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

Final report on the situation of human rights in El Salvador submitted to
the Commission on Human Rights by Professor José Antonio Pastor Ridruejo in
fulfilment of the mandate conferred under Commission resolution 1985/53.

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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.

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, after consultations within the Bureau, to appoint 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.

3. In fulfilment of the mandate conferred on him by the Commission on Human Rights, the Special Representative submitted a preliminary report to the General Assembly. 1/ On 16 December 1981, the General Assembly adopted, by 68 votes to 22, with 53 abstentions, resolution 36/155.

4. The Special Representative submitted his final report to the Commission, 2/ 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, extending the mandate of the Special Representative for one year.

5. In fulfilment of the mandate contained in the above-mentioned resolution of the Commission on Human Rights, the Special Representative submitted his interim report to the General Assembly 3/ and presented it personally to the Third Committee on 29 November 1982. On 17 December 1982, the General Assembly adopted, by 71 votes to 18, with 55 abstentions, resolution 37/185.

6. The Special Representative submitted his final report 4/ to the Commission on Human Rights, presenting it personally to the Commission on 28 February 1983. On 8 March 1983, the Commission adopted, by 23 votes to 6, with 10 abstentions, resolution 1983/29 extending the mandate of the Special Representative for one year.

7. In pursuance of that resolution, the Special Representative submitted his interim report 5/ to the General Assembly, and presented it personally to the Third Committee on 1 December 1983. On 16 December 1983, the Assembly adopted, by 84 votes to 14, with 45 abstentions, resolution 38/101 on the situation of human rights and fundamental freedoms in El Salvador.

8. The Special Representative submitted his final report 6/ to the Commission on Human Rights, presenting it to the Commission in person on 6 March 1984. On 14 March 1984, the Commission adopted, by 24 votes to 5, with 13 abstentions, resolution 1984/52 on the situation of human rights in El Salvador.

9. In pursuance of the resolution mentioned in the preceding paragraph, the Special Representative submitted his interim report 7/ to the General Assembly, and presented it personally to the Third Committee on 30 November 1984. On 14 December 1984, the Assembly adopted resolution 39/119 by 93 votes to 11, with 40 abstentions.

10. The Special Representative submitted his final report 8/ to the Commission on Human Rights in person on 5 March 1985. On 13 March 1985, the Commission adopted, by 39 votes to none, with 3 abstentions, resolution 1985/35, in which the mandate of the Special Representative was renewed.

11. On 26 November 1985, in fulfilment of his new mandate, the Special Representative submitted his report in person to the Third Committee of the General Assembly. On 13 December 1985, the General Assembly adopted the following resolution 40/139 by 100 votes to 2, with 42 abstentions:

"Situation of human rights and fundamental freedoms in El Salvador

The General Assembly,

Guided by the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and by the humanitarian rules set out in the Geneva Conventions of 12 August 1949 and Additional Protocols I and II thereto,

Aware that the Governments of all Member States have an obligation to promote and protect human rights and fundamental freedoms and to carry out the responsibilities they have undertaken under various international human rights instruments,

Recalling that, in its resolutions 35/192 of 15 December 1980, 36/155 of 16 December 1981, 37/185 of 17 December 1982, 38/101 of 16 December 1983 and 39/119 of 14 December 1984, it expressed deep concern at the situation of human rights in El Salvador,

Bearing in mind Commission on Human Rights resolutions 32 (XXXVII) of 11 March 1981, in which the Commission decided to appoint a Special Representative to investigate the situation of human rights in El Salvador, 1982/28 of 11 March 1982, 1983/29 of 8 March 1983, 1984/52 of 14 March 1984 and 1985/35 of 13 March 1985, whereby the Commission extended the mandate of the Special Representative for another year and requested him to report, inter alia, to the General Assembly,

Noting that the Special Representative of the Commission on Human Rights points out in his report that, in the process of the democratic normalization of the country, the question of respect for human rights is an important part of the current policy of the Republic of El Salvador, but that nevertheless a situation of generalized warlike violence continues to exist, that the number of attacks on life and the economic structure remains a cause for concern, and that the number of political prisoners and abductions has increased

Deeply concerned that in El Salvador, in addition to the continuing armed conflict, the scarcely initiated dialogue between the Government and the Frente Farabundo Marti para la Liberación Nacional - Frente Democrático Revolucionario has been interrupted,

Considering that, while the armed conflict not of an international character continues, the Government and the insurgent forces are obliged to apply the minimum standards of protection of human rights and of humane treatment set out in article 3 common to the Geneva Conventions of 12 August 1949, as well as Additional Protocol II thereto, to which the Republic of El Salvador is party,

Aware that the political solution to the Salvadorian conflict can be cut short if external forces do not assist the resumption of the dialogue but instead contribute in any way to the intensification or prolongation of the war,

Recognizing the value of dialogue as the best way to achieve genuine national reconciliation and the important fact that different sectors of the country favour an overall negotiated political solution which would put an end to the suffering of the Salvadorian people and stem the growing tide of refugees and internally displaced persons,

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

2. Recognizes with interest and emphasizes that it is important that the Special Rapporteur should indicate in his provisional report that the Government of El Salvador is continuing its policy of attempting to improve the condition of human rights;

3. Expresses, nevertheless, its deep concern at the fact that serious and numerous violations of human rights continue to take place in El Salvador owing above all to non-fulfilment of the humanitarian rules of war and therefore requests the Government of El Salvador and the insurgent forces to adopt measures conducive to the humanization of the conflict by observing scrupulously the Geneva Conventions of 1949 and the Additional Protocols of 1977 and also recommends that the Special Representative should, for the duration of the armed conflict, continue to observe and to inform this Assembly and the Commission of the extent to which the contending parties are respecting those rules, particularly as regards respect and humanitarian treatment for the civilian population, prisoners of war, those wounded in combat, health personnel and military hospitals of either party;

4. Reaffirms once again the right of the Salvadorian people freely to determine their political, economic and social future without interference from outside, through a genuine democratic process, in which all sectors of the population participate freely and effectively;

5. Requests all States to refrain from intervening in the internal situation in El Salvador and, instead of helping in any way to prolong and intensify the war, to encourage the continuation of the dialogue until a just and lasting peace is achieved;

6. Deeply regrets the interruption of the dialogue initiated in October 1984 between the Government of El Salvador and the Frente Farabundo Marti para la Liberación Nacional - Frente Democrático

Revolucionario and therefore calls upon these parties to renew their talks so that by means of sincere, generous and open dialogue they achieve a negotiated comprehensive political solution which will put an end to the armed conflict and contribute to the institutionalization and strengthening of the democratic system based on the full exercise by all Salvadorians of their civil and political rights and economic, social and cultural rights;

7. Calls upon the Government and the opposition forces, as agreed in the meeting at La Palma, to establish as soon as possible appropriate mechanisms to study the plans and proposals submitted by both parties and to include all sectors of national life in the search for peace;

8. Views with concern that, as a consequence of the prolonged armed conflict, the number of refugees and internally displaced persons who are already a considerable part of the Salvadorian population, continues to increase and requests all States to receive the refugees and to support the autonomous organizations responsible for looking after internally displaced persons in El Salvador;

9. Again reiterates its appeal to the Government of El Salvador and to the opposition forces to co-operate fully with the humanitarian organizations dedicated to alleviating the suffering of the civilian population, wherever these organizations operate in the country and to permit the International Committee of the Red Cross to continue to evacuate those wounded and maimed by war to where they can receive needed medical attention;

10. Deeply deplores the fact that the capacity of the judicial system in El Salvador to investigate, prosecute and punish violations of human rights continues to be patently unsatisfactory and therefore urges the competent authorities to continue and strengthen the process of reform of the Salvadorian judicial system, in order to punish speedily and effectively those responsible for the serious human rights violations which have been committed and are still being committed in that country;

11. Recommends the continuation and deepening of the reforms necessary in El Salvador, including effective application of agrarian reform, for the solution of the economic and social problems which are the basic cause of the internal conflict in that country;

12. Calls upon the competent authorities in El Salvador to introduce changes in the laws and other measures that are incompatible with the provisions contained in the international instruments binding on the Government of El Salvador in respect of human rights;

13. Renews its appeal to the Government of El Salvador, as well as to other parties concerned, to continue to co-operate with the Special Representative of the Commission on Human Rights;

14. Decides to keep under consideration, during its forty-first session, the situation of human rights and fundamental freedoms in El Salvador, in order to examine this situation anew in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council in the hope that there will be improvement."

12. In view of the fact that, in his previous reports 9/ to the Commission, the Special Representative referred to the human rights situation in El Salvador during the last quarter of 1979 and the years 1980, 1981, 1982, 1983 and 1984, this report will deal primarily with the situation prevailing during 1985. The Special Representative wishes to point out, however, that there is a continuity between his earlier reports and the present report, which should therefore be considered in the light of those reports.

13. 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.

14. The Special Representative considered that the report would greatly benefit from continuation of the co-operation extended to him by the Government of El Salvador in the drafting of his earlier reports, and to this end he sought from the Government, through its Ambassador to the international organizations at Geneva, authorization to revisit the country in September 1985. On 28 July 1985, the Ambassador informed the Special Representative that the Government had authorized his visit, but in his personal capacity and not as representative of the Commission on Human Rights, since the Government still had reservations of a legal nature concerning his mandate.

15. As in previous years the co-operation given to the Special Representative by the Government of El Salvador was full and open. The Salvadorian authorities not only granted the Special Representative extensive facilities and freedom of action and movement for the fulfilment of his mandate in the country, but also provided him with copious information and held frank and fruitful conversations with him. The Special Representative once again expresses his gratitude for this co-operation, to which he attaches great importance.

16. Other sectors of the country, including the Church, human rights organizations, private associations and individuals, and the armed opposition forces likewise gave substantial and valuable assistance in the preparation of the report. The Special Representative expresses his appreciation for this co-operation also, the usefulness of which he wishes to emphasize.

17. The Special Representative arrived in El Salvador on Sunday, 8 September 1985, and remained in the country until Wednesday, 18 September. During his visit he had interviews with the following officials: H.E. Mr. José Napoleón Duarte, President of the Republic; Mr. Rodolfo Antonio Castillo Claramount, Vice-President of the Republic and Minister for Foreign Affairs; Mr. Guillermo Antonio Guevara Lacayo, Speaker of the Legislative Assembly; Mr. Francisco José Guerrero, President of the Supreme Court of Justice, accompanied by several judges; Mr. Julio Samayoa, Minister of Justice; Mr. Edgar Belloso Funes, Minister of the Interior; Mr. José Alberto Buendía Flores, Minister of Education; General Carlos Eugenio Vides Casanova, Minister of Defence and Public Security; Mr. Santiago Mendoza Aguilar, Attorney-General of the Republic; Colonel Carlos Reynaldo López Nuila, Vice-Minister of Defence in Charge of Public Security; Mrs. Dolores Henríquez, Deputy Minister for Social Development; Mr. Román Honorio Mejía, Deputy Minister of Adult Education; Mr. Mario Samayoa, President of the Central Council for Elections, accompanied by other members of the Council; Colonel Rodolfo Antonio Revelo, Director of the National Police; Colonel Rinaldo Golcher, Director of the Treasury Police; Colonel Arístides Montes, Director of the National Guard;

Mr. Ernesto Criollo, President of the Review Commission on Salvadorian Legislation (Comisión Revisora de la Legislación Salvadoreña); Mr. Carlos Ramírez Salegio, President of the Salvadorian Institute for Agrarian Reform; Mr. Juan Pablo Mejía Rodríguez, Director of the National Land Bank (FINATA); Colonel Carlos Armando Avilés, Chief of the Press Committee of the Armed Forces.

18. In El Salvador, the Special Representative also had interviews with Monsignor Rivera y Damas, Archbishop of San Salvador; Father Ignacio Eyacuría, Rector of the Catholic University of El Salvador; Mr. Benjamín Cestoni, Executive Secretary of the Salvadorian Human Rights Commission (governmental); Mrs. María Julia Hernández, Director of the Archdiocesan Legal Protection Office; Mr. Blake Ortman, Director of the Mennonite Central Committee; Mr. Gary Cozette, Official Delegate of the Presbyterian Church of the United States; representatives of the Salvadorian Human Rights Commission (non-governmental); Father Segundo Montes, Professor at the Catholic University; representatives of the Comité de Madres de Presos, Desaparecidos y Asesinados Políticos de El Salvador (Committee of mothers of persons who disappeared, were detained or were killed for political reasons in El Salvador); and diplomatic representatives of Spain and the United States of America.

19. The Special Representative also visited the men's prison at Mariona and the women's prison at Ylopango, as well as the detention cells at the headquarters of the National Police, National Guard and Treasury Police. In all of those places, he was able to speak to as many political prisoners as he wished, freely and on a confidential basis. He also received statements from witnesses in the offices of the Archdiocese of San Salvador. The witnesses were presented by Legal Protection, Legal Aid, the Salvadorian Human Rights Commission (governmental) and the Salvadorian Human Rights Commission (non-governmental).

20. In Washington, the Special Representative had an interview with Mr. Edmundo Vargas Carreño, Executive Secretary of the Inter-American Commission on Human Rights, and with a lawyer of that Commission.

21. Also in Washington and New York, the Special Representative had an exchange of views with senior officials of the United States Department of State.

22. In Madrid, the Special Representative had an interview with two representatives of the Political-Diplomatic Commission of the FDR-FMLN (Frente Farabundo Martí para la Liberación Nacional-Frente Democrático Revolucionario); and in New York, he had further conversations with one of those representatives.

23. In New York, the Special Representative had an interview with representatives of the Lawyers Committee for International Human Rights.

24. On 10 January 1986, the Special Representative had a further interview in Madrid with a representative of the Political-Diplomatic Commission of the FDR-FMLN.

25. On 23 January 1986, the Special Representative had an interview in Geneva with the Acting Ambassador of the Republic of El Salvador to the United Nations Office at Geneva.

