



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1988/23
29 January 1988

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Forty-fourth session
Item 12 of the provisional agenda

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

Final report to the Commission on Human Rights on the
situation of human rights in El Salvador, submitted by
Mr. José Antonio Pastor Ridruejo, in pursuance of the
mandate conferred by Commission resolution 1987/51

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 3	1
II. ECONOMIC, SOCIAL AND CULTURAL RIGHTS	4 - 11	2
1. General economic situation	4	2
2. Attacks by the FMLN on the economic infrastructure of the country	5 - 6	2
3. Workers' rights	7 - 11	3
III. CIVIL AND POLITICAL RIGHTS	12 - 59	4
1. Summary executions	12 - 29	4
2. Arrests, abductions and disappearances	30 - 42	7
3. Treatment of political prisoners	43 - 51	10
4. Criminal justice	52 - 59	12
IV. RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICT	60 - 72	16
V. EFFORTS TO STRENGTHEN RESPECT FOR HUMAN RIGHTS	73 - 89	19
1. In general	73 - 81	19
2. The humanization of the conflict	82 - 85	21
3. The general political dialogue	86 - 89	21
VI. CONCLUSIONS	90 - 106	23
VII. RECOMMENDATIONS	107 - 111	26

I. INTRODUCTION

1. This report has been prepared in pursuance of resolution 1987/51 of the Commission on Human Rights. The document refers to the situation of human rights in El Salvador during 1987, although it should obviously be read in the light of the reports submitted by the Special Representative since 1981. The Special Representative is profoundly grateful for the co-operation of the Government of El Salvador and the FMLN-FDR, and for the co-operation of other Governments, international and non-governmental organizations, and other individuals and institutions.

2. The Special Representative has been able to visit El Salvador once again. During his stay in the country, from 27 September to 5 October 1987, he had interviews with leading authorities of the Republic of El Salvador, including the President of the Republic, the President of the Legislative Assembly and the President of the Supreme Court. At the time of the dialogue between the Government and the armed opposition initiated in San Salvador on 4 October, the Special Representative was also able to talk to delegates of the FDR and commanders of the FMLN present at the meeting. During his stay, the Special Representative also questioned many witnesses presented to him by humanitarian organizations working there. In addition, the Special Representative visited detention centres, where he interviewed political prisoners under conditions of confidentiality, and received much oral and written information from human rights organizations operating in the country. Since the report to the General Assembly was prepared, the Special Representative has continued to receive copious information.

3. The Special Representative points out that this report differs slightly in structure from those he submitted in previous years; and since he was advised that the document should not exceed 24 printed pages in length, he takes as read the comments concerning methodology set out in earlier reports.

II. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

1. General economic situation

4. Given the fact that this report should not exceed 24 printed pages in length, the Special Representative will not reproduce the extensive data he received on the country's economic situation, but will simply point out that the factors which have resulted in a worsening of the living conditions of Salvadorian citizens in recent years - the continuation of conflict and the world economic crisis - have persisted during the months that have elapsed in 1987; the earthquake in El Salvador on 1 October 1986 and a prolonged drought should be added to those factors. The economic situation prompted the Government to adopt a programme to stabilize and reactivate the economy, which combines a series of fiscal, trade, monetary, wage and exchange-rate measures aimed at reducing the economy's internal and external imbalances. 1/ In this connection, the Special Representative wishes to refer to the reports that appeared in a United States newspaper 2/ in September 1987 about the corruption prevailing in the country, which might jeopardize the political improvements of the past few years. Information of a similar nature was published in a New York newspaper on 16 November 1987. 3/

2. Attacks by the FMLN on the economic infrastructure of the country

5. The Special Representative has continued to receive much disturbing information about the systematic attacks by FMLN guerrilla forces on the country's economic infrastructure. According to the Government of El Salvador, 4/ total damage for the period from 1 August 1986 to 31 July 1987 was as follows:

The Rio Lempa Executive Commission system:	3,519,190 US dollars
Installations of the National Telecommunications Administration:	192,811,257 colones
Equipment, tools and implements:	457,560 colones
Bridges:	6,164,500 colones
Transport service units	476,000 US dollars
Direct and indirect costs to the airport and railways <u>5/</u>	9,808,562 US dollars

6. In addition, according to information gathered by the Special Representative directly from the Army General Staff, the FMLN ordered six traffic standstills or "stoppages" in the first nine months of the year. The Special Representative points out that such "stoppages", in addition to harming the economy, constitute violations of the freedom of movement of Salvadorian citizens. Furthermore, the "stoppages" sometimes result in deaths and injuries and the burning and destruction of vehicles. 6/ The Special Representative has learnt that the FMLN announced a further traffic stoppage beginning at midnight on 2 November 1987. And according to information which has been publicly announced, in the first week of December, under the slogan "We all eat or nobody eats", the FMLN launched a sabotage campaign against the

agro-industrial sector; this campaign resulted in the destruction of four agricultural centres. According to the same information, Monsignor Rivera y Damas, Archbishop of San Salvador, condemned the FMLN's campaign. 7/

3. Workers' rights

7. An Amnesty International document 8/ of 22 July 1987 states the following: "Amnesty International is concerned that co-operative workers and leaders have been particular targets of repression in recent months. Amnesty International has received reports that in the period September 1986-May 1987 over 80 co-operative workers and leaders, many of them members of FEDECOPADES, were subject to human rights violations, including disappearance, extrajudicial execution, arbitrary detention and beatings. Many of those detained were subsequently released without charge". The Special Representative believes that some of the summary executions and disappearances referred to by Amnesty International are included in the figures given in the appropriate part of this report.

8. With regard to workers' and co-operative movements, Americas Watch 9/ states: "Although the Government has generally employed political and legal manoeuvres to counter the threat it sees from opposition unions, it has not forgotten old-fashioned repression. Union leaders as well as rank-and-file members continue to face arbitrary arrest. Co-operatives have been hard hit by detentions of key leaders that serve to intimidate others from assuming leadership positions".

9. Christian Legal Aid, for its part, has informed the Special Representative by telex of various cases of arrest, ill-treatment and in some cases, assassination of trade unionists. 10/ The Special Representative has received similar information from other human rights institutions operating in El Salvador, such as FEDECOPADES.

10. The Minister of Labour told the Special Representative in San Salvador about the labour dispute at the Salvadorian Social Security Institute that began on 1 June 1987 and continued until 3 September. According to the Minister, although the Ministry offered the workers a monthly increase of 100 Salvadorian colones (\$US 20) on 22 May, the trade union decided on 1 June to go on strike and paralyse the institution's medical services. On 8 July, the workers tried to seize the Institute's administrative offices; that attempt led to an incident in which eight policemen were injured. In the end, the trade union accepted the increase of 100 colones a month, which showed, according to the Minister, that the strike was clearly politically-motivated and not work-related.

11. In connection with the events referred to in the previous paragraph, the Special Representative had the opportunity to see a videotape at the army's General Headquarters. Despite the caution imposed by the nature of that source of information, the Special Representative should emphasize the calm behaviour of the security forces - some of whose members turned out to have been wounded - and the provocative attitude of those who were attempting to occupy the building, even by force of arms.

III. CIVIL AND POLITICAL RIGHTS

1. Summary executions

12. The Special Representative has continued to receive information concerning politically-motivated summary executions of non-combatants. As in previous years, he wishes to draw attention to the difficulty of accurately determining the exact number of such crimes and to the need for caution in evaluating those figures.

