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

Report on the human rights situation in the Islamic
Republic of Iran by the Special Representative of
the Commission, Mr. Reynaldo Galindo Pohl, appointed
pursuant to resolution 1986/41

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I. INTRODUCTION

1. At its forty-second session, the Commission on Human Rights decided, by its resolution 1986/41, to extend the mandate of the Special Representative, as contained in its resolution 1984/54, for a year; requested the Chairman of the Commission to appoint an individual of recognized international standing to fill the vacancy created by the resignation of Mr. Andrés Aguilar and requested the newly appointed Special Representative to present an interim report to the General Assembly at its forty-first session on the human rights situation in the Islamic Republic of Iran, including the situation of minority groups such as the Baha'is, and a final report to the Commission at its forty-third session. On 9 July 1986, the Chairman of the Commission designated Mr. Reynaldo Galindo Pohl as Special Representative of the Commission.

2. In compliance with operative paragraph 7 of resolution 1986/41, the newly appointed Special Representative submitted to the General Assembly at its forty-first session, his interim report (A/41/787) and submits to the Commission the present report on the human rights situation in the Islamic Republic of Iran.

II. ACTION TAKEN BY THE SPECIAL REPRESENTATIVE

3. In his interim report to the General Assembly the Special Representative analysed the mandate entrusted to him by the Commission, reviewed the contacts made by the former Special Representative with the Iranian Government, including his efforts to obtain the latter's agreement to a visit to the country and the Iranian Government's response thereto, described the action he had taken thus far with a view to obtaining the Iranian Government's co-operation by quoting the substance of the letters he addressed to that Government through its representatives and concluded with a number of observations in which he explained the reasons for limiting the report to the first part of the mandate entrusted to him by the Commission, namely, the establishment of contacts with the Iranian Government. The Special Representative urged the Iranian Government to reply to the requests for specific information regarding the allegations both he and his predecessor had submitted to it, and expressed the hope that by the time he presented his final report to the Commission, in accordance with its resolution 1986/41, the Iranian Government would have communicated to him its considered view on the issue of co-operation.

4. The Iranian Government has so far provided no comment or information to the newly appointed Special Representative regarding his appeals for co-operation or the numerous allegations of human rights violations in that country submitted by the Special Representative and his predecessor.

5. It is to be noted that, at an informal meeting held on 17 November 1986 at United Nations Headquarters between the Special Representative and the Iranian Ambassador to the United Nations, the latter manifested a positive approach regarding several aspects of the mandate, including the question of a visit to the country. He also informed the Special Representative of his Government's continued objections to the politicization of the issue in the various organs of the United Nations.

6. On 4 December 1986, the General Assembly, at its forty first session, adopted resolution 41/159 on the situation of human rights in the Islamic Republic of Iran. By that resolution, the Assembly requested the Commission on Human Rights to study carefully the final report of the Special Representative, as well as other information pertaining to the situation of human rights in the Islamic Republic of Iran, and to consider further steps for securing effective respect for human rights and fundamental freedoms for all in that country (para. 4). The Assembly also decided to continue its examination of the situation of human rights in the Islamic Republic of Iran, including the situation of minority groups such as the Baha'is, during its forty-second session in order to examine that situation anew in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council (para. 7).

III. INFORMATION AVAILABLE TO THE SPECIAL REPRESENTATIVE

7. In the absence of any formal reply from the Iranian Government regarding the allegations submitted to it, the Special Representative proceeded to analyse the information and material available to him, containing specific allegations of human rights violations in the Islamic Republic of Iran, in the light of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, with special emphasis on the latter instrument.

8. In examining and assessing the information available to him, the Special Representative strove to adhere strictly to the principles of fairness and objectivity, and therefore submitted all the allegations appearing in the present report to the Iranian Government in due time.

A. Written information

9. The Special Representative had before him the "Report on the performance of the Islamic Republic of Iran in 1985, submitted to the Special Representative by the Ministry of Foreign Affairs of the Islamic Republic of Iran" (A/40/874, annex IV). It may be noted that this document addressed itself to two out of five sets of questions submitted to the Iranian Government by the former Special Representative in his aide-memoire of 15 July 1986 (A/40/874, annex III).

10. The Special Representative also took note, for the preparation of the present report, of various documents published by the Ministry of Foreign Affairs of the Islamic Republic of Iran. In addition, information regarding the human rights situation in the Islamic Republic was provided by various organizations opposing the present régime, and in particular the People's Mojahedin Organization of Iran, Organization of Iranian People's Fedaiian and the Tudeh Party of Iran. (A detailed list of the publications taken into account in the preparation of the present report appears in the annex.)

11. Non-governmental organizations enjoying consultative status with the Economic and Social Council, and in particular the Baha'i International Community and Amnesty International, provided information containing both legal and factual elements.

12. Furthermore, the Special Representative received a large number of petitions and letters from various organizations and individuals, concerning the human rights situation in the Islamic Republic of Iran in general, or particular cases of imprisoned groups or individuals.

B. Oral information

13. The Special Representative noted that numerous persons who alleged that they had been the victims of violations of human rights wished to communicate their experience to him. In the circumstances, and in an effort to obtain as complete a picture as possible of these cases, the Special Representative received 16 persons who approached him in the course of informal hearings conducted on 23-25 September 1986. They claimed to have firsthand knowledge and experience of various aspects of the human rights situation in the Islamic Republic of Iran. Six of these persons described themselves as sympathizers of the People's Mojahedin Organization of Iran. They were: Robabeh Boudaghi, Behzad Naziri, Azame (this person requested that her surname should not be disclosed), Mina Vatani, Ali Hossein-Zadeh and Hossein Hosseini. The other 10 persons were followers of the Baha'i faith (all of them requested that their name should not be disclosed).

14. All the persons mentioned above spent periods of various duration in Iranian prisons between the years 1981 and 1985, and all of them subsequently fled the country.

15. The information collected from these persons is reproduced below in chapter V, and a summary of that information was transmitted to the Iranian Government by a letter dated 27 October 1986.

IV. LEGAL FRAMEWORK

A. Applicable international instruments

16. The international legal framework for the examination of allegations of violations of human rights and fundamental freedoms and the human rights situation in a particular country, in the present case the Islamic Republic of Iran, is basically constituted by the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. To this must be added international customary law and other relevant treaties binding upon the Islamic Republic of Iran. The Commission on Human Rights has reiterated in its resolutions concerning this question that the Covenant on Civil and Political Rights binds the Islamic Republic of Iran (see resolutions 1982/27, para. 2; 1983/34, para. 2; 1984/54, para. 2; 1985/39, para. 4, and 1986/41, para. 4). The Commission has thus pointed out the paramount importance of this binding instrument whose provisions are relevant to most of the allegations of violations of human rights presented so far to international organs.

17. The incidence of Islamic law on the particular obligations of that country, to which Iranian representatives have referred in general statements, should also be considered, if and when specific and concrete allegations are presented. Besides positions of principle, always valuable and enlightening, concrete questions concerning the unification and coherence of municipal and international law may be examined.

B. Charter of the United Nations

18. The fundamental international legal instrument from which all international promotion and monitoring of human rights and fundamental freedoms derive is the Charter of the United Nations. The Charter states in its Preamble that the peoples of the United Nations "reaffirm faith in fundamental rights, in the dignity and worth of the human person, in the equal rights of men and women and of all nations large and small". In Article 1, paragraph 3, the Charter includes among its purposes and principles the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

19. At the level of implementation of this purpose and principle, the Economic and Social Council shall promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" (Charter, Art. 55 C.). All Members of the United Nations pledge themselves to take joint and separate action for the achievement of the purpose of promotion of universal respect for, and observance of, human rights and fundamental freedoms (emphasis added) (Art. 56).

