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

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Working Group on Enforced or
Involuntary Disappearances

Addendum

Report on a visit to Guatemala by two members of the Working Group
on Enforced or Involuntary Disappearances (5 - 9 October 1987)

I. INTRODUCTION

1. As of its establishment in 1980, the Working Group on Enforced or Involuntary Disappearances was seized of an alarmingly high number of reports about the disappearance of persons in Guatemala. It was widely asserted that disappearances had begun to occur on a massive scale in the second half of the 1960s during the Government of Mr. Méndez Montenegro which had preceeded a decade and a half of military rule under which the number of reported cases had reached disquieting proportions. In the light of the reports received and in accordance with Commission on Human Rights resolution 1984/23 - in paragraph 7 of which the Commission encouraged the Governments concerned to consider with special attention any wish expressed by the Working Group to visit their countries - in 1984 the Group stated that it would like to visit Guatemala. However, its request remained without response until the present constitutional Government took power in January 1986.
2. At the specific invitation of the new Government, the Working Group, represented by Mr. Jonas K.D. Foli and Mr. Luis Varela Quirós, visited Guatemala from 5 to 9 October 1987. During the visit the two members of the Working Group were received by the President of the Republic, the Ministers of Defence and Foreign Affairs, the Vice-Ministers for Foreign Affairs and the Interior, the Human Rights Commission of the Guatemalan Congress and other Congressmen, the President of the Supreme Court, the Procurador de Derechos Humanos (Attorney for Human Rights), the Director of the National Police and other officials of the executive, the judiciary and local authorities. The members also met many relatives of missing persons, witnesses and representatives of organizations concerned with the problem of disappearances or human rights questions in general. Furthermore, they heard the views of dignitaries of the Roman Catholic Church, representatives of various political parties and the media as well as other personalities from different segments of Guatemalan society.
3. The members of the Working Group wish to express their appreciation for the most valuable co-operation and assistance they received from the executive, the judiciary and the legislature of Guatemala during their visit, as well as from various non-governmental institutions. The extensive contacts they were thus able to establish permitted them to acquaint themselves, to the maximum extent possible in a five-day visit, with the various facets of the complex phenomenon of disappearances in Guatemala. They wish in particular to thank the members of the Human Rights Commission of the Congress and other deputies for organizing and accompanying them on a field trip to Santiago Atitlán and San José Poaquil which enabled them better to understand the situation with regard to disappearances in rural areas.
4. In presenting this report on the problem of disappearances in Guatemala, the Working Group must stress again the principles it applies in all its activities: it acts in a purely humanitarian spirit with the sole object of assisting the families of the missing persons to determine the whereabouts of their relatives; thus it cannot pass judgement on questions of responsibility or sanctions. Since its mandate is limited to the examination of questions relevant to enforced or involuntary disappearances, it essentially deals with concrete cases of missing persons and only takes into account circumstantial aspects when they relate directly to the reported cases. Allegations of other human rights violations, such as summary or arbitrary executions or torture, that were brought to the attention of the two members during their visit could therefore not be dealt with on their merits in the framework of this report. Similarly, no description is given of the general human rights situation in Guatemala.

Members of the Commission on Human Rights may wish to consult in this regard the reports presented to it by the Commission's Special Rapporteur, Special Representative and Expert on the situation of human rights in Guatemala (see E/CN.4/1984/30, E/CN.4/1985/19, E/CN.4/1986/23 and Corr.1, E/CN.4/1987/24 and E/CN.4/1988/42) and by the Special Rapporteurs on summary and arbitrary executions and torture (see E/CN.4/1988/22 and E/CN.4/1988/17).

II. LEGAL AND INSTITUTIONAL FRAMEWORK

5. In this chapter the basic legal parameters against which the problem of the enforced or involuntary disappearance of persons in Guatemala has to be viewed are described. Since it is not within the Working Group's mandate to study in-depth the structure or functioning of the legal system, reference is made only to the fundamental guarantees stipulated by the law which are designed either to prevent the occurrence of disappearances or to provide judicial redress. It must further be stressed that all legal provisions mentioned in this chapter were in force when the members of the Group visited Guatemala; none of them were suspended by martial law or other emergency regulations.

The Constitution

6. The new Constitution of the Republic of Guatemala, which was adopted by the National Constituent Assembly on 31 May 1985, has been in force since 14 January 1986. The rights protected by the Constitution include the right to life, the right to liberty, freedom from arrest except under an order issued by a competent judicial authority, the right to be notified immediately of the grounds and place of arrest and to designate a person to receive such a notification, the right not to be obliged to make a statement, except before a competent judicial authority, for up to 24 hours from the time of arrest, the right to be detained only in places publicly intended for that purpose, the right not to be sentenced or deprived of one's rights without having been charged, heard and convicted in a lawful trial before a competent and previously established court or tribunal, the right to be presumed innocent until proved guilty, and the right not to be subjected to cruel treatment, physical, mental or psychological torture, coercion or harassment, labour incompatible with one's physical condition, degrading treatment or scientific experiments. The Constitution also protects the inviolability of the home which no one may enter without the permission of the person residing therein, except under a written order issued by a competent judge.

7. Article 46 of the Constitution provides: "It is established as a general principle that, in matters of human rights, treaties and conventions accepted and ratified by Guatemala take precedence over internal law". In this connection, it should be noted that Guatemala has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Prevention and Punishment of the Crime of Genocide, the 1926 Slavery Convention, the 1953 Protocol amending that Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, the Convention relating to the Status of Refugees, the Protocol relating to the Status of Refugees, the Convention on the Political Rights of Women and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. Guatemala has, so far, neither ratified the International Covenant on Civil and Political Rights nor that on Economic, Social and Cultural Rights.

8. The Constitution also stipulates that everyone has the right to apply for habeas corpus and amparo (enforcement of constitutional rights) to protect his freedom, his physical safety and all the rights guaranteed by the Constitution and provides for the establishment by the Congress of the Republic of a human rights commission, which will in turn propose to Congress the election of an attorney for human rights. The Constitution indicates that an act will regulate the functions of the Human Rights Commission and the Attorney for Human Rights, but articles 274 and 275 of the Constitution already contain provisions defining the latter's powers and functions.

Act concerning the Human Rights Commission of the Congress of the Republic and the Attorney for Human Rights

9. On 11 November 1986, the Congress adopted Decree No. 54-86, which established the Human Rights Commission of the Congress and the Office of the Attorney for Human Rights.

