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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Situation of human rights in El Salvador

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report on the situation of human rights in El Salvador prepared by Professor José Antonio Pastor Ridruejo, Special Representative of the Commission of Human Rights, in accordance with paragraph 12 of Commission resolution 1986/39 of 12 March 1986.

* Reissued for technical reasons.

ANNEX

Report on the situation of human rights in El Salvador prepared
by the Special Representative of the Commission on Human Rights
in accordance with paragraph 12 of Commission resolution 1986/39

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I. INTRODUCTION

1. In its resolution 35/192 of 15 December 1980 on the situation of human rights and fundamental freedoms in El Salvador, 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 with 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 (A/36/608, annex). On 16 December 1981, the General Assembly adopted resolution 36/155.
4. In 1982, the Special Representative submitted his final report to the Commission on Human Rights (E/CN.4/1502). On 11 March 1982, the Commission adopted resolution 1982/28, extending the mandate of the Special Representative for one year.
5. Since then, the General Assembly and the Commission on Human Rights have examined the following reports of the Special Representative: A/37/661, annex; E/CN.4/1983/20; A/38/503, annex; E/CN.4/1984/25 and Corr.1; and A/39/636, annex, and have each year renewed his mandate.
6. At its thirty-ninth, fortieth and forty-first sessions, the Commission on Human Rights continued its consideration of the situation of human rights and fundamental freedoms in El Salvador (resolutions 1983/29, 1984/52 and 1985/35). At its thirty-sixth, thirty-seventh, thirty-eighth and thirty-ninth sessions, the General Assembly also continued its consideration of the question (resolutions 36/155, 37/185, 38/101 and 39/119).
7. In its resolution 40/139 of 13 December 1985, the General Assembly commended the Special Representative for his report (A/40/818, annex) prepared in accordance with resolution 1985/35 of the Commission on Human Rights.

8. On 4 March 1986, the Special Representative submitted his final report (E/CN.4/1986/22) to the Commission on Human Rights.

9. On 12 March 1986, the Commission adopted resolution 1986/39, by 39 votes to none, with 4 abstentions. By this resolution, the Commission, inter alia, decided to extend the mandate of the Special Representative for another year, in the hope that the human rights situation in El Salvador would continue to improve, and requested the Special Representative to submit his report on further developments in the human rights situation in El Salvador to the General Assembly at its forty-first session and to the Commission on Human Rights at its forty-third session.

10. In his previous reports, 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, 1984 and 1985. In this report, the Special Representative will deal primarily with the situation prevailing in 1986. It should be pointed out, however, that there is a natural continuity between the earlier reports and the present report, which should therefore be considered in the light of those reports (see paras. 3-5).

11. As on previous occasions, the Government of El Salvador co-operated fully in the drafting of this report, for which the Special Representative is deeply grateful. Such co-operation included authorization for the Special Representative to return to the country without any restriction as to the places he might wish to visit, although he was to be at all times and in all circumstances under the Government's protection, in accordance with the principles of international law. In any case, since the Government of El Salvador continues to have legal reservations concerning the mandate of the Special Representative, the latter's visit was authorized not in that capacity but in his capacity as a Spanish citizen.

12. Other sectors of the country, including the Church, the armed opposition, human rights organizations, private associations and individuals, co-operated with the Special Representative in the implementation of his mandate. The Special Representative once again expresses his deep appreciation for this co-operation.

13. The Special Representative arrived in El Salvador on Sunday, 21 September 1986, and remained there until Saturday, 27 September. During his stay in the country, the Special Representative had talks with the following officials: H.E. Mr. José Napoleón Duarte, President of the Republic; Mr. Ricardo Acevedo Peralta, Minister for Foreign Affairs; Mr. Guillermo Antonio Guevara Lacayo, President of the Legislative Assembly; Mr. Francisco José Guerrero, President of the Supreme Court of Justice, accompanied by other judges; Mr. Julio Samayoa, Minister of Justice, accompanied by Mr. Luis Domínguez Parada, General Secretary of the Criminal Investigation Commission; Mr. Edgar Belloso Funes, Minister of the Interior; Mr. José Alberto Buendía Flores, Minister of Education; Mr. Miguel Alejandro Gallegos, Minister of Labour and Social Security; General Carlos Eugenio Vides Casanova, Minister of Defence, accompanied by the Vice-Minister in charge of Public Security, the Chief of Staff and the Directors of the State Security Forces; Mr. José Francisco Guerrero, Attorney-General of the

Republic; Mr. Mario Samyoa, President of the Central Council for Elections; Mr. Ernesto Criollo, President of the Review Commission on Salvadorian Legislation; General Adolfo Bustillo, Chief of the Air Force; and the permanent members of military courts of first instance Nos. 1, 2 and 3.

14. The Special Representative also had interviews in El Salvador with members of the Episcopal Conference; 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; representatives of the Human Rights Commission of El Salvador (non-governmental); representatives of the Committee of Relatives for the Freedom of Persons Detained or Missing for Political Reasons in El Salvador (CODEFAM); representatives of the Committee of Mothers and Relatives of Persons Detained, Missing or Killed for Political Reasons in El Salvador; representatives of the trade union National Unity of Salvadorian Workers (UNTS); representatives of the trade union National Union of Workers and Peasants (UNOC); Mr. Alfredo Martínez Moreno, a Salvadorian lawyer; and, lastly, diplomatic representatives of various countries of Europe and the Americas.

15. The Special Representative visited the Mariona and Ylopango prisons, where he was able to speak with as many political prisoners as he wished on a completely free and confidential basis. He also visited Zacatecoluca, where he spoke with peasants evacuated from the conflict zones. At the offices of the Archdiocese of San Salvador, he heard statements by as many as 22 witnesses made available by the Legal Protection Office, the Legal Aid Office and the Human Rights Commission (non-governmental).

16. In June 1986, the Special Representative met in Madrid with a representative of the Legal Aid Office. In July 1986, in the same city, he talked with a representative of the Political and Diplomatic Commission of the FMLN-FDR (Frente Farabundo Martí para la Liberación Nacional - Frente Democrático Revolucionario) and had a further interview with that representative in September 1986 in New York.

17. Lastly, in October 1986 in New York, the Special Representative talked with a representative of the Lawyers Committee for International Human Rights and had an interview with a representative of Americas Watch.

II. GENERAL POLITICAL SITUATION

18. As in his earlier reports, the Special Representative proposes to report in this section on those general political issues which in 1986 had the greatest impact on respect for human rights.

19. The Special Representative first wishes to point out that the state of siege remains in force in El Salvador and is extended from month to month by the Legislative Assembly, in accordance with the Constitution. The constitutional freedoms and safeguards thus suspended are the following: freedom of movement, freedom of speech and freedom of correspondence.

20. With regard to the dialogue between the constitutional Government of El Salvador and the FMLN-FDR, on the vicissitudes of which the Special Representative provided extensive information in earlier reports (E/CN.4/1985/18, paras. 31-39; E/CN.4/1986/22, paras. 36-39), it was reported in the press 1/ that, in early March 1986, President Duarte wrote a letter to President Ortega of Nicaragua proposing that negotiations be launched simultaneously with the guerrilla movements of their respective countries. According to the same source, on 11 March Mr. Ungo, President of the FDR, agreed to a resumption of the national peace dialogue although he was not prepared to make it conditional on the launching of a simultaneous dialogue between the Sandinist Government of Nicaragua and the contra opposition.

21. According to later news reports, 2/ in a televised address broadcast in early June 1986, President Duarte invited FMLN guerrilla leaders to participate in a round of talks aimed at ending the war. These talks were to be conducted "without weapons, in national territory, in late July or early August". On 4 June, the guerrilla forces agreed to the proposal. Subsequent news reports 3/ confirmed President Duarte's intention of negotiating, even though heavy fighting took place in mid-June between the army and FMLN guerrilla fighters at the city of San Miguel in eastern El Salvador, with loss of life on both sides.

22. On 20 August, representatives of the Government and the FMLN-FDR did in fact hold some confidential preparatory meetings at a secret location in Mexico City, in the presence of Monsignor Rivera y Damas, Archbishop of San Salvador, in order to set the date, place and agenda of the peace talks. 4/ Agreement was reached at those meetings to hold the third round of talks at a place called Sesori, 150 kilometres east of San Salvador, the following 19 September.

23. The Special Representative learned from the international press 5/ that President Duarte went to Sesori on 19 September, even though he knew that the representatives of the guerrilla forces would not attend because their other demand - that the area be demilitarized - had not been met. On that occasion at Sesori, President Duarte reportedly said that he would not agree to a third preparatory meeting with the guerrilla forces but was prepared to embark forthwith on the third round of talks with them. According to the same source, in the early hours of that day the FMLN attacked army positions at Ciudad Barrios, only a few kilometres from Sesori, shortly before President Duarte and his party arrived.

24. The Special Representative does not consider it within his mandate to make any assumptions or observations as to the nature (public or private), place and content of the dialogue. These are matters which the parties alone must resolve. However, he does wish to say that the need for a dialogue has been emphasized by most countries of the international community, as successive resolutions of the General Assembly and the Commission on Human Rights demonstrate, and, more importantly, that the vast majority of the Salvadorian people want talks and, ultimately, peace. Neither the constitutional Government of El Salvador nor the FMLN can thwart the expectations and aspirations of the Salvadorian people. As a result, the Special Representative believes that the dialogue must not be used as a means of scoring tactical political advantages but be regarded as an end in itself: the attainment of peace or, at least, the humanization of the conflict.

25. Furthermore, as in previous years, the Special Representative held a meeting in El Salvador with the President of the Central Council for Elections, who reported to him at length on the work of that body. In 1986, that work involved the preparation of a new, accurate and comprehensive electoral roll in accordance with the provisions of the Electoral Registration Act adopted by the Legislative Assembly last May. 6/

III. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

26. According to the Economic Commission for Latin America and the Caribbean (ECLAC), 7/ in 1985, as in 1984, El Salvador's economy experienced a slight growth (1.4 per cent), thus emerging from the period of recession that had begun in 1979. The Commission's report notes, however, that the sixth consecutive year of war has taken its toll on production, increasing social costs and causing social and political tensions. In 1985, inflation reportedly doubled and the current account deficit increased. Public finance significantly reduced its proportion of the fiscal deficit, however.

