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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Report by the Expert, Mr. Héctor Gros Espiell, on Guatemala, prepared in
accordance with paragraph 8 of Commission resolution 1988/50

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I. INTRODUCTION

1. The Commission on Human Rights has been considering the situation of human rights in Guatemala since its thirty-fifth session, in 1979, and has taken a series of decisions in this regard (see E/CN.4/1988/42, paras. 1 to 11, for a detailed summary).
2. In 1983, the Chairman of the Commission, in accordance with resolution 1983/37 adopted by the Commission at its thirty-ninth session, appointed a Special Rapporteur for Guatemala. From 1984 to 1986, the Special Rapporteur submitted annual reports to the General Assembly and the Commission on Human Rights.
3. At the end of 1985, a process of democratization began in Guatemala after many years of military dictatorship. The people freely elected a civilian Government, which assumed power on 14 January 1986 at the same time as the new Constitution of the Republic entered into force.
4. In 1986, the Commission on Human Rights adopted resolution 1986/62, in which it decided to terminate the mandate of the Special Rapporteur and requested the Chairman of the Commission at its forty-second session to appoint a special representative, who submitted a report to the Commission at its forty-third session, in 1987. After considering that report, the Commission adopted resolution 1987/53 in which it decided to terminate the mandate of the Special Representative and requested the Secretary-General to appoint an expert to formulate recommendations to the Commission for the further restoration of human rights in Guatemala.
5. In accordance with resolution 1987/53, entitled "Situation of human rights in Guatemala", the Secretary-General appointed, on 14 June 1987, Mr. Héctor Gros Espiell as the Expert with a view to "assisting the Government of Guatemala, through direct contacts, in taking the necessary action for the further restoration of human rights".
6. In his first report to the Commission on Human Rights, the Expert stated (E/CN.4/1988/42, para. 16) that he took the view that his mandate was to continue providing the Commission with his personal appraisal on respect for human rights in that country.
7. Further, with a view to taking the necessary action for the further restoration of human rights, his report was required to deal with the possibility offered to the constitutional Government of Guatemala of requesting advisory services and other forms of assistance with a view to fostering advances in democracy and strengthening respect for human rights.
8. The Commission on Human Rights, after considering the report (E/CN.4/1988/42) of the Expert, adopted, at its forty-fourth session, resolution 1988/50 entitled "Assistance to Guatemala in the field of human rights", in which it noted with satisfaction that the Government of Guatemala was prepared "to guarantee the protection of human rights and fundamental freedoms in that country". It also welcomed with satisfaction "the interest shown by the Government of Guatemala in continuing its co-operation with the Commission".

9. In the same resolution, the Commission expressed the view that the obligation to promote and protect human rights and fundamental freedoms called not only for measures to guarantee their protection, but also for measures to prevent effectively any violation of those human rights. The Commission appealed to the Government of Guatemala to accord priority to the implementation of such measures.

10. The Commission requested the Secretary-General, in the same resolution, to provide "such advisory services and appropriate forms of assistance in the field of human rights as may be requested by the constitutional Government of Guatemala, with a view to fostering advances in democracy and strengthening the institutions responsible for ensuring respect for human rights in accordance with the recommendations contained in the Expert's report in the framework of the proposals contained in the report of the Secretary-General on the question (E/CN.4/1988/40 and Add.1)".

11. The Commission also decided to request the Secretary-General to renew the mandate of the Expert for one year, and requested the Expert to submit a report to the Commission at its forty-fifth session.

12. The present report covers the period from March to December 1988, although statistics concerning the first months of that year have already been included when considered appropriate. The report is based partly on the data provided by the Guatemalan authorities, although they are obviously not the only source of information. In this respect, the Expert wishes to acknowledge the extensive co-operation he received at all times from those authorities. That co-operation made it easier to discharge the mandate assigned to him. The Expert has also taken into account information contained in the 1988 report of the Inter-American Commission on Human Rights, as well as the relevant information received, through the United Nations Centre for Human Rights, and transmitted by non-governmental organizations, in particular: Amnesty International, the Central American Association of Families of Missing Detainees (ACAFADE), the Human Rights Commission of Guatemala, the World Organization against Torture and the Guatemalan Justice and Peace Committee.

II. PRESENT LEGAL FRAMEWORK OF THE HUMAN RIGHTS SITUATION IN GUATEMALA

13. With respect to the applicable international law, it should be noted that, apart from the binding force of the Universal Declaration of Human Rights, as now recognized in doctrine and in international practice, under Guatemala's legislation the Declaration is given specific legal effect in internal law (art. 48 of Decree No. 54-86 of 10 October 1986, amended by Decree No. 32-87). These decrees specify that the Procurator for Human Rights is a Commissioner of Congress for the defence of the human rights guaranteed by the Constitution, the Universal Declaration and the Treaties accepted and ratified by Guatemala.

14. It should also be noted that, in accordance with the provisions of article 46 of the Constitution, international treaties and conventions agreed and ratified by Guatemala prevail over domestic law. This constitutional principle is also embodied in article 3 of the Amparo, Habeas Corpus and Constitutionality Act (Decree No. 1-86 of the National Constituent Assembly of 8 January 1986).

15. Within the United Nations orbit, Guatemala is a party to the following human rights instruments (only those that are relevant in the light of Guatemala's experience and situation are cited):

(a) International Covenant on Economic, Social and Cultural Rights (Guatemala deposited the instrument of accession to this Covenant on 19 May 1988);

(b) Convention on the Prevention and Punishment of the Crime of Genocide;

(c) International Convention on the Elimination of All Forms of Racial Discrimination;

(d) Convention on the Elimination of All Forms of Discrimination Against Women;

(e) Convention Against Slavery and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery;

(f) Convention and Protocol relating to the Status of Refugees;

(g) International Labour Organisation (ILO) Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, 1948, ILO Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, 1949, and ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, 1958. Guatemala has ratified in all 47 ILO Conventions, 8 of them in 1988.

16. In regional terms, Guatemala is a party to:

(a) The American Convention on Human Rights and has recognized the litigious jurisdiction of the Inter-American Court of Human Rights (Government Order No. 123-87, of 20 February 1987), provided for in article 62 of the Convention, although only in regard to events occurring after the declaration recognizing such jurisdiction;

(b) The Inter-American Convention to Prevent and Punish Torture. However, it entered the following reservation: "The Republic of Guatemala does not agree to the application, nor will it apply, the third paragraph of article 8 of the Inter-American Convention to Prevent and Punish Torture, for under its internal legal system, after remedies have been exhausted, a decision acquitting a person presumed to be guilty of the offence of torture is final and may not be submitted to an international forum". In the opinion of the Expert, this reservation is incompatible with the object and purpose of the Convention and at the same time is irreconcilable with Guatemala's recognition of the jurisdiction of the Inter-American Court of Human Rights.

17. As far as international humanitarian law is concerned, Guatemala ratified, on 14 May 1952 the four 1949 Geneva Conventions and is also a party to the two 1977 Additional Protocols to the Geneva Conventions, which it ratified on 19 October 1987.