10. The Human Rights Commission of the Congress of the Republic is composed of one deputy from each of the political parties represented in Congress. In addition to preparing studies and formulating recommendations on legislative and administrative issues relating to human rights, the Commission proposes to Congress a list of three candidates for the office of Attorney for Human Rights and acts as an intermediary between the latter and the plenary Congress. The Commission's other responsibilities are to express opinions on international treaties and conventions relating to human rights, to maintain continuing communication with national and international bodies for the protection of human rights and to receive and transmit to the Attorney for Human Rights communications and complaints of human rights violations from outside the country.

11. The Attorney for Human Rights is a commissioner appointed by the Congress of the Republic for the protection of the human rights guaranteed by the Constitution, the Universal Declaration of Human Rights and the international treaties to which Guatemala is a party. He has legal status and is not subordinate to any body, agency or official in this regard. He possesses the same qualifications as a judge of the Supreme Court and enjoys the same immunities and rights as Congressional Deputies.

12. According to the 1985 Constitution, the functions of the Attorney for Human Rights are, inter alia, to investigate and report administrative actions prejudicial to the interests of persons, to investigate any complaints of human rights violations brought to his attention and to institute judicial or administrative proceedings or appeals where appropriate. These functions are also provided for in Decree No. 54-86, which states that the Attorney's powers to conduct investigations in connection with complaints include that of "investigating, according to law, any premises or installations, whether privately owned or belonging to the Government, where there is evidence that human rights have been or are being violated" and that of "requiring private individuals and officials of any rank ... to present immediately any kind of book, document, record or file, including computer files ..."

13. The first Attorney for Human Rights as provided for in the 1985 Constitution and Decree No. 54-86 was elected by Congress in August 1987. He took up his new functions on 19 October 1987.

Habeas corpus

14. On 8 January 1986, the National Constituent Assembly adopted the Act on Amparo, Habeas Corpus and Constitutionality (Decree No. 1-86). While the right to habeas corpus specifically protects the freedom, physical safety and lives of individuals, amparo protects all individual rights in any context and vis-à-vis any authority.

15. Application may be made to any court for a writ of habeas corpus, in writing, by telephone or orally, by the victim or any other person; there is no need to guarantee any representation and there are no formalities of any kind (arts. 84-85). Habeas corpus proceedings may also be instituted automatically by any court of justice which has information that a person has been unlawfully arrested, detained, or in any way deprived or threatened with loss of his freedom or subjected to harassment (art. 86). The writ of habeas corpus must be issued as soon as the application has been received or the incident giving rise to it is made known. The writ will inform the authority, official, employee or responsible person when the person concerned must be produced (art. 88) within a period of not more than 24 hours (art. 89). A court which has information concerning incidents giving rise to an application for habeas corpus must immediately institute proceedings in the place where the victim is to be found or, if the place is outside the court's jurisdiction, appoint an executing judge (art. 90) or, as appropriate, any other authority or person who is qualified to perform such a function (art. 91).

16. If habeas corpus is applied for on behalf of missing persons, the judge who has ordered the writ of habeas corpus has to appear in person at the place where these persons are allegedly held, i.e. a detention centre, prison or any other place where it has been indicated or suggested that they might be found (art. 95).

17. Other articles of this Act empower the court or the executing authority to conduct a full and immediate investigation into the incidents necessitating the application for habeas corpus. The court is, for example, empowered to summon witnesses and experts to the hearing at which habeas corpus has been ordered (art. 98). The executing authority may search for the person concerned in any detention centre or other place where he has been told that the person may be found (art. 103) and he and the court have to do everything in their power to complete the investigation in order to identify those responsible where the facts giving rise to the writ of habeas corpus are proved (art. 107). If there is evidence of disappearance of the person on whose behalf an application of habeas corpus was made, the court has to order an immediate investigation of the case, which will continue until the whereabouts of the missing person have been determined (art. 109). The Act also states that officials who do not observe its provisions will be punished in accordance with the law and makes it compulsory immediately to report any wrongful act on the part of officials or authorities who fail to comply with orders by the court or by the executing authority, keep the prisoner hidden, refuse to bring him before the competent court or in any way prevent habeas corpus from being guaranteed.

III. REPORTS ON DISAPPEARANCES RECEIVED FROM RELATIVES AND OTHER
NON-GOVERNMENTAL SOURCES AND OPINIONS EXPRESSED
BY PERSONS INTERVIEWED IN GUATEMALA

Enforced or involuntary disappearances under the military Governments

18. A variety of testimony received both in Guatemala City and away from the capital indicated that disappearances were not a recent phenomenon in Guatemala, but had been occurring since the mid-1960s. According to these testimonies, disappearances started to occur in areas where there was organized armed opposition to the Government, but then spread to all parts of the country, affecting all segments of the population. In particular, citizens involved in trade-union, student, political or community activities, even if they were openly and legitimately so involved, were suspected of supporting the subversive movement. A number of persons related that many villages fell victim to massacres, disappearances and reprisals of all kinds solely because the subversives had operated in neighbouring areas and the armed forces had assumed that they had enjoyed the support of those villages. All non-governmental sources consulted coincided in the view that the majority of disappearances which had taken place during that period were part of the anti-subversive policy of successive military Governments.

19. Up to the end of 1985 the Working Group had forwarded to the Government of Guatemala 2,156 reports of enforced or involuntary disappearances, of which 39 had been clarified (see E/CN.4/1986/18, para. 121, statistical summary). Many reports on disappearances which occurred between 1978 and 1985 asserted that the missing person had been detained by one of the security services or by the regular armed forces; the military personnel involved were generally said to be in uniform or to belong to local detachments known to the population. Other arrests were attributed to the National Police, the Judicial Police, the Treasury Police and the National Guard, or to specialized services such as the Dirección de Investigaciones Técnicas (DIT) (Directorate for Technical Investigations), the Brigada de Operaciones Especiales (BROE) (Brigade for Special Operations), the Corps of Detectives and the Army Intelligence Service (G-2). A number of reports attributed responsibility to unidentified heavily armed persons using vehicles without number-plates or vehicles with tinted windows. The authors of such reports frequently stressed that those characteristics indicated that the abduction was committed by forces connected with or condoned by the Government, as the abductors frequently acted in broad daylight and with complete impunity. In some such cases, mention was made of the presence near the scene of the incident of military or police personnel who did not intervene to prevent the abduction. Some reports indicated the registration numbers of the vehicles used.

20. During their visit, the members of the Working Group heard many testimonies from relatives of persons who had disappeared in the early 1980s. A great number of those cases had not been reported to the authorities until the democratic Government came to power. In all cases the relatives attributed responsibility for the disappearances to the armed forces or the security services. They said that, although the abductors often wore masks to conceal their identity, there was no doubt that they were members of those forces. Relatives mentioned as reasons for their allegations that other persons who had disappeared in similar circumstances had later been found killed and that cartridge cases from weapons possessed only by the armed forces had been found next to the victims' bodies.

