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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Situation of human rights and fundamental freedoms in El Salvador

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights and fundamental freedoms in El Salvador, prepared by Professor José Antonio Pastor Ridruejo, Special Representative of the Commission on Human Rights, in accordance with paragraph 9 of Commission resolution 1982/28 of 11 March 1982.

ANNEX

Interim report on the situation of human rights and fundamental
freedoms in El Salvador prepared by the Special Representative
of the Commission on Human Rights

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I. INTRODUCTION

1. At its thirty-fifth session, the General Assembly adopted resolution 35/192 on the situation of human rights and fundamental freedoms in El Salvador on 15 December 1980 by 70 votes to 12, with 55 abstentions. In this resolution, the General Assembly expressed deep concern at the grave violations of human rights and fundamental freedoms in El Salvador and deplored several aspects of the situation of human rights in that country. In addition, it requested the Commission on Human Rights to examine, at its thirty-seventh session, the situation of human rights in El Salvador. The text of the resolution is as follows:

"The General Assembly,

"Guided by the principles embodied in the Charter of the United Nations and the Universal Declaration of Human Rights,

"Conscious of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all,

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

"Bearing in mind resolution 19 adopted on 30 July 1980 by the World Conference of the United Nations Decade for Women,

"Dismayed by reports of human rights violations in El Salvador and especially by the death of thousands of persons and the climate of repression and insecurity prevailing in the country, which favours terrorism by paramilitary groups and enables it to be engaged in with impunity,

"Deeply shocked by the vile assassination of Archbishop Oscar Arnulfo Romero, a prestigious personality, outstanding for his defence of the human rights of the Salvadorian people, and by the persecution of Salvadorian figures such as Monsignor Arturo Rivera Damas, Apostolic Administrator of the Archdiocese of San Salvador,

"Gravely concerned about the unknown fate of many persons detained by the authorities,

"Profoundly indignant at the assassination of Mr. Enrique Alvarez Córdova, President of the Revolutionary Democratic Front of El Salvador, as well as of five other members of the Executive Committee of that Front, perpetrated on 27 November 1980 in San Salvador,

"Considering that the supply of arms and other military assistance will serve to aggravate the situation in that country,

"1. Expresses its deep concern at the grave violations of human rights and fundamental freedoms in El Salvador;

"2. Deplores the murders, disappearances and other violations of human rights reported in El Salvador and requests the Salvadorian authorities to take prompt action to curb the reprehensible activities of paramilitary groups;

"3. Urges the Government of El Salvador to take the necessary steps to ensure full respect for human rights and fundamental freedoms in that country and to guarantee the safety of Monsignor Arturo Rivera Damas, Apostolic Administrator of the Archdiocese of San Salvador, whose life is in danger;

"4. Appeals for a cessation of violence and for the establishment of full respect for human rights in El Salvador;

"5. Calls upon Governments to refrain from the supply of arms and other military assistance in the current circumstances;

"6. Requests the Commission on Human Rights to examine, at its thirty-seventh session, the situation of human rights in El Salvador."

2. The situation in El Salvador was considered by the Commission on Human Rights at its thirty-seventh session under item 13 of the Commission's agenda, entitled "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". After the debate on this item, the Commission adopted resolution 32 (XXXVII) on the violation of human rights in El Salvador. In this resolution, the Commission requested its Chairman to appoint, after consultations within the Bureau, a Special Representative of the Commission whose mandate would be to investigate the reports about murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms which had taken place in El Salvador, based on information from all relevant sources and to report on his findings to the Commission on Human Rights at its thirty-eighth session. It further requested the Special Representative of the Commission to submit an interim report to the General Assembly at its thirty-sixth session. The text of the resolution is as follows:

"The Commission on Human Rights,

"Guided by the principles embodied in the Charter of the United Nations and the Universal Declaration of Human Rights,

"Conscious of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all,

"Noting that all Member States have an obligation to promote and protect human rights and to carry out responsibilities they have undertaken under various international human rights instruments,

"Recalling that in its resolution 35/192 of 15 December 1980, the General Assembly stated its deep concern about the serious violations of human rights and fundamental freedoms in El Salvador and requested the Commission on Human Rights to examine, at its thirty-seventh session, the situation of human rights in that country,

"Deeply disturbed by the continuing reports about murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms in El Salvador,

"Deeply alarmed by the armed clashes in El Salvador and by the climate of violence and insecurity prevailing in the country,

"Mindful of the rules of international law, as contained in article 3 of the Geneva Conventions of 12 August 1949, which are applicable to armed conflicts not of an international character and which require the parties to the conflict to apply a minimum standard of protection of human rights and of humane treatment,

"1. Expresses its deep concern at the grave violations of human rights and fundamental freedoms in El Salvador;

"2. Deplores the murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms reported in El Salvador;

"3. Calls upon all parties to bring about a peaceful settlement and to seek an end to acts of violence in order to end the loss of lives and the suffering of the people of El Salvador;

"4. Recalls that in its resolution 35/192 of 15 December 1980 the General Assembly calls upon Governments to refrain from the supply of arms and other military assistance in the current circumstances;

"5. Urges the Government of El Salvador to take the necessary steps to ensure full respect for human rights and fundamental freedoms in the country;

"6. Emphasizes that the people of El Salvador have the right, as soon as appropriate conditions have been established, to establish a democratically elected Government, in an atmosphere free from intimidation and terror, and to determine their own political, economic and social future, free from outside interference;

"7. Requests its Chairman to appoint, after consultations within the Bureau, a Special Representative of the Commission whose mandate will be:

"(a) To investigate the reports about murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms which have taken place in El Salvador, based on information from all relevant sources;

"(b) To make recommendations as to what steps the Commission could take to help to secure the enjoyment of human rights and fundamental freedoms, including economic, social and cultural rights;

"(c) To report on his findings to the Commission on Human Rights at its thirty-eighth session;

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

"9. Invites the Government of El Salvador as well as all other parties concerned to extend their co-operation to the Special Representative of the Commission;

"10. Requests the Special Representative of the Commission to submit an interim report to the General Assembly at its thirty-sixth session;

"11. Decides to continue the examination of the situation of human rights in El Salvador with high priority at its thirty-eighth session."

3. In fulfillment of the mandate conferred on him by the Commission on Human Rights, the Special Representative submitted a preliminary report to the General Assembly (document A/36/608). On 16 December 1981, the General Assembly adopted, by 68 votes to 22 with 53 abstentions, resolution 36/155, the text of which is as follows:

"The General Assembly,

"Recognizing the permanent validity of the principles enshrined in the Charter of the United Nations and in the Universal Declaration of Human Rights,

"Conscious of its responsibility to promote and guarantee the maintenance of those principles and to contribute to ensuring respect for human rights and fundamental freedoms for all,

"Reiterating once more that all Member States have an obligation to protect human rights and fundamental freedoms and to fulfil in this respect the obligations they have undertaken through the various international instruments in this field,

"Recalling its resolution 35/192 of 15 December 1980, in which, among other things, it expressed deep concern for violations of human rights and fundamental freedoms in El Salvador, especially in view of the death of thousands of people and the climate of repression and insecurity which prevailed in that country and deplored the assassinations, disappearances and other serious violations of human rights in El Salvador.

"Reiterating the appeal made by the General Assembly in that resolution for the cessation of violence and the re-establishment of full respect for human rights in El Salvador and for Governments of all States to refrain from supplying arms and lending other forms of military assistance in the current circumstances,

"Bearing in mind Commission on Human Rights resolution 32 (XXXVII) of 11 March 1981, approved by the Economic and Social Council in May 1981, which notes the persistence of the climate of violence and insecurity which prevails in El Salvador,

"Endorsing the appeal to the Salvadorian parties involved, made by the Commission on Human Rights in its resolution 32 (XXXVII), to arrive at a peaceful settlement and put an end to violence in order to prevent further loss of lives and alleviate the suffering of the people of El Salvador,

"Taking note of resolution 10 (XXXIV) adopted by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, which states that only respect for article 25 of the International Covenant on Civil and Political Rights will assure to the Salvadorian nation, through

the participation of all its political forces, the full exercise of its fundamental rights in establishing a democratically elected government, but also notes that at the present time these conditions do not exist in El Salvador,

"Having studied the interim report on the situation of human rights and fundamental freedoms in El Salvador prepared by the Special Representative appointed by the Commission on Human Rights, which confirms the seriousness of the situation prevailing in El Salvador and, among other things, provides evidence on the general attitude of passiveness and inactivity of the present Salvadorian authorities with respect to the constant human rights violations in that country,

"Noting that the situation in El Salvador, as clearly shown in the interim report of the Special Representative, has its root causes in internal political, economic and social factors,

"1. Reiterates its deep concern for the situation prevailing in El Salvador and the suffering of the Salvadorian people;

"2. Requests once more the Salvadorian parties involved to arrive at a negotiated political solution in order to establish, in an atmosphere free from intimidation and terror, a democratically elected government;

"3. Deeply deplores all acts of violence and all grave violations of human rights and fundamental freedoms, and regrets in particular the persistence of a situation in which governmental paramilitary organizations and other armed groups continue to act with total contempt for the life, security and tranquility of the civilian population;

"4. Draws the attention of all parties concerned to the fact that the rules of international law, as contained in common article 3 of the Geneva Conventions of 12 August 1949, are applicable to armed conflicts not of an international character and requests the parties involved to apply a minimum standard of protection to the affected population;

"5. Reiterates its appeal to all States to abstain from intervening in the internal situation in El Salvador and to suspend all supplies of arms and any type of military support, so as to allow the political forces in that country to restore peace and security;

"6. Affirms once more that it is incumbent only on the Salvadorian people to exercise its right to determine freely its political status and freely pursue its economic, social and cultural development and to establish the conditions and undertake the changes most adequate to its aspirations as a people and as a nation without external interference of any kind;

"7. Urges the Government of El Salvador to adopt the necessary measures to ensure a full respect for the human rights of its population in all their expressions, primarily by creating conditions which could lead to a political solution to the present crisis through the full participation of all representative political forces in that country.

"8. Urges the parties concerned to co-operate and not interfere with the activities of the humanitarian organizations which are dedicated to alleviating the suffering of the civilian population in El Salvador;

"9. Requests the Commission on Human Rights at its thirty-eighth session thoroughly to examine the situation in El Salvador on the basis of the final report of the Special Representative of the Commission on Human Rights;

"10. Decides to maintain under consideration, during its thirty-seventh session, the situation of human rights and fundamental freedoms in El Salvador, in order to examine anew this situation in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council."

4. The Special Representative submitted his final report to the Commission on Human Rights, 1/ presenting it personally to the Commission on 4 March 1982. On 11 March 1982, the Commission adopted, by 25 votes to 5, with 13 abstentions, resolution 1982/28, the text of which is as follows:

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: situation of human rights in El Salvador

The Commission on Human Rights,

Recognizing the permanent validity under all circumstances of the principles embodied in the Charter of the United Nations and in the Universal Declaration of Human Rights,

Reaffirming once again that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken through the various international instruments in this field,

Determined to remain vigilant with regard to violations of human rights wherever they occur and to take measures in order to restore respect for human rights and fundamental freedoms,

Recalling that in its resolutions 35/192 of 15 December 1980 and 36/155 of 16 December 1981, the General Assembly expressed its deep concern for the situation of human rights in El Salvador, especially in view of the death of thousands of people and the climate of repression and insecurity prevailing in that country,

Recalling also its own resolution 32 (XXXVII) of 11 March 1981, in which the Commission decided to appoint a Special Representative on the situation of human rights in El Salvador,

Having carefully examined the report of the Special Representative, which confirms the persistence to this date of murders, abductions, terrorist acts and all grave violations of human rights and fundamental freedoms in El Salvador, perpetrated by governmental paramilitary organizations and other armed groups;

1/ E/CN.4/1502, Final report on the situation of human rights in El Salvador submitted by Professor José Antonio Pastor Ridruejo in discharge of the mandate conferred by Commission resolution 32 (XXXVII), 18 January 1982.

