



General Assembly

Distr.
GENERAL

A/48/562
5 November 1993
ENGLISH
ORIGINAL: ENGLISH/SPANISH

Forty-eighth session
Agenda item 114 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Cuba

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights in Cuba prepared by Mr. Carl-Johan Groth, Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 11 of Commission resolution 1993/63, of 10 March 1993, and Economic and Social Council decision 1993/274, of 28 July 1993.

ANNEX

Interim report on the situation of human rights
in Cuba prepared by the Special Rapporteur of
the Commission on Human Rights in accordance
with Commission resolution 1992/61 and Economic
and Social Council decision 1993/274

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 6	3
II. CIVIL AND POLITICAL RIGHTS	7 - 39	4
A. Legal and constitutional framework	9 - 14	5
B. Most frequent patterns of violations and specially vulnerable groups	15 - 30	6
C. The right to enter and leave the country	31 - 36	14
D. The right to an effective recourse	37 - 39	15
III. CONDITIONS IN THE PRISONS	40 - 43	16
IV. CONSIDERATIONS CONCERNING THE ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS	44 - 51	17
V. INFORMATION RECEIVED FROM INSTITUTIONS AND ORGANIZATIONS BASED IN CUBA IN ACCORDANCE WITH CURRENT LEGISLATION	52 - 57	20
VI. CONCLUSIONS AND RECOMMENDATIONS	58 - 66	22

Appendices

I. Note verbale dated 24 August 1993 from the Special Rapporteur addressed to the Permanent Representative of Cuba to the United Nations Office at Geneva	27
II. Note verbale dated 8 October 1992 from the Permanent Representative of Cuba to the United Nations Office at Geneva addressed to the Special Rapporteur	28

I. INTRODUCTION

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/63, entitled "Situation of human rights in Cuba", on 10 March 1993. In that resolution, the Commission decided to extend for another year the mandate conferred on the Special Rapporteur under resolution 1992/61 of 3 March 1992, whereby Mr. Carl-Johan Groth had been appointed Special Rapporteur.

2. In resolution 1993/63, approved by the Economic and Social Council in its decision 1993/274, the Special Rapporteur was requested to report to the Commission at its fiftieth session and to submit an interim report to the General Assembly at its forty-eighth session. The present report is in response to that request.

3. In resolution 1993/63, the Commission also requested the Special Rapporteur to maintain direct contact with the Government and citizens of Cuba, and, noting that the Government of Cuba had failed to cooperate with the Special Rapporteur, called on it to permit him the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba.

4. Pursuant to his mandate, the Special Rapporteur, on 24 August 1993, addressed a note verbale to the Permanent Representative of Cuba to the United Nations Office at Geneva requesting the collaboration of the Cuban Government and an opportunity to visit the country. To date, there has been no answer to the letter, which is reproduced in appendix I to this report. Appendix II, for its part, contains the text of a letter dated 8 October 1992 from the Permanent Representative of Cuba at Geneva addressed to the Special Rapporteur in response to a similar request for collaboration made in September 1992. That constitutes the only written communication to date from representatives of the Government to the Special Rapporteur.

5. Also pursuant to his mandate, the Special Rapporteur tried to obtain information from a wide variety of sources, and expressed his willingness to receive any person or group wishing to meet him. For that purpose, and bearing in mind that most of the sources of information on the situation of human rights in Cuba are in the United States of America, he travelled to New York and Washington from 15 to 22 September 1993, where he had the opportunity to meet individuals and representatives of the following organizations and groups: the Cuban Committee for Human Rights, the Committee to Support the Human Rights Movement in Cuba, the Cuban Women's Foundation, the Foundation for Human Rights in Cuba, Freedom House, the Cuban Workers Trade Union, Americas Watch, Areito Review, the Cuban-American Committee of New Jersey, the Cuban Christian Democratic Party, the World Federation of Cuban Political Prisoners, the Cuban Human Rights Party, the Centre for Human Rights, the Cuban Committee against the Blockade, the Puerto Rican Group against the Blockade and Inter-American Dialogue. The Special Rapporteur also had a working session in Madrid on 24 September, where he had occasion to meet representatives of the Association for Continental Peace (ASOPAZCO), the Cuban Liberal Union and a group of 13 former Cuban prisoners exiled in Spain. During the current year, the Special Rapporteur also had an opportunity to meet representatives of the Coordinating Body for Human Rights Organizations in Cuba, and received written material - in

addition to that received from the above-mentioned sources - from such sources as the Information Bureau of the Cuban Human Rights Movement and Amnesty International, as well as a number of communications sent to the Special Rapporteur by Cuban citizens residing in Cuba.

6. The situation of human rights in Cuba reflected in this report, which was finalized on 22 October 1993, is therefore based primarily on information supplied by the above-mentioned sources. Also taken into consideration were communications transmitted to the Special Rapporteur by institutions and organizations based in Cuba in accordance with current legislation.