C. Universal Declaration of Human Rights

20. The Universal Declaration of Human Rights, adopted and proclaimed by the General Assembly in resolution 217 A (III) of 10 December 1948, spells out the meaning and scope of the concept of "human rights and fundamental freedoms" contained in the Charter. Consequently, the Universal Declaration is not an instrument separated from the Charter and does not create new obligations, but determines, by consent of the States signatories of the Charter, the obligations already acquired in this field. The Universal Declaration explicitly describes the various elements contained in the generic concept of "human rights and fundamental freedoms" as well as their content and meaning, that is the specific rights which are protected through the joint action of States Members of the United Nations (Charter, Art. 56). Thus the Universal Declaration provides an authoritative understanding and an agreed interpretation of human rights and fundamental freedoms, and consequently of the obligations acquired under the Charter on that subject.

21. The Universal Declaration rules out individual and often discrepant interpretations of the content, meaning and scope of the obligations enshrined in the Charter. Instead it provides a uniform understanding and interpretation of one of the obligations established under the Charter, and facilitates and directs the discharge of the responsibilities of the Economic and Social Council and the implementation of the pledge of Member States to take joint and separate action to promote universal respect for, and observance of, human rights.

22. The rights and freedoms set out in the Universal Declaration have become international customary law through State practice and opinio juris. Even if the strictest approach is adopted to the determination of the elements which form international customary law, that is, the classical doctrine of the convergence of extensive, continuous and reiterated practice and of opinio juris, the provisions contained in the Universal Declaration meet the stringent standards of that doctrine. Of course, they also meet the more liberal standards of contemporary doctrines on the constitutive elements of international customary law.

23. The Universal Declaration, as a projection of the Charter of the United Nations, and particularly as international customary law, binds all States. This assertion is not disputed in the ongoing controversy on the binding character of international customary law in respect to recently independent States. It is known that some academic, political and diplomatic circles in countries of the third world, and particularly in newly independent States, deny the binding character of international customary law on States that were subjected to colonial rule at the time the custom was created. Consequently, they advocate an extensive revision of important segments of general international law.

24. There is no need to enter into this polemic, because general international law concerning human rights and fundamental freedoms pertains to the provisions that have not been questioned on these grounds. The legal literature in this field does not question the validity of international customary law in respect to human rights and fundamental freedoms, as defined and specified in the Universal Declaration and later converted into specific contractual obligations in the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights. The trend is rather the reverse: to increase the rights and freedoms under international protection.

25. Some scholars and politicians of Islamic countries, in explaining what were felt to be different philosophical and juridical concepts, have tried to define in academic seminars the problems arising from the divergence between some traditional Islamic tenets and the provisions of the Universal Declaration. They have not advocated the change or the rejection of the provisions of the Universal Declaration, but simply pointed out the problems that some countries confront in respect of certain international instruments. On the other hand, other Muslim scholars and politicians have managed to conciliate both sets of norms and their countries have ratified those instruments.

26. Some human rights and fundamental freedoms have reached the highest stage in the hierarchy of norms, the condition of jus cogens, and therefore it is legally impossible to derogate from the relevant international provisions, even with the consent of the States concerned. The provisions of jus cogens constitute the structural legal element of the international community, because it is universal and outside the individual expression of will of each State.

27. The history of the formal recognition of human rights and fundamental freedoms in the eighteenth century reveals that these rights and freedoms were originally conceived to limit the power of the State. Their evolution in the two succeeding centuries and particularly in the second half of the twentieth century has proved that Governments are not the only sources of potential violations of the dignity and eminent value of the human person.

28. In recent decades it has been implicitly or explicitly accepted that organized or semi-organized political groups, particularly those engaged in insurgency or insurrection, may be responsible for violations of human rights and freedoms, mainly in respect of the right to life and personal freedom. Thus, the wording of the Universal Declaration implies that not only Governments but also individuals are obliged to observe its provisions. The subject of the protection set out in international and national human rights law is the individual; thus the individual, whether "insurgent" or

"government official" or "ordinary private person", is a human being deserving of protection at the international level. The same evolution has taken place in respect to humanitarian law whose main formal expressions are the four Geneva Conventions of 1949 and the additional protocols thereto.

D. International Covenants on Human Rights

29. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966. The Covenant on Civil and Political Rights entered into force on 23 March 1976 and the Covenant on Economic, Social and Cultural Rights on 3 January 1976.

30. The Covenants organized the joint promotion and monitoring of human rights and fundamental freedoms. The Islamic Republic of Iran is a party to both Covenants and has complied with the provisions of the Covenant on Civil and Political Rights by presenting its report under article 40 (CCPR/C/1/Add.58). It has also observed the requirements of the International Convention on the Elimination of All Forms of Racial Discrimination by presenting reports under article 9 (CERD/C/66/Add.5, CERD/C/91/Add.31 and CERD/C/118/Add.12). The International Covenant on Civil and Political Rights does not authorize States parties to derogate from certain provisions, even in time of public emergency which threatens the life of the nation (Art. 4). Other provisions may be derogated from in time of emergency which threatens the life of the nation. The Islamic Republic of Iran has not derogated from those provisions, although it was entitled to do so under article 4 of the Convention.

31. Both Covenants have been widely accepted and applied and enjoy extensive support in all geographical regions. Eighty-two States have ratified the Covenant on Civil and Political Rights and 87 the Covenant on Economic, Social and Cultural Rights. The geographical distribution of the parties shows the widespread support from countries of different political and socio-economic systems and cultures.

E. Iranian legal structure

32. Regarding the legal structure of any country bound by international instruments such as the two Covenants, there are two specific points to be considered: first, the domestic legislation must be in harmony with the international instruments, and second, the way in which domestic legislation is applied.

33. The fundamental Iranian legal instrument is the Constitution, adopted in 1979. The Constitution is divided into 12 chapters, is composed of 175 articles, and covers the organization and function of political power and the relations and rights of natural and juridical persons.

34. The report submitted by the Islamic Republic of Iran to the Human Rights Committee under article 40 of the Covenant on Civil and Political Rights (CCPR/C/1/Add.58) outlined the most important and relevant laws promulgated in order to develop the Constitution in respect of human rights and fundamental freedoms.

35. Among the relevant laws emanating from the Constitution, the report mentions the following:

(a) State General Inspection Act which empowers the Judiciary, on the basis of Principle 174 of the Constitution, "to investigate, in its continuous and extraordinary inspections, any discord or offence committed by civil and military organs and all the Revolutionary Institutions, and to pursue the matter through legal channels until the attainment of the final results";

(b) The Administrative Court of Justice Act, which enables that Court, on the basis of Principle 173 of the Constitution, "to investigate litigations, complaints and protests of the public against government officials, units or regulations". The approval of this Act "enables any individual of the nation to lodge a complaint with one of the benches of the Administrative Court of Justice against any injustice or oppression committed by government employees or units, through regulations or decrees, against people and cause justice to be administered";

(c) The Judiciary Police Formation Act which deals with "the formation of a judiciary police so as to ensure that investigations, the preparation of judicial and penal records, and the consideration of problems pertaining thereto, as well as the serving and execution of legal writs are carried out by trained personnel";

(d) Laws and regulations regarding the press, the criteria governing the functions and limits of responsibility of revolutionary organs, and bills that determine the limits of duties and competence of the Revolutionary Public Prosecutors and Courts. Bills aimed at the just distribution of wealth and the nationalization of foreign trade are also referred to in that report.