I. GENERAL POLITICAL SITUATION

26. The Special Representative does not propose to recount the political ups and downs which El Salvador experienced in 1985, and will deal only with those developments most closely related to the question of human rights, particularly the legislative and municipal elections and the dialogue between the Government, on the one hand, and the FDR-FMLN on the other.

27. It is public knowledge that, on 4 December 1984, the Central Council for Elections of El Salvador 10/ called for general elections to elect deputies to the Legislative Assembly and to the municipal councils throughout the country, in accordance with the Constitution and the laws in force. The elections took place on 31 March 1985 with the participation of nine political parties, whose representatives witnessed and monitored the electoral process. According to documentation made available to the Special Representative by the Central Council for Elections, the armed forces of El Salvador assisted in that process by taking responsibility for security in all voting places and for the transportation and circulation of voters, the neutrality of the armed forces being worth noting. The documentation also pointed out that the elections were monitored by 130 international observers and delegates, and that while they were in progress the Central Council for Elections did not receive a single challenge or complaint from any of the political parties in contention. It also stated that elections were held throughout the national territory, although in 20 municipalities the voting took place in the nearest neighbouring villages.

28. As on previous occasions, and according to reports in the international press, 11/ the guerrilla forces attempted to obstruct or disrupt the voting in the weeks prior to the elections by attacking at least six localities, closing the major highways to vehicular traffic and burning or bombing 20 town halls. The Special Representative also received information from the Government of El Salvador consisting of reports in the local press about violations of the right to vote. 12/

29. With respect to the election of deputies to the Legislative Assembly, there was a total of 965,231 valid ballots, 57,690 abstentions, 74,007 invalid ballots, 4,678 contested ballots and 1,452,258 unused ballots. 13/ The results were as follows: Christian Democratic Party, 505,338 votes, 33 deputies; the ARENA-National Conciliation Party coalition, 367,395 votes, 25 deputies; the Partido Auténtico Institucional Salvadoreño (PAISA), 36,101 votes, one deputy; Democratic Action (AD), 35,565 votes, one deputy. The other parties on the slate failed to obtain enough votes to elect deputies to the Legislative Assembly.

30. Regarding the elections for the municipal councils, 14/ there were 982,766 valid ballots; 66,148 abstentions; 74,883 invalid ballots; 4,324 contested ballots; and 1,440,193 unused ballots. The overall results were as follows: the Christian Democratic Party, 517,635 votes; ARENA, 283,988 votes; the National Conciliation Party, 86,796 votes; PAISA, 44,827 votes; PPS, 16,542 votes; and Democratic Action, 31,908 votes.

31. In early June 1985, President Duarte reorganized his Government. 15/ The most important changes were as follows: the Vice-President of the Republic, Mr. Rodolfo Castillo Claramount took over as Minister for Foreign Affairs; Mr. Jorge Eduardo Tenorio was appointed Minister for the Presidency; Mr. Edgar Ernesto Belloso Funes, Minister of the Interior; Mrs. Dolores Eduvigis Henríquez, Deputy Minister for Social Development; Mr. Julio Alfredo Samayoa, Minister of Justice, Professor José Alberto Buendía,

Minister of Education; Mr. Miguel Alejandro Gallegos, Minister of Labour and Social Welfare; Mr. Julio Rivas Gallont, Minister for Foreign Trade; Mr. Julio Adolfo Rey Prendes, Minister of Culture and Communications; Mr. Santiago Mendoza Aguilar, Attorney-General of the Republic; and Mr. Rafael Flores y Flores, Ombudsman.

32. On 8 May 1985, the Ministry of Culture and Communications 16/ was established. The Office of Deputy Minister of Literacy and Education, 17/ as well as the Office of the Deputy Minister of Rural Development and Agricultural Extension, attached to the Ministry of Agriculture and Livestock Production, 18/ were also established on that day.

33. According to information supplied to the Special Representative by the Government of El Salvador, 19/ on 11 July 1985, the Legislative Assembly extended the state of emergency for 30 days. The constitutional guarantees of freedom of movement, freedom of expression and freedom of correspondence was suspended.

34. Another political development which the Special Representative learnt about from the international press 20/ was that Mr. Roberto D'Aubuisson, leader of the political party ARENA, resigned his post on 29 September 1985. According to the same source, ARENA elected Mr. Alfredo Cristiani as its new leader.

35. The Special Representative gives the following account of the status of the dialogue between the Government of El Salvador and the FDR-FMLN.

36. In his previous report to the Commission on Human Rights, the Special Representative provided detailed information about the meetings held in the last quarter of 1984 in the towns of La Palma and Ayagualo. 21/ Subsequent to those meetings, no further round of negotiations has been held.

37. According to reports in the international press, in March 1985 President Duarte announced that the Government would resume the dialogue with the guerrilla movement after the legislative and municipal elections. 22/ After the elections, specifically on 9 April 1985, the FDR-FMLN proposed the immediate resumption of the dialogue at the highest level on 21 April 23/ and included in its proposal, inter alia, measures to humanize the conflict, political matters and mutual restrictions on foreign military assistance. Days later, the Minister for the Presidency, Mr. Rey Prendes, announced that it was not the right time for a meeting because, although the Government was determined to continue the dialogue and seek political means of achieving peace, it wanted to wait until the new authorities took office and meetings were held with various sectors of the country. 24/ On 12 April, President Duarte rejected the meeting proposed by the FMLN 25/ on the grounds that he wanted to be sure that the meeting would be fruitful and not merely a show. On 23 April, the Government, through the Archbishop of San Salvador, delivered to the FDR-FMLN the proposal for a round of talks 26/ which would be closed and would be held outside the country. 27/ In response, the FMLN made a counter-proposal specifying dates and venues for open and closed meetings in El Salvador, 28/ apparently in the town of Perquin. 29/ The fact is that the third round of negotiations has never taken place.

38. In December, the University of El Salvador organized in the capital a number of "Peace Days", to which it invited representatives of the Government and the FDR-FMLN. 30/ However, on 13 December 1985, the Armed Forces Press Committee publicly announced that, in accordance with constitutional provisions for the maintenance of law and order and observance of the laws,

the events in question would have to conform to the law. 31/ In fact, the "Peace Days" never took place.

39. The Special Representative understands that there should not be the slightest indication in his report concerning the venue, public or confidential nature and conditions of the talks between the Government and the FDR-FMLN, but he does feel he is entitled to express once again his firm belief in the need for a sincere, frank and open dialogue based not on tactical considerations but solely on the idea of saving the lives of Salvadorian citizens and on the need for peaceful, stable, democratic and pluralistic co-existence in El Salvador.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

40. The Economic Commission for Latin America and the Caribbean (ECLAC) reports 32/ that in 1984:

"For the sixth consecutive year, the Salvadorian economy continued to exhibit an extremely depressed level of activity as a result of a combination of economic and other factors. None the less, following the sharp contraction of the economy between 1979 and 1983, the trend changed, with the gross domestic product showing an expansion of 1.5 per cent. With the steady exodus of people caused by economic factors and the prolonged internal conflict, the rate of population growth was moderate and per capita GDP increased by almost 1 per cent. However, its persistent decline in the five previous years brought it to a level in 1984 that was barely comparable to that of two decades earlier. National income, on the other hand, recovered significantly as a result of an improvement in the terms of trade, the first such improvement after a period of systematic decline and a drop in factors payments abroad.

"The slight recovery in GDP can be explained primarily by the holding of elections in the first quarter of 1984 and the election of a civilian government for a four-year term with an apparently expansionist economic policy, which altered the projection profile. While it is difficult to assess the importance of that phenomenon, a number of private economic interests indicated their readiness to reactivate investment (private investment rose 4 per cent). That improvement may have been encouraged by the announcement and subsequent initiation of negotiations between the Government and the armed opposition."

In 1985, according to another report, "the Government predicts that Gross Domestic Product will grow by 2 per cent." 33/

41. With regard to salaries, the Commission reports that:

"... on the demand side, it noted the effect of the repeal of the Economic Stabilization Act which had established the general guidelines for the adjustment policy agreed to with the International Monetary Fund (IMF). That policy, which had been strictly applied since 1982, had resulted, inter alia, in the freezing of nominal salaries for over two years, thus reducing their real purchasing power. In 1984, that trend was broken by substantial salary increases in the public sector extending, at the minimum wage level, to some private industrial and commercial activities. In agricultural and agro-industry activities, however, nominal salaries remained at the 1980 level.

"The increase in the flow of private transfers in the form of remittances from Salvadorian nationals living abroad also had a favourable impact on personal income." 34/

42. However, unemployment has remained at about the same level, namely, 30 per cent, since the beginning of the 1980s. ECLAC explains this phenomenon by the fact that the most labour-intensive activities, namely, coffee and cotton cultivation and construction, were among the most depressed sectors. According to its report, the movement of the population from the country to the urban areas to escape the hostilities was another factor which accounted for that high figure. The result was an increase in informal economic activities, which are an important palliative for the unemployment problem.

43. Nevertheless, ECLAC points out 35/ the tremendous impact of the civil war on the economy:

"... inter alia it has caused serious dislocations in the machinery of production, displaced persons, caused loss of life and material damage and a redeployment of public expenditure for the purpose of funding activities not directly related to economic development. Despite a favourable change in economic prospects, serious social and political tensions continued to discourage investment and encourage the flight of capital and, in some cases, the flight of human resources. All in all, the civil war kept the country geographically and economically fragmented, seriously restricting productive activities, employment and income."

44. Summing up, the ECLAC report concludes: 36/

"... in 1984, there were a few facets of economic policy which distinguished it from the policy applied in previous years, in a context where both political developments and the internal conflict underwent changes as a result of the electoral process and first moves towards ending the conflict through dialogue."

45. In his previous reports, 37/ the Special Representative referred at length to the agrarian reform programme undertaken by the Revolutionary Government Junta in 1980. It should be recalled from this information that, according to article 105 of the Constitution, adopted on 15 December 1983 and in force since the following 20 December, any natural or legal person in El Salvador may own a farm of up to 245 hectares, which means that the first phase of the agrarian reform programme does not include farms larger in area. It should also be noted that, although provided for in law, the second phase of the agrarian reform has never been implemented.

46. According to a memorandum of the Salvadorian Institute for Agrarian Reform (ISTA) given to the Special Representative in San Salvador, 38/ as of 20 August 1985 the number of properties affected in the first phase of the agrarian reform programme was 470, with a total area of 219,362.4 hectares. The ex-owners were compensated for 286 of those properties, in bonds and cash totalling 444,428.241 colones and deeds of ownership were issued to 98 co-operatives in the reformed sector. According to the memorandum as of 20 August 1985, as many as 188,154 persons benefited from the reform. It points out that institutional action was concentrated on the following areas:

- (a) acceleration of the process of compensation to ex-owners and delivery of deeds of ownership to co-operatives benefiting from the programme;
- (b) implementation of action to overhaul the administrative management and

production systems of the co-operatives in order to convert them into profitable production units, and (c) promotion of action to broaden social benefits.

47. With regard to the third phase of the agrarian reform programme and according to the documentation given to the Special Representative by the competent authorities in San Salvador, 39/ as at 16 August 1985 79,142 applications had been received, there were 63,668 direct beneficiaries out of a total of 382,008, the area affected covered 139,003 manzanas, 65,676 provisional deeds were issued and 55,614 persons were the direct beneficiaries of those deeds. The documentation states that the sectors of the population participating in the programme are now enjoying such services as technical assistance, agricultural credit, community development, etc., so that they are now engaged not only in subsistence farming, but in other activities which have enabled them to improve their standard of living.

48. The persons responsible for carrying out the third phase of the agrarian reform explained to the Special Representative the difficulties caused by guerrilla acts such as threats to officials of FINATA, the burning of vehicles and crops, and the levying of a revolutionary tax on the peasants participating in the programme.

49. With regard to the labour rights of Salvadorian citizens, the Special Representative first of all wishes to report the following information received from the Governing Body of the International Labour Office. 40/

"As regards the cases relating to El Salvador (Cases Nos. 953, 973, 1150, 1168, 1233, 1258, 1269, 1273 and 1281), the Committee at its May 1985 meeting noted that, following an official visit by the Director-General to the country, the Government was willing to accept a direct contacts mission with a view to examining the various aspects of these cases. Not having received confirmation from the Government to enable this mission to take place, the Committee urges the Government to reply as rapidly as possible so that the Committee will have before it, at its February 1986 meeting, information obtained on the spot on these cases."

50. In addition, the Special Representative has read about frequent strikes, including strikes of employees in the public sector. 41/ The public employees' strikes had obliged the Ministry of Labour and Social Welfare to point out in the local press that Decree No. 296 of 24 June 1980, 42/ which provides that "... a strike and the collective abandonment of their jobs by officials and employees of the State and its decentralized organs shall be illegal," was still in force.

51. The Special Representative wishes to refer in particular to the strike in the public sector at the end of May and beginning of June by the employees of the Salvadorian Social Security Institute, which caused the Army to be called in. According to the international press, 43/ some 500 Salvadorian soldiers, armed with machine guns and wearing gas masks, forced their way into the General Social Security Hospital of San Salvador on Sunday, 2 June 1985 for the purpose of dislodging 3,000 employees who had been on strike for three weeks. It is also reported that as a result of those events, a patient died of cardiac arrest for lack of attention and that four police officers in civilian clothes were killed in the attack, having been mistaken for a subversive group. The Salvadorian Government's version of those events, 44/ however, is that "military action was taken to guarantee compliance with the judicial decision which declared the strike illegal and also to restore social

security services to over 300,000 clients of the Institute." The Government further explains that the operation was carried out on the following legal grounds: (a) article 221 of the Constitution, which prohibits government and municipal employees from striking and collectively walking off the job; (b) the decision handed down by the Labour Court which declared the strike illegal; (c) subparagraph 4 of article 400 of the Criminal Code, which classifies individual or collective participation in the occupation of buildings or public premises or premises for the use of the public under crimes of terrorism; (d) article 211 of the Constitution, which instructs the armed forces to maintain public order, security and calm. For its part, the General Association of Public and Municipal Employees of El Salvador (AGEPYM), in an announcement published in the local press, 45/ stated that the methods used to dislodge the strikers from the Social Security Hospital "should never have been used" and that it condemned all kinds of attacks on human life and appealed for a continuation of talks across the board. The press communiqué 46/ issued by the Employees Union of the Salvadorian Social Security Institute was couched in similar terms.

