f) San Juan Acul (annex V, No. 2) this valley was the home of the Ixils whom I saw in July at Nebaj. Today they are back, combined with Quiché people from a village called Chualuj beyond the next mountain; there are 450 families over-all. This combination led initially to some problems, since traditional rivalry exists between the Ixils and Quichés; however everyone appeared in November to be co-operating. The project is ambitious: not only is it being rapidly developed, but the houses under construction have a water supply, electricity and a new access road by which lorries had arrived. There is private and communal land, and a tree nursery to provide, in due course, timber and firewood on the deforested hillsides. An army contingent was present: on 26 August, two days after they arrived, there was a guerilla attack; two further attacks have occurred after the civilian population moved in. The mayor was elected, by a majority of 126, from among four candidates, on universal suffrage. In the early days passes were required for leaving the settlement, but this had been discontinued by November. There was no barbed wire or other fence.

(g) Yalijux, in central Alta Verapaz, is a CRN project. Scattered houses are being regrouped along a central street, and an access road 32 km long is under construction by the local population. One hundred and sixty families are concerned, from the original settlements of Yalijux and Tzalamila. There is a health centre and multipurpose communal building. I did not visit the valley myself, but a collection of amateur photographs makes it clear that the only fences are perimeter barriers of the traditional dry corn stalks round the experimental plot for fruit and vegetables and elsewhere.

(h) In September I was in Geneva, and was invited to speak to a young man who said he came from an area in south Chimaltenango. At a village called Pachimulín (annex V, No. 6), he said the army operated a repressive system of passes; and a colonel has an estate to which he has been adding by expropriating the villagers' land. I was warned that a long walk was involved to reach the



village. In fact there is an adequate road, with a bus service up to 2 km from the village. There is no army presence: no passes have ever been required. A retired colonel had a small estate nearby, but had never deprived anyone of land: he no longer lives there anyway. The villagers were so astonished at my questions that I had to provide a signed document setting out my position and the reason for the inquiries, so that they could explain the situation to their mayor.

7.3.7 These details are set out at length because matters like barbed wire and a pass system are not so difficult to check as some others. The annexed maps will show the extent of the area from which the examples are drawn. I have found no trace of unreasonable physical restraints. Most of the villages lie in areas where the conflict continues, so that a military presence is hardly surprising for tactical reasons and to protect the civilian population. The latter may have some aspirations to live in their old villages, but they are not blind to the benefits of development and facilities to which a concentration of the population can lead. The reason, however, why this subject appears in this Chapter is that only time will tell whether any long-term form of military control is being imposed. So long as guerilla raids and attacks continue, the army will no doubt stay; technical units are also involved in many of the development projects. The Commission may, however, wish to continue its study of the issue.

#### 7.4 Freedom of Speech

7.4.1 An important contribution to stability will be freedom for political parties freely to campaign in the forthcoming elections. This applies not least to parties of the Centre or to its left. It is disturbing to hear that three leaders of the Christian Democrat Party have recently been murdered in the vicinity of the Capital. This is a party which speaks out about endemic violence. It is not only an important human right which is at stake, but also the proper political functioning of Guatemalan society.

7.4.2 Allied to this is freedom of the Press. In terms of news items and editorials as well as in the persistence in which I was questioned by reporters I felt in November that newspapers had acquired a greater confidence in their freedom, than was apparent in June. This is certainly current governmental policy. Again, expression and coverage of controversial views in the forthcoming elections will act as a crucial test of this freedom. Violence obviously deters free speech, directly, and indirectly through financial pressure imposed by huge ransoms paid for a kidnapped editor.

7.4.3 No conclusion can be reached at this stage how this human right is progressing. Vigilance will continue to be required.

#### 7.5 Trade Unions - Freedom of Association

7.5.1 I am aware that this report does less than justice to this subject. Although I talked with trade unionists in June and November, much promised material has not yet arrived.

7.5.2 The trade union movement has always had a tendency to be locally based and so fragmented. It has suffered from successive states of siege or alarm. Even now the movement's reactivation is at an early stage, although the Head of State told me in November that the unions will soon be authorized to act freely; two unions and eight confederations will be permitted to initiate their activities.

7.5.3 There is no agreement about how the movement should be organized. A national confederation has been proposed, which has some support inside the country and from trade unionists in exile, although the latter approve of the idea rather than the persons who are in charge of it. Another trade unionist, however, disagreed with the project, preferring smaller organizations.

7.5.4 There is no doubt about one source of difficulty for trade union organizers. That is the tendency to equal them automatically with communist or subversive trouble makers. In May 1982 President Ríos Montt (as he then was) said "We have been seeing in every trade unionist an enemy. a PGT, a FAP and I know not what else, when in reality he is just a worker .

7.5.5 This, thus, another human right whose development should be watched. No firm conclusion can be reached at the moment except that there is room for considerable progress.

## 8. CONCLUSIONS AND RECOMMENDATIONS

8.1 A thorough study of the human rights situation in Guatemala are the terms of my mandate. I make no apology for having devoted much of this report to items which frequently do not find much place in assessments of the situation in Guatemala. Unless the economic, social and cultural problems are greatly ameliorated, much of the population has little opportunity for participating in many civil and political rights. The right to life is basic to both Covenants. It can be infringed as much by poverty and lack of medical care as it can be by slaughter.