21. A number of witnesses said that, while the subversive movements had carried out assassinations, those forces could not be assumed to have any interest in or means of causing disappearances. Furthermore, the forces seen to have carried out the abductions had operated with impunity, in an entirely different manner from the subversive groups. Some persons pointed out that the practice of disappearances had been introduced mainly by paramilitary groups, such as the "Mano Blanca", which had been more or less active at certain periods and sometimes operated in direct collaboration with the armed or security forces.

22. Various interlocutors alleged that clandestine detention centres existed in certain military barracks and on some private estates. Some said that they had precise information on the location of such centres and one person stated that he knew from a reliable witness that detainees had been seen in one such centre very recently. Others said that their missing relatives had been seen at a given moment in military uniform serving the army. (Some official interlocutors admitted that some young men might have been forced to join the army without their relatives ever having been notified of the recruitment.) Lastly, the opinion was expressed to the members of the Group that the great majority of the persons who disappeared during those years were believed to have been killed.

23. The majority of the reports received do not suggest any motive for the disappearance. Human rights organizations pointed out that that was due to the reluctance of relatives to indicate any reasons which might suggest that the missing person could somehow have been connected with undesirable political activities. However, a number of reports cited personal rather than political motives for the disappearance, such as private disputes, or debts contracted with military personnel, members of the security services or persons connected with them. Occasional mention was made of other causes equally unconnected with the political activities of the missing person, such as alleged membership of relatives in the subversive movement, involvement in certain religious activities and refusal to participate in civil defence patrols or to provide other services to the armed or security forces.

24. Some of the reports provided detailed information on which exhaustive investigations could be based. One example is the report on the disappearance of a Guatemalan student, whose home in Guatemala City was broken into on 12 September 1985 at about 11.35 a.m. and searched by four armed men carrying walkie-talkies. The armed men informed the student's mother that he was being held by the Second Corps of the National Police. The same men returned to the house at 1.20 p.m. on the same day in three vehicles whose registration numbers were noted by the mother. They had the student with them and there were signs that he had been beaten and possibly drugged. Despite his bad physical condition, he told his mother that those who had arrested him were members of the security forces. The armed men once again searched the house and eventually left, taking with them the mother and her three-year-old granddaughter as well. These events were witnessed by a number of neighbours and by the caretakers of the building, who noted the car numbers. The three persons were driven in two separate cars, which stopped on a lonely road a long way from their home. There the mother heard that her son was once again being beaten. After a while, she was driven back to the town together with her granddaughter and left near her home. Nothing more was heard of her son who is still missing.

25. Other descriptions are less detailed, but many provide information on the forces and sometimes indicate the names of the persons who made the arrests. One example is the case of a young Guatemalan woman, a cashier by profession, who was reported to have been detained on 21 November 1982 in Mixco by members of BROE under the command of a lieutenant and an inspector whose names were provided. The cashier's sister, who was detained with her, was sentenced to 10 years' imprisonment.

26. A typical case reported to have occurred in the countryside is that of a missing farmer who was detained on 13 June 1980, together with his brother and some 100 other farmers, in an operation conducted by the army in the villages of Pinula, Champas Pinula and Almolanga, near Tiquisate, Escuintla. On that occasion the army is said to have detained all the men it encountered when visiting those villages. According to the sources, most of the men were still missing, but only some of the cases contained sufficient detail to be transmitted to the Government by the Working Group.

27. In a great number of cases submitted to the Working Group it was asserted that the arrest or abduction occurred in the presence of witnesses (relatives, neighbours, passers-by, friends, schoolchildren and so on). However, relatives whom members of the Group interviewed in Guatemala said that the witnesses did not dare to give testimony for fear of suffering the same fate as those who were missing or had been murdered. They said that over 20 years of repression had generated a pervasive climate of fear, as a result of which most people remained silent and preferred not to pass on to the authorities what they knew or had personally experienced. Some reports indicated that disappearances had been accompanied by subsequent murder or ill-treatment of the relatives of the missing person, theft of their personal belongings, burning of their houses or various other acts of intimidation.

28. During the visit the members of the Working Group also observed that some of those they interviewed refused to express views on the situation or avoided answering specific questions, while others did not wish their names to be mentioned. Many of those interviewed indicated that the state of profound fear in which they had been living for so many years was very difficult to overcome; reprisals were still common and the civil authorities had insufficient power or resources to put an end to such practices. It was also mentioned that the system of repression had affected some of its perpetrators, in particular low-ranking members of the armed forces, who were sometimes obliged to continue making arbitrary arrests, causing disappearances or torturing and killing against their will, in the knowledge that if they did not do so they would themselves fall victims to the pitiless rules which applied in such circumstances.

29. Several persons and non-governmental organizations expressed the view that the absolute control exercised by the armed forces, both locally and nationally, had contributed to a progressive weakening of the country's institutions, particularly the judiciary. It was pointed out that, when forces, groups and individuals committed certain crimes with the connivance of the authorities, all State institutions and civic values in general suffered as a result of such illegal practices, which tended to engulf all participants in national political life, encouraging personal vengeance for reasons of economic gain as well. That phenomenon, as well as the extensive corruption during the years of military rule, was also acknowledged by some official interlocutors.

Enforced or involuntary disappearances under the present Government

30. Since the present Government came to power in January 1986, the Working Group has transmitted 172 cases of disappearances reported to have occurred between January 1986 and October 1987; 18 of those cases were considered clarified, four because the persons concerned were found dead shortly after they had disappeared and 14 because they were found at liberty. Those 14 cases included four cases in which the persons concerned stated that they had been abducted by unknown persons who had later freed them, two cases with no indication as to whether the persons concerned were arrested, and seven cases in which the Government stated that the individuals had never been arrested and indicated their present place of residence.

31. In the 172 reports transmitted to the Government, the description of the arrest or abduction of the missing person attributes responsibility as follows: 74 cases to persons in plainclothes believed to belong to the security services or to paramilitary groups; 64 cases to members of the security forces; 15 cases to the armed forces (two to the military intelligence service G-2 and another two to the navy); five cases to the National Police; eight cases to paramilitary groups; three cases to armed men "belonging to the authorities"; two cases to military or police forces; and one case to armed men using a police car.