27. Within the overall framework imposed by a state of war, two phenomena stood out in 1985. On the one hand, economic agents gradually adjusted to the situation, thereby helping to reactivate production which had been declining for a number of years. On the other hand, the war had and continues to have macro-economic repercussions, including a rapid process of urbanization which has given rise to new needs the satisfaction of which, albeit partial, has been an incentive to certain productive activities such as construction. 7/

28. The Commission notes that the reactivation of El Salvador's economy in 1985 was, to a large extent, stimulated by foreign aid and by remittances sent home by Salvadorian nationals residing abroad. As for production, with the exception of the agricultural sector all economic activities increased their turn-over, in response principally to the expansion of internal consumer demand and investment. Housing construction, manufacturing and trade reportedly increased. Only agricultural production declined significantly, affecting both exports and products for domestic consumption. Exports were affected both by the depression on international markets and by the war. 7/

29. As for the main export crops - coffee, cotton and sugar - it is hoped that coffee production will pick up as a result of the rise in coffee bean prices in 1986, although the possibility of deferring exporters' earnings by issuing bonds is now being considered in order to reduce the economy's surplus liquidity. 9/ Cotton production declined by 20 per cent in 1985 as against 1984 because of the war in El Salvador and a drop in cotton prices on the world market, while sugar production continued to rise as it had in the two previous years, although at a slower rate (6 per cent), as a result of an increase in the area under cultivation and in crop yields. 9/

30. According to a report presented in person to the Special Representative by President José Napoleón Duarte on 26 September 1986, 10/ the Government is

implementing a plan to stabilize and reactivate the economy (programme of economic stabilization and recovery). The plan combines fiscal, monetary and foreign exchange measures.

31. One of the most serious problems faced by the Salvadorian economy in 1985 was a 22 per cent increase in prices as compared with 1984 caused, according to the report, by spiralling inflation brought on by speculation, high liquidity and exchange rate fluctuations. In early 1986, however, prices began to stabilize and the inflation rate dropped to late-1985 levels.

32. In January 1986, the Government of El Salvador began to apply a number of economic measures designed to balance the economy. These included unifying exchange rates, changing tax structures, restricting imports, limiting credits to the public sector, increasing wages and freezing the prices of certain strategic commodities. These measures were designed principally to reduce the balance-of-payments deficit, stabilize prices, increase production and employment and thus improve income distribution.

33. As for individual purchasing power, the report indicates that in 1985 the inflation rate was 22.1 per cent, resulting in a decline of 35 centavos in the purchasing power of the colon by December 1985 while, in the same period, food prices (which account for approximately 50 per cent of household spending) increased by 17.9 per cent, clothing prices by 23.9 per cent and the overall cost of living by 32.1 per cent. The agricultural minimum wage remained unchanged from 1979 to 1985 while wages in the commercial, industrial and service sectors remained constant in 1985 after the increases granted in 1984 as part of President Duarte's economic plan.

34. On 1 February 1986, wage increases came into effect in the agricultural, commercial, industrial and service sectors. The agricultural minimum wage rose from 5.20 colones in 1985 to 8 colones in 1986 and from 4 colones to 7 colones for minors and the disabled. In the industrial, commercial and service sectors, the minimum wage increased from 13 colones to 15 colones in San Salvador and 11.90 colones to 14 colones in the rest of the country. However, these wage increases have reportedly not boosted purchasing power because the overall price index has gone up.

35. The measures taken under the Government's stabilization programme include the following:

- (a) Fixing of a uniform exchange rate of 5 colones per United States dollar;
- (b) Prohibition of imports of luxury goods, additional tax on exceptional profits on coffee exports, exemption from stamp duty for medicines and foodstuffs, exemption from import duties for buses, 10 per cent reduction in current expenditures;
- (c) Increase in fuel prices;

(d) Increase of 936,800,000 colones in credits available to the private sector and selective channelling of credits, with larger amounts going to the agricultural, manufacturing and commercial sectors in order to increase production and employment levels;

(e) Increase in the minimum wage in rural areas and in the industrial, commercial and service sectors of the economy;

(f) Temporary freeze on prices for essential goods and basic services;

(g) Austerity programme for public sector spending.

36. The measures taken include the revision of the Marketing and Price Regulation Act, approved on 23 January 1986, and the creation of mechanisms in the Central Reserve Bank to attract resources which are currently handled outside the banking system.

37. In his earlier reports, the Special Representative referred at length to the agrarian reform programme undertaken by the Revolutionary Government Junta in 1980. It should be recalled that, according to article 105 of the Constitution adopted on 15 December 1983 and in force since 20 December of that year, any individual or legal entity 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 cover farms larger than this.

38. According to the information received by the Special Representative, the three phases of the agrarian reform programme "... currently affect 26 per cent of the rural poor and 22 per cent of farmland. To date, Phase I of the land reform has transformed 469 large farm properties into 517 co-operatives benefiting more than 31,000 co-operative members. Under Phase III, more than 240,000 acres of farmland have been granted to 65,782 beneficiaries, who were formerly tenant farmers or sharecroppers. Under Phase II of the reform, landowners have until December 1986 to sell properties in excess of 605 acres or face expropriation without prior compensation". 11/ A major problem affecting the financial viability of phase I co-operatives is the agrarian reform debt. As many as 95 per cent of phase I co-operatives are reportedly unable to meet their debt service obligations on an estimated \$800 million in land payments, emergency credits and investment and production loans.

39. According to the report presented to the Special Representative by the President of the Republic, between June 1985 and July 1986 the Salvadorian Institute for Agrarian Reform (ISTA) took steps to speed up payment for the land covered by the reform and to hand over the land to beneficiaries. President Duarte reportedly instructed ISTA to solve pending land title and compensation cases by the end of 1986. According to the Government's report, the Salvadorian Government has, by means of co-ordination between ISTA and other State agencies, promoted and channelled the implementation of policies which have made available to co-operatives the necessary credits, marketing of agricultural inputs and produce, appropriate technical assistance, favourable treatment of the agrarian debt (6 per cent interest rate, 50-year repayment period, five grace years and/or

interest on early payments) and, in particular, social development programmes designed to improve the quality of life of recipient families by enhancing their living conditions, health, etc. 12/

40. With regard to the second phase, covering properties of between 605 and 1,250 acres, the Special Representative was informed that owners have until December 1986 to sell land in excess of 605 acres, after which holdings above this limit may be expropriated without prior compensation. It is calculated that some 41,000 acres will become available as a result of private land sales completed under phase II. As for phase III, known as the "land to the tiller" programme (maximum 17 acres), "recently passed changes in El Salvador's registry law should accelerate the phase titling process by the National Agricultural Land Financing Institute, FINATA. Beneficiaries of Phase III in February 1986 totalled 63,669 direct beneficiaries - 382,008 including family members; 240,054 acres were affected, 65,900 provisional titles issued", as well as definitive titles to 17.56 per cent of beneficiaries, "plus 1,622 owners compensated". 13/

41. During his visit to El Salvador, the Special Representative met with members of the National Union of Workers and Peasants (UNOC), a trade union of peasants and co-operative members who told the Special Representative that they believed there had been progress in the agrarian reform and that peasants now had land, something which had not happened before 1979. They also told him that they believed the agrarian reform had been a success in 90 per cent of cases and that they now had schools and clinics in the co-operatives, enabling them to educate their children and have access to health services.

42. The armed conflict reportedly continues to affect agrarian reform co-operatives and 50 of them have been totally or partially abandoned while others have suffered direct or indirect losses as a result of the war.

43. According to information submitted to the Special Representative by the Salvadorian authorities, 14/ between 1980 and July 1986 there were 704 violent deaths of agrarian reform co-operatives workers, while a further 128 were wounded and 48 disappeared or were abducted. According to the same source, the violence started to decline in 1982. Between 1980 and July 1986, damage to agrarian reform areas as a result of the violence prevailing in the country totalled 31.5 million colones (approximately \$US 6.3 million), the eastern part of the country being the hardest hit. Of these 31.5 million colones, destroyed or abandoned crops accounted for a loss of 16.9 million colones (approximately \$US 3.38 million), damage to infrastructure, 6.1 million colones (approximately \$US 1.22 million) and damage to agricultural machinery and office equipment, 3.8 million colones (approximately \$US 76,000). Harvested crops worth a total of 867,070 colones (\$US 173,415) were destroyed in storage. Of destroyed or damaged crops, cotton accounted for 29.6 per cent, with coffee and sugar also accounting for a significant portion. The Special Representative notes the adverse effects of the loss of these agricultural exports for the economy. Furthermore, according to the information provided, agrarian reform co-operatives pay out 1.9 million colones (\$US 38,000) of their production credits each year for civilian protection.

44. The Special Representative also notes that El Salvador's economy is suffering from a flight of capital, a brain drain, a loss of confidence resulting in decreased investment and losses due to power cuts and transport stoppages.

45. According to ECLAC, minimum wages remained stationary in 1985, prolonging the decline in real remuneration that began in 1980. Real incomes from employment probably contracted by as much as 45 or 50 per cent in the period 1980-1985. In the second half of 1985, this situation gave rise to labour movements, especially in the public sector, aimed principally at securing wage reviews. Approximately 40 per cent of public employees carried out work stoppages as a result of which the civil service obtained a special increase of 150 colones in December, as part of its end-of-the-year bonus, and a 17 per cent nominal increase in salaries under 1,500 colones a month. Since February 1986, these wage increases have formed part of a set of pay measures. To sum up, in 1985 there were no changes in nominal wages - in some cases for the fifth consecutive year. This means that workers' purchasing power declined by approximately 23 per cent. 15/

46. The international press 16/ reported on the labour unrest in the country, including the formation, on 8 February 1986, of the National Union of Salvadorian Workers, a broad coalition of trade unions opposed to the Government's austerity measures. This was the first time that centrist trade unions joined with left-wing unions, and even former supporters of President Duarte joined the coalition. On 21 February, the new union held the biggest protest march in six years. In another demonstration held on 1 May 1986, 17/ when between 15,000 and 20,000 workers held a march through San Salvador, members of agricultural co-operatives, construction workers, school teachers, university students and some civil servants protested the austerity measures enacted by the Government.

47. El Salvador's Minister of Labour and Social Security informed the Special Representative that between June 1985 and September 1986 there had been 54 strikes in the private sector. One of these was the strike that began violently on 26 May 1986 at the firm Industrias Unidas, S.A. In the strike, which was declared illegal by the judiciary, some workers seized the factory, preventing their co-workers from entering and thereby infringing article 13 of the Labour Code. The management called in the National Guard which removed the strikers peacefully.

48. The Minister of Labour also informed the Special Representative that, during the period mentioned in the preceding paragraph, strikes were also held in the public sector, in contravention of article 221 of the Constitution which prohibits such strikes. The State agencies affected by these strikes were the following: Salvadorian Social Security Institute, National Telecommunications Administration, Ministry of Finance, General Post Office, Salvadorian Tourist Institute, Ministry of Public Works, Ministry of Agriculture and Livestock Production, and Water Supply and Sewerage Administration.

49. The labour unrest in El Salvador has given rise to arrests of trade unionists. Some of these, subsequently released, were interviewed in San Salvador by the Special Representative and, as will be described in the corresponding chapter, said they had been subjected to severe psychological pressure during their extrajudicial interrogation.

50. In this section, the Special Representative proposes to reproduce some of the many reports on the FMLN's systematic sabotage of the country's economic infrastructure. The Salvadorian authorities once again provided the Special Representative with exhaustive information about such actions, including five documents totalling some 1,200 pages which were presented to the Special Representative in El Salvador by the Ministry of Defence and Public Security. Since these documents are too long and detailed to reproduce in their entirety, the Special Representative will summarize them and will also include some of the information provided by the international press and other sources.

