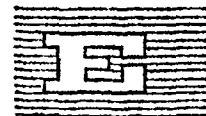


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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND  
FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD,  
WITH PARTICULAR REFERENCE TO COLONIAL AND  
OTHER DEPENDENT COUNTRIES AND TERRITORIES

Study by the Special Envoy of the Commission on  
Human Rights, Professor Héctor Gros Espiell,  
appointed pursuant to resolution 34 (XXXVII) of  
the Commission on Human Rights of 11 March 1981,  
on the human rights situation in Bolivia

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## Human rights situation in Bolivia

### I. Introduction

1. The mandate which the Special Envoy of the Commission on Human Rights is required to discharge, pursuant to Commission resolution 34 (XXXVII), is the consequence of the earlier and repeated consideration of the subject of human rights in Bolivia within various United Nations bodies.

In order to place the question within its proper context, therefore, reference should be made to this background.

2. In the first place it will be recalled that the matter was considered by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights in 1979 and 1980 under the procedure laid down by Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 and as provided for under Sub-Commission resolutions 1 (XXIV) and 2 (XXIV) of 13 and 16 August 1971 (E/CN.4/Sub.2/323; E/CN.4/Sub.2/435 and 459), and decisions 3 (XXXIV), 4 (XXXIV), 5 (XXXIV), 13 (XXXV) and 14 (XXXV) of the Commission on Human Rights.

3. At its thirty-third session, held in August and September 1980, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted resolution 23 (XXXIII) on the human rights situation in Bolivia. In its operative part, the resolution: makes an urgent appeal to the Government of Bolivia to respect the Universal Declaration of Human Rights and to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms in Bolivia, particularly when there are threats to human life and liberty; recommends that the Commission on Human Rights, at its thirty-seventh session, study reported violations of human rights in Bolivia and take urgent measures aimed at the restoration of human rights in that country; requests Governments, specialized agencies, other intergovernmental organizations as well as non-governmental organizations in consultative status to submit to the Secretary-General for transmittal to the Commission on Human Rights recent and reliable information on violations of human rights in Bolivia; requests Mrs. Halima Embarek Warzazi to make an analysis of the information received by the Secretary-General and to present this analysis together with such recommendations as she deems appropriate to the Commission on Human Rights at its thirty-seventh session; and lastly, requests the Secretary-General to bring the present resolution to the attention of the Government of Bolivia.

4. In addition, the General Assembly took action on the same matter independently of those procedures and thereby brought into operation a parallel means of dealing with the matter.

5. At its thirty-fifth session, the General Assembly received a letter dated 5 November 1980 from the Permanent Representative of Bolivia to the United Nations addressed to the Secretary-General. This letter forwarded a note dated 29 October 1980 from General Luis García Meza, President of the Republic of Bolivia, which was distributed among Member States as an official document of the General Assembly as requested by the Government of Bolivia (A/C.3/35/9). The note stated that the Government was ready to set a date on which a delegation from the Commission on Human Rights could visit Bolivia "so as to dispel once and for all the distorted picture which biased informants are seeking to give" of Bolivia.

On 15 December 1980, the General Assembly adopted resolution 35/185. The resolution reads:

"The General Assembly,

"Noting that all Member States have an obligation to respect and promote human rights in accordance with the responsibilities they have undertaken under various international instruments,

"Recalling its resolution 34/175 of 17 December 1979 on effective action against mass and flagrant violations of human rights,

"Having taken cognizance of reports on violations of human rights in Bolivia,

"Taking note with satisfaction of the decision of the Preparatory Committee of the General Assembly of the Organization of American States to include the question of Bolivia in the agenda for its tenth regular session, and of resolution 308 of 25 July 1980 of its Permanent Council,

"Taking note also of the letter of the Bolivian authorities to the Secretary-General, dated 29 October 1980, indicating their readiness to fix a date on which a delegation from the Commission on Human Rights may visit Bolivia,

"1. Urges the Bolivian authorities to ensure respect for human rights and fundamental freedoms, including freedom of expression and trade union rights;

"2. Requests the Commission on Human Rights to accept the invitation by the Bolivian authorities, in order to study the human rights situation at first hand and to review at its thirty-seventh session the human rights situation in Bolivia."

6. At its thirty-seventh session (1981), and in the light of all this background information, the Commission on Human Rights again considered the question of human rights in Bolivia. The report on the Commission's thirty-seventh session (Economic and Social Council, Official Records, 1981, Supplement No. 5 - E/CN.4/1475) summarizes the discussion of the matter in the Commission in paragraphs 268, 269 and 270. Paragraph 268, after referring to document E/CN.4/1441 which contains the analysis prepared by Mrs. Halima Embarek Warzazi pursuant to resolution 23 (XXXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, expresses the view that "in its resolution 23 (XXXIII) the Sub-Commission had exceeded its mandate and that in consequence document E/CN.4/1441, as such, should not be considered".

## II. Background information

7. All these developments therefore provided the context for the consideration of the matter by the Commission on Human Rights at its thirty-seventh session (1981) and, in consequence, for the action taken by the Commission's Special Envoy.

8. At that session the Commission analysed the human rights situation in Bolivia under item 13: "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". For its consideration of the situation in Bolivia, the Commission had before it the following documents:

The analysis of the information received on the human rights situation in Bolivia, prepared by Mrs. Halima Embarek Warzazi, member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, pursuant to resolution 23 (XXXIII) of the Sub-Commission (E/CN.4/1441);

A letter dated 5 November 1980 from the Permanent Representative of Bolivia to the United Nations addressed to the Secretary-General (A/C.3/35/9);

A memorandum on Bolivia, submitted by the World Peace Council, a non-governmental organization in consultative status (E/CN.4/NGO/306).

The remarks made in paragraph 6 of this report regarding the Commission's consideration of the subject should be taken into consideration.

9. At its 1639th meeting, held on 11 March 1981, the Commission adopted by 29 votes to 3, with 8 abstentions, resolution 34 (XXXVII), the operative part of which reads:

"1. Requests its Chairman to appoint, after consultations within the Bureau, a Special Envoy of the Commission whose mandate will be to make a thorough study of the human rights situation in Bolivia, based on such information as he may deem relevant, including such comments and materials as the Bolivian Government may wish to submit;

"2. Requests the Special Envoy of the Commission to discharge his mandate with due regard for discretion and equity and to report on his findings to the Commission at its thirty-eighth session in a manner which would give the Bolivian Government adequate opportunity to comment in writing on the contents of the report;

"3. Invites the Government of Bolivia to extend its co-operation to the Special Envoy of the Commission;

"4. Requests the Secretary-General to give all necessary assistance to the Special Envoy of the Commission;

"5. Decides to consider the report of the Special Envoy of the Commission at its thirty-eighth session."

10. The Economic and Social Council endorsed Commission resolution 34 (XXXVII) on 8 May 1981 (E/DEC/1981/148).

11. With a view to the implementation of the terms of resolution 34 (XXXVII), Ambassador Carlos Calero Rodrigues, Chairman of the Commission on Human Rights, after holding consultations with the Bureau, appointed Mr. Héctor Gros Espiell, former member of the United Nations Commission on Human Rights and Sub-Commission on Prevention of Discrimination and Protection of Minorities, as Special Envoy of the Commission to carry out a detailed study of the human rights situation in Bolivia, as provided for under paragraph 1 of the resolution.

12. Mr. Gros Espiell accepted the appointment as Special Envoy of the Commission in his letter dated 7 April 1981. On 22 May 1981, the Division of Human Rights transmitted Commission resolution 34 (XXXVII) to the Permanent Representative of Bolivia in Geneva and notified him of the appointment of Mr. Héctor Gros Espiell as Special Envoy.

13. By letter dated 23 June 1981, the Special Envoy, through the Division of Human Rights, requested the Government of Bolivia to grant him permission to make a visit to Bolivia and to send to him such materials as it might wish to submit, pursuant to paragraph 1 of resolution 34 (XXXVII). The Special Envoy also stated in his letter that he would like that material to include not only a section concerning developments in so far as they related to the matters raised in document E/CN.4/1441, but also an analysis of the juridical and constitutional situation in Bolivia.

14. The Permanent Representative of Bolivia to the United Nations Office at Geneva forwarded, on 20 July 1981, the reply he had received from his Ministry of Foreign Affairs, to the effect that the Government of Bolivia reiterated its positive attitude to a visit to Bolivia by Professor Gros Espiell. In regard to paragraphs 2 and 3 of resolution 34 (XXXVII) which read: "2. ... in a manner which would give the Bolivian Government adequate opportunity to comment in writing on the contents of the report; 3. Invites the Government of Bolivia to extend its co-operation to the Special Envoy of the Commission", the Government of Bolivia stated that it was preparing a reply to document E/CN.4/1441 which would be accompanied by an appropriate analysis of the juridical and constitutional situation in Bolivia, based on a report of the National Advisory and Legislation Council.

15. In regard to Commission resolution 34 (XXXVII), notes were sent on 24 June 1981 to the following non-governmental organizations in consultative status: Amnesty International, World Council of Churches, Inter-Parliamentary Union, International Association of Democratic Lawyers, International League for Human Rights, International Federation of Human Rights, Women's International Democratic Federation, World Confederation of Labour, International Human Rights Law Group, International Confederation of Free Trade Unions and World Federation of Trade Unions. As provided for under the resolution, these notes requested information concerning the human rights situation in Bolivia. The Division of Human Rights received replies from the International Association of Democratic Lawyers (22 July 1981), the International League for Human Rights (22 July 1981), Amnesty International (31 July 1981) and the Inter-Parliamentary Union (3 July 1981).

16. Also on 24 June 1981 the Inter-American Commission on Human Rights was asked for any information concerning Bolivia which it might wish to provide.

17. Contacts were maintained with the International Labour Office with a view to obtaining any information which that organization might wish to submit.

18. It was likewise decided to take account of the relevant material deriving from the work and report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1435).

19. The Sub-Commission on Prevention of Discrimination and Protection of Minorities decided at its thirty-fourth session, at the closed meeting held on 7 September 1981, to forward to the Special Envoy a copy of the communications that had been received, pursuant to the procedure laid down under Economic and Social Council resolution 1503 (XLVIII). These communications were officially forwarded to the Special Envoy by letter dated 17 September 1981.

20. The sources taken into account in preparing this study, both within the United Nations and within other governmental and non-governmental organizations, are listed in chapter VIII.

21. In discharging his mandate, the Special Envoy visited the Division of Human Rights in Geneva from 16 to 19 June, from 14 to 18 September and from 14 to 18 November 1981.

He made a visit to Bolivia, which is referred to specifically in chapter XIII (paras. 70-119) of this study, from 20 to 27 October 1981.

He returned to the Division of Human Rights on 14 and 15 November 1981 to complete and revise the final text of the study.

22. In accordance with Commission resolution 34 (XXXVII), the study was transmitted to the Government of Bolivia under cover of a note dated 18 November 1981 addressed to Ambassador Agustín Saavedra Weise, Permanent Representative in Geneva, in order to give the Government "adequate opportunity to comment in writing on the contents of the report" (resolution 34 (XXXVII) para. 2).

### III. International legal framework

23. Bolivia is not a party to the International Covenant on Economic, Social and Cultural Rights or the International Covenant on Civil and Political Rights or the Optional Protocol thereto. It is, however, a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Slavery Convention of 1926, the 1953 Protocol amending the Slavery Convention and the supplementary Convention of 1956. It has signed, but not ratified, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Political Rights of Women and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. It has neither signed nor ratified the other human rights instruments adopted by the United Nations.

24. It is a party to the Freedom of Association and Protection of the Right to Organise Convention of 1948 (No. 87) and to the Right to Organise and Collective Bargaining Convention of 1949 (No. 98) of the International Labour Organisation.

25. Within the American regional context, Bolivia has been a party to the American Convention on Human Rights (Pact of San José) of 22 November 1969 since 19 July 1979, when it deposited its instrument of accession. 1/

26. Since 1976, Bolivia has been a party to the Geneva Conventions of 12 August 1949, namely, the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Convention relative to the Treatment of Prisoners of War, and the Convention relative to the Protection of Civilian Persons in Time of War.

However, Bolivia has not yet signed either of the two Additional Protocols to those Conventions, adopted in 1977 at the Diplomatic Conference on Humanitarian Law.

27. Reference to this juridical context is necessary in order to clarify Bolivia's international treaty obligations concerning respect for, and the promotion of, human rights.

28. It is nevertheless essential to bear in mind that such obligations exist as a direct consequence of the Charter of the United Nations and the Universal Declaration of Human Rights.

In this connection, the Special Envoy should point out that this view, which he himself has consistently maintained, 2/ is based on the practice of the United Nations, on the criteria invoked by the International Court of Justice, 3/ and on the most widely accepted current doctrine, 4/ and that, in the case of Bolivia this view is reflected in General Assembly resolution 35/185 on the human rights situation in Bolivia, the first paragraph of which states: "Noting that all Member States have an obligation to respect and promote human rights in accordance with the responsibilities they have undertaken under various international instruments". The second preambular paragraph of the same resolution recalls General Assembly resolution 34/175 of 17 December 1979 on effective action against mass and flagrant violations of human rights. The latter resolution again refers to the "responsibility of the United Nations ... in dealing with situations of mass and flagrant violations of human rights", as expressed in General Assembly resolution 32/130.

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1/ Bolivia is also a party to other inter-American instruments concerned with human rights problems, in particular those relating to territorial and diplomatic asylum, the rights and duties of States in the event of civil war and the political rights of women (Inter-American Commission on Human Rights, Report on the human rights situation in Bolivia, 1981, chap. I (F), p. 20).

2/ H. Gros Espiell, "The evolving concept of human rights; human rights: thirty years after the Universal Declaration", edited by B.G. Ramcharan, Nijhoff, The Hague, 1979, p. 45, para. 5.

3/ International Court of Justice, Advisory opinion of 21 June 1971, Legal consequences for States of the continued presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), p. 57, para. 131.

4/ This doctrine is set out in note 11, page 45, of my aforementioned study. See also the review of the question in J. Humphrey, "The Universal Declaration of Human Rights: its history, impact and juridical character; human rights", pp. 28-37. In Bolivian doctrine: Eduardo Arce Quiroga, "Proceso electoral, seguridad nacional y seguridad colectiva", Presencia, La Paz, 8 June 1980.



#### IV. Internal juridical framework

29. At the time of the events of 17 July 1980, the Political Constitution of the Bolivian State, adopted on 3 February 1967, was in force.

The text of the Constitution, part I of which is entitled "The individual as a member of the State", contains a title I relating to "Fundamental rights and duties of the individual" and a title II concerning the "Guarantees of the individual". The relevant articles of the Constitution read as follows:

"Article 5. No type of servitude shall be recognized and no-one may be compelled to render personal services without his full consent and without due compensation. Personal services may be demanded only when so provided for by law.

"Article 6. Every individual shall have legal personality and capacity in accordance with the law, and shall enjoy the rights, freedoms and guarantees recognized in this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin, or economic, social or other status.

"The dignity and freedom of the individual shall be inviolable. It shall be the primary duty of the State to respect and protect such dignity and freedom.

"Article 7. Every person shall have the following fundamental rights, in accordance with the laws governing their exercise:

- (a) The right to life, health and security;
- (b) The right to publish his ideas and opinions freely, by any means of dissemination;
- (c) The right to assemble and to enter into associations for lawful purposes;
- (d) The right to work and engage in commerce, industry or any other lawful activity, under conditions which do not prejudice the welfare of the community;
- (e) The right to receive instruction and acquire learning;
- (f) The right to teach under the supervision of the State;
- (g) The right to enter, remain in, travel through and leave the national territory;
- (h) The right to draw up petitions individually or collectively;
- (i) The right to own private property, individually and collectively, provided that it serves a social purpose;
- (j) The right to fair remuneration for his labour which ensures for himself and his family a mode of living worthy of a human being;

(k) The right to social security, as specified in this Constitution and the laws.

"Article 9. No person may be arrested, detained or imprisoned except in the cases and in accordance with the procedures established by law. In order that the relevant order may be executed, it shall be issued by a competent authority and be served in writing.

"No person may be held incommunicado except in cases of exceptional gravity; in no circumstances may a person be held for more than 24 hours.