13. From the figures supplied by Legal Protection, 11/ the Special Representative subtracted those for the victims of indiscriminate army attacks on the civilian population, a category which will be taken into account elsewhere. The figures are as follows:

	<u>Death squads</u>	<u>Army</u>	<u>Security forces</u>	<u>Civil defence</u>
January	4	1	-	-
February	2	-	-	2
March	1	3	-	-
April	-	4	-	-
May	4	11	2	-

14. The Special Representative has also received specific information regarding summary executions carried out in El Salvador so far during 1987, which is undoubtedly reflected in the figures shown above. Examples of such executions are described below on an illustrative, non-exhaustive basis.

15. Thus, Amnesty International has reported the summary execution of Antonio de Jesús Hernández Martínez, Secretary-General of the National Association of Farm Workers, who was detained by soldiers on 16 April 1987 and whose body was later found showing signs of torture. 12/

16. In addition, according to an FMLN-FDR communiqué 13/ which is corroborated by information from various human rights organizations in El Salvador, the guerrilla Santos Sandoval was captured by members of the armed forces on 23 April 1987. He was seriously wounded and, although he was seen in the intensive care unit in the city of Santa Ana, he was found dead on 13 May 1987 showing signs of torture. The FMLN-FDR maintains that the ICRC and the Salvadorian Red Cross were prevented from coming to his aid.

17. The Special Representative next wishes to draw attention to the disturbing "Palitos" case, about which he heard live testimony in El Salvador from relatives of the murdered persons. According to their statements, on 19 May 1987 five young peasants who had collaborated with the FMLN - under duress, according to some of their relatives - taking food to the guerrillas, were arrested by army units and taken to an outlying shanty town known as Palitos; their bodies, identified by family members, were later found in a pit where they had been buried. The Special Representative brought the subject up at army headquarters and was told that the youths were guerrillas who had died in combat and that their bodies had been thrown into the pit by

other guerrillas. In connection with those incidents, the Special Representative heard about the sermon delivered on 7 June 1987 by Monsignor Rivera y Damas, Archbishop of San Salvador, in which he stated that he had well-documented reports that the five peasants were executed by military units. 14/

18. The Special Representative also heard about a communiqué from Amnesty International 15/ reporting that three Salvadorian peasants, José Vertilio Alvarado, José Antonio Ortega and José Antonio López Cruz, were admitted to Rosales Hospital in San Salvador on 14 June 1987 for treatment of wounds inflicted, they claimed, by uniformed soldiers at Laguna, Chalatenango Department. A telex dated 25 June 1987 from Christian Legal Aid to the Special Representative says that the peasants in question had been detained and physically attacked (knife and machete wounds). In San Salvador, the Special Representative heard the testimony of José Antonio Ortega and the father of José Vertilio Alvarado, which substantiated the information provided by Amnesty International. The Special Representative has been informed that the Attorney-General of the Republic has received a complaint from the victims and initiated proceedings in the case 16/.

19. The Special Representative has also learned of the complaint made to the Attorney-General in connection with the death of Mr. Martír Cañas on 11 July 1987 in Santa Cruz, Department of Usulután. The complaint alleges that Mr. Cañas was dragged out of his house by soldiers under the command of a lieutenant and was machine-gunned by them 15 metres from the house. The Attorney-General has initiated proceedings in the case. 17/

20. As has already been widely reported, on 26 October 1987 Mr. Anaya Sanabria, co-ordinator of the Salvadorian Human Rights Commission (non-governmental), was murdered near his home. Some reports attribute the murder to the death squads, a theory which the Special Representative does not rule out. 18/ The Special Representative has received numerous condemnations of the murder, including one from the Government of El Salvador. 19/

20 bis. According to the international press (Washington Post, 9 November 1987), on 8 November 1987 on a road about seven miles to the south of the capital the bodies of two unknown men were discovered with the letters FDR daubed in red on their chests. The international press (Los Angeles Times, 9 November 1987) reports that the murders bore the characteristics of the "death squads".

21. Summary executions or serious injuries attributed to State agencies have thus continued to occur. Of course, they are disturbing, but the Special Representative notes that none of these incidents has been attributed to the security forces and that, in certain cases, the Attorney-General has brought judicial action. The Special Representative also notes that fewer summary executions have been reported than in 1986.

22. Although the Special Representative has no doubt whatsoever that the Constitutional Government of El Salvador is trying to control the activities of the "death squads", he cannot but express deep concern at reports of an alleged resurgence of such activities. 20/ For example, on 15 June 1987, the secret organization "Brigada Maximiliano H. Martínez" made public a communiqué giving 14 Salvadorian university students, whom it called terrorists, 48 hours to leave the country, on pain of execution. The communiqué accused the

Government of weakness and tolerating an increase in the "communist hordes". 21/ The Special Representative notes that Legal Protection holds the death squads responsible for a number of summary executions.

23. The Special Representative has received a great deal of information about summary executions ("ajusticiamientos") attributed to the guerrilla forces; according to Legal Protection, the figures are as follows: 22/

January	6
February	3
March	-
April	4
May	2

According to the Human Rights Commission (governmental), 23/ the figures are higher, but they also include military personnel not on active duty:

January	43
February	20
March	22
April	27
May	29
June	24
July	11

24. For its part, the Salvadorian army has given the Special Representative the following figures: 24/

January	50
February	20
March	34
April	26
May	30
June	20
July	11
August	28

25. The Special Representative has also received specific information regarding guerrilla activities. According to a telex he received, 25/ in April 1987 the FMLN threw an explosive device at the home of Mr. José Julio Martínez in Potrero Canton, Department of Usulután, killing a 13-year-old boy.

26. According to another telex sent to the Special Representative, 26/ on 11 May 1987 the FMLN allegedly abducted and subsequently murdered four civilians in the town of San Agustín (Department of Usulután) for refusing to collaborate with the guerrilla forces.

27. The Special Representative has also received telegrams from the Salvadorian Human Rights Commission (governmental) 27/ which state that, on 20 August 1987, guerrilla forces blew up a section of railway track near San Vicente, killing five workers, wounding another four and causing substantial damage.

27 bis. According to reports from the Salvadorian Human Rights Commission (governmental), on 13 December 1987 heavily-armed members of the FMLN broke into the "Heredad Nueva" estate at Jucuapa (Department of Usulután) and set fire to the warehouse, as a result of which seven workers who were sleeping in it were killed and three others were seriously injured. Farm implements and machinery were also destroyed and mines were planted in various parts of the estate (telex from the Commission, dated 17 December 1987, sent to the Special Representative by the Embassy of El Salvador in Madrid). A representative of the FMLN told the Special Representative that the guerrillas did not know that the workers were sleeping in the warehouse which was set on fire and that they had not intended to kill anyone.

28. The Special Representative would draw attention to the selective and non-exhaustive nature of the individual cases listed here and can only express his concern at the "ajusticiamientos" carried out by the FMLN; such executions are incompatible with generally-accepted national and international norms in the area of human rights. Actually, neither the fact that the victim was allegedly an informer nor any other circumstance can justify such attacks on human life.

28 bis. In connection with the ajusticiamientos, the Special Representative has received a document from the FMLN describing the abduction in San José Guayalal of an army informer, who had also participated in the murder of FMLN members. It is stated in the document that, although this person's responsibility had been proved and there were grounds for applying the severest penalty of popular justice, he was handed over to the local population on condition that he left the area within 48 hours. This was done for humanitarian reasons.

29. The Special Representative also wishes to report the murder of Mrs. Isidra Andrade Centeno, mayor of the town of Cencembra and a member of the Christian Democrat Party, on Sunday, 27 September 1987. According to testimony heard by the Special Representative from one of her sons, a minor, he and another son, also a minor, were present when the murder was committed by four individuals in civilian dress armed with an M-16. The witness was unable to tell the Special Representative the killers' identity or political affiliation, but the Special Representative wishes to place the incident on record, as it constitutes yet another example of the climate of violence and insecurity in El Salvador.