18. Guatemala's "status" vis-à-vis the human rights instruments shows, at the international and regional levels, the following deficiencies that should be remedied:

(a) Guatemala is still not a party to the United Nations International Covenant on Civil and Political Rights or the Optional Protocol thereto. Neither is it a party to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Guatemala maintains an unacceptable reservation to article 8 of the Inter-American Convention to Prevent and Punish Torture.

19. In his meetings, in the course of his mission in Guatemala from 20 to 24 June 1988, with the Human Rights Commission of Congress, the Minister for Foreign Affairs and the President of the Republic, the Expert drew attention to these deficiencies and repeated that Guatemala should accede as soon as possible to the International Covenant on Civil and Political Rights and to the United Nations Convention against Torture. In his opinion, Guatemala should also withdraw the reservation it had made to the Inter-American Convention to Prevent and Punish Torture.

20. He was informed that the instruments in question were being studied. The International Covenant on Civil and Political Rights, in particular, raised the problem of the right to self-determination (art. 1). The Expert pointed out that Guatemala was already a party to the other International Covenant which contained exactly the same article (art. 1), and he went on to say that there was no difficulty whatever from the legal viewpoint, but that there was nothing to prevent the Government from making a declaration at the time of accession if it wished to do so.

21. During his third mission, which took place from 19 to 21 November 1988, the Expert once again raised with the President of the Republic and the Human Rights Commission of Congress the question of Guatemala's accession to the three aforementioned United Nations human rights instruments, as well as the withdrawal of the reservation made by Guatemala to the Inter-American Convention to Prevent and Punish Torture of the Organization of American States (OAS). He was told that the Executive was about to send to Congress for its approval the three United Nations human rights instruments and that the Human Rights Commission of Congress would issue a report in favour of Guatemala's accession to those instruments. The Congress was expected to ratify them by the end of January 1989.

22. With regard to the applicable internal law, the Expert submitted an analysis to the Commission on Human Rights, in his first report (E/CN.4/1988/42, paras. 24 to 28), of the legislative framework adopted by Guatemala since 1985, to regulate and guarantee human rights in Guatemala, mainly: the 1985 Constitution; the Amparo, Habeas Corpus and Constitutionality Act (Decree No. 1-86 of the National Constituent Assembly), the Act on the Human Rights Commission of the Congress of the Republic and the Procurator for Human Rights and Reforms (Decrees Nos. 54-86 and 32-87). The report also referred to the body of laws enacted or in the process of being adopted to promote economic and social development.

23. The following entities and institutions now in operation, arising out of the new Constitution or measures taken by the constitutional Government of Guatemala since 1986 to promote and protect human rights should be mentioned:

(a) The Constitutional Court, set up in April 1986, since when it has exercised the functions granted to it by the Constitution in respect of the defence of the constitutional order. It was established by articles 268-272 of the Constitution;

(b) A new Supreme Court of Justice, comprising nine judges elected by Congress, established by articles 214-216 of the Constitution;

(c) The Human Rights Commission of Congress established by the Constitution, is made up of one deputy for each of the political parties represented in the Congress. In its report submitted to Congress in February 1988, the Commission stated that although there had been progress in Guatemala towards stability and security, the major human rights problems were enforced or involuntary disappearances and extra-legal executions. The Commission had taken the welcome initiative of printing, in a pocket-size brochure, the United Nations Code of Conduct for Law Enforcement Officials, and of sending copies to officials of various ministries in August 1988;

(d) The Procurator for Human Rights, an independent institution established by the Constitution for the defence of human rights, took up his duties on 19 August 1987. The Office of the Procurator opened its doors to the public two months later. In December 1987, the Procurator submitted his first report to Congress. In the two months of operations, 111 complaints had been received. The report also mentioned the promotion and education activities undertaken by the Office;

(e) The National Reconciliation Commission, established on 11 September 1987 by the President of the Republic in conformity with the procedure agreed by the Presidents of the Central American countries with a view to establishing a stable and enduring peace in Central America (Esquipulas II). The Commission is an entity for monitoring and establishing compliance with the Agreements; it is also an intermediary between the Government and the guerrilla forces with a view to achieving an effective cease-fire. On 7 November 1988, the Commission made an appeal for national dialogue, as broad and democratic as possible, to permit the most representative groups of the country to hold an exchange of views in order to find solutions leading to a fairer and more united social co-existence for Guatemalans;

(f) The Ad hoc Committee for Aid to Returnees (CEAR), established by Government Order No. 765-86 of 16 October 1986, is composed of representatives of various ministries and chaired by the Ministry of Foreign Affairs. The Committee's primary objective is to assume responsibility for "establishing conditions which permit the gradual return of refugees". The Committee has co-operation agreements with national and foreign entities, and in particular with the Office of the United Nations High Commissioner for Refugees (UNHCR). Under the CEAR-UNHCR programme, between January and October 1988, 1,880 persons (391 families) were repatriated and 580 persons (142 families) returned on their own. In 1987, 1,047 persons (210 families) were repatriated. Since the

programme was launched in 1987, CEAR has assisted a total of 3,507 returnees (743 families), according to the data provided by CEAR. In 1988, CEAR also assisted 4,067 displaced persons (1,011 families), making an overall total of 7,574 repatriated or displaced persons (1,754 families) assisted by CEAR;

(g) The Advisory Commission on Human Rights Matters to the Office of the President of the Republic, established on 19 April 1988, by Government Order No. 244-88, in order to contribute to all those activities that are designed to ensure that citizens enjoy human rights, without prejudice to the functions and jurisdiction which the law assigns to other organs of the State to secure the application of these rights. The Commission began work on 15 May 1988. It has concentrated on cases of enforced and involuntary disappearances reported to the Ministry of Foreign Affairs of Guatemala. At the end of October 1988, the Commission had worked on 51 cases, of which 10 were national complaints and 41 international complaints. The Commission reported that 23 cases had been completely clarified, in other words, that the persons concerned had not disappeared and were alive; there were 17 cases of persons with incorrect addresses or of no fixed abode; in 7 cases the persons had disappeared and in 4 cases the persons were found to have died;

(h) The Supreme Electoral Court established by Decree No. 1-85 of the National Constituent Assembly, amended by Decrees Nos. 51-87 and 74-87 of the Congress of the Republic, counted the ballot papers in the municipal elections held in Guatemala on 20 April 1988. Some 2.8 million citizens took part in these elections, which were the first organized since the Government of President Cerezo took office. The results of the elections were 36 per cent of the votes for the Christian Democrat Party and 24 per cent for the National Union of the Centre. Eight of the 148 municipalities won by the Christian Democrat Party in the 1985 elections were lost in the 1988 elections (140). The National Union of the Centre which had gained control of 58 municipalities in 1985, lost 2 in the 1988 elections (56). The National Liberation Movement won 2 municipalities and the Revolutionary Party 9. Fifteen political parties were registered in the elections.

24. Nevertheless, the major problem, as the President of the Supreme Court pointed out in his inaugural statement at the human rights training course held in Guatemala in November 1988, is to ensure that this new legislation does not remain at the level of intent. In order to maintain a State in which the rule of law prevails, to defend democracy and its future and to respect human rights, these rules and principles have to be applied in practice and, in their dealings, the Government and all public authorities have to implement a policy, every aspect of which applies the rules and principles relating to human rights.