52. The Special Representative also wishes to refer to the information supplied by Christian Legal Aid, 47/ according to which during the period January-August 1985 28 citizens, all members of trade-union associations, were detained by members of the armed forces and security agencies, although some of them were later released. This information includes the personal data of the workers detained, and details of the date and place of their arrest and, where applicable, release. In addition, in the San Salvador daily press, the Special Representative has noted a number of announcements by trade-union associations reporting the detention of several of their members.

53. In this chapter, the Special Representative proposes to reproduce some of the many reports about the systematic sabotage of the country's economic infrastructure being carried out by the FMLN. The Salvadorian authorities once again provided the Special Representative with exhaustive information about such actions, but these documents would be much too long and detailed to reproduce in extenso. The Special Representative will therefore summarize them and also refer to some of the abundant information provided by the international press.

54. According to information from the Press Committee of the Armed Forces (COPREFA) 48/, guerrilla forces carried out the following acts of sabotage during the first half of 1985: 147 in January; 182 in February; 186 in March; 139 in April; 169 in May; and 24 in June. Acts of sabotage during this period thus totalled 839 and included robberies, fires and damage to the transportation system, bridges, electric power installations, the communications system and agriculture. Another report provided to the Special Representative by the National Police 49/ states that between 1 September 1984 and 31 August 1985 the armed opposition carried out 1,111 acts of sabotage involving dynamitings; 264 acts of sabotage by setting fires; and 2,264 other acts of sabotage. ANTEL (National Telecommunications Administration of El Salvador), for its part, reports that, between 1 September 1984 and 28 August 1985, it suffered damage totalling \$US 3,462,793, and a total of five of its employees were killed as a result of guerrilla actions. 50/ The CEL (Electric Company of El Salvador) reports that, in the same period, it suffered damage valued at 30,323,099 colones, as a result of guerrilla actions, with several people injured and three killed. 51/ The El Salvador Government, for its part, provided the Special Representative with extensive documentation, 52/ which it would be difficult to transcribe in detail, concerning numerous guerrilla attacks

against public and private property. Government officials also explained many of these attacks in person to the Special Representative and expressed grave concern at their harmful effects on the country's economy.

55. The Special Representative reproduces below some of the many news reports which appeared in this connection in the international press.

56. According to the International Herald Tribune, 53/ "sabotage and other killings attributed to the left have increased in San Salvador in the past few months".

57. According to The Guardian, "... in less than a month the guerrillas have destroyed 13 town halls, which were to serve as repositories for electoral registers for the 31 March elections to the Legislative Assembly". 54/

58. In May, according to several sources, the army reported that according to its calculations "... 32 town halls have been sacked or burned by the guerrillas, mostly in the eastern provinces." 55/

59. In relation to guerrilla attempts to disrupt the voting in the 31 March elections, El País reported "... shots exchanged ... in the early hours of the morning (of 31 March) near San Miguel ..." and noted that "... the intense campaign waged against road transport prevented ... thousands of voters from travelling on Saturday to the municipalities where they are registered. This problem prevented them from voting ... the machine-gunning of a bus in Usulután, in which one woman died, also had an immediate dissuasive effect". 56/

60. Other information received by the Special Representative 57/ concerning guerrilla attempts to disrupt the elections included allegations of attacks on vehicles, and road mines, which kept people from reaching the polling stations, and a bomb which destroyed a bus in Chalatenango the day before the election, killing six and wounding 11. According to the same source, in Usulután, a five-year-old girl and an elderly woman were killed by a mine while walking along a road. On election day it was alleged that guerrillas machine-gunned a car in San Miguel, killing a seminarist and wounding a priest. Electrical lines and power stations throughout the country were also reported destroyed.

61. According to a report in the International Herald Tribune, "... the rebels inflicted \$US 263.9 million damage on the economy last year, almost \$US 10 million more than in 1983. The total estimated cost of sabotage to the economy in five years of war is estimated at \$US 1,214 billion". 58/

62. Also in El País, a new guerrilla offensive against the country's transport system and electric system was reported: "The FMLN has reiterated through its official radio stations, Radio Venceremos and Farabundo Martí, that it will maintain its latest offensive until further notice. In the current guerrilla campaign - the seventh this year - at least eight vehicles, including passenger buses, trucks and official cars, were destroyed or damaged". 59/

63. According to a report in the International Herald Tribune, the senior military commander of the guerrillas, Mr. Joaquín Villalobos "outlined what he said was the new guerrilla strategy of a war of attrition ... a campaign of sabotage, assassination and ambushes, backed by the increased use of mines and booby-traps. The strategy, Mr. Villalobos said, is to ... bleed the economy to the point of collapse ...". 60/

64. Since drafting his interim report to the General Assembly, the Special Representative has continued to receive numerous reports of guerrilla activities against the economic infrastructure of the country. The Special Representative notes that, according to some very recent reports, in December 1985 Salvadorian rebels burnt 12,000 sacks of coffee, estimated to be worth \$2.4 million, in the eastern region of the Republic, 61/ in January 1986, they destroyed machinery at a coffee-processing plant in Juaya, some 46 miles west of San Salvador, in the department of Sosome, burnt a number of buildings and injured four members of the Civil Defence force. 62/

65. The Special Representative has also received from the Government of El Salvador copious information on guerrilla activities reported in the local press; this information is briefly summarized below.

66. It is reported that between October 1985 and January 1986 there were numerous guerrilla attacks on the electricity infrastructure, which left several sectors of the country without electric power or drinking water. 63/

67. The transport system is also reported to have been affected by threats and attacks against buses, trucks, private vehicles and other means of transport. In some of these incidents persons were reported to have been killed or injured. 64/ It is thus reported that a commercial truck and an ambulance belonging to the (Salvadorian) Red Cross were blown up and their occupants injured by mines placed by FDR-FMLN guerrillas on roads in the eastern part of the country. 65/ On two other occasions, a Salvadorian Red Cross ambulance and a taxi were machine-gunned on the Santa Ana-Metapah road; a first-aid man, a boy travelling in the ambulance and the taxi driver were injured. 66/

68. In another incident in which a private vehicle was machine-gunned at San Miguel, the driver was killed and his wife and two children injured. 67/

69. The press has also reported attacks aimed at the coffee and cotton harvests, 68/ including the destruction of 500 sacks of coffee in the eastern region 69/ and the burning of 1,000 bales of cotton. 70/

70. Once again, the FMLN 71/ acknowledges that "as part of its military campaigns, it has carried out actions against the economic infrastructure". It maintains, however, that such actions do not violate the Geneva Conventions and are even permitted by article 52 of Additional Protocol I. It adds that the adverse effect of the attacks must not be exaggerated, for it is not the main cause of the weakening of the country's economy. The FMLN believes that "the flight of capital or its non-investment by the most influential sector of private enterprise, or the exaggerated military spending of the Salvadorian Government have without doubt contributed far more decisively to undermining the economic rights of Salvadorians than have the consequences of the FMLN's actions against the economic infrastructure". Moreover, the FMLN is not opposed to negotiating with the Government the cessation of those attacks and recalls that, in the comprehensive peace proposal presented at Ayagualo (30 November 1984) 72/ it made a proposal in that regard.

71. In any event, the Special Representative cannot conceal his profound concern about those attacks, since they tend to weaken the country's already impoverished economy, thereby gravely threatening the Salvadorian people's present and future enjoyment of important economic, social and cultural rights.

III. CIVIL AND POLITICAL RIGHTS

72. The Special Representative has continued to receive various items of information about violations of civil and political rights in El Salvador. In view of the nature of this information, it is difficult to subject it to a detailed, critical review in the light of the international instruments which are binding on the Republic of El Salvador in the area of human rights. Accordingly, as in his earlier reports, the Special Representative has felt it preferable to adopt a different method, namely, classification which takes comprehensive account of the most serious violations and the actual circumstances in which such violations occurred. This classification, which in no way implies any rigid distinctions between the various categories, is as follows: (a) murders; (b) abductions and disappearances; (c) political prisoners; (d) position of Salvadorian criminal justice; and (e) human rights violations attributed to guerrilla forces.

(a) Murders

73. The Special Representative has continued to receive information concerning political murders of civilian non-combatants. As in previous years, the Special Representative is aware of the difficulty of accurately determining the exact number of such crimes and considers that this difficulty is due to a variety of causes. The first relates to difficulties of investigation, especially in combat zones. The second lies in the very magnitude of some of the figures. Another is that very often information on murders comes to light only when bodies are found, and it is difficult to determine whether the murders were really prompted by political motives or were simply ordinary crimes. Yet another cause is that the armed conflict is between a regular army and a guerrilla organization and it may sometimes be difficult to determine whether those killed are combatants or civilians. Lastly, the differences in the methodology followed by the various sources of information add to the difficulties. For all these reasons the Special Representative considers that there is a need for great caution in establishing the figures for political murders of non-combatants, since there is no way of being sure that the reported figure for political murders accurately reflects the actual number; the sometimes wide discrepancies between these figures clearly indicate the need for caution.

74. According to Christian Legal Aid, 73/ during the first half of 1985 the following arbitrary executions were attributable to the government armed forces and paramilitary bodies: 227 in January, 146 in February, 128 in March, 168 in April, 116 in May, and 65 in June. However, these figures include persons of "unspecified occupation", and it is explained that "generally, the victims (civilians) included in this category met with violent deaths as a result of bombing and shelling". Since, therefore, the figures for murders in this category are given as 127 in January, 78 in February, 42 in March, 82 in April, 37 in May, and 95 in June, civilian murders unrelated to military operations added up to 100 in January, 68 in February, 86 in March, 86 in April, 72 in May, 63 in June, 50 in July, 94 in August, and 146 in September. That makes a total of 802 in the first nine months of the year. The Special Representative points out that this is the only source which gives high figures.

75. The figures supplied by the Archdiocesan Legal Protection for those same months of 1985 are noticeably lower. According to the information supplied by this source, the numbers of civilians killed in what are called "indiscriminate attacks by the Army on the civilian population" are as follows: in January, 14 murders are attributed to the death squads and 7 to

the Army, 74/ in February, 22 to the death squads and 2 to the Army, 75/ in March, 18 to the death squads and 1 to the Army, 76/ in April, 11 to the death squads and 4 to the Army, 77/ in May, 12 to the death squads, 4 to the Civil Defence, 1 to the Treasury Police, and 2 to the Army, 78/ in June, 79/ 5 to the death squads, 2 to the Army, 1 to the National Guard, and 1 to the Civil Defence; in July, 80/ 10 to the death squads, 4 to the Army and 2 to the National Guard; in August, 81/ 7 to the death squads, 6 to the Army, 1 to military personnel wearing civilian clothes, 1 to the Civil Defence, 2 to the National Police and 3 cases of circumstantial victims; and in September, 82/ - the last month for which the Special Representative has received information, 7 to death squads, 6 to the Army, 1 to the Treasury Police, 4 to the Civil Defence, 1 to the National Police and 2 cases of circumstantial victims.

76. The figures given by the Salvadorian Human Rights Commission (governmental) are even lower. 83/ In January 1985, 2 civilian deaths were attributed to members of the armed forces; four civilian deaths resulted from acts by unidentified persons; and two civilian deaths were attributed to unidentified organizations or groups. In February, only 1 civilian death was attributed to members of the armed forces and 11 to unidentified persons. In March, 4 civilian deaths resulted from acts by unidentified persons. In April, two civilians were killed by unidentified persons. In May, 6 civilian deaths were attributed to unidentified groups or organizations. In September, 3 civilian deaths were attributed to the armed forces and 12 to unidentified persons. 84/ In October, 12 civilian deaths were attributed to unidentified persons. In November, 2 civilian deaths were attributed to members of the armed forces, 7 to unidentified persons and 1 to identified persons or groups. 85/ And in December, 1 civilian death was attributed to the armed forces and 2 to unidentified persons. 86/

77. The Special Representative has also taken note of the figures compiled by the United States Embassy in El Salvador. According to these figures, which are based on local press reports, 87/ in January 1985, there were 3 murders committed "possibly by the extreme right" and 12 by unknown assailants; in February, 1 "possibly by the extreme right" and 2 by unknown assailants; in March, 1 "possibly by the extreme right" and 5 by unknown assailants; in April, 5 by unknown assailants and 1 by the Civil Defence; in May, 2 "possibly by the extreme right", and 5 by unknown assailants; in June, 2 "possibly by the extreme right" 7 by unknown assailants, 1 by the Civil Defence, and 1 by the armed forces; in July, 7 by unknown assailants and 4 by the armed forces. It must be pointed out that the figures supplied by the United States Embassy include the special category of "political deaths by the guerrillas", on which the Special Representative will comment elsewhere.

78. These then are the lists made available to the Special Representative which he is submitting to the Commission on Human Rights. According to the list supplied by Christian Legal Aid, the number of political murders of civilian non-combatants showed an increase over the previous year, but the Special Representative, exercising the caution referred to above, is not absolutely convinced that this conclusion is correct. The list supplied by another source - Legal Protection - indicates that the figures for 1985 are slightly higher than those for the second half of 1984. The other lists cited by the Special Representative indicate that the number of murders has declined. However, having listened to opinions expressed in El Salvador and elsewhere by independent persons and institutions preferring to remain anonymous, the Special Representative has the impression that generally speaking the marked decline over previous periods recorded in the second half of 1984 has levelled off. To put it another way, during the months of 1985

which have elapsed, the total number of political murders appears to be substantially the same as in the second half of 1984 and considerably lower than the number in previous periods.