"Article 12. Any form of torture, coercion, extortion or other physical or moral aggression shall be prohibited, on pain of immediate dismissal and without prejudice to the penalties to which any persons carrying out, ordering, instigating or condoning such practices may be liable.

"Article 13. Liability for attempts to violate personal security shall be incurred by the immediate perpetrators of such attempts. The fact that the attempts were perpetrated on the orders of a superior authority may not exonerate the perpetrators from liability.

"Article 14. No person may be tried by special commissions or by judges other than those designated prior to the perpetration of the act which gave rise to the proceedings, or be compelled to testify in criminal proceedings against himself or against blood relations.

"Article 16. A person accused of an offence shall be presumed innocent until his guilt has been proved.

"The right to be defended in court shall be inviolable.

"Persons arrested shall, from the time of their arrest or detention, be entitled to the assistance of a legal counsel.

"No person may be sentenced to a penalty unless his case has first been heard and tried in a court of law. No person shall suffer a penalty, unless it has been imposed as an executable judgement by a competent authority. The sentence shall be based on legislation existing prior to the proceedings; legislation enacted subsequently may be applied only when it is more favourable to the accused.

"Article 17. The penalties of infamy and civil death shall not exist. In cases of murder, parricide and treason, the penalty shall be a term of 30 years imprisonment, without reprieve. Treason means complicity with the enemy during a state of foreign war.

"Article 18. Any person who deems himself to have been unjustly or unlawfully prosecuted, arrested, tried or imprisoned may appeal in person or through another person acting on his behalf, with or without power of attorney, to the superior court of the district or to any district judge as he sees fit, to request that the legal formalities be observed. In places where there is no district judge, the request may be made to an examining magistrate.

"The judicial authority shall immediately set the date and time for a public hearing and instruct the appellant to be brought before him. The relevant summons shall be served in person or in writing and shall require the person summoned to attend the office of the authority to which the appeal has been made. It shall be obeyed without reservation or excuse by the aforesaid authority and by the officials in charge of the prisons or places of detention in question, who, once the summons has been served, may not refuse to comply with it on the grounds that they have orders from a superior authority.

"In no circumstances may the hearing be suspended. Once acquainted with the facts, the judicial authority shall pronounce judgement at the hearing itself, ordering the release of the appellant, ensuring that any legal errors are rectified or placing the appellant at the disposal of the competent judge. The decision shall be carried out immediately and shall automatically be transmitted for review to Supreme Court of Justice within 24 hours, although execution of the decision shall not be suspended thereby.

"If, after attending the hearing, the person summoned departs before hearing the decision, the decision shall be duly made known in the courts. If he does not appear, the hearing shall take place in his absence and, after the statement of the appellant or his representative has been heard, judgement shall be pronounced.

"Public officials or private individuals who refuse to comply with judicial decisions in cases covered by this article shall, on the orders of the authority hearing the habeas corpus action, be remitted for trial to a criminal court on a charge of attempting to violate constitutional guarantees.

"Any judicial authority failing to act in accordance with the provisions of this article shall be liable to the penalty provided for in article 127, paragraph 12, of this Constitution.

"Article 19. In addition to the remedy of habeas corpus, to which reference is made in the preceding article, the remedy of amparo shall be available in the case of unlawful acts or improper omissions by officials or individuals which restrict, suppress or threaten to restrict the rights and guarantees of the individual as recognized under the Constitution and by law.

"The application for amparo shall be filed by the person who considers that he has suffered damage or by another person, duly empowered and acting on his behalf, with the superior courts in the departmental capitals or with the district judges in the provinces, such applications being dealt with by way of summary proceedings. The Public Prosecutor's Department may likewise apply for this remedy of its own motion where the person concerned does not do so or is unable to do so.

"The defendant authority or person shall be summoned in the manner provided for under the previous article so that such authority or person may provide information and, where appropriate, explain the action taken in regard to the act that is the subject of the complaint within a maximum period of 48 hours.

"The previous determinations of the court or judge and the final decision granting amparo shall be enforced immediately and without observation; in the event of any opposition, the provisions of the preceding article shall apply.

"Article 20. Private correspondence and papers shall be inviolable; they may be seized only in the cases specified by law and pursuant to a written and substantiated order from a competent authority. Documents that have been violated or misappropriated shall have no legal effect.

"Neither the public authorities nor any person or organization may intercept private conversations or communications by means of equipment which controls or centralizes them.

"Article 21. Every home shall be an inviolable refuge; at night it may be entered only with the consent of the person who dwells therein and during the daytime the threshold shall be crossed only on a substantiated warrant in writing from a competent authority, save in cases of flagrante delicto.

"Article 22. Private property shall be guaranteed, always provided that the use that is made of it is not prejudicial to the interest of the community.

"Expropriation shall be effected on the ground of public utility or when the property does not fulfil a social function, as authorized by law and against equitable compensation.

"Article 159. The free association of employers shall be guaranteed. Trade unionism shall be recognized and guaranteed as a means for the defence, representation, assistance, education and culture of the workers, together with trade-union privileges as a guarantee for trade-union leaders that, in the activities which they carry out in the specific performance of their mandate, they cannot be either prosecuted or imprisoned.

"The right to strike shall likewise be laid down as the exercise of the legal faculty of the workers to suspend their labour in order to defend their rights, subject to compliance with the legal requirements.

"Article 222. Citizens shall have the right to organize themselves into political parties in accordance with this Constitution and the Electoral Act.

30. Pursuant to Decree-Law No. 17,607 (art. 1) of 17 September 1980 and Decree-Law No. 18,564 (art. 6) of 25 August 1981, the Bolivian Constitution of 1967 was maintained in force in so far as it did not conflict with the acts proceeding from the Governments that assumed power on 17 July 1980 and 4 August 1981 respectively.

31. A series of legal instruments, which have been enacted since 17 July 1980, limit, restrict or qualify the existence or exercise of the rights set forth in the Constitution. These are:

- (1) Government Statute concerning the Armed Forces: armed forces decision of 18 July 1980, whereby the Board of Commanders-in-Chief appointed itself supreme organ of the Bolivian State and vested itself with the powers of the legislature;
- (2) Decree of Good Government of 18 July 1980 providing for the "curfew";
- (3) Supreme Decree No. 17,530 of 19 July 1980 ordering the suspension of school activities until 4 August 1980;
- (4) Supreme Decree No. 17,531 of 21 July 1980 ordering the suspension of the labour and employers' organizations and the restructuring of the Bolivian Trade-Union Movement;
- (5) Supreme Decree No. 17,536 of 30 July 1980 establishing the State Patriotic Service;
- (6) Supreme Decree No. 17,545 of 12 August 1980 providing for the appointment of labour co-ordinators to carry out certain trade-union functions pending the establishment of a new trade-union organization;
- (7) Supreme Decree No. 17,554 of 18 August 1980 ordering the suspension of university activities;
- (8) Decree-Law No. 17,607 of 17 September 1980 maintaining in force the Constitution of 2 February 1967 and ratifying as laws of the Republic the Civil Code, the Code of Civil Procedure, the Penal Code, the Code of Penal Procedure, the Family Code, the Juveniles' Code, the Commercial Code, the Judicial Organization Act and all such legal and administrative provisions as are not expressly amended or repealed;
- (9) Decree-Law No. 17,603 of 17 September 1980 establishing the National Advisory and Legislation Commission which replaces, in part, the Legislature. Its members are appointed by the President of the Republic in consultation with the Board of Commanders-in-Chief;
- (10) Decree-Law No. 17,612 of 17 September 1980 providing for replacement of the Judiciary throughout the Republic and appointing new members of the Supreme Court, magistrates of the Superior District Courts, and district and examining magistrates in the departmental capitals for civil, criminal and family matters;
- (11) Transitional University Statute: Supreme Decree No. 18,187 of 13 April 1981;
- (12) Reform of the Government Statute concerning the Armed Forces, decision of the Board of Commanders-in-Chief of 17 July 1981, which reaffirms that the Board of Commanders-in-Chief is the supreme organ of the State and vests in it the functions of the Legislature. It should be noted that, under the Statute, the President of the Republic may, with the consent of the Commanders-in-Chief, appoint the judges of the Supreme Court of Justice, the Government Attorney and the Controller General of the Republic.
- (13) Decree dated 4 August 1981 under which the armed forces assume as a collegiate body the supreme command of the nation.

(14) Decree-Law No. 18,564 of 25 August 1981, article 1 of which provides: "As from 4 August 1981 the Board of Commanders-in-Chief of the Armed Forces, acting as the Government, shall exercise the supreme command of the nation and assume political and administrative responsibility for the country".

(15) Armed forces decision dated 3 September 1981 appointing Major-General Celso Torrelío Villa President of the Republic.

(16) Decree for the Proper Administration of the Prefecture dated 9 September 1981, reducing the "curfew" to the period from 1 a.m. to 5 a.m.

32. These legal instruments, which are the product of the successive Governments or the authorities devolving from them which assumed power as from 17 July 1980, outside the scope of the provisions and procedures of the Constitution in force at that time, and the legal acts promulgated and for the action taken by the régime set up on 17 July 1981 have given rise to the violation, weakening or limitation of the majority of "civil and political" rights guaranteed by the Universal Declaration of Human Rights and the 1967 Constitution of Bolivia.

#### V. Classification of alleged violations

33. The main violations that have been alleged in the various communications, documents and information that have been received will be classified by the Special Envoy in accordance with the list of human rights set forth in the Universal Declaration. Where appropriate, within this classification, mention will be made of other relevant international provisions.

#### VI. Purpose of the study, consideration of political, economic, social and cultural realities, and ways of discharging the mandate of the Special Envoy

34. The Special Envoy wishes to state expressly, as he mentioned to the Director of the Division of Human Rights in his letter of 7 April 1981 and as can be seen from the letter sent by the Director to the Permanent Representative of Bolivia on 23 June 1981, that he wishes his study, which will be motivated by the essential purpose of upholding and protecting human rights, to take account of and give proper consideration to the political, economic, social and cultural realities of Bolivia, and, as required under paragraph 2 of resolution 34 (XXXVII), to be the result of a mandate discharged with "discretion and equity".

#### VII. Sources

35. In preparing this study, account has been taken not only of the documentation compiled by the Special Envoy, as is apparent from what has been said in paragraphs 14-17, but also of the direct observations noted during his visit to Bolivia.

#### VIII. Other studies and reports on the human rights situation in Bolivia

36. This study is not the only one which has been or is being prepared by an intergovernmental organization on the human rights situation in Bolivia. Particular

reference should be made to the proceedings being conducted by the International Labour Office 5/ and to the report of the Inter-American Commission on Human Rights of 13 October 1981.6/ This report was approved by the Commission in October 1981

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5/ International Labour Office. Committee on Freedom of Association. GB.215/9/6. 215th session, 3-6 March 1981; report of the representative of the Director-General on the mission to Bolivia, 4-9 October 1981. GB/LS/LXXXV. November 1980.

6/ Inter-American Commission on Human Rights, fifty-third session, OEA/SER.L/V/II.53, document 6, 2nd meeting, 13 October 1981, the conclusions of which (pp. 113-114) were:

1. In the light of the background, facts and considerations mentioned in the present report, the Inter-American Commission on Human Rights has reached the conclusion that the Government of Bolivia, which assumed power on 17 July 1980, has committed serious violations of human rights embodied in the American Convention on Human Rights. These violations affect:

(a) The right to life, since authorities belonging or linked to government security bodies have unlawfully caused the death of leaders of the opposition to the new régime and of an indeterminate number of other persons;

(b) The right to personal security and integrity, through the subjection of detainees to unlawful coercion, both physical and psychological, and the use of torture in the weeks following the military revolt;

(c) The right to personal liberty, since, in view of the failure to fulfil constitutional and legal requirements such as warrants from competent authorities and the statement of charges, hundreds of persons have been detained without trial, although some of them have now been released. In addition, the remedies of habeas corpus and amparo, judicial guarantees of the highest importance for the protection of human rights, have been ineffective.

(d) Political rights, which have been suspended. In the opinion of the Commission, the process of a return to democracy begun in 1977 and all the efforts of the Bolivian people to that end have been frustrated by the revolt of 17 July 1980, which has disregarded the will of the people and has been the source of further violations of human rights.

(e) Freedom of movement and residence, since most of the persons detained were forced to go into exile and forbidden to return to Bolivia, or threatened if they did return to Bolivian territory. Other citizens who chose to remain in Bolivia were subjected to restricted residence in specific geographical areas and to special surveillance by the authorities.

(f) The right of assembly and freedom of association and trade-union rights, which have been seriously limited and restricted through government action; the situation is deteriorating as a result of the enactment of provisions which discriminate against groups opposed to the régime.

and sent to the General Assembly of the Organization of American States (OAS), which considered it at its meeting in Saint Lucia in December 1981. The reference to the proceedings taking place in the regional sphere is particularly important in this case because United Nations General Assembly resolution 35/185 explicitly mentions these proceedings when "taking note with satisfaction of the decision of the Preparatory Committee of the General Assembly of the Organization of American States to include the question of Bolivia in the agenda for its tenth regular session, and of resolution 308 of 25 July 1980 of its Permanent Council".<sup>7/</sup>

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(g) Freedom of thought and expression, the exercise of which is not officially limited; there is, however, a considerable degree of self-censorship caused by the intimidation to which a number of journalists have been subjected, the restriction of official propaganda and raids on the headquarters of some communications media.

2. The Catholic Church and the Permanent Assembly for Human Rights have encountered serious obstacles in carrying out their functions and the Church in particular has been subjected to systematic persecution; this has taken the form of detention, ill-treatment, expulsion and restricted residence for ministers of different religious denominations.

3. The Commission notes that the Government of Bolivia has suspended political rights which, under the American Convention on Human Rights, may not be suspended. Similarly, it has suspended other rights without complying with the substantive limitations and requirements as laid down in article 27 of the Pact of San José.

4. The Commission has noted that the Board of Commanders-in-Chief, the supreme organ of the military Government, has appointed General Celso Torrelio Villa as the new President of the nation, and has also noted the statements made by him when he swore in the ministerial cabinet. The Commission trusts that this change will signify a liberalization of institutions guaranteeing in the near future the holding of free and general elections, with the full participation of the various political parties, thus enabling the Bolivian people to enjoy a representative democratic régime based on the free expression of the will of the people.

<sup>7/</sup> E/CN.4/1453, which reproduces OAS document CP/doc. 1110/80; the following resolution and appears on page 29 of this document:

THE PERMANENT COUNCIL OF THE ORGANIZATION OF AMERICAN STATES,  
CONSIDERING:

The principles established in the Charter of the Organization, especially those expressed in article 3, paragraphs (d) and (j);

The American Declaration of the Rights and Duties of Man; and

The Declaration of La Paz, adopted by consensus at the ninth regular session of the General Assembly; and

BEARING IN MIND:

That each State has the right to develop its cultural, political and economic life freely and spontaneously, and that in this free development, the State shall respect the rights of the individual and the principles of universal morality, as set forth in article 16 of the Charter of the Organization;



The Inter-Parliamentary Union has also considered the matter of human rights in Bolivia. At its 128th session, held in Manila from 20 to 25 April 1981, the Inter-Parliamentary Council adopted two resolutions: one on 23 April, referring to the situation of Bolivian parliamentarians,<sup>8/</sup> and the other on 25 April, in which it considered:

"That, following the coup d'Etat of 17 July 1980, a period of systematic violations of human rights began,

That, as has been denounced by the Catholic Church of Bolivia and various international humanitarian organizations, military violence against the civilian population has not abated,

That there is no official information on the number of dead or missing persons, nor a list of political prisoners, and that the number of Bolivians forced into exile is increasing daily,

That constitutional freedoms and guarantees are not respected and that political and labour activities are prohibited".<sup>9/</sup>

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That this precept has been violated by the military coup that has taken place in Bolivia in disregard of the elections recently held in that country; and

With strict respect for the principle of non-intervention,

RESOLVES:

1. To deplore the military coup which indefinitely suspends the process of democratic institutionalization that was culminating in the sister Republic of Bolivia.

2. To express its deepest concern over the loss of human life and the serious violations of the human rights of the Bolivian people, as a direct consequence of the coup d'état.