8.2 The International Community has established a set of standards in the two Conventions. These standards can be looked at as something to be sought after and attained, or something which is infringed. Infringements are quite easily catalogued and as easily published to the world. Attainments, or efforts to reach these, are less dramatic and perhaps less newsworthy. An infringement takes hours; attainment may involve years of work and a great change in attitudes. It is my belief that the Commission interests itself in both aspects equally. It wishes to encourage as well as condemn.

8.3 Underlying the trouble in Guatemala lies social and racial inequalities, and economic injustice. The revolutionary movements have declared themselves anxious to effect the reforms which they see to be necessary. There are, however, demonstrable initiatives by Government at least since early 1982 seeking the same goal.

Recommendation 1. The Commission should support the plans for rural development by Government ministries and agencies and the army, co-ordinated by the National Reconstruction Committee (CRN). It should follow the implementation of the various projects, examine the extent to which these are prepared in consultation with the preferences of the communities concerned and interest itself in the effectiveness of the schemes.

Recommendation 2. Particular matters of interest should be proprietary or communal rights to land which enable country people to rise above minimal subsistence farming towards an additional income from various suitable and diverse cash crops; the provision of technical advice for agricultural development, education in local communities; health care including a reduction in child mortality; and the provision of infrastructure such as road access and water supply.

8.4 The stability of such reforms and investment are permanently threatened by a climate of political insurrection and subversion. The length of time over which this phenomenon has prevailed in Guatemala broadly coincides with a continuous military government. The resultant armed confrontations are a serious phenomenon and have resulted in all sorts of personal violence as well as destruction of public and private property.

Recommendation 3. Since the internal conflict has not resulted in victory for either side, the current process of electoral reform leading to fair democratic elections for a civilian government are of fundamental concern in creating an environment for enhancement of all sorts of human rights.

Note: There is a real dilemma. Everyone wants elections. However, the Government is offering a platform to all political persuasions, but is faced with demands by some parties which may not be easy to meet. Nevertheless, contacts aimed at persuading important political parties to participate in the forthcoming elections must be encouraged. Problems of this sort occur in numerous countries which have suffered from internal violence. At the other end of the spectrum the UNRG also offer elections but only if they themselves were in charge of all the arrangements. It is quite clear that those currently in power will never sanction that solution.

8.5 Refugees, whether inside Guatemala or in Mexico (or to a small degree elsewhere) present formidable problems.

Recommendation 4. All necessary contacts should be pursued through negotiations with the Mexican Government, through the Contadora Group, through local Red Cross agencies and any other relevant organization to reduce the problems of the Guatemalan refugees abroad and to enable them, if they so wish, return to their country.

Recommendation 5. Internal refugees should continue to be received with compassion and practical assistance. Amnesties should be continued.

The condition of those refugees who return is so serious that substantial assistance is needed to restore their health, introduce education for the children and provide opportunities for making a livelihood.

8.6 Whole areas of activity by the army, police and other security forces such as the civil patrols have been subject to extensive criticism. Allegations abound that suspicion of certain sectors remains, such as persons who have accepted the amnesties, some Roman Catholic priests, catechists, nuns and other persons offering aid (often international), and trade unionists. This is the result of a political polarisation which may have historical justification but augurs ill for any reconciliation in the country. The continuation of incidents concerning such people cannot properly be assessed because of lack of verification. Nothing is more destructive of internal confidence nor of Guatemala's reputation abroad than the proliferation of unverifiable stories of every sort of horror perpetrated by the authorities on the population.

Recommendation 6. Rumours, allegations and denials abound. They are very difficult to confirm or deny. The Commission may wish urgently to press the Government to devise a system of inquiry which will be both effective and convincing.

Note: The Attorney-General's office (Procurator General) is charged with investigating all abuses or excesses of jurisdiction practised by any Government official against a citizen. I spoke to the Attorney-General in June. He had, on appointment, taken to court one serious irregularity discovered in his own department; during the first six months of the Ríos Montt regime there was an increase of 5,949 cases of maladministration over the figure for the last six months of the Lucas García government. Although the anti-corruption poster campaign instituted by General Ríos Montt has now terminated (on the grounds that it discouraged anyone in the civil service from being prepared to take a decision) the present Government maintains that it has not reduced the campaign on corruption.

8.7 New or rejuvenated State institutions need active encouragement.

Recommendation 7. The Supreme Electoral Tribunal should pursue its activities and its views on technical points should be carefully considered by Government.

Recommendation 8. The Supreme Court should be allowed to reconsider the cases of those convicted by the Tribunales de Fuero Especial, and technical obstacles should be removed by legislation.

8.8 As a support to a return to democracy, particular emphasis should be given to the necessary attendant freedoms.

Recommendation 9. Freedom of speech and publication should be ensured to enable all political views to be expressed.

Recommendation 10. Trade unions and other associations should not be restricted in their activities or their contribution to political manifestos or campaigns.

Note: The border-line between freedom of expression and subversive propaganda seems for some time to have been very indistinct. The consequent dangers to those wishing to express controversial opinions is obvious, and should be minimized.

Recommendation 11. Disappearances, killings and kidnappings must be cleared up.

8.9 The preliminary report to the General Assembly was described as an interim report on an interim situation. The situation is still interim, since an enormous number of changes are occurring week by week. In this report I have been able to benefit from a short historical perspective. My visit in June and July provided an initial snap-shot of the situation. Since then, by virtue of another visit, copious contacts with those directly concerned and large quantities of literature, a continuous perspective has been built up.