79. In a memorandum dated 12 November 1985 addressed to the Special Representative, the Government of El Salvador forthrightly states that the "impression" gained in the preceding paragraph is false "since there is a clear and manifest downward trend in the number of murders, even comparing the months so far elapsed in 1985 with the last few months of 1984".

80. The Special Representative notes that the lists he has cited include murders attributed either to "paramilitary organizations", to "death squads", or to "unknown assailants". Clearly, the responsibility for those murders does not lie directly with the government of El Salvador, but only indirectly, inasmuch as the perpetrators are connected with government officials or protected or tolerated by them, as was clearly the case in previous years. As far as 1985 is concerned, the Special Representative has been unable to reach firm and final conclusions about the degree of support or tolerance the death squads are receiving from government officials, such as officers of the Army or security forces. In any event, the Special Representative considers that those supporting or protecting those organizations now are not high-ranking officials or officers.

(b) Abductions and disappearances

81. The Special Representative has continued to receive information about persons abducted or arrested for political reasons, some of whom are reported as missing, and he wishes to observe, as in his previous report, that again the relevant figures must be interpreted with the greatest caution. This must be done, firstly, because subsequent to their arrest or abduction the bodies of such persons are sometimes found and those cases are counted as murders. In other cases it is discovered that persons abducted are alive in official detention centres, and these are counted as political prisoners. In still other cases, the arrested persons are released. Finally, there are cases in which those arrested are not found, presumably because they have been murdered and their bodies hidden; only then can one properly speak of disappearances. The Special Representative has considered it necessary to give these explanations before including in his report information on the figures for arrests and disappearances which, in many cases, overlap with those for murders and political prisoners.

82. According to Legal Protection, 88/ 7 cases of arrest by security bodies and the Army were reported to it in January 1985, 2 persons were reported to have disappeared, and 12 arrested persons were reported to have been released from detention. In February, 89/ there were 10 persons arrested, 2 disappeared and 10 persons turned up in official detention centres. In March, 90/ 12 persons were arrested, 2 disappeared and 10 turned up in official detention centres. In April, 91/ 26 persons were arrested, 7 disappeared and 19 turned up in official detention centres. In May, 92/ 11 people were arrested, 3 disappeared and 8 turned up in official detention centres. In June, 93/ 14 people were arrested, 2 disappeared and 12 turned up in official detention centres. In July 94/ 11 people were arrested. In August, 95/ 5 people were arrested and 1 disappeared. And in September, 96/ 34 people were arrested and 2 disappeared. The Special Representative has some difficulty in interpreting those figures, in particular those concerning disappearances, since the files of Legal Protection do not indicate whether the people who disappeared were those who later turned up in the official detention centres, but it is clear that there is a decline in the number of disappearances as compared with previous periods.

83. The Salvadorian Human Rights Commission (governmental) ^{97/} indicated, in connection with disappearances and abductions, that in 1983, ⁴¹⁹ persons were abducted, an average of 35 per month; in 1984, 873 persons were abducted, an average of 72 per month, the present average being 6 abductions per month. The same source indicated that there were 153 disappearances in 1984, and that for the first eight months of 1985 47 were reported. It would seem that in many cases disappearances are due to ordinary criminal activity and that often the persons who were presumed to have disappeared turn up in security bodies, are found to have enlisted in the Army or appear in the ranks of the FMLN, there were even some cases where the people sought had left the country.

84. Among the persons whose disappearance was reported to the Special Representative are Janette Samour Hasbún and Máxima Reyes Villatoro, who are presumed to have been detained by members of the National Guard on 30 December 1984 in the city of San Miguel. ^{98/} According to Amnesty International, the Armed Forces Press Committee declared in June 1985 that neither of these women were in detention. Independent sources told the Special Representative in San Salvador that it was generally believed that both women were dead.

(c) Political prisoners

85. According to information provided to the Special Representative in El Salvador by the competent authorities, as of 10 September 1985 462 political prisoners were being held in Mariona Prison for men (there were 375 on 21 September 1984) and 44 political prisoners were being held in the Ylopango Prison for women (there were 23 on 21 September 1984). Furthermore, on 13 September 1985, there were 30 political prisoners in the headquarters of the Treasury Police in San Salvador (there were 2 on 19 September 1984) and 11 political prisoners in the San Salvador quarters of the National Guard (there were 5 on 19 September 1984). Thus, during his visit in 1985, the Special Representative found that there were more political prisoners than during his visit in 1984.

86. Moreover, according to information from the National Police, ^{99/} between 1 September 1984 and 31 August 1985 743 persons were detained "for being linked to terrorist acts". During that period, 309 prisoners were released.

87. With regard to the treatment of political prisoners, the Special Representative received documentation from Christian Legal Aid ^{100/} indicating that from June 1984 to February 1985 342 political prisoners entered Mariona Prison and that, according to information compiled by the same source, 232 prisoners were subjected to methods of psychological torture and there were also 570 cases of torture causing serious physical injury. A letter sent to the Special Representative by Christian Legal Aid ^{101/} stated that the alleged acts occurred, in each case, during the initial stage of their confinement, when the prisoners were held incommunicado, that is, before their transfer to Mariona Prison.

88. In any event, the Special Representative is concerned about the evidence that severe psychological pressure was used against political prisoners during the interrogation sessions by the security bodies, and even in the interval between the time they were arrested and the time they entered the premises of the security bodies. This evidence is based, in particular, on a number of statements which the Special Representative heard personally in Mariona and Ylopango Prisons and in the detention centres of the security bodies. According to those statements, in certain cases the interrogation sessions were uninterrupted and went on for several days, the person being

interrogated was kept standing, sometimes handcuffed, often blindfolded, and was threatened, beaten and not allowed to sleep. One witness even stated that he had been permitted to sleep only once during a 14-day period and that he had fainted on three occasions. Another witness testified that his interrogation session had lasted 21 days and that during that period he had suffered from frequent visual and auditory hallucinations resulting from steady, irritating rubbing of the head and jabs between the ribs. Another witness stated that in the vehicle which transported him from the place of arrest to the security centre, a hood was placed over his head, making breathing difficult. After those interrogation sessions, the prisoners were presented with a written statement of an extra-judicial nature acknowledging the acts attributed to them, which some signed but others did not. Another witness stated that one of the political prisoners interrogated, Dorotea Gómez Arias, even committed suicide. Although the Special Representative was notified of the suicide, 102/ he is unable to state that it was the result of the severity and circumstances of the interrogation.

89. The Special Representative informed the directly responsible authorities of this testimony. One of the authorities replied that the allegations were not true and were part of a campaign to discredit the security bodies. Another replied that, owing to the circumstances and as in all countries which had to deal with persons accused of terrorism, the interrogation sessions were not gentle, they were "intense, strict and severe".

90. Nevertheless, other political prisoners accused of serious offences stated that they had not been subjected to cruel, inhuman or degrading treatment. The Special Representative therefore considers that the acts described in the preceding paragraph are not part of a deliberate and systematic policy on the part of the Salvadorian authorities.

91. Since drafting his interim report to the General Assembly, the Special Representative has continued to receive information on the treatment of political prisoners. Thus, according to a photocopied statement by Antonio Cáceres Hernández, 103/ this man, an employee of the Salvadorian Human Rights Commission (non-governmental), was arrested by non-uniformed members of the National Police, at the time of his arrest he received blows to the back and later received other blows while being driven in a minibus. From the same source, the Special Representative has received other photocopied statements, in particular: a statement made in Panama by Mrs. Alma Patricia Valdez Morales, who was arrested in San Salvador on 12 September 1985 with other members of her family and complains of physical and psychological ill-treatment by members of the Treasury Police; and a statement by this woman's husband, Rolando Zepeda González, who was arrested on the same date and describes in detail the physical and psychological ill-treatment to which he was subjected by members of the Treasury Police at the time of his arrest and later. The Special Representative wishes to state that on 13 September 1985 he personally heard, in the Treasury Police headquarters in San Salvador, the testimony of Mrs. Valdez Morales, which corresponds to that contained in the above-mentioned photocopied statement, and points out that this woman and her husband were among a group of political prisoners exchanged with Mrs. Inés Duarte, the daughter of the President of the Republic, and her companion.

92. In addition, a recent report by Amnesty International 104/ contains the following statement: "There have been indications in recent months that there has been a greater reliance on what has been described to Amnesty International by former prisoners as psychological rather than physical torture. However, cases of physical abuse of political prisoners are still regularly being reported to Amnesty International". This report is

accompanied by an appendix containing a number of statements by political prisoners who allege that they have been subjected to torture or cruel, inhuman or degrading treatment by members of the Army or security forces.

93. Lastly, the Special Representative feels that the criminal proceedings instituted under Decree No. 50 against political prisoners accused of collaborating with the armed opposition are excessively slow, but that is a question which he will address in greater detail and depth in discussing the status of criminal justice in El Salvador.

(d) Status of Salvadorian criminal justice

94. In this section, the Special Representative will assemble and evaluate the information concerning the status of criminal justice in El Salvador in 1985 from three points of view: first, judicial efforts to investigate and punish serious human rights violations; second, judicial action to investigate and punish suspected acts of collaboration with the armed opposition; and third, action taken by the Supreme Court of Justice on applications for writs of habeas corpus and amparo.

95. With regard to the first point, the Special Representative received, as in previous years, a document from the Attorney-General of the Republic 105/ which indicated that, during the period between September 1984 and July 1985, 478 verdicts in criminal cases were handed down, resulting in 104 convictions (21.8 per cent) 170 acquittals (35.5 per cent) and 204 "abortive" proceedings (42.7 per cent). The Attorney-General explained to the Special Representative that "abortive" proceedings were cases where proceedings could not be held, generally because jurors failed to appear.

96. The Attorney-General's document did not specify whether the 104 offences for which guilty verdicts had been handed down were political crimes or common offences. However, even on the assumption, which the Special Representative considered unlikely, that nearly all the offences consisted of politically-motivated violations of human rights, the number of convictions bears no reasonable relationship to the number of human rights violations which the Special Representative is morally certain were committed in previous years. Moreover, he noted the high proportion of "abortive" proceedings, which can definitely be explained by the jurors' fear of performing their duties.

97. As was the case last year, even in the so-called cases of "international relevance", Salvadorian criminal justice had not been particularly active. Thus, according to the Attorney-General's report, the proceedings instituted by the court of the first instance of Armenia against seven persons accused of the wilful murder of 10 persons on various dates in 1980, 1981 and 1982, were still in the investigative phase; the proceedings initiated in relation to the assassination of Monsignor Oscar Arnulfo Romero on 24 March 1980 were also in the investigative stage; the case against a second sergeant and two soldiers for the wilful murder of the United States citizen David Kline on 13 October 1982 was brought before the plenary, but when the relevant judicial resolution was appealed, the case was restored to the investigative stage; in the proceedings relating to the killing of Mr. Viera and two American advisers on 3 January 1981 at the Sheraton Hotel in San Salvador, the case against an Army lieutenant was dropped - a decision which the Attorney-General's Office intends to appeal - as was the case against the other defendants; in the "Las Hojas" proceedings against several members of the Army for the massacre of several peasants, the case against the accused was dismissed, although the Attorney-General's Office is conducting investigations with a view to requesting further legal action.

98. According to information made available directly to the Special Representative by Socorro Jurídico Cristiano, 106/ in the proceedings relating to the killing of Mr. Viera and two United States labour advisers, the Second Criminal Court of San Salvador upheld the dismissal of the proceedings against Captain Eduardo Avila.

99. A report by the Lawyers Committee for International Human Rights published in March 1985 107/ also indicates, with regard to 12 prominent cases - 6 individuals and 6 groups - and some of the cases which the Special Representative referred to above, that "although some facts have been obtained, none of these cases have been successfully prosecuted".

100. The Special Representative notes that no convictions have been handed down in the above-mentioned proceedings or in others of international relevance, thus demonstrating, at the very least, the abnormally slow pace of Salvadorian criminal justice. In any case, as in previous reports, the Special Representative cannot conceal his uneasiness that he has not received information on judicial proceedings which ought to have been instituted in a great many other cases of serious human rights violations in which the victims were ordinary Salvadorian citizens. The Special Representative considers that this is a matter where cases should not be singled out, regardless of the international pressure exerted in respect of some of them. From the standpoint of the rule of law, all cases should receive equal attention and treatment by the judiciary.

101. As in previous years, the Special Representative has received information from the Government of El Salvador concerning the adoption of disciplinary measures and the initiation of judicial proceedings against members of the armed forces and security bodies. 108/ According to this information, between 1 September 1984 and 31 August 1985, 64 members of the National Police, 8 members of the National Guard, 4 members of the Treasury Police, 2 members of military patrols and 70 members of other military bodies, totalling 148 persons (last year there were 157) were arrested by the National Police and brought before the ordinary courts. The charges were the following: 43 cases of robbery, theft and assault; 28 cases of injury to other persons; 40 murders; 7 cases of rape; and 94 cases of other offences. The information is detailed, and the Special Representative has studied it carefully; however, after completing the study, he has the impression that all or nearly all the cases are ordinary offences and not politically-motivated, criminal violations of human rights. Moreover, the document gives no indication of the stage which the judicial proceedings have reached, and the Special Representative has not been told whether these cases, or others mentioned in his earlier reports, have resulted in conviction or acquittal.

102. After carefully weighing the information contained in the preceding paragraphs, the Special Representative continues to feel that, on the whole, judicial efforts to investigate and punish serious, politically-motivated human rights violations have been highly unsatisfactory. While it is true that criminal proceedings have been started in all or nearly all cases, he has the impression that they are advancing at an extraordinarily slow pace and that there are nearly insuperable barriers to obtaining convictions, thus fostering a harmful climate of impunity. The top Salvadorian authorities are undoubtedly aware of the situation and have a clear political will to improve it, as will be shown in chapter VI of this report.