51. The documentation provided to the Special Representative by the Salvadorian Human Rights Commission (governmental) 18/ reports that damage caused by FMLN-FDR organizations in the period September 1985-July 1986 can be summarized as follows: 50 attacks on public and private transportation, of which: private transportation: 8 attacks on motor vehicles, 20 on buses and 2 on heavy vehicles, consisting of machine gunnings (16), ambushes (2), burnings (6) and bombings (5); public sector: 2 attacks on motor vehicles, 16 on trains and 2 on heavy vehicles, consisting of burnings (17) and bombings (3). According to the same source, there were also five transport stoppages. Damage to private property included the following: 33 attacks on private property, including agricultural co-operatives, farms, estates and an irrigation plane, attacks on crops and the destruction of seed; 21 attacks on the economic and/or commercial sector, including three raids on shops, nine attacks on private residences (four raids, three machine gunnings and two bombings) and others, three attacks on banking institutions, three attacks on storage facilities, 15 attacks on small villages, including four instances in which villages were seized and seven in which they were ransacked. Other incidents include attacks on government institutions and/or offices: one raid on a fire station, five attacks on ANTEL offices, two fires in court offices, four attacks on town halls, a fire at the Statistics and Census Building and three attacks on schools.

52. According to information presented to the Special Representative by the authorities during his visit to El Salvador, 19/ between 1 September 1985 and 31 July 1986 the State Electricity Company (CEL) suffered 1,035 guerrilla attacks and two armed attacks which destroyed 66 metal pylons (in most cases a pole or provisional structure was blown up more than 10 times), 541 poles, 45 distribution transformers and the transformers at the La Herradura substation in the Department of La Paz and the Ateos substation in the Department of La Libertad.

53. On 2 February 1986, two workers at San Rafael Cedros in Sensuntepeque were seriously injured when a FMLN mine exploded near a transmission pole which had been blown up the night before and which they had gone to repair. Damage to CEL, including the destruction of pylons, poles, transformers, infrastructure and substation equipment, totals 96,105,856.79 colones or \$US 19,221,171.36. According to the same source, total losses suffered by CEL between 19 August 1980 and 31 July 1986 came to 227,919,834.24 colones or \$US 45,583,966.85. In the same period, the total direct and indirect costs of guerrilla attacks on property of the National Telecommunications Administration (ANTEL), including damage to telephone lines, equipment, cables, vehicles, public telephones, etc., plus the cost of additional security personnel, came to 52,352,042 colones or approximately \$US 10,460,408.

54. According to ECLAC, among basic services, electric power generation increased 6 per cent as a result of increased commercial and industrial demand, despite the damage inflicted by the war on some electricity generation and distribution systems which supply San Salvador. The aforesaid damage made it necessary to bring emergency generators into operation and to rationalize electric power distribution in the second half of the year. 20/

55. The Special Representative also notes the indirect cost to the economy of such widespread destruction and its adverse impact on the output of the industrial, commercial and public sectors.

56. According to information provided by the Ministry of Defence and Public Security, 21/ in the period 1 September 1985-31 August 1986, violations committed by members of the FMLN-FDR can be summarized as follows: a total of 1,793 violations, which can be divided into the following categories: individuals shot dead: 158; individuals killed by booby traps: 28; individuals wounded by shooting: 54; individuals wounded by booby traps: 173; abductions: 251; attacks: 12; rapes: 6; machine-gunning of vehicles: 98; threats: 240; propaganda acts: 343; robberies: 423; cases of extortion: 9. According to the same source, between 18 January 1986 and 8 June 1986 four schools were destroyed; a town hall at San Carlos, Morazán, was destroyed on 8 February 1986; the office of the Justice of the Peace at Nueva Granada was destroyed on 1 February; and between 1 January and 31 August 1986 there were 20 cases of arson against farms, coffee crops and houses. Work places were also reportedly destroyed. 22/ The Special Representative also read local press reports according to which four people were wounded when a bomb exploded near the vaults of the Mortgage Bank in San Salvador 23/ and the eastern region of the country was left without electricity when four high voltage pylons were blown up in a terrorist attack. 24/ He was also informed that on 16 February 1986 guerrillas set fire to six coffee plantations in eastern El Salvador. 25/

57. At San Salvador, the armed forces gave the Special Representative a file of approximately 300 local press clippings on human rights violations committed in El Salvador between September 1985 and 4 August 1986. The documentation is so copious that the Special Representative cannot reproduce it in greater detail.

58. The Special Representative has also received information on deaths resulting from the FMLN's practice of shooting at vehicles travelling during traffic stoppages. In this connection, Americas Watch reports that the FMLN makes no distinction between military and civilian targets, and refers to information obtained by the Legal Protection Office according to which 13 people died in this way between July and December 1985. 26/ The International Herald Tribune has also reported on these deaths. 27/ Americas Watch also notes that, during a traffic stoppage in September 1985 when President Duarte's daughter Inés Duarte was kidnapped, "an ambulance was turned back by the FMLN in eastern El Salvador and as a result a young girl awaiting the ambulance died". 26/

59. Other reports of FMLN destruction of the country's economic infrastructure include the information that on 26 February 1986 in eastern El Salvador, guerrillas destroyed one of the country's biggest cotton co-operatives, "... killing five soldiers and wounding three ...". 28/

60. According to other information, in 1985 the country's electrical distribution system was hard hit and public transport sustained higher losses than in 1984, "... although the damage remained well below the 1979-1983 levels" and damage to the country's main export crops during this time appeared to be less than in previous years. According to the same source, however, "since 1979, insurgent damage to the economy is estimated at \$US 1.5 billion". 29/

61. According to the International Herald Tribune, "rebel violations include an increasing number of summary executions, attacks on road traffic, dozens of kidnappings and the indiscriminate use of landmines, which probably kill and wound many or more civilians than does bombardment by the army". 30/

IV. CIVIL AND POLITICAL RIGHTS

62. 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, a 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) arrests and disappearances; (c) political prisoners; (d) status of Salvadorian criminal justice; and (e) human rights violations attributed to the guerrilla forces.

A. Murders

63. The Special Representative has continued to receive information concerning politically-motivated murders or summary executions 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 attributes this difficulty 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, although it should be noted that they are lower than in previous years. Another is that very often the first that is heard about a murder is when the body is found, making it difficult to determine whether the murder was politically motivated or simply an ordinary crime. Lastly, differences in the methodology followed by the various sources of information compound the difficulties. For all these reasons, the Special Representative feels 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 figures for political murders accurately reflect the actual numbers. The sometimes wide discrepancies between these figures clearly indicate the need for caution.

64. From the figures supplied by Legal Protection, 31/ the Special Representative has deducted those for the victims of indiscriminate army attacks on the civilian population, a category which will be taken into account elsewhere. Accordingly, murders of non-combatants in 1986 were as follows:

	<u>Death squads</u>	<u>Army</u>	<u>Security bodies</u>	<u>Civil Defence</u>
January	4	2	-	5
February	5	4	-	-
March	1	3	-	-
April	9	6	2	-
May	4	3	2	-
June	3	6	2	1

65. According to Christian Legal Aid, 32/ between 1 January and 15 April 1986 death squads and paramilitary organizations, as well as members of the armed forces, committed 49 arbitrary executions. That source does not indicate who was actually responsible for the executions. The number is, moreover, significantly higher than that provided by Legal Protection for the same period.

66. The figures given by the Salvadorian Human Rights Commission (governmental) for non-combatant deaths in the period January-May 1986 are lower: 33/

	<u>Civilian deaths attributed to members of the armed forces</u>	<u>Civilian deaths resulting from acts by unidentified persons</u>
January	3	6
February	1	6
March	1	7
April	3	9
May	1	20
June	6	9
July	0	9

67. Furthermore, based on information provided by the press, the United States Embassy in San Salvador 34/ gives even lower figures for civilian deaths attributed to political violence:

	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>
By the extreme right	0	0	0	0	0
Possibly by the extreme right	0	0	0	2	3
By unknown assailants	7	4	2	9	2

68. The Special Representative notes that the lists he has cited include murders attributed to "death squads", to "unidentified persons" or to "unknown assailants". Clearly, responsibility for these murders does not rest with the Government of El Salvador. Only where the perpetrators were connected with government officials or protected or tolerated by them would the Government be responsible, as was clearly the case in the years prior to 1985. With regard to 1986, the Special Representative has been unable to reach any firm and final conclusions about the degree of support or tolerance the death squads may have received from Government officials. In any event, the Special Representative considers that those now supporting or protecting the aforementioned organizations are not high-ranking officials or officers.

69. These, then, are the lists made available to the Special Representative and which he is submitting to the General Assembly, with the observation that, although the figures provided by the various sources may differ, there is an important point of convergence between them: the number of political murders committed by government officials and possibly by extreme right-wing paramilitary groups in 1986 is significantly lower than in 1985, thus confirming the declining trend which began in June 1984 when Mr. Duarte took office as Constitutional President of the Republic. The Special Representative draws attention to the persistence of this downward trend, while at the same time expressing his desire and hope that summary executions will be completely eliminated in El Salvador as soon as possible.

B. Arrests and disappearances

70. The Special Representative has continued to receive information about persons arrested for political reasons, some of whom are reported as missing, and 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, (a situation which now occurs only rarely) and these cases are counted as murders. In other cases, the persons arrested are discovered alive in official detention centres, and they are counted as political prisoners. This is the situation which now occurs most frequently. In still other cases, the arrested persons are released. Finally, there are the now very rare 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 some cases overlap with those for murders.

71. The Special Representative is first reproducing the figures provided by Legal Protection 35/ for arrests attributed to government officials in 1986, from which he has deducted arrests which, according to that source, are attributed to unknown persons.

	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>
Arrests	12	15	3	18	45	10
Arrested persons discovered in official detention centres	11	15	3	15	32	12
Arrested persons not found by the time the report was drafted	1	-	-	3	13	4

72. According to information provided to the Special Representative by the competent authorities, as of 23 September 1986 76 political prisoners were being held at the Ylopango Women's Prison as compared with 44 on 1 September of the previous year, and 972 political prisoners at the Mariona Men's Prison as compared with 462 on 1 September 1985. The Special Representative recalls that in 1985 (E/CN.4/1986/22, para. 85) there were more political prisoners than in 1984.

73. The Special Representative wishes to supplement the information given in the previous paragraph with other data provided by the Government of El Salvador. 36/ According to these data, between 1 September 1985 and 31 May 1986, 1,165 persons were arrested as presumed terrorists (as compared with 743 between 1 September 1984 and 31 August 1985), 512 of whom were released (as compared with 309 between 1 September 1984 and 31 August 1985).