III. VISITS TO GUATEMALA: MEETINGS AND ACTIVITIES

25. In order to make direct contact with the Guatemalan authorities and to assess the situation regarding human rights, in conformity with the mandate given by the Commission, the Expert carried out three missions in the course of 1988, two of them with an official of the United Nations Centre for Human Rights. The first visit took place from 20 to 24 June, followed by a second visit from 19 to 21 August during which the Expert visited camps of refugees and returnees. The third visit took place from 19 to 21 November 1988.

26. During these visits, the Expert had meetings, at the official level, with Mr. Vinicio Cerezo Arévalo, the President of the Republic, General Héctor A. Gramajo, the Minister of Defence, Mr. Alfonso Cabrera Hidalgo, the Minister for Foreign Affairs, Mr. Roberto Valle Valdizán, the Minister of the Interior, Mr. Edmundo Vásquez, the President of the Supreme Court of Justice, Mr. Héctor Zachrisson of the Constitutional Court, Mr. Gonzalo Menéndez de la Riva, the Procurator for Human Rights and his two Deputy Procurators, the Chairman and other members of the Human Rights Commission of Congress, the President and members of the Advisory Commission on Human Rights Matters to the Office of the President of the Republic and members of the National Reconciliation Commission. He also met the Metropolitan Archbishop, Monsignor Próspero Penados del Barrio.

27. He also had meetings with human rights defence and protection organizations and leading trade union organizations of Guatemalan workers, particularly with Mrs. Nineth de García of the Mutual Support Group (GAM), with representatives of the Federation of Guatemalan Workers (CGTG), the Electrification Workers' Union and the Union of Guatemalan Workers (UNSI TRAGUA). He also had an interview with a journalist from the weekly La Epoca.

28. During his mission in August 1988, the Expert was able to visit the following settlements for returnees and displaced persons operating under CEAR projects, some of them in co-operation with UNHCR: Centre for Assistance to Displaced Persons in Nejab, El Quiché (CEAR); Centre for Assistance to Displaced Persons, Chemamatzé, Nejab II, El Quiché (CEAR); Reception Centre for Returnees, Hueheutenango, (CEAR); School Rebuilding Project, Aldea La Unión, Municipio Nentón, Huehuetenango (CEAR/UNHCR); Nixtamal mill installation project, Aldea Nubilá, Municipio Barillas, Huehuetenango (CEAR/UNHCR); Playa Grande, Fuel Supply, Ixcán, El Quiché (CEAR); Temporary Camp, Nueva Resurrección, Ixcán, El Quiché (CEAR); Settlement at Mayalán, Ixcán, El Quiché (CEAR).

29. The Expert was able to see for himself the major efforts being made to receive refugees and resolve their problems, although there are many problems that still have to be resolved.

30. Returnees are no longer compelled to submit to the amnesty law. In all the places he visited, there were civilian self-defence patrols (PAC), which are carried out in turn by the returnees themselves, who bear arms and are trained to use them. In some combat areas, military camps have been set up in their vicinity.

31. The information and views given in the following chapters are the result of the visits and the information collected during them.

32. Nevertheless, following his last visit, the Expert learned of a very serious occurrence, which he is bound to mention, namely, the massacre of San Andrés Itzapa, Department of Chimaltenango. In the communiqué published by the Secretariat for Public Relations of the Office of the President of Guatemala on 27 November 1988, the Government reported that:

"Forces hostile to the constitutional system, within the so-called Revolutionary Organization of the People in Arms (ORPA) in an indescribable act and in total contempt of the most elementary principles of humanity, kidnapped and subsequently murdered 21 poor peasants from the village of El Aguacate, in the administrative area of the municipality of San Andrés Itzapa, Department of Chimaltenango."

Non-governmental organizations have, however, indicated that the official version of the events is unsatisfactory and they have requested the Government to carry out an independent investigation into the massacre. The Expert has noted and filed these communications.

IV. PRESENT SITUATION OF HUMAN RIGHTS IN GUATEMALA

33. In his first report, the Expert indicated that the present constitutional Government of Guatemala has strengthened and developed the internal legal framework in order to secure the effective application of human rights and has adopted, since it was elected, a series of forward-looking legislative measures designed to strengthen the process of democratization in Guatemala. In this report, which covers the period from March to December 1988, the Expert wishes to stress the existence of gaps which the Government will have to fill. It would also need to assure improved operations and better co-ordination among the various organs responsible for the promotion and protection of human rights. He also wishes to point out that the real situation of human rights, although within the framework of a State in which the rule of law prevails, is basically determined by factors, conditions and situations that have harmful repercussions on the enjoyment of economic, social and cultural rights, as well as on the process of the consolidation of democracy in Guatemala, and which will have to be overcome.

34. Guatemala has a population of more than 8 million inhabitants, over 80 per cent of whom lived in rural areas. It is estimated that indigenous persons make up more than 41 per cent of the population and that more than 45 per cent of the population, indigenous and non-indigenous, is under 15 years of age. The level of education is very low: only 1.6 of the population goes on to university studies, 9.5 per cent secondary education and more than 42 per cent of the population aged seven or over receives no education. Over half the population lives in dwellings with one or two rooms (on average, there are more than five persons living crowded in one-room dwellings and more than three persons in dwellings with two rooms). A high percentage of dwellings have no sanitation facilities of any kind. 1/

35. The serious shortcoming in the enjoyment of economic, social and cultural rights produces situations conducive to violations of the civil and political rights of the Guatemalan people. The situation in Guatemala is shaped by the convulsions within society originating in the underdevelopment that keeps the country in an unjust social and economic structure. This structure shows major inequalities and continues to be determined by the heritage of the past, aggravated in part by the imbalances caused by the process of modernization on which the country is embarking. The crucial problem is that of the indigenous populations, traditionally discriminated against and disadvantaged, and having no genuine role in national life. In addition to this problem, there are the shortcomings in education, health and housing (the infant mortality and illiteracy rate are the highest in Central America and life expectancy is one of the lowest). These are all different facets of one and the same problem,

namely, the de facto inequality which the indigenous populations of Guatemala, like other ethnic populations in Latin America, experience. A human rights policy needs to be implemented that rejects any form of discrimination on account of ethnic origin, because until this discrimination is eliminated, human rights cannot be applied fully. At the same time, the democratic process needs to continue in order to secure respect for human rights, since there can be no enjoyment of human rights without democracy, but neither can there be democracy without human rights.

36. With regard to the problem of refugees and displaced persons, it is estimated that at the present time there are some 45,500 Guatemalan refugees in the camps administered by the Office of the United Nations Commissioner for Refugees (UNHCR) in Mexico. Apart from these refugees, there are thought to be approximately 500,000 displaced persons who frequently swell the ranks of the inhabitants of the impoverished fringes of the capital, veritable breeding grounds for crime.

37. The number of returnees as stated above in paragraph 23 (f), has increased, particularly since the beginning of 1988 and the pace has quickened in recent months. It is estimated that more than 10,000 persons will return to Guatemala in the coming months. This phenomenon shows a certain confidence at the popular level among the refugees who feel that their return to and resettlement in Guatemala no longer poses the same dangers for themselves and their families as in the past. It should be borne in mind that, due to the permeability of the frontiers between Guatemala and Mexico, sporadic and seasonal migratory flows have occurred and continue to occur which may become more continuous at any time.