3. To request that, in the shortest time possible, the Inter-American Commission on Human Rights examine the situation of human rights in Bolivia.

4. To express its solidarity with the Bolivian people and its confidence that they will find the most suitable means to maintain the viability of their democratic institutions and their freedoms.

<sup>8/</sup> Results of the 1981 spring session of the Inter-Parliamentary Union, Manila (Philippines), 20-25 April 1981, pp. 53 - 55.

<sup>9/</sup> Idem, p. 25.

37. Apart from the studies, reports and resolutions stemming from the work of intergovernmental organizations and bodies, it should be borne in mind that the human rights situation in Bolivia has been the subject of analyses by several non-governmental organizations, among which mention should be made of the following:<sup>10/</sup>

- (1) Inter-Church Committee on Human Rights in Latin America;
- (2) Amnesty International;
- (3) International League for Human Rights;
- (4) International Association of Democratic Lawyers;
- (5) International Commission of Jurists.

38. The United States Department of State submitted to the Senate Foreign Relations Committee and to the Foreign Affairs Committee of the House of Representatives, a report dated 2 February 1981 on human rights practices in Bolivia <sup>11/</sup>which the Special Envoy also took into account.

39. In the present study, the observations and conclusions of these documents, will be considered in so far as they are relevant.

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<sup>10/</sup> Document submitted at the thirty-seventh session of the Commission on Human Rights, 22 January 1981. Memorandum from Amnesty International to the President of the Republic of Bolivia, General Garcia Meza, February 1981, Doc. AMR 18/05/81S; Violation of human rights in Bolivia from January to July 1981. The human rights situation in Bolivia. Investigatory mission to Bolivia (11 to 16 August 1980). Bulletin of the Centre for the Independence of the Judiciary No. 6 - "Bolivia", p. 7. International Commission of Jurists, "For the rule of law", La Revista No. 25, December 1980, pp. 2-10.

<sup>11/</sup> Country reports on human rights practices, 2 February 1981, pp. 348-357.

IX. Period covered by the study

40. The present study relates to the human rights situation in Bolivia from 17 July 1980 up to the time when these lines were drafted, following the visit to the country (27 October 1981).

X. Political developments between 17 July 1980 and 27 October 1981

41. With the sole purpose of describing the political and institutional setting within which the situation has developed, a summary of the main developments is given below.

42. It should first of all be pointed out that, in a letter dated 23 June 1981, the Permanent Representative of Bolivia was asked for an analysis of the legal and institutional situation of his country subsequent to 17 July 1980 and that in his letter of 20 July 1981 Ambassador Saavedra Weise, on behalf of his Government, stated that this analysis was being prepared by the National Advisory and Legislation Council and would be transmitted to the Special Envoy of the Commission. As of 27 October 1981 this document had not been received. On 16 October 1981, however, under cover of a note from the Permanent Mission of Bolivia, the following documents were sent to the Special Envoy:

(a) Government Statute concerning the Armed Forces. Armed forces decision of 18 July 1980;

(b) Decree of Good Government of 18 July 1980 providing for the curfew;

(c) Supreme Decree No. 17,530 of 19 July 1980 ordering the suspension of school activities until 4 August 1980;

(d) Supreme Decree No. 17,531 of 19 July 1980 ordering the suspension of the labour and employers' organizations;

(e) Supreme Decree No. 17,545 of 12 August 1980 providing for the appointment of labour co-ordinators;

(f) Supreme Decree No. 17,554 of 18 August 1980 ordering the suspension of university activities;

(g) Decree-Law No. 17,607 of 17 September 1980 maintaining in force the Constitution of 2 February 1967, the Code and other provisions;

(h) Reform of the Government Statute concerning the Armed Forces: decision of the Board of Commanders-in-Chief of 17 July 1981;

(i) Decree-Law No. 18,564 of 25 August 1981, providing that the Board of Commanders-in-Chief of the armed forces, acting as the Government, shall exercise supreme command of the nation as from 4 August 1981;

(j) Decree for the Proper Administration of the Departmental Prefecture of 9 September 1981, shortening the curfew to the period from 1 a.m. to 5 a.m.

43. In addition, during the visit to Bolivia, this documentation was supplemented by the following text: Supreme Decree No. 13,187, "Provisional Statute of the University of Bolivia" of 13 April 1981.

44. Mrs. Lydia Gueiler, interim President of the Republic of Bolivia, convened elections for 29 June 1980; these were duly held in conformity with the constitutional provisions in force. The People's Democratic Union obtained 38 per cent of the votes cast and its candidate for the presidency, Mr. Hernán Siles Suazo, had apparently secured the support of the other political parties for his appointment as President of the Republic by the Congress of the Republic, in accordance with the provisions of article 90 of the Constitution. He was to be formally invested as President by Congress on 6 August 1980, but this process was interrupted by military action which broke out on 17 July 1980. 12/ The de facto Government claimed that there had been electoral fraud, chaos and disorder, and corrupt practices on the part of the political parties and trade unions. Mrs. Lydia Gueiler resigned from the Government in the presence of the chiefs of the armed forces. She herself and other sources have alleged that she took this step as a result of violence and pressure.

45. The Board of Commanders-in-Chief of the Armed Forces, composed of the Commanders-in-Chief of the Army (General Luis García Iñeza Tejada), the Air Force (Air Marshal Waldo Bernal Pereira) and the Navy (Admiral Ramiro Terrazas Rodríguez), assumed power on 18 July 1980. This Board of Commanders-in-Chief appointed itself the "Supreme organ of the Bolivian State and leader of the process of national reconstruction". The constitutionally designated Executive and Legislative Powers were suspended, and the members of the Supreme Court of Justice would thenceforth be appointed by the military Government. 13/

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12/ E/CN.4/1441, para. 14.

13/ Government Statute of 18 July 1980. With regard to the situation of the Judiciary, the provisions of Decree-Law No. 17,612 of 17 September 1980 must be taken into account (see para. 31). Attention has been drawn to, and the Special Envoy cannot omit this information, the importance of the so-called "total national security" doctrine or system in the preparation and execution of the developments of 17 July 1980. Mr. Eduardo Arze Quiroga, the well-known Bolivian expert in international affairs, said in an article published in the La Paz newspaper Presencia on 3 June 1980, entitled: "Electoral process, national security and collective security": "An acting Bolivian military commander has enthusiastically announced the dawn of a 'completely new democracy' for Bolivia, a theoretical outline of which has been given the name 'total national security system'... From this extremely brief and, of course, incomplete survey of national security as it exists in South America, we can see how incompatible it is with the policy of universal respect for human rights and fundamental freedoms, established as a solemn international commitment in Article 55 (c) of the San Francisco Charter and confirmed in Article 62, paragraph 2, of the same instrument."

46. On 18 July 1980, the Board of Commanders-in-Chief appointed General Luis García Meza Tejada President of the Republic.

47. The following year, on the anniversary of the armed forces' assumption of power, the Board of Commanders-in-Chief, composed of General Celso Torrelio of the Army, General Waldo Bernal of the Air Force and Rear-Admiral Oscar Pammo of the Navy, ratified the appointment of General Luis García Meza as President of Bolivia, declared itself the "Legislative Power", and confirmed that it was the "supreme organ of the Bolivian State and leader of the process of national reconstruction". <sup>14/</sup> According to a statement <sup>15/</sup> made by General García Meza during this second period, the expiry or duration of which was not specified, the political parties and trade unions would resume activities at a future unspecified date.

48. During the Government of General Luis García Meza and the military junta which succeeded him, the successive Ministers of the Interior were: Colonel Luis Arze Gómez, General Celso Torrelio Villa and Colonel Rolando Canido.

49. On 3 August 1981, General Alberto Natusch Busch and General Lucio Añez Rivera initiated a revolt based in the city of Santa Cruz and demanded the resignation of General García Meza. General García Meza resigned that same night.

50. The Board of Commanders-in-Chief of the Armed Forces, as mentioned in paragraph 45 of this report, immediately assumed responsibility, as a collegiate body, for the government of Bolivia. <sup>16/</sup>

51. Colonel Rolando Canido, Minister of the Interior, announced on 13 August 1981 that "28 political prisoners who were to be expelled from the country will be released as a sign of the Government's open-handed policy". According to articles in a number of periodicals, the Government of the Board of Commanders-in-Chief intended to release all political prisoners and reorganize the security services. On the other hand, Colonel Rolando Canido repeated that the trade unions would continue to be suspended until institutions were normalized.

52. On 4 September 1981 the Board designated one of its members, Colonel Celso Torrelio Villa, as President of the Republic of Bolivia.

General Torrelio appointed Mr. M. Gonzalo Romero, Vice-President of the Bolivian Socialist Falange (FSP), Minister for Foreign Affairs and Colonel Rómulo Mercado Garnica Minister of the Interior.

53. In his inaugural speech of 6 September, General Torrelio assured Bolivians that he would respect human and constitutional rights and would carry forward a Government with "the law in his hand", although he explained that measures such as the curfew, imposed on 17 July 1980, would continue in force and that the political and trade union organizations would continue to be suspended.

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<sup>14/</sup> Reform of the Government Statute concerning the Armed Forces: decision of the Board of Commanders-in-Chief of 17 July 1981, articles 1 and 6.

<sup>15/</sup> Statement made by General García Meza on 17 July 1981.

<sup>16/</sup> Decree-Law 18,564, art. 1, of 25 August 1981.

54. Mr. Gonzalo Romero-Alvarez García, Minister for Foreign Affairs and Worship, made a statement during the general debate at the thirty-sixth session of the United Nations General Assembly on 9 October 1981. In that statement he said 17/: "Both public freedom and fundamental human rights are respected in Bolivia, where there are now no political prisoners. Soon a Special Envoy from the United Nations will visit our country at the spontaneous request of our Government to confirm that we have a climate of freedom, peace and security in which Bolivians can carry out their activities. I wish to announce on behalf of my Government that within three years institutional democracy will be re-established in our country".

55. General Torrelío, President of the Republic, delivered a message to the country on 24 October 1981 announcing the Programme of Government of the Armed Forces. In this message he reaffirmed that:

"The Government will respect the constitutional rights of each and every inhabitant of Bolivia who, in exercising those rights, respects his duties towards the State, society, the family and other citizens". 18/

56. The Programme of Government of the Armed Forces of the Nation, published on 25 October 1981, in part II, "Foreign policy," paragraph 3, enunciates the aim of "Respecting and honouring all treaties, conventions and international agreements entered into by the Republic". Part III, "Domestic policy," paragraph 1, declares the objective of: "Maintaining in force a national policy of respect for human rights and constitutional guarantees for the governors and the governed." 19/

#### XI. Criteria for the evaluation of information and documentation

57. Before listing all the information and communications received by the United Nations which have come to the attention of the Special Envoy in connection with the human rights situation in Bolivia, the Special Envoy wishes expressly to state that these allegations are cited for information purposes only; reference to

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17/ Official copy of text handed to the Special Envoy during his visit to the Minister for Foreign Affairs and Worship.

18/ Official copy of the message handed to the Special Envoy at La Paz on 25 October 1981.

19/ El Diario, La Paz, 25 October 1981, p. 14.

them in no way implies that the facts contained in the above-mentioned information and communications are accepted or, on the other hand, rejected. The Special Envoy alone considers himself bound by, and responsible for, the statements concerning the facts expressly referred to in the conclusions of his report.

58. The information considered in the present report is that resulting from the examination of this question in the United Nations by the General Assembly, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, including the analysis prepared in document E/CN.4/1441, and that contained in the reports of the Working Group on Enforced or Involuntary Disappearances 20/ and, basically, the information resulting from the Special Envoy's visit to Bolivia and his activity there.

59. But in addition, as far as possible and in accordance with the competence he has been accorded to base his study "on such information as he may deem relevant" (resolution 34 (XXXVII) of the Commission on Human Rights, para. 1), the Special Envoy will use documentation and information from the International Labour Office, 21/ the International Committee of the Red Cross, 22/ the Office of the High Commissioner for Refugees, 23/ the Inter-American Commission on Human Rights of the Organization of American States, 24/ the non-governmental organizations mentioned in paragraph 15 and other reports which have reached him directly or of which he has learned. Naturally the Special Envoy's references to these sources of information are made in the light of what he has stated in paragraphs 57 and 58.

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20/ E/CN.4/1455.

21/ International Labour Office, GB/LS/LXXXV, November 1980 (Case No. 983), and GB/215/9/6, 3-5 March 1981.

22/ International Committee of the Red Cross. Annual Report, 1980, p. 28.

23/ Office of the United Nations High Commissioner for Refugees, E/1981/45, 14 May 1981.

24/ OAS. Annual report of the Inter-American Commission on Human Rights to the General Assembly. 7 October 1980. CP/Doc.1110/30. Report of the Inter-American Commission on Human Rights on Bolivia, 1981.

XIII. Classification and analysis of the principal alleged or reported violations of human rights

60. The violations of human rights in Bolivia which have been alleged in the information considered by the Special Envoy, during the period covered by the present study, will be classified according to the right considered to have been violated, in the order set out in the Universal Declaration of Human Rights. This criterion is being adopted for the reasons expressed in paragraphs 23-27 of this study.

61. The facts which make up these communications or allegations also constitute violations of other international instruments by which Bolivia is bound, in accordance with the duties deriving from the instruments cited in chapter III, paragraphs 23-27, of this study. Particular mention should be made of the American Convention on Human Rights, to which Bolivia is a party. A classification of the violations on the basis of the obligations under the Pact of San José has been made by the Inter-American Commission on Human Rights in its report on the human rights situation in Bolivia dated 13 October 1981.

62. The bulk of the material compiled in this study relates to charges of violations of the rights listed in articles 3, 5, 6-11, 19, 21 and 23 (4) of the Universal Declaration of Human Rights.

63. Article 3 of the Universal Declaration of Human Rights states: "Everyone has the right to life, liberty and security of person". Similarly, article 7 (a) of the Constitution of Bolivia provides that: "Every person shall have the following fundamental rights, in accordance with the laws governing their exercise: (a) The right to life, health and security".

(A) The main charges examined by the Special Envoy in connection with this article are the following:

(a) The first case of violation of human rights occurred on the same day as the coup d'état. The National Committee for the Defence of Democracy was holding a meeting at the headquarters of the Bolivian Trade-Union Federation, which was the main trade-union organization in Bolivia, when it was broken up by "a group of paramilitary personnel which opened fire on the building. Those inside - all political and trade union leaders - were ordered to come out with their hands behind their heads. As they were obeying and going downstairs, Marcelo Quiroga Santa Cruz, a deputy and lawyer, leader of Socialist Party 1 (PS-1), was identified, singled out and shot" ... Guadalberto Vega, the leader of the Bolivian Federation of Miners, was also killed in the attack. 25/

(b) Mrs. Carmela Golarza de Quiróz, a widow living at Huachaca Chico, stated in a recording which was handed to the Special Envoy at Cochabamba on 24 October 1981 that her husband Bernabé Quiróz had been subjected to horrible torture by military personnel, as a result of which he had died.

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25/ International Commission of Jurists, February 1981; Memorandum from Amnesty International to His Excellency General Luis García Meza, President of the Republic of Bolivia.



(c) It is alleged that, on 4 August 1980 at Caracoles, a mining district in the department of Oruro, soldiers from the neighbouring Max Toledo regiments from Viacha and Oruro attacked the town with guns, tanks and war planes. In the afternoon of that day, according to the version submitted by the Desperate Mothers and Wives of Caracoles in a letter dated 9 August 1980 addressed to Monsignor Jorge Manrique in La Paz, "most of the miners were dead and the survivors fled to the hills and others to the houses in Villa El Carmer. The army forces followed them, killing the men in their homes, arresting others and torturing them and putting bayonets through some of them. The wounded were beheaded". 26/

Concerning the same incident, two months later as a result of a mission to Bolivia from 16 to 25 November 1980, the International Commission of Jurists provided the Division of Human Rights with the following information:

"While in Bolivia the Amnesty International delegates asked the authorities for an account of what had happened in Caracoles. The President of the Bolivian Mining Corporation, Colonel Abel Martínez, denied that there had been any incident in Caracoles.