36. Moreover, the "Report on the performance of the Islamic Republic of Iran in 1985" (A/40/874, annex IV) referred to two of the five sets of questions submitted to the Iranian Government by the former Special Representative in his aide-memoire of 15 July 1985, namely, freedom from torture and other inhuman or degrading treatment or punishment, and the right to liberty and security of person and freedom from arbitrary arrest or detention (aide-memoire, letters (a) and (b)). The report did not refer to fair trial, freedom of thought, conscience and religion, and right of religious minorities to profess and practice their own religion (aide-memoire, letters (c), (d) and (e)).

37. The attention of the Special Representative has been called to several provisions of the Islamic Penal Code which may contradict specific provisions of international instruments concerning human rights and fundamental freedoms, particularly in respect to the widespread application of capital punishment, inhuman treatment or punishment in excess of generally accepted standards, and the right to a fair trial. The Special Representative has requested the Iranian authorities to provide information on these provisions of the Penal Code. He has also requested the full text of the Iranian laws mentioned so far.

F. Co-ordination of international law and Islamic law

38. The co-ordination between Islamic law and the instruments establishing international obligations may not be easy. The most illustrative statements to that effect were made by Ambassador Khosroshahi before the Human Rights Committee at its sixteenth session, held in July 1982 (see CCPR/C/SR.368, paras. 13 and 15):

"Some members of the Committee had inquired whether it would be possible to incorporate international instruments on human rights in Islamic law. His Government's position on that point was that, if the intention was that such instruments should complement and add to the Islamic laws with a view to their being merged in a single legal system, then it would have to respond negatively, since it considered that the Islamic laws were universal and Shi'ite canon law would take any new needs of society into account. If, however, it was intended that international instruments on human rights and Islamic laws should be taken together in an effort to achieve mutual understanding and to explore what they had in common, then such an endeavour would be gladly accepted.

...

It had been asked whether laws of non-religious inspiration could be considered consistent with Islamic laws. In that connection it should be borne in mind that the laws of non-religious inspiration were not necessarily contrary to the Muslim faith. However, any law contrary to the tenets of Islam would not be acceptable".

39. Scholars have carefully noted the points of possible conflict between Islamic law and international instruments. As this is not an academic exercise it would be inappropriate to take those opinions as the point of departure for an examination of this question. Such a conflict should be studied in the light of concrete situations and cases. From the point of view of international law that potential conflict could be equated, mutatis mutandis, with the question of the pre-eminence of the Constitution or international law which has pervaded legal literature for some time. Considered in abstract terms the question seems extremely theoretical.

40. The study of Islamic history and culture shows that from its beginnings Islam established a tradition of respect for human beings, notwithstanding differences of religion. At the time of its appearance in the seventh century, Islam represented a step forward in the protection of human beings. Its contribution to the development of mankind came at a time when Europe was living in the so-called Dark Ages that followed the collapse of the Roman Empire. Without touching on the precepts contained in the Koran and the Sunna, it may be stated that Islam has been able to adapt to the changing circumstances of the countries that have adopted it and to new developments in the world through the unanimous findings of jurists and the judicial precedents in respect of particular cases. The history of the way Islam has operated throughout the millennium and a half of its existence leads to the expectation that the question of potential conflict could be solved in such a way that the international instruments on human rights would remain untouched as one of the most notable achievements of world-wide international co-operation.

V. CONSIDERATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

41. As was explained in the interim report, the Special Representative had requested the Iranian Government to reply to the allegations contained in the three lists submitted to it by the former Special Representative, and to the list he himself prepared and transmitted on 27 October 1986. The first two lists submitted by the former Special Representative, containing 299 names of persons who were allegedly summarily or arbitrarily executed or who had allegedly died as a result of ill-treatment during their detention, were attached to the interim report he had presented to the General Assembly (A/40/874, Annexes I and II). The contents of the third list prepared by the former Special Representative and that of the list prepared by the newly appointed Special Representative are reproduced below, grouped in five principal sections, in line with pertinent articles of the International Covenant on Civil and Political Rights. These are: (a) right to life; (b) right to freedom from torture or cruel, inhuman or degrading treatment or punishment; (c) right to liberty and security of person; (d) right to a fair trial; and (e) right to freedom of thought, conscience and religion and to freedom of expression. The information collected in the course of informal hearings the Special Representative conducted in September 1986, referred to in paragraph 17 above, is also grouped and reproduced under the same five sections.

A. Right to life

42. Article 6, paragraph 1, of the International Covenant on Civil and Political Rights provides that "every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

43. Article 6, paragraph 2, provides that "in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide".

44. According to information available to the Special Representative, some 7,000 executions had taken place in the Islamic Republic of Iran between 1979 and the end of 1985 and according to some sources the figure was much higher. It may however be noted that, while the number of reported executions reached several thousands per annum in the period 1979-1981, their number in the past three or four years had been considerably lower. Thus, in 1984 there had been some 500 executions, and in 1985 some 470. This trend appears to have continued during 1986.

45. The following are cases containing detailed allegations of violations of the right to life that were submitted to the Iranian Government by the former Special Representative, in a letter dated 29 October 1985 (see A/40/874, paras. 11-12):

(a) On 18 March 1985 it was alleged that, since the beginning of June 1985, over 100 supporters of the People's Mojahedin Organization had been executed in Evin prison, Tehran; 16 had been executed in Ghaem Shahr, northern Iran; 10 in Shiraz, southern Iran; 15 in Amol, northern Iran and an

unspecified number of executions had taken place in other towns, including Karaj, Bojnurd and Mashhad. It was further alleged that in some cases the victims had been hanged from cranes in the central square of the town;

(b) On 1 April 1985 it was alleged that nine "political prisoners" including Asghar Nazemi, a supporter of the People's Mojahedin Organization, had been executed in Evin prison, Tehran. It was further alleged that, during the month of March 1985, 48 "political prisoners" had been executed in Ahvaz, in south-western Iran; one in Qazvin; one in Qom, two in Semnan and five in Tabriz;

(c) On 17 April it was alleged that eight "political prisoners", all supporters of the People's Mojahedin Organization, had been executed on 23 March 1985 in Rud Sar, northern Iran;

(d) On 20 May 1985 it was alleged that Bahman Haghhighatkah, a supporter of the People's Mojahedin Organization, had been hanged in public in Tabriz, after being severely tortured. It was further alleged that seven "political prisoners" had been executed in Evin prison, Tehran, on 10 April 1985 and scores of others on 29 April 1985, on 30 April 1985, on 2 May 1985 and on 4 May 1985;

(e) On 7 June 1985 it was alleged that Nostrat'u'llah Sobhani, a member of the Baha'i faith, had been executed;

(f) On 16 July 1985 it was alleged that approximately 70 "political prisoners" had been executed in Evin prison, Tehran, during the last week of June 1985, and a supporter of the People's Mojahedin Organization had been hanged in public in Arak, central Iran, on 13 June 1985;

(g) On 26 September 1985 it was alleged that a group of political prisoners, including Hassan Shahsavandi, aged 21, had been executed on 19 September 1985 in the Pasdaran Corps Prison in Shiraz; another group of political prisoners, including Gholamreza Veshagh, aged 24, had been executed on 14 September 1985 in Evin prison, Tehran. Hossein Meshkinfam, aged 32, had been executed in Shiraz prison after 40 days of allegedly extremely severe torture and after blood had been taken from his body. Other recently executed political prisoners, according to that information, included Saifollah Kazemian - in Amol, northern Iran; Manouchehr Ashtari - in Arak, central Iran, and Mohammed Bagherzadeh - in Mashhad.