32. The examining magistrate for habeas corpus applications informed the members of the Working Group that he had received petitions in respect of 302 cases of disappearances reported to have occurred since January 1986 (192 cases in 1986, and 110 cases up to September 1987); 76 of those cases had been clarified as a result of investigations (46 cases from 1986 and 30 cases from 1987).

33. The following paragraphs contain typical descriptions of disappearances received by the Working Group which reportedly occurred during the period under review.

34. A 20-year-old female medical student was abducted on 12 May 1986 at 2.00 p.m. in the street outside the Cancer Research Institute in Zone 11 of Guatemala City by unidentified armed persons. The abduction was seen by witnesses, since it occurred when the student was getting off a bus. Her family is convinced that government forces or paramilitary groups were responsible for her disappearance, but, despite approaches to the authorities by them and by the Catholic Church, nothing had been learned of her whereabouts up to the time of the Group's visit to Guatemala.

35. A 24-year-old female pedlar was arrested on 3 April 1986 by members of the security services in Patulul, Suchitepéquez. Subsequently, she was reportedly seen by a witness with the military detachment of Mezatenango tied to a stake and being tortured, while being accused of belonging to the subversive movement. All efforts made to have her detention acknowledged have been unsuccessful.

36. An 18-year-old office employee was abducted on the afternoon of 25 January 1987 opposite the El Trébol cinema in Zone 11 of Guatemala City by armed men driving a vehicle (number provided). The abductors threatened the victim's brother-in-law, who was with him. The missing man's wife reported the event to the police and was later summoned by the Fifth Corps of the National Police with a warning that she would be fined if she did not appear. Her relatives saw her when she left for the Fifth Corps of the Police on 27 January 1987. A few hours later on the same day her mother was abducted near her home by five armed men driving a car with tinted windows.

The bodies of the two women were found on 30 January 1987 in the Department of Chimaltenango. The report further states that another close relative was warned of serious consequences should he insist on an investigation of those events.

37. Two Protestant members of the Partido Socialista Democrático were arrested by uniformed army personnel and men in civilian clothes in the early morning of 27 July 1987 at their homes in Sipacapa in the Department of San Marcos. The soldiers had their faces covered by balaclavas and used vehicles without number-plates. According to the reports, at one of the houses the soldiers loaded a lorry belonging to the missing person with all his belongings and then set fire to his home. The operation was witnessed by many villagers since it was market day. The next day the lorry was seen by neighbours of the victims being driven by a soldier.

38. In a number of conversations the members of the Working Group had with personalities from various walks of life in the country, the opinion was expressed that the situation had improved since the present Government had come to power and that positive steps were being taken to ensure respect for human rights. The dissolution of the Dirección de Investigaciones Técnicas (DIT), a security service which was held responsible for having committed innumerable atrocities and crimes under the military governments, and the Act establishing the Human Rights Commission of the Congress and the Attorney for Human Rights were cited as the most important measures by both official and private interlocutors.

39. Human rights organizations explained, however, that the repressive machinery remained intact despite the dissolution of DIT. One of them compared this machinery to the electrical installations of a building, which might stay turned off, but could be turned on again when required, particularly in crisis situations. To prevent human rights violations, sound legislation alone was not enough; the state institutions must also have sufficient power to ensure compliance with the law. The views heard reflected a variety of assessments in that regard. Some said that, although political determination to apply the laws existed, there were obstacles, such as the strength of the military and the weakness of the judicial system; others considered that the powers of the present Government since its inception had been limited by the continuing political aspirations of the armed forces and further weakened by strong pressures from the military. Yet others said that, if the Government was judged on the facts rather than on subjective assumptions, it had to be recognized that serious human rights violations continued to occur.

40. All the sources consulted expressed their concern at the persistence of enforced or involuntary disappearances though on a lesser scale. In the view of a number of those interviewed, the reduction was due to greater selectivity as a result of progress made by the intelligence services and better control by the armed forces over the subversive movement. However, there was still a tendency for the armed forces to regard as potentially dangerous anyone involved in religious, political, social, trade-union or community activities, or anyone who refused unquestioningly to obey their orders. That was particularly the case in those rural areas where the armed forces continued to exercise absolute power, including all police functions. Reference was also made to the racial dimensions of the problem affecting the many indigenous communities of the country.

41. In analysing the disappearances, human rights organizations explained that most of those which had occurred under the present Government in the towns were the work of unidentified armed groups operating in public places and in the presence of witnesses, sometimes using typical security service vehicles (with tinted windows and without number-plates). In the interior, on the other hand, most of the disappearances were attributed to the armed forces, sometimes in uniform and sometimes not, or civil defence patrols. Regarding disappearances resulting from abductions by unidentified individuals, some of those interviewed expressed alarm at the growing activities of paramilitary groups. Those same groups were thought to be responsible for many assassinations, which the Government had at first attributed to common criminals whose activities had increased in recent years as a result of unemployment, poverty and social decay. However, the paramilitary groups, although they used methods generally similar to those of common criminals (strangling or stabbing of their victims, theft of their belongings), were notable for acting without fear of being apprehended or observed by witnesses. Their victims were frequently persons who, from the military viewpoint, might be suspected of being subversives (people active in religious, worker, peasant, student and other organizations).

42. Particular concern was expressed over the increase in cases in which people were abducted, remained missing for a few days and were then found assassinated. According to statistics produced by the non-governmental Guatemalan Commission on Human Rights, which operates from Mexico City, 29 missing persons were found dead in 1986, and in the first eight months of 1987 the bodies of 53 persons who had disappeared during the same period were discovered. In many of those cases the disappearance had not been reported to the Working Group because the assassination was discovered before it had been possible to dispatch the report. In other cases, the Working Group received the report, but before initiating the urgent action procedure news was received that the person's body had been found. (In cases alleging responsibility of armed or security forces for the person's death, the Working Group transmitted the information to the Special Rapporteur on summary executions.) The Guatemalan Commission on Human Rights highlighted the fact that, while the statistics showed a considerable decline in the number of disappearances since 1986, the improvement in the situation was in fact less significant in view of the high number of disappearances followed by assassination.

43. Concern was also expressed about public statements reportedly made by members of the Government suggesting that past abuses should be forgotten and that all efforts should be concentrated on the future. Some interlocutors, in particular relatives of missing persons, stressed that the punishment of those responsible for serious human rights violations committed in the past (by derogation from Decree No. 8-86, see para. 52) was an essential requirement for a genuine democratic process in which human rights would be effectively respected. They also expressed disappointment that the Government had recognized the competence of the Inter-American Court of Human Rights only for events which had taken place after it came to power, thereby preventing the Court from investigating disappearances and other human rights violations committed under previous Governments and protecting those responsible. Finally, it was repeatedly emphasized that, in order to strengthen respect for human rights and enhance national and international confidence in the ongoing democratic process, it was vital for the Government to allow the presence of the International Committee of the Red Cross (ICRC) in Guatemala, which remained the only country in the region not to admit that organization.