"According to information from several different sources, the miners had apparently attempted to negotiate with the army before the attack began on 4 August 1980 in order to prevent bloodshed, but their request for discussions had been refused. The town had been shelled with heavy artillery before the troops entered. It is claimed that by the end of the day soldiers had killed 8 civilians, that a further 18 were missing and that 13 had been taken prisoner. According to the testimonies of individuals who witnessed these events, several women were raped by the soldiers. The names of the dead reported to Amnesty International were: Olimpia de Sánchez, Francisco Choque, Rufino Apaza, Julio Suazo, Quintín Colque, Ignacio Miranda, Pedro Choque and Rufino Chambi." 27/

The following names, which were given to the Special Envoy during his visit to Caracoles, should be added to this list: Ignacio Alegría, Martín Urquiola, Alejandro Suzaño, Carlos Gómez and Raul Valdivia.

(d) On 15 January 1981 persons belonging to the Revolutionary Left Movement (MIR) were executed by paramilitary forces. Those reported dead were:

Artemio Camargo Crespo: General Secretary of the Joint Trade Union of Siglo XXI Mining Workers; collective bargaining secretary of the FSTMB.

Ramiro Hernán Velasco Arce: economist; former employee of the Ministry of Finance; lecturer at the Catholic University; aged about 35.

José Gonzalo Reyes Carvajal: former Carabineros officer and lawyer; he had been elected Unión Democrática y Popular deputy for La Paz in the 1980 elections.

Ricardo Navarro Mogro: former student leader and lecturer at the University of San Andrés; aged about 30.

Luis Suárez Guzmán: lecturer at the University of San Andrés, the Catholic University and military institutes.

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26/ Document provided by the International Association of Democratic Lawyers dated 7 November 1980. 22 July 1981.

27/ Memorandum from Amnesty International to His Excellency General Luis García Meza, President of the Republic of Bolivia, February 1981. AI index AMR 18/05/81/S.

Jorge Baldivieso Menacho: a MIR organizer in Oruro; aged about 35.

Arcil Menacho Loayza: former official from Pando; aged about 50.

Gonzalo Barrón: leader of the Bolivian Confederation of University Students.

Gregorio Andrade: a leader of the Peasants' Federation and a member of the Bolivian Trade-Union Federation. It is understood that he was arrested at 2 p.m. on 15 January (i.e., before the meeting) in the Parque Uruguay, where he was to meet three agricultural workers. He was allegedly tortured and is now believed to be dead. 28/

The case of Gregorio Andrade, mentioned above, was subsequently clarified by Amnesty International. He was held incommunicado for three months and then expelled from the country on 30 April 1981.

Amnesty International gives the following description of the events:

On 15 January 1981, a secret meeting of the leadership of the Revolutionary Left Movement (MIR) was being held in a private home in the city of La Paz. Between 4.30 and 5.30 p.m., a group of soldiers and paramilitary personnel surrounded the house. "According to a statement from the Ministry of the Interior published on 16 January 1981 there was an armed confrontation in which nine 'subversive delinquents' were killed. But this explanation has been questioned by the Archbishop of La Paz, Monsignor Jorge Manrique Hurtado. According to Amnesty International's information, these nine people who attended the meeting tried to give themselves up when they saw they were surrounded. Some were wounded because the soldiers opened fire even though the people at the meeting were unarmed and did not offer violent resistance; others were arrested. It is alleged that some of the dead bodies, handed over to the families five days later, bore marks of torture. In a telegram to General García Meza, the Secretary-General of Amnesty International called upon the Bolivian Government to explain the exact circumstances in which these nine people met their death. He also asked the authorities to allow an independent autopsy to be performed by forensic experts and for their findings to be made public in order to respond to the various serious allegations that some of the prisoners had been tortured and then killed".

(e) The Division of Human Rights received the following reports from Amnesty International dated 21 August 1981:

Julio Cassio Meruvia, a miners' union leader at the Catavi and Siglo XX mines, was arrested by special security agents on 7 August 1981. The Bolivian authorities have not officially acknowledged that he is being held and it is feared that he has died as a result of torture and subsequently been buried in Cochabamba cemetery in an unmarked grave. Amnesty International fears for the safety of his wife and children, who were arrested by the military forces of Catavi and transferred to Cochabamba.

(f) The illegal acts mentioned in paragraphs (a), (b) and (c) were also the subject of statements received directly by the Special Envoy during his mission to Bolivia; these statements basically concur with the written statements received by the Division of Human Rights.

(g) Missing persons.

Disappearances constitute a violation of the right to life since, although the disappearance of persons and the continuance of such a situation necessarily imply the violation of other human rights, they often end in the elimination of human life as a consequence of acts carried out by the authorities, or inspired or tolerated by them, and therefore contain the seed of the violation of the most basic of human rights - the right to life, inherent in all human beings.

The Special Rapporteur took note of the "disappearances" which have occurred in Bolivia since the coup d'état of 17 July 1980 through the information provided by the Working Group on Enforced or Involuntary Disappearances <sup>29/</sup> which, in accordance with the discussions held in Geneva from 14 to 18 September 1981 and according to the letter sent to the Special Envoy dated 24 September 1981, is co-ordinating its work with the work of the Special Envoy with regard to the question of "disappearances" in Bolivia. In addition, the information submitted by Amnesty International was taken into account. Appendix B of the document "Violations of human rights in Bolivia from January to July 1981" contains a list of presumed "disappearances".

"DISAPPEARANCES"

1. Juan Carlos Flores Bedregal: detained on 17 July 1980 in La Paz. Former deputy in Bolivian congress for the POR - Posadas Party.
2. Elias Raphael Flores: detained on 1 October 1980 in La Paz. Worked in the University of San Andrés as a sociologist. According to reliable reports he was held in DOP until 23 October 1980.
3. Angel Rojas Vargas: detained on 2 September 1980 in La Paz. Student and member of MIR. Detained in DOP until 23 October 1980.
4. Julio Delgado Echenique: detained on 10 October 1980 in La Paz.
5. Remigio Tarquinio Sanchez: 'disappeared' in July 1980 in La Paz. A mechanic and member of MIR.
6. Rene Vargas: 'disappeared' on 20 July 1980 in La Paz.
7. Adolfo Antelo: 'disappeared' on 18 February 1981 in Santa Cruz.
8. Rene Sanchez: 'disappeared' on 17 August 1980 in La Paz. Worked in the Aisloplast Factory.
9. Octavio Mendoza Arismendi: 'disappeared' on 8 October 1980 in La Paz. Born 20 November 1920, married, with two children. Worked as a chauffeur for 15 years in the University of San Andrés.
10. Adolfo Zegales: 'disappeared' in Santa Cruz when he went to attend the Second National Education Congress on 15 December 1980. Leader of the Rural Teachers sector of the Partido Socialista l.
11. Mario Cutili: 'disappeared' since October 1980 in La Paz.

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<sup>29/</sup> Report of the Working Group on Enforced or Involuntary Disappearances, document E/CN.4/1435 of 22 January 1981.

12. Victor Hugo Arequipa: 'disappeared' at the end of November 1980 in Tupiza. Member of the Union Democratica Popular.
13. Mario Osinaga Carvajal: 'disappeared' in Sucre shortly after the coup.
14. Magnaco Ticena Esteban: 'disappeared' since 18 August 1980 in La Paz. Peasant leader from Carabuco.
15. Pedro Rodriguez: 'disappeared', peasant leader and member of MIR.
16. Luis Zarzuri: 'disappeared', member of MIR.
17. Carlos Ismael Torres Pérez: 'disappeared' in April 1981 in Potosí.
18. José Luis Martínez Machicao: arrested on 12 December 1980 in La Paz. University student worked in the Banco Central. He has since 'disappeared'.
19. Renato Ticona Estrada: arrested in July 1980 in Oruro. Student of agronomy. Reported to be paralysed as a result of torture. Whereabouts unknown.
20. Cayetano Llobert Tabolara.
21. Germán Crespo Inofuentes."

According to new information provided by Amnesty International, Mario Cutili and Luis Zarzuri are at present in Peru and Sweden respectively.

Three new cases may nevertheless be added to the list: Armando Valda Peñaranda, a miner from Siglo XX, who "disappeared" from the Dolores Section on 2 September 1981. 30/ Humberto Victoria, of Quechisla, from the Tasna Rosario Section; 31/ and Guido Arce Saavedra, Secretary of the COB and Secretary-Elect of Socialist Party 1, who "disappeared" on 12 August 1981. 32/

During his visit to the Minister of the Interior on 22 October 1981, the Special Envoy discussed the question of missing persons, as stated in chapter XIII of the study. He was informed that Mr. Adolfo Antelo is living in Santa Cruz and is an employee of the Banco Argentino; Mr. Adolfo Zegada is working as a teacher in the same city, and Mr. Cayetano Llobert Tabolara is living with his relatives in Sucre and working in secret as a MIR leader. As to the case of Humberto Victoria, the authorities promised to investigate the matter.

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30/ Telegram sent by Amnesty International to the Division of Human Rights on 18 September 1981.

31/ Letter sent by the Committee of the COB dated 22 September 1981.

32/ The wife of Mr. Saavedra Arce made this charge to the Special Envoy on 24 October 1981 during his visit to Santa Cruz.

(B) The right to security of person has also been repeatedly and seriously violated by the authorities and by paramilitary groups since 17 July 1980.

64. Article 5 of the Universal Declaration of Human Rights states that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

Articles 12 and 13 of the Bolivian Constitution provide that:

"Any kind of torture, coercion or extortion or any form of physical or mental violence shall be prohibited under pain of immediate dismissal and without prejudice to the penalties to which anyone who engages in, orders, abets or consents to such acts is liable."

"The actual perpetrators of attacks on personal safety shall be liable therefor, and the fact of having obeyed higher orders in committing such attacks shall not serve as an excuse."

The documentation submitted to the Special Envoy contains repeated and concurrent allegations of torture and cruel, inhuman and degrading treatment.

These allegations have been made by various sources, 33/ which report that the most common forms of torture are: beatings, electric shocks, threats against prisoners and their families, mock executions, rape and abuse.

(A) Amnesty International gives the examples of the cases of Diego Morales Barrera and Julio Ramón Bernal:

"(a) Diego Morales Barrera: born in La Paz on 12 November 1946 and worked as a teacher of art in the Escuela Superior de Bellas Artes (School of Fine Art) and as a painter. He was Press Secretary of the Primer Sindicato de Empleados Publicos (First Union of Public Employees) at the Museo de Etnografía y Folklore (Museum of Ethnography and Folklore). He had never been a member of any political party but in his art had expressed his opposition to military coups.

On 16 October 1980 he was apprehended with his mother in La Paz by agents of the Servicio de Inteligencia del Estado (SIE), State Intelligence Service. His mother was released an hour later. He was taken to the Ministry of the Interior where he was beaten and his documents were confiscated. Then he was transferred to an office of the Departamento de Investigación Criminal (DIC), Criminal Investigations Department, in the Obrajes district of La Paz. He was held there for four days, until 20 October. He was kept in the dark with his hands and feet bound. He was given no food or water and had to perform his natural functions in a bucket. On 20 October he was taken back to the Ministry of the Interior. He was interrogated. He was beaten on the testicles and his hands were burned with cigarettes. He was questioned about his political affiliation and about his paintings. The people who beat him were soldiers and those who supervised the operation and asked the questions seemed to be senior military officers. They insulted him and threatened to cut off his hands, poke out his eyes and castrate him. This lasted from about two in the afternoon till about eight in the evening. Then three army lieutenants, who belonged to the SIE, took him to a house in the Ciudad Satélite in La Paz - this is a largely working-class area. The people in the house were

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33/ Amnesty International, International League for Human Rights, International Association of Democratic Lawyers, International Commission of Jurists, etc.

in civilian clothes, but in fact were soldiers from the Tarapacá Regiment. The man in charge was a captain, and his subordinates were lieutenants. Although they fixed up the 'picana' (prod for administering electric shocks) and the threats continued, the interrogations were not accompanied by violence. On 22 October he realized that he had an opportunity to escape. He was so thin that he was able to free his hands. That night they brought in a man whom they tortured by applying electricity to his testicles in the next room. On the morning of 23 October the lieutenants ordered the guards to type up the tortured man's confession because they were going to carry on with Diego Morales, who thereupon decided to escape. He freed himself and jumped out of a window overlooking a garage. Later he went into exile."

"(b) Julio Roman Bernal: arrested at 10.30 a.m. on 17 November 1980 at his place of work, the Instituto Nacional de Cooperativas (Co-operative National Institute) in La Paz. The arrest was made by DOP agents. He was taken to DOP where he was questioned about his political activities. Throughout the day he was beaten all over the body. That night he was taken to the Ministry of the Interior where he was blindfolded and his hands were tied behind his back. He was taken to the third floor where he was further tortured. On arrival he was asked: 'How would you like to be treated?' He replied: 'Just as you like.' He was beaten and his lip was cut open. In the torture chamber he was stripped naked. His hands and feet were tied to the four corners of a bed. The 'picana' was then applied to his testicles, then all over his body and inside his already bleeding mouth. Then he was beaten on the stomach with a rough club. (He still bears the marks from this treatment). All the time they kept asking for information about other people.

Next day he was taken back to DOP. He was unable to move unaided, but despite this was badly beaten again. He was thrown against the wall and his face pushed down on to the floor. He was given the 'chancho' torture. (This involves lying parallel to the floor, supported only by head and tips of toes. If the victims fall or move at all due to tiredness, they are beaten on the stomach). Then he was beaten all over with the barrel of a loaded gun. After this he could not move at all. He was struck on the ears and his face and ears were rubbed violently causing deep cuts. His arms and wrists were twisted so that his wrists were dislocated.

During the night of 1<sup>o</sup> November he was beaten again, kicked and tortured with electricity. They asked for names of people involved in politics and names of university students, professors, deans and political leaders.

He was held incommunicado throughout. During the first two days of his detention he was given no food or water. After the third day he was given food, and a nurse brought ointment for his wounds. The same day he was visited by the International Committee of the Red Cross. He was tortured again that night.

He was expelled from the country on Tuesday, 25 November 1980." 34/

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34/ Memorandum from Amnesty International to His Excellency General Luis García Meza, President of the Republic of Bolivia. February 1981, pp. 6 and 7.

(B) Matilde Mine. On 29 July 1980, the Bolivian Army, which was fully armed with tanks, sub-machine-guns and other weapons, moved into the Matilde mining district, arrested the miners Armando Pórrrez Salinas, Guillermo Dalance Salinas, Fernando Gropeza and Paceso Mercado, and took them to La Paz, where, according to statements made to the Special Envoy during the visit to Caracoles on 26 October 1981, they were tortured. They were then transferred to other parts of the country, where they joined other detainees who were being subjected to the same inhuman treatment.

(C) The report to the United States Joint House-Senate Foreign Relations Committee on "human rights practices" in Bolivia states that:

"The Garcia Meza régime has systematically engaged in mental and physical abuse of political prisoners. There are reliable reports that persons were made to lie down in manure at the armed forces headquarters in La Paz after their arrests. American journalist Mary Helen Spooner was kept in a closet at the Interior Ministry in La Paz for several days without lights or windows and threatened with death unless she co-operated with her captors. Even though President García Meza on 16 September denied that prisoners had been tortured or abused, since then at least one eyewitness saw paramilitaries at the armed forces headquarters beat a young man and burn him with cigarettes as his father was made to watch. Another reliable witness reported talking to a woman in jail who had been tortured with electric current in an effort to make her reveal the names of her exiled husband's friends." 35/

(D) The International League for Human Rights has submitted the following information:

"The Garcia Meza régime has systematically engaged in physical and psychological abuse of political prisoners. There are eyewitness accounts of repeated beating of blindfolded prisoners by masked officials at the Ministry of the Interior and at offices of the armed forces intelligence branch (G2) in La Paz. Reportedly, men and women were routinely intimidated and subjected to torture in order to exact confessions implicating themselves and others believed to be unfriendly to the régime and to punish them for their political beliefs or activities. Many prisoners also report that during arrest military personnel confiscated their money, jewellery and other personal items. It is widely believed that prisoners are routinely tortured while in detention at the Ministry of the Interior. The most common methods used are electric shocks, beatings, and mock executions.