(h) On 14 October 1985 it was alleged that approximately 60 "political prisoners", including Alireza Emchaspand, who was arrested in 1981 and had not been brought to trial, had been executed in Evin prison, Tehran, on 21 September 1985.

46. The following are cases containing detailed allegations of violations of the right to life that were submitted to the Iranian Government by the newly appointed Special Representative in a letter dated 27 October 1986:

(a) On 28 October 1985 the People's Mojahedin Organization alleged that several of its members had been recently executed in secret. According to that information:

- (i) On 5 October 1985 the bodies of Gholam Sarkheili and Maghi Saidi, two political prisoners from Evin prison, were buried in Behesht-Zahra cemetery;
- (ii) On 9 October 1985 Mahmoud Bani-Najjarian, a lawyer, aged 35, was executed in Evin prison;
- (iii) On 11 October 1985 Ali-Asghar Salehzadeh was hanged in public from a crane in Zanzan, northern Iran;
- (iv) On an unspecified date in early October 1985, several political prisoners in Gohardasht prison in Karaj, west of Tehran, were executed. They included Ahmad Khakbaz, Bahram Bayat and Khaleghi (first name not reported). During the same period several members of the Organization were executed in Kermanshah prison, in western Iran;

(b) In early December 1985 the Organization of Iranian People's Fedaiian alleged that a group of political prisoners had been secretly executed during the previous two months. They included the following: Mehrdad Pakzad, Jamshid Sepahvand, Ali Karimpour, Ahmad-Reza Shoaii, Razialdin Taban, Anoushirvan (Bashir) Mada'en, Reza La'ali, Fatemeh Nofallah, Amir Pirhadi, Alireza Amshasbandan, Touran Maso'udi, Ibrahim Zabihin, Yosif Hosseini Zanjirabadi, Mahmoud Karami, Ahmad Khakbaz, Bahram Bayat, Khaleghi, Siavosh Khorramrouz, Shayesteh, Nasser Rajabzadeh, Pirooz Nemati Moradlou, Davoud Safavi, Seyed Valiolah Safari.

(c) On 31 December 1985 the People's Mojahedin Organization alleged that one of its members, Morteza Qassemi-Nejad, aged 20, had been set ablaze in Ardabil prison, north-western Iran, in the autumn of 1985, by revolutionary guards. He died of his wounds. According to the same source, on 13 December 1985 security agents executed two passengers on a bus in the Sar Dasht region in southern Kurdistan. This allegedly took place in front of the other passengers. The two victims were reportedly residents of the nearby village of Biuran;

(d) On 2 January 1986 it was alleged that two members of the Central Committee of the Tudeh Party of Iran, Reza Shaltouki and Taghi Keymanesh, had died under torture. Both had been imprisoned since 1983 and were being detained without trial.

(e) On 3 March 1986 the People's Mojahedin Organization alleged that several political prisoners, members or supporters of the Organization, had been executed in secret during the months of January and February 1986. According to that information several prisoners were executed in Evin prison, Tehran, in late January 1986. They included Khosro Pazirai, Farshid Khadnan Rooshaki, Faramarz Vaziri, Abdolreza Bahrami, Massoud Mehrban, Gholamreza Akbari-Monfared and Hassan Nikfard. Naghi Salehi was executed in Evin prison in February 1986. Five prisoners were executed in February in Tabriz prison, north-western Iran: Akbar Amanollahi, Mehrdad Ardalan, Mansour Karimi, Mahmoud Esmailzadeh and Ehsan Saidi. Bagher Nazarian was executed in February in Zanzan prison, northern Iran. Hossein Ghazvanchahi was allegedly killed under torture in Amol prison, northern Iran.

(f) On 20 March 1986 the Organization of Iranian Peoples' Fedaiian alleged that several political prisoners had been executed during the previous few weeks and that others, whose execution orders had been approved by the High Judicial Council, were facing imminent execution;

(g) In April 1986 official Iranian sources reported that four persons, convicted of moral crimes, had been sentenced to death by stoning. Tahereh Nagib, a woman convicted of adultery and murder was stoned to death in Qom. Ebrahim Shahbazi, Neyedali Bahrami and Mohamed Eftekharian were convicted of adultery and running a prostitution ring and were stoned to death in Karaj. Several other sentences of death by stoning were reportedly confirmed by the Supreme Judicial Council and were expected to be carried out;

(h) On 25 June 1986 the Baha'i International Community alleged the summary execution of two of its members: Sirru'llah Vahdat-Nizami was hanged on 4 May 1986 in Tehran, after being imprisoned since 13 February 1981 and having been severely tortured. Fidrus Shabrukh, aged 38, was hanged on 9 May 1986 in Zahedan. He had been imprisoned for a second time since 26 June 1983 and had allegedly been severely tortured. Farid Bihmardi was executed on 10 June 1986 in Tehran. He had allegedly been severely tortured over a long period of time. It was also alleged that a 15-year-old boy, Payman Suhbani, had been beaten and stoned to death by a group of fanatics, allegedly incited by religious officials. The boy's father, Ruhul-Amin Subhani, was seriously injured in the same incident.

47. The following are excerpts from a summary of information collected during the informal hearings held by the Special Representative in September 1986 (see paras. 13 and 15 above). These excerpts concern the right to life:

(a) All the Mojahedin sympathizers alleged they had witnessed executions in prison of fellow inmates, had seen the bodies of fellow inmates who had been executed earlier, or had members of their family or friends who had been executed. Thus, Robabeh Boudaghi allegedly saw her husband's body hanged in the courtyard of Gilan prison, and witnessed several other people being executed in that prison, in the period August-November 1983. Mina Vatani alleged having witnessed 70 persons being executed in Evin prison in the early months of 1982. Among those she allegedly saw being executed there were pregnant women, and other women who had been raped before being executed. According to these persons the executions were carried out without a trial, and in most of the cases the victims were either shot dead or hanged, but many of the victims died under torture or as a result of torture or ill-treatment;

(b) Some of the followers of the Baha'i faith alleged that they had seen in prison fellow Baha'is who were later said to have been executed, including Shahpur Markazi, Jahangir Hidayati, Ahmad Bashiri and Rahmatullah Vujdani. One of the followers of the Baha'i faith who appeared before the Special Representative alleged that he had helped to bury the bodies of six members of the local Baha'i Council of Urumiyeh. They were: Ihsanullah Khayyami, Agahullah Tizfahm, Jalaliyeh Mashtail-Uskui (a woman), Ali Naimiyan, Maqsd Alizadih and Jalal Payravi.

B. Right to freedom from torture or cruel, inhuman or degrading treatment or punishment

48. Article 7 of the International Covenant on Civil and Political Rights provides that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Under article 38 of the Constitution of the Islamic Republic of Iran, any kind of torture exercised to extort a confession from the prisoner is forbidden. Articles 58 and 62 of the Islamic Penal Code further provide for severe penalties to members of the prison staff or judicial or non-judicial officials convicted of ill-treatment of prisoners.

49. Although the Constitution of the Islamic Republic of Iran prohibits torture to obtain confessions, the information received by the Special Representative contained numerous detailed allegations of widespread torture and ill-treatment, principally affecting imprisoned members or supporters of political opposition groups or members of religious or ethnic minorities. According to one source, there were 64 different forms of physical and psychological torture applied in prisons in the Islamic Republic of Iran, but most of the cases brought to the attention of the Special Representative concerned beating, flogging, burning with cigarettes, electric shocks, sexual abuse as well as psychological torture such as mock executions. Most of the alleged cases of torture appeared to have occurred during interrogation and were intended to extract confessions about the detainees' activities and the names and addresses of other members of the organization or group to which the detainee belonged.