74. The foregoing paragraphs show that the number of politically-motivated arrests increased in 1986 over previous periods. The Special Representative does not, of course, deny the right of the Salvadorian authorities to take legal action against those who take up arms against the constitutional order. This concern lies in the application to such persons of the highly criticized provisions of Decree No. 50; the long time-limits of which are not even always respected. The Special Representative adds, however, that revision of this Decree is one of the legal reforms envisaged for the near future, as he will explain in greater detail when he discusses the plans of the Review Commission on Salvadorian Legislation.

C. Treatment of political prisoners

75. In last year's report, the Special Representative said that he had found indications that severe psychological pressure, equivalent to cruel, inhuman or degrading treatment, had been exerted in extrajudicial interrogations of some political prisoners. He also said that he did not believe that this represented a deliberate and systematic policy on the part of the Salvadorian authorities (E/CN.4/1986/22, para. 192).

76. With regard to 1986, the Special Representative has received varying information on the treatment of political prisoners.

77. Thus, according to Christian Legal Aid, 37/ between January to April 1986, 22 persons entered Ylopango Women's Prison as political prisoners and, according to the study made by that office, there were cases of torture with psychological effects, cases of psychological pressure and cases of torture with serious physical effects, including, inter alia, 5 cases of rape, 21 beatings, and 2 cases of forced nudity. According to the same source, 38/ between January and April 1986, 117 male political prisoners entered Mariona Prison who, on various occasions, were subjected to torture with psychological effects and torture with serious physical effects. The Special Representative has also received information on this matter from the Human Rights Commission of El Salvador (non-governmental). According to this information, the torture of political prisoners in extrajudicial interrogation sessions is a widespread and persistent practice.

78. In his visits to the Mariona and Ylopango prisons and his interviews of witnesses, the Special Representative devoted particular attention to the question of psychological pressure and even other kinds of maltreatment during extrajudicial interrogations.

79. Mrs. Tula de Canales, also known as Laura Pinto, who is a member of the Committee of Mothers and has twice been detained by security forces, told the Special Representative at Ylopango that, after her first arrest on 6 May 1986, she was kept handcuffed and blindfolded for nearly three days while being interrogated, and that, during that time, she was raped three times, although she was six months pregnant, and was stabbed in the abdomen with a sharp instrument. The Special Representative notes that the witness has made the same statement on other occasions. After her second arrest on 26 May 1986, according to the statement made to the Special Representative, Mrs. de Canales was taken to Treasury Police headquarters, where she was beaten and remained for 24 hours without food, handcuffed and blindfolded. Lastly, the witness told the Special Representative that she had signed the statement freely because it recorded what she had said.

80. Another witness interviewed at Ylopango Prison, who had also been arrested on 26 May 1986, told the Special Representative that at the time of her arrest she had been blindfolded and handcuffed and that, after she had been taken to Treasury Police headquarters, interrogators had threatened to bring in and torture her 18-month-old daughter. The witness said that, although the extrajudicial statement contained some things that were true and others that were not, she had none the less signed it. The Special Representative wishes to add that he watched a video recording at Staff headquarters in which the witness was seen signing a document without any kind of coercion.

81. Another political prisoner interrogated at Ylopango, who had been detained on 25 August 1986, showed the Special Representative a wound on her right wrist caused, she said, by the 13 days that she had spent handcuffed at Treasury Police headquarters. The same witness said that they had treated her "pretty badly" because she had denied their accusations. They had prevented her from breathing and had punched her in the head and face. She had been kept blindfolded for six days and on one occasion had been interrogated all night long.

82. The Special Representative also heard testimony at Mariona Men's Prison. There, two witnesses said that severe psychological pressure had been inflicted on them during interrogations in one of the last weeks of 1985. Another witness said that he had been subjected to this type of pressure when he was detained in June 1986 by forces of the Second Brigade. The purpose of such pressure had been to make him sign the extrajudicial statement and it had consisted, according to the witness, of severe blows to his shins, threats against his family, keeping him from sleeping for five days by playing a radio at full volume, keeping him without clothes all night on a cold night and force-feeding him. The witness stated, lastly, that he had been transferred to National Guard headquarters in San Salvador where he was forced to sign the extrajudicial statement.

83. Another witness, Rafael Martínez, a trade unionist at SICAFE, told the Special Representative that he had been detained on 31 May 1986 and taken to barracks No. 6 at Sonsonate, where he received sexual and other threats and signed the document presented to him without being allowed to read it.

84. Another witness, Febe Elisabeth Velásquez, also a trade unionist, said that she had been arrested on 7 June 1986 and, after being taken to Treasury Police headquarters, had been interrogated standing up, without being allowed to eat or use the sanitary facilities, for over 24 hours, until she signed under coercion.

85. Lastly, two sisters, aged 16 and 18 years respectively, who, together with their father, had been arrested by the National Police on 14 August 1986, also stated that they had been subjected to some pressure, although they ultimately signed the statements they had made.

86. Thus far, the Special Representative has presented testimony which points to the existence of psychological pressure during extrajudicial interrogations of political prisoners. Other prisoners or former prisoners in this category, who were also questioned by the Special Representative, did not allege that they had been mistreated or pressured in any way to make them sign their statements.

87. The Special Representative informed the Vice-Minister in charge of Public Security, Colonel López Nuilla, as well as the directors of the security bodies, of his concern at the testimony which he has just presented. The reply he received was that the testimony was completely false and part of a disinformation campaign designed to discredit the security bodies and that, in order to preserve the prestige of these bodies, in recent months political prisoners had been videotaped as they signed their extrajudicial statements. The Special Representative was in fact able to watch some videotapes in which political prisoners - some of whom he knew and others whom he did not - were seen signing, without any kind of coercion, a paper whose content it was not possible for him to determine.

88. After evaluating the information presented in the preceding paragraphs, the Special Representative reiterates the belief expressed in his previous report that there are indications of the use of severe psychological pressure in the extrajudicial interrogation of some political prisoners, although he does not believe that they are part of a deliberate and systematic policy on the part of the Salvadorian authorities.

89. It is very difficult for the Special Representative to determine the precise percentage of cases in which such pressure occurs but he notes that sources consulted in El Salvador gave a figure of approximately 15 to 20 per cent of political prisoners. United States reporter James LeMoyné wrote in August 1986: 39/ "Highly reliable Government and diplomatic officials estimate that 20 per cent of the political detainees suffer some form of significant abuse after arrest".

D. Status of Salvadorian criminal justice

90. In this section, the Special Representative will assemble and evaluate information on the status of criminal justice in El Salvador in 1986 from three standpoints: first, judicial action 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 habeas corpus and amparo.

91. With regard to judicial action to investigate and punish recent human rights violations in the country, the Special Representative again received a document from the Attorney-General of the Republic 40/ dealing with, inter alia, the work of the Attorney-General's Office in some cases (those commonly known as cases of "international relevance").

92. Thus, in the case brought before the Fourth Criminal Court of the Judicial District of San Salvador concerning the assassination of Monsignor Oscar Arnulfo Romero, the Attorney-General reported a number of actions taken at the end of 1985 and in early 1986, the results of which, according to the Attorney-General, have not been positive.

93. The Attorney-General's document also mentions the summary proceedings before the First Criminal Court of Sonsonate in the "Las Hojas" case, referred to by the Special Representative in previous reports. With regard to this case, the document states that, after an exhaustive investigation of events, the judge agreed to refer the cases against three of the accused to plenary hearings, while the cases against the other accused were dismissed. Following an appeal by the Attorney-General's Office against this dismissal, the Western Criminal Court dismissed the cases against all the accused. On 11 May 1986, it was requested that the proceedings be reopened and a new investigation carried out.

94. The Attorney-General's document also refers to the criminal proceedings relating to the killings of Mr. Viera and two United States advisers at the Hotel Sheraton in January 1981, noting that the defendants were finally sentenced this year to 30 years in prison. The sentence was appealed but was upheld by the criminal chamber of the Supreme Court. In this latter case, the Special Representative has learnt 41/ that the sentence angered some diplomatic circles because those who master-minded the killings - two army officers and a right-wing private businessman - were not convicted.

95. With regard to the Armenia case, concerning abductions and summary executions of several civilians at Armenia between 1980 and 1982, the competent court decided to dismiss the charges against the accused on 18 November 1985. The Attorney-General's Office appealed against this decision.

96. The Special Representative wishes to refer in this section to the recent report of the Lawyers Committee for International Human Rights 42/ which reviews the status of 16 prominent judicial cases of political violence in the past seven years. According to the report, "it is a chronicle of failure. In each of these cases, including the five assigned to President Duarte's special Commission in August 1984, official investigations and prosecutions have been promised. But in these and tens of thousands of less celebrated cases, justice has not been done".

97. From the foregoing information it can be seen that in only one of these so-called "proceedings of international relevance" has a conviction been handed down (and even in this case, the sentence has been criticized), thus demonstrating, at the very least, the abnormally slow pace and high degree of inactivity of the Salvadorian criminal justice system. The Special Representative also notes that he has not received information on many other cases of serious human rights violations against ordinary Salvadorian citizens in recent years and recalls that this is a matter where cases should not be singled out, regardless of the international pressure exerted in respect of only some of them. From the standpoint of the rule of law, all cases should receive equal attention and treatment by the courts, as the principle of equality of citizens before the law requires.

98. As on previous occasions, the Special Representative has received information from the Government of El Salvador concerning members of the armed forces brought before ordinary courts between 1 September 1985 and 30 June 1986 for offences committed against the population. 43/

99. The figures are as follows:

1. Members charged with robbery, theft and assault	31
2. Members charged with injury to other persons	29
3. Members charged with homicide	37
4. Members charged with rape	8
5. Members charged with extortion	6
6. Members charged with other offences	<u>15</u>
Total	126

100. The documentation referred to in the previous paragraph is detailed and the Special Representative has studied it carefully. However, after completing his study, he has the impression that all or nearly all the cases involve ordinary offences rather than politically-motivated criminal violations of human rights. Moreover, the documentation gives no indication of the stage reached in the

judicial proceedings and, lastly, the Special Representative has not been told whether these cases, or others mentioned in his earlier reports, have resulted in convictions or acquittals.

101. After carefully weighing the information contained in the preceding paragraphs, the Special Representative continues to feel that, on the whole, the efforts of the Salvadorian judicial system to investigate and punish serious, politically-motivated human rights violations are highly unsatisfactory. While it is true that criminal proceedings are instituted in all or nearly all cases, he has the impression that these proceedings advance at an extraordinarily slow pace and encounter almost insuperable obstacles to obtaining convictions, thus fostering a harmful climate of impunity.

102. The Special Representative will now present information on the activity of the criminal courts of El Salvador that are competent to investigate and punish acts of collaboration with the armed opposition. The legal proceedings in question continue to be governed by Decree No. 50, promulgated by the Legislative Assembly on 29 February 1984, which contains the Act on penal procedures applicable when constitutional guarantees are suspended.