IV. STEPS TAKEN BY THE RELATIVES OF MISSING PERSONS
BEFORE THE AUTHORITIES

44. In the great majority of the reports of disappearances brought to the Working Group's attention since 1980, the relatives have approached the competent authorities with a view to determining the whereabouts of the missing persons. During their visit to Guatemala the members of the Working Group found, however, that relatively few cases which had occurred in rural areas prior to 1986 had been brought before the authorities or the Working Group; in fact many were not reported until very recently and in certain instances only at the specific request of the present Government that communities should prepare lists of victims of summary executions and disappearances. For instance, none of the cases reported to the members of the Working Group during ad hoc hearings arranged in two villages at a distance of some 150 km from the capital had ever been reported previously to the Group. According to statements made by relatives, fear of reprisals and death-threats received by many of them were the main reasons for not reporting the disappearances. Other reasons given were lack of resources and legal knowledge, the isolation of some indigenous communities, lack of confidence in institutions and fear of harming missing persons by publicly reporting their disappearance. In addition, for many years no human rights organizations had operated from within the country because it was not safe for their members (several human rights activists had in fact been killed). Those organizations had left Guatemala and continued their reporting work from other countries.

45. With regard to the lack of confidence in the judiciary, several non-governmental organizations reiterated assertions made earlier (see E/CN.4/1492, para. 97; E/CN.4/1985/15, paras. 150-151; and E/CN.4/1986/18, para. 114) that, when military Governments had been in power, the Guatemalan judiciary had not investigated human rights violations committed by members of the armed forces, the police and the security services and that applications for habeas corpus had been systematically rejected by the courts. During that period many persons simply placed notices of their relatives' disappearance in the press, but even that rather ineffective means was only used in urban areas and, in certain instances, had also resulted in persecution of the families.

46. Despite the atmosphere of terror which characterized the period of military Governments, there were relatives of missing persons who had filed complaints and commenced habeas corpus proceedings and, in some cases, had not hesitated to accuse the armed and/or security forces, with considerable evidential material, of having been responsible for the disappearances. In 1984, some relatives began to organize themselves into what later became the Grupo de Apoyo Mutuo (GAM) (Mutual Support Group). That organization is composed of relatives of missing persons and, since 1984, has been assisting families to use the legal remedies available in the country. GAM has constantly insisted on exhaustive investigations into the fate of missing persons and responsibility for their disappearance. It is still the only non-governmental organization inside Guatemala which concerns itself with the problem of disappearances. Since its establishment, GAM has repeatedly been threatened and some of its members have had to go into exile to save their lives and the lives of their relatives. In March and April 1985, two of its most active members, Héctor Orlando Gómez Calito and Rosario Godoy de Cuevas, were murdered, the latter together with her son Augusto, aged two, and her brother, Maynor Godoy Aldana, aged 21. As a result of the organization's untiring efforts, despite harassment and persecution, the missing persons issue became an important topic of national discussion.

Legal action taken by the relatives since 1986

47. In mid-1986, the Supreme Court of Justice appointed a judge to deal with 1,367 applications for habeas corpus filed by GAM in connection with cases of enforced or involuntary disappearances. In addition to the cases brought by GAM, the Supreme Court referred to that judge other applications for habeas corpus filed by the Guatemalan Human Rights Commission (headquarters in Mexico) and by the Minnesota Lawyers' Association (headquarters in the United States), as well as reports by the Inter-American Commission on Human Rights and some of the cases transmitted by the Working Group on Enforced or Involuntary Disappearances.

48. In a report addressed to the office of the President, the judge gave a detailed description of the investigations which included summonses of applicants, statements taken in the 22 Departments of Guatemala (in places such as military zones, departmental Governors' Offices, courts of first instance and prisons) and requests for reports from police units, prison work farms, the Registry Office and the Motor Vehicle Department (in cases where the vehicle's registration number was provided by the applicant), the Forensic Medicine Service, the morgue, the Immigration Department (to determine whether the missing persons had applied for passports), border posts and departmental Governors' Offices (to determine whether the missing persons had been assigned to settlements inside Guatemala or had sought asylum in other countries). The judge's report does not mention requests for reports from police units, security services and military detachments to determine whether the missing persons were arrested by the forces referred to in the applications in the places and on the dates indicated and to check the names of the persons in command of the forces in question on those dates and in those places.

49. The members of the Working Group were given an opportunity to examine some of the cases processed by the judge. Two of them were described in chapter III, paras. 24 and 36. In order to show how the investigations were conducted, a brief description is given of the steps initiated by the judge as reflected in his files.

50. In the case described in paragraph 24 the relatives indicated two registration numbers of the cars used by the abductors. That information was corroborated by an eyewitness and by written records of cars having entered the grounds of the housing estate where the family's residence was located. The judge established, on the basis of a report by the Tax Department, that one number-plate had been assigned to the Ministry of Defence and the other to an army camp (Justo Rufino Barrios Headquarters) in Military Zone No.1. On the basis of the Tax Department's report, it was established that, under Government Agreement No. 4-79 issued by the Ministry of Public Finance, that Ministry was to give the Ministry of National Defence any licence plates it requested and that the Ministry of Defence carried out its own checks on such licence plates. It was also established that neither of the vehicles had been reported stolen; it was further established that one number-plate had been assigned by the Ministry of Defence to the Second Section of the Army General Staff and the other to the Mobile Military Police. Although the assignment of the number-plates to the armed forces was definitely established, it was not possible to determine which vehicles had been assigned the number-plates or who was using them or had used them to kidnap the missing person. The judge also took the statement of the Minister of Defence (at the time of the kidnapping commander of Military Zone No. 1) who stated that he knew nothing about the disappearance and that the person had not been arrested by members of the armed forces. Investigations came to a halt at that point.

(When he spoke to the members of the Working Group the Minister of Defence stated that, although his Ministry was responsible for military number-plates, it had not been possible to help shed light on the situation in the case under investigation because there were countless fake number-plates in circulation in Guatemala.)

51. In the case described in paragraph 36, the registration numbers used by the abductors were also reported. However, according to National Police Department records those plates had probably been stolen in 1981. The inquiries conducted by the judge consisted in questioning the relatives of the two persons who had been assassinated following the disappearance and in establishing that a person carrying the same name as the missing person, but with different physical characteristics and educational background, lived on the farm where the judge had been told that the missing person was working.