"Paramilitary forces have also reportedly threatened the families of individuals in hiding with beatings, rape, and death unless they report on the whereabouts of their relatives." 36/

In the meetings he held in La Paz and, in particular, at the Caracoles Mine, the Special Envoy heard concurrent and identical reports of cases in which persons were repeatedly subjected to cruel torture. In the Special Envoy's opinion, this type of degrading and inhuman treatment was quite common and continued throughout 1980.

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35/ Country Reports on Human Rights Practices, 2 February 1981, p. 349.

36/ International League for Human Rights, 22 July 1981, p. 3.

65. Articles 8, 9, 10 and 11 of the Universal Declaration of Human Rights provide that:

"Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed."

Articles 6, 9, 16, 18 and 19 of the Bolivian Constitution provide that:

"Article 6. Every human being has legal personality and capacity, in accordance with the laws. He enjoys the rights, freedoms and guarantees recognized by this Constitution, without distinction of any kind, such as race, sex, language, religion, political or other opinion, origin or economic or social status.

The dignity and freedom of the individual are inviolable. To respect and protect them is a primary duty of the State.

Article 9. No one may be detained, arrested or imprisoned except as and when provided for by law; any order to such effect can be executed only if it is issued by the competent authority and served in writing.

No one may be held incommunicado except in obviously serious cases and in no event for more than 24 hours.

Article 16. An accused person shall be presumed innocent until proved guilty.

The accused person's right of defence is inviolable.

From the time he is arrested or imprisoned, a detainee has the right to be assisted by a defence counsel.

No one may be sentenced to any penalty without having first been heard and tried in legal proceedings. No penalty shall be imposed except by final judgement and by a competent authority. A criminal conviction must be based on a law in effect prior to the proceedings and subsequent laws shall be applied only if they are more favourable to the accused.



Article 18. Anyone who believes that he is being improperly or illegally prosecuted, detained, tried or imprisoned may apply, either himself or through another person acting on his behalf, with or without a notarized power of attorney, to the Superior District Court or to any District Judge of his choice, to request compliance with legal formalities. At places where there is no District Judge, application may be made to an examining magistrate.

The judicial authority shall immediately set a day and hour for a public hearing, ordering the defendant to be brought before him. This order shall be issued by means of a personal summons or subpoena to the office of the authority cited and it shall be obeyed without objection or excuse, both by such authority and by those in charge of gaols or places of detention, who, once summoned, may not disobey on the grounds that they are acting under higher orders.

In no case may the hearing be suspended. After the facts have been examined, the judicial authority shall render a judgement at the hearing, ordering release, having legal defects redressed or placing the applicant at the disposal of the competent judge. The judgement must be executed forthwith. The decision rendered shall automatically be referred to the Supreme Court of Justice for review within 24 hours, but this shall not entail suspending execution of the judgement.

If, after attending the hearing, the defendant leaves before the judgement is pronounced, it shall be validly notified in the courtroom. If he does not attend, the hearing will be held in absentia and, after the statement by the plaintiff or his representative has been heard, the judgement will be rendered.

Public officials or private individuals who resist judicial decisions, in the cases covered by this article, shall be brought, by order of the authority that heard the habeas corpus proceedings, before the criminal judge to be tried for violating constitutional guarantees.

Any judicial authority failing to comply with the provisions of this article shall be subject to the penalty prescribed by article 127, paragraph 12, of this Constitution.

Article 19. In addition to the remedy of habeas corpus referred to in the preceding article, there is the remedy of amparo against illegal acts or omissions by officials or private individuals who restrict, deny or threaten to restrict the individual rights and guarantees recognized by this Constitution and the laws."

(a) The information received states that legal procedures are inadequate. It is claimed that the remedy of habeas corpus, which is guaranteed by article 18 of the Constitution, has been ignored and that no effect has been given to the remedy of amparo (article 19 of the Constitution). People have reportedly been detained or arrested, even by paramilitary groups, and taken to prisons, which are sometimes clandestine and where they have been held for lengthy periods without being brought to trial.

(b) In July 1980, the military authorities arrested a large number of people, most of whom were released weeks or months later, although none of them were formally charged or tried by the Judiciary. The International League for Human Rights reports that more than 1,500 arrests were made in the first two months of General García Meza's régime. Most of the people arrested were trade union leaders, church officials,

students and members of human rights defence groups and the political opposition, primarily in the provinces, mining areas and small towns. Among those arrested, particular mention should be made of Father Julio Tumiri, the 72-year-old President of the Permanent Assembly for Human Rights. The report submitted by the Inter-Church Committee on Human Rights in Latin America to the representative of Canada at the thirty-seventh session of the Commission on Human Rights, dated 22 January 1981, states that:

"Fr. Julio Timiri, the 72-year-old President of the Permanent Assembly for Human Rights in Bolivia, who suffers from a duodenal ulcer, was arrested on 30 July, tortured, released weeks later to house arrest in Mizque, Cochabamba province, then arrested again (between 20 and 23 October) when he went to La Paz to attend the funeral of his sister. Fr. Tumiri's relatives were also put in danger; his nephew, Alberto Tumiri, a post office employee in Oruro, was detained for a month following the coup, released, and re-arrested at approximately the same time as his uncle. Rev. Mortimer Arias, former Bishop of the Methodist Church of Bolivia, and currently General Secretary of the Council of Evangelical Churches in Latin America, was arrested at the end of August, two hours after returning from a trip to Brazil. After several days, he was located in the Army Headquarters in Cochabamba. He was released, following an international campaign, and expelled from Bolivia. He has taken refuge in São Paulo."

(c) Reports of arrests in Bolivia during this period are also referred to in document GB/214/11/9 prepared by the International Labour Office and dated 18-21 November 1980. In communications dated 29 August 1980, the World Confederation of Labour (WCL) alleges that Gualberto Vega, leader of the Miners' Federation, was murdered and that 110 persons were arrested; the list of their names was provided by the External Co-ordination Secretariat of the Bolivian Trade Union Federation (Central Obrera Boliviana - COB) and transmitted to the Government. "According to the WCL, the number of arrests exceeds 1,000, 700 of them immediately after the change of government. Still according to the WCL, the Minister of the Interior, Luis Arce Gómez, admits that 500 persons have been arrested and that other arrests are still being made." 37/

(d) On 10 November 1980, 38/ the Government of Bolivia transmitted to the International Labour Office the following list of persons who had been subjected to compulsory residence, released or exiled:

"Juan LECHIN OQUENDO	compulsory residence
Simón REYES RIVERA	compulsory residence
Liber PORTI	exiled
Julio RUMIRI	compulsory residence
Victor SOSA	compulsory residence
Max TORO B.	compulsory residence
Noel VASQUEZ	compulsory residence
Victor LIMA	compulsory residence
Cayetano LLOBET	released 2.11.80.
Gladys SOLON	released 9.10.80.
Hernan LUDUENA	released

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37/ International Labour Office, Governing Body, GB/214/11/9, 18-21 November 1980, para. 14.

38/ International Labour Office, Governing Body, GB/214/11/9, 18-21 November 1980, appendix II, p. 10.

Oscar PEÑA FRANCO	exiled
Fernando SALAZAR	exiled
Cosme REYES VALVERDE	compulsory residence
Luis AGUILAR PORTILLO	compulsory residence
Nicasio CHOQUE DONAIRE	compulsory residence
Rufino COSSIO CALLE	compulsory residence
Luis POZO INIGUEZ	compulsory residence
Rafael ORTEGA VAQUERA	compulsory residence
Miguel ORTIZ RUELAS	compulsory residence
Carlos SORIA GALVARRO	compulsory residence
Asencio QUISPE QUISPE	compulsory residence
Isaac MORALES QUISPE	compulsory residence
Walter HUMEREZ CORTEZ	compulsory residence
Francisco TINTAYA CALLE	compulsory residence
Paulino MENDEZ AROSQUETA	compulsory residence
Vilfredo RUA BEJARANO	exiled
Arturo VILLANUEVA IMAÑA	compulsory residence
Walter ROBLES BERMUDEZ	released
Julio A. MARQUEZ	released
David ACEBEY	compulsory residence
Amador VILLAVICENCIO	released 14.10.80.
Eduardo DOMINGUEZ VERT	compulsory residence
Alberto BONADONA	released 30.10.80.
Walter RETAMOZO MONTANO	exiled
Floduardo ORDOÑEZ	compulsory residence
Raul GONZALEZ ALMANSA	compulsory residence
José MARQUEZ	released
Freddy JUSTINIANO	compulsory residence
Guillermo DALENCE	compulsory residence
Vladimir ARUSINAGA	compulsory residence
Julio MARQUEZ	released
Juan Carlos ORIALES	compulsory residence
Adrian CAMACHO	released
Fernando TORRELY MARIA	released
Armando PORRE	released
Corsino PEREYRA	compulsory residence."

(e) By 31 December, the Intergovernmental Committee for Migration (ICM) had managed to bring about 500 refugees out of Bolivia; 127 of them had been detained and the rest had sought political asylum in embassies.

(f) In late April 1981, the Division of Human Rights received information from various sources that Mr. Jorge Kolle Cueto, a former national senator of the Republic of Bolivia, had been arrested and tortured by the military. He was arrested on 12 April in the border town of Copacabana. He was seen for the last time on 21 April at La Paz prison by Carlos Carvaja Nava, a member of Parliament.

(g) A communication from Amnesty International to the Division of Human Rights dated 21 August 1981 stated that Dr. Nila Heredia Miranda, a member of the Human Rights Solidarity Committee of the Permanent Assembly for Human Rights in Bolivia, had been arrested in La Paz between 14 and 16 August 1981. The communication alleges that Dr. Heredia was sent to Bolivia against her will by the Ecuadorian authorities when she was on her way from Lima (Peru) to Quito (Ecuador). Her passport was handed over to the Special Security Service (SES) when she arrived at La Paz airport. She was instructed to collect her passport at the offices of the Ministry of the Interior.

(h) Another Amnesty International report dated 26 August 1981 states that Dr. Nila Heredia was released and left Bolivia.

(i) The following list of persons recently detained for political reasons or motives, without legal guarantees, was compiled by Amnesty International:

"List of recent detentions reported to Amnesty International"

<u>Name</u>	<u>Date of Detention</u>	
AGUILAR APARICIO, Hernán	25 June 1981	
AMELIER GATICA, Agustin	26 June 1981	
AGUILAR, Paulino	6 May 1981	
ARANDA, Alejandro	29 June 1981	
BAQUERE, Juan Pablo	20 June 1981	Released
BERRIOS, José German	20 June 1981	
CONDORI, Octavio	9 April 1981	
CARRASCO, Jorge	May 1981	Forced into exile
CARPIO QUIAPA, Rene	20 May 1981	
COAQUIRA, Francisco	22 June 1981	
CHOQUE RIVERO, Justino	9 May 1981	
EQUINO ARLAS, Daniel	31 May 1981	
FERNANDEZ, Dionisio		
FUENTES DAZA, Fernando	18 May 1981	Forced into exile
GUTIERREZ, Carlos		
GUTIERREZ VACA, Leonora	23 June 1981	
GALLARDO IOZADA, Samuel	14 July 1981	
HERRERA VILCA, Samuel	22 June 1981	
MACHACA, Luis	22 June 1981	
MENDOZA, Raul	20 June 1981	
MUNOZ BUIGLEY, Luis	17 February 1981	
NINA, Anselmo	22 June 1981	
PONCE, Juan	23 May 1981	
POTRIN, Pablo	June/July 1981	
PERALTA ESQUIVEL	May 1981	
QUISPE TOLA, Juan	22 June 1981	
QUEZADA, Marcelo	22 June 1981	Residenciado (in restricted residence) in Uyuni
RAMOS CALDERON, Edwin	17 January 1981	
SAAVEDRA, Mario	18 May 1981	
SINANI CATAORA, Edgar	25 June 1981	
VALENZUELA, Nestor		
VARGAS, José Antonio		Forced into exile
VELEZ OCAMPO, Jorge		
VARGAS ARCE, Amadeo	June 1981	
VARGAS, Cirilo	29 June 1981	
AGUILAR, Henry		
RODRIGUEZ, Porfirio		
RENDON, Omar		
MONTAÑO, Julieta."		

(j) During the Special Envoy's visit, the Minister of the Interior reported on 22 October 1981 that there are at present no political prisoners or concentration camps; only six persons are in compulsory residence. When the Minister was given the list of detainees, he stated that Julieta Montaña had been held for two days but had subsequently been released and was living in Cochabamba. His advisers reported that the remedy of habeus corpus is operating effectively. They promised to send copies of relevant legal decisions, which were, however, never received by the Special Envoy.

(k) In the light of the analysis carried out and the reports and communications received, the Special Envoy is convinced that articles 8, 9, 10 and 11 of the Universal Declaration of Human Rights have been repeatedly violated. Although such violations have declined and the situation now is not as serious as it was in the months following 17 July 1980, he is of the opinion that there are still detentions which are contrary to article 9, that prisoners and detainees are being held in breach of articles 11 and 12 of the Universal Declaration of Human Rights, that the system of restricted residence continues to operate, although on a much smaller scale, and that the remedy of habeus corpus is not being exercised as effectively as it should be.

66. Article 13 of the Universal Declaration of Human Rights states that: "Everyone has the right to leave any country, including his own, and to return to his country".

Article 7 (g) of the Bolivian Constitution guarantees the right, "in accordance with the laws which regulate its exercise", "to enter, remain in, travel through and leave the national territory".

The fact that many exiles have had to leave Bolivia for political reasons since 17 July 1980 and cannot return to the country can be regarded as a violation of these provisions.

The Special Envoy referred to this matter at his meeting with the Minister of the Interior. Without prejudice to any future study of general measures to be adopted gradually in the light of political developments, he was told that individual requests for permission to return to the country would be carefully analysed on the basis of broad and liberal criteria, taking into account past and present circumstances.

67. Article 19 of the Universal Declaration of Human Rights states that: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

Article 7 (b) of the Bolivian Constitution provides that: "Every person has the following fundamental rights, in accordance with the laws which regulate their exercise: ... (b) Freedom to express his ideas and opinions through any media".

(a) According to allegations made by the International League for Human Rights and Amnesty International, information and press centres were attacked by the armed forces and brought under military control.

Various radio stations were silenced. Radio Continental and Radio Vanguardia were allegedly attacked. The latter, which is based in the Colquiri district, was reportedly bombed by the Air Force and its equipment was totally destroyed. The same thing is said to have happened to Radio Kollasuyo de Potosí. Four days after the coup d'état, the army took over the Huanuni mining area and destroyed its transmitter. In La Paz, the following stations were attacked, silenced and partially destroyed: Radio Fides, Radio Yungas de Chulumani and Radio San Gabriel.

(b) It is alleged that foreign agencies were also subjected to repression. Many correspondents were harassed and forced to leave the country.

(c) "Pre-censorship exists for radio broadcasts. Radio stations must give the Ministry of Information a written version of proposed broadcasts for their approval. In addition, all of the radio stations in the mining areas (the centre of much political opposition) have been closed". 38a/

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38a/ The International League for Human Rights, "The Situation of Human Rights in Bolivia" p. 10

(d) Radio Fides, which is owned by the Catholic Church, was attacked by a paramilitary group on 17 July 1980. Its equipment was entirely destroyed and four Jesuit priests were arrested; they were physically and mentally harassed and detained for 16 days without trial. The military authorities ordered the radio station closed and later restricted its commercial licence. It cannot broadcast any commercials, news or commentaries. The Church is protesting against this measure, claiming that such a prohibition is a direct violation of freedom of the press and of the Church's rights and freedoms.

(e) On 5 August 1981, the Minister of the Interior issued the following communiqué: "Public opinion and all citizens are hereby informed that the restrictive and limitative measures taken on 1 July 1980 in connection with the curfew, the radio link (cadena radial) and press control continue to be in force. Consequently, these measures shall be complied with throughout the national territory and anyone who fails to observe them shall be regarded as having disobeyed orders and shall be liable to the maximum penalties prescribed by law.

Radio stations therefore have to link up with the Illimani State Radio at the times prescribed for news broadcasts, just as the newspapers must only report official news concerning national political events, without any kind of tendentious commentaries that distort the truth and create confusion among the population.