Noting in particular that the Special Representative, while noting the difficulties currently standing in the way of a normal functioning of justice in El Salvador, underlines the general attitude of passivity and inactivity on the part of the present Salvadorian authorities with regard to the constant violations of human rights in that country,

Endorsing resolution 10 (XXXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which states that only respect for article 25 of the International Covenant on Civil and Political Rights will assure to the Salvadorian nation, through the participation of all its political forces, the full exercise of its fundamental rights in establishing a democratically elected government,

Bearing in mind that the situation in El Salvador, as clearly shown in the report of the Special Representative, has its root causes in internal political economic and social factors, and that conditions in El Salvador for the effective exercise of civil and political rights, as contemplated by the Sub-Commission, do not exist at the present time,

Reiterating its appeal to the Salvadorian parties involved, made in its resolution 32 (XXXVII), to reach a peaceful settlement and put an end to violence in order to prevent further loss of lives and alleviate the suffering of the people of El Salvador,

1. Commends the Special Representative for his report on the situation of human rights in El Salvador;

2. Expresses its deepest concern at the deteriorating situation in El Salvador, at the continued violations of human rights and at the resulting suffering of the Salvadorian people, and regrets that the appeals for the cessation of violence made by the General Assembly, the Commission and the international community in general, have not been heeded;

3. Affirms that it is incumbent only on the Salvadorian people to exercise its right to determine freely its political status and freely pursue its economic, social and cultural development and to establish the conditions and undertake the changes most adequate to its aspirations as a people and as a nation without direct or indirect external interference of any kind;

4. Reiterates the appeal made by the General Assembly to the Government of El Salvador to work together with all representative political forces in El Salvador towards a comprehensive negotiated political solution in order to establish, in an atmosphere free from intimidation and terror, the appropriate conditions for the establishment of a democratically elected Government;

5. Draws again to the attention of all Salvadorian parties concerned that the rules of international law, as contained in article 3 common to the Geneva Conventions of 12 August 1949 on the laws of war, are applicable to armed conflicts not of an international character and requests all parties to the conflict to apply a minimum standard of protection of human rights and of human treatment to the civilian population;

6. Recalls that in its resolution 36/155 the General Assembly reiterated its appeal to all States to abstain from intervening in the internal situation in El Salvador and to suspend all supplies of arms and any type of military support, so as to allow the political forces in that country to restore peace and security;

7. Calls upon all Salvadorian parties concerned to co-operate fully and not to interfere with the activities of humanitarian organizations dedicated to alleviating the suffering of the civilian population in El Salvador;

8. Strongly urges the Government of El Salvador to take the necessary steps to ensure full respect for human rights and fundamental freedoms in the country;

9. Decides to extend the mandate of the Special Representative for another year and requests him to present his report on further developments in the situation of human rights in El Salvador to the General Assembly at its thirty-seventh session and to the Commission on Human Rights at its thirty-ninth session;

10. Requests the Secretary-General to give all necessary assistance to the Special Representative of the Commission;

11. Calls upon the Government of El Salvador as well as all other parties to extend their co-operation to the Special Representative of the Commission;

12. Decides to consider the question of human rights in El Salvador at its thirty-ninth session as a matter of high priority.

5. In view of the fact that in his last report to the Commission the Special Representative referred to the human rights situation in El Salvador during the last quarter of 1979 and the whole of the years 1980 and 1981, this report will deal primarily with the situation prevailing during the months that have so far passed in 1982. The Special Representative wishes to point out, however, that there is a natural continuity between his last report and the present one, which should therefore be considered in the light of the earlier report.

6. In drafting this report, the Special Representative used information furnished by the Government of El Salvador and other Governments, intergovernmental and non-governmental organizations and other pertinent information concerning the situation of human rights in El Salvador.

7. The Special Representative considered that the continuation of the co-operation given him by the Government of El Salvador in 1981 would also be of great importance to him in carrying out his mandate. The United Nations Centre for Human Rights therefore sought from the Government of El Salvador, through the Ambassador heading that country's Permanent Mission at Geneva, authorization for the Special Representative to visit El Salvador again. On 4 August 1982 the Special Representative was informed that the Government of El Salvador was granting that authorization, although the visit was not considered official because the Government still had reservations of a legal nature concerning his mandate.

8. The Special Representative considers it his duty to state that the co-operation given by the Government of El Salvador has been full and open, both as regards the information supplied to him by the Ambassador to the international organizations at Geneva, and as concerns the facilities and freedom of action accorded him during his visit to the country, the information he was able to obtain, and the frankness of the conversations he had with highly-placed Government authorities. The Special Representative greatly appreciates this co-operation and takes it as a sign of the anxiety of the highest governmental levels in El Salvador to improve the situation concerning human rights of all kinds.

9. In fact, in his interviews with the authorities of the Republic of El Salvador during the third week of September 1982, the Special Representative noted a clear desire gradually to improve respect for human rights of all kinds in the country. The full and open co-operation of the Government in the implementation of the Special Representative's mandate, the assistance and facilities granted him during his visit to the country, the establishment of a Human Rights Commission under the Apaneca Pact, and the efforts to give impetus to the activity of the judiciary are some of the signs of that desire. The Special Representative is also acquainted with the letter sent on 30 September 1982 to the Executive Secretary of the Inter-American Commission on Human Rights by the Ambassador of El Salvador to the Organization of American States, inviting that Commission to carry out an on-the-spot investigation. The Special Representative has pleasure in reporting this concern for human rights shown by the Government of El Salvador and fervently hopes that it will be effectively translated into practice as soon as possible, particularly with regard to the basic right of human beings - the right to life.

10. The Special Representative arrived in El Salvador on the afternoon of Sunday, 19 September, and remained in the country until the morning of Saturday, 25 September. During his stay in the country, the Special Representative had interviews with the following authorities: the President of the Republic, His Excellency Mr. Alvaro Magaña; the Minister for Foreign Affairs, Mr. Fidel Chávez Mena; the Minister of Defence, General José Guillermo García; the Minister of Justice, Dr. Ramiro Arturo Méndez Azahar; the Minister of the Interior, Mr. Manuel López Sermeño; the President of the Central Council for Elections, Dr. Jorge Bustamante; the Vice-President of the Constituent Assembly, Mr. Hugo Carrillo; the Attorney-General of the Republic Dr. Mario Adalberto Rivera; the Deputy Director of the Salvadorian Institute for Agrarian Reform, Mr. Gonzalo Martínez Menéndez; the Director of the National Police, Colonel Carlos Reynaldo López Muilla; and the Director of the Rural Police, Colonel Francisco Antonio Morán.

11. In San Salvador, the Special Representative also had interviews with the Apostolic Administrator, Mgr. Rivera y Damas, and with the representative of the National Association of Private Entrepreneurs (ANEP), Mr. Juan Vicente Maldonado. He also interviewed members of trade union organizations affiliated to the People's Democratic Union (UPD), including Mr. Alberto Albanenga Singueza, Mr. Jorge Camacho, Mr. Mario Espinoza and others. He had an interview with the President of the Salvadorian Red Cross, Mr. Ricardo López, and lastly, he had conversations with diplomats accredited in El Salvador and with some Salvadorian private citizens.

12. During his stay in the country the Special Representative had the opportunity to visit the Mariona Prison, where he conversed freely with the leaders of COPPES

(Committee on Political Prisoners of El Salvador) and other political prisoners not affiliated to that body. He also visited the detention cells of the headquarters of the Rural Police and of the National Police, both of them in San Salvador, where he was able to interview political prisoners freely.

13. In Mexico City, the Special Representative had interviews with representatives of the El Salvador Commission on Human Rights; with representatives of ANDES (National Association of Salvadorian Educators); with representatives of the Federation of Rural Workers; with representatives of the Committee of Mothers and Relatives of Prisoners, Missing Persons and Victims of Political Assassination in El Salvador; with Mr. Luis Alonso Gómez Mena, a former political prisoner, with Mr. José Antonio Morales Carbonell and Mr. Juan José García Cañas, former political prisoners; with Mrs. Ana María Rumayor, widow of the Dutch journalist Jacobo Kolster; and with Mr. Jorge Pinto, former director of the San Salvador newspaper, "El Independiente". In New York, the Special Representative had interviews with Dr. Guillermo Ungo, President of the FDR (Revolutionary Democratic Front) and with Mr. Rafael Moreno, representative of the Political and Diplomatic Commission of the FDR-FMLN. In Washington, he interviewed Mrs. Ingrid Escapini, of the National Revolutionary Movement of El Salvador. Elsewhere, the Special Representative had conversations with Mr. Roberto Cuellar of Legal Aid and Mrs. García Villas of the El Salvador Commission on Human Rights. The Special Representative thanks these bodies and persons for their co-operation and wishes to stress the value of that co-operation and of the interest shown in respect for human rights in El Salvador.

II. INTERNATIONAL AND NATIONAL LEGAL RULES APPLICABLE
IN EL SALVADOR IN THE MATTER OF HUMAN RIGHTS

14. In his last report to the Commission on Human Rights 2/ the Special Representative enumerated the international and national legal rules applicable in El Salvador in the matter of human rights. The information received regarding the main changes in these rules is set out below.

15. As was mentioned in the last report, 3/ the curfew was lifted in El Salvador on 15 October 1981. The state of siege or suspension of constitutional guarantees was lifted during the elections 4/ but decreed for a further 30 days from 20 April 1982 5/ and extended successively from then on. 6/

16. At its meeting on 26 April 1982 the Constituent Assembly recently elected in El Salvador adopted Decree No. 3 which provided that the Constitution of 1962 should remain in force, with certain amendments, until the new Constitution is promulgated. Under that Decree, the Constituent Assembly fully assumes normal legislative functions, and the validity of the legislative, administrative and judicial acts performed under the previous regime is recognised. 7/

17. On 18 May 1982, the Constituent Assembly approved Legislative Decree No. 6 8/ which temporarily suspended the application of Decree No. 207 of the Revolutionary Government Junta. Subsequently, Decree No. 6 was authentically interpreted by Decree No. 11 of the Constituent Assembly, 9/ as will be described in section III of this report.

18. The Special Representative feels that it would be useful to mention at this point the Handbook of Normal Operative Procedure for Counter-subversive Actions Undertaken by the National Police 10/ which he referred to in his last report 11/

2/ E/CN.4/1502, op.cit.

3/ Ibid.

4/ The Times, 30 April 1982.

5/ Diario Oficial del Gobierno de El Salvador, No. 71, Decree 1089, San Salvador, 20 April 1982.

6/ Ibid., No. 92, Decree No. 7, 20 May 1982; No. 113, Decree No. 24, 18 June 1982; No. 118, Decree No. 26, 28 June 1982; No. 140, Decree No. 44, 28 July 1982 and subsequent decrees of the Constituent Assembly.