29 bis. The Special Representative expresses his concern at the murder of René Joaquín Cárdenas Vargas, Chief of the San Miguel regional office of the Salvadorian Human Rights Commission (governmental), on 9 December 1987 by unknown persons (telex from the Commission dated 10 December 1987, sent via the Embassy of El Salvador in Madrid). A separate telegram addressed to the Special Representative via the United Nations Centre for Human Rights states that the unknown persons who carried out the murder belonged to the guerrilla movement. The latter point was strenuously denied by an FMLN representative in a conversation with the Special Representative.

2. Arrests, abductions and disappearances

30. The Special Representative has continued to receive information about persons arrested or abducted for political reasons, some of whom are reported

as missing, and wishes to observe, as in previous reports, that the relevant figures must be interpreted with great caution.

31. According to Legal Protection, 28/ the number of complaints of arrests and disappearances is as follows:

	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>
Arrests	8	12	8	6	9
Arrested persons found in official detention centres	3	4	5	3	9
Arrested persons not found at the time the report was prepared	5	8	3	3	-

32. In evaluating those figures, the Special Representative wishes to point out, first, that he does not deny the right of the Salvadorian authorities to arrest and take legal action against those who take up arms against the constitutional order, provided that those activities are in keeping with the international norms by which the country is treaty-bound; and secondly, that the disappearance of some persons is only temporary since in time they are found in official detention centres or at liberty.

33. Nevertheless, the Special Representative has received reports of specific cases of disappearances, including the case of three trade unionists in June 1987. The Special Representative learnt 29/ that the Attorney-General of the Republic had initiated proceedings in the matter and that, in response to the latter's request, the security forces said that the trade unionists were not on any of their premises.

34. In San Salvador, the Special Representative heard the testimony of the mother of Angel Dubón Castro, whose son was arrested on 23 January 1987 in the Colonia de San Felipe in Ylopango by three persons in civilian clothes who said they represented the police. The mother said that she had had no news of her son since.

35. On 22 July 1987, Amnesty International complained of the disappearance of José Alfonso López Ramírez, arrested in the Canton of San José de Las Flores, Department of Santa Ana, by armed individuals in civilian clothes who said they represented the authorities. 30/

36. During his stay in El Salvador, the Special Representative received testimony from Mrs. Rose María López Arévalo, life companion of Jorge Salvador Ubau Barrientos, an employee of the University of El Salvador and general secretary of a university trade union. According to that testimony, on 1 September 1987, at 7.45 a.m., while Mr. Ubau and Mrs. López were walking to work, near the house where they lived, Mr. Ubau was seized by two individuals in civilian clothes who pushed him into a white pick-up truck with a covered cab and opaque windows. Since the incident and despite all the efforts made by Mrs. López and the University of El Salvador, nothing has been heard of Mr. Ubau. The Special Representative asked the security forces about the case and they assured him that Mr. Ubau was not on any of its premises. And since

there were rumours in San Salvador that the disappeared person might be in the detention centres of the Treasury Police, the colonel who heads the security forces invited the Special Representative to pay a visit to the centres.

37. The Special Representative heard talk that Mr. Ubau might have been seized by a rival group of university students; according to other versions, "death squads" were responsible for his disappearance. As things stand in the investigation, the Special Representative cannot make a final judgement in the case.

37 bis. After the drafting of the provisional report and the promulgation of the Amnesty Act, and according to reports from the Salvadorian Human Rights Commission (non-governmental), (El Mundo, San Salvador, 19 November 1987), two women, both former political prisoners, disappeared in November 1987.

38. With regard to abductions attributed to guerrilla organizations, Legal Protection provides the following figures: 31/

	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>
Abductions	5	3	2	3	6
Subsequently released	2	-	1	1	4

39. The figures provided by the Salvadorian Human Rights Commission (governmental) are higher: 32/

January	63
February	36
March	66
April	73
May	116
June	63
July	16

40. The figures for civilians abducted by the guerrillas as provided to the Special Representative by the army are as follows: 33/

January	46
February	46
March	37
April	68
May	89
June	37
July	53
August	66

41. The Special Representative has also received information concerning specific cases of abduction attributed to the guerrilla forces. For example, in January 1987, 34/ the FMLN abducted three mayors and a municipal government official. The mayors were Salomón Sánchez García (of Osicala, Department of Morazán); José Atilio Ascensio (of San Agustín, Department of Usulután) and Nicolas Zelaya (of San Simón, Department of Morazán). According to a telex sent to the Special Representative, 35/ on 22 April 1987 the FMLN abducted

another mayor, Gonzalo Alonso García (of San Cayetano, Department of San Vicente) and the following 9 May, Victorino Martínez Vásquez (mayor of Mercedes La Cerla, Department of La Paz), as well as the commander of the Civil Defence of the town, Carlos Raúl Payes. The local press reports that the FMLN "tried" the mayors and three civilian aides to Mayor José Atilio Ascencio. 36/ According to subsequent information from the Human Rights Commission (governmental), 37/ on 5 September 1987, the FMLN once again abducted the mayor of Berlin, José Ramón Bonilla Rivera, in the presence of the Bishop of Santiago de María and despite the latter's plea that they should not seize him. The mayor was released on 4 October, the day the dialogue between the Government and the FDR-FMLN began.

42. During his stay in El Salvador, the Special Representative had a chance to interview three mayors of the Christian Democrat Party, who had been abducted by the guerrilla forces and subsequently released. The three mayors said that they had not been subjected to ill-treatment, but while they had not received death threats, they had naturally been in a constant state of anxiety.

3. Treatment of political prisoners

43. As of 29 September 1987 there were 476 political prisoners in the Mariona Prison for Men and 16 political prisoners in the Ylopango Prison for Women. This means that the total number of political prisoners was much lower than the figures for 1986: 972 in Mariona and 44 in Ylopango. 38/ The lower figures corroborate the information given to the Special Representative about the political prisoners released between 30 September 1986 and 30 September 1987 by the judges of the First Military Court, 39/ and, in the view of the Special Representative, reflect the fact that the latter were more active. Another reason for the decline in the number of prisoners is the humanitarian exchange on which the Special Representative will comment later in this report in connection with the humanization of the war.

44. With regard to the procedural legislation applicable to political prisoners, Decree No. 618 containing the "law of criminal procedures applicable when constitutional guarantees have been suspended" was promulgated on 11 March 1987. It governs criminal procedures applicable to persons over 16 years of age accused of crimes against the juridical person of the State and certain crimes of international scope classified in the Penal Code. The law provides that the following bodies shall have jurisdiction to enforce the law: the military examining magistrates, the military courts of first instance, the courts martial and the Army General Command. Once a suspect is arrested, the administrative authority shall initiate the appropriate investigation, which must be concluded not later than 15 days thereafter, that fortnight being a period of administrative detention. Before the expiry of that period, the authority which detained the accused must hand him over, together with the evidence, to the military examining magistrate or be held criminally liable. The military judge shall order the opening of proceedings and require that the accused be detained for 72 hours (three days) for purposes of the inquiry. Before the accused can be placed in provisional detention, there must be grounds based on the evidence collected by the time the inquiry ends for deciding that he was a party to the crime. Once the order for provisional detention is issued or upheld, he has the right to defend himself through a lawyer or a law student. The investigation phase shall be completed within a total of 60 days from the time it was initiated and cannot be extended. It should be noted that extrajudicial confessions are

admitted in evidence provided they are compatible with the other evidence collected and provided they are attested to by two witnesses who, in addition to swearing that the statement is true, must state that it was obtained from the accused without physical coercion or intimidation.