38. One of the major problems confronting the refugees who return, as has already been noted, is that of land occupation for those who return to their places of origin. There is also the problem raised by the return of refugees to places other than those where they had lived previously.

39. A conference on refugees in Central America, convened by the Central American Governments and Mexico and organized by UNHCR, will take place in May 1989 in Guatemala. This conference will play a very important role in helping to resolve the painful problem of refugees and displaced persons which affects the region so much and which in the case of Guatemala has very serious aspects. The return of the Guatemalan refugees, their free and voluntary repatriation and their resettlement is an issue bound up with human rights, which the Government of Guatemala, through the CEAR, has faced up to positively, but on which much still remains to be done.

40. Unfortunately, the headquarters agreement for the establishment of the delegation of the International Committee of the Red Cross (ICRC) in Guatemala has not yet been signed. Once signed, it will enable the ICRC to play a more active role in confronting the issues that fall within its purview concerning international humanitarian law. Furthermore, the upgraded activities of the Guatemalan Red Cross and its co-operation with the ICRC delegation will make for a more effective approach to the solution of the serious humanitarian problems still pending, such as that of the internally displaced persons. The Expert raised with the President of the Republic the issue of the need to adopt the headquarters agreement between the ICRC and Guatemala and made a proposal for settling a number of difficulties in this regard. It seems likely that the matter will be able to be resolved in the short term.

41. On 21 December 1988, the Expert discussed with officials of the International Committee of the Red Cross the capture and detention, by guerrilla units of the Guatemalan National Revolutionary United Front, of Private Carlos Pérez López of the Guatemalan Army who was seriously wounded. On 17 November 1988 the general command of the UNRG had sent a communication, which was published in the press, to the Chairman of the National Reconciliation Commission of Guatemala, Monsignor Rodolfo Quezada Toruño, requesting that he should approach the ICRC with a view to obtaining the release of Private Pérez López and guarantee his life and safety. Monsignor Quezada Toruño offered his good offices in working out the procedures for the release of the soldier held by the URNG and communicated the information to the ICRC. The International Committee of the Red Cross repeated to the Expert what it had said to Monsignor Quezada, that in the context of its humanitarian activities, it was prepared to act, at the request of both parties, as a neutral intermediary in obtaining the release of the soldier held by the URNG. The Expert hopes that a humanitarian solution to this case may be found as soon as possible.

42. In order to understand the economic and social rights situation in Guatemala, it is helpful to quote from the Collective Pastoral Letter of the Guatemalan Bishops "The Clamour for the Land" of February 1988. This letter analyses the issue of the marginalization of and discrimination against the peasant and the indigenous communities. The Bishops speak of the social injustice and the very structure of society:

"... Society is organized in disregard of the vast majority of Guatemalans and for the benefit of a minority.

"... The minimum legal wage of Q4.50 is obviously not enough today, in view of the high cost of living.

"... The attitude adopted by some towards the peasants is so harsh that in order to increase their profits, they are gradually uprooting the 'mozo colono'. This kind of precapitalist, outdated and paternalistic concept, although unsatisfactory, gives the peasant who for generations has lived on a particular farm, a certain status which in turn gives him a measure of stability and some sort of right to work on that farm and even to cultivate certain plots of land for profit.

"... It is easier and less complicated to bring in work gangs at harvest time every year under a system which is hastening the impoverishment of the peasants.

"... The peasant's condition is made worse because of the difficulty of obtaining a title deed to the land he has worked for a long time. Often this land ends up in the possession of landholders who are economically and legally better equipped to obtain the legal title deeds. We note that much of the tension in the rural areas derives from the fact that when these persons acquire such estates unfairly but legally, in their zeal to throw the peasant off the land, they enlist the support of the forces of law and order who respond to their appeal for the defence of private ownership denied to those who were, in fact, the true owners even though not recognized as such by a law, which was enacted in effect behind the backs of the people for the benefit of a privileged class. It is a painful truth that there is no proper legislation to protect the peasant against these and other abuses."

43. The Guatemalan Bishops observed that with each day the peasants are becoming "increasingly aware of their rights and their dignity", that this is an irreversible step forward and that "despite the continual and brutal repression directed against them, there is a legitimate outcry and measures are being taken in defence of the land", but they also fear that "if these aspirations cannot be channelled fairly and if no machinery is established to give them a speedy and effective response, there may well be an outbreak of violence with unforeseeable consequences".

44. Regarding employment issues whether in rural areas or in towns, many of the complaints and communications sent to the Expert alleged violations of trade union rights, in particular the right to organize and to form trade unions. When this happens, according to those allegations, the employer dismisses the workers and in some cases the workers are threatened with death by unidentified persons presumably acting on the orders of the employer. Among the cases of violations related to the problem of land and labour laws, mention should be made of the attack on Father Andrés Girón of the National Association of Peasants for the Land in which one peasant died and another person was injured on 11 September 1988. Another significant event was the murder of Mr. Carlos Martínez Godoy, the leader of the trade union of the employees of the International Bank and a member of the Trade Union Federation of Bank and Insurance Employees (FESEBS), shortly after he had announced the possibility of support by his organization for the strike of the union of the employees of the Army Bank.

45. Numerous communications have also been received in which peasants allege that they had been threatened because, for purely economic reasons (working on a plot of land or migrating to do seasonal work in other regions), they are unwilling to take part in the PAC "voluntary" services. Amnesty International states that it has received complaints of violations of fundamental rights, including enforced disappearances and extra-legal executions, carried out by the PAC on the orders of the army. These include the disappearance of Pedro Cumes Pérez, the local leader of the Ethnic Communities Council "Runujel Junam" (CERJ), an organization recently set up to defend peasants who do not wish to take part in the PAC. In the Expert's view, it is important that the Government should reaffirm and ensure that there is no obligation for citizens to join the PAC and that if they refuse to do so they should not incur acts of retaliation or vengeance.

46. The Unified Trade Union Confederation of Guatemala (CUSG) submitted a complaint in June 1988 to the ILO Committee on Freedom of Association against the Government of Guatemala alleging a violation of freedom of association. 2/ Independently of the Committee's conclusions and recommendations, it should be stressed that the Government noted "with interest that, unlike past practice, the Government has collaborated in the procedure surrounding this case" speedily and that "the Government's replies to the various allegations submitted in this case show that on certain points it has endeavoured, at least in part, to give the CUSG satisfaction".

47. There continues to be a considerable number of victims of extra-legal executions, although apparently not as many as in previous years (over 420 persons were executed extra-legally in 1987, according to one source of information used by the Commission on Human Rights Special Rapporteur on summary or arbitrary executions). By the end of October 1988, the Special Rapporteur had received information on some 50 incidents in which more

than 60 persons had been arbitrarily executed. In some cases, the victims showed marks of torture. There were also cases in which the persons had been kidnapped before being executed.