II. CIVIL AND POLITICAL RIGHTS

7. In analysing the information received regarding the situation of human rights, the Special Rapporteur has taken as a point of reference the relevant international instruments, and in particular wishes to keep in mind two paragraphs from the Vienna Declaration adopted by the World Conference on Human Rights on 25 June 1993. 1/ Paragraph 5 reads as follows:

"All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."

Paragraph 8, for its part, states:

"Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. In the context of the above, the promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached. The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world."

8. In the opinion of the Special Rapporteur, advances in the economic and social field constitute a constructive basis for advances in the field of civil and political rights. As stated in the Vienna Declaration, advances in one area of human rights, specifically economic and social rights, cannot serve as justification for serious shortcomings in the protection and promotion of another category of rights, namely civil and political rights. Given their indivisibility, advances in the two areas must be parallel, otherwise the rights to which priority has been given might in the long term be diminished by the rights formerly minimized.

A. Legal and constitutional framework

9. Certain provisions of the current Constitution are crucial to an understanding of the background to civil and political rights. Article 1 proclaims that "Cuba is a socialist State of workers", and article 5 declares that "the Communist Party of Cuba, inspired by José Martí and Marxist-Leninist in nature, the organized vanguard of the Cuban nation, is the supreme leading force in society and the State, organizing and guiding the common efforts towards the noble goals of building socialism and progressing towards the communist society". According to article 62, "none of the freedoms which are recognized for citizens can be exercised contrary to what is established in the Constitution and the law, or contrary to the existence and objectives of the socialist State, or contrary to the decision of the Cuban people to build socialism and communism. Violations of this principle are punishable".

10. While the Constitution contains several provisions aimed at guaranteeing such basic rights as freedom of speech and freedom of the press (art. 53), freedom of assembly, freedom to demonstrate and freedom of association (art. 54), and the right to file complaints with and send petitions to the authorities (art. 63), it is obvious that those rights may be exercised only when, in the eyes of the authorities, that would not involve any challenge to the status quo or to the official ideology.

11. In this connection, mention should also be made of the constitutional precepts governing mass organizations. Article 6 declares that "the Union of Communist Youth, an organization of Cuban youth in the vanguard, is recognized and encouraged by the State in its primary task of promoting active participation by the young masses in the building of socialism". Likewise, article 7 stipulates that "the Cuban Socialist State recognizes and encourages the mass social organizations [...] which comprise various sectors of the population, represent the specific interests of the same and involve them in the tasks of building, consolidating and defending socialist society". These precepts establish beyond all doubt the ideological framework within which new associations may be formed. Any association which, in the opinion of the authorities, fails to meet that standard will have its application for registration denied or, as happens more often in practice, ignored.

12. A logical corollary to those constitutional precepts is the punishment of any act that can in any way be contrary to the status quo. The 1987 Penal Code thus has among its objectives "helping to develop among all citizens an awareness of the need to respect the socialist legal order, do their duty and properly observe the norms of socialist coexistence" (art. 1). The Code also specifies that "the purpose of the penalty is not only to punish the offence, but also to provide re-education in the principles ... of respect for the norms of socialist coexistence" (art. 27). The Code goes on to identify a number of acts as offences against the internal security of the State, stipulating heavy prison sentences. In addition, under article 44, the court may, at its discretion, order confiscation of property as punishment for offences against the security of the State. Some of those offences, e.g. rebellion and sedition, involve the use of violence or force of arms. Others, however, such as enemy propaganda, do not involve the use of any violent means. Among those liable to punishment is any person who, by means of spoken, written or any other form of propaganda, incites others to take action against the social order or the

socialist State, or who produces, distributes or possesses such propaganda. Furthermore, in the context of offences against the security of the State, preparatory acts are punishable under article 12. Article 72 of the Code deals with the concept of "dangerous state", which it defines as "a person's special proclivity to commit offences as demonstrated by conduct that is manifestly contrary to the norms of socialist morality"; it provides that any person who might develop a proclivity to commit offences, because of connections or relations with persons who are potentially dangerous to the social, economic and political order of the socialist State, shall be warned by the police authorities.

13. The Penal Code's definition of other acts as offences - e.g. unlawful association, assembly and demonstration (articles 208 and 209, which lay down penalties for associate or affiliate members, as well as promoters or directors of unregistered organizations), possession of illegal printed matter (art. 210) or contempt (art. 144) - is also likely to be applied to conduct which in any way implies the expression of opinions critical of the official ideology or of the actions of the authorities.

14. To illustrate this point, the Special Rapporteur would like to mention the provisional conclusions reached by the prosecutor in the October 1992 trial on the charge of enemy propaganda of Sebastián Arcos Bergnes, a leading member of the Cuban Committee for Human Rights, 2/ in order to show what type of action may be punishable:

"Sebastián Arcos Bergnes, without regard for the law, sent information to stations based outside the country, for the purpose of contributing to the campaign to discredit Cuba.