103. The Special Representative will now present information on the activity of the criminal courts of El Salvador in connection with the investigation and

punishment of acts of collaboration with the armed opposition. The legal proceedings in question are governed by Decree No 50, which was promulgated by the Legislative Assembly on 29 February 1984 and contains the Act on penal procedures applicable when constitutional guarantees are suspended; the Act was initially to have had effect for one year but was extended until 28 February 1986. In his previous report to the Commission on Human Rights, the Special Representative reported the content of the decree and the critical assessment which it called for. 109/ The Special Representative considers it important to state at this point that under the decree, the competence to hear such cases comes within the purview of the various levels of military justice (military trial courts, military courts of the first instance, courts martial, and Armed Forces High Command).

104. According to information obtained by the Special Representative during his stay in El Salvador, the military judge of the first instance informed the competent department of the Ministry of Defence 110/ that, between 1 September 1984 and 31 August 1985, 70 cases were dropped and 58 were referred to plenary hearings; there were 16 convictions and 18 acquittals; 13 prisoners were released on completion of their sentences. On the other hand, the Special Representative was aware 111/ that 589 defendants were brought before military judges under Decree No. 50 on 2 September 1985, 200 of whom were released, 278 referred to the military judge of the first instance and 111 brought before military trial courts.

105. The Special Representative concludes from the facts given in the preceding paragraphs that judicial proceedings against those suspected of collaborating with the armed opposition have become somewhat more active compared with previous years. The following points must nevertheless be made: (a) there are only four trial courts and one military judge of the first instance for a substantial number of cases; (b) political prisoners have testified that the time-limits of Decree No. 50 are frequently ignored; (c) the psychological pressure exerted by interrogators can lead to extralegal testimony which does not correspond to the facts and is difficult to verify in court.

106. On this last point, the Special Representative had occasion in San Salvador to examine the case brought against Daniel Alvarado, the presumed murderer of the American official Albert A. Schaufelberger on 25 May 1983. In this case, the defendant had confessed, both in court and out of court, that he was the perpetrator of that act. Nevertheless, the results of a polygraph lie detector test which had indicated that Daniel Alvarado was not the murderer, had been included in the record of the proceedings. The Special Representative fully understands the difficulty the military judge of the first instance will have in dealing with contradictory evidence.

107. In this connection, the Special Representative has been informed of the criticism of the Salvadorian judicial system made by Monsignor Rosa Chávez in early December 1985. 112/ According to Monsignor Rosa Chávez, there are abuses in the interrogation of political prisoners, and these have increased in recent weeks; such interrogations "lead to statements far removed from the truth, which the prisoner is forced to sign. Some cases are even more serious, because the person signing cannot even read what he is about to sign".

108. The Special Representative considers it appropriate to point out that, according to statements made by the military judge of the first instance, an important reason for the slowness of criminal proceedings against political prisoners is the reluctance of lawyers to defend them free of charge.

109. With regard to the activity of the Supreme Court of Justice in cases involving habeas corpus and on the basis of documents given to the Special Representative in San Salvador by the President of that Court, between 1 July 1984 and 6 September 1985, 73 prisoners were released under a series of writs which applied the provisions of Decree No. 50 retroactively when those provisions were more favourable than those of previous legislation. 113/ The same Supreme Court documents indicate that, as a consequence of the reorganization of the military courts following the entry into force of Decree No. 50, the cases of a number of offenders had not come before any of those courts or any other court. As a result, the Constitutional Affairs Chamber of the Supreme Court of Justice itself had ordered the release of the prisoners.

110. With respect to cases of application for amparo before the Constitutional Affairs Chamber of the Supreme Court of Justice (actions relating to violations of human rights recognized by the Constitution), the documents given to the Special Representative show that, on 1 August 1984, there were 109 cases pending and that between that date and 31 July 1985, 159 more actions were brought. 114/ Between 1 August 1984 and 31 July 1985, 40 cases were decided and 25 dropped, 78 complaints were admitted and 73 were declared inadmissible.

111. As in previous years, the Special Representative was informed by the competent authorities in El Salvador of the difficulties in the way of the normal functioning of criminal justice. The difficulties were attributable to the following factors: (a) the small budget from which to provide adequate remuneration to judges and prosecutors, particularly at the lower levels, and adequate resources for courts, judges and dependencies of the Attorney-General's Office, (b) the lack of adequate systems for investigating the facts, (c) the psychological pressure on judges, many of whom are threatened and even murdered (on 16 May 1985, Mr. Araujo, military judge of the first instance, was murdered), (d) the fear of witnesses to testify in proceedings with political implications, (e) the fear of jurors to serve in such proceedings, (f) the ineffectiveness of the criminal law and criminal procedures in the present climate of violence, and (g) the destruction of courts and judicial archives in the areas of military operations. The competent authorities added that those factors were not new or peculiar to El Salvador, but they had become more acute in recent years as a result of the conflict in El Salvador and the economic crisis. The Special Representative once again takes note of all those difficulties.

(e) Human rights violations attributed to the guerrilla forces

112. The Special Representative notes that, according to reports available to the public, 115/ the Salvadorian rebels stepped up their urban guerrilla operations in 1985. Information from the same source 116/ indicates that the guerrilla forces, escalating their plans to bring the war to the towns, have put officials of the Christian Democratic Party on their list of military objectives, together with American military advisers, Salvadorian Army officers, Air Force pilots, Nicaraguan right wing rebels living in El Salvador, and wealthy individuals.

113. The Special Representative will report first on the figures received from various sources, and, obviously, the caution recommended with reference to murders, abductions and disappearances attributed to members of the State apparatus and extreme right-wing paramilitary organizations must also be exercised with regard to acts attributed to the guerrilla forces.

114. The Archdiocesan Legal Protection Office gives the following figures for political, non-combat murders of civilians attributed to the guerrilla forces: 4 in January, 117/ including 2 by the Clara Isabel Ramírez Front, allegedly separated from the FMLN, 4 in February, 118/ 3 in March, 119/ 8 in April, 120/ 2 in May, 121/ 18 in June, 122/ 6 in July, 1 of which is attributed to the Clara Isabel Ramírez Front, 123/ 3 in August, 124/ and 5 in September. 125/

115. The United States Embassy in El Salvador, on the other hand, gives the following figures, based on local press reports: January, 10; February, 22; March, 10; April, 24; May, 8; June, 18; and July, 9. This same source adds other figures under the heading "political deaths possibly by guerrillas": 10 in January; 3 in February; 4 in March; 4 in April; 2 in May; 2 in June; and 2 in July. 126/

116. The Salvadorian Human Rights Commission (governmental) indicates for its part that between September 1984 and July 1985, 172 civilians and off-duty military personnel were killed as a result of terrorist acts. 127/ In September, 9 deaths of this type occurred; 128/ in October, 26; 129/ in November, 11; 130/ and in December, 24. 131/

117. The National Police report that between 1 September 1984 and 31 August 1985, 41 National Police officers were murdered. 132/ Although it is not clearly indicated, the Special Representative has the impression that in many cases that figure includes persons who died in the line of duty.

118. The National Police reports five murders of civilians attributed to the guerrillas in the period between 1 and 6 September 1985 alone, 133/ taking the names of the victims and the circumstances of the murders from local press sources.

119. One of the persons murdered was the former head of the Press Committee of the Armed Forces (COPREFA), Lieutenant Colonel Cienfuegos. According to international press reports 134/ and information provided to the Special Representative in San Salvador, a guerrilla group - the Clara Isabel Ramírez Front - shot the Colonel dead on 7 March 1985 while he was resting after a tennis game in a sports centre near General Staff headquarters in San Salvador. According to the FMLN, that particular guerrilla group is a splinter group.

120. According to reports in the local press, made available to the Special Representative by the Government of El Salvador subsequent to his interim report, numerous murders of civilians have been committed by the guerrillas during the period October 1985 - January 1986. 135/

121. And, according to an article in the Miami Herald, 136/ "the Salvadorian rebels during the past few months have stepped up the execution of civilians they contend collaborate with the army ... peasants and relief workers in guerrilla areas, especially in eastern El Salvador, report both an increase in detentions and executions by rebel forces".

122. The Political-Diplomatic Commission of the FDR-FMLN points out 137/ that most of the attempts on the lives of "non-combatants" attributed to the FMLN were made "against Salvadorian and American military personnel" and as such were sanctioned by the Geneva Conventions; the fact that the military personnel were in civilian clothes and unarmed did not change their status as combatants. The Commission adds that "the few attacks by the FMLN on non-combatants were directed against individuals whose responsibility in the

selective and mass persecution, arrest, disappearance, torture and murder of the population has consistently been proved". The Special Representative includes this explanation even though he believes that it is incompatible with the requirements of the rule of law and the juridical security inherent in the respect for human rights. Those requirements not only do not authorize private justice, they prohibit it in all its forms. That obviously applies, in the Special Representative's view, to any type of private "execution", no matter who carries it out. The glaring and serious deficiencies in the Salvadorian judicial system in no circumstances authorize anyone to "take justice into his own hands".

123. The Special Representative will next consider the "Zona Rosa" massacre in San Salvador. As reported in the international press, 138/ a group of about 10 heavily armed persons carried out an attack in the early hours of the morning of 19 June 1985 on the Mediterranean Restaurant, located in the so-called "Zona Rosa" of San Salvador, killing 12 persons, 6 of them United States citizens, 4 of whom were Marines who were guards at the United States Embassy in El Salvador. Other victims of the attack escaped death. The same source reports that the Revolutionary Workers' Party in Central America (Partido Revolucionario de los Trabajadores en Centroamérica), one of the five organizations that make up the FMLN, and specifically its "Mardoqueo Cruz" commando unit, in a telephone call to the news media, claimed responsibility for the attack. The Boletín Semanal Centroamericano 139/ also gives an account of the attack and publishes the communiqué from the military and political headquarters of the FMLN "Mardoqueo Cruz" urban commandos in which they claimed responsibility for the attack. In a document made available to the Special Representative by the Political and Diplomatic Commission of the FDR-FMLN, 140/ the following version is given of the "Zona Rosa" events

"On 19 June, military units of the FMLN 'Mardoqueo Cruz' commandos attacked four American Marines who were sitting in a café in an area of San Salvador that is one of the most heavily guarded by government forces. Several persons who were in the café and some National Guard troops protecting the Embassy of Brazil responded to the attack. The latter fired their automatic G-3 rifles, sparking heavy cross-fire that went on for more than 10 minutes. As a result of the firing, two other Americans died, as well as a Chilean, a Guatemalan and five Salvadorians."

In its document 141/ the FMLN tries to justify its action by the following arguments: (a) The action was directed against four Marines who, although they were in civilian clothes and were not carrying arms, were military objectives and retained their military status even though their mission was to guard their country's Embassy; (b) In compliance with article 56 of Additional Protocol I of the Geneva Convention, the FMLN took all possible precautions when choosing the manner and means of the attack in order to avoid or reduce the number of dead and wounded, as evidenced by the fact that they avoided the use of explosives; (c) The FMLN attacked the Marines because it considers it unjust that the armed conflict should result only in Salvadorian casualties; (d) The FMLN decided to attack the Marines at that site because it considered that conditions there were favourable for an attack; (e) The FMLN did not intend to cause any casualties beyond its military objectives and regrets that there were any.

124. The Special Representative reports the FMLN arguments and, without going into a thorough and detailed legal assessment of the grounds for those arguments - a task that more properly belongs to a court of law, he believes

that it is not possible to conclude that foreign military personnel assigned to guard an embassy can be considered combatants or military objectives. The "Zona Rosa" action constitutes a mass murder.

125. The Special Representative has learned that the Archbishop of San Salvador, Monsignor Rivera y Damas, condemned the action and, according to international press reports, 142/ Rubén Zamora, the leader of the FDR-affiliated People's Social Christian Movement (Movimiento Popular Social Cristiano), reportedly also condemned it as contrary to the Geneva Conventions. As far as the Special Representative is concerned, he cannot conceal his profound concern over the attack, which certainly does not contribute to the necessary humanization of the conflict.

126. In addition, during his stay in El Salvador the Special Representative read in the local press 143/ that on 14 September 1985 the "terrorists exploded two bombs ... against a pick-up loaded with passengers at the entrance of La Haciendita", on the road leading from Santa Ana to Cantón Resbaladero, Coatepeque. The explosion caused five deaths, three of them of members of the Civil Defence, and several injured. The same source also reported that on the same day "terrorists machine-gunned the Embassy of Honduras".

127. The Special Representative also received information on persons abducted by the FMLN. According to Legal Protection, the number of abductions in 1985 are as follows: none in January, 144/ two in February, 145/ six in March, 146/ one in April, 147/ seven in May, 148/ one in June, 149/ none in July, 150/ none in August, 151/ and four in September. 152/

128. For its part, the National Police stated that between 1 January 1985 and 31 August 1985, the FMLN abducted 20 persons. 153/ The local Salvadorian press 154/ gives accounts of a number of abductions carried out by the FMLN in October and November 1985. They include the abduction of 95 men in several cantons of Estanzuelas, department of Usulután, on 13 October 1985, 155/ the abduction on 14 November, according to this information, of 12 workers in a drinking water supply project for two peasant communities under a programme financed by the Agency for International Development, 156/ and the abduction of three coffee-harvesters in the department of La Libertad. 157/ In some cases, the abductions reportedly ended in killings. 158/

129. The Special Representative will deal next with the abduction of mayors by the FMLN. A communication sent to the Special Representative, 159/ states that "from the beginning of the war the FMLN has taken a position against the local authorities throughout the country, since this is a basic component of counter-insurgency plans", and points out that they gave the mayors whom they held "prisoner of war status".