48. These murders show that the enforcement authorities, especially the police, are failing to provide protection for citizens. Furthermore, it should be pointed out that many crimes go unpunished and that exhaustive and effective investigations are not being conducted to establish the facts and evidence and to punish the culprits. The shortcoming in the Guatemalan judicial system in respect of prosecuting those involved in murders, extra-legal executions and disappearances, which have repercussions on the lives of many people appears to derive from the fact that the Office of the Attorney-General lacks the necessary power to take effective action in these cases. It might be appropriate to review and amend the Code of Penal Procedure with a view to strengthening the Office of the Attorney General.

49. The number of cases of enforced or involuntary disappearances brought to the attention of the international institutions continues to be approximately the same as in the previous year (up to December 1988 over 50 cases were submitted to the United Nations Working Group on Enforced or Involuntary Disappearances, 64 in 1987) but fewer than in the two previous years (152 in 1986, 288 in 1985). The United Nations Working Group also points out that it had been repeatedly informed that in 1987 and 1988 numerous cases of brief disappearances had been recorded, and that a few days later the victims had been found dead. Those cases were not included in the statistics of the Working Group. The inquiries into the disappearances which occurred before the present Government took office are virtually at a standstill. The largest number of enforced or involuntary disappearances occurred between 1980 and 1985. In the peak year, 1982, there were 522 cases. In the early part of 1988, 27 secret burial places were discovered in El Quiché, but corpses have only been exhumed from one cemetery in Pacoc (four of the five bodies found have been identified). A suit was brought against the PAC, but the latter brought pressure to bear on the judge who granted an amnesty. Nevertheless, the eighth Court of Appeals subsequently decided that these cases were not entitled to benefit from the amnesty law. Family members of the victims belonging to the GAM who had lodged the complaint against the PAC, have received threats against their lives.

50. The Expert was very concerned at the reports published in the national and international press about the traffic in Guatemalan children for the purpose of organ transplant operations and also the motion adopted last October by the European Parliament in Brussels on this matter, and he tried to ascertain from the Guatemalan authorities and international organizations whether these complaints were justified or mere rumours. In order to study the sale of and traffic in children, the Expert requested information from various Guatemalan institutions on this complex matter. He also contacted the United Nations Children's Fund (UNICEF) in Guatemala. Four types of traffic are distinguished according to their purposes as follows: (a) trafficking for economic exploitation; (b) trafficking for purposes of sexual exploitation (pornography or child prostitution); (c) trafficking for purposes of medical exploitation (medical experimentation and organ transplants); (d) trafficking for the purpose of adoption.

51. While there does appear to be a traffic in children for purposes of prostitution, trafficking for the purpose of adoption is the most prevalent and is currently causing the greatest concern to the Guatemalan authorities. The existing law on adoption is outdated and allows this kind of organized crime. At present, the Congress of the Republic is studying a bill on adoption which was drafted in co-operation with the Supreme Court of Justice. One of the problems is that the children's homes or foster homes in which most of the children up for adoption are housed are not supervised by the State. There have also been problems with the Juvenile Court which has jurisdiction over the children and can prescribe measures affecting them: the system has given rise to abuses because the children are often placed in foster homes for adoption and a number of judges have had to be sanctioned. The new adoption bill recommends that this authority should be vested in the family courts. Another major problem regarding adoption has arisen with respect to the power of the notaries, because it is they who give the final authorization for adoption and there is a tendency to secure decisions in favour of adoption easily. At present, 10 notaries are being tried for false statements and abuses involving adoption cases. There have also been abuses by social workers with a view to obtaining decisions in favour of adoption.

52. With respect to trafficking in children for the purpose of organ transplants, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, pursuant to resolution 1987/32, adopted the recommendation of the Working Group on Contemporary Forms of Slavery concerning the inclusion of that question and that of the trade in foetuses in its next report. One organization (International Abolitionist Federation) had provided the Working Group in 1987 with information on the sale of children among them infants, from a developing country in Latin America for the purpose of organ transplants (E/CN.4/Sub.2/1987/25, para. 45). The Secretary-General's report, prepared in accordance with Sub-Commission resolution 1987/32, compiled information provided by the International Association of Democratic Lawyers on cases of organ transplants. The organization "stated that there were allegations and rumours, maintaining that there were various cases in a few Latin American countries in which newborn children, often handicapped, were sold for organ transplants. The organization stated, however, that it was difficult to substantiate these allegations" (E/CN.4/Sub.2/1988/30, para. 31). At the meeting of the Working Group held in Geneva in 1988, the representative of the International Association of Democratic Lawyers described "the different stages of an inquiry that the Association had carried out in Haiti, along with the International Federation of Human Rights, to investigate the alleged kidnapping and sale of children for the purpose of organ transplants for the children of well-to-do families. The representative of the Association explained that the inquiry had provided no formal proof" (E/CN.4/Sub.2/1988/32, para. 20).

53. There is no doubt about the danger of this traffic in children, especially in a country where economic incentives can lead or induce mothers in situations of great poverty to sell their children perhaps in the hope that they will have a better future. In addition, children may also be kidnapped. The lack of social services to which children can be entrusted, only exacerbates the problem. However, as the Working Group reported in its conclusions on the debate on this issue, "much more solid evidence would be required if the allegations on the sale of children for organ transplants were to be substantiated" (E/CN.4/Sub.2/1988/32, para. 22).

54. Concerning the problem of children a seminar attended by parliamentarians from Central American countries was held in Guatemala from 30 November to 3 December 1988 to study the situation of children in each of the countries of Central America and the changes that would be needed to enable children to enjoy their rights.

55. Political opponents have criticized the behaviour of the Government in cancelling the television programme Aquí el mundo which incited the rebellion and played a major role in the attempted coup d'état of 11 May 1988, as a violation of the freedom of expression. The premises of the weekly, La Época, which was first published in February 1988, were bombed by an ultra-right group and all its files and material were destroyed. The paper has ceased publication. Again, after the death threats against a Cuban correspondent and the Soviet Information Agency TASS, both agencies were forced to close and their correspondents had to leave the country because the authorities were unable to provide them with protection.

56. The present Government has taken steps to reduce the violence and human rights violations in Guatemala. The police is being reorganized so that it will act in accordance with the law and so that there will be improved supervision of the forces of law and order within the country. Nevertheless, much remains to be done especially on the matter of disappearances and extra-legal, summary or arbitrary executions. The attempted coup d'état of 11 May 1988 has, for the time being, somewhat slowed down the democratic process. On that day, the troops from the barracks in Yutiapa and Retahulen headed in the direction of Guatemala City but were intercepted and neutralized before they could reach the capital and the attempted coup d'état was thus foiled. Three months later, early in August 1988, a further attempted coup by a number of soldiers and anti-democratic civilian groups was uncovered, despite the fact that the participants in the first uprising had been punished.

57. It would seem that these events, combined with impunity enjoyed by many murders and disappearances in the absence of investigations or trials and the lack of protection for citizens, enable anti-democratic elements to continue their activities and violate human rights. It should be pointed out that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, disturbed by the information concerning numerous murders and disappearances adopted, at its fortieth session, resolution 1988/14 which inter alia "urges the Government of Guatemala to intensify its efforts to ensure that all its authorities and security forces fully respect the human rights and fundamental freedoms of its citizens". The Sub-Commission also recommended that the Expert on Guatemala should "give particular attention to the obstacles encountered as a consequence of non-co-operation by certain elements of the military and security forces, and that he indicate ways in which this can be remedied through advisory services and other forms of assistance".