8.10 I conclude by contrasting the powerful initiatives for progress and development with the aspects which attract such virulent criticism. There have in Guatemala's history been many marvellous ideas for social, agricultural and economic reform. In legal or practical terms, many have never come to fruition. Now there are more, and their impact is beginning to be evident on the ground. This should be pursued and consummated. Then, if the security forces could distinguish small babies and elderly people from villagers who may perhaps be realistically suspected of involvement in subversion; if their activities could be less jealously guarded from honest inquiry, the other side of the problem would quickly become less controversial.

It is my earnest hope that the Commission will encourage a constructive approach on both the broad aspects thus described.

ANNEX I

Resolution 1983/100

The General Assembly,

Reiterating that the Governments of all Member States have an obligation to promote and protect human rights and fundamental freedoms,

Recalling its resolution 37/184 of 17 December 1982,

Noting Commission on Human Rights resolution 1983/37 of 8 March 1983, in which the Commission reiterated its profound concern at the continuing reports of massive violations of human rights in Guatemala,

Noting also that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in resolution 1983/12 of 5 September 1983, recognized that in Guatemala there existed an armed conflict of a non-international character, which stemmed from economic, social and political factors of a structural nature, and that within that conflict, the security forces and government institutions had not respected the norms of international humanitarian law,

Expressing its satisfaction at the appointment of a Special Rapporteur of the Commission on Human Rights, and taking note of the co-operation extended to the Special Rapporteur by the Government of Guatemala,

Taking note of the interim report by the Special Rapporteur on the situation of human rights in Guatemala submitted in accordance with Commission on Human Rights resolution 1983/37 of 3 March 1983,

Welcoming the lifting of the state of siege and the abolition of the special tribunals,

Disturbed about the large number of persons who have disappeared, including those reported to have been tried by the special tribunals, who, despite appeals from various international organizations, remain unaccounted for,

1. Expresses its deep concern at the continuing massive violations of human rights in Guatemala, particularly the violence against non-combatants, the widespread repression, killing and massive displacement of rural and indigenous populations, which are recently reported to have increased;
2. Calls upon the Government of Guatemala to refrain both from forcefully displacing people belonging to rural and indigenous populations and from the practice of coercive participation in civilian patrols, leading to human rights violations;
3. Urges the Government of Guatemala to take effective measures to ensure that all its authorities and agencies, including its security forces, fully respect human rights and fundamental freedoms;
4. Requests the Government of Guatemala to investigate and clarify the fate of persons who have disappeared and are still unaccounted for, including those reported to have been tried by the special tribunals;
5. Calls upon the Government of Guatemala to establish a system for the revocation of convictions and sentences passed by the special tribunals now abolished;

6. Appeals to the Government of Guatemala to allow international humanitarian organizations to render their assistance in investigating the fate of persons who have disappeared, with a view to informing their relatives of their whereabouts and to visit detainees or prisoners, and to allow them to bring assistance to the civilian population in areas of conflict;

7. Appeals also to all parties concerned in Guatemala to ensure the application of relevant norms of international humanitarian law applicable in armed conflicts of a non-international character to protect the civilian population and to seek an end to all acts of violence;

8. Calls upon Governments to refrain from supplying arms and other military assistance as long as serious human rights violations in Guatemala continue to be reported;

9. Invites the Government of Guatemala and other parties concerned to continue co-operating with the Special Rapporteur of the Commission on Human Rights;

10. Requests the Commission on Human Rights to study carefully the report of its Special Rapporteur as well as other information pertaining to the situation in Guatemala and to consider further steps for securing effective respect for human rights and fundamental freedoms for all in that country;

11. Decides to continue its examination of the situation of human rights and fundamental freedoms in Guatemala at its thirty-ninth session.

## ANNEX II

## Historical Background 1954-1982

1. On 3 July 1954 Colonel Carlos Castillo Armas and his Army of the MLN <sup>1/</sup> entered Guatemala City. He emerged from a military junta as provisional president, and a plebiscite subsequently regularized his status. The Constitution of 1945 was abrogated and there was a call for a National Constituent Assembly to rewrite the Constitution. The revised Constitution was officially adopted on 2 February 1956. It allowed no political opposition and the activities of the labour unions were greatly curtailed. Union leaders had to receive Government clearance to organize themselves. It suspended the Agrarian Law. The Estaduto Agrario (Decree-Law No. 559) replaced all other previous agrarian legislation. Most of the land distributed under the agrarian programmes of President Arbenz Guzmán was returned to its former owners. Following the suspension of the Agrarian Law the Government gave all landlords who had lost property through expropriation the right to have their cases reviewed. In most instances, decisions were favourable to the landlords. President Castillo Armas was assassinated in July 1957.
2. After two temporary Governments and an election nullified by Congress, General Miguel Ydígoras Fuentes was elected President and took office on 2 March 1958. During this period social unrest had spread in various parts of the country. A rebellion of junior army officers broke out in November 1960 concentrated in the small city of Puerto Barrios in the Department of Izabal on the Caribbean coast. This resulted in suspension of guarantees under the Constitution and declaration of a "state of siege". When the rebellion failed, some of the rebel soldiers went on to combine forces with remnants of the dissolved Communist Party and to create guerrilla bands known as Fuerzas Armadas Rebeldes, Movimiento Revolucionario 13 de Noviembre (MR13) and Frente Guerrillero Edgar Ibarra (FGEI). Armed attacks against different public and private entities were carried out.
3. On top of this political unrest, former President Juan José Arévalo Bermejo emerged as a candidate for the next elections. The conservative oligarchy of Guatemala perceived this as a direct threat to their personal interests and strongly opposed the move, arguing that the Government was opening the door to communism.
4. In March 1963 a coup led by Defence Minister Enrique Peralta Azurdía ousted President Ydígoras Fuentes and cancelled the elections scheduled for November 1963. The Congress was dissolved, the Constitution of 1956 was repealed, political activities were banned, and the "state of siege" previously enforced by President Ydígoras was maintained. A new Fundamental Law was enacted by which Colonel Peralta Azurdía assumed the presidency of the country, with legislative authority. An Electoral Decree-Law was issued by the Government announcing that elections would be held on 20 March 1964 for a National Constituent Assembly which would draft a new Constitution and prepare the way for general elections. Only two political parties participated in the Assembly, the MLN and the Revolutionary Party (PR). The National Constituent Assembly convened on 29 July 1964 and its