45. Decree No. 618 has been criticized by the Commission for the Defence of Human Rights in Central America, 40/ which claims that it is contrary to the international conventions to which El Salvador is a party and incompatible with the Constitution of the Republic. Furthermore, Legal Aid 41/ points out that the new legislation "is very far removed from the standards proclaimed in the international human rights instruments binding on El Salvador". The most internationally significant criticism levelled by those organizations against the new legislation refers to the undue length of the period during which the accused is in the hands of the police authorities, total denial of his right to defend himself during the first stage of the investigation (precisely when torture is alleged and extrajudicial confessions are extracted), and the fact that the extrajudicial confession is admitted in evidence.

46. The Special Representative observes that according to the new law, 15 days can elapse before the accused is brought before a judge, whereas the United Nations Covenant on Civil and Political Rights (art. 9, para. 3) and the American Convention on Human Rights (art. 7, para. 5) provide that he should be brought "promptly" before a judge or other officer exercising judicial power. Commenting on the denial of the human right to defend oneself during the period of administrative detention, the Special Representative points out that, strictly speaking, those instruments (art. 14, para. 3 (b), and art. 8, para. 2 (c), respectively) establish the right of the accused to defend himself "during the proceedings" or "as a judicial guarantee". Nevertheless, that does not preclude him from considering it highly desirable for a detained person to be able to engage the services of counsel as soon as possible. With regard to the admission of the "extrajudicial confession" in evidence, the Special Representative points out that Decree No. 618 requires that the confession should agree with the other evidence collected during the proceedings; that does not seem to be in conflict with the aforementioned international instruments. Lastly, with regard to the possibility that the extrajudicial confession may encourage the practice of torture, the Special Representative emphasizes that Decree No. 618 requires that the confession be made in the presence of two witnesses, it being taken for granted that the witnesses must possess the highest qualifications of independence and impartiality. The Special Representative believes that the legislative situation is better than that prevailing under Decree No. 50, even though there are flaws in Decree No. 618 open to criticism. In any event, the Special Representative points out that the Decree will be in force for only a limited time. Having been extended to 26 December 1987, it now applies only to persons detained prior to 28 February 1987. All other detainees are subject to the laws now in force and in view of the fact that at the present time guarantees have not been suspended, the period of administrative detention under those laws cannot exceed 72 hours.

47. The Special Representative has received information from sources such as Christian Legal Aid, Legal Protection, the Salvadorian Human Rights Commission (governmental), FECMAFAM and others on psychological "torture" during the administrative interrogation of political prisoners.

48. In his personal investigations in El Salvador, the Special Representative found that a number of political prisoners he questioned complained of severe psychological pressure by their interrogators designed to extract confessions during the period of administrative detention. The pressure took the form of lengthy interrogations while they were standing, blindfolded and handcuffed; sometimes of being punched in the ribs or other parts of the body; and sometimes of being subjected to threats to their lives and those of their family members.

49. One of the prisoners questioned, Patricia del Rosario Lemus, added that she was raped one day in April 1987 during the period of administrative detention, and she had lodged a complaint. The Special Representative knew that the medical examiner's reports confirmed that there were indications of cases of rape. Those indications were further confirmed by another reliable source which preferred to remain anonymous.

50. Although the Special Representative took pains to assemble the broadest possible sample of witnesses, he has to admit that the political prisoners he was able to question were too few in number for him to state precisely what percentage were subjected to psychological pressure in 1987, although he is convinced that there are cases where such pressure is undoubtedly exerted. He continues to believe, however, that there is no generalized practice of psychological maltreatment; whether or not a detainee is subjected to such treatment depends on a series of circumstantial factors such as the value to his interrogators of the prisoner's statements, the military situation and other circumstances. The Special Representative adds that the fact that administrative detention now lasts for only 72 hours has not prevented prisoners from being occasionally subjected to severe and concentrated psychological pressure.

51. In this section, mention must be made of the machine-gunning by the security forces in Mariona Prison for Men on 28 August 1987. The incident was recounted to the Special Representative by prisoner José Vladimir Centeno López, who was seriously wounded in the shooting, together with four other prisoners, two political and two common criminals. At the time he gave testimony, Mr. Centeno was in a wheelchair. However, the Government of El Salvador has given the Special Representative a different version of events. 42/ According to this version, the wounds sustained by the political prisoners were inflicted when National Guard forces were obliged to repel an FMLN attack on Mariona Prison, an attack in which the political prisoners themselves collaborated.

51 bis. The Special Representative has received a report from Amnesty International (A/Index: AMR 29/51/87, Distr.: USA.SC, 18 December 1987) to the effect that the political prisoner Gerardo Hernández Torres died as a result of torture while being held on National Police premises in San Salvador last December. The same report refers to the torture of José Guadalupe Domínguez at the same time and place.

4. Criminal justice

52. The Special Representative is compelled to say that there has been no significant progress with regard to judicial action in El Salvador to investigate and punish the many serious criminal human rights violations committed in the past few years. Indeed, so far in 1987, there has been

little progress in the cases commonly known as cases of international relevance - the assassination of Mr. Romero, the case of the Armenia executions and others - although in the "Las Hojas" case, the provisional detention of Colonel González Araujo was ordered but, according to reliable sources, the order was never carried out. The Special Representative reached the conclusion stated above after studying the document submitted, as in previous years, by the Attorney-General of the Republic. 43/

53. It would be unfair not to mention that the new Attorney-General, Mr. Girón Flores, has been pushing forward vigorously in the last few weeks to investigate and punish serious human rights violations committed over the past few years. In a wide-ranging and frank talk with the Special Representative, the Attorney-General outlined his intentions to reopen judicial proceedings in the cases of so-called international relevance and in others. In fact, in the document he submitted, the Special Representative was able to find the first signs that his plan was being implemented: the Office of the Attorney-General is promoting the investigation and prosecution of recent cases and reopening old cases. The Special Representative is hopeful that the constitutional authorities of the Republic of El Salvador and all civil and military authorities will co-operate with the Attorney-General.

54. On 23 November 1987, President Duarte made public a witness's statements concerning the assassination of Monsignor Romero. The statements were those of the driver of a car who had taken the murderer to the scene of the crime and had been made in the competent court three days previously. They incriminated Captain Saravia, who had ordered the driver to take an unknown man carrying a rifle to the church where the Archbishop was celebrating mass; after the assassination, the driver took Captain Saravia to Mr. D'Abuissou's home, where the Captain explained to Mr. D'Abuissou that the crime had been committed as soon as Mr. D'Abuissou had given the necessary order. 44/ And on 24 November, the Salvadorian Minister of Justice announced that Salvadorian Criminal Court Judge No. 4 had requested that the immunity from jurisdiction enjoyed by Mr. D'Abuissou as a member of the Legislative Assembly should be suspended. 45/ For his part, Mr. Abuissou denied the charges made against him.

55. With regard to judicial action to investigate and punish acts of alleged collaboration with the armed opposition, the Special Representative has noted that so far this year there has been some expediting of cases, which has been reflected specifically in a sharp decline in the number of political prisoners. According to a document submitted to the Special Representative by the President of the Supreme Court, 46/ the three military courts of first instance have released 548 political prisoners in the past 12 months. Still, the number of cases pending as of 31 August 1987 for political offences, including acts of terrorism, was 1,006. 47/ The Special Representative presumes that the proposed amnesty, which will be discussed later in this report, will benefit as many people as possible involved in those cases.