58. With reference to this recommendation by the Sub-Commission, the Expert wishes to state that: (a) an improvement in the short-, medium- and long-term of the situation of human rights in Guatemala is linked to the implementation of the Constitution and the maintenance and consolidation of the democratic process; that process should be reinforced and strengthened so that the present democratic régime may complete its mandate and free elections may be held in 1980; there can therefore be no violations of human rights by State officials; (b) the Government of Guatemala is not directly implicated in any human rights violations and there is no government policy of violations of

human rights; while this in itself is highly important, it is not enough, since no Government can feel satisfied if it merely refrains from violating human rights; it is also necessary, indeed indispensable, to have a positive policy to prevent human rights violations from occurring - that policy should guarantee the full enjoyment of all rights for all citizens; it should be noted the Government has not done everything that it could have done to control the human rights violations that took place in 1988; those violations escaped the vigilance of the Government, which may mean that the latter has not succeeded in pursuing a completely effective policy in this area; (c) it is necessary to work out a long-term policy to put an end to the violence and to democratize Guatemalan society on a basis of tolerance; and to that end a human rights culture should be established.

59. The Expert is aware of the difficulties facing Guatemalan society but is also aware that there is a political will, despite the fact that the new opportunities offered by the constitutional Government when it took office have not increased as much as was desired in the three years of its mandate and have indeed been reduced at certain times.

60. The Government has launched and intends to implement a series of constructive measures, some of which were recommended by the Expert and will undoubtedly have positive effects in the medium-, long- and short-term. Furthermore, the technical co-operation project with the Government of Guatemala in the field of human rights which is being executed by the United Nations Centre for Human Rights is proving the catalyst it was expected to be. The project is financed by the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights. The activities carried out under the project are studied in chapter V of this report. The expert wishes to point out, however, that the project is encouraging co-ordination at the national level on human rights issues among the different ministries and institutions responsible for the subject, in addition to providing advisory and training services to Guatemalan officials, particularly law enforcement officials and officers of the armed forces.

61. In light of the experience of the last three months of 1988, when the project began, the Expert is of the view that the activities pursued under the Centre for Human Rights project are on the right track because they seek to encourage a human rights culture non-existent until recently in Guatemala, and to change attitudes. These activities are rightly being directed towards trying to remove obstacles, which may derive from the lack of co-operation of some elements of the military and security forces, as the Sub-Commission resolution recommends. Nevertheless, if this assistance and advice are to be more effective, all the institutions and machinery established by the constitutional Government at the national level to protect human rights must first of all function fully and all the laws and decrees on human rights must be put into effect. It is also necessary to be able to rely on the full internal support of a co-ordinating body which is not confined exclusively to the activities promoted by the project, but should have a continuous and organic character in order to plan and co-operate on a continuing basis, on the one hand, with the other national institutions and, on the other, with the United Nations Centre for Human Rights.

62. Some of the specific measures that the Government of Guatemala is taking or has pledged to adopt are:

(a) National level

- (i) Adoption of the bill on the possession of weapons;
- (ii) Adoption of the bill on the adoption of children;
- (iii) Adoption of the draft organic law on the police;
- (iv) Review of the Code of Penal Procedure;
- (v) Compilation of all regional and international instruments relating to human rights to which Guatemala is a party;
- (vi) Regularization of the situation of the Guatemalan Red Cross;
- (vii) More effective co-ordination in carrying out the requisite investigations in cases of enforced or involuntary disappearances and of death in suspicious circumstances;

(b) At the regional and international levels

- (i) Accession to the International Covenant and Civil and Political Rights;
- (ii) Accession to the Optional Protocol to the International Covenant on Civil and Political Rights;
- (iii) Accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (iv) Signing of the Headquarters Agreement between the Government of Guatemala and the ICRC;
- (v) Withdrawal of the reservation on article 8 of the Inter-American Convention to Prevent and Punish Torture;
- (vi) Signing of the Additional Protocol to the American Convention on Human Rights relating to Economic, Social and Cultural Rights recently opened for signature at the last session at the OAS General Assembly held in San Salvador.

V. ASSISTANCE TO THE GOVERNMENT OF GUATEMALA
IN THE FIELD OF HUMAN RIGHTS

63. In accordance with paragraph 7 of Commission on Human Rights resolution 1988/50 which requests the Secretary-General to "provide such advisory services and other appropriate forms of assistance in the field of human rights as may be requested by the constitutional Government of Guatemala" and as a result of the request made by the Guatemalan authorities to the Centre for Human Rights in June 1988, a technical assistance programme to Guatemala on human rights questions, for the period 1988-1989, was started in the fourth quarter of 1988. The programme is being financed in its

entirety (\$US 228,000) by the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights. The main aim of the programme, in the long term, is to provide timely assistance to the Government of Guatemala in taking the necessary measures with a view to fostering advances in democracy for the further restoration and strengthening of respect for human rights. The aim of the programme in the shorter term is to train persons who play a key role in various disciplines through courses and fellowships, with the expectation that this training will have a multiplier effect. By providing experts and useful material to the institutions responsible for protecting and promoting human rights in Guatemala, the programme should assist the Government in organizing the infrastructure needed to meet international human rights standards.

64. As part of the programme, the Centre for Human Rights has provided or is providing the following:

(a) A national training programme in human rights which, at the request of the Minister of Defence, General Héctor Gramajo, was organized simultaneously by the Centre in co-operation with the ICRC. The ICRC held another course in Guatemala from 14 to 18 November 1988, designed exclusively for the armed forces. At the national level the Minister for Foreign Affairs of Guatemala worked jointly with other ministries and institutions in organizing the course. The Inter-American Institute of Human Rights was represented. Some 60 persons participated, including judges, magistrates, State officials, teachers, police officials, officers of the armed forces, deputies, members of the Office of the Procurator for Human Rights and of the Human Rights Commission of Congress as well as representatives of non-governmental organizations. Annex II of this report contains the programme of the course;

(b) Two training fellowships for officers of the Directorate-General of the Police Department to attend the course of the Centre for Sociological, Criminal and Prison Research and Studies in Messina (Italy) on "The Internal and External Supervision of the Police" from 4 to 14 October 1988;

(c) One fellowship for an official of the Office of the Procurator for Human Rights of Guatemala for one month to follow a training programme in the Office of the Parliamentary High Commissioner in Madrid, from 20 November to 20 December 1988;

(d) Two fellowships for officials of the Ministry of Foreign Affairs dealing with human rights matters to follow the proceedings of the United Nations Commission on Human Rights and to make a close study of the programme of the Centre for Human Rights in Geneva in order to secure better co-ordination between the Centre and the Government of Guatemala;

(e) Three collections of books and background documents on human rights in order to lay the groundwork for three reference libraries in Guatemala (Ministry of Foreign Affairs, Human Rights Commission of Congress and the Office of the Procurator for Human Rights);

(f) The services of a local expert in teaching human rights to assist the Guatemalan authorities in training teachers and other persons responsible as well as introducing human rights into the official teaching programmes;

(g) The services of an expert for two months to advise the Guatemalan authorities on how to strengthen established institutions in order to protect human rights, especially in relation to the necessary actions and proceedings in cases of enforced or involuntary disappearance;

(h) The services of an adviser on indigenous populations for one month to assist the Guatemalan authorities in matters relating to the advancement and protection of the indigenous communities.