It is also recalled that political parties and trade union organizations have been completely suspended and therefore have no validity in national political life. Anyone who infringes the above measure will be severely punished."

(f) On 28 September 1981, the National Press Association and the Bolivian Broadcasting Association, which concluded the Press-Radio Agreement, issued the following statement: "... once again express their desire for a normalization of the situation of the communications media, subject to observance of the Political Constitution in force, which guarantees freedom of expression and information.

Accordingly and in the light of the statement made by General Celso Torrelio Villa, President of the Republic, who will enforce the law, the two associations urge that the compulsory radio link, with its three broadcasts a day, should be discontinued since, in view of its exceptional nature, there is no legal provision establishing it for an indefinite period of time.

The associations also call for guarantees of the unhampered operation of ASBORA, which is composed of private radio stations throughout the country, and for the discontinuation of the practice of summoning newspaper editors and reporters to the Ministry of the Interior since, although the stated purpose of such summonses may be to exchange ideas, opinions and thoughts, they are an obvious means of trying to influence their opinion, which, as we have stressed in our guidelines, must be based solely on the truth and the need to safeguard the country's highest interest."

(g) During the Special Envoy's meeting with the Minister of the Interior and the Prefect of Oruro, he was given information on the reasons for the radio link, which is said to apply only to the La Paz area and does not prevent other radio news bulletins from being broadcast at different times. He was also given information on the legal and technical grounds for the radio link and the technical reasons why radios in mining areas were closed down.

(h) The Special Envoy has no doubt that serious violations of the right to freedom of expression occurred from 17 July 1980 on. Although the worst of these violations are over, the expression of all opinions and points of view in the press and on the radio and television is still severely restricted. Without going into or

analysing the legal grounds for these restrictive measures put forward by the government authorities, there is no doubt that the process of restoring human rights and democratic institutions will have to involve a review of such measures. The Special Envoy must nevertheless record that, during his visit to Bolivia, the press and radio enjoyed very broad freedom to report and comment on all matters pertaining to the human rights situation in the country and on the purpose and progress of his mission. This in itself is a positive factor and, it is to be hoped, marks the beginning of a change in the area of respect for freedom of information.

68. Article 21 of the Universal Declaration of Human Rights provides that:

- "(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government, this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

Articles 40 (1), 219 and 222 of the Bolivian Constitution provide as follows:

"Citizenship involves:

- 1. The right to vote or be eligible to take part in or exercise authority.

"Universal suffrage shall be the foundation of the representative democratic system and shall be based on universal, direct and equal, individual and secret, free and compulsory balloting, the public counting of votes and the system of proportional representation.

"Citizens shall have the right to form political parties in accordance with this Constitution and the Voting Act."

(a) Like so many other developing countries, Bolivia is characterized by endemic political instability and, consequently, by frequent changes of Government which take place outside the framework of the provisions of the Constitution.

(b) In 1978, after eight years of military rule, the Government of General Hugo Banzer issued a decree granting political amnesty and calling presidential and parliamentary elections. The first elections, which were held in July 1978, were annulled and followed by two military take-overs, one on 21 July 1978 and the other on 24 November 1978. Elections were called for the second time for 1 July 1979, but no candidate obtained an absolute majority. Accordingly, the appointment of the President of the Republic fell to the Congress, in accordance with article 90 of the Bolivian Constitution.

(c) The Congress appointed Dr. Walter Guevara Arze as Acting President, but he was overthrown on 1 November 1979 by Colonel Alberto Natusch Busch, who, bowing to popular resistance, turned the Government over to the Congress on 16 November. Mrs. Lydia Gueiler Tejada was then appointed Acting President of the Republic by the Congress in accordance with article 93 of the Bolivian Constitution. She called elections for 29 June 1980 and the winning party was the People's Democratic Union, as explained in paragraph 44 above. The democratic process was interrupted by a

military coup d'état on 17 July 1980. The President of the Republic turned over power to the military leaders, alleging that she had been forced to do so. Constitutional guarantees were suspended, in the process described in chapter III above, and members of Parliament and other prominent political figures were arrested and imprisoned.

(d) It is clear from the information received that many members of Parliament were victims of human rights violations. The Bolivian Parliament was dissolved on 17 July 1980 and, after its dissolution, action of various kinds was taken against most of its members. According to the information supplied by the Inter-Parliamentary Union and other non-governmental organizations, deputies José Reyes Carvajal, Jorge Valdivieso Menacho, Arcil Menacho, Marcelo Quiroga Santa Cruz and Carlos Flores were murdered. Gregorio Andrade, Julio Tumiri Apaza, Manuel Cárdenas Mello, Cayetano Llobet Tabolara and José Vargas were arrested or detained and the whereabouts of Leopoldo López are still unknown.

(e) Apart from the measures which were taken against members of Parliament and political leaders and which involve violations of other civil rights, the events of 17 July 1980 constitute a violation of article 21 of the Universal Declaration of Human Rights and of articles 219 and 222 of the Bolivian Constitution.

(f) Not only was there a violation of the right of all Bolivians to take part in the government of their country and in periodic elections - which will not be held until the restoration of democratic institutions envisaged for some time in the future in the official documents of the Government of the Armed Forces - but the party political activity implicitly provided for in article 21 of the Universal Declaration of Human Rights and expressly recognized in article 222 of the Bolivian Constitution has been suspended and the parties are not permitted to function.

69. Article 23 (4) of the Universal Declaration of Human Rights states that: "Everyone has the right to form and to join trade unions for the protection of his interests".

Article 7 (c) of the Bolivian Constitution provides that: "Every person has the following fundamental rights, in accordance with the laws which regulate their exercise: ... (c) To assemble and to associate for lawful purposes".

Bolivia has ratified the 1948 Freedom of Association and Protection of the Right to Organise Convention (No. 87) and the 1949 Right to Organise and Collective Bargaining Convention (No. 98).

(a) Trade union rights were suspended immediately following the take-over by the Armed Forces. Decree No. 17531 of 21 July 1980 provided for the dissolution of existing trade unions and the restructuring of the Bolivian trade union movement. Decree No. 17545 of 12 August 1980 provided for the appointment of workers' representatives to carry out certain trade union functions until the establishment of a new trade union organization.

At the time of writing, trade unions are still suspended.

(b) The régime established by Supreme Decrees No. 17531 and No. 17545 is contrary to article 3 (4) of the Universal Declaration of Human Rights and International Labour Conventions No. 87 and No. 98, to which Bolivia is a party.



### XIII. The visit to Bolivia

70. The Special Envoy visited Bolivia between 20 and 27 October 1981. The visit was requested on his behalf in a note from the Division of Human Rights to the Permanent Representative of Bolivia to the United Nations Office at Geneva, dated 23 June 1981. In a note of 20 July 1981, the Permanent Delegation of Bolivia to the International Organizations in Geneva stated that the Government of Bolivia agreed to the visit and suggested that it should take place in late October or early November 1981. In view of the practical requirements deriving from the fact that the Study had to be brought to the attention of the Government of Bolivia, and its comments received and circulated, in sufficient time for consideration by the Commission on Human Rights at its thirty-eighth session, the Special Envoy requested that the visit should be scheduled for mid-October. The Permanent Delegation of Bolivia in Geneva finally informed the division of Human Rights by telephone that the Special Envoy could be received as from 30 October 1981.

71. Owing to the changes of Government in Bolivia following 18 July 1980, and without going into the political question of the true links or the actual continuity between the succession of different Governments, the Special Envoy considered that the basic object of his visit was to obtain accurate and up-to-date information on the situation of human rights in Bolivia both from a legal and a practical standpoint at the time of his visit, and on Government policies, plans and/or programmes to ensure observance, effective enjoyment and promotion of human rights in the future. The direct information received and collected during the visit will be analysed for the purposes of the study together with that gleaned from the documentation and all the material previously received on the situation of human rights in Bolivia since 18 July 1980.

72. Naturally, the Special Envoy did not plan his visit only in order to receive information of Government origin or from Government sources. Although this official information was considered essential and necessary, it was at all times made clear to the Government authorities that free communication in Bolivia was required with non-Government spheres (trade union, political, university, religious, etc.) and, generally speaking, with all persons desiring an interview with the Special Envoy, subject naturally to due observance of the discretion and objectivity required by the nature of the mission entrusted to the Special Envoy by resolution 34 (XXXVII) of the Commission on Human Rights. The Special Envoy also requested direct personal access to the places which he wished to visit (prisons, places of detention, trade union centres, universities, mines, etc.), both in the capital and in the interior of the country.

73. The Special Envoy wishes to state that in conducting his visit, within the limits already mentioned, he received very full and complete co-operation from the Government authorities. The Government gave instructions for Dr. Walter Rico Toro, Under-Secretary for Worship of the Ministry of Foreign Affairs, to remain permanently in touch with the Special Envoy in order to arrange and/or facilitate all the contacts, visits, interviews, etc., requested. Both the President of the Republic and Dr. Gonzalo Romero Alvarez García, Minister for Foreign Affairs and Worship, Colonel Rómulo Mercado Garnica, Minister of the Interior, and Colonel Guido Suárez, Minister of Labour, as well as the Prefects of Santa Cruz, Cochabamba and Oruro personally saw to it that none of the requests made by the Special Envoy or matters raised by him went unanswered or without immediate action being taken.

74. The visit was so planned that, in addition to the interviews with Dr. Luis Fernando Valle, Rector of San Andrés University (21 October at 11 a.m.), with Dr. Gonzalo Romero Alvarez García, Minister for Foreign Affairs and Worship, (21 October at 4 p.m.), with the President of the Republic (21 October at 4.30 p.m.), with the Minister of the Interior (22 October at 9 a.m.), with the Minister of Labour (22 October at 3 p.m.), and with Dr. Jaime Tapia Alipaz, Prefect of La Paz, in La Paz, Sunday, 25 October could be devoted to meetings with those persons who wished to communicate with the Special Envoy privately and in confidence. Visits were also organized to the cities of Santa Cruz (23 October), Cochabamba (24 October) and Oruro (26 October), and it was on these occasions that the meetings described below took place, following the same method as was used in La Paz.

75. On the evening of 21 October 1981, the Special Envoy had a meeting with Mr. Mariano Baptista, Director of the newspaper Ultima Hora, the Rev. José Grammont, Director of the Fides News Agency, and Mr. Armando Mariaca, Director of the newspaper Presencia, who provided him with a great deal of information on violations of the right of the press and radio to freedom of expression, the current situation and ways it differed from the situation existing between 17 July 1980 and 3 September 1981, difficulties still existing and the prospects for an improvement in the situation, which was described as unlikely although not impossible.

76. In accordance with the programme prepared, a meeting took place on 21 October with General Celso Torrelio Villa, President of the Republic, and with Dr. Gonzalo Romero Alvarez García, Minister for Foreign Affairs and Worship. On 22 October working meetings were held with Colonel Rómulo Mercado Garnica, Minister of the Interior, and Colonel Guido Suárez, Minister of Labour.

77. The Special Envoy's meeting with General Celso Torrelio Villa, President of the Republic, consisted of two parts: during the first part, the Special Envoy conversed with the President in private, while in the later part several other persons were present, including the Minister for Foreign Affairs and Worship. General Torrelio said that he had made all the necessary arrangements for the Special Envoy to carry out his mission as fully and freely as possible and that all the information, meetings or visits which he might request would be facilitated. He mentioned his firm determination to ensure the enjoyment of human rights, within the law, and to continue unwaveringly on the road towards their full guarantee and promotion. He admitted the abnormal situations which had existed, the problems still outstanding and the difficulties in the way of solving them. He mentioned some reprehensible cases which had occurred recently and the measures taken to prevent their recurrence and to punish those responsible. He made particular mention of the measures already adopted or in the process of being adopted to dissolve the SES (Special Security Service) and to avoid any violations of human rights by groups which might have escaped Government control; of the curfew (which he had cut down to 1 a.m. - 5 a.m.) and the studies being conducted on the possibility of doing away with it; and of the radio link. Lastly, he said that he took full responsibility for the events following 4 September 1981 and wished to reiterate his Government's determination progressively to ensure full respect for human rights, and observed that these points would be mentioned in the statement on the Government plan which he was to make to the nation that same night.

78. At the meeting with the Minister for Foreign Affairs and Worship, held shortly before that with the President of the Republic, Dr. Gonzalo Romero Alvarez García offered the Special Envoy his full co-operation and referred to steps taken by the present Government, of which he had been a member since 4 September 1981, to ensure respect for human rights. He referred to what he had said on the subject in his address of 9 October 1981 to the United Nations General Assembly and reiterated the ideas expressed on that occasion.

79. Dr. Luis Fernando Valle Q., Rector of San Andrés University, had a meeting with the Special Envoy on the morning of 21 October, when he explained the situation of Bolivia's universities. After being closed following the events of 17 July 1980, they were reopened in April 1981. The regulations previously applicable to the universities were replaced by the Transitional Statute of 1981, adopted by Supreme Decree of 13 April 1981. The rectors are appointed by the Government and at the present time students, teachers and administrative staff are not represented on the governing bodies of the universities, nor are student centres or associations operating. He said, however, that a draft Organization Act is being prepared which will recognize the autonomy of the universities and which, it is hoped, will regulate university activities on a permanent basis.<sup>39/</sup>

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<sup>39/</sup> The document entitled "In defence of a constitutional principle: university autonomy", issued on 18 September 1981 and signed by Eduardo Arze Quiroga, Carlos Salamanca Figueroa, Vicente Terán Erquicia, Rafael Reyeros, Maritza de Arze Quiroga, Démaso Eduardo Delgado, Enrique Soruco Rodríguez, Alfredo Gutiérrez Salgar and Roberto Soriano, who participated in the National Conventions of Bolivian Students of 1928 and 1929, reads in two of its paragraphs: "When today we contemplate the sorry spectacle of the breakup of the cultural hierarchies, to the detriment of the spiritual structure of the nation and its Alma Mater, the University, when we realize that this breakup has substituted rank mediocrity for merit, when moral values seem to have disappeared from the Bolivian scene and our country has been condemned to a period of disgrace and ignominy such as it has never before experienced in the international community. When we see our universities in the hands of the paramilitary and agents in the grounds and lecture halls, we feel bound, as upright citizens of a country worthy of a better fate, to join the chorus of alarm about the future of Bolivia's universities, which is so closely linked to the future of the nation.

University life is suffering from being under the complete control of the authorities and there is no longer any free discussion of ideas; the dignity of the teaching profession has been undermined by administrative recruitment, with the total elimination of competitive examinations and comparison of qualifications; the new academic plans have trapped the student in interminable labyrinths, with courses taken not being recognized; and lastly, any serious research and development policy has been done away with.

This situation has been exacerbated by the mass dismissal of over 2,000 teachers and administrative workers, who have been unemployed since 17 July 1980 but have not received any social benefit payments, in flagrant violation of justice."

"... With the respect which we, as former teachers and citizens, profess for the youth of Bolivia, we will say that although it is clear that no good will come of the new attempt at intervention in Bolivia's universities and the universities will sooner or later revert to constitutional channels, we also believe that the Government should not go on involving itself in this scheme, since dialogue and debate are as vital for academic training as they would be harmless for the organs of a vertical system. Only in a setting of free and permanently functioning democratic institutions can future generations be offered a serious, sound, scientific, national and popular, and at the same time efficient plan for the universities."