Position of the relatives and of organizations representing them with regard to the conduct and scope of investigations

52. When the present Government took power in January 1986, GAM initiated habeas corpus proceedings with regard to 1,367 cases of enforced or involuntary disappearances. GAM also demanded that an impartial commission of inquiry should be set up to conduct investigations into all disappearances in Guatemala. The organization further urged that Decree No. 8-86 of 10 January 1986, granting amnesty to military staff for all political and ordinary offences committed between 23 March 1982 and 14 January 1986 should be declared unconstitutional (other amnesty decrees enacted previously give immunity to military staff for offences committed during earlier periods) and that persons responsible for human rights violations should be removed from public office.

53. In February 1986, the President of the Republic informed GAM that he had decided "to agree to the possibility of setting up a commission of inquiry to determine whether secret prisons exist and whether some missing persons may be found alive in any such secret prisons". A few days after the Supreme Court had taken the decision to appoint a special judge to deal with the habeas corpus petitions presented by GAM and other organizations (see paras. 66 and 69), the President of the Republic stated that the commission of inquiry would not be set up because it might interfere with the work of the judiciary.

54. GAM did not accept that decision and continued to call for the establishment of a commission of inquiry that should be independent of the Government. In late September 1986, the President of the Republic informed GAM that he had decided to appoint "a governmental commission, whose members will be made known later and who will be responsible for continuing the investigations aimed at establishing the whereabouts of the persons you have reported missing". That commission was to be headed by the President of the Republic and was to have submitted a report before the end of 1986 (see E/CN.4/1987/15, para. 43). GAM decided to support the governmental commission of inquiry, provided that it was informed of the methods to be used, that the missing persons' relatives were able to provide the commission with information publicly, in the presence of radio and television, that the relatives were allowed to decide whether or not cases had been clarified and that one of the commission's members was a representative of the Roman Catholic Church.

55. During their visit to Guatemala, the members of the Working Group were informed by the authorities that, although there was a decree ordering the establishment of the commission, the decree had not been promulgated because the nature of the commission's work had still not been decided.

56. Representatives of GAM expressed strong disappointment to the members of the Working Group that the commission of inquiry they had persistently called for was still not appointed. They stressed that, in their view, the habeas corpus proceedings had proved their ineffectiveness since the inquiries which the judge was obliged to pursue ex officio were aimed not at determining what had really happened to the missing persons, but rather at finding excuses for their disappearances. They felt that the judge had failed to request access to the relevant military and police files at the place and on the date of the reported disappearances or to summon the responsible officers for cross-examination about the alleged incidents. Relatives had initially co-operated with the judge, but, when they got the impression that his inquiries were not aimed at finding the missing persons and determining responsibility for their disappearance, they decided to stop their co-operation.

57. The appointment by the Congress of an Attorney for Human Rights had raised hopes, which had however dimmed when the President of the Republic pointed out that the Attorney was not empowered to determine responsibility for human rights violations. The representatives of GAM also stated that they had not received much co-operation from the Human Rights Commission of the Congress, except for obtaining a meeting with the President of the Republic; they did however recognize that the Parliamentary Commission was not empowered to carry out investigations. (The members of the Working Group found that those deputies forming part of the Human Rights Commission of the Congress whom they met were deeply concerned by the problem of disappearances and other human rights violations.) Lastly, they said they were not only deeply disappointed because no meaningful inquiries had taken place so far, but also objected to the pressure that the Government was exerting by promising peasants financial assistance if they would sign statements that they agreed that their missing relatives had presumably died. They also asserted that threatening and harassment of relatives of missing persons and witnesses were continuing under the present Government and that, for that reason, many of them did not want to appear before the courts.

58. After the conclusion of the visit, the Working Group was informed of Governmental Agreement No. 971-87, of 3 November 1987, establishing an Advisory Commission on Human Rights (COPADEH) which, inter alia, would: (a) inform the President of the Republic of any facts involving human rights violations under the present Government; (b) propose to the President changes in legislation concerning human rights; (c) propose the ratification of treaties, conventions or resolutions of the United Nations and the Organization of American States; (d) at the request of the President or on its own initiative, submit to the President and to the public in general written statements containing the Commission's views on human right matters; (e) co-operate on human rights matters with the Supreme Court, the Human Rights Commission of the Congress and the Attorney-General; (f) request administrative authorities, with the prior authorization of the President, to provide reports on any questions relevant to the performance of its activities; and (g) receive complaints, accusations or petitions and transmit them to the President or to the persons concerned or submit them to the courts. In addition, in accordance with article 4 of the Governmental Agreement, the Commission would, as an exceptional high-priority task, be in charge of gathering all the information it could find from official and unofficial sources about enforced or involuntary disappearances which occurred under previous Governments, in order to provide complete information to the public and to satisfy the humanitarian demands of citizens. This task should be performed immediately after the establishment of the Commission.

V. POSITION OF THE GOVERNMENT AND INFORMATION
PROVIDED BY OFFICIAL SOURCES

Position of the Government

59. During their stay in Guatemala, the members of the Working Group were received by the highest authorities of the State. They were granted an audience by the President of the Republic, Mr. Vinicio Cerezo Arévalo, the Ministers for Foreign Affairs and Defence, and the Vice-Ministers of the Interior and Foreign Affairs. They were also received by the President of the Supreme Court, members of the Human Rights Commission of the Congress, the Attorney for Human Rights, the Director of the National Police, the judge entrusted with habeas corpus petitions and local authorities. In addition, they met several members of the Congress representing different political parties.

60. The President of the Republic informed the Working Group of his intention to establish an advisory commission on human rights. The mandate of that commission was still being examined with a view to avoiding conflicts of competence with the newly-appointed Attorney for Human Rights. It was his conviction that the country had to undergo an educational process in matters concerning human rights before all laws could be scrupulously applied. He admitted that some cases of disappearances continued to occur as a result of the weakness of institutions after so many years of military rule. Any assistance the United Nations could give in that situation would be most welcome. He also pointed to the difficulties in determining beyond doubt the mechanisms used in the past which had resulted in disappearances and possibly in subsequent assassinations. It should also be recognized that many persons reported missing had left the country; others might have joined the subversive movement. In order to make progress in the field of disappearances, it was necessary to receive the full co-operation of all concerned, in particular, the relatives themselves.

61. The Minister for Foreign Affairs emphasized the special efforts made by the democratic Government to halt the occurrence of disappearances. The Government had inherited a very difficult situation characterized by a culture of violence which had influenced the country's political life for a long time. It could not be denied that there were still problems, but the level of violence had considerably subsided. The regional peace efforts to which all Central American countries had recently subscribed would contribute to a further improvement of the situation.