65. The programme also envisages providing the Government of Guatemala with the advisory services of experts on subjects related to: (a) impartial investigations in cases of murders which occur in suspicious circumstances; (b) the functions of the ombudsman. Training fellowships will also be offered on human rights questions to teachers at the secondary level, university lecturers and officers of the armed forces and of the police force. During the fourth quarter of 1989, the Centre for Human Rights will organize the second training course in human rights as a follow-up to the course held in November 1988.

VI. CONCLUSIONS

66. The general conclusions from the study of the human rights situation in Guatemala may be enumerated as follows:

(a) The development and the progress in the legal framework for recognizing, guaranteeing and protecting human rights in Guatemala are undeniable;

(b) The Government's firm political will to ensure respect for these rights is definite. Its efforts in this regard cannot be placed in doubt;

(c) However, virtually nothing has been done either by the Government or by the judiciary to investigate and punish earlier violations of human rights;

(d) Major de facto harmful conditions still exist and place severe limitations on any genuine process of improving the human rights situation in Guatemala;

(e) A climate of social violence continues to exist; a human rights culture will have to be developed in which tolerance takes the place of the present contempt for pluralism and opposing views among many sections of the population;

(f) Violations of civil and political rights, especially deaths and disappearances, are still taking place. These are the outcome not of government orders or policy but of factors, of acts committed by power circles and a persistent climate of violence that are still beyond effective government control;

(g) It is necessary to make sure that people are not compelled to join civilian self-defence patrols and do not suffer reprisals for not doing so;

(h) With respect to the disappearance of children, serious deficiencies remain in the present child welfare system and adoption law;

(i) Serious deficiencies remain in the situation regarding respect for economic, social and cultural rights;

(j) The situation of the indigenous populations continues to be a crucial problem. The habitual discrimination and the exploitation of these populations have been a constant source of human rights violations. The Government is aware of this difficult point and an examination and comprehensive planning of the political, economic, social and cultural aspects of this question is under way;

(k) In general terms, it has to be recognized that, despite continued harmful factors, the situation has improved;

(l) If the democratic process grows stronger and takes root and if it is maintained without any institutional breakdowns, this improvement can be expected to continue;

(m) For this to happen, aside from the essential political will and the commitment that the Guatemalan people and their freely and democratically elected authorities alone can fulfil, continued international assistance and support are required.

67. These conclusions coincide in general with those the Expert put forward in his previous report to the Commission. Political difficulties, the continuing climate of violence and the influence of the negative factors referred to above have prevented the Government from ensuring full safeguards and respect for human rights. Things have not got worse, but they have not got appreciably better, either. For such an improvement to come about, it is necessary, in addition to other factors, that the problems mentioned in paragraph 66 (i) and (j) should be solved and that an effective and positive government policy on human rights should be applied and carried through. Such a policy, which has been announced and promised, and is starting to be applied, should continue, become established and be fully and totally implemented.

68. International assistance and co-operation are essential if this process is to continue, through the application of the provisions of the international instruments ratified by Guatemala and through the promotion of human rights in the manner indicated in paragraph 69 (b) and (c).

VII. RECOMMENDATIONS

69. The recommendations the Expert ventures to make to the Commission in keeping with his mandate under resolution 1987/53 and the terms of resolution 1987/37 are as follows:

(a) It is necessary for the Commission to continue to observe the situation of human rights in Guatemala in order to support and foster the process of improving that situation;

(b) It is essential to continue the broad programme of assistance to the Government to help this process, which is undeniably tied in with the maintenance of democracy;

(c) In keeping with what has already been done, this programme should, among other things, continue to consist of:

- (i) Assistance to introduce human rights courses at all levels of education. This should include not only State education but also education in private schools, colleges and universities;
- (ii) Assistance for courses and seminars intended for judges and officials of the judiciary;
- (iii) Assistance for courses and seminars intended for police officials. It must be ensured that human rights are included as a subject in the continuous training of senior police officials;
- (iv) Assistance for courses and seminars intended for officers in the armed forces. Human rights must be included at all times as a subject in the courses in the Military College and in the courses for officers on the General Staff. Such courses should not be confined to international humanitarian law but should cover the overall topic of human rights.

70. Without prejudice to these specific recommendations, the Expert would also like to draw attention to the value of:

(a) Continuing to provide suitable advice and assistance for the organization and the activities of the Office of the Procurator for Human Rights;

(b) Continuing to provide multidisciplinary and intersectoral support to help in devising an overall policy on development, assistance and non-discrimination in regard to the indigenous populations;

(c) Supporting and complementing bilateral aid, already negotiated and in the process of being furnished, for technical reform and material improvement of the police, so that the police will become an effective democratic organization to protect and guarantee public order and everyone's rights and freedoms.

71. These are some of the recommendations the Expert wishes to make in his second report.

Notes

1/ National Statistics Institute, Encuesta Nacional Socio-Demográfica 1986-1987: Demografía, Total República, vol. 1, Guatemala, 1987.

2/ International Labour Office, 259th Report of the Committee on Freedom of Association (GB.241/5/7), Case No. 1459, paras. 275-305. See in particular paras. 292-293.

Annex I

OPENING STATEMENT BY THE EXPERT, MR. H. GROS ESPIELL, AT THE
FIRST NATIONAL HUMAN RIGHTS TRAINING COURSE IN GUATEMALA

Guatemala City, 14 November 1988

It is a great honour for me, as the Expert appointed by the Secretary-General of the United Nations on Guatemala, to attend this opening ceremony of the first national human rights training course, organized jointly by the Government of Guatemala and the United Nations Centre for Human Rights with the collaboration of the International Committee of the Red Cross and the Inter-American Institute of Human Rights.

This training course is a direct response to the request made to the Secretary-General by the Commission on Human Rights in resolution 1988/50 of 8 March 1988 to provide advisory services and other appropriate forms of assistance to the constitutional Government of Guatemala with a view to fostering advances in democracy and strengthening the institutions responsible for ensuring respect for human rights. This event shows a firm determination on the part of the Guatemalan Government to ensure full application of human rights and fundamental freedoms and the final consolidation of democracy in the country. The efforts made by the constitutional Government to restore democracy at home, and internationally to secure the cessation of armed hostilities in the Central American region, have been considerable over the past two years. The personal role played by President Vinicio Cerezo has helped to further this process, one of whose successes has taken the form of the signature of the Esquipulas II Agreement in August 1987. As the Secretary-General of the United Nations rightly said in the report on the work of the Organization ^{a/} which he submitted recently to the General Assembly, the signature of this Agreement "signalled the determination of the five Central American Presidents to find solutions to the region's problems", problems which are essentially the result of "convulsions within societies originating in underdevelopment and unjust socio-economic structures". However, as the Secretary-General noted in his report, the momentum for peace reflected in the signature of the Esquipulas II Agreement was faltering one year later and the progress made had not as yet been enough to indicate full endorsement of the objectives sought.