"In breach of the disciplinary code of the Combinado del Este Prison, he gave handwritten notes to counter-revolutionary inmates, with the aim of helping to incite opposition to the Cuban social system.

"During a search at the Combinado del Este Prison on 11 December 1991 ... pieces of paper with handwriting in ink ... were found on the prisoner. On one piece of paper ... the accused, Sebastián Arcos Bergnes, had written, and I quote: 'We are making continual demands for democratic changes to the regime, and we are trying to develop the necessary national consciousness so as to be able to bring about those changes through peaceful, but firm, civil resistance among the population. That is our main task, our educational task, our present task ... then demand lunch, transport, private car; then amnesty, freedom of expression, freedom of association and, finally, democracy!' In other words, use systematic propaganda to promote action against our social system."

B. Most frequent patterns of violations and specially vulnerable groups

15. On the basis of direct testimony, contacts with analysts of the Cuban experience, and abundant written documentation, the Special Rapporteur has been able to note the excessive control exerted over the population via the

/...

institutional machinery. This has resulted in a systematic violation of, inter alia, the principle of non-discrimination on political grounds and the right to freedom of opinion and expression. This control is applied in the day-to-day life of every citizen - in the workplace, at educational institutions and even at the neighbourhood level. Education itself also has an ideological orientation, to judge from the Constitution, article 38 of which states that parents have a duty to contribute actively to the all-round education and training of their children as useful citizens prepared for life in a socialist society, whereas article 39 stipulates that the State bases its educational and cultural policy on Marxist ideology, and promotes patriotic education and communist training of the new generations.

16. According to the information received, the so-called "cumulative school record" and "employment record" make it possible to monitor the ideological integration of individuals virtually throughout their lives, by including not only purely academic or employment-related material, but also information regarding their membership in mass organizations, functions performed in such organizations, level of activism, ideological features of family members, misconduct, etc. Often individuals are expelled from educational institutions, dismissed from their jobs or subjected to some form of discrimination for expressing, in some way, views inconsistent with the official ideology.

17. The Committee of Experts on the Application of Conventions and Recommendations, of the International Labour Conference, considered some of these questions in connection with the application of Convention No. 111 concerning Discrimination in respect of Employment and Occupation, ratified by Cuba in 1965, in the light of comments made by non-governmental organizations alleging discrimination based on political opinion, in access to education, training and employment. Since this Committee is a body with which the Government has maintained a dialogue, the Special Rapporteur considers it important to make full references in its consideration of the case of Cuba.

18. Among other comments, the Committee of Experts pointed out in 1992 that the Regulations for the Application of Employment Policy, like the Labour Code, defined the labour record as a document that contains data and particulars of each worker's job and that the employing agency is under an obligation to prepare, update and maintain the record. Yet according to resolution No. 590/1980 of the Committee on Labour and Social Security (CETSS), distinctions which do not constitute a labour merit but which are conferred by such bodies as mass organizations or official institutions and which express the "revolutionary attitude maintained by the worker outside his work centre" may be included in the labour record. The Committee considered that those provisions were not in conformity with the provisions of the Convention concerning the Elimination of any Discrimination Based on Political Opinion, and that the inclusion in the labour record of distinctions conferred for a "revolutionary attitude" outside the labour environment might constitute discrimination. 3/

19. In its 1993 report, the Committee of Experts took note of the information supplied by the Government to the effect that the Ministries of Education and Higher Training had undertaken studies with a view to removing from the student's school record elements which did not involve academic matters, and that discussions were being held on a draft regulation for the application of employment policy, which defined the content of the cumulative labour record and

would indicate clearly that it could no longer contain information on merits or demerits. The Government had also indicated that resolution No. 590/1980 had been repealed, and that the Government was conducting an inquiry on the internal rules that had been established by some enterprises with a view to eliminating from files all information relative to moral attitudes or social conduct of workers, which were extraneous to the employment relationship. 4/

20. In that same 1993 report, the Committee of Experts referred furthermore to possible discrimination against journalists on ideological grounds, stating in particular:

"In previous direct requests, the Committee had noted that section 3 of resolution No. 50, of 21 September 1987, respecting the parameters for evaluating the performance of workers in journalism includes the political and ideological scope of the work performed. The Committee noted that the outcome of the evaluation affects the wage level of the workers in question since an evaluation that is not 'positive' has the effect of lowering the worker's wages ... Section 28 provides that as a result of a non-positive biennial evaluation the employment relationship of the person concerned may be terminated. The Committee notes the Government's reply that journalists' performances are evaluated solely on the basis of their qualifications and the results of their work. Given, however, that the text of this resolution makes reference to ideological and political elements which may affect both access to, and security of, employment and conditions of employment, the Committee asks the Government to provide information, in its next report, on the measures taken or envisaged to remove these elements from the criteria for evaluation of journalists, set forth in resolution No. 50, so as to bring it into line with the stated practice of judging performance on the sole bases of qualifications and results." 5/

21. Another form of social and political control is exercised by the direct harassment of security agents, or through arrest and sentencing in the courts for offences defined by law. Here, the most vulnerable sector is the one made up of individuals belonging to groups that have emerged, without formal legal recognition, for the purpose of defending human rights or labour union rights and in some cases for a political purpose. The Special Rapporteur sees these groups as characterized above all by their zeal to use only peaceful means to achieve their ends. In many cases, they have applied to the authorities for inclusion in the Ministry of Justice's register of associations, although the requests have as a general rule remained unanswered. At the present time, there seem to be about 100 such associations and groups, according to a list recently received by the Special Rapporteur, each of them varying in their number of members, date of establishment or orientation.