103. In an earlier report (E/CN.4/1985/18, paras. 81-85) the Special Representative reported on the content of the Decree and the criticisms made of it. Criticism of this Decree has continued and the Special Representative wishes to refer in particular to that levelled by the Human Rights Institute of the Universidad Centroamericana José Simeón Cañas, which considers the Decree to be contrary to the Constitution of El Salvador and to the international human rights obligations of the Republic, 44/ and that contained in a report by Christian Legal Aid 45/ which prompted that office to submit to the Supreme Court a statement declaring the Decree unconstitutional. In any event, it should be pointed out that, according to explanations offered to the Special Representative in San Salvador by the President of the Review Commission on Salvadorian Legislation, one of this Commission's immediate plans is to amend or replace the aforesaid Decree No. 50.

104. According to information provided by the Government of El Salvador, 46/ in 1985 proceedings were dismissed against 128 political prisoners, while in the first eight months of 1986, i.e. up to 31 August, the number was 110. This implies that the reactivation of this type of proceedings was greater in the early months of 1986 than in the previous year, although the testimonies heard by the Special Representative demonstrate that the already long time-limits of Decree No. 50 continue to be frequently ignored. In fact, when the Special Representative visited Salvadorian prisons last September, he found a prisoner who had already been in pre-trial detention for two years.

105. The proceedings referred to in the previous paragraph were brought before the judge of the military court of first instance No. 1, the only one of its kind until 1 September 1986. In last year's report, the Special Representative pointed out that one judge was not enough for so many political proceedings and in this report he notes that, by Decree No. 435 of 19 August 1986 of the Legislative Assembly and at the initiative of the Supreme Court of Justice, two additional military courts of first instance have been established. The judges of these new courts took

office on 1 September 1986. The Special Representative, who was able to interview them in San Salvador, hopes that the type of proceedings in question will henceforth be handled more quickly.

106. With regard to the activity of the Supreme Court of Justice in cases of habeas corpus, and on the basis of documents given to the Special Representative in San Salvador by the President of that Court, 47/ between September 1985 and August 1986, 586 applications were received; 63 persons were released without a decision of the Court; 84 were released by decision of the Court; 62 could not be found (possibly because they had joined the guerrilla movement or gone to the United States, the President of the Supreme Court explained to the Special Representative); 131 persons were remanded in custody; and, for 16 persons, the application was ruled groundless because their activities were not in fact being restricted.

107. As in previous years, the Special Representative was informed by the competent authorities of the difficulties impeding the proper functioning of criminal justice in El Salvador. The difficulties were attributed to the following factors: (a) small budget from which to provide adequate remuneration to judges and prosecutors, particularly at the lower levels, and adequate resources to tribunals, courts and units of the Attorney-General's Office; (b) lack of suitable means for investigating the facts; (c) psychological pressure on judges, many of whom were murdered or threatened in earlier periods; (d) witnesses' fear of testifying in proceedings with political implications; (e) jurors' fear of serving in such proceedings; (f) criminal legislation and criminal procedures ill-adapted to the present climate of violence; and (g) destruction of courts and judicial archives in conflict areas. The competent authorities added that these factors were not completely new or peculiar to El Salvador but had become more acute in recent years as a result of the civil war and the economic crisis.

E. Violations of civil and political rights attributed to the guerrilla forces

108. The Special Representative has continued to receive information on politically-motivated murders of civilian non-combatants attributed to the guerrilla forces. Obviously, the caution recommended in evaluating information about murders attributed to members of the State apparatus and extreme right-wing paramilitary organizations must also be exercised with regard to murders attributed to the guerrilla forces.

109. The figures provided by Legal Protection 48/ are as follows:

January	2
February	1
March	2
April	-
May	2
June	2

110. The figures given by the Salvadorian Human Rights Commission (governmental) 49/ are considerably higher:

1985	September	9
	October	26
	November	11
	December	24
1986	January	25
	February	24
	March	20
	April	21
	May	31
	June	22
	July	<u>18</u>
	Total	231

111. The figures provided to the Special Representative by the Salvadorian armed forces 50/ are slightly higher. According to this information, between September 1985 and August 1986 the number of civilian murders counted by the armed forces came to 259.

112. The Special Representative notes that, according to Legal Protection, the number of murders by the guerrilla forces in the first six months of 1986 (9) was considerably lower than in the first six months of 1985 (31). On the other hand, according to the Salvadorian Human Rights Commission (governmental), the number of murders by the guerrilla forces between September 1985 and July 1986 (231) was higher than that for the period from September 1984 to July 1985 (172).

113. According to explanations offered to the Special Representative, murders by guerrilla forces are committed against so-called "orejas" (persons presumed to be informants for the armed forces) or soldiers on holiday.

114. Politically-motivated abductions are also attributed to the guerrilla forces. The figures provided by Legal Protection 51/ are as follows:

January	3
February	0
March	3
April	1
May	0
June	0

115. The figures for abductions of civilians between September 1985 and August 1986 attributed to the FMLN by the armed forces are much higher. 50/ According to this source, the FMLN-FDR kidnapped 357 persons during this period, including 10 mayors. The report adds that the whereabouts of some of the mayors is still not known.

116. In his previous report (E/CN.4/1986/22, para. 135), the Special Representative reported the abduction of Colonel Omar Napoleón Avalos by the FMLN. Although the FMLN stated at the time that the Colonel was being held as a prisoner of war and was being humanely treated in accordance with the Geneva Conventions, the Special Representative has learnt that representatives of the International Committee of the Red Cross (ICRC) are not permitted to visit him and that only once has the Archbishop of San Salvador, Monsignor Rivera y Damas, been able to see him.

117. The Special Representative has received diverse information on traffic "stoppages" called for by the FMLN. These stoppages involve prohibiting traffic from circulating in certain areas for specific periods of time. This ban affects both public transport and private vehicles and the FMLN tries to enforce it by violent means which end in the machine-gunning and burning of vehicles and even injuries and, according to some sources, deaths. These stoppages also damage the economy.

118. According to information from the Salvadorian armed forces, 50/ there were 282 such stoppages during the period from September 1985 to August 1986. The Special Representative has read many news items in the local press about these stoppages and the deaths, injuries and economic damage caused by them.

119. The United States Embassy in El Salvador has provided the Special Representative with the following information on stoppages based on news items in the local press: traffic bans called for by the guerrilla forces in 1986: 16-22 January; 31 January-7 February; 10-16 March; 12-17 May; 20-27 June and 24-31 August. Attacks on buses: fires (3); machine-gunnings (5); bombings (1). Other vehicles burned (17). Persons wounded as a result of these incidents: over 16. (According to one article, "several" people were wounded but no number was specified.)

V. THE SITUATION OF REFUGEES AND DISPLACED PERSONS

120. As in previous reports, the Special Representative proposes to provide information in this chapter on the situation of the many Salvadorian citizens who have been 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 always been a familiar phenomenon in El Salvador for economic reasons.

121. In San Salvador, the Special Representative discussed with the Minister of the Interior the situation of those Salvadorian citizens displaced within the country

who relied on the services of the National Commission for Aid to Displaced Persons (CONADES). According to information provided orally and the documents furnished by officials, there were a total of 420,000 displaced persons in El Salvador as of August 1986. 52/ The report presented to the Special Representative by President José Napoleón Duarte and conversations between the Special Representative and the Minister and Vice-Minister of the Interior indicated that services to the displaced population were being given a new orientation: 53/ there had been a break with the "paternalism" of the past, under which displaced persons merely received food rations from the Government, and a new policy of providing "food for work" had been adopted with a view to the gradual reintegration of displaced persons into society and productive life. This plan, called the National Plan for the Displaced Population, is in the initial stages of implementation. As part of this programme, some 50 towns have been selected to allow displaced persons to resettle in communities close to their original homes. In each town, a resettlement scheme for displaced persons, involving 500 families or a total of 2,500 persons, is to be set up; the 50 schemes will accommodate 25,000 families or 125,000 residents. Among the activities planned are the creation or expansion of health and education services, the integration of women into community development and the improvement of employment opportunities.

122. During the first six months of 1986, the Government provided food and other forms of assistance to 244,536 displaced persons. 54/ During this period, an average of 249,536 colones a month was spent to improve the diet of this population; 338 temporary shelters were built; and 5,289 blankets, 4,231 sets of children's clothing and 1,010 bars of soap were issued. In addition, the Government of El Salvador, with the help of external assistance, set up 506 Local Committees for Displaced Persons throughout the country to promote and train the leaders of various organizations for displaced persons, and co-operated with another organization 55/ in setting up a manpower training programme for displaced persons. Under these programmes, which have received \$300,000 from the European Economic Community and 100,000 colones from the regular budget of CONADES, five seminars for a total of 208 leaders have been held and the first manpower training course has started with 200 workers, each of whom will attend for five months. Literacy courses have been started in six local communities for a total of 115 illiterate displaced persons, in co-ordination with the San Salvador Town Hall. Funds from the World Food Programme enabled 60 displaced families to return to their homes and financial assistance from the United States Agency for International Development (USAID) helped another 587 families under a similar project.

123. The Government has also submitted to the Federal Republic of Germany for financing four projects to resettle 300 families in their original homes. 56/

124. This year the Special Representative again reported that some of the Salvadorians displaced from combat zones had been forcibly evacuated by the authorities. In this connection, the Special Representative has received information concerning "Operation Phoenix", launched by the armed forces on 9 January 1986 in the Guazapa volcano region some 17 miles north of San Salvador. According to The Times, 57/ the Salvadorian army rounded up approximately 1,000 persons, including women, children and old people, from the Guazapa volcano region

and transferred them to a refugee camp called Calle Real near the town of Apopa. According to another source, 58/ only about 500 civilians were evacuated from the area of fighting. They were "transferred to a safe area several miles from the combat and were supplied with food, water, shelter and clothing. They were also provided with medicines and attended by doctors, dentists, social workers, and representatives of the International Red Cross and the Human Rights Commission. Most of these civilians were quickly settled with family or friends or in camps for displaced persons". According to the same source, members of the international press were able to interview civilians evacuated during the Guazapa operation and "no credible allegation of mistreatment was received". 58/

125. Americas Watch also gives a full account of the evacuation, of which it is highly critical. According to this organization, "the manner in which civilians were evacuated in Operation Phoenix does not meet the requirements of international law that satisfactory conditions shall be provided for those forced to abandon their homes". Americas Watch further claims that this evacuation did not meet the standards specified in article 17 of Protocol II Additional to the Geneva Conventions of 1949. 59/