7/ Ibid., No. 75, 26 April 1982; El Diario de Hoy, San Salvador, 27 April 1982.

8/ Diario Oficial, op.cit., No. 94, 24 May 1982.

9/ Ibid., No. 98, 28 May 1982.

10/ Armed Forces of El Salvador, National Police, Guía de Procedimiento Operativo Normal de las Acciones Contrasubversivas que realice la Policía Nacional, 1 March 1980, revised version 23 September 1980, revised version 10 March 1982, p.1.

11/ E/CN.4/1502, op.cit., para.26.

but of which a revised version was issued on 10 March 1982. The latter reiterates that one of the prime objectives of operations carried out by the National Police is that of "ensuring respect for the laws, moral principles and the inviolability of human rights".

III. CURRENT POLITICAL SITUATION IN THE REPUBLIC OF EL SALVADOR

19. In his final report to the Commission on Human Rights of 18 January 1982, 12/ the Special Representative described the main events which shaped the political situation in the Republic of El Salvador during 1979, 1980 and 1981. With respect to 1982, as has been generally reported, the situation of armed confrontation and widespread violence in the country has continued.

20. A political event of prime importance was the holding of the planned elections to the Constituent Assembly on 28 March 1982. In his previous report the Special Representative referred to the plan for these elections, and made some comments on the conditions for holding them. 13/

21. According to the Permanent Mission of El Salvador to the United Nations at Geneva, 14/ "the elections were observed by delegations from governments and international organizations, as well as by representatives of electoral bodies, trade-union, civic and political organizations, representatives of the International Federation of Human Rights, members of the European Parliament and specially invited political figures". The following information concerning the nationality and number of visiting observers is given in the same document: "Venezuela, 24 persons; United Kingdom, 2 persons; Honduras, 10 persons; Colombia, 4 persons; Panama, 7 persons; Guatemala, 7 persons; China, 2 persons; Federal Republic of Germany, 10 persons; Argentina, 2 persons; Uruguay, 2 persons; United States, 34 persons; Paraguay, 5 persons; Brazil, 2 persons; Antigua and Barbuda, 2 persons; Dominican Republic, 3 persons; Italy, 7 persons; Belgium, 1 person; Chile, 4 persons; Peru, 9 persons; Jamaica, 1 person; Mexico, 3 persons; New Zealand, 1 person; Spain, 4 persons; Austria, 1 person; Canada, 4 persons; Costa Rica, 7 persons; Japan, 2 persons; Egypt, 1 person; France, 2 persons". The document also mentions "the presence of the Organization of American States", and adds that "in all, 742 journalists covered the event". The Special Representative notes the various reactions to the elections.

22. According to reports which appeared in the international press, 15/ on the day of the elections, at least 18 persons died as a result of the attacks launched by the guerrilla movement in the Mejicanos, San Antonio Abad, Cuzcatancingo and Apopa suburbs of the capital. The guerrillas are also said to have carried out

12/ E/CN.4/1502, op.cit.

13/ Ibid., paras.132-136.

14/ Information Bulletin of the Government of El Salvador, Seinform El proceso electoral en El Salvador, 1 April 1982, made available to the Special Representative by the Permanent Mission of El Salvador to the United Nations at Geneva.

15/ International Herald Tribune, 29 March 1982, and The Times, 30 March 1982.

harassment in the towns of Usulután, San Vicente and San Francisco Gotera, as a result of which there was no public transport in the eastern part of El Salvador. According to the same source, at some polling stations in San Salvador the line of voters stretched for over half a mile, while sporadic shots and explosions were heard and bombs exploded near two markets. The same sources also reported that voting was suspended at Apopa, some 17 km from San Salvador, and that apparently the fiercest fighting occurred in Usulután, 66 miles south-east of San Salvador. Some shooting was also reported in San Miguel, the largest town in eastern El Salvador.

23. The official results given by the Central Council for Elections have been transmitted to the Centre for Human Rights by the Permanent Mission of El Salvador at Geneva. They are as follows: total number of valid votes: 1,362,339; spoiled ballots: 131,498; abstentions: 51,438; contested ballots: 6,412. 16/ The Christian Democratic Party obtained 40.7 per cent of the votes and won 24 of the total of 60 seats in the Assembly; the Nationalist Republican Alliance (ARENA) obtained 29.8 per cent of the votes and won 19 seats; the National Conciliation Party (PCN) obtained 18.3 per cent of the votes, winning 14 seats; the Democratic Action Party won 7.7 per cent of the votes and two seats; and the other two parties received the remaining 3.5 per cent of the votes. According to the information provided by the Permanent Mission of El Salvador to the United Nations at Geneva, the Salvadorian People's Party won one seat. 17/

24. As was reported in the world press, 18/ on Thursday, 22 April Major Roberto D'Aubuisson, leader of the ARENA party, was elected President of the Constituent Assembly. He obtained 36 of the 39 votes of the parties considered to be more right-wing; 22 of the 24 members of the Christian Democratic Party voted against, and 2 abstained.

25. At the end of April 1982, 19/ Dr. Alvaro Magaña, Director of the Banco Hipotecario, was elected Provisional President of El Salvador by the Constituent Assembly by a vote of 36 in favour, 17 against and 7 abstentions. Three Vice-Presidents took office with Dr. Magaña: Mr. Raúl Molina Martínez, of the National Conciliation Party; Mr. Mauricio Gutiérrez Castro, of ARENA; and Mr. Pablo Mauricio Albergue, of the Christian Democratic Party. 20/ In early May 1982 the formation of the new Government was announced, composed as follows: three Ministers - those for Foreign Affairs, Labour and Forestry - from the Christian Democratic Party; four Ministers - those for the Economy, Foreign Trade, Agriculture and Public Health - from the ARENA party; and three Ministers - those for Justice, Public Works and the Office of the President - from the

16/ Central Council for Elections, San Salvador, Cifras Oficiales del Consejo Central de Elecciones sobre Elecciones, 14 April 1982, p. 1.

17/ Information Bulletin of the Government of El Salvador, op.cit.

18/ Le Monde, 24 April 1982; The Guardian, 24 April 1982, and International Herald Tribune, 24 April 1982.

19/ Newsweek, 3 May 1982; International Herald Tribune, 3 May 1982.

20/ International Herald Tribune, 4 May 1982.

National Conciliation Party. The President himself appointed the Ministers of the Interior and of Finance, and decided that General José Guillermo García should continue as Minister of Defence. 21/

26. On 3 August 1982, the President of the Republic and the leaders of four political parties signed the "Apaneca Pact" adopting the basic Government platform. The platform "establishes the basic principles of the Government of National Unity, summed up in the following objectives: pacification, democratization, full respect for human rights, economic recovery, consolidation of reforms, confidence-building and international security and reinforcement". The Apaneca Pact recognized the need to set up a Political Commission, a Peace Commission and a Human Rights Commission. 22/ The Minister for Foreign Affairs fully informed the Special Representative of the significance of the Apaneca Pact and particularly of the agreement to set up the Human Rights Commission, an agreement which reflects the determination of the country's authorities to improve the human rights situation.

27. However, Dr. Guillermo Ungo, President of the FDR, takes a very different view of the Apaneca Pact, for he personally told the Special Representative that the Pact merely recorded the points of divergence among the various political parties and sought to improve the image of the present Salvadorian regime.

28. Dr. Guillermo Ungo and Mr. Rafael Moreno, a representative of the Political and Diplomatic Committee of the FDR-FLNFM, told the Special Representative that what was going on at present was a matter of "diplomatic guerrilla warfare", by which they meant that the various proposals put forward by the opposition for dialogue and negotiation with the Government of El Salvador, while apparently being welcomed by the Government, never actually came to anything, so that the genuine pacification of the country is being put off.

21/ The Guardian, 6 May 1982, and International Herald Tribune, 6 May 1982.

22/ Statement issued by the Information Bureau of the Office of the President of the Republic, San Salvador, El Salvador, dated 27 and 28 August 1982.

IV. SITUATION WITH REGARD TO THE EXERCISE OF ECONOMIC,
SOCIAL AND CULTURAL RIGHTS IN EL SALVADOR

29. In his last report to the Commission on Human Rights, 23/ the Special Representative assembled a variety of information on the situation with respect to economic, social and cultural rights in El Salvador, and in this report he would like to add the following in that connection.

30. According to document E/1982/75 of the Economic and Social Council of 19 May 1982, 24/ there was a negative growth of 9.5 per cent in El Salvador in 1981, due, among other things, to "internal factors, especially those deriving from continued and widespread civil strife". On the other hand, according to the same source, there was a considerable decline in inflation, from 19 per cent to 12 per cent.

31. As the ECLA survey 25/ states, the severe crisis in which the country is plunged has caused, among other things, such extensive physical damage that its effects will last at least throughout the medium term and perhaps longer. The survey adds that "although it is too early to calculate exactly the financial cost of economic reactivation and recovery, and the restoration of the road, power, communications and transport infrastructure, and in general the restoration of production capacity and housing, it must amount to hundreds of millions of dollars by any estimate". The survey also states that "once again internal factors - primarily the armed strife - and external factors combined to produce the critical economic situation".

32. With regard more specifically to employment and unemployment trends, the survey states that "some partial data confirm the increasing decline in employment levels. The above-mentioned survey by the Chamber of Industry and Commerce of El Salvador indicates that between January 1980 and August 1981 employment fell by 27 per cent in manufacturing branches, 56 per cent in construction, 25 per cent in trade, 33 per cent in transport and 16 per cent in other services. This partial information refers basically to the situation in the towns, where unemployment figures were perhaps higher than in rural areas".

33. In his previous report, the Special Representative referred at some length to the agrarian reform undertaken by the Revolutionary Government Junta. 26/ The agrarian reform comprised three phases, concerning each of which the Special Representative now wishes to add the following information.

23/ E/CN.4/1502, op.cit.

24/ United Nations, Economic and Social Council, Economic Survey of Latin America, 1981. Summary, E/1982/75, 19 May 1982.

25/ United Nations, Economic and Social Council, Economic Commission for Latin America, El Salvador, Notas para el Estudio Economico de América Latina, 1981 (E/CEPAL/MEX/1982/L.22, 4 June 1982) pp. 1, 3, 24 and 25.

26/ E/CN.4/1502, op.cit.

34. With regard to the first phase, affecting farms of over 500 hectares, the competent authorities of the Republic of El Salvador informed the Special Representative during his visit to the country that implementation of that phase was continuing despite the financial and other difficulties which had arisen. Thus, 287 peasant co-operatives are managing expropriated farms on which 7 per cent of the rural population are working and living, and the National Bank for Agricultural Development is granting credit to those co-operatives for the agricultural year 1982/83. In addition, according to the international press, 27/ on 27 July 1982 12 peasant co-operatives with a total membership of 10,000 persons received deeds of ownership of expropriated farms under the first phase of the reform, a total of 107 claims having been approved.

35. The second phase of the land reform affects farms of over 100 or 150 hectares - depending on the quality of the land - but less than 500 hectares. According to the explanations given to the Special Representative in El Salvador by the competent authorities, its implementation has been postponed on account of the widespread violence, the lack of skilled personnel to provide the potential beneficiaries with the necessary technical assistance, the severe economic crisis through which the country is passing and the lack of capital to pay compensation to landowners. Nevertheless, nearly 100 farms have been voluntarily offered for sale to the Salvadorian Agrarian Reform Institute, which has so far bought 64 of them, incorporating them in the process of implementation of the first phase.