22. As for the right to establish and join trade union organizations, the Special Rapporteur had mentioned in his previous report to the Commission on Human Rights 6/ that the Committee on Freedom of Association of the International Labour Organization (ILO) had examined a complaint relating, inter alia, to the impossibility of establishing independent trade unions and the monopoly exercised in that regard by the Central Organization of Cuban Workers (CTC), the official trade union, and that the Committee had formulated provisional conclusions on the case. As part of its recommendations, the

Committee had urged the Government to send precise observations on the failure of the Ministry of Justice to reply to the request for registration and recognition of legal personality submitted by the General Union of Cuban Workers (UGTC). In the course of its May 1993 session, the Committee took up the complaint again in the light of the reply furnished by the Government, and reached the following conclusions:

"280. As regards the allegation concerning the Ministry of Justice's failure to reply to the request for registration and recognition of legal personality submitted by the General Union of Cuban Workers (UGTC) (its rules and a list of some of the members' names had been enclosed by the complainant organization), the Committee notes the observations made by the Government according to which a request for registration had not been submitted, merely a request to the Ministry of Justice for a 'certificate of recognition' that there was no association of workers with the same name in that department and that, subsequently, Mr. Gutiérrez asked the Ministry to discount the aforementioned request for registration. In the Committee's opinion, it seems that 'certificate of recognition' was requested by Mr. Gutiérrez with the express aim of being able subsequently to request 'legal registration' for the new trade union, and he thus seemingly embarked on a procedure obviously with the aim of registering a new trade union body. The Committee observes, moreover, that from the documentation included by the Government it seems that, although Mr. Gutiérrez in effect asked for the UCTC registration application to be discounted, this was merely due to the fact that he wished to change the name of the association to the 'Union of Cuban Workers (USTC)'.

"281. In the circumstances, the Committee concludes that the General Union of Cuban Workers was set up over a year and a half ago (according to the Government, it is now called the Union of Cuban Workers (USTC)), and has still not been registered. Furthermore, although it notes that the Government's declarations concerning the UGTC's lack of representativity, the Committee must point out that the fact that an organization has only a small number of members is not a good enough reason for refusing registration. In the circumstances, the Committee once again urges the Government to make an immediate pronouncement on the registration of the General Union of Cuban Workers (UGTC) (which according to the Government is now called the Union of Cuban Workers (USTC)), bearing in mind that, under Article 2 of Convention No. 87, workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their choosing without previous authorization. The Committee requests the Government to keep it informed of any measures adopted in this regard." 7/

23. A great many of the complaints received by the Special Rapporteur concern persons, in some way linked to human rights, trade union or political groups, who indicate that they were visited by State security agents at their homes or workplaces and threatened with loss of employment, or prosecution, or so-called "acts of repudiation" on the part of the "rapid response brigades" and, in some cases, were assaulted in the street by unknown person or warned to leave the country. Examples include the cases of Aida Rosa Jiménez and Asalia Ballester Cintas, of the Democratic Civic Party; or of René Contreras Blanch, of the Cuban Human Rights Party, who was beaten on

16 March 1993 in the centre of Havana by members of the police, and suffered head injuries. In the view of the Special Rapporteur, the idea of allowing groups of persons without legal identity or responsibility to "administer justice" is something that cannot be accepted in any society.

24. In other cases, the persons concerned are summoned to appear before the police where they are warned or held in custody for a short period and interrogated. Threats of reprisals against the family are also frequent, as well as house searches. For example, the case was reported of Robert Trobajo Hernández, Secretary of Cuba's General Union of Workers in Havana province and member of the National Commission of Independent Trade Unions, who was arrested on 5 March 1993 in the Güira de Melena district and taken to the police station at San Antonio de los Baños, where he was held for four days before being transferred to the Department of Technical Investigations (DTI) at San José de las Lajas, where he remained for three more days. It was also reported that he was told he would be prosecuted for the crime of enemy propaganda if he continued to oppose the regime and that he had lost his job as a result of the arrest.