62. The Defence Minister defined the problem of disappearances in Guatemala as a result of misdirected policies of the past. The violent subversion which the country had suffered for many years had led to an exodus of persons who were now living abroad, particularly in Mexico and Nicaragua. The situation had been further aggravated by urban and economic problems giving rise to migratory movements within the country and abroad which could not be controlled effectively. Especially in rural areas, the subversive strategy had aimed at a total polarization of Guatemalan society, in particular with regard to indigenous populations which, according to official sources, represented 60 per cent of the population. The subversion was also responsible for the assassination of a large number of local authorities, mainly mayors and policemen. The strategy of terror had caused the displacement of 20,000 persons within the country who were frequently not properly identified. The counter-offensive launched by the armed forces had created a situation of genuine armed conflict which had lasted several years. All those elements constituted the basis for the occurrence of disappearances.

63. The Minister emphasized that, with the exception of the policia militar ambulante (mobile military police), who were empowered to exercise certain police functions in areas where the regular police were absent, the armed forces had no authority to detain civilian persons. The legality of military action could be controlled by the judiciary as well as by the newly created Attorney for Human Rights and both were authorized to inspect barracks if any irregularity was suspected. There were, however, certain weaknesses in the administration of justice and the organization of the police which required improvement. He stressed that action by the armed forces was exclusively motivated by the legitimate defence of the interests of the State whose existence had been seriously challenged by the subversive movement. If there had been excesses, they were the consequence of the difficult conditions under which the fight against the subversive movement had taken place and the officers responsible had been brought to justice. The Minister mentioned seven cases, three officers having been sentenced to prison and four others expelled from the armed forces.

64. The Vice-Minister of the Interior stated that every reported case of disappearance was investigated and excesses were duly sanctioned. Since the coming into power of the new democratic Government, no case of police responsibility for disappearances had been reported. In the past most of the cases of disappearance and of torture had been attributed to DIT, which the Government had completely dismantled. A new intelligence department, the Brigada de Investigaciones Especiales y Narcóticos (BIEN) (Brigade for Special Investigations and Drugs) of the National Police was in the process of being established, but its mandate was limited to investigatory tasks only. Although the present Director of National Police was a colonel in the armed forces, the police was in no way subordinate to the armed forces; it was exclusively under the responsibility of the Minister of the Interior. However, in many rural areas the National Police was not present and the armed forces had therefore organized a system of self-defence. Since the crime rate had risen alarmingly in the past two years, a private security system had been organized in urban districts with the specific authorization of the Minister of the Interior in each case. Such private security agents were, however, not authorized to detain persons. Arrests could only be made by the National Police and, in cases of flagrante delicto, by the Policia de Hacienda (Finance police) and the mobile military police.

65. The Director of Police pointed to the enormous infrastructural weaknesses of the police forces and explained the reforms he intended to carry out. These included more professional training for police officers, restructuring of the two major sectors of the forces (protection of the citizen and investigations), including the creation of a department for disappearances to be incorporated in a new organic law, the issuance of a precise police manual and improved labour conditions and social services. The situation under previous Governments had been characterized by rather primitive working methods, the generally poor mental capacity of officers and corruption, which had led to growing decadence of the police force, a situation not unfavourably viewed by the then military Governments. He was making every effort to reverse the trend and was convinced that only a police force working under truly professional and decent conditions could be expected to be efficient and humane.

Information received from the President of the Supreme Court and the judge entrusted with habeas corpus petitions

66. The President of the Supreme Court explained the habeas corpus procedure (see paras 14-17), emphasizing in particular that none of the cases filed would be closed until the missing person's whereabouts had been determined. In principle, all courts were competent to receive habeas corpus petitions. A specific judge had only been designated because of the massive influx of such petitions emanating from GAM and other organizations. The results had so far been largely fruitless since very little circumstantial evidence had been brought forward. In that connection, it was regrettable that the relatives mobilized by GAM had not reacted to numerous appeals addressed to their organization (over 1,200 telegrams) to appear before the judge for further questioning. He also referred to cases of persons who had been incorporated into the armed forces without appropriate notification to their families. Some of those persons had been found and the relevant cases were now before the courts.

67. He also explained that disappearances had to be investigated ex officio outside the habeas corpus procedure in connection with penal suits filed against specified or unknown persons accused of having caused the disappearance. With regard to accusations made against members of the armed forces, the investigation had to be opened by the Fiscalía Militar (Office of the Military Prosecutor) and the verdict rendered by an Auditoría de Guerra (military court). An appeal against the decisions of such courts would however go to the ordinary Appeals Court, enlarged by two military judges. Major penal offences committed by military personnel had to be tried by civil courts. At the level of the Supreme Court two military judges would be added to the bench.

68. The Working Group also visited the Central Registry of Detainees established by the new Government. In that office all detentions in regular prisons, as well as transfers and releases of prisoners, are registered on computer on a daily basis. The criminal records of citizens are also computerized in a central office.

69. The judge designated to deal with the habeas corpus petitions filed by GAM and other organizations, including some of the cases transmitted by the Working Group, explained the steps taken by him. He had checked in all centres of detention throughout the country whether any missing person was being held there and had been able to establish the whereabouts of 76 persons reported missing. He stated that it should be recognized that a number of the disappeared had joined the subversive movement or had taken refuge outside the country. In those cases his efforts could not produce results; in other cases relatives had not provided sufficient evidence or had refused to co-operate with him by ignoring his countless invitations to answer questions about the circumstances of the reported disappearances.

70. The judge also criticized the members of GAM for refusing to co-operate with him on the ground that the safety of witnesses was not guaranteed; however, he did not think that GAM was consistent in that respect as it did not hesitate to organize demonstrations in the streets. He further emphasized that no pressure whatsoever had been brought to bear on him during his inquiries and that, if he was to make any progress, he would need the co-operation of relatives in order to learn in greater detail the circumstances of each reported disappearance directly from the affected families and, wherever possible, from eye-witnesses.

71. The judge further stated that only 542 of the 1,367 applications for habeas corpus filed by GAM contained any information other than the name of the missing person and the date of his disappearance and that his investigations had, therefore, been restricted to those 542 cases received from GAM, plus those brought by other sources, making a total of 1,087 cases. Of that total, 227 were brought by individuals not linked to any organization; in 60 of the latter category, it had been possible to establish the whereabouts of the missing persons. Of the 860 cases brought by various organizations (including 76 transmitted by the Working Group which the Government had referred to the judge), it had only been possible to clarify 37.