50. The following are excerpts from the summary mentioned in paragraph 15 above, and relate to the right to freedom from torture or cruel, inhuman or degrading treatment or punishment: the six Mojahedin sympathizers alleged that they had been severely tortured in prison and had witnessed many other fellow inmates being tortured. Robabeh Boudaghi was allegedly tortured in Evin prison from 1983 to 1985. Behzad Naziri was allegedly tortured in Evin and Ghezelhessar prisons from 1982 to 1985. Azame was allegedly tortured in Evin and Ghezelhessar prisons from August 1982 to October 1985. Mina Vatani was allegedly tortured in Evin, Ghezelhessar and Gohar-Dasht prisons from November 1981 to November 1984. Ali Hossein-Zadeh was allegedly tortured in Khorramshahr and Amol prisons from September 1981 to February 1983. Hossein Hosseini was allegedly tortured in Dadgah Enghelab and Ershadgah prisons from September 1981 to September 1982. Some of them showed the Special Representative marks and scars on their body which they claimed were the result of torture. The persons appearing before the Special Representative alleged that they had been subjected to various sorts of physical and psychological torture, including sexual brutality and rape, beating and flogging with various instruments, hanging, denial of sleep, torture in front of family members, torture of family members' in front of the detainees and mock executions. Torture allegedly occurred immediately following arrest, in interrogation centres and in prisons. It allegedly occurred both during the pre-trial period and while serving a prison sentence.

51. With regard to five of the persons appearing before him, the Special Representative received medical certificates attesting to the following:

(a) Dr. Claudine Jeannet of Geneva examined Azame, Robabeh Boudaghi and Mina Vatani on 5 October 1986. With regard to Azame she certified as follows:

"She bears traces, in the form of scars on her feet, of the ill-treatment to which she was subjected. In addition, as a result of injuries to the abdomen and genital area and also rape, she had serious infections which required the removal of the appendix and uterus and an operation on the left ovary".

With regard to Robabeh Boudaghi she certified as follows:

"The scars she bears are entirely compatible with the injuries she said she received at the time of her arrest. Her confused state is likewise entirely compatible with the ill-treatment to which she was subjected."

With regard to Mina Vatani she certified as follows:

"The scars she bears, particularly on the feet, are certainly a secondary effect of ill-treatment. She also has neurological symptoms which are a secondary effect of blows to the head."

(b) Dr. Inge Kemp Genefke, Medical Director of the Rehabilitation Centre for Torture Victims in Copenhagen, examined Hossein Hosseini on 20 July 1985. She certified that:

"This patient had been in perfect health, was never hospitalized, and in his family there is no predisposition to illness. On arrival in Denmark the patient was in a very bad state both mentally and physically ... This patient suffered from anxiety and depression and complained about serious difficulties in concentration and retention."

(c) Dr. H el ene Jaff e, President of the Association pour les victimes de la r epression en Exil (AVRE) in Paris, examined Ali Hossein-Zadeh on 7 October 1986 and certified as follows:

"Lastly, Mr. Hossein-Zadeh refers to ill-treatment inflicted over a lengthy period - 40 days - in 1981. Upon examination, it was somewhat surprising to note the unpronounced and relatively non-specific nature of the sequelae. It was not possible to establish an indisputable cause-and-effect link between the ill-treatment and its present manifestation, but there is a possible causal link."

C. Right to liberty and security of person

52. Article 9 of the International Covenant on Civil and Political Rights provides for a number of safeguards against arbitrary arrest or detention. These include the right to be promptly informed of the reasons for one's arrest and of any charges against one; the right of persons arrested or detained on a criminal charge to be brought promptly before a judge and to be entitled to trial within a reasonable time or to release; the right to take proceedings before a court, in order that that court may decide without delay on the lawfulness of one's detention and order one's release if the detention is not lawful and the right of anyone who has been the victim of unlawful arrest or detention to have an enforceable right to compensation.

53. Chapter II of the "Report on the performance of the Islamic Republic of Iran in 1985" (A/40/874, annex IV), entitled: "On the right of freedom and personal security vis-à-vis wilful arrest or detention" addresses itself, inter alia, to the guarantees existing in Iranian law to safeguard the inviolable rights of individuals in the face of wilful arrest or detention. A number of provisions of the Constitutional Law and the Islamic Penal Code are quoted, indicating that arbitrary arrest or detention is forbidden and that violators of these provisions are punishable, and also providing that, in case of arrest, the accused must be immediately informed of the reason for his detention, in writing. Iranian legislation in that respect therefore appears to be compatible with the provisions of article 9 of the International Covenant on Civil and Political Rights. Nevertheless, according to the information received by the Special Representative, and in particular the information collected during the informal hearings conducted in September 1986, (see paras. 13 and 15 above), all the persons appearing before the Special Representative alleged that they had been arrested without any warrant, mostly by groups of revolutionary guards who had detained them in their homes or on the street. In some cases, persons were arrested while accompanied by family members, including babies or children. Most of the persons described the conditions of their arrest as brutal, accompanied by beatings and other forms of ill-treatment. In most of the cases, no explanation was given to the detainee as to the reason for his detention. In other cases, explanations were vague. Some of the persons spent months, or sometimes years, in prison without any formal accusation being brought against them. Allegations were also made of long periods of incommunicado detention and of denial of family visits.

D. Right to a fair trial

54. Article 14 of the International Covenant on Civil and Political Rights contains a number of principles and guarantees for a fair administration of justice. These include the right to equality of all persons before the courts and tribunals, to a fair and public hearing by a competent, independent and impartial tribunal established by law, to be presumed innocent until proved guilty according to law, to be informed promptly of the nature and cause of the charge against one, to have adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's own choosing, to be tried without undue delay, to be tried in one's presence, to defend oneself in person or through legal assistance of one's own choosing, to examine, or have examined, the witnesses against one, not to be compelled to testify against oneself or to confess guilt and to have the right to one's conviction and sentence being reviewed by a higher tribunal according to law.

55. It was alleged that accused persons had not been informed of the charges against them, could not communicate with counsel of their own choosing, had no legal assistance assigned to them, could not examine witnesses of the prosecution, had sometimes not been informed of the verdict and the sentence handed down to them, and had been denied the right to their conviction and sentence being reviewed by a higher tribunal.

56. The following are excerpts from the summary of information obtained during the informal hearing (see paras. 13 and 15 above), and relate to the right to a fair trial: persons who were put on trial alleged that in most cases trials were expeditious - some said they lasted as little as 5 minutes. In some cases the accused had their eyes covered and could not see the judge

who, in most cases, was a single religious judge. None of the persons appearing before the Special Representative had been given access to a defence lawyer. In most cases the accused were not given the opportunity to speak in their defence, during their trial. There was no possibility of appealing against sentences, not even in cases of death sentences. One Mojahedin sympathizer learned, four months after his trial, that he had been sentenced to eight years' imprisonment. Some religious judges allegedly ordered that accused persons be tortured - that was allegedly the case of the Mojahedin sympathizer Azame. Another Mojahedin sympathizer, Ali Hossein-Zadeh, alleged that a religious judge, called Jumei, whom he described as a "mobile prosecutor", went from prison to prison and spent 2 to 3 minutes with each of the prisoners, sentencing some of them to be executed.

E. Right to freedom of thought, conscience and religion and to freedom of expression

57. Articles 18 and 19 of the International Covenant on Civil and Political Rights provide for the right to freedom of thought, conscience and religion, the right to hold opinions without interference and the right to freedom of expression.