Guatemala is emerging from a long night in which there was little respect for human life and dignity. The rays of a new dawn, which have become visible with the constitutional Government, have given promise of a change in the relationship between rulers and ruled. Nevertheless, it will be necessary, not just that these rays should not weaken, but that the sun should illuminate in full the reality of effective and complete respect for the human rights of all inhabitants of the country.

While the Government's determination to restore human rights to full effectiveness, a prerequisite for the consolidation of democracy, cannot be called in question, violations of human rights in Guatemala continue to give grounds for concern. This question has to be faced frankly, with unflinching and honest sincerity, if there is to be no change for the worse and no backsliding from the progress already made.

This course is part of the activities of a technical co-operation programme between the Government and the United Nations for the adoption of measures to foster advances in democracy as a necessary element for full respect for human rights and their complete implementation. The aims of the programme are to give people with key roles in different disciplines training in the protection and promotion of human rights by means of courses and fellowships so that they can spread and disseminate the rules and principles accepted by the international community, producing a multiplier effect in the country. Another essential aim of the programme is to provide the Guatemalan Government with expert advisory services to assist it in organizing the necessary infrastructure to meet international standards in the human rights field.

With the participation in this course of officers from the armed forces and the national police and officials from the prison administration and the various ministries and institutions responsible for the protection and promotion of human rights, together with staff from the educational system and the university, it is hoped to bring about this multiplier effect, generating new and growing activities at the various levels which will spread to all sectors of society. It is hoped that this event, though lasting only a short time, will prove of far-reaching importance, acting as a catalyst for all the human potential here present and that it will at the same time be the beginning of a whole subsequent process. If popular participation is to be an active factor in the consolidation of democracy and development of the country, it is necessary that a human rights culture should be established on a basis of respect for dignity and tolerance in place of violence and discriminatory dogmatism. Education has an essential role to play in this process of acculturation. If this training course succeeds in capturing the interest of the participants and drawing their attention to the importance and decisive role played by human rights in the democratic process, it will have achieved its aim. If in addition it manages to motivate each participant to include the human rights element in his teaching of the various disciplines and in his personal work, its organizers will then have achieved the objectives they set themselves in full.

The struggle for human rights is not the special province of a political party or an ideology of opposition. It is an essential for democratic progress, for social peace, for comprehensive development and for the establishment of a peaceful and just society.

Mr. Jan Martenson, United Nations Under-Secretary-General for Human Rights, has taken a particular interest in the programme of technical assistance in the field of human rights financed by the Voluntary Fund for Advisory Services and Technical Assistance in the field of human rights, one of whose activities is this first national human rights training course that is being held in Guatemala City. He would have liked to attend this solemn opening ceremony in person, but unfortunately the dates coincided with previous engagements and with the introduction and discussion of crucial questions in this field in the United Nations General Assembly. He has asked me to transmit to the Guatemalan authorities, who have done so much to organize this course, and to each of the participants a personal message in

which he extends his best wishes for the greatest possible success of the course. May this course, combined with the important efforts resulting from the activities of universities, public bodies, courts and non-governmental organizations in this country, all of them the expression of a great cultural tradition I am proud to recognize in Guatemala, help to sow in each and every participant the seeds that will bring forth the fruits of a commitment to human rights at all levels and strata in Guatemalan society.

Note

a/ Official Records of the General Assembly, Forty-third Session, Supplement No. 1 (A/43/1).

Annex II

PROGRAMME OF THE FIRST HUMAN RIGHTS TRAINING COURSE ORGANIZED
BY THE CENTRE FOR HUMAN RIGHTS IN GUATEMALA CITY
FROM 14 TO 18 NOVEMBER 1988

Monday, 14 November

Morning

- 9.00 - 10.30 a.m. Registration
- 10.30 - 11.30 a.m. Opening of the course (Don Pedro Alvarado Hall) by Mr. Edmundo Vásquez Martín, President of the Supreme Court of Justice of Guatemala.

Addresses by Professor Héctor Gros Espiell and Mr. Mayora, Chairman of the Human Rights Commission of the Guatemalan Congress.

- 11.30 - 12.00 noon General information on the programme

Afternoon

- 2.30 - 3.30 p.m. Human rights in the United Nations system
- H. Gros Espiell, Expert appointed by the Secretary-General of the United Nations on Guatemala
- 3.30 - 5.30 p.m. Study of cases that are the subject of special procedures in the United Nations Commission on Human Rights: Guatemala
- H. Gros Espiell

Tuesday, 15 November

Morning

- 9.00 - 10.00 a.m. Human rights in the Guatemalan legal system
E.A. Balsells Tojo, Alternate Judge of the Constitutional Court of Guatemala
- 10.00 - 11.00 a.m. Application of international rules governing human rights in domestic law
- E.A. Balsell Tojo
- 11.00 - 12.00 noon The Procurator for Human Rights of Guatemala
- A. Martínez Gálvez, Deputy Procurator for Human Rights of Guatemala

Tuesday, 15 November (continued)

Afternoon

- 2.00 - 4.30 p.m. The role of the police in the protection of human rights
M. Núñez Pedraza, Principal Police Commissioner for State Security, Ministry of the Interior of Spain
- 4.30 - 5.30 p.m. Group practical work

Wednesday, 16 November

Morning

- 9.30 - 11.00 a.m. United Nations Commission on Human Rights and special procedures
J.L. Gómez del Prado, United Nations Centre for Human Rights
- 11.00 - 12.00 noon The system established by the main United Nations conventions on Human Rights
J.L. Gómez del Prado

Afternoon

- 2.00 - 3.00 p.m. Protection of persons held in custody or imprisoned
M. Núñez Pedraza
- 3.00 - 4.30 p.m. Impartial investigations in cases of death in suspicious circumstances
M. Núñez Pedraza
- 4.30 - 5.30 p.m. Group practical work

Thursday, 17 November

Morning

- 9.00 - 12.00 noon The human rights system in the American regional system: the Inter-American Commission and Court of Human Rights
Mr. Ventura Robles, Deputy Secretary, Inter-American Court of Human Rights

Thursday, 17 November (continued)

Afternoon

- 2.00 - 4.30 p.m. International humanitarian law
B. Doppler, International Committee of the Red Cross
- 4.30 - 5.30 p.m. Group practical work

Friday, 18 November

Morning

- 9.00 - 11.00 a.m. Reports of working groups on:
- (a) Cases of violations of human rights contained in the International Covenant on Civil and Political Rights;
 - (b) Subjects of international standards for the performance of their duties by law enforcement officials
- 11.00 a.m. - 12.30 p.m. Visit to the Guatemala Remand Centre

Afternoon

- 3.00 - 4.00 p.m. Comments on visit to the Remand Centre
Jan Pierre Givel, representative of the International Committee of the Red Cross in Guatemala
- 4.00 p.m. Award of certificates
Closure of the course by Mr. Alfonso Cabrera Hidalgo, Minister for Foreign Affairs of Guatemala
Address delivered by Mr. J.L. Gómez del Prado on behalf of Mr. Jan Martenson, United Nations Under-Secretary-General for Human Rights