126. On the basis of article 17 of Protocol II Additional to the Geneva Conventions of 1949, the Special Representative had taken the view that forced evacuations of the civilian population from the combat zone were permissible to the extent that they were required to guarantee the safety of the civilians concerned. He had added that, given the reality of the war, the suffering which such transfers inflicted on the civilian population was less than that population would experience if it continued to live in the combat zone (E/CN.4/1986/22, para. 142). The Special Representative reaffirms his conviction in this regard and notes that it is shared by at least one high-ranking member of the Salvadorian Church. In a sermon preached on 25 February 1986, Monsignor Jesús Delgado, replacing Monsignor Rivera y Damas who was ill, said: "In Garrizal a number of lay members of the church, most of them from Legal Protection went to talk to the people there and to offer them the Church's help. They were going to bring them to Church shelters, but these people had received instructions from their political leaders in the guerrilla forces that they were not to leave there but must put pressure on the Government to send them back to their lands and must not let their land be taken away from them. I think this is sheer obstinacy: the Church is holding out its hand to them and this seems a very fair and a very good solution. No one is taking their land away from them, and it would be a crime to put those people back where the army is bent on waging an all-out operation and on clearing the Guazapa area once and for all". 60/

127. The Special Representative is therefore of the view that forced evacuations are permissible under international humanitarian law to the extent that the safety of the civilian population requires them, even though he is well aware of the considerable human and social problems which those measures create for the persons concerned. In September 1986, the Special Representative had an opportunity to observe the seriousness of those problems firsthand when he visited a community of 84 peasants near Zacatecoluca who had been evacuated from San Carlos Lempa district in the Department of San Vicente on 16 August 1986 and kept at Zacatecoluca by the Army Corps of Engineers. While it is true that the peasants were receiving

adequate food rations, medical assistance in extreme and emergency cases, and the services of an Army social worker, it is also true that the place where they were living - some old stables - was extremely unhealthy on account of overcrowding, lack of water and mosquito infestation. In addition, the peasants had no beds or even mattresses. The Special Representative visited the peasants on a Thursday. The Colonel of the Corps of Engineers explained to him that, as of the following Sunday, persons whose relatives claimed them would be authorized to leave. Some peasants without relatives were anxious about what would happen to them. Finally, the Special Representative notes that the unanimous wish of all the peasants to whom he spoke was to be able to work the land, wherever that might be.

128. With regard to refugees, the report of the Ministry of Defence and Public Security 61/ sets the total number of Salvadorian refugees recognized by the United Nations High Commissioner for Refugees at 42,007, dispersed among the following countries:

Mexico	3 475
Guatemala	105
Belize	3 000
Honduras	20 868
Nicaragua	7 735
Costa Rica	6 000
Panama	824

129. The Office of the United Nations High Commissioner for Refugees (UNHCR) 62/ reports that, as of 31 July 1986, Salvadorian refugees receiving UNHCR assistance were divided into the following groups: 2,600 in Belize; 3,750 in Costa Rica; 20,900 in Honduras (in the Mesa Grande, Colomoncagua and San Antonio camps); 3,500 in Mexico; 2,300 in Nicaragua; and 800 in Panama.

130. With regard to the repatriation of Salvadorian refugees, the Minister for Foreign Affairs, Mr. Ricardo Acevedo Peralta, informed the Special Representative during talks held in El Salvador on 22 September 1986 that a Tripartite Commission for the Voluntary Repatriation of Salvadorians in Honduras had been established in 1986. The Commission is composed of a representative of the Government of El Salvador, a representative of the Government of Honduras and the UNHCR Regional Representative for Central America, Panama and the Caribbean. The Commission was established to deal with the problem of Salvadorians in Honduras who wish to return to El Salvador. The repatriation of these refugees 63/ begins in the UNHCR office in Honduras, which informs UNHCR in El Salvador of the arrival of Salvadorians at the border, where they are met by staff of the National Commission for Assistance to Displaced Persons who provide them with emergency assistance, medical attention, clothing and basic household necessities. The returnees then indicate where they wish to resettle. If they have relatives with whom they can live, they are taken to their relatives' homes. If they have no family, they are relocated at the Hacienda La Reforma at Moncagua, Department of San Miguel, or at the Santa Barbara settlement in the Department of Morazan.

131. According to UNHCR officials, 64/ between 1 January and 31 July 1986, the Office helped repatriate 814 Salvadorian refugees from Honduras, making a total of 3,751 refugees repatriated from that country since 1984. During the same period, it helped repatriate 156 refugees from Nicaragua, bringing the number of refugees repatriated from that country since 1984 to 751.

132. It should also be noted that UNHCR, in co-operation with the Government of El Salvador, is assisting some 200 refugees of Nicaraguan origin currently in El Salvador.

VI. HUMAN RIGHTS IN ARMED CONFLICTS

133. As in his previous report (E/CN.4/1986/22), the Special Representative wishes to pay special attention to information on human rights violations allegedly committed by both sides - the regular army and the guerrilla forces - in the course of or as a 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.

134. The Special Representative will deal first with information on non-combatant or civilian casualties allegedly inflicted by the bombing and other military operations of the regular Salvadorian army. He will supply the casualty figures about which he has heard, 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 or are not combatants. These difficulties are illustrated by the differentiated method used since mid-1984 by the Archdiocesan Legal Protection Office, which distinguishes three categories of casualties: (a) "Victims of indiscriminate army attacks on the population"; (b) "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 but most of whom are presumably civilians"; and (c) "Victims of political violence killed in ambushes, clashes or patrol operations, most of whom are presumably combatants although the appropriate category cannot be established for lack of identification in situ". As can be seen, presumption plays an important part in this method and this is a circumstance which must be taken very much into account.

135. According to Legal Protection, 65/ the numbers of victims of indiscriminate army attacks on the civilian population about whom no presumptions are made are as follows:

January	5
February	0
March	1
April	2
May	no information
June	5

136. According to the same source, 65/ the numbers of civilians accidentally killed by mines placed by the army are as follows:

January	0
February	1
March	0
April	2
May	no information
June	no information

137. The Special Representative notes that, although reports for the first four months of 1986 attribute civilian deaths from mines to the army, as of May (Bulletin No. 49) and June (Bulletin No. 50), Legal Protection does not say who placed the explosive devices that resulted in deaths.

138. Legal Protection also maintains 65/ that in 1986 "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 but most of whom are presumably civilians", numbered:

January	110
February	81
March	56
April	116
May	67
June	59

139. However, the Special Representative feels compelled to note that some of the figures contained in the preceding paragraph, correspond to combatants and it is only presumed that the majority refer to the civilian population, as the source in question clearly acknowledges.

140. For its part, the Salvadorian Human Rights Commission (governmental) provides the following figures for "civilians killed as a result of clashes between the armed forces and the FMLN-FDR" in 1986 66/:

January	0
February	3
March	0
April	2
May	3
June	0
July	2

141. However, based on press reports, the United States Embassy in El Salvador 67/ provides the following figures for civilians killed in military operations:

January	0
February	2
March	2
April	2
May	1

142. The need to resort to presumption in determining the number of civilian victims of political violence obviously arises from the nature of the conflict in El Salvador. The war is taking place between a regular army and guerrilla forces and while it is always easy to distinguish between a civilian and a member of the regular army, distinguishing between a non-combatant and a guerrilla fighter can be more difficult, particularly if the non-combatant is one of the so-called "masas".

143. In his 1984 report to the General Assembly (A/39/636, annex, para. 122), the Special Representative referred to the so-called masas or peasant groups who, while not actually combatants, live with the guerrillas and help them by supplying them with means of subsistence. The Special Representative would like to reiterate what he said at that time, namely that, "inasmuch as the so-called masas take no part in combat, they must be considered civilians", adding that "the reference in article 50 of the 1977 Additional Protocol to the Third Geneva Convention of 12 August 1949 means that any persons who follow armed forces without forming an integral part of them, such as suppliers and members of work units or service units responsible for troop welfare, must be considered civilians. In the view of the Special Representative, if the masas who accompany the guerrilla troops meet the conditions established in those international instruments, they cannot be considered combatants: they are civilians".

144. Those were the Special Representative's words in 1984 and he repeats them now. Nevertheless, it is conceivable that a person or persons who ordinarily belonged to the masas might take part on a temporary or exceptional basis in actions incompatible with their civilian status. After having spoken at length with the members of a number of masas at Zacatecoluca in September 1986, the Special Representative believes that this occurs with some frequency in El Salvador. An 18-year-old girl told the Special Representative that she and some others, in addition to "sleeping with the mucnachos" (guerrillas), provided them

with food and helped them transport ammunition. The Special Representative believes that, with this last activity, those masas relinquished their civilian status.

145. Thus, while the distinction between combatants and civilians can be made with ease and certainty in principle, in the case of the conflict in El Salvador and the guerrilla forces involved, the real dividing line between combatants and non-combatants may sometimes be blurred. This does not mean that the Special Representative is legitimizing attacks on the masas but rather that, when it comes to counting and classifying the casualties of acts of war by the regular Salvadorian army, it can be extremely difficult to determine whether someone is a combatant or a non-combatant - and hence the need for presumption.

146. In any event, the active involvement of the so-called masas in fighting against the regular army, even on an exceptional and temporary basis, can in fact lead to their harassment or even to occasional civilian deaths at the hands of the army, as well as incidental damage to their property.

147. The Special Representative was able to hear some testimony on this last category of victims at San Salvador. This testimony led him to deduce that civilian casualties are generally masas who happen to be in the vicinity of the guerrillas when fighting is going on.

148. Thus, a 55-year-old witness, a native of Tenancingo who had lost one leg from the knee down, stated that on 23 July 1986 he had been in a certain district in a place close to where the guerrilla forces were operating, when an Air Force helicopter fired a rocket which hit him in the leg. The witness said that he and other residents of the district supported the guerrillas, whom they occasionally helped with supplies.

149. Another witness, who was 24 years old, a native of San Francisco in the Department of Cabanas and now residing in a certain district, said that on 1 June 1986 he had watched an Army operation against the guerrillas in that area. In the operation, according to the witness, regular forces destroyed the maize crop and Air Force aircraft dropped bombs which killed two women and wounded an 8-year-old and a 12-year-old child. The witness said that the guerrillas had been in the area at the time of the operation and that the local population had helped them by selling them food.

150. Another witness, a 20-year-old resident of a district in the Department of San Salvador, said that on 1 January 1986 the Army had launched an operation against the guerrilla forces there. Land and air forces and paratroopers had, between them, destroyed all the houses in the district and burnt the crops.

151. From the information which the Special Representative has gathered to date, he concludes that in 1986 the land and air forces of the Salvadorian Army caused incidental damage to private property and occasional civilian casualties, primarily among the so-called masas, although the number was quite low and certainly lower than in the previous year. The Special Representative also notes that, unlike in 1981, 1982, 1983 and 1984, he received no reliable information in 1986 to indicate that the Salvadorian Army had carried out any mass killings.