36. The third phase of the agrarian reform is set out in Decree No. 207 of 18 April 1980 of the Revolutionary Government Junta and affects farms subject to the land-leasing and share-cropping system. With regard to this phase, the Constituent Assembly on 18 May 1982 adopted Decree No. 6 which instituted a temporary suspension of Decree No. 207. Subsequently, however, the Constituent Assembly issued a Decree giving an authoritative interpretation of Decree No. 6, which indicated that the latter provided for the temporary suspension of Decree No. 207 only for the duration of the cycles of cultivation of cotton, sugarcane and cereals and cattle-raising activities, that the rights stemming from the leases had to be respected, and that when Decree No. 6 came into force the rights of the beneficiaries of Decree No. 207 of the Revolutionary Government Junta would be recognized. 28/ The Special Representative has been informed that on 9 June 1982 the President of the Republic delivered final deeds of ownership to former tenant-holders in the Department of San Salvador; that on 5 June in the town of Usulután he handed over deeds of ownership to peasants of 18 communities in that department; that on Thursday 17 June Vice-President Molina and other officials delivered deeds of ownership in the town of Unión; and that these deliveries of deeds are part of a plan for the transfer of 800 titles of ownership, 100 of them final and 700 provisional. 29/

27/ International Herald Tribune, 29 July 1982; The Times, 24 and 29 July 1982.

28/ Document of the Ministry of Foreign Affairs of El Salvador, Department of Foreign Policy, circular No. 225 of 30 June 1982, made available to the Centre for Human Rights by the Permanent Mission of El Salvador at Geneva.

29/ Ibid.

37. However, the Special Representative has also received critical assessments of the current state of the land reform process taking place in El Salvador. Thus, in Martin Diskin's recent study, 30/ the following comments are made on the first phase:

"The resulting situation reflects a serious lack of planning. The rapid initial act of intervention led to the formation of cooperatives whose new leadership did not reflect the working population prior to intervention. Farm managers, overseers, mechanics, and even bookkeepers are overrepresented on many cooperatives. Had the physical intervention been done quickly, as it was, but with a period allowed for the formation of a cooperative directorate chosen to be more representative, the subsequent operation of the enterprise might have gone more smoothly. The slow pace of the titling, compounded by the constant difficulty in receiving credit, supplies and extension services, has lowered output and efficiency on many Phase 1 farms. The chilling effect of violence, which is known to the military and the police and often perpetrated by them, has further impeded the implementation of this phase. A list of 184 murders committed between March and October 1980 was made public by Rodolfo Viera, the head of ISTA who was himself assassinated in January 1981. Aside from 50 killings labelled unknown, they were all committed by military, security forces, or the paramilitaries.

By using the quantitative results from the monthly reports, we may say that the impact of the reform has been as follows. All the land in Phase 1 - about 15 per cent of El Salvador's farm land - has been expropriated, benefitting perhaps 25,000 families. Only seven cooperatives have been issued titles.

In terms of production, 12.8 per cent of El Salvador's coffee producing land, 38.2 per cent of the cotton land, and 53.4 per cent of the sugar acreage were contained in Phase 1."

38. Again with regard to the first phase of the land reform, Professor Roy L. Prosterman has said 31/ the following: "It may be said that the legal status of Phase I has not changed ... but its practical status has, I believe, changed adversely, as a result of the appointment of hostile administrators, and the apparently widespread dismissal of favourably-disposed officials, non-granting of credit to many co-ops and weakening of important support services".

39. With regard to the second phase of the land reform, Martin Diskin has said: 32/

"The second phase of the reform, long held in suspension, has now been legally extinguished by the Constituent Assembly elected in March. In addition to the real administrative and technical problems of implementation, it has been subject to a constant barrage of criticism from those who stand to lose most from it. These people are now a dominant force in the Government and they have succeeded in undoing the single most important phase of the entire reform".

30/ Diskin, Martin, contained in El Salvador Land Reform 1980-1981, Impact Audit. "1982 Supplement" (OXFAM America, Boston, Massachusetts, 1982), pp. 30-32.

31/ Prepared Statement of Roy L. Prosterman, Professor of Law, University of Washington, before the Subcommittee on Inter-American Affairs to the House Committee on Foreign Affairs, 3 August, 1982, p. 19.

32/ Diskin, 1982 Supplement, op.cit., p. 42.

40. With regard to the third phase of the land reform in El Salvador, Martin Diskin has written the following: 33/

"The Land-to-the-Tiller program, though flawed in concept, might at least have given a message to some of the poorest of the rural population. With even the distant promise of a land title, smallholders could begin to use their own creativity to devise ways to improve their lot with government financial and technical help. Now even that promise has succumbed to violence, intimidation, corruption, and most recently, to Decree 6. 'approved by the Assembly upon the initiative of the President of the Republic'."

41. Lastly, a working paper published by the Catholic University of El Salvador 34/ which gives an overall assessment of the current process of reforms in El Salvador - land, banking and foreign trade reforms - states that "... the reform programme decreed in 1980 seems to have encountered its first failure as a result of its lack of breadth and depth", adding that "the lack of depth and breadth of the reforms is not only understandable but in fact seems inevitable, seeing how many powerful forces there were waiting to frustrate the positive possibilities of the process". To conclude, the report states: "These conclusions do not represent any attempt to underestimate the importance of the three reforms planned; they are certainly the most ambitious changes put forward in the country's contemporary history. However, our analysis also leads to the conclusion that without exception the reforms have been and still are being badly administered, deeply affected by the war and subject to heavy pressure from the oligarchy which seeks to ensure - at this moment - that the reforms will ultimately be and will operate in its interests".

33/ Ibid.

34/ Catholic University of El Salvador, Evaluación Económica de las Reformas, Documento de Trabajo, Boletín de Ciencias Económicas y Sociales, No. 8/7/82-004.

V. SITUATION WITH REGARD TO RESPECT FOR CIVIL AND POLITICAL RIGHTS
IN EL SALVADOR

42. For the reasons he explained in greater detail in his last report to the Commission on Human Rights, 35/ the Special Representative considered that in view of the consistent pattern of gross violations of civil and political rights of all kinds in El Salvador it was inappropriate to conduct a detailed review of the information received in the light of the specific provisions of the domestic and international legal instruments which are binding on the Republic of El Salvador in this area. He decided that it would be preferable to adopt a classification which takes into account the actual circumstances in which such violations take place. This classification, which does not imply any rigid distinction between the various categories, is as follows: (a) murders; (b) abductions and disappearances; (c) political prisoners; (d) other terrorist acts; and (e) general attitude of the Salvadorian judiciary.

1. Murders

43. The Special Representative has continued to receive a great deal of information concerning political murders of civilian non-combatants in El Salvador. The Special Representative is fully aware of the difficulty of accurately determining the exact number of crimes of this kind and considers that this difficulty is due to a variety of causes. The first is the very magnitude of the figures involved. The second is that, in many cases, information on murders comes to light only when bodies are found and it is thus very difficult to determine how they were committed and even whether they were really politically motivated or simply ordinary murders. There is also the fact that the regular army and a guerrilla organization are engaged in armed conflict and it may sometimes be difficult to determine whether those killed are combatants or not. The Special Representative considers that this is an area in which figures must be handled with caution, since there is no way of being really sure that reported figures on political murders of civilians are reliable. The Special Representative nevertheless wishes to point out that the various sources of information he has used basically agree on rises and falls in the total number of murders.

44. Thus, according to the University Documentation and Information Centre, 36/ 1,837 civilians were murdered between January and April 1982. Newsweek 37/ credits that source with information to the effect that 2,658 non-combatants were murdered in the first six months of 1982. According to the information handed over to the Special Representative by the El Salvador Commission on Human Rights, 3,095 civilians were murdered between 1 January and 30 June 1982. According to information given

35/ E/CN.4/1502, paras. 62-63.

36/ University Documentation and Information Centre, weekly news-sheet, El Salvador, Proceso, year No. 3, No. 68, special issue, February-April 1982.

37/ Newsweek, 27 July 1982.

directly to the Special Representative by "Christian Legal Aid of El Salvador", 38/ "a total of 3,059 persons were unlawfully executed in the first half of 1982". The figures may be broken down as follows: 566 in January; 532 in February; 526 in March; 505 in April; 375 in May; and 355 in June. According to the same source, 39/ 198 persons were killed in July and 351 in August. Thus, in the first eight months of 1982, the total number of political murders of non-combatants reported by "Christian Legal Aid" was 3,608. The information in question also states that the executions were nearly all the result of action by Government agents (the Army, the National Guard, the National Police and the Rural Police) against unarmed Salvadorian civilians not involved in military combat. With regard to the reliability of this source, the Christian Legal Aid Bulletin of 26 May 1982 quotes Monsignor Arturo Rivera y Damas, Apostolic Administrator of the Archdiocese of San Salvador, as saying that the information provided by Legal Aid was not false; it was simply one-sided because it focused on only one aspect of the problem. Monsignor Rivera y Damas confirmed these words personally to the Special Representative, adding that the one-sidedness of the information was the result of the fact that the complaints received by Christian Legal Aid related only to Government agents and extreme rightist paramilitary organizations.

45. According to a United States Department of State document based on press reports, 40/ the number of deaths may be broken down as follows: 279 in January; 361 in February; 438 in March; 194 in April; 301 in May; 189 in June; 163 in July; 196 in August; and 112 in the first two weeks of September. Thus, according to that source, a total of 2,333 persons were killed between 1 January and 15 September 1982.

46. The Special Representative also received information from the Government of El Salvador 41/ on murders committed by the armed opposition in the period 1968-1982 (up to 21 July 1982 only). According to this information, 4,678 civilians and members of various State agencies were murdered by subversive elements during that period, but separate figures for each year are not given.

38/ Christian Legal Aid of El Salvador, El Salvador, Informe sobre violación de derechos humanos, San Salvador, 15 July 1982.

39/ Ibid., Víctimas de la violencia en El Salvador, de enero a agosto de 1982, muertes fuera de combate.

40/ United States Department of State, Deaths attributable to political violence, document made available to the Special Representative by officials of the United States Department of State.

41/ Armed Forces of El Salvador, National Police, Datos Estadísticos sobre Asesinatos por la Subversión, San Salvador, 21 September 1982.

47. Since nearly 12,000 political murders of non-combatants were reported for 1981, 42/ there seems to have been a drop of about 50 per cent in 1982.