56. The Special Representative has also received information on applications for habeas corpus submitted to the Constitutional Section, of the Supreme Court. 48/ The information is as follows:

1. Applications for habeas corpus received by this Section
from 1 January 1987 to 30 September 1987 415
2. Cases resolved from that day to the present 188

These cases may be classified as follows:

(a) Decisions ordering release	36
(b) Decisions upholding detention	64
(c) Filed because of Section Order that restrictions be lifted	1
(d) Filed because the detainees were not prosecuted or there was no deprivation of liberty	6
(e) Filed because the Executing Judge (Juez Ejecutor) was unable to locate the applicant	32
(f) Filed because the applicant was released before the Section's final decision	49
3. Cases pending before the Executing Judges	155
4. Cases awaiting final disposition in the Constitutional Section	21
5. <u>Habeas corpus</u> cases in which the appropriate court has been requested to show cause (in progress)	51

57. The Special Representative has also received information 49/ with regard to amparo actions (for human rights violations) filed with the Constitutional Section of the Supreme Court of Justice between 1 January and 28 September 1987. The information is as follows:

1. Final judgements rendered	23
2. Cases dismissed	12
3. Applications ruled inadmissible and inappropriate	1 477
4. Verification and other interlocutory orders	629
Cases pending on 1 January 1987	140
Case intake from 1 January 1987 to 28 September 1987	1 628
Total number of legal actions up to 28 September 1987	1 768
Cases disposed of up to 28 September 1987	1 512
Cases now being prosecuted	256

58. As in previous years, the Special Representative was informed by the competent authorities of the difficulties impeding the proper functioning of criminal justice in El Salvador. The difficulties were attributed to the following factors: (a) small budget from which to provide adequate remuneration to judges and courts and units of the Attorney-General's office; (b) lack of suitable means for investigating the facts; (c) psychological

pressure on judges, many of whom were murdered or threatened in earlier periods; (d) witnesses' fear of testifying in proceedings with political implications; (e) jurors' fear of serving in such proceedings; (f) criminal legislation and criminal procedures ill-adapted to the present climate of violence; and (g) destruction of courts and judicial archives in conflict areas. The competent authorities added that these factors were not completely new or peculiar to El Salvador but had become more acute in recent years as a result of the civil war and the economic crisis.

59. The Special Representative also wishes to refer to the judicial reform project about which extensive information was provided in previous (E/CN.4/1987/21, paras. 116-119). The Special Representative reiterates his opinion that the project is a serious one, although he would point out once again that its effects will be felt in Salvadorian society only in the medium and long terms since, in the final analysis, cultural patterns and civic attitudes will also have to be changed and these changes cannot occur overnight.

IV. RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICT

60. According to Legal Protection, the figures for victims of indiscriminate attacks by the armed forces on the civilian population about which no presumptions are made are as follows: 50/

January	7
February	3
March	-
April	1
May	-

61. According to the same source, 51/ the figures for victims of violence in military actions, "including both combatants and civilians, it being impossible to establish the appropriate category for lack of identification in situ, but most of whom are presumably civilians", are as follows:

January	34
February	49
March	36
April	84
May	71

62. In evaluating the figures for that period, the Special Representative recalls the considerations he presented in his previous report (E/CN.4/1987/21, paras. 88-92). As the war is between a regular army and guerrilla forces, distinguishing between a non-combatant and a guerrilla fighter can be extremely difficult at times; hence the need to resort to presumption, as Legal Protection has prudently done.

63. Moreover, because it is impossible to conduct investigations in situ, investigation is extremely difficult and extreme caution is advised in evaluating the figures.

64. During his stay in El Salvador, the Special Representative had an opportunity to question a relatively large number of witnesses living in the combat zones. Some of these witnesses spoke of indiscriminate bombings and attacks by the army, but in response to the Special Representative's questions, none of them could explain, even in language corresponding to their cultural level, what sort of attacks and bombings they were. However, in the statements made by 32 witnesses living in communities in those zones, the Special Representative counted six different civilian deaths caused by army military operations, and one case in which a "rocket" killed three other persons. The witnesses also complained of repeated searches of their houses, the detention of civilians who were later released after harsh interrogations, and in some cases the destruction of buildings and crops as a result of the operations. But no one described actions which could properly be characterized as mass killings or indiscriminate attacks.

65. At Army Headquarters, the Special Representative once again raised the question of civilians who were presumed to be victims of the conflict. The Minister of Defence stated that, in accordance with the international

obligations assumed by the Republic of El Salvador and the instructions issued by President Duarte, the war was being conducted in a humanitarian manner, although he recognized that mistakes had been made, but they had been corrected. The Special Representative did in fact hear the testimony of a woman resident in Caserío los Planes, in the Department of Cabañas, who stated that on 1 September 1987 her husband had been killed and three of her children wounded by a bomb; the witness stated that the Air Force admitted that it had made a mistake, had driven the children to the military hospital and promised to get help for them. A woman resident of Quetalpeceque told the Special Representative that her husband and a son were shot by an Army unit; they died in a Red Cross hospital to which the unit had evacuated the wounded, and, according to the witness, the Army admitted that the shots had been fired by mistake.

66. After evaluating the information summarized above and hearing the views of independent and reliable sources which have preferred to remain anonymous, the Special Representative considers that, in general during 1987, the regular army has continued to adhere to patterns of conduct clearly more humanitarian than in the immediate past. These humanitarian patterns have not succeeded in eliminating civilian deaths and injuries, but those deaths and injuries, however disturbing and unjustifiable, are, as they were in 1986, sporadic. Indeed, the Special Representative wishes to emphasize that he has received no information concerning mass killings as a result of indiscriminate attacks by the Salvadorian regular army during 1987.

67. In addition, and again according to an FMLN-FDR communiqué, 52/ on 13 June 1987 Salvadorian army forces captured patients and medical personnel at an FMLN hospital at Caserío Chorro Blanco, San Fernando. The same communiqué reports that four wounded persons and a medical worker were found murdered on 15 June. These events have been reported by a number of human rights organizations operating in El Salvador.

68. With regard to the civilian casualties caused by the military operations of the guerrilla organizations, the Special Representative has continued to receive many disturbing reports of the maiming or killing of civilians caused by mines planted by the guerrillas.

69. The figures supplied by the Salvadorian Human Rights Commission (governmental) on this subject are as follows: 53/

	<u>Civilians wounded</u>	<u>Civilian deaths</u>
January	19	1
February	18	3
March	22	1
April	18	1
May	17	-
June	11	1
July	18	-

70. The figures provided by the army are as follows: 54/

	<u>Civilians maimed</u>	<u>Civilian deaths</u>
January	24	3
February	12	5
March	22	3
April	33	1
May	27	20
June	14	11
July	37	2
August	9	-

71. In his previous report (E/CN.4/1987/21, paras. 105-108), the Special Representative gave the reasons why he thought that most of the civilian deaths and injuries caused by the explosion of contact mines were caused by devices planted by the guerrillas. After his investigation this year, the Special Representative reached the same conclusion, because that is the prevailing opinion among sources regarded as independent and that is the opinion conveyed to him by the individuals maimed by the mines. It is worth noting the opinion of Americas Watch: "... the smaller number of mining deaths in the last half of 1986 is explained, we believe, by a painful kind of public education about mines". 55/ The fact that guerrilla mines are causing a disturbing number of civilian deaths and maimings - although fewer than in 1986 - does not preclude the possibility that in some cases the mines causing deaths or maimings were planted by the army. Indeed, a witness questioned in El Salvador by the Special Representative stated that the death of three peasants was caused by the explosion of a mine planted by the regular army; in response to the Special Representative's questions, the witness explained that the guerrillas had not been in the area in which the explosion occurred.

72. The Special Representative has received reliable reports that children aged 15 and younger have been recruited and are fighting with the guerrilla forces, which is contrary to the norms of international humanitarian law applicable in the Salvadorian conflict.