58. In the "Report on the performance of the Islamic Republic of Iran in 1985" referred to above (A/40/874, annex IV, paras. 62-63) it is stated that:

"62. No one is prosecuted in the Islamic Republic of Iran for his political beliefs. According to Principle 23 of the Constitution: 'inquisition into beliefs is prohibited and no one should be persecuted and remonstrated merely for holding a belief'.

63. Therefore, no one is prosecuted for his ideas about Marxism or Bahai'ism or atheism. However, creating organizations and group activities for the purpose of propagating corruption and overt campaign against Islam upon which the Islamic Republic of Iran is based and for whose propagation it is founded may be considered as detrimental to the national security and in opposition to the system of the Islamic Republic; activities of these organizations and other similar organizations may be considered as counter-revolutionary and membership of such organizations could be considered as a crime. The same is also true of the membership in and co-operation with organizations based on destructive and terrorist activities which are seeking, through murder, massacre and terror, to overthrow the system voted for by the majority of the Iranian population."

59. According to the information received by the Special Representative, members and supporters of opposition groups who had reportedly not engaged in violent activities, and members of religious and ethnic minorities, and in particular followers of the Baha'i faith, continued to be subjected to harassment, discrimination and persecution. In the case of the Baha'is it was alleged that since the Baha'i faith was not officially recognized, its followers had no status, rights or protection under the law. Baha'is who attempted to seek redress through the courts had allegedly been ruled ineligible for any form of compensation on the grounds that they were "unprotected infidels". Persecution of Baha'is has allegedly taken the form of summary executions (188 since 1978, including seven in the first 10 months

of 1986), torture, arbitrary imprisonment, denial of education and employment, arbitrary seizure of homes and possessions, confiscation of community assets and seizure, desecration and destruction of holy places.

60. The following are excerpts from the summary of information referred to in paragraphs 13 and 15 above and relate to the right to freedom of thought, conscience and religion and to freedom of expression:

(a) The Mojahedin sympathizers appearing before the Special Representative alleged that they had been arrested, tortured and imprisoned for their opinions in favour of the Mojahedin Organization, or for non-violent acts on behalf of the Organization, such as selling books and distributing leaflets. None of them had reportedly engaged in any illicit activity. Some of them had family members who were active members of the Organization and were allegedly persecuted for that reason;

(b) The followers of the Baha'i faith stated that the Baha'i faith was not recognized as an official religion in the Islamic Republic of Iran; this allegedly resulted in harassment and persecution of the followers of that faith. The principal victims of the alleged persecution were members of national or local Baha'i administrative institutions who were, in many cases, arrested, imprisoned, tried on charges such as espionage, sympathy for the former imperial régime or for Israel, and, in some cases, ill-treated, tortured to death or executed. The alleged objective of that persecution was to exert pressure on the followers of the Baha'i faith to recant their faith and convert to Islam. However other Baha'is who did not hold any position in the Baha'i administrative institutions, were also allegedly harassed. Allegations were made of dismissal from Government and other posts and an obligation to repay salaries earned throughout the duration of employment, arbitrary arrest or detention, frequent searches in Baha'i homes, confiscation of Baha'i literature and of other property, desecration of Baha'i holy places and cemeteries, attacks on and demolition of Baha'i homes and property and prevention of access to education, travel abroad and specialized medical treatment;

(c) The Special Representative received several documents allegedly proving the existence of discrimination against followers of the Baha'i faith on grounds of their religion. In one case, concerning a Baha'i who needed an eye operation following an accident, the authorities in charge of the medical centre at which the operation had to be carried out decreed, that since the patient had personally confessed his connection with the Zionist Baha'i faction, the operation was "not legitimate for religious reasons".

F. Alleged violation of certain rights affecting the medical profession

61. According to information received by the Special Representative during the months of July and August 1986, the elected Board of Directors of the Iranian Medical Association had been dissolved and several of its officers had been detained and allegedly subjected to torture. It was reported that Dr. Hafizi, President of the Board of Directors of the Iranian Medical Association, had had to be hospitalized in Mada'en hospital after being ill-treated in prison. Four hundred and fifty physicians from the Torfeh and Khomeiny hospitals were allegedly arrested after opposing new legislation increasing Government control over the Iranian Medical Association.

62. Following the transmittal of the aforementioned allegation to the Iranian Government, by a letter dated 27 October 1986, the Special Representative received additional information regarding the alleged harassment of members of the medical profession in the Islamic Republic of Iran. According to that information Iranian physicians employed at hospitals and medical centres in Tehran had gone on strike on 14 and 15 July 1986 to protest the Government's intention of adopting new laws enabling it to take over the Iranian Medical Association and to introduce compulsory service for physicians at the war front. Following the outbreak of the strike, the Iranian Medical Association was dissolved and on 22 July 1986 the Iranian Parliament adopted a bill setting up a new body in which Government-appointed members would constitute a majority. Many physicians who protested against the bill were allegedly intimidated, arrested and beaten by Government agents. In addition to Dr. Hafizi, referred to above, two other members of the Board of Directors, Dr. Maleki and Dr. Nasr, were allegedly also among those arrested. According to one report, Dr. Hafizi suffered a heart attack due to ill-treatment following his arrest and was transferred to Mada'en hospital in Tehran. According to one report, nearly 90 per cent of the 14,000 physicians of the Islamic Republic of Iran, as well as 85 per cent of all nurses and 75 per cent of chemists took part in the strike which, by early August 1986, three weeks after it began was still continuing. The Special Representative received numerous appeals and petitions from medical associations throughout the world concerning the situation of the medical profession in the Islamic Republic of Iran in general, and the case of Dr. Hafizi in particular.

VI. GENERAL OBSERVATIONS OF THE SPECIAL REPRESENTATIVE

63. The aforementioned detailed allegations were transmitted to the Iranian Government in order to enable it to verify their accuracy. It was hoped that, if it had sufficient elements the Government would conduct its own investigation and reply to each of the allegations transmitted to it.

64. It may be observed that the numerous and detailed allegations of human rights violations in the Islamic Republic of Iran, transmitted to the Government of that country, and reflected in chapter V above, were made, to a large extent, by organizations and groups with a particular political or religious interest.

65. It may further be noted that the allegations received by the Special Representative largely resembled, in nature, allegations of human rights violations in the Islamic Republic of Iran made in previous years, the only notable exception being the alleged violations of rights affecting the medical profession (paras. 61-62). The bulk of these allegations concern violations of the right to life (chap. V, sect. A) and, to a somewhat lesser extent, the rights referred to in chapter V, sections B, C and D. Allegations of violations of the right to freedom of thought, conscience, and religion and to freedom of expression (chap. V, sect. E) were less numerous and principally concerned a particular religious minority. Nevertheless, it may be observed that, following transmittal of those allegations to the Iranian Government, the Special Representative received allegations of a rather general nature to the effect that members of the Jewish religious minority had also been persecuted in the Islamic Republic of Iran in recent months.

66. Finally, it may be observed that the number of alleged violations of the right to life has diminished over the past two years; although allegations of executions continue to be received by the Special Representative, there are fewer than during the years 1979-1984.

67. With regard to alleged violations referred to in chapter V, sections B, C and D, most of the detailed allegations received by the Special Representative referred to the years 1980-1983. Allegations of a less specific nature have nevertheless continued to be received by the Special Representative.

68. One general observation that the Special Representative wishes to make is that the information before him reflects a certain evolution in the situation of human rights away from the state of affairs in earlier years; it appears to confirm, however, the persistence of serious allegations, that may perhaps necessitate deeper analysis of the legal and judicial system. For this purpose, the Special Representative hopes that the Government will make available to him the texts of the relevant legislation.