25. Other cases reported are those of Rolando Roque Malherbe, member of the Socialist Democratic Movement, who was warned on 23 September 1993 not to hold in his home a meeting planned for the following day and who remained in custody until 27 September: at the meeting, which was held anyway, there was an act of repudiation; Félix Bonne Carcacés, coordinator of the Cuban Civic Movement, who was summoned on 27 September 1993 to the police station at Río Verde, Rancho Boyeros municipality, and later taken to the DTI detention centre at the intersection of 100 and Aldabó; various members of the National Council for Civil Rights in Cuba and the Cuban Pro-Human Rights Party (Lázaro Fernández Hidalgo-Gato, Enrique López Valdés, Pedro Pablo Guzmán Cabrera, Sergio Rodríguez Valle, Sergio Llanes Martínez, Alcides Aguilar), who were arrested in early November 1992 at San Antonio de los Baños; Omar Moisés Ruiz Hernández, who was interrogated for three days in July 1992 at the Santa Clara State Security headquarters in connection with complaints that had been sent abroad concerning Cuba's problems; Carlos Cordero Páez, a member of the National Council for Human Rights, who was arrested 5 October 1992 when, at the entrance to the Havana Provincial Court where the trial against Sebastián Arcos Bergnes was to be held, he displayed a placard with the words "Freedom for Sebastián Arcos"; he was beaten and taken to the police station at the intersection of Cuba and Chacón, released at about 11 p.m., once the trial had ended; Ana Daisy Becerra, a member of the Committee of Mothers for Granting Amnesty to Political Prisoners, who was arrested on 13 December 1992 and taken to the Picota police station in Old Havana, and was threatened with prosecution for enemy propaganda because complaints about human rights violations in the Combinado del Este Prison had been found in her home; Paula Valiente, President of the Association of Mothers for Dignity, who was interrogated several times in 1992 and 1993 and threatened because of her activities in connection with political prisoners and for reporting human rights violations abroad; other members of her organization such as Hilda Cabrera, Berta Galán and Victoria Cruz and members of her family have also been threatened and interrogated; María Valdés Rosado, coordinator of Democratic Civic Action, and Alicia Suárez, of the Cuban Christian Democratic Movement, who were arrested at Havana on 7 May 1993 and released two days later; and Caridad Duarte Gómez, of the Organización Juvenil Martiana, who was interrogated

for several hours on 4 August 1993 at the municipal police station of Old Havana and on 19 May 1993 at the Picota and Paula station.

26. In another group of cases the persons concerned were tried and sentenced to prison terms of varying lengths. According to reports, during the first stage of the investigation the detainee is often held on security police premises for several months, sometimes in sealed cells from which he is taken only to be repeatedly interrogated at any time of day or night, with extremely limited access to visits from his family or lawyer. The Special Rapporteur received information recently on the following specific cases, some of which occurred in 1992:

(a) Pablo Reyes Martínez, a member of the National Civic Union, was sentenced in October 1992 by the Havana Provincial Court to eight years of imprisonment and confiscation of all his property for the crime of enemy propaganda because, according to the verdict, he had engaged in "the dissemination of false information about alleged human rights violations in Cuba and other economic aspects, reflecting negatively on the masses, which had been provided to him by various discontented people and not verified by the accused, and were clearly designed to discredit the work of the revolution, and the prestige of its leaders, and ultimately to undermine the economic, political and social foundations of our system";

(b) Luis Enrique Grave de Peralta Morel, a former professor of physics who was expelled from the Oriente University for having left the communist party, and Arquímedes Ruiz Columbié, Robier Rodríguez Leiva and Carlos Orue Caballero, researchers of the Cuban Academy of Sciences, were arrested on 13 February 1992 at Santiago de Cuba in connection with the establishment of a political movement called "New Generation" that was critical of government policy. For the crime of rebellion they were later sentenced to 13, 8, 10 and 8 years of imprisonment, respectively;

(c) Bárbara Celia González Toledo, a qualified economist and public accountant, was convicted of contempt on 15 July 1992 by the Ciego de Avila Provincial Court and sentenced to 18 months of imprisonment and loss of employment for having expressed critical views in private about the Cuban leaders;

(d) Juan José Moreno Reyes, Luis Reyes Reynosa, Benigno Raúl Benoit Pupo, Eduardo Guzmán Fornaris, Enrique Chamberlays Soler, Lorenzo Cutiño Bárzaga, Adolfo Durán Figueredo, Wilfredo Galano Matos, Rafael Rivera Matos, Maritza Santos Rosell, Ramón Mariano Peña Escalona and Ramón Fernández Francisco were sentenced to prison terms of between 5 and 13 years for crimes of rebellion and other acts against State security in March 1993 by the Santiago de Cuba Provincial Court. The acts for which they were charged involved holding meetings and printing and distributing flyers in various municipalities of Holguín province criticizing the Government. Seven other people received sentences of between one and two years in relation to the same incidents;

(e) Juan Francisco Fernández González, a doctor, was arrested on 18 March 1992 in Havana and tried for the crime of enemy propaganda. During the trial, held on 15 December 1992, the charges were changed to rebellion, and he was sentenced to 10 years of imprisonment. In the course of one year, the place of detention was changed no less than six times. In the same case (38/92) the