130. According to a communiqué from the FDR-FMLN, 160/ eight mayors have been captured by the ERP in the eastern part of El Salvador; of that number, the Mayor of San Jorge, Mr. Valenzuela, lost his life while attempting to escape. According to the communiqué, that mayor was captured by FMLN forces on 29 April 1985, and after being warned that he would not be allowed to exercise his functions, he was released. Despite the warning, added the communiqué, Mr. Valenzuela attempted to resume his functions, was again captured by the FMLN, and his attempt to escape as he was being transferred gave rise "to an incident in which he lost his life". In a thick document delivered to the Special Representative by the Political-Diplomatic Commission of the FDR-FMLN, 161/ it is acknowledged that "this year, units of the Eastern Front of the FMLN captured mayors from that region who were attempting to take

possession of their offices in areas contested or controlled by the FMLN", adding that there were about 20 such mayors, of whom four had been released. That document also maintained that the captured mayors were prisoners of war because they were involved in counter-insurgency military plans and that in compliance with the provisions of the Geneva Conventions, they were being visited by the ICRC and were permitted to receive letters from their families. The Special Representative learned from the international press that in the last weeks of September seven other mayors were seized. 162/ As will be indicated later in the report, the mayors were released on 24 October 1985.

131. Without going into detailed legal considerations concerning the grounds for the FMLN arguments - which would be the function of a court of justice - the Special Representative is of the opinion that, taking into account the provisions of article 43 of Additional Protocol I of the 1949 Geneva Conventions, it is not possible to support the contention that the mayors have the status of combatants and can therefore be made prisoners of war. The Special Representative feels that the seizure of the mayors is tantamount to abductions, which are not allowed under the 1949 Geneva Conventions and the 1977 Additional Protocols.

132. In any event, on 3 May 1985, the Legislative Assembly of El Salvador decided "to repudiate and strongly condemn the abductions of municipal mayors carried out in the eastern and northern regions of the country by armed groups, because they constitute a manifestation of political violence endangering sacred human rights and the sovereign expression of the people". 163/

133. During his stay in El Salvador, the Special Representative learned of the abduction of Mrs. Ines Guadalupe Duarte Durán, daughter of the President of the Republic, and her companion, Miss Ana Cecilia Villeda Soca. They were abducted in the early afternoon of 10 September 1985 as they were leaving New San Salvador University on a street in the centre of the capital. One of their security guards, Mr. Mauricio Alfredo Palomares, was killed and another seriously wounded. 164/ Those facts were communicated officially to the Special Representative by the Government of El Salvador. According to rumours circulating in San Salvador and reflected in the local press, the "Pedro Pablo Castillo" Front, allegedly linked to political prisoners, claimed responsibility for those acts, although information subsequently made public confirmed the fact that the abduction had been the work of the FMLN. Fortunately, on 24 October 1985, Mrs. Duarte and Miss Villeda were released by the FMLN, together with 33 mayors and municipal officials, after a series of negotiations in which the Government of El Salvador allowed 96 injured or crippled guerrilla fighters to leave the country and released 23 political prisoners. 165/ Be that as it may, the Special Representative expresses his deep concern about those acts, which in addition to being clear violations of the right to life and liberty and security of person, can only impede the creation of the climate of harmony required for a constructive and fruitful dialogue. The Special Representative has also learned from the international press that the abduction has reawakened fears in some sectors of Salvadorian society. 166/

134. The Special Representative heard further testimony in El Salvador concerning abductions by the guerrillas. One woman, aged 40, a resident of a town in the Department of Morazán, said that on 8 December 1983 the "muchachos" abducted her husband, who was secretary to a justice of the peace, and since then she had had only indirect news that he was still alive though in poor physical shape. Another witness, also 40 years old, a resident of a

village in the Department of Chalatenango, said that on 10 June 1985 the guerrillas abducted her husband, who was a small shopkeeper, and she never heard from him again. And a young girl of 17, a resident of San Salvador, said that on 8 March 1985, she was unexpectedly knocked down in a street in the capital and lost consciousness. When she recovered, she found herself in a taxi with three women and two men who, after transferring to another vehicle, took her to the town of La Unión, where they attempted to indoctrinate her in the guerrilla ideology. After five days, seeing that the witness refused to be convinced, they allowed her to leave. The witness said that she subsequently received written threats which, she believes, were from the guerrillas, and that has made her very uneasy.

135. In addition, the Special Representative has learnt 167/ that at 4 p.m. on 26 October 1985, an FMLN military unit seized Colonel Omar Napoleón Avila, who was at his country home some 36 kilometres from San Salvador. The FMLN stated that the Colonel was being held "as a prisoner of war" and, as such, was being given decent and humane treatment in accordance with the Geneva Conventions.

136. The Special Representative also received information from the Government on attacks by the guerrillas on the freedom of movement of persons in the interior of the country. 168/ The information reports several incidents in which the guerrilla forces proceeded to set up road-blocks and stop private cars. In many of those incidents, they burned, dynamited or used other means to inflict damage on vehicles and railway services, sometimes causing casualties. The large volume of documentation received from the Government prevents the Special Rapporteur from presenting it in detail.

IV. THE SITUATION OF REFUGEES AND DISPLACED PERSONS

137. As in previous reports, the Special Representative intends to provide information on the situation of the many Salvadorian citizens compelled to leave their homes, either in order to move to other parts of the country (displaced persons) or to seek refuge in other countries (refugees). The Special Representative considers that the violence prevailing in El Salvador is an important, but not the only, cause of these mass exoduses. This is because emigration has been a familiar phenomenon in El Salvador for economic reasons.

138. In San Salvador, the Special Representative was able to discuss with the Minister of the Interior and the Vice-Minister for Social Development the situation of those Salvadorian citizens displaced within the country who relied on the services of CONADES (National Commission for Aid to Displaced Persons). According to information provided orally by both officials and the documents they furnished, 169/ the total displaced population as of 31 July 1985 numbered 417,000 persons, of whom 117,000 lived in combat zones and were being provided with services by the International Committee of the Red Cross, the remaining 300,000 being assisted by CONADES and other agencies. According to the above-mentioned documents, CONADES provides the displaced population with the following services:

- (a) Food-baskets based on WFP ration charts are distributed every 30 days; they contain corn, oil, milk, beans, rice, sugar, lime and salt;
- (b) Health care is provided in the form of medical examinations and medicines for prevention as well as treatment;

(c) Building materials are provided to needy families for the construction of temporary shelters, and

(d) Other items, such as clothing, soap, etc., are also issued to the most needy.

139. The Vice-Minister also informed the Special Representative that one of the main problems facing CONADES was the lack of financial resources; nevertheless, the agency plans to provide literacy classes for displaced children. She also said that in 1985, 46 displaced families were returned to the localities from which they came at their own request.

140. The Special Representative has been informed that, of the Salvadorians displaced within the country, those living in combat zones have, on occasion, been forcibly evacuated by the authorities. According to the newspaper Excelsior, 170/ in April 1985 the Salvadorian Army rounded up approximately 200 persons, including 35 children from the Cerro de Guazapa region, and subsequently turned them over to the ICRC. The same source 171/ has learned from the Salvadorian Army that hundreds of farmers are being evacuated from the eastern part of the country, near the border with Honduras. The purpose of this evacuation is to "guarantee the safety of the civilian population".

141. Americas Watch also gives a full and detailed account of these evacuations, 172/ particularly those conducted in April 1985 in the Volcán de Guazapa region and in the Department of Morazán in June 1985. Americas Watch is highly critical of the evacuations because they apparently fail to meet certain minimum standards and the standards specified in article 17 of Protocol II Additional to the Geneva Conventions of 1949.

142. Protocol 17 of Additional Protocol II prohibits the forced displacement of the civilian population for reasons related to a conflict unless the security of the civilians involved or imperative military reasons so demand. When the Special Representative questioned the Minister of Defence of El Salvador about the purpose of the forced evacuations, he was told the purpose was to guarantee respect for the life and physical integrity of the civilian population. It is to be assumed, then, that, to the extent that the evacuations fulfil that purpose, the Government of El Salvador is entitled to carry them out. The Special Representative is aware of the suffering which such transfers inflict on the civilian population; however, given the reality of the war, he believes that it is less than they would experience if they continued to live in the combat zone.

143. With regard to refugees, the Office of the United Nations High Commissioner for Refugees (UNHCR) 173/ has divided Salvadorian refugees receiving UNHCR assistance as of 31 June 1985 into the following groups: 1,750 in Belize; approximately 5,000 in Costa Rica; 20,388 in Honduras (in the Mesa Grande and Colomoncagua camps); roughly 900 in Nicaragua; and approximately 500 in Panama.

144. According to UNHCR officials, 174/ between 1 January and 30 June 1985, the Office helped repatriate 195 Salvadorian refugees from Nicaragua, 56 from Costa Rica, 18 from Panama and 334 from Honduras.

V. HUMAN RIGHTS IN ARMED CONFLICTS

145. As in his 1984 report, 175/ the Special Representative wishes to pay special attention to violations of human rights committed by both sides - the regular army and the guerrilla forces - in the course or in consequence of the

armed conflict in the Republic of El Salvador. It seems appropriate in this regard to recall that El Salvador is a party to the four Geneva Conventions of 1949 and the Additional Protocols of 1977 on the protection of victims of war, and that since the conflict in El Salvador is an "armed conflict not of an international character" within the meaning of those Conventions and Protocols, the relevant rules apply, particularly those contained in article 3 of each of the Conventions and in Additional Protocol II, and must be observed by each of the parties to the conflict - in other words, by the Salvadorian regular armed forces and by the opposing guerrilla forces.

146. The Special Representative will deal first with information on non-combatant or civilian casualties inflicted by bombing and other military operations of the Salvadorian regular army. He will supply the casualty figures reported to him, but wishes to emphasize that they should be treated with great caution. These are actually deaths which occurred in combat zones where investigation is extremely dangerous and to which access may be difficult. Furthermore, the fact that the fighting involves a guerrilla army makes it difficult at times to ascertain whether the casualties are combatants or not. The difficulties are illustrated by the differentiated approach used since the middle of 1984 by the Archdiocesan Legal Protection Office, which distinguishes two categories of casualties:

"Victims of political violence in military operations, including both combatants and civilians - it being impossible to establish the appropriate category for lack of identification in situ - most of whom are probably civilians"; and

"Victims of political violence killed in ambushes, clashes or patrol operations, most of whom are combatants but the appropriate category cannot be established for lack of identification in situ."

As can be seen, presumption plays an important part in this system, and this is a circumstance which must be taken very much into account.

147. According to Christian Legal Aid, 176/ the number of people who met a violent death as a result of air and infantry bombing by the armed forces and who were described as being of "no specified occupation" was: 127 in January; 78 in February; 42 in March; 82 in April; 37 in May; 28 in June; 19 in July; 31 in August; and 39 in September 177/, that is, a total of 483 in the first nine months of the year.

148. According to Legal Protection, the victims of civil violence in military actions, "including both combatants and civilians - it being impossible to establish the appropriate category for lack of identification in situ - most of whom are probably civilians", numbered 90 in January 1985, 178/ 130 in February, 179/ 79 in March, 180/ 76 in April, 181/ 73 in May, 182/ 133 in June, 183/ 75 in July, 184/ 74 in August, 185/ and 42 in September 186/, that is to say, 772 in the first nine months of the year. The Special Representative emphasizes the fact that, according to the source quoted, lack of identification in situ made it necessary to make certain assumptions in order to come up with those figures.

149. However, Legal Protection also gives the following figures 187/, established without making assumptions, for "civilian casualties of indiscriminate army attacks": 19 in January; 1 in February; 9 in March; 9 in April; 4 in May; 7 in June; 16 in July; 3 in August; and 1 in September.

150. The Special Representative was also able to hear witnesses regarding the casualties allegedly inflicted on the non-combatant population by the Salvadorian Army and, in particular, the Air Force.

151. Thus, a 29-year-old witness working as a domestic and normally resident in Mirandilla Canton in the vicinity of Cerro de Guazapa (Department of Cuscatlán), stated that on 14 July 1985 about 30 soldiers arrived in the canton and, after beating her and three children with their rifle butts, demanded the weapons which the latter were allegedly guarding and then set fire to the house. The following day she witnessed a bombing raid by many aircraft and helicopters which forced the people to flee to the hills. The next day they came back to the canton where she found the bodies of her three sisters and her pregnant sister-in-law bearing marks of violence. She presumed that their deaths had been caused by the soldiers. She added that on 20 July 1985 planes again dropped bombs and that afterwards she saw who had been killed (a child and an elderly man and woman).

152. Another 21-year-old witness who worked as a domestic and lived in Santa Olaya township in the Department of Cabañas stated that on the last Tuesday in August 1985, towards noon, five planes appeared overhead and dropped bombs, killing two children and three women whose bodies she personally saw. She added that guerrillas occasionally came through the town and that the people usually sold them food.

153. Another witness, 26 years old, also working as a domestic and living in Cayetano Cantón (Department of San Vicente), told how, at about 6 a.m. on 26 May 1985, two planes and a helicopter dropped eight bombs which caused no casualties but did destroy houses. She added that, at about 4 p.m. on the same day, soldiers entered the town and arrested two men who were fishing and who were later found dead. According to the witness, soldiers entered the town early in May and a boy of 14 was later found dead with a bullet through the temple.

154. Another witness, 19 years old, engaged in domestic work and living in Cerros de San Pedro (Department of San Vicente) told the Special Representative that, on 15 August 1985, members of the armed forces entered the town and killed the 23-year-old man with whom she was living as he was sowing maize. She added that on another day she had seen planes fly over and heard a bomb explode, which killed two people and set fire to the maize crop.

155. Another witness, 45 years old, a domestic living in Caserío Chaparral near Suchitoto (Department of Cuscatlán) told the Special Representative that, on 25 April 1985, when soldiers entered the town, her husband went off to hide some other people, and when the soldiers realized what he was doing, they went after him until they cornered him in a nearby ravine, two days later her husband was found dead with a bullet in the forehead. The witness added that on other dates which she could not remember, she saw bombings from the air and people killed by the bombs.