69. At the informal hearings conducted by the Special Representative, the persons appearing before him referred to facts that had allegedly occurred several years earlier. When asked whether there were persons who could bear witness to facts that had occurred in recent months, they answered that it normally took a long time for a person who had been released or who had escaped from prison to reach a neighbouring country; it took even longer for such a person to find a country of refuge. They added that it had become more difficult than ever before to reach neighbouring countries through mountain passes or deserts.

70. Some explained their detention and ill-treatment as part of an inquiry into the whereabouts of relatives or friends who were the real targets of the police investigation. Some supposed that they had been released in order to permit the police to follow them and discover their contacts and eventually the whereabouts of the persons wanted.

71. Other persons indicated that their imprisonment and trial were due to their sympathy for the People's Mojahedin Organization. These persons flatly denied any involvement in terrorist activity.

72. All resolutions adopted by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities as well as by the General Assembly have reiterated concern for the situation of the Baha'i religious minority in the Islamic Republic of Iran. This minority numbers 60,000 to 70,000 members according to official sources and 300,000 according to other sources, including the Baha'i International Community.

73. The situation of the Baha'is was indeed the subject of the first resolution dealing with the situation of human rights in the Islamic Republic of Iran adopted by the Sub-Commission on 10 September 1980 (Sub-Commission resolution 10 (XXXIII)). The first resolution the Commission on Human Rights adopted on the situation of human rights in the Islamic Republic of Iran, resolution 1982/27, requested the Secretary-General of the United Nations "to continue his efforts to endeavour to ensure that the Baha'is are guaranteed full enjoyment of their human rights and fundamental freedoms" (para. 2). Since then, all resolutions adopted by the Commission on this subject have reiterated concern for the situation of the Baha'i community in

the Islamic Republic of Iran (see resolutions 1983/34, para. 1; 1984/54, para. 1; 1985/39, para. 5; 1986/41, para. 7). The resolutions of the General Assembly on the situation of human rights in the Islamic Republic of Iran, have similarly included "the situation of minority groups such as the Baha'is" (see resolutions 40/141, para. 8; 41/159, para. 7).

74. These reiterated expressions of concern indicate that the competent organs of the United Nations expect the Special Representative to turn his attention to the situation of the Baha'i community in the Islamic Republic of Iran in an effort to clarify the conditions under which its members are living.

75. Information received from the Government and information from other sources, in particular the Baha'i International Community, disagree in substance. The Government considers the Baha'is merely as a political group at the service of foreign interests and objectives; and the other sources hold that the Baha'is do not intervene in politics on account of the strict prohibition contained in the fundamental precepts of their faith.

76. The Iranian Constitution recognizes as religious minorities Zoroastrians, Jews and Christians (art. 13). These groups are represented in parliament. The Constitution states that they "shall be the sole recognized minorities who shall be free within the jurisdiction of the law in performing their religious services and shall act according to their canon law as far as their personal status and religious teachings are concerned". Apparently, personal and legal status is determined by religious affiliation, and the absence of recognition of a religious group implies hardships for those not specifically recognized.

77. As they are not recognized as a religious minority, the Baha'is are not permitted to hold their religious services or act according to their canon law in respect of their personal status and religious teachings.

78. The Baha'i International Community has complained that "as an unrecognized religious minority the Baha'is have absolutely no status, rights or protection under the law".

79. According to official Iranian sources, imprisonment and punishment of some Baha'is had nothing to do with their religious beliefs. "Those Baha'is had been condemned and executed, as had many Muslims, but that had nothing to do with their religious beliefs" (CCPR/C/SR.368, para. 11). Members of the Iranian Baha'i community have been charged with collaboration with the deposed monarchy and in particular with the secret police (SAVAK). Apart from those who had committed crimes, "the rest of the Baha'is were leading a normal life" in the Islamic Republic of Iran (CCPR/C/SR.368, para. 11; see also E/CN.4/Sub.2/1984/SR.27, para. 15). The Iranian Government has also provided the Commission with details of the political activities attributed to the Baha'is (E/CN.4/1983/19, annex II, sect. 2).

80. The Iranian Government has reiterated that "no one is prosecuted in the Islamic Republic of Iran for his political beliefs", and added that "no one is prosecuted for his ideas about Marxism, Baha'ism or atheism. However, creating organizations and group activities for the purpose of propagating corruption and overt campaign against Islam upon which the Islamic Republic of Iran is based and for whose propagation it is founded may be considered as detrimental to the national security and in opposition to the system of

the Islamic Republic; activities of these organizations and other similar organizations may be considered counter-revolutionary and membership of such organizations could be considered as a crime" (Report on the performance of the Islamic Republic of Iran in 1985 (A/40/874, annex IV), paras. 62-63).

81. The Baha'i leadership circulated a paper denying the charges and asserting that the Baha'i faith is "an independent world religion and its followers are forbidden, by the laws of their faith, from becoming involved in partisan politics or in any form of subversive activity" and that the activities of Baha'i communities were open to scrutiny, and inviting the establishment of an impartial body of inquiry to mount a thorough investigation of Baha'i activities (E/CN.4/1983/19, annex III).

82. The Baha'i International Community has charged that the most recent legislative action taken by the Government of the Islamic Republic of Iran against the Baha'i community was the imposition of a ban on all the administrative and community activities of Baha'i faith in the country. This ban was announced in a statement by the Attorney-General published in the newspaper Kayhan on 29 August 1983.

83. The following are excerpts from that statement:

"Now, if a Baha'i himself performs his religious acts in accordance with his own beliefs, such a man will not be bothered by us, provided he does not invite others to Baha'ism, does not teach, does not form assemblies, does not give news to others, and has nothing to do with the administration. Not only do we not execute such people, we do not even imprison them, and they can work within society. If, however, they decide to work within their administration, this is a criminal act and is forbidden, the reason being that such administration is considered to be hostile and conspiratorial and such people are conspirators."

84. The Baha'i International Community claims that the repression of the Baha'i faith has been concentrated selectively on the leadership, that is, on the administration. The rest of the community is thus left without direction, unable to perform their religion publicly, and sometimes without jobs, pensions and livelihood. The objective of this policy may be to put enough pressure on the Baha'is to recant their faith.

85. Immediately after the publication of the statement by the Attorney-General, the Iranian governing body of the Baha'is and about 400 local administrative bodies disbanded, in accordance with the Baha'i fundamental principle of obedience to the Government. According to the Baha'i International Community, all activities are carried out under the aegis of the administrative bodies, and "consequently the banning of these institutions means much more than the termination of some purely peripheral administrative activities".

86. According to the information received and the history of the Baha'i movement in Iran, the precarious situation of the Baha'is has deep roots in Iranian history and the Iranian way of life. Baha'ism, it would appear, has never been recognized in Iran as a religion. It would seem that Baha'ism has been the subject of expressions of hostility over the years, indeed, including violence. This attitude would seem to be based on the conviction that Baha'ism is a dissident and heterodox movement that separated it from Islam.

Baha'is claim that they are not dissidents from Islam but adherents to a completely new religion that started in 1844. The fact is that Baha'is, in the absence of recognition, depend on general good will and are thus exposed to the unexpected reaction or mood prevailing at any given moment.

VII. CONCLUSIONS AND RECOMMENDATIONS

87. The preceding legal and factual considerations lead to the following conclusions:

(a) The Islamic Republic of Iran, as a Member of the United Nations and party to the two Covenants and other treaties, is legally bound to observe the provisions of the Charter of the United Nations concerning human rights, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as other relevant instruments such as the Vienna Convention on the Law of Treaties. In conformity with its international obligations, the Islamic Republic has to co-operate with the competent organs entrusted with the promotion and surveillance of human rights and fundamental freedoms.