152. While one witness questioned at San Salvador did in fact describe a serious instance of mass killings, the Special Representative finds that testimony to be utterly fantastic, to say the least. A 40-year-old witness from a district of the Department of Suchitoto stated that, on a certain day in 1986 - he was unable to give the exact date - he saw 150 civilians massacred at San Vicente when the Air Force dropped bombs on them and ground troops attacked them with machetes. In view of the seriousness of this statement, the Special Representative asked the witness whether he had counted the bodies, to which the witness replied in the affirmative, adding that he had buried them with the help of some friends. The Special Representative then asked the witness to accompany him that same day to the scene of the incident so that the bodies could, with the necessary assistance, be exhumed and counted. At that point, the witness corrected his statement, saying that the bodies had actually been thrown into a nearby river ("they just tossed them into the river") and that, as the current had carried them away, they would be very difficult to locate. The Special Representative takes note of the witness's amendment and furthermore believes that, had the statement been true, local and international humanitarian organizations and communications media would have given a full account of the alleged massacre.

153. The Special Representative believes that there are two principal reasons for the dramatic decline in the number of civilians killed by the Salvadorian Army. One reason is the evacuation of civilians from combat zones. In discussing the situation of refugees and displaced persons, the Special Representative already said that, in his view and in principle, such evacuations are legitimate, even though they continue to create subsequent problems for the Salvadorian authorities.

154. Another important reason is the guerrillas' new combat tactics, according to explanations given to the Special Representative in San Salvador by General Blandón (Chief of Staff) and General Bustillo (Chief of the Air Force). While the FMLN initially fought in medium-sized and large units, the counter-insurgency strategy adopted by the Salvadorian Army has since forced the guerrillas to deploy units of only a very few men which no longer move with the masas. This makes it possible to attack the guerrillas without any risk to the civilian population.

155. For these reasons, then, and in accordance with the instructions given by the President of El Salvador in August 1984, 68/ the Salvadorian regular army is now conducting the war in a much more humanitarian manner than in the past and has been able to reduce the number of civilian casualties drastically.

156. As for the way in which the Salvadorian Army wages war, the Special Representative has received several reports of the dismantling of FMLN field hospitals by the Army. During "Operation Phoenix" in the Guazapa area in January-February 1986, the armed forces dismantled 18 health posts; 69/ on 12 and 13 March, a hospital and another health post were destroyed at Arcatao and Nueva Trinidad in the Department of Chalatenango; 70/ and, in July, another hospital was dismantled, at Cinquera (A/39/636, annex, para. 125).

157. In his conversation with the Minister of Defence and other military authorities in El Salvador, the Special Representative referred to the dismantling of FMLN hospitals. The Armed Forces Chief of Staff, General Blandón, replied that

the so-called hospitals thus far did not bear any identifying marks and were nothing more than a few hideouts or caves where the FMLN sorted medicines - generally stolen - and hid their wounded and injured, keeping them in inhumane conditions, and where many deaths occurred for lack of medical attention. General Blandón added that when the Army found any wounded or injured in such caves it transferred them to its own hospitals so that they might receive proper care. In fact, the Special Representative was informed by the Government of El Salvador 71/ that "on 4 April 1986, seven wounded guerrillas who had been rescued by members of the armed forces from a hideout to the north of Arcatao, Chalatenango, were released and turned over to representatives of ICRC". He was told that "these persons were found on 1 March 1986 and transferred to a hospital in the capital city, where they remained until they were handed over to ICRC". The telex sent to him gives the name of the guerrillas who were released and concludes with the statement: "the handover of the guerrillas was not conditional upon any exchange but forms part of efforts to humanize the conflict with a view to securing peace". Americas Watch also gives an account of these events, 72/ which it describes as "an encouraging development".

158. The Special Representative is particularly concerned at the large number of civilians killed or severely injured as a result of loss of limb because of the use of mines in the war.

159. According to information provided by the Salvadorian armed forces, 73/ between 1 September 1985 and 31 August 1986 96 civilians were killed by mines planted by the FMLN and 1,167 maimed (loss of legs, eyes or feet). The Salvadorian Human Rights Commission (governmental), for its part, is conducting a study 74/ which indicates that, between 1 September 1985 and 31 July 1986, the number of civilians killed by explosive devices planted by the FMLN came to 68 and the number of injured to 208. The Special Representative notes that the study in question is extremely detailed, containing personal data on the victims and indicating the time and place of the explosion.

160. However, the report presented to the Special Representative by the Political-Diplomatic Commission of the FMLN-FDR 75/ states that "the army is stepping up its indiscriminate use of mines to give the impression that they were set by the FMLN and to cause civilian casualties in an attempt to legitimize their use or at least to isolate the FMLN from non-combatants. Above all, it wants to discredit the mines planted by the revolutionary movement because it would like the movement to stop using them, given that they are the weapon the government forces fear most and cause them the greatest number of casualties." According to this report, the army makes indiscriminate use of mines in three ways: (a) by not deactivating mines which have been set; (b) by relocating mines placed by the FMLN; and (c) by mining strategic points in populated areas.

161. The Special Representative told the Chief of Staff of the Salvadorian Armed Forces, General Blandón, of these allegations by the FMLN. The General's reply was that the Army uses mines only to protect its own command posts and only at night; that there are very few special units to deactivate mines planted by the guerrillas' forces and these are of course unable to do all that is required (only 90 mines per day are being deactivated); and that the alleged relocation of FMLN mines would place the army's own soldiers at great risk.

162. The Special Representative has no doubt whatsoever as to the lethal and mutilating effects of the mines set by the guerrillas, since he saw scores of soldiers in the San Salvador Military Hospital who had lost feet, legs or arms or been blinded as a result of such mines. What must be determined is whether similar deaths or amputations among non-combatants were caused by guerrilla mines or by devices planted by the regular army. Civilians with amputated limbs who were questioned by the Special Representative insisted that the mines that had injured them had been placed by the guerrillas. This opinion is shared by the Salvadorian press. 76/ In addition, the widespread view which the Special Representative encountered from ostensibly independent sources in El Salvador was that the overwhelming majority of the mines that killed or wounded non-combatants had been placed by the guerrillas. Journalist James Lemoyne wrote in August 1986 77/: "Although both the Army and leftist guerrillas use land mines, the majority of civilian casualties appear to be caused by guerrilla mines, according to several villagers and to leading human rights officials." This is also the view of the Special Representative.

163. Finally, the Special Representative notes that the FMLN forces have continued their humanitarian practice of releasing, through ICRC, regular soldiers captured in combat. A corporal and four soldiers were turned over to ICRC on 25 February 1986; two more soldiers on 9 April; and a sergeant and one soldier on 15 May. On another occasion a captured soldier was returned directly to his mother in the presence of local clergy and residents. 78/ The Special Representative commends this practice on the part of the FMLN, although he continues to deplore the fact that ICRC representatives have still not been allowed to visit Colonel Omar Napoleón Avalos, who was captured by FMLN forces on 26 October 1985 (E/CN.4/1986/22, para. 135).

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

164. In his previous reports, the Special Representative indicated that he had found the constitutional authorities of the Republic of El Salvador to be sincerely concerned about respect for human rights, a concern which forms part of the country's process of democratic normalization and which is gradually producing commendable results. On his latest visit to the country in September 1986, the Special Representative found that the authorities in El Salvador remained firmly committed to that policy. His conversations with representatives of the legislative, executive and judicial authorities, including the President of the Republic, again strengthened the Special Representative in his conviction that, in the process of establishing a pluralistic democracy, respect for human rights continues to play an important role in the current policy of the Republic of El Salvador.

165. In his previous reports to the Commission on Human Rights, the Special Representative dealt with the measures taken in this connection by the Government formed after Mr. Duarte took office as Constitutional President of the Republic in June 1984. The Special Representative will now describe the measures taken in 1986, which in fact continue, develop and expand those taken in previous periods.

166. The Special Representative was informed by the competent authorities that the PON (normal operational procedure for arrests made by members of the armed forces) and other supplementary regulations were still in force in all units of the armed forces and security bodies. The purpose of these regulations is to ensure that, in performing their functions, members of the armed forces and security bodies respect human rights.

167. In addition, compulsory courses on human rights have continued to be given to members of the armed forces and security bodies. According to information provided by the armed forces, 79/ the 16 priests assigned to the "human rights project" gave 554 talks to 40,200 members, or 80 per cent, of the entire armed forces. The same source also states that courses in ethics and human rights were given to 225 officers in five professional grading courses. Similar instruction was provided to 560 corporals and sergeants in 14 promotion courses. There has also been an increase in the number of humanitarian law and human rights talks given by the International Committee of the Red Cross and the Salvadorian Human Rights Commission (governmental).

168. The Ministry of Education, for its part, in pursuance of article 60 of the Constitution, has continued to teach human rights in the sectors within its sphere of competence. The Special Representative was informed by the Minister that "specifically, the Ministry has stepped up the Programme of Moral and Civic Values and Human Rights in basic training centres". 79/

169. The Salvadorian Human Rights Commission (governmental) continued its work in 1986. Thus, according to documentation supplied to the Special Representative in El Salvador, 80/ the work done between 1 September 1985 and 31 August 1986 was as follows: 3,491 complaints were received and processed; 3,907 persons were registered as being detained in the various military units, of whom 2,264 were interviewed by Commission representatives; assistance (clothing and basic necessities) was provided to 911 detainees; 922 prisoners were met on their release; 596 visits were made to the security bodies, 2,488 to military posts, municipal prisons and other military institutions and 907 to penal institutions; 355 visits were made to military tribunals and ordinary courts to obtain information relating to complaints; 524 visits were made to various towns to verify complaints; and the Commission physician made 95 visits to penal institutions, conducted 818 examinations of political prisoners and made a further 26 visits to assistance centres. The Commission also worked to promote human rights in all sectors of Salvadorian life (military garrisons, security bodies, civil defence, local troop headquarters, prison guards, educational centres, universities and higher education centres, and public and private institutions). The Special Representative notes that the Commission also conducted a campaign for the donation of artificial limbs to victims of mine explosions, especially children from rural areas.

170. In San Salvador, the Special Representative was able to study some of the files compiled in response to the complaints referred to in the preceding paragraph. File No. 1415/1986, for example, dealt with a complaint of rape of a 16-year-old girl by a group of soldiers. The Commission succeeded in bringing the alleged culprits before the courts.

171. Once again, then, the Special Representative feels that the Commission's activities are commendable in the context of the overall situation, since they frequently make things easier for persons who are suffering the distressing consequences of the war in El Salvador.

172. As in 1985, the Government allowed the International Committee of the Red Cross to continue its humanitarian work in El Salvador. Once again, the Special Representative commends the work of that organization.

173. Another important demonstration of the concern of the constitutional authorities of El Salvador for human rights is the so-called judicial reform project, about which extensive information was provided in last year's report (A/CN.4/1986/22, paras. 182-187), including the fact that the project has four components: the Review Commission on Salvadorian legislation; the Judicial Protection Unit; the Criminal Investigation Commission; and the Judicial Administration and Training Unit.