156. Another witness, 48 years old, working as a domestic and living in Platanares Canton, Caserío El Cerebral (Department of Cuscatlán), told the Special Representative that she had witnessed bombings, the last on 7 August 1985 by three planes and about five helicopters. According to the witness, this air attack was followed by a ground operation which put the townspeople to flight. She added that when they came back to the town, they found that the bombs had killed the seven members of the family of

Rodolfo Landaverde, who were buried by their neighbours. According to the witnesses, the "muchachos" (guerrillas) frequently came through the town and the people gave them food.

157. Apart from the information given in the preceding paragraphs, the Special Representative heard from independent and reliable individuals and institutions in San Salvador that, since the President of the Republic and the Armed Forces High Command had issued orders in August 1984 to respect the rights of civilians, 188/ the Salvadorian Army had taken greater care than in the previous year not to cause casualties among the non-combatant population, frequently by clearing the so-called "masas" out of the combat zones.

158. Unlike previous years, no reports had in fact reached the Special Representative of mass killings of civilians by the Armed Forces. And that was something that Americas Watch also acknowledged in its September 1985 report: "In one respect, the human rights situation did improve in the last six-month period: there were no reports of large massacres by the armed forces, such as during the prior six-month period, when massacres occurred at Los Llanitos, Cabañas and near the Gualsinga River in Chalatenango. Given the recent history of El Salvador, Americas Watch regards this as a favourable development". 189/ But the same source points out that "unfortunately, there is considerable evidence that smaller-scale abuses by the armed forces against civilians, including murder or torture, continue in the course of military or counter-insurgency operations". 190/

159. On the other hand, a report by correspondent J. LeMoyné, published in The New York Times, states

"... Most reports of air attacks come from battlefields where army ambushes and guerrilla mines make access for reporters all but impossible. Witnesses are usually highly partisan. Government officials universally defend the Air Force. Much testimony condemning bombing comes from peasants who identify themselves as rebel supporters. Determining the circumstances of a reported attack is difficult. The guerrillas regularly use isolated villages as bases and fight the army when it comes through on sweeps. In interviews in the last week with recent arrivals at three Salvadorian refugee camps, peasants from four villages in Morazán Department, as well as Roman Catholic Church and international relief officials, indicated that, at the least, the fear of being bombed by the Air Force was part of the daily life of those who remain in areas where there is frequent fighting. The interviews also indicated that the Air Force had become more accurate and more careful in its bombings in most parts of the country and that fewer civilians were being killed or wounded. An international relief official, who has no ties to either the Government or the United States Embassy and who has been critical of the Air Force in the past, said he would no longer describe its attacks as indiscriminate. But refugees from heavily contested rebel-held areas, particularly Guazapa volcano, 18 miles north of San Salvador, have given repeated accounts of air attacks on civilians and on villages that support the rebels. There is also a handful of reports of incidents in other parts of the country in which civilians who are not rebel supporters say they were attacked by aircraft without proper cause. Although there have been several reports in the United States citing the use of napalm against civilians and rebels in El Salvador, none of those interviewed in recent weeks mentioned napalm or burning explosives. Salvador military officials have confirmed that they have napalm but have contended that it has not been used." 191/

160. Dan Williams, another correspondent, reports the following in the 19 July 1985 issue of the Washington Post:

"... It is difficult to verify the charges of indiscriminate bombing because the guerrillas have mined many of the approaches to the areas they control and ambushes by both sides have made other parts of the country insecure. Interviews with refugees from three frequently bombed regions and with relief workers with access to battle zones yielded little evidence to support the charge of widespread bombing. There are many tales of bombing and strafing, but such attacks do not seem to be indiscriminate and few civilian casualties have been reported."

161. According to information supplied to the Special Representative in San Salvador, the Salvadorian armed forces acknowledged that in one instance they made a mistake; to be specific, on 6 August 1985 they bombed the small settlement of Octopal, in northern Chalatenango, close to the border with Honduras, and the bombs killed a woman and her two small children and destroyed a number of houses and some crops. On 10 August, General Bustillo paid out 60,000 colones on behalf of the Air Force by way of compensation. In any event, in the view of the Special Representative, these facts are important because they demonstrate the determination of the Government of El Salvador to conduct the war in conformity with the rules of jus in bello.

162. While stressing once again how difficult it is to establish exactly or even approximately how many civilian deaths can be attributed to the military operations of the Army, the Special Representative is genuinely convinced, as a result of much reflection and careful evaluation of the above information, that there have indeed been civilian casualties but he has the impression that this year there have not been as many as last year. The Special Representative also believes that the aggressive actions of the Army are causing unwarranted damage, to an extent that it is difficult to determine, to private property. In any event, although in his previous report to the Commission on Human Rights, the Special Representative indicated that the number of civilian deaths in 1984 was "probably high" 192/, he is now in a position to say that in 1985 the figure was lower. In the view of the Special Representative, the Salvadorian Army is endeavouring to conduct the war in a more humanitarian manner than in the past and is therefore not pursuing a policy of indiscriminate bombing, although in a few cases air and mortar attacks are causing civilian casualties. In any event, the Special Representative wishes to express his concern that there have been civilian deaths; he fervently hopes and trusts that in its conduct of the war the Salvadorian Army will fully respect the civilian population.

163. The Special Representative is also concerned about other aspects of the way in which the Army of El Salvador is conducting the war. For example, according to the local press, 193/ in June 1985 the Army dismantled a clandestine hospital that was serving the FMLN in Cerro El Pulpito, in the Department of San Vicente; and, again according to the local press, 194/ a clandestine clinic operated in the hamlet of Los Mangos, Nueva Concepción (Chalatenango), for the treatment of emergency cases among the guerrillas was located by the Army and destroyed in the course of a military operation. Moreover, the Special Representative has learned from statements made by political prisoners that the armed forces arrest doctors who provide medical care to FMLN combatants.

164. According to the international press, 195/ officers of the Salvadorian armed forces prevented CARITAS, the humanitarian organization, from distributing food to the population in the Department of Chalatenango.

Statements made by Monsignor Rivera y Damas, Archbishop of San Salvador, were quoted as the source of that information.

165. The Special Representative once again asked the competent authorities about the treatment by the Salvadorian Army of guerrillas captured in the fighting. The reply given was similar to that of previous years, namely, that few guerrillas were captured in the fighting, owing to their courage and their readiness to fight to the death, but that when they were captured the Army spared their lives, both on humanitarian grounds and in order to extract information from them. In Salvadorian prisons the Special Representative did in fact speak with guerrillas captured in the hostilities, for example, with Commander Nidia Díaz.

166. The Special Representative will now give an account of the conduct of the guerrilla forces in the context of the war.

167. In that connection, the Special Representative should point out that he has also received lists indicating the number of civilians killed as a result of guerrilla military operations in the course of 1985. According to Legal Protection, in January there were no deaths, 196/ in February there were six, 197/ in March, five, 198/ in April, seven, 199/ in May, none, 200/ in June, three, 201/ in July, none, 202/ in August, none, 203/ and in September, three. 204/ The Special Representative wishes to draw attention to the fact that, unlike the case of deaths attributed to the Army, Legal Protection does not make assumptions relating to deaths attributed to the guerrillas; he also wishes to point out that in any case the number of deaths attributed to the guerrillas is much lower than that attributed to the regular armed forces.

168. The Special Representative was told by the competent authorities in San Salvador that many of the civilian casualties had resulted from the explosion of contact mines put in place by the guerrillas. The Special Representative learned from reports in the San Salvador press that in several cases the explosion of such mines caused the death of minors. For example, on 8 April 1985 a girl of nine died in a village in the Department of San Vicente, 205/ on the same day another girl of 14 died in Juacarán, Department of Usulután; 206/ on 24 April, a girl and a woman 207/ died in a district of the Department of Morazán; and on 30 June there schoolchildren died in the hamlet of El Jute near Santa Ana. 208/ The Special Representative has read reports, again in the local press, that children have died as a result of other types of guerrilla attacks.

169. According to Legal Aid, 209/ on 8 April 1985, following a clash between members of the armed forces and the FMLN in Santiago Nonualco, the insurgents reached the town of Santa Cruz Loma, where members of the Civil Defence apparently mistook them for members of the regular army. The guerrillas then proceeded to disarm the members of the Civil Defence and executed six of them. According to the same source, in the period from April 1980 to June 1983 a number of people were killed by the Civil Defence in Santiago Nonualco. The same source reports 210/ that, in the course of the fighting that took place on 8 April 1985 between members of the FMLN and members of the Civil Defence in Santa Cruz Loma, shellfire from a 90-mm guerrilla gun hit a building, igniting an ammunition dump inside, with the result that nine armed members of the Civil Defence and two adult civilians and two children died from the explosion. The international press also reported those incidents. 211/ The FMLN expressed deep regret about those deaths and explained 212/ that its forces had been unaware of the presence of the people in the building, which was a barracks and therefore constituted a military objective.

170. Moreover, according to a FMLN communiqué, on 31 March 1985 in the course of fighting in the vicinity of San Gerardo a civilian vehicle appeared in an ambush area and was ordered to stop; since the driver, instead of heeding the order, accelerated, the FMLN opened fire on the vehicle, wounding a number of people, including José René Miranda, a seminarist, who subsequently died. 213/

171. While the above reports are disturbing, the reports of the release of regular soldiers captured by the FMLN are encouraging. For example, according to an official ICRC publication, 214/ from January to June 1985, 37 members of the armed forces captured by the FMLN in four separate operations were released in the presence of the ICRC. The Special Representative does not know whether that figure includes the 11 combatants released by the FMLN on 11 April 1985, following the fighting at Santa Cruz Loma, as reported by Legal Aid. 215/ The Special Representative points out that the FMLN also consents to ICRC collaboration.

172. The Special Representative was informed that at the beginning of February 1985 a truce was arranged to permit the immunization of 400,000 children. 216/

173. According to publicly-released information 217/ the FDR-FMLN offered to suspend military operations over Christmas between 24 and 26 December and between 31 December and 2 January. The military authorities stated in reply 218/ that all army operations were in retaliation against guerrilla attacks.

VI. CONCERN OF THE GOVERNMENT OF EL SALVADOR FOR HUMAN RIGHTS

174. In his previous reports, the Special Representative indicated that he had found the top officials of the Republic of El Salvador to be sincerely concerned about improving the human rights situation in the country, a concern which was gradually producing commendable results. On his latest visit to the country in September 1985, the Special Representative found that the Government remained firmly committed to a policy of respect for human rights. His conversations with top officials of the executive, legislative and judicial authorities, including the President of the Republic, strengthened the Special Representative in his conviction that, in the context of the progressive democratization of the country, respect for human rights was an important aspect of the current policy of the Republic of El Salvador.

175. In his previous report to the Commission on Human Rights, 219/ the Special Representative referred to the measures taken in this connection by the Government set up after the presidential elections of May 1984. The Special Representative will now describe the measures taken in 1985, which in fact continue, develop and expand those taken in 1984.

176. The Special Representative was informed by the Vice-Minister for Public Security, Colonel López Nuila, that the P.O.N. (Normal Operational Procedure for arrests made by members of the Armed Forces) was still in force in all units of the armed forces and security bodies and that, in addition, so-called "Directive No. 2 governing the work of the Human Rights Advisory Office of the Vice-Ministry of Public Security" had been enacted. 220/ In April 1985, the Office of the Deputy Minister issued certain "rules supplementing the P.O.N." which, subject to the Constitution and Decree No. 50, sought to correct a number of irregularities discovered in the arrest and detention of political prisoners. The purpose of the P.O.N. and the above-mentioned directive is to ensure that, in performing their functions, members of the armed forces and security bodies respect human rights.

177. The Special Representative also wishes to refer to the human rights education given compulsorily to all members of the armed forces and security bodies. According to the explanation received from the Deputy Minister for Public Security and the documentation supplied to the Special Representative, 221/ 15 priests appointed by the Catholic bishops of El Salvador and co-ordinated by a prelate are working actively on such education with heads, officers, troops and agents of the armed forces and security bodies. Furthermore, the Human Rights Advisory Office has been set up and has ruled that it is now compulsory for anyone seeking promotion in the public security bodies to study the following subjects: ethics, human rights and human relations. The information in question indicates that, to date, these subjects have been taught in eight professional-level courses for officers, and the 15 priests have given 400 talks on these subjects to 13,000 members of the security bodies. The above-mentioned documentation also indicates that a "basic primer and other provisions on human rights which must be followed by members of the public security bodies" has been prepared. The Special Representative received a copy of this basic primer.

178. The Ministry of Education, in pursuance of article 60 of the present Constitution, has also undertaken to teach human rights in the broad sectors within its sphere of competence, particularly through the adoption of the so-called "Programme of Moral and Civic Values and Human Rights". To that end, and as indicated by documentation supplied to the Special Representative in San Salvador, 222/ a national committee has been set up to elaborate rules governing activities relating to moral and civic values and human rights in El Salvador, designing a frame of reference by means of which each of the participating institutions pledges to undertake specific activities. The documentation includes a long list of activities planned for 1985, as well as a list of those already carried out. The latter include the organization of the "First Workshop on Moral and Civic Values and Human Rights in El Salvador" and attendance at the "First Inter-American Seminar on Education and Human Rights" held at San José, Costa Rica, from 8 to 12 July 1985.