(b) The communication to the Iranian Government of alleged violations of human rights and fundamental freedoms is part of the mechanism of joint efforts to promote the observance of human rights and fundamental freedoms throughout the world, and is intended to provide the Government with information permitting investigation in order to refute or redress the alleged wrongdoing. It is not a judicial procedure. At the present stage, international organs dealing with the protection of human rights at the world-wide level under the aegis of the United Nations are the organized and workable expression of a general state of awareness of peoples and Governments and constitute a co-operative structure through which enlightened public opinion expresses moral and political convictions and criticism as well as providing assistance of various kinds.

(c) The replies that the Iranian Government may give to the requests presented for its consideration would be of paramount importance in the assessment of both the general situation concerning human rights and the particular cases of alleged violations of human rights. In the absence of such replies it must be concluded that even if, in some cases, the numerous and grave allegations of human rights violations in the Islamic Republic of Iran may be considered exaggerated, most of them contain a nucleus of truth. The Special Representative believes that acts continue to occur in the Islamic Republic of Iran which are inconsistent with the provisions of treaties and covenants by which the Government of that country is bound.

88. In the light of the foregoing the Special Representative makes the following recommendations for the consideration of the Commission:

(a) The Iranian Government may consider giving its consent to the establishment of an Iranian Commission on Human Rights, composed of independent and representative personalities, with full guarantees for travelling, communications inside and outside the country, collection and verification of information, access to the authorities and recognized exercise of independent functions. This Commission could greatly contribute to the improvement of the general atmosphere surrounding human rights.

(b) The Special Representative noted with satisfaction that it had been agreed that visits by the International Committee of the Red Cross (ICRC) to Iraqi prisoners of war held captive in the Islamic Republic of Iran would be resumed as soon as the necessary arrangements were settled (ICRC press release No. 1528, 30 November 1986). The Commission may wish to recommend that the ICRC also be authorized to visit members of opposition groups detained in the Islamic Republic of Iran and persons detained on account of their opinions, beliefs or religion.

(c) The Commission may wish to endorse the request for information submitted by its Special Representative to the Iranian Government and to repeat its appeals to that Government to permit its Special Representative to visit the country.

(d) The Commission may decide to keep the situation of human rights and fundamental freedoms in the Islamic Republic of Iran on its agenda for its forty-fourth session.

(e) The Commission may decide to continue to monitor the human rights situation in the Islamic Republic of Iran.

Annex

LIST OF DOCUMENTS AND PUBLICATIONS MADE AVAILABLE TO
THE SPECIAL REPRESENTATIVE

A. Documents prepared by former Special Representative of the Commission

Preliminary report to the Commission on Human Rights by
Mr. Andrés Aguilar (E/CN.4/1985/20)

Interim report to the General Assembly by the former
Special Representative, Mr. Andrés Aguilar (A/40/874)

Statement made by the former Special Representative, Mr. Andrés Aguilar,
when introducing his interim report to the General Assembly (E/CN.4/1986/25,
annex II)

B. Documents published by organs or agencies of the United Nations systems

1. Economic and Social Council. Commission on Human Rights

Report of the Secretary-General of the United Nations prepared pursuant
to paragraph 4 of Commission on Human Rights resolution 1982/27 (E/CN.4/1983/9)

Report of the Secretary-General prepared pursuant to paragraph 4 of
Commission on Human Rights resolution 1983/34 (E/CN.4/1984/28)

Report of the Secretary-General on direct contacts with the Iranian
Government prepared pursuant to paragraph 3 of Commission on Human Rights
resolution 1982/27 (E/CN.4/1983/52)

Report of the Secretary-General on direct contacts with the Iranian
Government prepared pursuant to paragraph 3 of Commission on Human Rights
resolution 1983/34 (E/CN.4/1984/32)

Reports prepared by the Special Rapporteur on summary or arbitrary
executions, Mr. S. Amos Wako (E/CN.4/1983/16, E/CN.4/1984/29, E/CN.4/1985/17,
and E/CN.4/1986/21)

Report of the Working Group on Enforced or Involuntary Disappearances
(E/CN.4/1986/18)

Summary records of the relevant meetings of the Commission on Human
Rights from its thirty-eighth to its forty-second sessions

Summary records of the relevant meetings of the Sub-Commission on
Prevention of Discrimination and Protection of Minorities from its
thirty-fifth to its thirty-ninth sessions

2. International Covenant on Civil and Political Rights
(Human Rights Committee)

Summary records of the 364th to 366th and 368th meetings at the
sixteenth session (CCPR/C/SR.364 to SR.366 and CCPR/C/SR.368)

Report of the Human Rights Committee, Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40 (A/37/40)

3. General Assembly Third Committee

Summary records of the relevant meetings of the Third Committee at the fortieth and forty-first sessions of the General Assembly

4. International Labour Office

Reports of the Committee on Freedom of Association (230th, 231st and 232nd Reports), Official Bulletin, vol. LXVI, 1983, series B, No. 3

Two hundred and thirty-fourth report of the Committee on Freedom of Association (GB.226/5/18)

Report of the Committee on the Application of Conventions and Recommendations (International Labour Conference, sixty-ninth session, Geneva, 1983, No. 31)

Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4A) (International Labour Conference, sixty-ninth session, 1983)

Report of the Committee on the Application of Conventions and Recommendations (International Labour Conference, seventieth session, Geneva, 1984, No. 35)

Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4A) (International Labour Conference, seventieth session, 1984)

C. Documentation from official Iranian sources

1. Documents

Statements delivered by the Permanent Representative of the Islamic Republic of Iran to the United Nations, Ambassador Said Rajaie-Khorossani, in the Third Committee of the General Assembly on 7 December 1984 and on 4 December 1985

Statement delivered by the Observer for the Islamic Republic of Iran to the Commission on Human Rights at its forty-second session

Report submitted by the Islamic Republic of Iran to the Human Rights Committee under article 40 of the Covenant on Civil and Political Rights (CCPR/C/1/Add.58)

2. Publications

In a series of booklets published by the Public Relations Department of the Ministry of Foreign Affairs of the Islamic Republic of Iran, under the title "Documentary proof of terrorism", the following were made available:

"Dimensions of the crime of terrorism"

"France the base of terrorism"

"Biographies acknowledge genocide"

"Victims of terrorism", May 1984

"Dimensions of a crime", February 1986

"Dimensions of terrorist crime", February 1986

"Terrorist training", February 1986

"Biographies of terrorists", February 1986

"Commands of terrorist activity", February 1986

"Unprecedented torture", February 1986

"The state of refugee seekers", February 1986

"The nature of terrorists", February 1986

The following booklets, published by the Islamic Propagation Organization, were made available:

"The Constitution of the Islamic Republic of Iran"

"Felonies of the MKO terrorists in Iran", 1983

"Confessions of some high-ranking MKO terrorists as aired on IRI TV", 1985

"Confessions of the central cadre of the Tudeh Party", 1985

The following booklets, published by the Office of the Islamic Revolution Prosecutor of Tehran were made available:

"The tortured ones (1)", 1986

"Image of Evin"

D. Publications made available by non-governmental organizations enjoying consultative status with the Economic and Social Council

Amnesty International Reports 1981-1986

"The Baha'is in Iran", published by the Baha'i International Community, July 1982.

E. A number of pamphlets and reports were also made available to the Special Representative by the People's Mojahedin Organization of Iran including a list of names and particulars of 12,028 victims of executions, a report on 64 forms of torture in the Islamic Republic of Iran and a report on the Iranian physicians' strike in July-August 1986.