Havana Provincial Court also sentenced Eduardo Prida, a qualified psychologist, and Mario Godínez, an electrician, to 15 and 12 years of imprisonment, respectively;

(f) Amador Blanco Hernández, president of the José Martí National Human Rights Commission, was arrested on 10 December 1992 at his home at Caibarien, Villa Clara, and taken to the State Security Department at Santa Clara. Along with Joel Mesa Morales, he was charged with enemy propaganda; the prosecutor requested a penalty of eight years of imprisonment. In his provisional conclusions the prosecutor mentioned among the charges that the accused "had been engaged in a propaganda campaign in order to discredit the Cuban revolution through the collection of numerous false complaints, consisting of alleged maltreatment and physical attacks, persecution, injuries and threats to various persons and prisoners by members of the Ministry of the Interior in general and military and rehabilitative personnel at the penitentiary centres in particular, sent through different channels to different subversive outlets". In 1982, Mr. Blanco Hernández had been dismissed from his post as professor at the Central University of Las Villas for having been critical of government policy;

(g) Alfredo García Quesada, electrician and student at the University of Camagüey, was arrested on 23 April 1993 in the Guayabal district, Las Tunas, for distributing flyers reading "Down with Fidel" and for painting those words on the body of a white horse. He is now serving a five-year term in the prison at Típico de Las Tunas.

27. The Special Rapporteur was also informed of the following cases of persons who were formally accused of enemy propaganda or similar crimes who are being held in custody pending trial: Luis Gustavo Domínguez Gutiérrez, from the group Peace, Progress and Liberty, accused of enemy propaganda because he sent a letter to the Government in which he renounced the medals awarded to him for his participation in the Angola campaign; Pedro Armentero Lazo, imprisoned in the Combinado del Este Prison; Orfilio García Quesada, held in El Guayabal district, Victoria de las Tunas, in May 1993 for having participated in a process of collecting signatures calling for political change; Roberto Alvarez San Martín, a well-known writer and journalist, banned from practising his profession in February 1992; Domiciano Torres, a former professor of architecture, who had been expelled from his department at the Armando Mestre de Guanabacoa Technological Institute in 1992, and vice-president of the Democratic Civic Party, arrested on 13 August 1993 and taken to the State Security offices at Villa Marista; at the time of his arrest he is alleged to have been brutally beaten.

28. Loss of employment is also common, often accompanied by threats and campaigns to discredit the victim. This measure creates particular problems for people who are unable to find any other work corresponding to their qualifications, because the State is the sole employer; the entire family unit then suffers the consequences. The following are some of the cases communicated to the Special Rapporteur:

(a) Rolando Díaz Acosta, expelled in October 1992 from his post in José Martí National Library, in District 10 October, for being one of a group of intellectuals who signed a letter to the Heads of State and Government at the Second Ibero-American Summit in which they drew attention to the need for

changes in the country. For the same reason, he was also evicted from the house where he lived;

(b) Guillermo Fernández Donates, expelled in October 1992 from his civil engineer post in Construction Project Company No. 2 at Havana [Empresa de Proyectos de Construcción no. 2 de La Habana] for revealing his membership in the Corriente Cívica and the Cuban Committee for Human Rights; in February 1993, he was also expelled from Havana University where he was a law student and from the sports centre he frequently visited. His wife, Euridice Sotolongo Losada, was forced to resign from the same technical centre;

(c) Heriberto Alejandro Barrio Lorences, expelled from his engineer's post at the Havana Institute for Sugar Projects [Instituto de Proyectos Azucareros] in June 1992 for sending information abroad concerning the arrest of his colleague, Mariano Gort, on a charge for disseminating enemy propaganda;

(d) Leonardo José Rodríguez Pérez, expelled from his research post at the Havana Centre for Metallurgical Research [Centro de Investigaciones Metalúrgicas de la Habana] in January 1993 for signing the above-mentioned letter to the Ibero-American Summit.

29. The Special Rapporteur also received information on the following cases of university professors expelled under Decree-Law number 34/1980 which enables the heads of the Municipal Management of Local Authorities of the People's Power [Direcciones Municipales de los Organos Locales del Poder Popular] to dismiss staff members from institutions of higher learning for allegations of acts contrary to socialist morality and the ideological principles of society:

(a) Reinaldo Cosano Alén was expelled from his teacher's post in the "Jésus Suárez Gayol" faculty of Guanabo in Havana in September 1992 for his work with the Cuban Committee for Human Rights. In the official document confirming his expulsion, Mr. Cosano's activities are rated inappropriate for the work of an educator owing to the serious repercussions which his personality creates on the training of Cuban children and young people;

(b) Ramón Rodríguez Ríos lost his teacher's post at a centre in San Antonio de los Baños and was conclusively expelled from the teaching profession in 1992 after it was confirmed, pursuant to the resolutions on expulsion, that "he was a full member of a human rights nucleus", this being deemed "contrary to socialist morality and the principles of our society";

(c) Félix Díaz Cáceres, a physical education teacher at Pinar del Río, was expelled from his post in May 1992 for openly opposing the expulsion of a group of university professors from their chairs because they had written a declaration of principles in which they asked for political changes; 8/ on 3 August of that year, he was summoned to State Security premises where he was interrogated on the "Open letter of Cuban professionals to the Ibero-American Summit"; in September, he was arrested and spent 18 days in the State Security Department at Pinar del Río accused of disseminating enemy propaganda.