179. The Salvadorian Human Rights Commission (governmental), whose establishment under the Apaneca Pact was described by the Special Rapporteur in his previous reports, has continued its work during 1985. Thus, according to documentation supplied to the Special Representative in El Salvador, 223/ the work done between 1 September 1984 and 31 July 1985 is as follows: the Commission received 206 complaints of violations of human rights. In order to process them it sent 413 official communications to the competent authorities and made 71 visits to the military courts; it assisted 550 persons who wished to find out the reasons for the detention of their relatives and the latter's situation; it processed 65 cases referred by the regional offices; it kept records on 1,619 detained persons currently under investigation, of whom 774 were released and 230 handed over directly to the Commission, interviewing 898 detained persons and reporting cases in which the arresting authority had used some means of coercion against the detainee; it conducted 36 proceedings to verify human rights violations reported by the public; and it set up a medical-surgical clinic whose doctors provide medical care in detention centres (335 examinations). The information also describes the activities of the Commission's regional offices in San Miguel and Santa Ana. Finally, the Commission has also carried out activities to promote human rights by means of lectures and courses. Once again, the Special Representative feels that, although in the overall human rights situation in the country, the Commission's role is a modest one, its activities are commendable since they frequently make things easier for persons who are suffering the distressing consequences of the civil war in El Salvador.

180. With regard to the reports submitted by the Human Rights Commission (governmental) on human rights violations by members of the armed forces, the Special Representative has examined the abundant documentation submitted by the Government of El Salvador, 224/ which states that the commanding officers of those forces process these reports and investigate them. At the headquarters of the Human Rights Commission, the Special Representative examined some of these reports, one of which referred to torture inflicted on an individual by a member of the Civil Defence and confirmed by the Commission's doctor. When the complaint was referred to the military authorities, the latter brought the alleged culprit before a magistrate but the latter ordered his release for lack of evidence. The Special Representative saw similar records of cases in which the alleged culprits had been tried by the law courts.

181. As in previous years, the Special Representative was informed 225/ that the ICRC is continuing its humanitarian work in El Salvador. Specifically, in the first six months of 1985, the ICRC carried out 406 distributions of food to an average of 112,000 people a month, provided medical care to 33,996 persons, distributed medicines valued at 694,557 colones, took charge of the immunization of children in combat zones, made 970 visits to 206 places of detention and registered 822 detainees, received 636 requests to look for missing persons, and gave information talks on the fundamental rules of international humanitarian law to members of the armed forces and the FMLN. The Special Representative highly commends the work of the ICRC and believes, moreover, that the fact that the Government of El Salvador permits these humanitarian activities is one more indication of its concern for respect for human rights.

182. One important demonstration of the concern of the authorities of the Republic of El Salvador for respect for human rights are the plans for judicial reform, about which the Special Representative received copious information and documentation during his visit to the country in September 1985. 226/ On 13 July 1984, the Governments of El Salvador and the United States concluded the so-called "Donation Agreement for the Judicial Reform Project", ratified by the Legislative Assembly and published in the Diario Oficial (Official gazette). 227/

183. The agreement was modified by Amendment No. 1, signed on 14 May 1985 and also ratified by the Legislative Assembly and published in the Diario Oficial. 228/ Both instruments provide for the establishment of a "Committee to review Salvadorian Legislation", this Committee was set up by the Legislative Assembly of El Salvador by means of Decree No. 39 of 13 June 1985. 229/

184. According to the documentation mentioned in the preceding paragraph, the main purpose of the Review Committee is to study and analyse critically the judicial system and the laws and rules governing it in all areas - not just the areas of criminal law and criminal proceedings - in order subsequently to draw up bills and regulations. Accordingly, the preamble to the Decree setting up the Committee indicates that "one of the Government's principal objectives is to improve the administration of justice in the country in order to guarantee the rights of inhabitants of the Republic and the fulfilment of their duties, to which end a critical analysis must be made of the system of justice and the relevant reforms must be made in national legislation". According to the explanations received by the Special Representative, the members of the Committee have already been appointed and it is now actively engaged in planning its work, in which it will doubtless give priority to criminal matters and criminal proceedings.

185. According to the information mentioned above, however, the establishment of the Committee to review Salvadorian legislation does not cover all aspects of the judicial reform project. That project has in fact three other components, namely: the "judicial protection unit", the "commission to investigate criminal acts", and the "judicial administration and training unit". The "judicial protection unit" is designed to organize, train and equip a special police force to maintain the integrity of the judicial process, ensure the security of the courts, and prevent the intimidation of witnesses, members of the jury and other persons involved in the judicial process, especially in criminal proceedings. The "commission to investigate criminal acts", for its part, is intended to investigate criminal acts which have serious repercussions on the country's public and social order. Finally, the "judicial administration and training unit" is designed to identify, within the judicial system, needs related to human resources, administrative capacity, equipment, installations and the training of magistrates and other persons involved in the judicial process.

186. In January 1986, the Special Representative received additional information on the work of the aforementioned Review Committee. 230/ According to that information, the Committee has now been completed and its proposed activities approved. Receipt of initial funds in October permitted staff selection. Technical-juridical personnel were appointed (nine lawyers working for various committees), overall policies established, offices set up and consultation meetings announced for January.

187. The Special Representative welcomes these projects for reform of the administration of justice and finds them worthwhile, but he does not think that they will produce tangible results in the short term. Their effects will make themselves felt gradually in Salvadorian society in the medium and long term because, in the final analysis, civic attitudes and habits will have to be changed and those changes cannot be made overnight.

188. The Special Representative believes that the authorities of the Republic of El Salvador are genuinely persisting in their policy of improving the human rights situation, as part of the process of democratization, and hopes that such efforts will soon succeed in abolishing all violations of human rights and fundamental freedoms in the country.

VII. CONCLUSIONS

189. After careful and conscientious evaluation of the abundant information contained in this report, the Special Representative is now in a position to offer some conclusions which, as on previous occasions, reflect his personal convictions. It should be pointed out, however, that owing to the terms of his mandate and the nature and circumstances of the investigation, these conclusions do not refer to specific acts or events but to the general human rights situation in El Salvador during 1985. This is the case also because the tremendous volume of information on human rights violations received by the Special Representative has prevented him from undertaking the necessary investigations to ascertain the real facts in each of the many cases communicated to him. By this, the Special Representative means that his task of investigating and evaluating the human rights violations that occurred in El Salvador in 1985 can in no way be equated with the functions of a court of justice. As a result, this report has neither the characteristics nor the significance of a judicial sentence. With these explanations, the Special Representative wishes to formulate the conclusions which follow.

190. With regard to economic, social and cultural rights, the Special Representative notes that the general situation described in his previous reports has not changed significantly. In any case, the Special Representative takes into account the serious economic difficulties being experienced by the country owing to the conflict, the world economic crisis and other causes, and also understands that these rights cannot improve overnight but only through a gradual process of reform which requires, among other things, a climate of complete social peace. The Special Representative notes indications that labour leaders have been arrested by government agents in a growing atmosphere of labour unrest, and also notes with concern the effects which the methods of war used - attacks by the military forces and, in particular, systematic attacks by the guerrilla forces on the country's economic infrastructure - have on the present and future enjoyment by the Salvadorian people of important, economic, social and cultural rights.

191. With regard to non-combat-related violations of the right to life by agents of the State apparatus, the Special Representative is morally convinced that, during 1985, political murders of civilians have continued, some of them using the method of abduction and subsequently having the victims disappear. Murders of this kind have on occasion been perpetrated by extreme right-wing paramilitary organizations, some of them presumably connected with or tolerated by lower-ranking agents of the State. With regard to the total number of these summary executions, the Special Representative has the impression that it is largely the same as the average for the second half of 1984 when, following the election of Mr. Duarte as President of the Republic, there was a marked decline in the figures as a result of the adoption of a new government policy of greater prevention and control of the activities of the death squads and specific State organs.

192. The Special Representative has also found indications that severe psychological pressure, equivalent to cruel, inhuman or degrading treatment, has been exerted in extra-judicial interrogations of some political prisoners. The Special Representative does not believe, however, that this represents a deliberate and systematic policy on the part of the Salvadorian authorities, although the most recent information confirms the disturbing persistence of this practice.

193. With regard to the capacity of the Salvadorian criminal justice system to investigate and punish serious politically-motivated violations of human rights, the Special Representative continues to believe that the situation is highly unsatisfactory, in view of the fact that most of these violations still have not been investigated and punished. He believes, moreover, that judicial procedures for investigating and punishing acts of collaboration with the armed opposition are excessively slow, do not always respect the laws in force and are sometimes held up by extrajudicial statements obtained through coercion and not always reflecting the truth. The Special Representative takes note, none the less, of the difficulties which exist in this connection and the attempts to reform the Salvadorian legal system and the organization of the judiciary, attempts which appear worthwhile and commendable although it cannot be assumed that they will produce tangible results in the short term.

194. With regard to violations of human rights committed in military operations by the Salvadorian Army, the Special Representative notes with concern that such actions continue to result in unjustified deaths and injuries among the civilian population and damage to property, although he has the impression that the number of civilian victims is lower than last year, no doubt due to the fact that, on instructions from the Government, the armed forces are attempting to conduct the war in a more humanitarian fashion than in the past.

195. Finally, the Special Representative once more notes the policy of the Government of El Salvador with regard to respect for human rights and, whereas in his previous report to the Commission on Human Rights 231/ he noted that this government policy had proved more effective than in previous years, he can now state that in 1985 the most significant result of this policy can be seen in the combat behaviour of the armed forces which, in an effort to humanize the war, are causing fewer casualties than last year among the non-combatant population.

196. With regard to non-combat-related violations of human rights by the guerrilla forces, the Special Representative has observed a disturbing increase in the number of individual and collective murders of persons who, in his judgement, cannot be regarded as combatants, as well as a disturbing increase and greater selectiveness in abductions of civilians. Furthermore, with regard to the combat actions of the guerrilla forces, while it is true that on three occasions the guerrillas have released captured soldiers of the Salvadorian Army through the ICRC, in one instance they summarily executed disarmed combatants without justification. The Special Representative also notes with concern that guerrilla combat actions cause unjustified deaths and injuries among the civilian population - in lesser numbers than the Army, according to all indications - and damage to private and public property.

VIII. RECOMMENDATIONS

197. Bearing in mind the concern expressed by the Government of El Salvador and other interested sectors about human rights violations, and taking into account in particular the quintessential character of the right to life and the fact that violations of that right are irreversible, the Special Representative recommends in the first place and again most emphatically that all interested parties should immediately take the necessary steps to terminate attacks on the lives of non-combatants, both in non-combat situations and in combat or as a result of the fighting.

198. The Special Representative continues to think that the achievement of civil peace is a vital prerequisite for the respect of the right to life and, in general, for the respect of other civil and political rights and for gradual improvement of the enjoyment of economic, social and cultural rights. He therefore once again strongly recommends that the Government of El Salvador and the left-wing opposition forces should take the necessary measures to put an end to the violence and war and bring peace to the country. In this connection, both parties to the conflict should endeavour to ensure peace through dialogue, a dialogue which must be sincere, generous and open and not just tactical, and motivated by the idea of saving the lives of Salvadorian citizens and the desirability of establishing peaceful, stable, democratic and pluralistic coexistence in the country. In any event, until a negotiated peace is achieved, and regardless of the terms of such negotiation, the Special Representative reminds the Government and the guerrilla forces of the compelling obligation to take steps to humanize the war, particularly with regard to respect for the lives of civilians and the treatment of persons captured in combat. This would be achieved by respecting scrupulously the relevant provisions of the Geneva Conventions of 1949 and the Additional Protocols of 1977, instruments in force to which the Republic of El Salvador is a party.

199. Finally, the Special Representative recommends to the legislative, executive and judicial authorities in power in the Republic of El Salvador that they adopt the following measures:

(a) The repeal of all legislative and other measures that are incompatible with the provisions contained in the international instruments on protection of human rights and fundamental freedoms which are binding on the Republic of El Salvador,

(b) The strengthening of control by government authorities over units and members of the armed forces and security bodies and over all types of armed individuals and organizations, including in particular the so-called "death squads", until violations of the right to life and other rights and fundamental freedoms have been completely eradicated,

(c) Increased monitoring of investigations carried out in the security bodies in order to eliminate from the interrogation of political prisoners any treatment which might amount to torture or cruel, inhuman or degrading treatment,

(d) The energetic and courageous adoption by the authorities of the Republic of El Salvador of the necessary measures to investigate and punish violations of human rights and fundamental freedoms in the swiftest, most exemplary and most effective manner, including the dismissal of civilian officials and heads, officers and other members of the armed forces and security bodies who have committed such violations,

(e) The furtherance and intensification at all levels, particularly among members of the armed forces and security bodies, of mass campaigns to promote respect for human rights and fundamental freedoms,

(f) The continuation and broadening, in a genuinely human, social, democratic and pluralistic spirit, of administrative and social reforms, including judicial reform and agrarian reform, so that Salvadorian citizens may enjoy the rights and freedoms proclaimed in the international instruments binding on the Republic of El Salvador.

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2/ 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.

3/ A/37/661, 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", 22 November 1982.

4/ E/CN.4/1983/20, "Final report on the situation of human rights in El Salvador, submitted to the Commission on Human Rights by Professor José Antonio Pastor Ridruejo in fulfilment of the mandate conferred under Commission resolution 1982/28", 20 January 1983.

5/ A/38/503, annex, "Interim report on the situation of human rights in El Salvador prepared by the Special Representative of the Commission on Human Rights", 22 November 1983.

6/ E/CN.4/1984/25 and Corr.1, "Final report on the situation of human rights in El Salvador, submitted to the Commission on Human Rights by Professor José Antonio Pastor Ridruejo in fulfilment of the mandate conferred under Commission resolution 1983/29", 19 January 1984.

7/ A/39/636, annex, "Report on the situation of human rights in El Salvador prepared by the Special Representative of the Commission on Human Rights", 9 November 1984.

8/ E/CN.4/1985/18, "Final report on the situation of human rights in El Salvador, submitted by Professor José Antonio Pastor Ridruejo in fulfilment of the mandate conferred under Commission resolution 1984/52", 1 February 1985.

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- 21/ E/CN.4/1985/18, paras. 31-39.
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- 24/ "1 + 1", 12 April 1985.
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- 26/ El Mundo, 25 April 1985.
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