72 bis. The Salvadorian Human Rights Commission (governmental) reports that at 5.45 p.m. on 19 December 1987 a Salvadorian Social Security Institute ambulance, properly identified by protective emblems, was machine-gunned. This resulted in the death of two nurses and the serious wounding of 10 persons (telex dated 21 December 1987 sent to the Special Representative by the Embassy of El Salvador in Madrid).

V. EFFORTS TO STRENGTHEN RESPECT FOR HUMAN RIGHTS

1. In general

73. In his previous reports the Special Representative indicated that he had found the constitutional authorities of the Republic of El Salvador to be sincerely concerned about respect for human rights. On his latest visit to the country in autumn 1987, the Special Representative found that the authorities remained firmly committed to that policy. In this connection, the Special Representative indicates that all the measures which he described in his previous report (E/CN.4/1987/21) remain in force, but he is not reproducing them so as not to make the present report unnecessarily long. As a notable innovation in 1987, the Special Representative will refer first to the information he has received about the Amnesty Act.

74. On 1 June 1987 the Government submitted two bills to the Assembly: one on amnesty for political prisoners except those involved in more serious crimes such as murder, etc.; and another on the reintegration of armed rebels in democratic life. 56/

75. The commitments entered into by the Government in the so-called "Procedure for the establishment of a firm and lasting peace in Central America", signed at Esquipulas on 7 August 1987 by the Presidents of the five Central American States, have given a new boost to the amnesty bill. The Special Representative was given full information about the bill and the composition of the Amnesty Commission.

76. On 27 October 1987, the Legislative Assembly promulgated the Amnesty Act, 57/ which covers all kinds of political offences, irrespective of the ideological persuasion of the persons committing the offences, with the exception of the persons involved in the murders of Monsignor Romero in 1980 and Mr. Anaya Sanabria in 1987. On this question, however, the Special Representative cannot conceal the concern to which this Act has given rise in certain sectors. Thus Americas Watch has stated that the Esquipulas II Agreement is not enhanced by an Amnesty Act which pardons the murders of non-combatants, whether the perpetrators are associated with the FMLN, the armed forces or the death squads. The Special Representative considers, for his part, that the broad Amnesty Act promulgated may make even stronger and more insuperable the climate of impunity that currently exists in El Salvador. He has learnt that Christian Legal Aid has submitted to the Supreme Court an action of unconstitutionality against the final part of article 2 of the Amnesty Act; this is the provision which grants the benefit to every kind of offence. In the action it is maintained that this provision is contrary not only to the Salvadorian Constitution, but also to the principles of international law which establish the imprescriptibility of war crimes and crimes against humanity, and even contrary to the principles of the Esquipulas II Agreement (Christian Legal Aid "Archbishop Oscar Romero" - action of unconstitutionality against article 2, final part, of the Amnesty Act for the attainment of national reconciliation).

77. Also pursuant to the commitments entered into at Esquipulas, the Government of El Salvador has set up the National Reconciliation Commission, with the responsibility, in keeping with those commitments, "of verifying genuine implementation of the process of national reconciliation and also

unrestricted respect for all the civil and political rights of Central American citizens" guaranteed in the document. The Special Representative has learnt that the Commission has encountered serious difficulties in its operation as a result of the resignation of some of its members.

78. Lastly, the Special Representative stresses the exceptional importance of the Esquipulas commitments for respect for human rights in El Salvador. The signing of the document by the president of the Republic demonstrates once again overriding concern for the consolidation of democracy in the country and the elimination of all types of human rights violations. In this document "the Governments undertake to promote an authentic democratic process that is pluralist and participatory, which entails the promotion of social justice and respect for human rights, the sovereignty and territorial integrity of States and the right of every nation to choose, freely and without outside interference of any kind, its own economic, political and social systems. They shall adopt, in a way that can be verified, measures conducive to the establishment and, where appropriate, improvement, of democratic, representative and pluralistic systems". Lastly, the Special Representative wishes to point out that, according to the Esquipulas commitments, "an International Verification and Follow-up Commission shall be established ... This Commission shall be responsible for verifying and monitoring fulfilment of the commitments set forth in this document".

79. It should also be placed on record that El Salvador acceded to the Inter-American Convention to Prevent and Punish Torture on 16 October 1987, as part of the commitments entered into at Esquipulas. 58/ The Special Representative trusts that the salvadorian authorities will scrupulously comply with this Convention.

80. With regard to th FMLN, it is important to note the establishment of the Secretariat for the Protection and Promotion of Human Rights. On 1 December 1987 the Special Representative was visited in Madrid by Mr. Rolando Orellana, who briefed him fully about the organ in question, one of the objectives of which is to educate FMLN combatants about human rights; to that end, the Secretariat proposes to appoint representatives in the various combat zones.

81. The Special Representative considers it fair to note that in the "joint communiqué of the Salvadorian insurgent forces and the Government of Napoleón Duarte following the Third Dialogue" issued in El Salvador at the end of the first round of talks, the FMLN-FDR reiterated, as did the Government, "respect and support" for the Esquipulas commitments. Furthermore, the Special Representative had been informed of the letter sent by the FMLN-FDR on 14 September 1987 to the President of Costa Rica endorsing and offering constructive support for the Esquipulas document and stating that the agreement "must be responsive to the special characteristics of our conflict if it is to be effectively implemented in El Salvador". The Special Representative takes that to mean that the FMLN-FDR is associating itself with the proposals concerning democratization and respect for human rights set out in the Esquipulas document. Those proposals have been noted above.

2. The humanization of the conflict

82. With regard to the humanization of the armed conflict - a pressing concern since the Special Representative assumed his mandate - the information for 1987 is as follows:

83. On 26 January 1987, a meeting between the representatives of the Government and the FMLN was held in Panama. An agreement was reached whereby in future the evacuation of persons wounded or maimed in war for medical attention would not be made contingent on further prisoner exchanges and negotiations. On 3 February, the Government and the FMLN agreed to the exchange of Colonel Omar Napoleón Avalos, captured by the guerrilla forces on 25 October 1985, for 57 trade union leaders who had been arrested. 59/

84. Furthermore, on 26 May 1987 the FMLN-FDR communicated a document to the Government through Monsignor Rivera y Damas, Archbishop of San Salvador, seeking a solution to the conflict and containing proposals for the humanization of the war and for a comprehensive political dialogue. The document called for negotiation inter alia about suspension of the air war, long-range artillery, contact mines, and a halt to economic sabotage by the FMLN and to the destruction of houses and crops. 60/ According to information made available by General Blandón, the army Chief of Staff, the proposal was under study by the Government and its advisers. 61/ However, the President of the Republic ultimately rejected the proposal because "it lacked a sound foundation", 62/ but a comprehensive political dialogue was later begun between the Government and the FMLN-FDR in which a cease-fire was dealt with as a separate item.

85. Evidence of the Government's intentions to humanize the conflict is the fact that on 28 June 1987 it allowed 98 wounded or maimed members of the guerrilla forces to leave the country from San Salvador airport aboard a plane chartered by the ICRC after mediation by that humanitarian organization and the Salvadorian Catholic Church. 63/ It should be noted that the evacuation took place under the agreement concluded in Panama on 26 January, to which the Special Representative referred earlier. Nevertheless, the Special Representative has read a report in the Salvadorian press (El Mundo, 22 October 1987) that on 22 October 1987 the FMLN accused the Army High Command and the Government of failing to comply with the agreements concluded in Panama on the evacuation of persons wounded or maimed in war.