30. It is the opinion of the Special Rapporteur that these recent expulsions do not correspond to the statements below from the Committee of Experts on the Application of Conventions and Recommendations of the International Labour

Office in its investigation of the application of Convention 111 (Discriminatory Practices in Employment and Occupation) included in its 1992 report:

"The Committee takes note of the Government's declaration whereby the provisions of decree-law number 34/1980 ... do not have practical application today. The Committee hopes that, as indicated by the Government, these provisions will be harmonized with the Convention at the time revision of the above laws is begun. Furthermore, the Committee again asks the Government to supply the text of attached resolution no. 2, dated 20 December 1989, from the Ministries of Education and Higher Education dealing with the reinstatement of workers in the teaching field to whom decree-law number 34/1980 was applied". 9/

In its 1993 report, the Committee again requested the Government to provide a copy of resolution number 2, dated 20 December 1989. 10/

C. The right to enter and leave the country

31. Restrictions placed on a person's exercising the right to leave the country, as described by the Special Rapporteur in his previous report, 11/ continue to be applied. The Special Rapporteur is pleased to learn that some persons holding visas to travel or reside abroad, whose cases he had learned about in 1992, had finally received authorization to leave the country. He did not, however, see this as a reflection of significant change in the government's policy in this area as he was still receiving information on other cases in which authorization to leave had been refused. Such is the case of Mrs. Nydia Cartaya Medina and her four daughters who have not been given authorization to leave the country since the time when her husband was given asylum in the United States in 1985.

32. The Special Rapporteur also considers that cases of human rights activists - some of them in prison - being harassed by the authorities to leave the country, constitute a violation of that right. In that connection, reports have been received on cases such as those of Sebastián Arcos Bergnes or Yndamiro Restano, mentioned later, or of Rodolfo González González of the Cuban Committee for Human Rights. In the case of Francisco Chaviano González of the National Council for Human Rights in Cuba, authorization for his three children, who hold visas for entry to the United States to leave the country, was made conditional on Mr. Chaviano's leaving the country also.

33. Moreover, the stream of people trying to leave the country illegally by any means continues unabated. According to various sources, approximately 25 people a day roughly estimated, make the attempt. Of these, only one in four succeeds; two, facing physical danger or arrest, are forced to return; and one is killed in the attempt. According to another estimate, 2,500 people reached United States coasts in this way in 1992 and, from the beginning of the current year up to the end of August, some sources estimate that 1,600 have reached the United States. Other sources, however, place the figure at about 2,000. They point out that though political reasons are one of the underlying causes for these numbers, the main impetus for this emigration is the economic situation with its concomitant lack of opportunity and options. As a result, during the last few years, the number of people attempting to emigrate has significantly risen. In

view of the enormous risk to life which this entails, the Special Rapporteur does not favour people abroad encouraging Cubans to attempt this method of leaving the country.

34. Several reports of Cuban coastguard patrols firing on people trying to reach the United States naval base at Guantánamo by sea, and sometimes even by land, in order to seek asylum have been received. According to those sending in reports, this policy should be all the more strongly criticized because the use of force is both excessive and unnecessary when arrest is the only purpose. Incidents of excessive force used at other coastal points against people trying to leave the country by their own means in homemade boats have also been reported along with other cases of boats manned by United States citizens or permanent residents in the United States that approach the Cuban coasts with the purpose of picking up Cuban citizens.

35. Persons arrested while trying to leave the country continue to be prosecuted under article 216 of the Criminal Code. Moreover, the act of accumulating over time material to be used for leaving the country and transferring it to a prearranged place is considered a crime. Some of these cases were reported to the Special Rapporteur, for example, that of Alejandro Joaquín Fuertes García, sentenced on 10 May 1992 to five years' deprivation of liberty for illegal exit by the provincial court of Santa Clara after a trial at which his defending attorney was not present. At the time of his arrest by security agents of Santa Clara State he was severely beaten, causing, among other things, kidney damage and reduced vision in one eye.

36. Lastly, the Special Rapporteur considers positive the action taken by the Cuban authorities to increase the number of Cuban citizens residing abroad who can visit the country. Although in the past only 90 visas per week have been granted, apart from the humanitarian visas granted in cases of grave illness or death in the family, under the new measures announced at the end of July 1993, the Cuban authorities may issue 100 tourist day visas to Cubans who left the country more than five years ago.