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<sup>1/</sup> It is important to note that the Movimiento de Liberación Nacional (MLN) had the support of the United States of America.

first act was to vote for the formal annulment of the 1956 Constitution, which had previously been suspended, and to ratify all Decree-Laws issued under the Peralta administration. On 27 July 1965, President Peralta lifted the "state of siege" and political activity was once again permitted. On 15 September 1965, the new Constitution was promulgated to enter into effect on 5 May 1966. On 6 March, general elections for a President, Vice-President and 55 Deputies (and 23 alternates) for a new Congress took place. The following candidates offered themselves: Colonel Juan de Dios Aguilar de León (Partido Institucional Democrático), Lic. Mario Méndez Montenegro (PR) and Colonel Miguel Angel Ponciano Samayoa (MLN).

5. Lic. Mario Méndez Montenegro committed suicide, and his brother Dr. Julio César Méndez Montenegro, a law professor, took his place. He was elected President by the Congress by a vote of 35 to 9 on 6 March 1966. It is important to note that on 4 May 1966, an agreement was signed between the elected party and the military, by which the Government agreed to observe laws proscribing the activities of Communists and their allies; to continue to struggle against subversive elements, unless they surrendered, and to support the army in all necessary measures to eliminate subversion; while the army maintained an independent status.

6. A law offering amnesty to the guerrilla groups on the condition that they lay down their arms and return to society was passed in August 1966. This law was rejected by the guerrilla leaders and, subsequently, the Government of Guatemala decided, in October 1966, to use military force. Farm owners, farm administrators and their representatives were authorized to bear arms and they were considered as law enforcement agents within the jurisdictional limits of their farms. The existing "state of siege" was modified on 1 March 1967 and a "state of emergency" was pronounced, which implied a much less critical situation. The "state of emergency" ended two months later.

7. In January 1968 constitutional guarantees were again suspended for 30 days because of urban unrest, and on 19 March 1968, President Méndez Montenegro imposed a "state of siege" which was lifted in June of the same year.

8. In spite of the return to civilian rule, increasing acts of violence and terrorism, including the assassination of the United States Ambassador, John Gordon Mein, and two members of the United States military mission took place in Guatemala in August 1968. The Ambassador of West Germany, Karl von Spretti, was also kidnapped and killed. The country was in a complete state of terror, and violence was escalating out of control.

9. President Méndez Montenegro appointed Colonel Carlos Arana Osorio director of the anti-guerrilla campaign.

10. Many thousands of people died in the rural areas between 1966 and 1968, mainly in the Departments of Izabal and Zacapa.

11. Together with the counter-insurgency campaign, civilian paramilitary groups were organized to combat suspected guerrillas. The best known was Movimiento Anti Comunista Nacionalista Organizado (MANO), later known as MANO BLANCA, and the Escuadrón de la Muerte (Death Squad). These paramilitary groups allegedly captured, tortured and killed an increasing number of people suspected of advocating communist ideas.



12. In 1968, they kidnapped the Archbishop of Guatemala, Mario Casariego, with the intention of making it appear the work of left-wing guerrillas but when it was discovered that MANO was responsible, the Archbishop was released. The Minister of Defence, the Chief of the National Police, Colonel Arana Osorio and others, were then removed. Colonel Arana was sent to Nicaragua as Ambassador, only to come back a year later as candidate for President of the MLN.

13. Elections took place on 1 March 1970. They were marked by the kidnapping of the Guatemalan Foreign Minister, Alberto Fuentes Mohr. Of the three candidates: Colonel Carlos Arana Osorio (Movimiento de Liberación Nacional), Mario Fuentes Pieruccino (Partido Revolucionario) and Jorge Lucas Caballero (Democracia Cristiana Guatemalteca), Arana Osorio received a majority of the votes. On 21 March 1970, the Congress elected him President.

14. Upon taking office, President Arana Osorio resumed the counter-insurgency operations. He declared a "state of siege" and suspended all constitutional guarantees, with the intention of eliminating leftist insurgency in Guatemala, by any means necessary.