3. The general political dialogue

86. According to press reports 64/ concerning the general political dialogue between the Government of El Salvador and the FMLN-FDR, on 13 August 1987 President Duarte offered to open talks with the latter in compliance with the Esquipulas II regional agreement. In a statement to the Legislative Assembly on the subject, the President asked the guerrilla forces to lay down their arms, accept an amnesty, and initiate a dialogue in sincerity and good faith. The next day, the FMLN-FDR agreed to open talks, proposing that Monsignor Rivera y Damas, Archbishop of San Salvador, should act as moderator, that the meeting should be held at the highest level at the offices of the Papal Nuncio in San Salvador and that the agenda of the meeting should be to work out actions of national reconciliation which permit popular participation, including the question of an end to hostilities. 65/

87. It is a fact that on 4 and 5 October 1987 the representatives of the Salvadorian Government met with the representatives of the FMLN-FDR in the offices of the Papal Nuncio in San Salvador, with Monsignor Rivera y Damas, Archbishop of San Salvador, acting as moderator. At the end of the meeting, a joint communiqué was issued in which, after twice declaring their common support for the Esquipulas II document, they announced the establishment of two commissions with the task of working out and proposing agreements in the following areas: (1) steps to be taken to achieve a cease-fire; (2) the implementation of other provisions of the Esquipulas II document. The commissions will endeavour to submit their first report on agreements to the moderator prior to 4 November and will hold closed meetings. The preamble of the communiqué states that the meeting took place in an "atmosphere of security and respect, pervaded by an intense desire to find paths leading to peace".

88. During his stay in El Salvador, the Special Representative had the opportunity to speak with members of the delegations of the Government and of the insurgent forces and was impressed by the sincerity of their intentions and their constructive attitudes with respect to a dialogue. Having read the final communiqué, the Special Representative, without ignoring or underestimating the real difficulties of the negotiation process, expressed his deep satisfaction that the participants emphasized areas of agreement and not of disagreement, and managed to impart a tone of credibility and seriousness to the talks. The Special Representative expresses his earnest hope that the dialogue will lead, as early as possible, to agreements inspired by the lofty purposes of the Esquipulas II Agreement.

89. On Saturday, 21 November 1987, Mr. Rubén Zamora, leader of the FDR, returned temporarily to El Salvador; in his own words, the purpose of his visit was "the struggle to build democracy". 66/ On Monday, 23 November Mr. Guillermo Vigo, another FDR leader, also entered the country 67/ and stated that the FMLN-FDR alliance intended to propose the continuation of the dialogue as from 5 December. However, it has not been confirmed that the dialogue has been resumed, a fact which inevitably causes the Special Representative justified concern.

VI. CONCLUSIONS

90. Having evaluated the information in the preceding paragraphs on the human rights situation in El Salvador in 1987, the Special Representative draws the following conclusions:

Economic, social and cultural rights

91. The situation of economic, social and cultural rights has deteriorated as a result of the combined effect of a number of factors, such as the world economic crisis, the persistence of the military conflict, the October 1986 earthquake and the drought.

92. In the opinion of the Special Representative, the systematic attacks which the FMLN has continued to carry out against the country's economic infrastructure seriously threaten the present and future enjoyment by Salvadorian citizens of important economic, social cultural rights.

Summary executions

93. Politically-motivated summary executions of civilians have been carried out by members of the armed forces and Civil Defence. While it is difficult to determine exactly how many have occurred, they are certainly disturbing, but there were fewer than the average for last year. The Attorney-General of the Republic has taken action with regard to some of those executions.

94. The Special Representative notes with satisfaction that no summary executions have been reliably attributed to members of the security forces.

95. There are indications of a definite resurgence of "death squad" activities, and at least one source attributes summary executions and other serious human rights violations to those squads. The Special Representative notes that the Government is fighting the activities of the aforementioned death squads as vigorously as it can, although he does not rule out the possibility that their activities may be tolerated by individual members of the State apparatus.

96. The guerrilla organizations, for their part, have persisted in the widespread and disturbing practice of "ajusticiamientos", a practice which, in the opinion of the Special Representative, is incompatible with generally-recognized human rights standards and is a constituent factor of summary executions.

Abductions and disappearances

97. Disturbing cases of disappearances of leftists, among them, trade unionists, have been reported. While it is difficult to determine the identity of those responsible, the Special Representative does not rule out the possibility that the "death squads" were involved.

98. The guerrilla organizations have also abducted individuals, among others, mayors belonging to the Christian Democrat Party. Most of the mayors have been released and have stated that they were not ill-treated during their abduction.

Treatment of political prisoners

99. The Special Representative has encountered cases of intense psychological pressure, equivalent to inhumane or degrading treatment, during police interrogation of political prisoners. It is difficult to determine how common the practice is, although it is his belief that it is not widespread. The Special Representative likewise draws attention to a case involving the rape of a woman political prisoner during her administrative detention.

Criminal justice

100. Activities of the criminal justice system to investigate and punish serious human rights violations remain highly unsatisfactory, although the Special Representative reports the hopes raised by the first words and deeds of the new Attorney-General of the Republic.

101. The judicial actions brought against individuals presumed guilty of collaborating with the armed opposition have been accelerated, resulting in a marked decline in the number of political prisoners.

Respect for human rights in armed conflict

102. As in 1986, the Salvadorian regular army is generally endeavouring to apply humanitarian standards in the conduct of hostilities, but that does not prevent unjustifiable civilian fatalities from time to time. Although the number of deaths is difficult to establish, it was appreciably lower than in 1985 and previous years. The Special Representative does not rule out the possibility that some of those casualties may have been caused by the explosion of contact mines although, as indicated in the paragraph which follows, the guerrilla organizations, with their mines, were responsible for the highest number of casualties among the non-combatant population.

103. The guerrilla organizations have continued, to an alarming extent, to be responsible for maiming and killing civilians coming into contact with mines they have planted. The Special Representative notes that the number of persons seriously maimed is appreciably higher than the number killed and that the average number of casualties is lower than last year.

Efforts to strengthen respect for human rights

104. As part of the process of democratic normalization, the constitutional authorities of the Republic of El Salvador continue to be firmly committed to a policy of respect for human rights. Further evidence of this can be seen in the signing of the Esquipulas II document and the beginning of its implementation, particularly by holding a dialogue with the FMLN-FDR which, in its initial stages, seemed to the Special Representative to be serious and constructive. At the beginning of 1988, however, the dialogue is deadlocked, which is a source of deep concern.

105. The commitment of the constitutional authorities of El Salvador to human rights is particularly reflected in the gradual decline in the number of attacks on human life. The Special Representative attributes the persistence of such attacks and other violations to the fact that the Government has not yet gained effective control over all agencies of the State apparatus.

106. For its part, the FMLN has established a Secretariat for the Protection and Promotion of Human Rights and, by accepting the basic principles of the Esquipulas II document, has committed itself to respect and promote those rights.

VII. RECOMMENDATIONS

107. Although the Special Representative is hopeful that the dialogue between the Government and the FMLN-FDR begun on 4 October 1987 at the offices of the Papal Nuncio of San Salvador will lead to a complete cease-fire at an early date, he recommends most emphatically to both parties in the conflict strict compliance with the rules established by the 1949 Geneva Conventions on the protection of victims of war and the Additional Protocols of 1977.

108. The Special Representative once again most emphatically urges the Government and all sectors and political forces in El Salvador to take all necessary steps to put a complete end to attempts on the lives, physical and mental integrity and freedom of non-combatants, both in non-combat situations and in or as a result of combat.

109. The Special Representative particularly recommends to the constitutional authorities of the Republic of El Salvador:

(a) The speedy repeal of legislation that is incompatible with international human rights standards which are legally binding on the Republic, and the adoption of laws compatible with those standards, particularly with regard to the prosecution of political offences;

(b) Continued and increased monitoring of police interrogations of political prisoners, in order to ensure strict adherence to the standards referred to in subparagraph (a) above;

(c) The continuation and expansion of social reform, particularly judicial reform, subject to and based on the standards mentioned in subparagraph (a) above.