174. As regards the first component of the project, the President of the Review Commission on Salvadorian Legislation, Mr. Criollo, told the Special Representative that 24 lawyers are now working full-time on the Commission in three areas: criminal, civil and institutional/administrative legislation. Mr. Criollo said that work in the area of criminal legislation was progressing smoothly. Work on a bill to revise Decree No. 50 was expected to be completed by November and work was also being done to revise the Code of Criminal Procedures. In the area of civil legislation, concerns centre on a modification of family law, while in the area of institutional/administration legislation, the Committee is focusing on a number of subjects, including the recourse procedures of amparo, habeas corpus and unconstitutionality.

175. The Special Representative also received extensive information at San Salvador about the Criminal Investigation Commission, whose offices he visited. The Commission is composed of the Minister of Justice, the Vice-Minister of the Interior and an official appointed by the President of the Republic. 31/ The Commission's services include an investigation unit and a forensic unit which form part of a special unit that has helped the security bodies solve the following cases: numerous killings in the "Zona Rosa"; illegal trafficking in minors; and the kidnapping of the President's daughter. The following cases were under investigation in 1986: the triple homicide at the Sheraton Hotel; numerous killings in Los Mongos district and others in Armenia; the murder of the former President of FINATA; the murder of Ms. Ana Delmy Belancourt Ramos; the assassination of Monsignor Romero; and the murder of trade unionist Aristides Mendez.

176. The Special Representative reiterates his opinion that the judicial reform project is a serious one and notes the progress made in its components, although he points out once again that its effects will be felt in Salvadorian society only in the medium and long terms. Hence, in the final analysis, civic attitudes and habits will also have to be changed and these changes cannot be made overnight.

177. Another indication of the Salvadorian Government's concern for improving the situation of human rights is its treatment of guerrillas who wish to become law-abiding citizens again. According to information from the Salvadorian armed forces, 82/ the Government has a special plan for armed rebels who wish to integrate themselves into national life. Persons who renounce subversion and turn in their weapons are given economic assistance amounting to 1,000 colones (\$US 200); after an interview, they are pardoned and return to family life in their own communities. The Special Representative also learned that, between September 1985 and August 1986, 767 persons took advantage of this plan.

178. Finally, the Special Representative believes that the constitutional authorities of the Republic of El Salvador are persisting in their efforts to improve the human rights situation as part of the country's political normalization. These efforts, it must be pointed out, are increasingly reflected in everyday life, particularly in the critical area of respect for civilian life both outside the context of the fighting and in connection with or as a result of it. Obviously, the Special Representative hopes that such efforts will soon succeed in eradicating from the country all violations of human rights and fundamental freedoms.

VIII. CONCLUSIONS

179. 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 personal convictions. It should be reiterated, 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 in 1986. 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 have occurred in El Salvador in 1986 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.

180. With regard to economic, social and cultural rights, the Special Representative notes that, in 1986, there has been a further and disturbing deterioration of the living conditions of Salvadorian citizens, due fundamentally to the persistence of the conflict and to the world economic crisis. The Special Representative also notes that the forced evacuation of civilian populations, although compatible in principle with international humanitarian law, results subsequently in intractable human and social problems. Finally, the Special Representative once again draws attention to the fact that the systematic attacks carried out by the FMLN against the country's economic infrastructure seriously threaten the present and future enjoyment by Salvadorian citizens of important economic, social and cultural rights.

181. With regard to non-combat-related political assassinations committed by members of the armed forces, security bodies and Civil Defence, the Special Representative believes that, in 1986, such assassinations have continued. Although it is difficult to determine their precise number, he is sure that this number is significantly lower than in 1985, which would confirm the trend towards a decline in such assassinations which began in June 1984 following the election of Mr. Duarte as President of the Republic. Some of these assassinations have been attributed to death squads allegedly connected with or tolerated by members of the armed forces or security bodies. The Special Representative has found it very difficult to confirm that such assassinations were in fact committed by death squads, although it is his impression that, if such death squads do indeed exist and are active, they are now in no way connected with high-ranking military personnel.

182. The guerrilla forces, for their part, have continued their practice of summary executions and abductions of civilians, although the Special Representative has heard of no mass killings such as those committed last year.

183. The Special Representative also notes that the number of political prisoners has increased and that, in some cases, such prisoners have been subjected to severe psychological pressure, although this does not represent a systematic practice on the part of the Salvadorian authorities. The Special Representative also notes that such prisoners are subject to the widely criticized legislation contained in Decree No. 50, although he notes the intention of the Salvadorian constitutional authorities to amend that legislation.

184. With regard to the criminal justice system in El Salvador, the Special Representative notes that activities to investigate and punish the perpetrators of the many serious violations committed in previous years continue to be highly unsatisfactory and that judicial procedures for investigating and punishing those suspected of collaboration with the armed opposition, although slightly reactivated in recent months, continue to be governed by widely criticized legislation, namely Decree No. 50, the long procedural time-limits of which are not even always observed. The Special Representative takes note, none the less, of the difficulties which impede the normal functioning of the criminal justice system and also the important, worthwhile and commendable attempts to reform the legal system which are already under way but the effects of which have yet to have any significant impact on the situation in El Salvador.

185. With regard to the conduct of the armed conflict, the Special Representative notes that, as in 1985 but unlike in previous years, he has received no reliable information concerning massacres perpetrated by the regular Salvadorian army. However, the Special Representative is sure that in 1986 the regular army caused incidental damage to private property and some accidental deaths and injuries among the civilian population, above all among the so-called masas, although the number of victims is small and definitely lower than in previous years. The Special Representative also takes note of the large and disturbing number of non-combatants killed or seriously wounded by the explosion of contact mines and wishes to place on record that the general view, which he shares, is that most such mines were placed by FMLN guerrilla forces.

186. It should also be mentioned that the guerrilla forces have released soldiers captured in combat, through the International Committee of the Red Cross (ICRC).

187. Finally, the Special Representative notes that respect for human rights continues to be an important element of the current policy of the constitutional Government of President Duarte, a policy which, within the process of democratic normalization, is achieving increasingly significant and commendable results in the crucial area of respect for the life of persons both in non-combat situations and in or as a result of combat.

IX. RECOMMENDATIONS

188. Recalling once again the concern about respect for human rights expressed by the Government of El Salvador and other interested sectors, 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 the interested parties should immediately take the necessary steps to put a complete end to attempts on the lives, physical integrity and freedom of non-combatants, both in non-combat situations and in or as a result of combat. This should be done in complete conformity with the Geneva Conventions of 1949, the Additional Protocols of 1977 and international human rights instruments in force in the Republic of El Salvador.

189. Realizing the difficulties of a dialogue and echoing the views of the international community and what he believes to be the sentiments and aspirations of the vast majority of Salvadorian citizens, the Special Representative once again recommends to the Government of El Salvador and the FMLN-FDR that they rapidly resume talks. Such talks should be open and generous, not just tactical, and aimed, at the least, at ensuring the humanization of the conflict, so that a negotiated settlement can be achieved which will save the lives of many citizens of the Republic of El Salvador, whether combatant or non-combatant.

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

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

(b) Continued and increased monitoring of extrajudicial interrogations of political prisoners, in order to ensure that they are in keeping with the standards referred to in subparagraph (a) above;

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

191. The Special Representative especially recommends to the forces of the FMLN:

(a) That they refrain from placing mines which can kill or seriously injure the non-combatant population;

(b) That they refrain from attacking El Salvador's economic infrastructure.

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

Notes

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2/ El País, 3 and 5 June 1986; Le Monde, 4 and 5 June 1986; International Herald Tribune, 3 and 5 June 1986.

3/ El País, 23 June 1986.

4/ ABC, Madrid, 21 August 1986; El País, 21 August 1986.

5/ El País, 20 September 1986.

6/ Government of El Salvador, "La situación de los derechos humanos y las libertades fundamentales in El Salvador, durante el período septiembre de 1985 a julio de 1986", provisional report handed over to the Special Representative by the President of the Republic on 26 September 1986.

7/ Economic Commission for Latin America and the Caribbean, "Estudio económico de América Latina y el Caribe" (LC/L.390/Add.1), p. 1.

8/ Ibid., p. 8.

9/ Ibid., p. 9.

10/ Government of El Salvador, "La situación de los derechos humanos ...".

11/ United States Department of State, Bureau of Public Affairs, "The situation in El Salvador", p. 7.

12/ Government of El Salvador, "La situación de los derechos humanos ...", pp. 49 and 50.

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- 15/ ECLAC, LC/L.390/Add.1, pp. 19 and 20.
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- 17/ International Herald Tribune, 3 and 4 May 1986.
- 18/ Human Rights Commission of El Salvador, report on activities carried out from September 1985 to August 1986.
- 19/ Government of El Salvador, "La situación de los derechos humanos ...", p. 63.
- 20/ ECLAC, LC/L.390/Add.1.
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- 22/ Ibid., vol. II.
- 23/ Diario del Mundo, 5 March 1986.
- 24/ La Prensa Gráfica, 6 February 1986.
- 25/ El Diario de Hoy, 16 February 1986.
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- 27/ International Herald Tribune, 27 August 1986.
- 28/ International Herald Tribune, 26 February 1986; The London Times, 26 February 1986.
- 29/ United States Department of State, Bureau of Public Affairs, "The situation in El Salvador", p. 2.
- 30/ International Herald Tribune, 27 August 1986.
- 31/ Legal Protection Reports, Nos. 45-50.

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32/ Christian Legal Aid, El Salvador: Arbitrary executions committed by: (a) Death squads and paramilitary groups; (b) Members of the Armed Forces (Army Security and Civil Defence), January-April 1986.

33/ Human Rights Commission of El Salvador, report on activities carried out from September 1985 to August 1986.

34/ Civilian deaths from 1 January through 31 May 1986 attributable to political violence according to the press, as reported by the Embassy of the United States of America, by category.

35/ Legal Protection Office, Reports Nos. 45-50.

36/ Government of El Salvador, List of persons detained for terrorist acts, 10 September 1985 to 31 May 1986.

37/ Legal Aid, Boletín Especial, 15 June 1986.

38/ Legal Aid, Boletín Especial, 1 May 1986.

39/ The New York Times, 26 August 1986.

40/ Report on intervention by the Office of the Attorney-General of the Republic in the monitoring of and respect for human rights, San Salvador, 22 September 1986.

41/ The New York Times, 15 February 1986.

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43/ Statistics on members of the Armed Forces captured by the National Police and brought before the criminal courts for various offences against the population, 1 September 1985 to 20 June 1986.

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47/ Statistical table of cases of habeas corpus, September 1985-August 1986.

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- 49/ Human Rights Commission of El Salvador, report on activities carried out from September 1985 to August 1986.
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- 52/ Armed Forces of El Salvador, "Informe de la Fuerza Armada de El Salvador sobre los derechos humanos durante el período de septiembre de 1985 a agosto de 1986", p. 4.
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- 75/ FMLN-FDR Political-Diplomatic Commission, "Los derechos humanos y la paz. Las principales violaciones a los derechos humanos y perspectivas de solución política en El Salvador", 1 July 1986.
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