48. The Salvadorian press also reports on mass murders committed in El Salvador and the Special Representative wishes to put this information forward as further evidence in this respect. For example, El Diario de Hoy 43/ which is published in San Salvador, reports, in the edition of 8 March 1982, that seven persons were taken from their homes by several unknown armed persons and that their bodies were subsequently found in La Libertad district; that Mr. Juan Antonio Silezia was found dead in the street in San Salvador, but those responsible were not identified; that an employee was found dead on the railway line in Colonia Santa Isabel, but those responsible were not identified; that Mr. Cortés Parada was murdered by subversive elements in the place known as El Playón. The 15 March 1982 edition reports that two brothers, Félix José and Federico Rafael Charlaix, were abducted and then killed by unknown persons; that a National Police officer was killed by a terrorist group; that five mutilated bodies were found in Metapán (Santa Ana), but those responsible were not identified; that another six decapitated bodies were found in the same place, but those responsible were not identified; that the body of a young man was found in San Miguel and those responsible were also not identified; and that Mr. Abraham Wilfredo Aguilar García was abducted and decapitated in Santa Ana, but those responsible were not identified. The 20 March 1982 edition reports that the members of the San Agustín y Buenavista cantonal patrol are accused of murdering 24 people; that two farmers who had served in the army were murdered by unknown persons; that Dr. Juan Garzona was shot to death in Santa Ana after receiving threats from extremists; and that the Justice of the Peace of Santa Ana identified two bodies, but those responsible were not identified. The edition 44/ of 29 March 1982 reports that a domestic employee was killed by an unknown person in a Santa Ana restaurant. The edition 45/ of 1 April 1982 reports that Armando Turcios Yescas, a worker, was found dead in Anchico canton, but those responsible were not identified; that Alberto Campos and his wife were found dead in La Cruz canton, but those responsible were not identified; and that the bodies of three young men were found strangled and with bullet wounds in El Rosario canton, but those responsible were not identified. The edition 46/ of 3 April 1982 reports that Raúl Coto, a Salvadorian Green Cross relief worker, was killed by three unknown hooded individuals; and that the body of Mr. José Roberto Argueta was found with bullet wounds in Monte Grande canton, but those responsible were not identified. The edition 47/ of 19 April 1982 reports that two motorists were found murdered, but those responsible were not

42/ E/CN.4/1502, para. 66.

43/ El Diario de Hoy, 8 March 1982, 15 March 1982, 20 March 1982.

44/ Ibid., 29 March 1982.

45/ Ibid., 1 April 1982.

46/ Ibid., 3 April 1982.

47/ Ibid., 19 April 1982.

identified. The edition 48/ of 23 April 1982 reports that the officiating judge identified five bodies, but those responsible were not identified, and that four men were killed in a house by four armed individuals. The edition 49/ of 27 April 1982 states that Ricardo Antonio Mazariago, a mechanic, was shot dead with seven bullets in a hotel in Zacatecoluca by four unknown persons and that Mr. José Manuel Mejía Castillo was killed by unknown persons in San Vicente. The edition 50/ of 28 April 1982 states that the Justice of the Peace identified four bodies, but those responsible were not identified. The edition 51/ of 29 April 1982 reports that Luis Alonso Martínez Escobar, a watchman, was killed by unidentified persons. The edition 52/ of 30 April 1982 reports that the Justice of the Peace identified the bodies of three young men, one of whom was a soldier; it is therefore believed that the killings were carried out by subversive elements. The edition 53/ of 1 May 1982 reports that Milton Ernesto Alvayero, a worker, was shot to death by unknown persons in the Candelaria district of San Salvador. The edition 54/ of 3 May 1982 describes the discovery of two bodies in Mejicanos, one decapitated and the other with a knife wound in the head, with no identification of those responsible. The edition 55/ of 4 May 1982 reports that, in Mejicanos, the bodies of two persons were found with their hands tied behind their backs by the thumbs, but with no identification of those responsible; that Delia del Carmen Vargas Maravilla, a teacher, was killed by unknown persons and that she was the fiancée of an army officer and the sister of another officer; that three individuals were shot to death in the Candelaria district of San Salvador by unidentified persons; and that an employee was shot to death in the courtyard of his house in Usulután canton by eight heavily armed individuals. The edition 56/ of 31 May 1982 reports that Francisco Alfredo Romero, an employee of the Ministry of Public Health, was shot in the chest in Zacatecoluca by unidentified persons.

49. As in his previous report, 57/ the Special Representative wishes to refer in particular to information concerning especially serious and blatant cases of murders, such as mass killings of peasants, political leaders, journalists and other persons.

48/ Ibid., 23 April 1982.

49/ Ibid., 27 April 1982.

50/ Ibid., 28 April 1982.

51/ Ibid., 29 April 1982.

52/ Ibid., 30 April 1982.

53/ Ibid., 1 May 1982.

54/ Ibid., 3 May 1982.

55/ Ibid., 4 May 1982.

56/ Ibid., 31 May 1982.

57/ E/CN.4/1502.

50. In fact, according to the information received by the Special Representative, mass killings continued in 1982. Thus, according to information provided by the University Documentation and Information Centre, 58/ there were 24 reports of massacres between January and April, with a total of 547 persons killed; two of the massacres were the result of FMLN attacks on military objectives in Chalatenango, with a total of 60 dead.

51. Legal Aid 59/ reported that a massacre had taken place on 18 April 1982, between 5 and 6 a.m., in Barrios village, Divisadero district, Department of Morazán, and that 48 people had been killed. According to the same source, the murders were committed by uniformed army soldiers after the villagers had shut themselves up in their homes following a sharp clash with guerrilla fighters. The El Salvador Commission on Human Rights 60/ gives a similar version of what happened, stating that 22 children, 8 adolescents, 15 adults and 4 old people were killed, giving their names and ages. According to the international press, 61/ approximately 50 men, women and children were killed in Barrios and the murders were committed as a reprisal for the ambushing of 100 soldiers by guerrilla fighters. The Government of El Salvador told the Special Representative that it had no knowledge of any such events, that the report contained no eye-witness accounts or evidence and that was part of the disinformation campaign designed to discredit the Government.

52. With regard to the murders of political leaders, El Diario de Hoy of San Salvador 62/ reports on the murder of Mrs. Yolanda Cárcamo, the Christian Democratic Party candidate as deputy for San Salvador. According to Le Monde, 63/ the bodies of six militant members of the Christian Democratic Party were found on 27 May in El Playón, near San Salvador, and their deaths were attributed to the extreme right. According to the International Herald Tribune, 64/ Angélica García de López, mayoress of the town of San Francisco Chinameca, and her 18-year-old daughter were killed on 28 May 1982. The same newspaper quotes a spokesman for the Christian Democratic Party as saying that one of the killers was a civilian but the others were connected with the National Guard. The same source also reports that the Salvadorian authorities arrested the three persons responsible.

58/ University Documentation and Information Centre, El Salvador, Proceso, op. cit.

59/ Legal Aid Service of the Archdiocese of San Salvador, Informa las violaciones a los derechos humanos cometidas contra la población civil salvadoreña entre el 17 al 23 de abril de 1982, San Salvador, 3 May 1982 (in June 1982, the Legal Aid Service of the Archdiocese of San Salvador was reorganized and is now known as "'Archbishop Oscar Romero' Christian Legal Aid").

60/ El Salvador Commission on Human Rights, Boletín Semanal No. 1, May 1982.

61/ Le Monde, The Times, International Herald Tribune, 22 April 1982.

62/ El Diario de Hoy, 13 May 1982.

63/ Le Monde, 29 May 1982.

64/ International Herald Tribune, 1 June 1982.

El Diario de Hoy of San Salvador, on the other hand, reports that National Guard officers captured the persons who killed Evangelina García and that according to the Christian Democratic Party they were members of the Chinamequita civil defence organization and the Candelaria cantonal patrol. 65/

53. With regard to journalists, it was reported in the world press 66/ that four Dutch television reporters were killed by army elements on 17 March 1982 near the town of El Paraíso, 36 miles north of San Salvador. According to the same sources, the Minister of Defence of El Salvador stated that the deaths of the four reporters took place when troops opened fire on guerrillas, while President Duarte said that the reporters died when they were moving around in the guerrilla zone, with the protection of the guerrillas, but that the Government was unaware that they were in the area of hostilities. However, the report of 13 April 1982 commissioned by the Government of the Netherlands 67/ states that "The official Salvadorian versions are not entirely credible and are debatable. The fact that some preliminary statements were later changed means that they cannot be accepted unconditionally". The conclusions of the Netherlands report are as follows: (1) it has been established that the four members of the IKON team were shot to death by soldiers of the Salvadorian regular army...; (2) the IKON team either met the army patrol by chance or fell into an ambush set up by the patrol; (3) since, on the one hand, the reporters were obviously under suspicion and since, on the other, their arrival could very easily have been announced by radio to the army patrol while they were on their way to the place at which they met, so that the patrol would have been able to set up an ambush, an organized attack on the reporters cannot be ruled out. On the other hand, it must be pointed out that the army did not conceal the bodies and, on its own initiative, took them together with the body of the guerrilla leader, Oscar, to San Salvador.

54. Subsequently, on 28 May 1982, the Government of the Netherlands issued an additional report 68/ containing the following conclusions: (1) conclusion (1) of the report of 13 April 1982 remains valid; (2) although, theoretically, it cannot be ruled out that the patrol was warned by radio of the arrival of the IKON reporters from the military camp, the additional inquiry has provided no indications that could lead to the conclusion that there was any premeditated

65/ El Diario de Hoy, 31 May 1982.

66/ International Herald Tribune, 19, 20 and 21 March 1982; Le Monde, 20 March 1982; The Guardian, 20 and 25 March 1982; The Times, 20 March 1982; Tribune de Genève, 22 March 1982.

67/ Rapport van het onderzoek naar de toedracht van de gebeurtenissen die hebben geleid tot de dood van vier nederlandse journalisten op 17 maart 1982 in El Salvador (Government of the Netherlands, Report on the enquiry into the circumstances of the events which led to the deaths of four Dutch reporters on 17 March 1982 in El Salvador), The Hague, 13 April 1982.

68/ Aan vullend rapport van het onderzoek naar de toedracht van de gebeurtenissen die hebben geleid tot de dood van de vier Nederlandse journalisten op 17 maart 1982 in El Salvador (Government of the Netherlands, Additional report on the enquiry into the circumstances of the events which led to the deaths of four Dutch reporters on 17 March 1982 in El Salvador), The Hague, 28 May 1982.

intention of luring the IKON reporters into an ambush. Nor has any convincing proof been found of the thesis that the clash between the military patrol and the guerrilla fighters accompanying the IKON team was the result of chance.

55. In connection with the deaths of the Dutch reporters, the Special Representative had a conversation, in Mexico, with Mrs. Ana María Rumayor, the widow of the reporter, Jacobs Kolster, one of the members of the IKON team. Mrs. Rumayor showed the Special Rapporteur a photocopy of a report drawn up at the office of the Rural Police which showed that Mr. Kolster had been questioned there on 11 March 1982 because they had found on a guerrilla fighter a note giving Kolster's name, address and telephone number. The photocopy of the report - whose authenticity the Special Representative can vouch for because he saw the original document in San Salvador - indicates that the reporter and his companions were at no time coerced or physically or mentally ill-treated. The report is signed by the Director of the Rural Police and by Mr. Kolster. Jacobs Kolster's widow gave the Special Representative a photocopy of the document sent to the Attorney-General of the Republic of El Salvador requesting the appointment of a prosecutor for the criminal investigation into her husband's death. With regard to the death of Mr. Johannes Jan Willemsen, another of the Dutch reporters who was killed, the Special Representative noted that similar legal proceedings had been instituted before the Attorney-General of the Republic of El Salvador on 13 October 1982 by Miss Yachiyo Matsuzaki, Mr. Willemsen's companion, and by his father, Mr. Gerrit Jan Willemsen. The Special Representative also received a letter from Miss Jacqueline Bouma, friend and fiancée of Mr. Hans Lodewijkter Laag, another of the Dutch reporters killed, with a photocopy of the request submitted to the Attorney-General for the appointment of a prosecutor for the case. The request is dated 20 October 1982.