15. The number of murdered and disappeared persons reached alarming levels. An organ called Mobile Military Police was established. The IACHR asked the Government of Guatemala for information in May 1971, September 1972 and June 1973 respectively. It was reported by the Committee of Families of Missing People that the number of disappearances during 1970 and 1971 reached a level of 7,000 people. In view of this serious situation, the IACHR considered the following individual cases:

"(a) Case 1702, presented in a communication dated February 1971, denounced a number of events allegedly in violation of human rights in Guatemala and, in particular, the death of a number of individuals during the 'state of siege' declared in that country as of 12 November 1970.

(b) Case 1748, presented in a communication dated 28 July 1972, also denounced the status of human rights in Guatemala and specifically the death or disappearance of 296 individuals between November 1971 and the first months of 1972.

(c) Case 1755, presented through a communication dated 30 September 1972, denounced the arbitrary arrest of a number of individuals in Guatemala City on 26 September 1972, and the lack of effective result on the writs of habeas corpus submitted by the interested parties to the competent judicial authorities". 2/

16. In October 1973, the IACHR examined those cases and appointed Dr. Genaro R. Carrió as Rapporteur. Upon his recommendation the IACHR requested the Government of Guatemala to agree to allow a sub-committee to gather the necessary on-site data. The Foreign Minister responded by cable dated 3 November 1973 as follows:

"The Guatemalan Government respects and guarantees human rights and, just as it respects sovereignty of other States, it is watchful of its own. Due to the foregoing, and because the country is in the midst of pre-electoral

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2/ Inter-American Commission on Human Rights. Ten Years of Activities 1971-1981, (General Secretariat of the OAS, Washington, D.C., 1982), p. 128.

democratic activities, Guatemala does not give permission for visits by the Commission, especially because it could lend itself to possible distortions by political parties in the midst of campaigning for presidential elections already scheduled". 3/

17. On 3 March 1974, presidential elections were held as provided by the Constitution. General Efraín Ríos Montt (Christian Democratic Party) and Alberto Fuentes Mohr received the largest number of votes. However, the Electoral Council certified different results and declared that neither of the candidates had achieved an absolute majority and that General Kjell Eugenio Laugerud García would assume the presidency. The contested electoral triumph of General Laugerud García gave rise to a wave of protest against electoral fraud.

18. Accusations were voiced all over the country. Nevertheless, as will be seen in later paragraphs, President Laugerud, during his term in office, encouraged the formation of agrarian co-operatives and, for the first time since 1954, a certain amount of trade-union activity, including strikes, was allowed, without interference or repression. In the report prepared by the Organization of American States (OAS) on the situation of human rights in Guatemala, it is stated: "By allowing some degree of latitude, the Government of Laugerud García exchanged views with the political parties and unions; and managed to curb violence". 4/

19. A catastrophic earthquake occurred in Guatemala in February 1976. As a consequence, a "state of emergency" was immediately declared. The National Emergency Council reported in June that nearly 25,000 people had been killed.

20. It should be recalled that during the Laugerud García Administration, Guatemala ratified by Decree Number 6-78, issued on 30 March 1978, the American Convention on Human Rights, with the following reservation:

"The Government of the Republic of Guatemala ratifies the American Convention on Human Rights, signed in San José, Costa Rica, on 22 November 1969, making a reservation with regard to article 4, paragraph 4, of the same, inasmuch as the Constitution of the Republic of Guatemala, in its article 54, only excluded from the application of the death penalty, political crimes, but not common crimes related to political crimes".

21. President Laugerud García was constitutionally ineligible for a second four-year term. Three military men were candidates for the 1978 elections. The centre-right coalition chose General Fernando Luca García (Defence Minister from 1975 to 1977) as a candidate for President and Francisco Villagran Cramer (Partido Revolucionario) for Vice-President. The candidate for the traditional MLN party was Colonel Enrique Peralta Azurdía, and for the Christian Democrats, General Peralta Méndez.

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3/ Organization of American States. "Report of the Inter-American Commission on Human Rights on the situation of human rights in the Republic of Guatemala", (OAS/SER.L/V/II.53.Doc.12.Rev.2, 13 October 1981), p. 1, para. 2.

4/ Ibid., p. 114, para. 9

22. Elections took place on 5 March 1978. General Lucas García obtained an absolute majority. According to the Constitution the Congress had to elect the President. On 13 March 1978, General Lucas García was nominated by 35 votes to none; 26 deputies were absent when the vote was taken.

23. During the period from 1978 to early 1982, the Commission on Human Rights received, on a regular basis, allegations of gross and massive violations of human rights from different sources.

24. On 25 January 1979, a member of the Congress and former Finance and Foreign Minister, Alberto Fuentes Mohr, leader of the Partido Revolucionario Auténtico, was killed while at the wheel of his car in the middle of Guatemala City. This act was immediately condemned by the international community. The Commission on Human Rights adopted, at its thirty-fifth session, decision 12 (XXXV) by which it decided to send a telegram to the Government of Guatemala concerning the assassination of Dr. Fuentes Mohr. The Commission stated that it would welcome information on the matter.

25. During 1979, political assassinations and kidnappings received world attention. On 31 January 1980 indigenous people from El Quiché occupied the Spanish Embassy in Guatemala City. Despite the request by the Spanish Ambassador, and the Spanish Minister of Foreign Affairs, the National Police attacked the building. Thirty-eight people died, some from gunshot wounds and others from the ensuing fire. Only the Ambassador and one peasant survived. The peasant was badly injured and taken to the hospital. At night he was abducted and the following morning he was found dead. Spain broke off diplomatic relations with Guatemala. Mexico temporarily recalled its own ambassador and expressions of concern were issued by the United Nations.