Information received from the Attorney for Human Rights

72. In his interview with the members of the Working Group, the newly elected Attorney for Human Rights drew attention to the fact that his Office was entirely independent and empowered to take action, either on application by a party or ex officio, in connection with any human rights violations. He also said that he was empowered to visit detention centres, including those of a military nature, and to request the judiciary to act in conformity with the law in cases in which it was required to investigate human rights violations.

73. The Attorney explained to the members of the Working Group that, since he had only recently been appointed, he was still in the process of organizing his work and that he would officially start his functions on 19 October 1987.

Information received from the Commission on Human Rights of the Congress

74. The Working Group was also received by members of the Commission on Human Rights of the Congress. The Congressmen present at the meeting pointed out that the Commission had not so far been directly involved in the examination of cases of disappearances and explained the Commission's mandate as described in para. 10. Each of the Congressmen present expressed deep concern for the problem of disappearances and provided the members of the Working Group with valuable information and personal views on the reasons underlying the phenomenon as well as on the difficulties affecting its solution. Since these views do not necessarily coincide with the position of the Government (the Congressmen heard belonged to different political parties, including that of the Government) they are reflected in the relevant parts of chapter III. Members of the Parliamentary Commission also organized an excursion to the countryside during which the Working Group was able to interview, on an ad hoc basis, local authorities and relatives of missing persons in Santiago Atitlán and San José Poaquil. They were also accompanied on their trip by two Deputies belonging to the Commission for Indigenous Populations.

VI. CONCLUDING OBSERVATIONS

75. During the two decades preceding the advent of the present Government, Guatemala endured sustained and pervasive violence. Thousands of people disappeared. Indeed, it was in Guatemala, under the presidency of Mr. Méndez Montenegro, that the phenomenon of disappearances as a systematic method of repression emerged. In subsequent years, it set a sorry standard for repressive régimes elsewhere.

76. Against this background, the Working Group felt that it would be particularly pertinent, in view of its mandate, if it were to pay a visit to Guatemala. As early as 1984, the Group asked the then military Government whether there were any prospects of such a visit taking place, but to no avail. A renewed approach to the Government of President Vinicio Cerezo brought a positive response. The Group is indebted to his Government for inviting it to undertake that mission and for the large measure of co-operation extended to its members. Their visit took place in an atmosphere of openness and a genuine desire to explain the exigencies of the present situation.

77. In an undoubtedly difficult context, the new democratic system has made great strides towards re-establishing the rule of law and respect for basic rights. The Constitution now guarantees all basic human rights. Conceptually the habeas corpus procedure is exemplary. The Office of the Attorney for Human Rights has been created, a Commission on Human Rights is about to be established and a special judge was appointed to expedite the handling of countless habeas corpus petitions. A modernization of the police force, with proper training schemes on human rights issues, is well under way. Violations of human rights are diminishing overall and disappearances have decreased notably compared with the years of military Government, particularly in urban areas.

78. Yet, despite these accomplishments, formidable obstacles remain. Disappearances still occur in substantial numbers, generally attributed to continued repressive action on the part of the military and groups acting in connivance with them. This is particularly true in the countryside; in areas where the situation is fully controlled by the armed forces, disappearances cannot be credibly attributed to members of the guerrilla. Since President Cerezo took power 203 cases have reportedly taken place, 50 in 1987, as compared with 294 in 1985.

79. Clearly, well-designed institutions alone cannot suffice. For instance, habeas corpus proceedings come to a stop at the barracks gate, military authorities being unwilling to co-operate beyond that point and the judiciary not being strong enough to pursue its aims with the necessary vigour; proceedings are further hampered by the fact that witnesses fail to give testimony for fear of reprisals, if not out of despondency.

80. The key problem, of course, remains the question of investigations of individual cases of disappearances and the prevention of their future occurrence. In accordance with its mandate, the Working Group must insist that the authorities of a given country investigate the disappearances reported to it, with a view to alleviating the plight of relatives who have had to live in anguish and paralysing uncertainty for too long. General Assembly resolution 33/173 calls upon all Governments in unequivocal terms to undertake such investigations in a speedy and impartial manner.

81. It is against this background that, in the case of Guatemala, the Group, in the humanitarian spirit that permeates all its endeavours, will continue to encourage genuine efforts on the part of the Government to take convincing measures to prevent and clarify disappearances. This is an immediate task for the Government. The necessary political will seems to exist and the people are aware of and support the need for change.

82. On the subject of prevention, the members of the Group feel that a permanent presence of the International Committee of the Red Cross, apart from other merits, may well reduce the level of violence, particularly as regards detainees, and prevent the disappearance of those held *incommunicado*.

83. The members of the Group have not been in a position to study the extent to which indigenous Guatemalans, who make up the majority of the population, were and are affected by the practice of disappearances. Thus so far it has taken up only those cases that were channelled through human rights organizations in the city and abroad. During the limited time spent in the countryside, the members heard testimony relating to many cases which had never been submitted to the Group before, raising concern about the real magnitude of the problem.

84. For non-governmental organizations, conditions have been arduous in Guatemala. Kidnapping and assassination have been the lot of many human rights protagonists, particularly those who, in the eyes of some, were being too strident in their demands for justice. Harassment remains and bitterness, if not despair, abound. Given the role of non-governmental organizations in raising the level of public consciousness on human rights issues and in re-establishing trust in the democratic system and the rule of law, efforts should be made to encourage them in their endeavours and protect them effectively against abuse.

85. It would seem appropriate, as part of the Government's overall policy to stem the tide of violence, if Guatemala became a party to all international instruments in the field of human rights which would guarantee to its people the enjoyment of international protection in this field.

86. Any nation emerging from 20 years of carnage cannot be expected to change radically overnight. The heritage of protracted military rule presents the present Government with a Herculean task. Not surprisingly, a climate of fear still prevails in the country, with little confidence left in the State institutions. There is apprehension that the repressive machinery of past years, may still be firmly in place, ready for use again in moments of crisis. For so long violence was generated by subversion and by the armed forces or by groups acting with or without the approval of successive Governments. All segments of Guatemalan society are keenly aware of this. At the same time people seem to share the desire that such violence, disappearances included, should not be repeated. That desire has guided efforts by the present administration to avoid repetition. These efforts should be supported by the international community, enabling the Government to implement programmes of prevention and protection of human rights and to establish the legal and organizational structure which the country needs for the realization of that objective.

Annex

QUARTERLY NUMBER OF DISAPPEARANCES IN GUATEMALA
OVER THE PERIOD 1974 - 1987