80. On 22 October the Special Envoy had a working meeting with Colonel Rómulo Mercado Garnica, Minister of the Interior. Mr. Gerardo Torres Antezona, Under-Secretary, and Mr. Mario Cusicanqui Velasco, Adviser, were present. At the request of the Special Envoy, the following points were discussed at this meeting:

(a) The situation regarding the SES (Special Security Service), measures adopted for its dissolution, dismissal of 150 SES officials accused of abuses and violations and measures to prevent further acts of this kind, and replacement at the SES by the State Intelligence Directorate (DIN), a body whose activities must not give rise to the objections and criticisms aroused by the SES and must be based on the required respect for human rights;

(b) The curfew, its reduction and its possible elimination in the future;

(c) The existence of the radio link, the regulations governing it and its legal foundation;

(d) The present situation of the Judiciary, appointment of the members of the Supreme Court of Justice by the Executive, and of other judges after 17 July 1980;

(e) The application of habeas corpus, the independence of judges to grant it and practical examples of its operation;

(f) The system of restricted residence, now said to affect only six persons, which the Minister of the Interior alone has competence to order;

(g) The total absence of detention, concentration or internment camps;

(h) The situation of exiles and persons expelled from the country. It was explained that the system had a constitutional basis; that a person who goes into voluntary exile requires a re-entry visa to return to Bolivia; and that since 4 September 1981 no decision has been taken exiling or expelling anyone from the country;

(i) Political detainees or prisoners. There were said to be none as at 22 October 1981: an arrest warrant can be issued only by the Minister of the Interior and no military or police authority can independently order a person to be arrested or imprisoned;

(j) Disappeared persons. The list submitted by the Special Envoy will be studied and a report made. In the cases mentioned in the appropriate section of paragraph 63 (g), the clarifications submitted by the Minister of the Interior are given;

(k) The question of deaths which have occurred in recent weeks as a result of the activities of the SES or similar services. In the case of Mr. Félix Rivero Casas, the Minister said that the matter had been referred to the ordinary courts, which had ordered the appropriate proceedings to be taken. He handed over a copy of the relevant documents. In the case of Mr. Julio Cassio Meruvia, the Minister of the Interior reiterated the President's announced intention fully to respect human rights,

to prevent any unlawful acts by paramilitary groups and actions by authorities which are contrary to the law or disregard orders from the competent superiors. He said that the process begun on 4 September 1981 would continue and offered the Special Envoy full co-operation in carrying out his mission and obtaining the information required. In addition to the documents handed over to the Special Envoy which relate to the legal aspects of the cases analysed, a promise was made to communicate all possible information on these cases.

81. Much of the information supplied by the Minister of the Interior, particularly that relating to the present activities of the SES, the effective functioning of habeas corpus, the number of persons currently in restricted residence, the existence of political detainees or prisoners and the numbers and identity of disappeared persons, is not consonant with the information collected by the Special Envoy from other sources in Bolivia during his visit. The discrepancies are particularly serious as regards the existence and activities of the SES and persons subject to restricted residence -- many of those interviewed affirmed that there are still several hundred such persons.

82. That afternoon, the Special Envoy was received by Colonel Guido Suárez, Minister of Labour, accompanied by Mr. Franz Rojas, Under-Secretary for Labour Development, Mr. Luis Taborga, Director for International Relations, the Director of the National Office for Trade Union Funds and Assets (DINAFES), and Mr. Carlos Rodo, Labour Adviser. The Minister described how he saw the trade union and labour situation existing on 17 July 1980, the reasons for the measures adopted, the present régime and the general lines of the trade union legislation now being prepared. His advisers referred to related questions, particularly the misappropriation of funds in which, according to them, trade union leaders had indulged prior to 17 July 1980. The Special Envoy was given documentation on these questions.

83. The Special Envoy asked whether Supreme Decrees Nos. 17531 of 21 July 1980 and 17545 of 12 August 1980 were still in force and whether there were persons detained for involvement in trade unions or associations. The first question was answered in the affirmative and the second in the negative. He referred to the report of the Committee on Freedom of Association of the International Labour Organisation (Case No. 936) and to the report of Mr. Ian Lagergren, the representative of the Director-General of ILO, on his mission to Bolivia from 4 to 9 October 1980 (Case No. 983). He asked about, and received information on, developments in the situation subsequent to these documents.

84. Subsequently, a meeting was held with State appointed labour co-ordinators, a function created by Supreme Decree No. 17545 of 12 August 1980, (according to which such persons are appointed), adopted immediately following the events of 17 July 1980; they defended the Government's labour policy and criticized the politicization of the previous trade union leaders.

85. On 23 October the Special Envoy travelled to Santa Cruz, accompanied by Mr. Walter Rico Toro, Under-Secretary for Foreign Affairs and Worship. The first stop was at Sucre, where Cardinal José Clemente Maurer joined him. In Santa Cruz the Special Envoy had a meeting with Cardinal José Clemente Maurer, Monsignor Luis Rodríguez Pardo, Archbishop of Santa Cruz and President of the Bolivian Episcopal Conference, and Monsignor Alejandro Mestre, Secretary of the

Conference. The meeting was lengthy and useful, and the Special Envoy heard a submission on the position of the Bolivian Church regarding the problem of human rights, the present situation and current prospects. The letter "Dignity and Freedom" of the Episcopal Conference was handed over to him.<sup>40/</sup> The submission made by these eminent Catholics was particularly instructive and useful to the Special Envoy in forming an opinion on the situation of human rights in Bolivia. Similarly, the discussion resulted in broad agreement on how to approach action to defend and protect human rights in Bolivia, in the light of the country's historical, political, economic, social and cultural background.

86. The Special Envoy then had a meeting with Dr. Mario Serrate Ruiz, Director of Santa Cruz University, at which an analysis was again made of the present situation of Bolivia's universities, the system established by Supreme Decree No. 13187 of 13 April 1981, which introduced a Transitional Statute, and the prospects for new organizational legislation guaranteeing university autonomy and joint administration based on experience gained and actual circumstances in Bolivia.

87. The same day the Special Envoy had talks with Lieutenant-Colonel Máximo García Bonilla, Prefect of the Department of Santa Cruz, Dr. Mario Quintinela Vaca Díez, Mayor of Santa Cruz, and Colonel Quiros, Chief of the Eighth Army Division. He visited the industrial area, and observed for himself the social and labour problems which give rise to Bolivia's current international isolation.

88. He then met a delegation of carriers - a group of persons engaging directly in transport activities which has traditionally supported recent Governments, since its members are owners of trucks which generally are officially allowed into the country duty-free. The carriers defended the labour policy of the present Government.

89. During the morning of 24 October he received a delegation of schoolteachers who submitted complaints about dismissals and persecution based, they alleged, on ideological grounds and attacks by the SES which they considered was continuing to act with impunity.

90. He then received a delegation of workers from the COB (suspended under Supreme Decree No. 17531 of 21 July 1980) who submitted complaints about trade union persecution and measures taken by the SES, which allegedly was still operating and on 21 October had murdered the son of an oil-worker called Gutierrez. He also received Mrs. Saavedra Arce, whose husband, Mr. Guido Saavedra Arce, disappeared on 12 August 1981 and has not been found since.

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<sup>40/</sup> A collective pastoral letter, "Dignity and Freedom", from the Episcopal Conference of Bolivia, Cochabamba, 8 September 1980. In chapter I (A Pastoral View of the Present Situation) this pastoral letter denounces the violations of human rights which took place after 17 July 1980, gives grounds for the Church's right of denunciation (chapter IV, A Christian View of Man), basing itself on the words of the Pope to CELAM on 2 July 1980, and proclaims the "individual and social rights of man".

91. In a final meeting with the Prefect of Santa Cruz, the Prefect reiterated the desire of the new Government fully to respect human rights. The Special Envoy reminded the Prefect of the promise not to take any punitive measures or reprisals of any kind against the persons interviewed by him.

92. On the same day the Special Envoy visited Cochabamba. In the absence of the Prefect, who was away at the time, he talked with Dr. Antonio Castellón, Secretary-General of the Prefecture, Dr. Ernesto Daza Rivero, the Mayor, Colonel Guido Vildoso, Commander of the Seventh Army Division, and the Reverend Father Jiménez, representative of the Archbishopric (vacant).

93. He then received the Reverend Father Julio Tumiri, who presented him with the following documents: a memorandum of 22 October 1981; a report entitled "Nine months of repression in Bolivia"; a publication entitled "The heroic resistance of Bolivia's miners"; and a publication entitled "The All Saints Massacre", prepared by the Permanent Assembly for Human Rights of Bolivia.

94. The Reverend Father Tumiri was accompanied by Gustavo Loza, a minister of the Methodist Church. Father Tumiri referred to the persecution and harassment to which he had been subjected, to his opinion of the present Government of Bolivia, to the measures imposed on him as a result of a restricted residence order and to the fact that the Permanent Assembly for Human Rights was deprived of the freedom to act. Father Tumiri gave the Special Envoy a communication signed by himself in Aiquili, where he maintains that he is in restricted residence, relating to the Permanent Assembly for Human Rights, a private body with a legal personality, which is barred from any activity. This document asserts that basically nothing has changed since 4 September and that the repression continues.

95. He also received a written communication from the Socialist Party.

96. On his return to La Paz in the early evening of 24 October, the Special Envoy had a further conversation with the President of the Republic at his private residence. Mrs. de Torrelio and Dr. Walter Rico Toro, Under-Secretary for Worship of the Ministry of Foreign Affairs, were present. The Special Envoy commented on his visits to Santa Cruz and Cochabamba, and repeated that he thought it necessary to continue the process designed to ensure respect for human rights, to take further effective action in that direction and to put an end to the abuses which, notwithstanding official statements, seem to have continued in some cases. He said that in his opinion a decision which would demonstrate to the international community the Government's forward-looking attitude in that regard would be Bolivia's accession to the two International Covenants on Human Rights and to the Optional Protocol to the International Covenant on Civil and Political Rights. Lastly, he commented on an article in the newspaper El Deber of Santa Cruz which prefaced an account of his statements with the headline "Respect for human rights, a guarantee of political stability", an idea which sums up his thinking perfectly and in his opinion is particularly to be stressed in the case of the many countries suffering from political instability which hampers their economic and social development and respect for the full dignity of human beings. The Special Envoy reiterated his thanks for the full co-operation given to him by the Government of Bolivia and for the arrangements made by the President of the Republic personally to ensure the success of his mission.

The conversation with the President of the Republic was extremely cordial and, in the opinion of the Special Envoy, was characterized by good mutual understanding.

97. On Sunday, 25 October the Special Envoy visited Monsignor Jorge Manrique, Archbishop of La Paz, who outlined the serious violations of human rights since 17 July 1980, the attitudes of the SES - which he described as "criminal" - the current situation and future prospects. He stressed the sufferings of the Bolivian People, partly caused by the country's international isolation. He gave the Special Envoy a copy of his address of 18 July 1980,<sup>41/</sup> which had been falsified and published in an adulterated version.

98. Later on he met representatives of the Ecumenical Commission for Solidarity, "El buen samaritano" (The Good Samaritan), which gave him a substantial amount of documentation on violations of human rights since August 1981.

99. He then interviewed a delegation from the Bolivian Trade Union Federation (COB), made up of representatives of mining, manufacturing industry, rural and university trade unions, who made statements relating in particular to violations of freedom of association.

100. In the afternoon, at the offices of the United Nations, he received all persons and groups wishing to meet him in order to submit statements or complaints relating to violations of human rights. He received 41 statements or complaints from individuals or groups. Noteworthy among these are: mining workers from Huanuni, relatives of persons killed on 15 January 1981, a group representing the Indian Party, and the sister of Mr. Marcelo Quiroga Santa Cruz, who was murdered on 18 July 1980.<sup>42/</sup>

101. The communications received alleged that after 17 July 1980 serious violations of the right to life took place, as well as torture, degrading treatment, persecution for political or trade union reasons, deprivation of the right to work for similar reasons, expulsion or exile, restricted residence in various parts of the country, disappearances, violations of freedom of association, etc.

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<sup>41/</sup> This document reads in part: "I forthrightly demand the release of persons who have been arrested for no crime whatsoever. I demand reparation for the damage inflicted on the Church's broadcasting stations, their immediate return to operation and observance of their freedom of expression. The premises of Presencia must be vacated and its immediate free circulation guaranteed. I protest against the scandalous use of ambulances by military armed forces for the purposes of repression and military and non-humanitarian activities".

<sup>42/</sup> The Special Envoy received a copy of the letter of 19 October 1981 addressed by Mrs. Cristina T. de Quiroga to United Nations Headquarters in New York, together with a copy of the publication entitled "The murder of Marcel Quiroga Santa Cruz".



102. Many of the allegations made affirm that such violations still exist and that current Government activities are a continuation, without change, of the previous ones. Special reference was made in a large number of allegations to the activities of paramilitary groups and of the SES and of the continuing adverse influence said to be exercised by sectors connected with the drug traffic as far as the violation of human rights is concerned.

103. In some cases the Special Envoy was asked to request reparation, compensation or guarantees from the authorities. Although he has transmitted these petitions, particularly the request for full guarantees for the persons he has interviewed, the Special Envoy would like to mention the petition of Mrs. Norma Quiroga Santa Cruz, the sister of Mr. Marcelo Quiroga Santa Cruz and General Hugo Suárez Guzmán (ret.), who represents the relatives of those killed on 15 January 1981 in La Paz, requesting that in view of the existing discrepancies a final clarification should be given of what happened to the remains of those who died on 15 January and that, if there are still remains, they should be handed over to the relatives of the persons concerned. With regard to the outstanding cases of restricted residence or expulsion which reportedly still exist, reference was made to this matter in the relevant section of paragraph 65 (d) of this report.

104. The Special Envoy wishes to mention the extreme gravity of many of the human rights violations brought to his notice. The murders of Marcelo Quiroga Santa Cruz and of Guadalberto Vega and the extermination of the youth leaders of MIR - for example, Artemio Camargo Crespo, Ramiro Hernán Velasco Arce, José Gonzalo Reyes Carvajal, Ricardo Navarro Mogro, Luis Suárez Guzmán, Jorge Valdivieso Menacho, Arcil Menacho Loayza, Gonzalo Barrón and Gregorio Andrade - are cases of savage repression displaying ferocious brutality.

105. On 26 October the Special Envoy flew to Oruro. After meetings with Colonel Luis Cordero Montellano, Commander of the Second Division, Lieutenant-Colonel Gustavo Arrázola, the Prefect, and Dr. Luis Díaz Matta, the Mayor, he proceeded to the Caracoles Mine.

106. First of all, in the Mine Manager's office he met the State-appointed labour co-ordinators who reportedly had been selected only eight days previously, and they explained the current labour situation to him. After a worker who was present reported that he had been dismissed for political reasons and that for the same reasons he was unable to obtain employment, and was subject to a restricted residence order and obliged to report in La Paz once a fortnight, one of the labour co-ordinators referred to the events which had occurred in Caracoles, on 4 and 5 August 1980, when 10 miners died in a clash between miners and the armed forces. The Reverend Father Pedro Sánchez, a priest of the town of Carmen, which is very close to the mine, asked the Special Envoy to visit this town to discuss those events. Once there, the Special Envoy listened to eye-witness accounts of the armed clashes which took place on that occasion, the attack on the town by the troops, the 10 deaths, the torture inflicted on numerous persons, the looting of houses and the indescribable acts committed by the troops against women and children.

107. The Special Envoy cannot conceal in his report the tremendous impression which this visit made on him and the inexcusable savagery of the repressive action taken not only against the miners but also against their helpless families during the armed forces' attack of the town of Carmen. When Mr. Lucio Torrejón Calderón, Manager of the mining company, intervened to explain that it had been a military attack mistakenly directed against a civilian population but after the troops had been attacked by the miners with firearms and dynamite, the Reverend Father Sánchez replied that the revolt of the miners had been to defend a Government elected by the people, in the face of a coup d'état.

108. A number of the widows of persons who died in these armed clashes stated that they had been refused death certificates. The Special Envoy requested the authorities for humanitarian reasons, without such a request being interpreted as interference or an abuse of his authority, to give them the certificates. Dr. Walter Rico Toro, Under-Secretary for Worship of the Ministry of Foreign Affairs, who accompanied the Special Envoy throughout, urged the authorities of the mining company to resolve this situation. The Special Envoy reminded all those present that the Government authorities had promised not to take any kind of reprisals or punitive measures against persons who had made statements to him.

109. During the morning of 27 October he visited the San José mine in Oruro, where he spoke to miners about the situation since 17 July 1980. He observed the miners' subhuman living conditions, the technological backwardness of the mining operation, and the labour and social system. He received complaints of dismissals for political and trade union reasons, persecution of workers representatives and assaults and armed aggression against the miners in August 1981, when firearms had been freely used.