26. Most of these actions were attributed to the right-wing murder squads such as Secret Anticommunist Army (ESA). Among their victims were a number of prominent politicians. The wave of violence continued throughout the Lucas García presidency. On 1 September 1980, the Vice-President of Guatemala, Dr. Francisco Villagran Cramer, resigned "because of fundamental differences with the President over his policy on human rights and the preponderance of the right in the Government".

27. The Commission on Human Rights considered at its thirty-eighth session, a note prepared by the Secretary-General pursuant to resolution 33 (XXXVII) of 11 March 1981 on the situation of human rights in Guatemala. It is stated in document E/CN.4/1501, paragraph 18, that the main allegations summarized from the documentation received relating to article 3 of the Universal Declaration of Human Rights were:

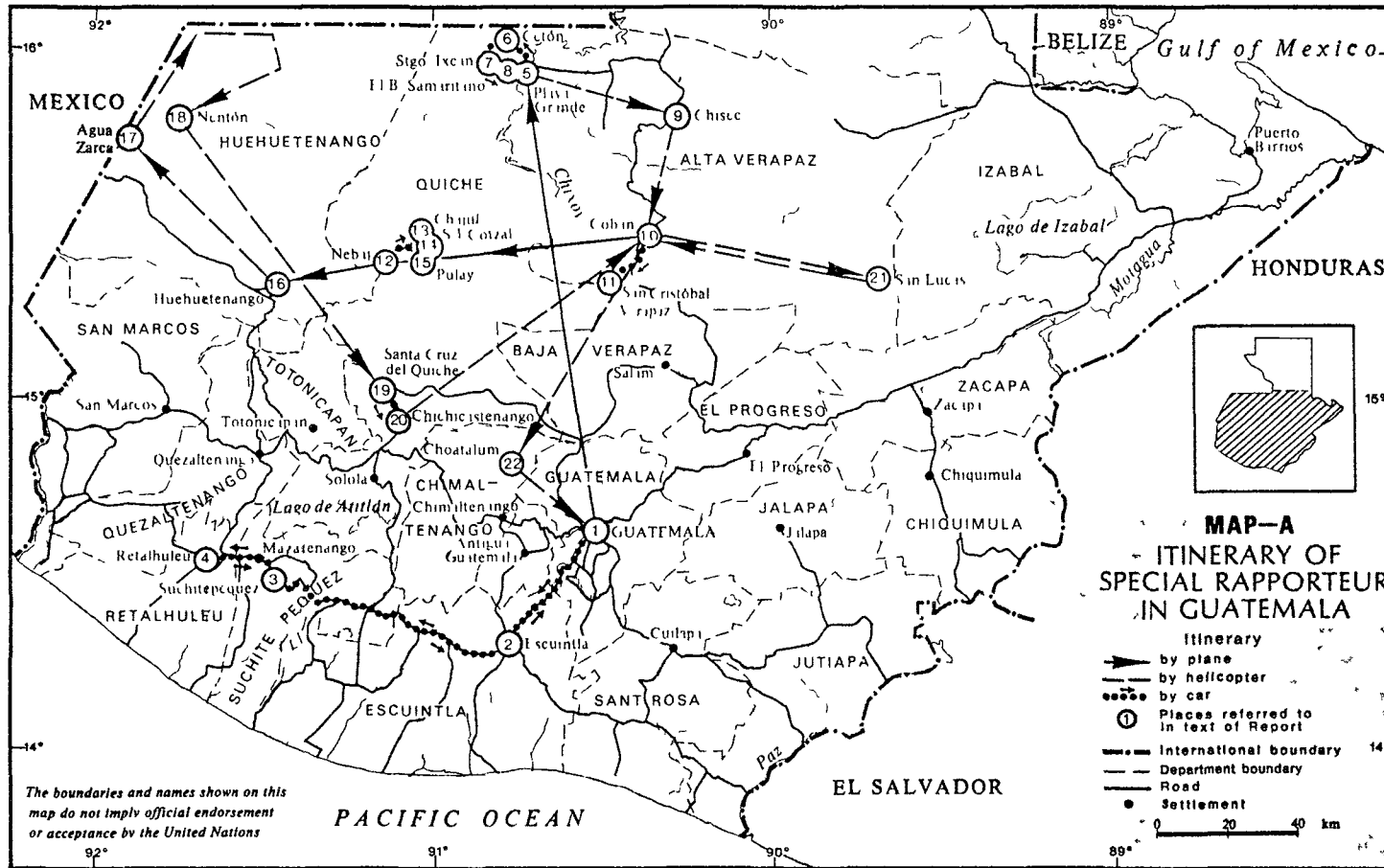
(a) Massive killings of people by elements of the security forces and armed extremists;

(b) Steady increase in number of disappearances and kidnappings;

(c) Regular summary executions.