2. Abductions and disappearances

56. The Special Representative wishes to provide various types of information on cases of alleged abductions and disappearances, but it must be pointed out that, in this connection again, figures must be treated with the greatest caution. That is in the first place because, after abductions, the bodies of the persons abducted are sometimes found, and such cases are counted as murders. In other cases, it is discovered that the persons abducted are being held in detention centres belonging to the armed forces or the security bodies, and these are counted as political prisoners. In still other cases, the persons abducted are released. There are, lastly, the cases in which the persons who have been abducted are not found, presumably because they have been murdered and their bodies have been hidden; only then can reference properly be made to disappearances. The Special Representative considered it necessary to give these explanations before providing information on figures concerning abductions and disappearances, which, in many cases, overlap with figures concerning murders and political prisoners.

57. According to information handed over to the Special Representative by the El Salvador Commission on Human Rights, there were 244 cases of persons who disappeared between 1 January and 30 June 1982. Amnesty International 69/ gives

69/ Amnesty International, Political Prisoners in El Salvador, AMR/29/48/82, 11 June 1982.

a list of 50 persons who were arrested and who disappeared between late March and early May 1982. The same source 70/ reports six other cases of disappearances.

58. According to information provided by the Legal Protection Office of the Archbishopric, Archdiocesan Commission on Justice and Peace, 71/ during the month of May 1982 the Office received reports of 68 persons arrested and of that number five were found dead, six were located in security prisons and seven had been sent to ordinary prisons, but nothing was known about the other 50 persons.

59. According to the same source, 72/ 15 arrests were reported between 12 and 18 June, 19 between 19 and 25 June, 73/ 13 between 26 June and 1 July, 74/ 23 between 9 and 15 July, 75/ 18 between 16 and 22 July, 76/ 11 between 23 and 29 July, 77/ 27 between 30 July and 3 August and between 9 August and 12 August, 78/ 9 between 20 and 26 August 79/ and 31 between 27 August and 2 September. 80/

60. In Mexico, Christian Legal Aid gave the Special Representative more complete lists containing information on alleged disappearances. According to the first partial list, 81/ 402 persons were arrested by security or Government agents in the period from November 1981 to July 1982; 40 of these were brought before the courts. Another partial list 82/ refers to the arrests by Government agents of

70/ Ibid., Central America Special Action, El Salvador, AMR/29/55/82, 8 July 1982.

71/ Legal Protection Office of the Archbishopric, Archdiocesan Commission on Justice and Peace, Denuncia de personas capturadas recibida en esta oficina, San Salvador, June 1982.

72/ Ibid., 19 June 1982.

73/ Ibid., 26 June 1982.

74/ Ibid., 2 July 1982.

75/ Ibid., 16 July 1982.

76/ Ibid., 23 July 1982.

77/ Ibid., 30 July 1982.

78/ Ibid., 13 August 1982.

79/ Ibid., 27 August 1982.

80/ Ibid., 3 September 1982.

81/ Christian Legal Aid, Desaparecidos forzados. Listado parcial de personas que habiendo sido capturadas por organismos de seguridad o agentes gubernamentales, no son presentadas ante tribunales o puestas en libertad, November 1981 to July 1982.

82/ Ibid., Listado parcial de capturas realizadas por agentes gubernamentales a menores de edad, November 1981 to July 1982.

44 minors between November 1981 and July 1982. Still another partial list 83/ refers to 16 citizens arrested during the same period by the Civil Defence Committee. A fourth partial list 84/ refers to 39 citizens who were arrested and subsequently executed by their captors during the same period; their cases have also probably been counted as murders.

61. The Director-General of the El Salvador National Police made available to the Special Representative a document 85/ indicating that guerrilla organizations had carried out a total of 25 abductions up to 21 September 1982.

3. Political prisoners

62. According to information made available to the Special Representative by the Government of El Salvador, 86/ 2,478 persons were arrested between 15 October 1979 and 13 July 1982 for involvement in terrorist activities. Of these, 1,254 were released; 575 were brought before military examining magistrates; 156 were brought before ordinary judges; 16 were brought before minors' judges; one was taken to a guidance centre; 21 were brought before the Director General of Migration; 72 were brought before various military authorities; 357 were brought before the special police judge; one fled, one committed suicide and 34 cases are pending. Another document from the same source 87/ states that 839 persons were arrested for involvement in terrorist activities between 1 January and 22 September 1982.

63. According to information communicated orally to the Special Representative by the Minister of Justice of El Salvador, the number of political prisoners under his Ministry's authority on 18 September 1982 was 629, of whom 561 were men who were being held in Mariona prison and 61 were women being held in Ylopango prison. On 23 September 1982, 36 prisoners were being held in the San Salvador National Police prison, according to information handed over to the Special Representative by the Colonel in charge of the National Police; those persons had been detained between 19 August and 22 September 1982.

64. According to Amnesty International, 88/ there are at present several hundred political prisoners in San Salvador, but their number is relatively small compared with the number of persons arrested, for reports continue to indicate that persons arrested either disappear soon after their arrest or are released, and that many are being held in military establishments or at secret detention centres.

83/ Ibid., Listado parcial de ciudadanos capturados por el Comité de la Defensa Civil, November 1981 to July 1982.

84/ Christian Legal Aid, Listado parcial de ciudadanos aprehendidos y posteriormente ejecutados por sus captores, November 1981 to July 1982.

85/ Armed Forces of El Salvador, National Police, Datos estadísticos sobre los secuestros realizados por las diversas agrupaciones subversivas en El Salvador, San Salvador, 21 September 1982.

86/ Armed Forces of El Salvador, National Police, Datos estadísticos sobre personas detenidas por vincularseles con acciones terroristas, período 15 de octubre 1979 al 5 julio de 1982, San Salvador, 13 July 1982.

87/ Ibid., 22 September 1982.

88/ Amnesty International, AMR/29/48/82.

65. According to information provided by the International Committee of the Red Cross, 89/ delegates of that humanitarian organization made 172 visits to places of detention in March 1982; there were 157 new cases of persons arrested for security reasons and the persons visited were under the authority either of the Ministry of Justice, or of the security forces or of the army. The report of the International Committee of the Red Cross 90/ also indicates that, in March 1982, its Search Offices in San Salvador, Santa Ana and San Miguel continued to receive information from persons looking for relatives who had either disappeared or been abducted. During that period, approximately 1,400 persons called the office in the capital and 261 requests for searches were received; in March, 61 cases were solved.

66. For the rest, according to documentation handed over to the Special Representative by the Government of El Salvador during his visit to the country, delegates from the International Committee of the Red Cross are still being allowed to visit detention centres. 91/ There has also been a restructuring of the Auxiliary Control Commission, a Government body which investigates particularly serious cases of the ill-treatment of prisoners. An office of public information on persons arrested by National Police officers has, moreover, been set up in an annex to the National Police headquarters in San Salvador. The San Salvador newspaper La Prensa Gráfica of 29 October 1981 reported the opening of that office. The Special Representative visited the premises and examined the documentation that is available to the public.

67. Specifically with regard to the situation of political prisoners in El Salvador, the Special Representative received a report which was prepared by two former political prisoners, Mr. José Antonio Morales Carbonell and Mr. Juan José García Cañas, and annexed to a letter sent from Mexico City on 12 July 1982. 92/ The report states that "To date, most political prisoners do not officially know why they are being detained or whether there is any decision or warrant ordering their detention; they do not even know whether there are any proceedings against them ...; many prisoners have been held for years without officially knowing why they are being detained". The report also states that Decree No. 507 of the Revolutionary Government Junta is not being complied with, "for there are prisoners who have been detained for up to 204 days in security prisons without being brought before the competent courts ...; 166 (33.5 per cent) were remanded within the legal time-limit, but 330 (66.5 per cent) were remanded after the time-limit stipulated in the Decree". The report also states that there are several prisoners who were notified over a year ago that their cases were being brought before the National Court, but that they still do not know what stage has been reached in the proceedings, which is another violation of their rights. The report also says that, with a view to obtaining unofficial statements, "political prisoners are brutally beaten, injured and burned with acid; electric shocks are

89/ Red Cross, SALVREP, No. 3, 21 April 1982.

90/ Ibid., Situation Report No. 3, April 1982.

91/ E/CN.4/1502, para. 91.

92/ García Cañas, Juan José and Morales Carbonell, José Antonio, Informe sobre presos políticos, annexed to a letter to the Special Representative, 12 July 1982.

applied to the most sensitive parts of their bodies: the genitals, armpits, soles of the feet, head, tongue, ears, eyes, etc. They are subjected to asphyxia in the most brutal manner ... They are strung up in various ways, for lengthy periods of time, and beaten and kicked in various parts of their bodies. After being tortured, they are forced to sign blank pieces of paper ... or coerced into signing with their eyes blindfolded". In this connection, the report provides the following information obtained since May 1982: among 331 prisoners, 132 were physically tortured, 27 were psychologically tortured, 6 were not tortured and there were 496 instances of torture altogether. The report also indicates that there are now 54 minors 14 years old and up who are being kept in prison indefinitely together with adults, even though the time-limit for corrective detention (120 days) laid down in the Decree has expired". It also reports five cases of military raids on prisons and indicates that prisoners "are crowded into very small cells, in deplorable sanitary conditions, and lack medicine and proper medical care. The food they receive is extremely inadequate, primarily consisting of a diet of tortillas and beans. The daily food budget for each prisoner is one colon, 25 centavos, i.e. \$.50 per day ...". The lack of water, electricity and other conveniences makes the prisoners' lives very difficult, all the more so because their basic needs are not being met. In the statements they made to the Special Representative in Mexico City, Mr. Morales Carbonell and Mr. García Cañas confirmed what they had said in their letter.

68. The Special Representative has received information concerning an armed attack on a prison. Thus, according to information from Legal Aid, 93/ combined forces from the National Guard and the Rural Police arrived at Mariona Detention Centre, near San Salvador, on 18 March 1982 at 8.30 a.m. and used a megaphone to order the prisoners out of the cell blocks. When they came out, they were forced to lie face down on the ground and were kept in that position in the sun until 11.30 a.m., while the officers threw water and stones at them or stamped on them. All the prisoners were interrogated and particular attention was given to the cases of the youth, Antonio Morales Carbonell, and Hector Bernabé Recinos. Young Morales was given drugs to make him talk, but since he would not he was beaten and had several veins slashed with a razor blade, so that he had to be taken to a medical centre. Mr. Recinos had a hood placed over his head several times and then they beat him so badly that he cannot walk. According to the same information, the other prisoners, some 550 in all, were whipped, insulted and robbed and ended up with bad sunburns on their backs. The Guardian 94/ of 24 March 1982 reports that Dr. Morales Erlich, who is a member of the Revolutionary Government Junta and the father of young Morales Carbonell, requested an investigation of the matter. Information from the Committee for the Defence of Human Rights in Central America 95/ and the Amnesty International report 96/ give substantially similar accounts of what allegedly happened, as does the statement made to the Special Representative by Mr. Morales Carbonell. According to the San Salvador newspaper El Diario de Hoy, 97/ Mr. Morales Carbonell had to be treated in a private clinic.

93/ Legal Aid, press release, 19 March 1982.

94/ The Guardian, 24 March 1982.

95/ Letter dated 26 March 1982 from the Committee for the Defence of Human Rights in Central America to the United Nations Commission on Human Rights.

96/ Amnesty International, Central America Special Action (CASA), AMR/29/24/82, 18 April 1982.

97/ El Diario de Hoy, 20 March 1982.