110. The Special Envoy then met Monsignor René Fernández, Bishop of Oruro, and the priests Father Felipe Maquena and Father Ignacio Suñol. These priests described in detail the human rights situation in Oruro and the current position. They mentioned the continued activities of the SES and its Chief, Mr. Bernal, and of the Chief of Intelligence of the Second Division. They referred to political detainees, exiles, disappeared persons and persons subjected to restricted residence - according to them, there are still some people in the latter situation.

111. He returned to El Alto Airport. At the airport, officials from the Ministry of Foreign Affairs and Worship were waiting to see him off, led by Dr. Walter Rico Toro, Under-Secretary for Worship of the Ministry of Foreign Affairs, and that afternoon he ended his visit to Bolivia.

112. On 26 October the entire La Paz press published a document entitled "Message from the Confederation of Private Entrepreneurs of Bolivia to the Armed Forces" which reads:

"On the other hand - someone must say this, and we do so knowing the risk we may be running in expressing this opinion - it is time for the civilian population to take an increasing share in formulating proposals and solutions for getting the country out of its terrible problems. Since the entire

civilian population is affected by the tragedy engulfing Bolivia, it is right that civilians should not merely bear the brunt of these problems but should also have an opportunity to find answers and solutions to issues which are their concern and which affect their lives and futures. In other words, it is time for the Government of the Armed Forces to acknowledge that its monopoly on the conduct of State affairs is contrary to its own interests and seriously jeopardizes its uncertain future. Its professional tasks are clearly set out in Bolivia's basic constitutional documents. Let us not try the Bolivian people beyond endurance, let us not put to the test their calmness and strong inclination to live in peace, let us not induce a basic change in their state of mind, a predisposition to violent change, as has been shown in many episodes of our nation's history."

113. After his visit to Bolivia was over, the Special Envoy received the text of a speech made by General Celso Torrelio Villa, President of the Republic, answering the comments of the Bolivian entrepreneurs. In the section on the political process he said:

"The private sector, which in one way or another has taken part in the great majority of Governments, must accept, now that we are trying to put the country back on the right road, the challenge posed to them by the Government programme which, by giving a new dimension to the participation of private capital in the national economy and the development of the nation, will bring about a profound change in our economic base."

"From now on, the private sector must show its real capacity; instead of taking political positions which are not its concern and which we as the Government do not accept, it must embrace the new opportunities and techniques in order to turn them to the benefit of the entire nation."

"...

"With regard to the political activity which some business sectors wish to start up again, just as in the recent past the armed forces strenuously opposed the claim to set up a State under leftist control, so today, and equally tenaciously, we oppose the claims for a State under the rule of the entrepreneur. However, since we do not believe that the statements on which I have commented represent the true feelings of private entrepreneurs in general, we shall seek together with them the bases for sound and harmonious participation in the economic and social development of the nation."

114. Wherever he went, during his visit to Bolivia, the Special Envoy received hundreds of communications, letters and documents referring to alleged violations of human rights. It is obviously impossible to examine all the cases and situations submitted. This documentation, however, which has gone into the files of the

Division of Human Rights, was read in its entirety by the Special Envoy and, together with the evidence specially mentioned in the study, has helped him to formulate the conclusions which he has reached.

115. During the Special Envoy's visit to Bolivia there were no reports of violations of human rights occurring at the time, and all persons who wished to meet him were able to do so. Even people who described themselves as being subjected to restricted residence, made long trips for this purpose without being impeded in any way. The press had considerable leeway for discussion and political analysis, the newspapers gave very full information on violations of human rights, and the news coverage of his visit was very extensive.

116. Although, according to some statements, all this could be basically temporary and limited, and linked to the Special Envoy's visit, and some persons expressed fears of subsequent repression, the Special Envoy is bound to record the easy atmosphere and openness existing during his visit; this in itself is clearly a positive factor.

117. The Special Envoy wishes to mention the full co-operation extended to him at all times by the Office of the United Nations Development Programme in Bolivia and particularly by Mr. Krishan Singh, UNDP Resident Representative, who gave not only his personal co-operation but that of the administrative services under his responsibility.

118. The Special Envoy also wishes expressly to thank Mrs. Bruna Molina and Miss Carmen Cuevas for their invaluable assistance, not only during his visit to Bolivia, but during the entire process of research and preparation which made this study possible.

119. On 14 November 1981, in the offices of the Division of Human Rights in Geneva, the Special Envoy received members of the Executive Committee of the Bolivian Trade Union Federation (External Commission)<sup>43/</sup> and of the Free Bolivia Association,<sup>44/</sup> who made further submissions regarding the situation of human rights in Bolivia.

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<sup>43/</sup> In a letter of 16 November 1981, the Special Envoy was given a summary of the matters raised at the meeting in connection with violations of freedom of association and other human rights. The Communication ends with the request that "the Bolivian Government should be called upon to restore all the rights and guarantees embodied in international legal instruments by granting an unrestricted general amnesty which will restore to us the right to live and work freely in our own country."

<sup>44/</sup> In a letter of 16 November 1981, the members of this Association made various comments on the violation of human rights in Bolivia and on the continuity which they considered to exist between the present and the previous Governments, and requested that "... an express recommendation should be made to the Bolivian Government to grant (as soon as possible) a general and unrestricted amnesty for all Bolivians persecuted and exiled for political or trade union reasons, and to ensure that the basic laws concerning human rights are observed and applied."

#### XIV. Conclusions

120. The Special Envoy's study is not a legal or semi-legal document in which the assertion that a violation of human rights has taken place must in each case be the result of a rigorous assessment of the relevant evidence. Given the procedure followed in preparing the document, this would not be possible; nor would it be in keeping with the character of a study of this type. The approach of the Special Envoy's study is different, and its conclusions must be seen as the result of an over-all, objective and balanced assessment of the alleged acts, taking into account all available information, the circumstances of each case and the on-the-spot observations of the Special Envoy. Consequently, these conclusions are based on the moral certitude and the reasonable and fair conviction of the Special Envoy and therefore entail his personal responsibility.

121. Because of the nature of the study, it would be inappropriate to go into the reasons put forward in explanation and justification of the events of 17 July 1980 (political and trade union unrest, general lack of security, electoral fraud, etc.), since such reasons cannot excuse violations of the most fundamental and inalienable rights and freedoms of the individual.

A point which should, however, be mentioned as being directly related to the question of respect for human rights is that there was no serious or intensive terrorist activity in Bolivia at that time.

122. The Special Envoy is convinced that, following 17 July 1980, grave, massive and persistent violations of human rights were committed in Bolivia.

123. The violations of civil and political rights referred to above were the result of the violent interruption, on 17 July 1980, of the political process then under way and of the exercise of governmental power by the authorities which took over the government immediately afterwards. In many instances, it was the State authorities which were responsible for such violations. However, it should also be noted that other cases of grave violations of human rights were the result of action by groups - generally armed and to some extent clandestine - apparently acting in collusion with, at the instigation of or without any interference from the State authorities. An example of this is the activities in Bolivia of official agencies such as the SES which was established by a Supreme Decree, but whose operations were often secret or the result of the irresponsibility of members of the service, and which was apparently often beyond the control of the competent government authorities in committing grave violations of human rights and creating a climate of apprehension and terror among the population at large.

124. However, this situation was not exactly the same in the various periods of government covered by this study, and it would seem that, as of 4 September 1981, there was a relative and partial improvement in the situation, with the reassertion of the firm resolve to ensure respect for human rights. It is to be hoped that these intentions will be translated into real and positive action.

125. In this report, the Special Envoy has dealt only with violations of civil and political rights. This does not mean that violations of the economic, social and cultural rights enumerated or referred to in the Universal Declaration of Human Rights (articles 22 to 27) and in the American Convention on Human Rights (Pact of San José, article 26), to which Bolivia is a party, have not taken place or are not continuing to occur. However, in view of the gravity of violations of civil and political

rights and their significance and importance for an analysis of the situation, the Special Envoy elected to limit the study to this aspect, while at the same time pointing out the traditional and tragic lack of respect accorded to economic, social and cultural rights in Bolivia.

126. The Special Envoy cannot and must not embark on an analysis of the unfolding political process which was violently interrupted on 17 July 1980. Nor, within his self-imposed limits, should he attempt to define the character of the authorities which have held power since that time. However, in addition to pointing out that the interruption of the constitutional process paved the way for the violation of the political rights of the people of the Republic of Bolivia (Universal Declaration of Human Rights, article 21, and Constitution of Bolivia, article 222), the Special Envoy feels bound to state that, whatever reasons may have existed for interrupting the democratic constitutional process, any suppression and/or violation of those human rights which at all times constitute the necessary and irreducible minimum, and the existence and respect of which is essential at all times and in all circumstances, is unacceptable and inadmissible. No argument advanced in an attempt to justify the derogation, disregard or violation of such rights can be accepted. This idea that it is absolutely impermissible to derogate from certain rights - particularly the right to life, the right not to be subjected to torture or to cruel, inhuman or degrading treatment and the right not to be subjected to slavery or servitude - is recognized in article 27 (2) of the Inter-American Convention on Human Rights, to which Bolivia is a party, and also proclaimed in article 4 (2) of the International Covenant on Civil and Political Rights, and derives from a general principle set forth in article 29 (2) of the Universal Declaration of Human Rights, which states:

"In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."

127. These rights from which no derogation is permitted, in particular the right to life inherent in the very concept of the human person, and the prohibition of torture and cruel, inhuman or degrading treatment, must be recognized and guaranteed in all circumstances and at all times. Consistent and unceasing observance is the very core of the guarantee and protection of such rights. It constitutes a case of jus cogens, which exists independently of the formal treaty obligations entered into by the State, <sup>45/</sup> and must be applied, erga omnes, by the international community and all the States which comprise it. <sup>46/</sup>

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<sup>45/</sup> Héctor Gros Espiell, "Self-determination and Jus Cogens", UN Law/Fundamental Rights, edited by Antonio Cassese, Sijthoff, 1979, pp. 167-173; Héctor Gros Espiell, The right to self-determination: Implementation of United Nations resolutions, E/CN.4/Sub.2/405/Rev.1, Sales No.: E.79.XIV.5, chap. I, para. 78, p. 12, foot-note 60.

<sup>46/</sup> International Court of Justice, Case concerning the Barcelona Traction, Light and Power Company, Limited, Belgium v. Spain, Judgment of 5 February 1970, p. 32, paras. 33 and 34.

128. Human rights violations in Bolivia should be considered and assessed in the light of the political, economic, social and cultural conditions prevailing in the country. The traditional and endemic political instability which has always existed in Bolivia, the weakness of democratic precedents, the strength - often beyond the control of the authorities - of the real centres of power and the practice of political intervention on the part of the armed forces, are factors which cannot be overlooked. In addition, however, there are economic, social and cultural factors which must be taken into account. The vast majority of Bolivians clearly do not enjoy an acceptable minimum of economic, social and cultural rights. Bolivia is a developing country with a small gross national product and very low per capita income. Moreover, national wealth is still distributed unfairly and unequally, and public education, health, social and cultural services do not adequately meet the needs of the majority of the population.

129. Added to all this, the special characteristics of the Bolivian population, comprising as it does an exceptionally high proportion of indigenous groups, many of whose members have traditionally remained outside the political process and, in some cases, have regarded themselves as outcasts in a State that they look upon as an imposed structure external to themselves, in which they have no part to play and to which they do not belong, make it easier to understand the factors which have made, and continue to make, the effective and real implementation and practical observance of human rights in Bolivia extremely difficult.

130. Another question which cannot be overlooked is that of the drug traffic so widely discussed in relation to the case of Bolivia, a tragic situation which has adverse effects on many aspects of national life and necessarily and inevitably helps to create a climate favourable to the disregard and violation of human rights.

131. Consideration of this political, economic, social and cultural background is essential to an understanding of the human rights situation in Bolivia. This background influences the study of the question to some extent and provides an insight into the causes of a situation in which violations and non-observance of human rights are not an atypical phenomenon dating from 17 July 1980, but rather one which, with some differences and varying degrees of intensity, has occurred at many other times in Bolivia's troubled history.

132. The Special Envoy could not conclude this report, in which he has stated his moral conviction that grave, massive and persistent violations of human rights have occurred in Bolivia since 17 July 1980, without mentioning that, in his estimation, the situation has improved in recent months and that the most serious and grave violations committed following 17 July 1980 have not recurred with the same intensity.

133. It is to be hoped that this positive trend, which is a result of the decision adopted by the present Government on 4 September 1981, will continue, intensify and succeed in overcoming the obvious difficulties which restrict, hinder and affect it.

134. The official statements of the President of the Republic, the Minister for Foreign Affairs and Worship and the Minister of the Interior to the effect that the Government which came to power on 4 September 1981 will respect human rights - statements which were specifically reaffirmed in chapter III (Internal Policy), paragraph 1, of the Programme of Government of the National Armed Forces, announced on 22 October 1981 - are positive factors. These declared aims would already appear to have had beneficial effects on the situation. Nevertheless, they must be translated into further essential acts and deeds. The inadmissible activities of

the SES must be totally eradicated, and the agency which takes its place must act within the legal order and with full respect for rights and freedoms. Legal guarantees must be enforced; the efficacy of legal remedies, particularly habeas corpus, must be fully guaranteed; and progress must be made towards ensuring freedom of expression, freedom of assembly and freedom of association, and prohibiting torture, degrading treatment and arbitrary detention - all of which have been the subject of serious abuse since 17 October 1980 - while fully respecting the sovereignty of the country and taking account of its historical, political, economic, social and cultural characteristics.

135. Full respect for human rights and fundamental freedoms must constitute one of the prerequisites for political stability in Bolivia. Such political stability is itself one of the prerequisites for economic and social development, without which the real and effective implementation of all human rights is impossible.

136. The restoration of a régime which guarantees respect for human rights and fundamental freedoms in Bolivia will, as a consequence of the fulfilment of the aims referred to in paragraph 134, entail the abolition of ideological proscriptions and of political exile and the subsequent establishment of a constitutional State in which a proper balance exists between order and freedom under the law.

137. It would be most desirable for the Government of Bolivia to accede to the International Covenants on Human Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, as a token of the new human rights policy which it has announced.

138. In the view of the Special Envoy, the international community should not only draw attention to violations of human rights that have occurred and determine the consequences under the applicable law, but should also take practical steps to discharge its responsibility to strengthen and increase observance of human rights through co-operation and aid, with a view to establishing and developing the necessary basic conditions, thereby contributing to the attainment of the desired goal, namely the gradual improvement of the human rights situation in countries where it presents grave problems.

139. In many cases, the international isolation of a Government as a result of its human rights violations paradoxically leads to an undesirable economic situation in which the impoverishment, suffering and hardships of the people of the country in question become more acute. Thus, international reaction to the violation of human rights in a State sometimes indirectly provokes further violations of the economic and social rights of the masses as a consequence of the deterioration of the economic base on which such rights are founded. While the ruling and privileged classes escape the consequences of international measures which are a result of their own acts or omissions, and the Government remains in power, the poor, suffering labouring masses are directly and adversely affected by international isolation, although they are not to blame for the situation.

140. The preparation of this study was made possible by the documentation gathered from a great variety of sources, statements made by the many individuals interviewed and the co-operation of the Bolivian Government, which was most generous in facilitating the Special Envoy's visits, interviews and contacts in Bolivia. It is the Special Envoy's opinion that this study should be viewed not only as establishing that violations of human rights have occurred - grave, massive and repeated violations which cannot be denied or justified in any way - but also as



contributing to the improvement of the human rights situation in Bolivia as part of the positive process which, with all its constraints, difficulties and limitations, appears to have been initiated on 4 September 1981.

141. As stated in paragraph 133, the Special Envoy hopes that this process will, as promised by the present Government of Bolivia, be continued, strengthened and consolidated until the full and unconditional observance of the human rights and fundamental freedoms of all, without discrimination of any kind, is achieved in Bolivia.

142. The report was sent to the Government of Bolivia on 20 November 1981 with a request for comments by 20 December 1981. On 28 December 1981 the Permanent Representative of Bolivia to the United Nations Office at Geneva requested an extension of this time-limit to mid-January 1982. This request was agreed to, in consultation with the Special Envoy. Since the comments on the report had not been received by 28 January 1982, they will be issued in the form of an addendum.