Itinerary of the Special Rapporteur in Guatemala

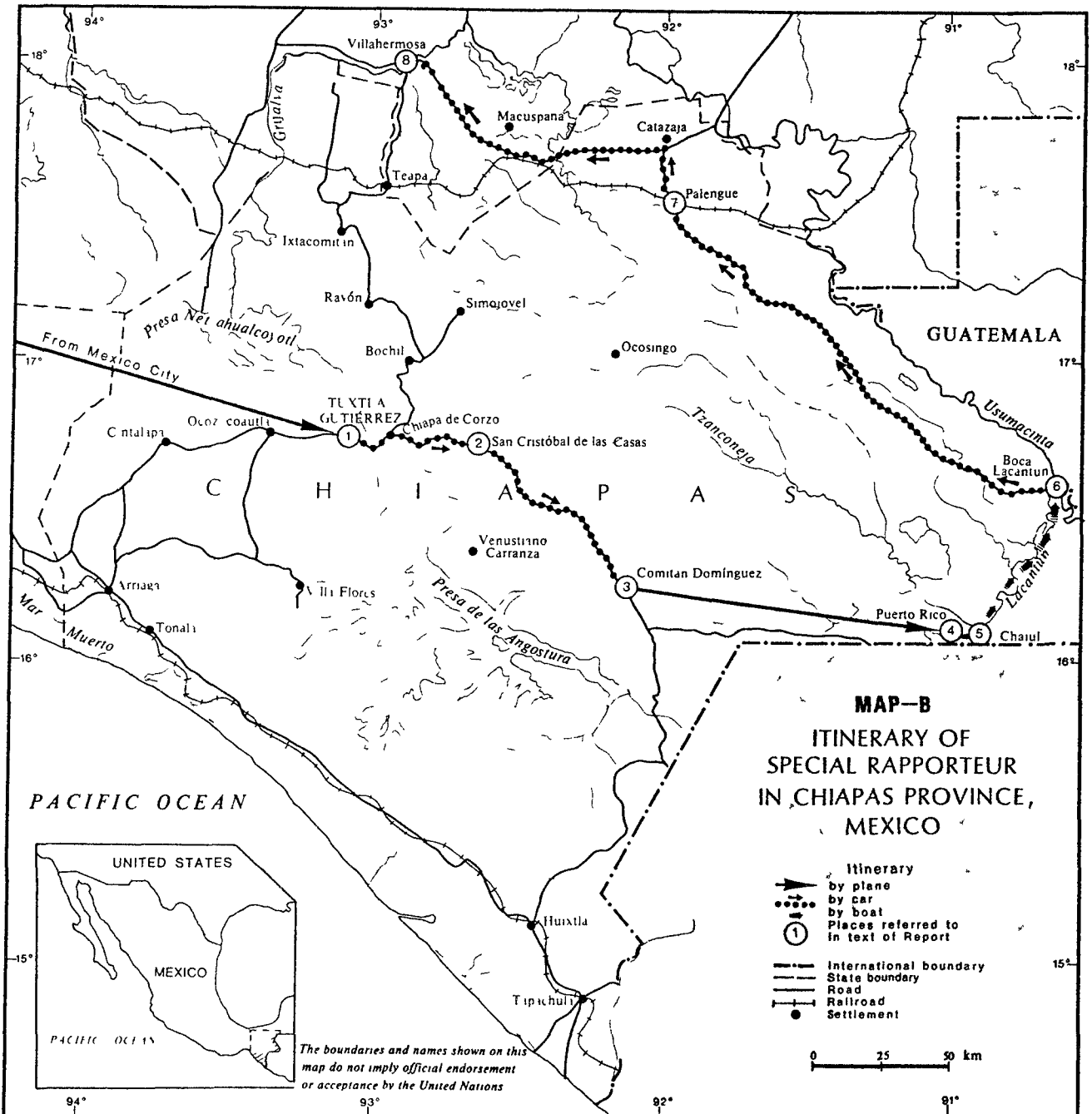
ANNEX III



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ANNEX IV

Itinerary of the Special Rapporteur in the State of Chiapas, Mexico



AREA CONFLICTIVA	TECHOS MINIMOS (unidades)	CONST. CARRETERAS	CONST. ESCUELA	CONST. AULAS ESCOLARES	CONST. PUESTO DE SALUD Y SINILARES	CONSTRUCCION PARQUES	CONSTRUCCION MERCADOS	CONSTRUCCION VIVIENDAS	CONSTRUCCION IGLESIAS	CONST. Y AMP. CAMINOS VEC.	AMPLIACION CARRETERA	DRENAJES	PUENTES	ACUEDUCTOS	ALCANTARILLADOS	LETRINIZACION	SALON COMUNAL	REP. EDIFICIOS PUBLICOS	INT. ENERGIA ELECTRICA	INT. AGUA POTABLE	PISTA ATERRIZAJE	CANCHAS DEPORTIVAS	AGRICULTURA; HUERTOS	CONSERV. SUELOS Y REFOR.	REP. LINEA TELEFONICAS	AMPLIACION DE CALLES	CONSTRUCCION ESCRITORIOS	POYOS "LORENA"	CONST. AUXILIAT. MUNICIP.	CONST. BIBLIOTECAS	OTROS (limpieza calles, fabricación ladrillos, etc.)	CONT. SILOS Y BODEGAS
Sololá	115	0	0	2	0	1	0	0	0	0	0	0	0	0	0	2	0	0	1	0	0	0	0	0	0	0	0	0	0	0	25	0
San Marcos	3	3	1	0	1	0	0	0	0	0	2	1	1	0	0	0	2	0	0	0	4	3	0	0	2	9	2	0	2	11	0	
Totonicapán	7	0	1	0	1	0	0	0	0	2	4	0	0	0	0	3	0	1	0	0	2	2	2	0	0	0	0	0	0	10	0	
Chimaltenango	52	2	0	0	0	1	0	0	0	1	0	0	0	0	3	0	0	0	3	0	0	4	0	0	0	0	0	0	0	1	0	
Baja Verapaz	2	0	4	0	1	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	2	0	0	0	0	0	0	0	0	
Alta Ver. (Chisec)	102	0	0	0	0	1	0	0	0	0	0	0	0	0	0	2	6	0	0	0	0	0	0	0	0	0	1	0	0	4	0	
Yalijux (A. Vera.)	160	0	0	7	0	0	0	0	0	0	0	0	0	0	1	1	0	0	1	0	0	1	1	0	0	0	0	0	0	3	0	
Quiché (Ixcán)	99	30	16	7	0	1	0	2	1	4	10	0	2	0	0	6	3	0	12	3	9	16	0	0	0	5	4	7	2	22	0	
Huehuetenango	46	4	0	4	0	0	0	0	0	5	2	2	0	1	0	3	0	0	0	0	1	5	0	3	1	0	0	0	0	5	0	
Quezaltenango	0	0	0	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	6	0	
El Petén	0	22	0	0	2	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	32	0	
T O T A L E S:	586	61	22	13	5	3	1	2	1	16	22	3	5	0	1	7	16	12	0	17	3	16	31	3	5	3	14	10	7	2	119	0