110. The Special Representative especially recommends to the FMLN:

(a) That it refrain from planting contact mines in a manner incompatible with the provisions of international law which are appreciable to the conflict in El Salvador;

(b) That it refrain from attacking the economic infrastructure of El Salvador.

111. In conclusion, the Special Representative would like to recommend to all the States of the international community, in particular, the richest and most developed countries, that to the extent of their capacity they provide the necessary assistance to alleviate and improve the living conditions of Salvadorian citizens who have been displaced or made refugees by the conflict.

Notes

1/ Government of El Salvador "La situación de los derechos humanos en El Salvador y las libertades fundamentales". Report submitted to the Special Representative of the United Nations Commission on Human Rights, Professor José Antonio Pastor Ridruejo, for the period September 1986 to August 1987.

2/ Wall Street Journal, 14 September 1987.

3/ New York Times, 6 November 1987.

4/ Government of El Salvador "La situación de los derechos humanos en El Salvador y las libertades fundamentales". Report submitted to the Special Representative of the United Nations Commission on Human Rights, Professor José Antonio Pastor Ridruejo, for the period September 1986 to August 1987.

5/ For the correct estimation of damage, the Special Representative recalls that one United States dollar is equivalent to five Salvadorian colones.

6/ Letter from the Ambassador of El Salvador in Madrid, dated 20 May 1987; La Prensa Gráfica, 4 June 1987; Diario Latino, 3 June 1987; El Diario de Hoy, 3 June 1987.

7/ Communication from the Embassy of El Salvador in Madrid to the Special Representative, dated 2 November 1987; El País, 8 December 1987.

8/ AI index: AMR 29/34/87. Distr.: CO/GR + rel. SC.

9/ The Civilian Toll 1986-1987, Ninth Supplement to the Report on Human Rights in El Salvador, 30 August 1987.

10/ Telexes, 9 and 26 July 1987.

11/ Reports Nos. 57 to 61.

12/ Amnesty International (AI) Index: AMR 29/34/87. Distr.: CO/GR + rel. SC, 22 July 1987.

13/ Date stamp: Santa Ana, 10 June 1987.

14/ El Universal, Mexico City, 8 June 1987.

15/ EXTERNAL: for general distribution. AI index: AMR 29/31/87. Distr.: SC/CO/GR., 27 July 1987.

16/ Office of the Attorney-General of the Republic, "Informe sobre Derechos Humanos", September 1987.

17/ Office of the Attorney-General of the Republic, "Informe sobre Derechos Humanos", September 1987.

18/ New York Times, 27 October 1987; El Pais, 27 October 1987.

19/ Letter from the Ambassador of El Salvador in Madrid, dated 7 November 1987.

20/ The Christian Science Monitor, 17 June 1987; The Washington Times, 18 June 1987; Miami Herald, 19 June 1987.

21/ The Special Representative read the communiqué in the Salvadorian newspaper El Mundo of 16 June 1987.

22/ Reports Nos. 57 to 61.

23/ Government of El Salvador, "La situación de los derechos humanos en El Salvador y las libertades fundamentales". Report submitted to the Special Representative of the United Nations Commission on Human Rights, Professor José Antonio Pastor Ridruejo, for the period from September 1986 to August 1987.

24/ Report of the Armed Forces of El Salvador on respect for, and enforcement of the norms of international humanitarian law for the period September 1986 to August 1987.

25/ Letter from the Ambassador of El Salvador in Madrid, dated 10 April 1987.

26/ Letter from the Ambassador of El Salvador in Madrid to the Special Representative, dated 13 May 1987.

27/ Communications contained in letters dated 21 September 1987 from the Embassy of El Salvador in Madrid, made available to the Special Representative.

28/ Reports Nos. 57 to 61.

29/ Office of the Attorney-General of the Republic, "Informe sobre Derechos Humanos", September 1987.

30/ AI index: AMR 29/34/87. Distr.: CO/GR + rel. SC.

31/ Reports Nos. 57 to 61.

32/ Government of El Salvador, "La situación de los derechos humanos en El Salvador y las libertades fundamentales". Report submitted to the Special Representative of the United Nations Commission on Human Rights, Professor José Antonio Pastor Ridruejo, for the period September 1986 to August 1987.

33/ Report of the Armed Forces of El Salvador on respect for, and enforcement of, the norms of international humanitarian law for the period September 1986 to August 1987.

34/ Diario Latino, 5 February 1987.

35/ Letter from the Ambassador of El Salvador in Madrid, dated 30 April 1987.

36/ El Mundo, 13 February 1987; Prensa Gráfica, 7 February 1987.

37/ Telex made available to the Special Representative by letter from the Embassy of El Salvador in Madrid, dated 8 September 1987.

38/ Document E/CN.4/1987/21, paragraph 35.

39/ Statistical report on prisoners released during the period 30 September 1986 to 30 September 1987 in the three military courts of first instance.

40/ Letter to the Special Representative, dated 14 May 1987.

41/ Letter to the Special Representative, dated 8 May 1987.

42/ Observations on the preliminary report to the General Assembly of the United Nations on the situation of human rights in El Salvador, submitted by Professor José Antonio Pastor Ridruejo, Special Representative of the United Nations Commission on Human Rights for El Salvador, November 1987.

43/ Office of the Attorney-General of the Republic, "Informe sobre derechos humanos", September 1987.

44/ New York Times, 24 November 1987.

45/ New York Times, 25 November 1987.

46/ Statistical report on prisoners released during the period 30 September 1986 to 30 September 1987.

47/ Document transmitted by the presiding judge of the Supreme Court to the Special Representative; cases pending under military jurisdiction up to 31 August 1987.

48/ Report on applications for habeas corpus in cases of political prisoners received in the Constitutional Section from 1 January 1987 to 30 September 1987.

49/ Document transmitted by the presiding judge of the Supreme Court.

50/ Reports Nos. 57 to 61.

51/ Reports Nos. 57 to 61.

52/ Chalatenango, 16 June 1987.

53/ Government of El Salvador, "La situación de los derechos humanos en El Salvador y las libertades fundamentales". Report submitted to the Special Representative of the United Nations Commission on Human Rights, Professor José Antonio Pastor Ridruejo, for the period September 1986 to August 1987.

54/ Report of the Armed Forces of El Salvador on respect for, and enforcement of, the norms of international humanitarian law for the period September 1986 to August 1987.

55/ The Civilian Toll 1986-1987. Ninth Supplement to the Report on Human Rights in El Salvador, 30 August 1987.

56/ Telex of 15 June 1987, transmitted to the Special Representative.

57/ Telex from the Government of El Salvador to the Special Representative.

58/ Communication from the Embassy of El Salvador in Madrid to the Special Representative, dated 20 October 1987.

59/ Resumen, Centro documental de la Economía del Trabajo, San Salvador, 1-8 February 1987.

60/ Proposal of the FMLN-FDR alliance for the immediate negotiation of a solution to the conflict, addressed to the President of the Republic and to the High Command of the Armed Forces, made available to the Special Representative.

61/ El Mundo, San Salvador, 12 June 1987.

62/ El Día Mexico City, 13 June 1987.

63/ El Día, Mexico City, 29 June 1987; Jornada, Mexico City, 29 June 1987.

64/ New York Times, 14 and 15 August 1987.

65/ FMLN-FDR, communiqué of 14 August 1987, made available to the Special Representative.

66/ New York Times, 23 November 1987.

67/ New York Times, 24 November 1987.