69. However, the Government of El Salvador gave the Special Representative a different version of the facts, stating that when prisoner Antonio Morales Carbonell saw the soldiers, "he panicked, his blood pressure dropped and he was helped by prison nurses and later taken to the San Salvador Polyclinic for treatment". The Government also states that "the staff does not physically assault prisoners". 98/

70. During his stay in El Salvador, the Special Representative visited Mariona prison, where he was able to talk freely with the political prisoners who are the leaders of COPPLES (Committee of Political Prisoners of El Salvador), namely, Mr. Mario Vigil, Mr. Bernabé Recinos, Mr. Dagoberto Sosa, Mr. José Antonio Valencia, Mr. Oscar Garza and Mr. Francisco Arévalo, who said that they had been detained for 19, 25, 11, 25, 24 and 19 months respectively. They also said that the time-limits laid down in Decree No. 507 of the Revolutionary Government Junta 99/ were not being respected and that they did not know when they would be brought to trial. Bernabé Recinos also said that his wife and a 13-year-old daughter had disappeared on 20 August 1982 and José Antonio Valencia stated that a 16-year-old daughter of his had been killed. The prisoners who were interviewed also said that what was stated in the above-mentioned letter from Mr. Morales Carbonell and Mr. García Cañas was true.

4. Other terrorist acts

71. In 1982, violent acts of sabotage against the Salvadorian economy continued to be carried out by the guerrilla opposition. Thus, according to information supplied by the University Documentation and Information Centre, 100/ "between February and April 1982, a total of 439 acts of sabotage were carried out, mostly in the central region and in particular in Sal Salvador, the department in which most of the country's non-agricultural productive sources are concentrated. In other regions, the departments that were most affected were Usulután, San Vicente and San Miguel, which are of strategic importance because of their cotton and sugar-cane crops but are also the areas in which violent military clashes have frequently occurred ... Statistics show that sabotage has been carried out mainly against means of transport (46 per cent) and the electric power distribution and supply systems (23.7 per cent), thereby affecting two basic elements of the economic cycle: the circulation or distribution of goods and services and their protection. Although fewer in number (5.7 per cent), cases of sabotage of means of communication have had an enormous impact on communications in the country and on the national economy". According to the same source, 101/ FMLN forces destroyed or damaged the following bridges during the first quarter of 1982: four in Santa Ana; one in San Salvador; three in Usulután; two in San Miguel and one in Morazán".

98/ Document by the El Salvador army, General Staff, 23 March 1982, made available to the Special Representative by the Government of El Salvador.

99/ E/CN.4/1502, paras. 25 and 109.

100/ University Documentation and Information Centre, Proceso, op. cit.

101/ Ibid.

72. According to the International Herald Tribune, 102/ guerrillas attacked a large ANTEL (National Telephone Company) installation, destroying some telephone communications in the capital; according to the same source, guerrillas also set fire to the town hall of Tecapán, which is some 50 km south-east of San Salvador. According to the same newspaper, 103/ the guerrilla radio announced that, in the town of San Miguel, the building and some of the lorries of a construction company had been set on fire. The same newspaper reported 104/ that guerrillas had set fire to 17 buses in different parts of San Salvador on Sunday, 22 March 1982, and had set fire to at least 5 buses in Chalatenango. According to The Guardian, 105/ guerrillas blew up electric power plants and lines on 20 and 21 March 1982 in the departments of Usulután, San Miguel, Morazán and La Unión, leaving those areas without electricity for three days; according to the same source, guerrillas also attacked electric power lines in the town of El Triunfo. The International Herald Tribune 106/ reported that guerrillas blew up a bridge in San Francisco Gotera and cut off two roads and telephone lines to nine towns. According to The Guardian, 107/ guerrillas blew up electric power pylons in three provinces of El Salvador. Le Monde 108/ and The Times 109/ reported that guerrillas attacked a goods train near San Vicente and sabotaged electric power lines in that town and in the town of Quezaltepeque.

73. Subsequent reports in the international press 110/ stated that the opposition radio station "Radio Venceremos" issued a communiqué prohibiting road traffic throughout the country. The same sources reported that, on 30 June and 1 July 1982, more than 20 vehicles, mainly cars and lorries, were burned or dynamited by FMLN members. According to Le Monde, 111/ the situation is especially critical in the eastern part of the country, where the bus service between towns and villages has been almost completely halted by the systematic

102/ International Herald Tribune, 17 March 1982.

103/ Ibid., 18 March 1982.

104/ Ibid., 24 March 1982.

105/ The Guardian, 25 March 1982.

106/ International Herald Tribune, 8 April 1982.

107/ The Guardian, 13 April 1982.

108/ Le Monde, 21 May 1982.

109/ The Times, 24 May 1982.

110/ The Guardian, 24 June 1982; The Times, 24 June and 6 July 1982; International Herald Tribune, 24 June 1982; Le Monde, 26 June and 3 and 10 July 1982.

111/ Le Monde, 6 and 10 July 1982.

campaign to destroy means of transport. According to The Times, 112/ 50 per cent of El Salvador's transport system has been paralysed. The Times 113/ and Le Monde 114/ also report that guerrillas have apparently cut off water and electricity supplies in much of San Salvador.

74. Guerrilla attacks of this kind continued during the month of August and, according to the international press, 115/ four eastern provinces were in their fifth day without electricity after guerrillas had dynamited electric power lines; it was also reported that many communities were unable to obtain water from electric-powered pumps.

75. Documentation handed over to the Special Representative by the Government of El Salvador during his visit to the country 116/ indicates that, in the period between 1 January and 20 September 1982, there were 151 cases of sabotage with dynamite in the land transport sector; 50 in the industrial, commercial, banking and agricultural sectors; and 351 in the sector of State-owned facilities. According to the same information, there were 157 cases of incendiary sabotage in the land transport sector; 46 in the industrial, commercial, banking and agricultural sectors; 16 in other sectors; and 61 in the sector of State-owned facilities. According to the information received, there were 561 other acts of sabotage, making an over-all total of 34,379 cases. Damage to the economy resulting from attacks carried out between 1 January and 22 September 1982 is estimated at 90,500,000 colones.

5. General attitude of the Salvadorian judiciary

76. In his previous report to the Commission on Human Rights, 117/ the Special Representative referred to the general attitude of inactivity and passivity of the Salvadorian judiciary towards violations of human rights, although he acknowledged the difficulties standing in the way of a normal functioning of the courts and noted certain attempts to apply legal sanctions to such violations. The Special Representative believes that this situation remains largely unchanged at the present time, for although he has received information on certain other proceedings instituted in respect of violations of human rights, the number of criminal violations reported bears little relation to the number of criminal proceedings brought to his attention. At all events, the Special Representative notes the signs of a slight increase in the activity of the judiciary.

112/ The Times, 6 July 1982.

113/ Ibid., 1 July 1982.

114/ Le Monde, 6 July 1982.

115/ International Herald Tribune, The Times, 10 August 1982.

116/ Armed Forces of El Salvador, National Police, Datos estadísticos sobre atentados dinamiteros, incendiarios y sabotajes diversos realizados por las diversas agrupaciones terroristas con el fin de destruir la economía nacional, San Salvador, 22 September 1982.

117/ E/CN.4/1502, paras. 110-113 and 129.

77. The Special Representative's general impression of the attitude of the Salvadorian judiciary is confirmed by other sources. Thus, according to Amnesty International, 118/ "the judicial system in El Salvador has all but ceased to function". Moreover, a report prepared by the Lawyers' Committee for International Human Rights concerning the murder of four American nuns on 4 December 1980 119/ refers to the "general breakdown in the judicial powers in El Salvador" as one of the obstacles to serious progress in that case. Similarly, the report of 20 September 1982 of the Inter-American Commission on Human Rights 120/ states that "at present, it is clear that there are no penal sanctions for most of the people who commit such horrible crimes".

78. The Attorney-General of the Republic explained to the Special Representative some of the difficulties at present affecting the administration of justice in El Salvador. According to those explanations, the Salvadorian judicial system is organized for normal, peaceful conditions and has no means of dealing with the present situation of widespread violence. The Attorney-General also stated that in most cases it is extremely difficult to find out who committed murders, either because there are no witnesses or because witnesses are afraid to testify. Nearly all murder cases, the Attorney-General stated, lead to the institution of criminal proceedings, but, in view of such difficulties, the proceedings immediately come to a standstill and are classified as "pending investigation".

79. In some cases, however, there has been some resumption of the activity of the Salvadorian criminal justice system. Thus, in the case of the murder of the four American nuns on 4 December 1980, the proceedings are in the investigation stage and the trial is scheduled to begin shortly, according to what the Attorney-General told the Special Representative. In the case of the murder of Mr. Viera and two American advisers, the Attorney-General said that the day before, two accused persons had been brought before the Fifth Criminal Court. On the other hand, he said that the proceedings in the case of the murder of Monsignor Romero were, like so many others, at a standstill because of the lack of witnesses.

80. The Special Representative received some information concerning action taken against members of the army and security forces accused of violations of human rights. Thus, according to The Guardian, 121/ 18 guardsmen were arrested in connection with the deaths of four leaders of the Christian Democratic Party and eight other members of the party and the mass killing of

118/ Amnesty International, op.cit., AMR/29/48/92, 11 June 1982.

119/ Lawyers' Committee for International Human Rights, Justice in El Salvador: A Case Study, "A report on the investigation into the killing of four US churchwomen in El Salvador", 20 July 1982.

120/ Organization of American States, Annual Report of the Inter-American Commission on Human Rights, 1981-1982, OEA/Ses.L/V/II-57, 20 September 1982.

121/ The Guardian, 3 June 1982.

22 persons and, according to the same newspaper, 122/ the United States Embassy in El Salvador confirmed that, since January 1982, 147 members of the armed forces and at least 10 members of the Civil Defence Organization have been arrested for gross misuse of authority; 20 of them are also under arrest for murder. According to the same source, the Minister of Defence, General García, issued instructions in March to all military personnel, warning that violations of the Code of Military Conduct would be punished.

81. More specific information in this connection is to be found in the documentation handed over to the Special Representative by the Director-General of the National Police, 123/ which states that retired Army Major Guillermo Antonio Roeder and other persons were remanded on 2 February 1982 to a criminal court for taking part in the abduction of an engineer and using the services of a security company founded by Major Roeder himself. The Special Representative does not know what stage has been reached in the judicial proceedings. According to other documentation handed over by the Director-General of the National Police, 124/ 11 members of the Military Guard of the cantons of San Agustín and Buena Vista were remanded to a judge on 18 March 1982 for taking part, on 4 March 1982, in the murder of 19 persons, 14 of whom were minors. The Special Representative again does not know what stage has been reached in the judicial investigation into this matter.

82. The Director-General of the National Police also gave the Special Representative a list 125/ of 303 persons discharged from the National Police between 15 October 1979 and 22 September 1982. Thirteen persons were discharged for attempted rape; 42 for assault; 11 for extortion; 39 for rape; 20 for misappropriation; 38 for homicide; 14 for theft; 11 for bribery; 6 for receiving unlawful payments; 34 for injury; 17 for robbery; 4 for abduction; 2 for attempted robbery; and others for various reasons. The documentation states that, in many cases, the accused have been placed at the disposal of the competent criminal courts, but the Special Representative does not know what stage has been reached in the proceedings.

83. The Director-General of the Rural Police also handed over to the Special Representative, during his visit to the country, a report on rural police officers remanded to ordinary courts since 15 October 1979. 126/ The

122/ Ibid., 29 July 1982.