NOTA: Otros; incluye limpieza de cementerios, de callos, fabricación de ladrillos, etc.

/eehh

AREA	TECH. MINIM. SOMINIM. SOMINIM.	CONST. CARRETERAS	CONST. ESCUELA	CONST. AULAS ESCOLARES	CONSTR. SERVICIOS DE SALUD Y FARMACIA	CONSTRUCCION PARQUES	CONSTRUCCION MERCADOS	CONSTRUCCION VIVIENDAS	CONSTRUCCION IGLESIAS	CONST. Y AMP. CAMINOS VEC.	AMPLIACION CARRETERA	DRENAJES	PUEBTES	ACUODUCTOS	ALCANTARILLADOS	LETANIZACION	SALVA COMINAL	REP. EDIFICIOS PUBLICOS	INT. ENERGIA ELECTRICA	INT. AGUA POTABLE	PISTA ATERIZAJE	CANCHAS DEPORTIVAS	AGRICULTURA; HUERTOS	CONSERV. SUELOS Y REFOR.	REP. LINEA TELEFONICAS	AMPLIACION DE CALLES	CONSTRUCCION ESCRITORIOS	POYCS "COMUNA"	CONS. ALIAT. MUNICIP.	CONSTR. SANEAM.	OTROS (limpieza calles, fabricación ladrillos, etc.)	CONS. SERVICIOS Y SERVICIOS			
NO CONFLICTIVA																																			
Santa Rosa	176	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1		1	1		
Suchitepéquez	0	3	0	0	0	1	0	0	0	2	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0			
Retalhuleu	5	0	7	0	1	0	0	0	0	0	1	0	2	2	0	0	0	1	1	1	0	0	0	0	4	0	0	0		5	0				
Jutiapa	1092	22	11	0	2	0	0	0	0	37	0	0	2	0	1	1	0	0	2	0	0	0	1	0	0	0	0	0	8	9	1				
El Progreso	0	23	4	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	3		0	0			
Sacatepéquez	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	2	0	1	0	0	1	0	0	2	0		4	0				
Jalapa	2	15	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	6	0	0	0	0	0	0	0	0	0		1	0				
Chiquimula	15	0	5	1	3	0	0	0	0	7	0	0	0	0	3	7	2	5	0	6	0	0	0	0	0	0	1	0		7	0				
Izabal	0	3	3	2	1	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	3	2	1	0	0	0	3	0		3	0				
T O T A L E S:	1290	68	30	5	7	1	0	0	1	48	1	1	6	2	5	8	4	5	1	18	1	6	2	2	1	0	4	6	0	12	30	2			

1983

January to June:

Projects, conflict area, total	1,231
Projects, non-conflict area, total	230
	<hr/>
	1,461
Minimum housing projects, conflict area, total	5,447
Minimum housing projects, non-conflict area, total	280
	<hr/>
	5,727

July to November:

Projects, conflict area	420
Projects, non-conflict area	277
	<hr/>
Total	697
Minimum housing, conflict area	586
Minimum housing, non-conflict area	1,290
	<hr/>
Total	1,876

Grand total for 1983 (January-November):

Projects, conflict area (January-June)	1,231
Projects, non-conflict area (January-June)	250
Projects, conflict area (July-November)	420
Projects, non-conflict area (July-November)	277
	<hr/>
Total	2,178
Minimum housing (January-June), conflict area	5,447
Minimum housing (January-June), non-conflict area	280
Minimum housing (July-November), conflict area	586
Minimum housing (July-November), non-conflict area	1,290
	<hr/>
Total	7,603

Note: The following projects were initiated in the period from July to November:

- (1) "ACUL" (Nebaj, El Quiché): Co-ordination by the public sector, completion on 22 December 1983;
- (2) "YALIJUX" (Senanú, Alta Verapaz): Being implemented with funds and staff from the National Reconstruction Committee;
- (3) "SANTA MARIA DE JESUS" (Sacatepéquez): Various infrastructure projects under the responsibility of the Army General Staff and for which the National Reconstruction Committee has provided a supervisor and a community worker; commencement in February 1983.