123/ Armed Forces of El Salvador, National Police, Caso Mayor y Lic. Guillermo Antonio Roeder E.

124/ Ibid., Caso Asesinato de 19 personas en el sector de San Pedro Perulapan.

125/ Armed Forces of El Salvador, National Police, Resumen de la bajas habidas en este cuerpo, a partir del 15 de octubre de 1979 a la fecha, por delitos comunes y otros, San Salvador, 22 September 1982.

126/ Rural Police, Informe estadístico del personal de la Policía de Hacienda dado de baja por distintas causas, consignado a los tribunales por delitos comunes y por expulsión definitiva, durante el período de octubre 1979 hasta el 22 de septiembre de 1982, San Salvador, 22 September 1982.

list includes 18 cases involving a larger number of members of that police force. The Special Representative wishes to draw attention to the following cases in particular: one for the murder of a woman in June 1981; another for the rape of a minor in June 1981; another for assault and robbery of a civilian in August 1981; another for the murder of a civilian in August 1981; another for assault and the robbery of a jewellery store in September 1981; another for the murder of several persons in March 1982; another for assault and armed robbery in April 1982; another for homicide in May 1982; another for the same offence in May 1982; another for assault and the robbery of a petrol station in August 1982; and another for assault in August 1982. The Special Representative does not know what stage has been reached in the criminal investigation of these cases.

84. The Director-General of the Rural Police also gave the Special Representative a list of 39 cases of expulsions of members: 127/ 5 between 15 October and 31 December 1979; 2 in 1980; 20 in 1981; and 12 between 1 January and 22 September 1982. Many of these cases related to disciplinary offences, such as drunkenness and failure to observe working hours. In 1982, one of the cases involved the murder of several civilians.

85. Lastly, the Special Representative found that the authorities of the Republic of El Salvador displayed concern to give some impetus to the functioning of the criminal justice system as part of a policy to improve the situation of human rights in the country. The Special Representative expresses the fervent hope that this concern will produce satisfactory results as soon as possible.

127/ Ibid.

VI. SITUATION OF REFUGEES AND OTHER PERSONS DISPLACED AS THE
RESULT OF CURRENT EVENTS IN EL SALVADOR

86. In his last report 128/ the Special Representative stated: "The events in El Salvador are forcing many people to leave their homes and normal places of residence and to move to other parts of the country or to seek refuge in neighbouring countries". This situation has continued in 1982, and as far as refugees are concerned the figures received show that their numbers have increased this year.

87. According to information from the Office of the United Nations High Commissioner for Refugees, 129/ on 1 June 1982 there were estimated to be between 175,000 and 295,000 Salvadorian refugees in various Latin American countries, distributed as follows: 7,000 in Belize; 10,000 in Costa Rica; between 50,000 and 100,000 in Guatemala; 15,000 in Honduras; between 70,000 and 140,000 in Mexico; 22,000 in Nicaragua, and 1,000 in Panama. Of these 34,030 are assisted by UNHCR.

88. As regards displaced persons, according to information supplied to the Special Representative during his visit to the country by CONADES (National Committee for Aid to Displaced Persons) 130/ on 31 August 1982 226,744 Salvadorians had been displaced from their places of residence and were being given various forms of assistance by that body.

VII. SITUATION WITH REGARD TO COMPLIANCE WITH THE INTERNATIONAL
RULES OF HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICTS

89. With regard to respect for human rights in the armed conflicts taking place in El Salvador between the regular army and the opposition guerrilla forces, the Special Representative received less information for this report than for the last one.

90. However, the report of the Inter-American Commission on Human Rights of 20 September 1982 131/ states that the Commission is aware that serious violations of human rights have been taking place on both sides, in violation of the Geneva Conventions of 1949. Furthermore, some of the reports on mass killings among the civil population by regular military forces and guerrilla groups contained in part IV of this report would indicate a lack of respect for the minimum rules of humanitarian law applicable in all types of conflict.

128/ E/CN.4/1502, op. cit., para. 115.

129/ United Nations High Commissioner for Refugees, UNHCR Information, Central America, June 1982, No. 5.

130/ National Commission for Assistance to Displaced Persons, San Salvador, Cuadro Resumen de la Población Desplazada a nivel nacional por Departamento al 31 de agosto (Summary of displaced persons at the national level, by departments at 31 August).

131/ Organization of American States, Annual Report, op. cit.

91. Nevertheless, the Special Representative has received some reports indicating that in certain cases both of the contending parties have spared the lives of combatants captured in the course of the fighting and have even released them.

92. The Special Representative was able, for example, to speak to a former guerrilla fighter who had been captured in combat. He was imprisoned but after some time was released and was even able to go to Mexico. Some Salvadorian authorities told the Special Representative of cases in which captured guerrillas had received humanitarian treatment and medical assistance.

93. The Special Representative also read in an information bulletin published by the International Committee of the Red Cross 132/ that delegates of the Committee paid three visits to three officers and 56 soldiers captured by the FMNL; according to the same source on 31 August 40 of these soldiers were released under the auspices of the International Committee of the Red Cross and handed over by that humanitarian body to the competent military authority at the regional barracks of San Francisco Gotera (Morazán). According to explanations given to the Special Representative by Mr. Rafael Moreno, a representative of the Political and Diplomatic Committee of the FDR-FMNL, 10 of the captured soldiers preferred to join the guerrillas.

VIII. CONCLUSIONS

94. After examining and conscientiously evaluating the information summarized in the foregoing pages, the Special Representative is in a position to offer some conclusions which reflect his personal convictions. It must be said, however, that owing to the particular nature of the Special Representative's mandate and of the investigation made in order to discharge it, these convictions do not relate to specific acts or events but to the general situation of human rights in El Salvador so far during 1982.

95. With regard to economic, social and cultural rights, the Special Representative considers that, generally speaking, the situation he described in his last report to the Commission on Human Rights remains unchanged. 133/ In this context the Special Representative takes into account the difficulties stemming from the economic crisis through which the country is passing and the fact that there can be no substantive improvement in those rights from one day to the next, but only through a gradual process of reforms, including agrarian reform, which requires, among other things, a genuine climate of social peace. The Special Representative considers, however, that the Salvadorian people still do not enjoy economic, social and cultural rights of any particular significance. In the same context he wishes to add that the attacks on the country's economy carried out systematically by the guerrilla opposition, although presented as aimed at military targets, seriously compromise the future enjoyment by the people of El Salvador of very important economic, social and cultural rights.

132/ Red Cross, Salvrep, No. 8, 22 August 1982.

133/ E/CN.4/1502, op. cit.

96. With regard to civil and political rights, the Special Representative is morally convinced that during the months that have so far passed in 1982, serious, massive and persistent violations of human rights have continued in the country and in many cases have ended tragically in attacks on human lives, precisely because of the continuing serious civil conflict taking place in El Salvador. While it is true that the information received shows that the number of assassinations has dropped to approximately half what it was in 1981, nevertheless the size of the figures given for this year clearly indicates that the situation with regard to respect for human life is still very serious. In the opinion of the Special Representative, responsibility for the violations of civil and political rights lies both with members of the State apparatus and violent groups of the extreme right, which seem to have acted in collusion with or tolerated by the former, and with armed groups of the extreme left, although there are indications that the violations of human rights involving attempts on life, liberty and security of person are in the majority - but not solely - perpetrated by members of the State apparatus and violent groups of the extreme right, while terrorist acts against public and private property are mainly due to guerrilla groups.

97. With regard to the activity of the judiciary in El Salvador, the Special Representative considers that the situation is still unsatisfactory and that it calls for considerable improvement, even though he has observed signs of a slight increase in the punishment of violations of human rights. The Special Representative realizes, however, how difficult it is for the Salvadorian judicial system properly to investigate and to punish such a large number of offences as are at present being committed in the country in the prevailing atmosphere of generalized violence, and he notes the concern of the authorities of the Republic to encourage the activity of the judiciary.

98. With regard to the continued armed clashes, the Special Representative believes that serious violations of human rights are still being committed by both sides, notwithstanding certain cases in which both the regular army and the guerrilla opposition have given humanitarian treatment to and even released persons captured in combat. The Special Representative is not in a position to determine the numbers of such cases with respect to either of the contending sides, but wishes to express his fervent hope that the humanitarian treatment of persons captured in combat and more generally of all those participating in it will soon become general practice.

99. While it is true that under both the 1962 Constitution - declared to be in force by Decree No. 3 of the Constituent Assembly - and the international instruments on human rights applicable in El Salvador, the authorities of that country have an undeniable right to adopt emergency measures to deal with the situation of violence and armed confrontation existing in the country, nevertheless neither those instruments nor the most elementary moral principles inherent in any normal conscience would justify the use of emergency measures to violate fundamental and indefensible human rights including, first and foremost, the right of every person to life.

100. The Special Representative again notes the concern which he has observed in high Government spheres in the Republic of El Salvador for the protection of human rights but, while very pleased to see this concern, he wishes to express his hope and his fervent desire that it should speedily and effectively be reflected in the facts of the situation, especially as regards respect for the basic right of every person, which is the right to life.

101. The situation described in the foregoing paragraphs demands, as a matter having priority over all other measures, the full restoration of civil peace, which is the essential prerequisite to respect for civil and political human rights and the gradual improvement of economic, social and cultural rights. It is therefore necessary once again to urge the Government and all those concerned immediately to take whatever measures are necessary to bring peace to the country and to put an end to the serious violations of human rights that are taking place there.

102. In view of the concern which the Government of El Salvador and other interested sectors have expressed regarding the violation of human rights and bearing in mind in particular the quintessential nature of the right to life and that violations of that right are irreparable, the Special Representative recommends most emphatically that both sides should immediately take steps to end the attacks on human lives.

103. For the rest, the Government and authorities of El Salvador should be particularly recommended to adopt the following measures:

(1) The repeal of all legal enactment and other measures that are incompatible with the principles contained in the international instruments that are binding on the Republic of El Salvador in respect of human rights, and in particular the repeal of Decree No. 507 of 3 December 1980 containing the special law on procedures applicable to the offences referred to in article 177 of the Political Constitution;

(2) The institution of real and effective control by the Government over all the members and units of the armed forces and security forces and over all types of armed organizations and individuals in order to ensure that they behave in accordance with the principles laid down in the international instruments that are binding on the Republic of El Salvador in the matter of human rights, including the Geneva Conventions of 1949 and the 1977 Protocols;

(3) The adoption by the Salvadorian governmental and judicial authorities of all the legal measures necessary to prevent and speedily and effectively to punish violations of human rights and fundamental freedoms, including the possible dismissal from their posts of officials of the civil administration and the heads, officers and other subordinate members of the armed and security forces who have been responsible for such violations;

(4) The organization at all levels, including schools and the mass media, of mass campaigns in favour of respect for human rights;

(5) The continuation and extension, on a genuine human, social and democratic basis, of the necessary administrative and social reforms, including agrarian reform, so that the people of El Salvador may enjoy to the fullest extent possible the economic, social and cultural rights set forth in the international instruments binding on the Republic of El Salvador;

(6) Consideration of the possibility of a dialogue with all the country's political forces, including those of the left wing opposition, with a view to putting an end to the armed confrontation and thus achieving a genuine social peace which will permit the improvement of the economic, social and cultural rights and full respect for the civil and political rights of the people of El Salvador.