D. The right to an effective recourse

37. The information received by the Special Rapporteur includes many complaints concerning the lack of independence of the judiciary, which is subordinated to the executive and legislature by the Constitution itself. Thus, article 121 provides that: "the courts constitute a system of State organs structured to be functionally independent from other systems and subordinated by rank to the National Assembly of People's Power and the Council of State". The Office of the Attorney-General of the Republic is similarly subordinated, under article 131 of the Constitution, to the National Assembly of People's Power and the Council of State. The Attorney-General of the Republic is elected by the National Assembly of People's Power (art. 129), to which he must render an account of his work (art. 130) and receives direct instructions from the Council of State (art. 128). Under the Constitution, articles 66, 68 and 121 of the Organization of the Judicial System Act 12/ provides that a professional judge, lay judge or examining magistrate must be "actively involved in the revolution", an involvement which is required from the very beginning of legal studies. In addition, article 4 of the same Act includes among the main goals of the courts'

activity: "raising the social legal consciousness in the direction of strict compliance with the law and including in its decisions considerations which will educate the citizens in the conscious and voluntary observance of their duties of loyalty to the country, the cause of socialism and the rules of socialist coexistence".

38. As concerns the role of attorneys, it was stated that their basic duty is not to defend the interests of their clients, as these are subordinated to the interests of the system. Persons who had been sentenced for political offences told the Special Rapporteur that they met their defence attorney only at the time of their oral hearing and that the defence consisted only of presenting some standard mitigating circumstances rather than proving the innocence of the accused, who could always be certain in advance that he would be convicted. They also said that in a large number of cases neither the person concerned nor his family received a copy of the verdict, far less sometimes even of the accusation, of which the accused received only, at the moment of trial, the oral version given by the investigating authority, that is, under the Cuban procedural system, the police, with respect to the legal characterization of the offences he was accused of. Similarly, articles 160 and 161 of the Code of Criminal Procedure, which refer to the form in which a statement by the accused is to be taken during the preparatory phase of the procedure in the appropriate police unit, does not give the accused the right to make a statement in the presence of a counsel for the prosecution, whether of his choice or assigned.

39. On a number of occasions, the Special Rapporteur received complaints concerning the way in which trials for offences against State security were conducted: discriminatory treatment of the witnesses for the defence and the prosecution, an excessively aggressive attitude on the part of the investigator and lack of impartiality by the judge in the conduct of the hearings seem to be habitual practices.

III. CONDITIONS IN THE PRISONS

40. It is reported that food and hygienic conditions as well as the lack of medical attention continued to be alarming and have created many health problems affecting the prison population. Anaemia, diarrhoea and skin and parasite diseases as a result of contaminated water seem to be common ailments in most of the prisons, and in some, like those of Manacas and Combinado del Este, cases of tuberculosis have been recorded. This situation has caused the death of some prisoners, as in the case of Alcides Pérez Rodríguez, imprisoned before trial in the provincial prison of Ariza, who died on 5 March 1993 in Cienfuegos provincial hospital as a result of a generalized infection, or that of Juan Enrique Olano Pérez, who was serving two years of confinement in the Quivicán prison and who died in the Hermanos Ameijeiras hospital, to which he was taken when he was already in critical condition.

41. Prisoners who had protested in some way against their treatment or who had refused re-education, meaning - according to the information received - political and ideological instruction, had also been subjected to reprisals such as beatings, confinement in punishment cells (which are extremely small, have sealed doors and in which the prisoner can remain for months without seeing daylight), transfer to another prison, usually far from his family's place of

residence, suspension of family visits or the denial of medical treatment. Thus there are cases such as that of Luis Alberto Pita Santos, President of the Association for the Defence of Political Rights, held in Kilo 8 prison of Camaguey, who had been struck repeatedly; before his transfer to that prison, at the beginning of 1993, he was in Boniato prison in Santiago de Cuba, where he appears to have spent several months in punishment cells and where he was beaten in December 1992, as a result of which his arm was fractured; his cellmate, Jesus Chambes Ramírez, who was also beaten in the same incident, suffering a broken cheekbone and hematomas in various parts of his body. It is also reported that some prisoners were transferred or confined in punishment cells because written complaints about prison conditions were discovered, as in the case of Arturo Suárez Ramos, a member of the Cuban Committee for Human Rights, who was transferred from the Combinado del Este Prison at Boniato and locked in a punishment cell for complaining about the condition of the prisoners. Alberto Aguilera Guevara, Roberto Muré, Luis Grave de Peralta, Jesús Chembar, Ibrán Herera Ramírez, Enrique González, Rodolfo Gutiérrez and Robier Rodríguez, who were confined in the Boniato prison, were beaten and transferred to the Kilo 8 maximum severity prison of Camaguey on 12 February 1993 for engaging in a hunger strike in protest against their ill-treatment.

42. The Special Rapporteur has received material complaining of the use of psychiatry for other than strictly medical purposes, but does not have enough solid information to state that this takes place. On the other hand, the Special Rapporteur, in his conversations with former prisoners, observed that a fear of being subjected to this kind of treatment seems to exist among the prison population.

43. The number of persons serving sentences for political offences is difficult to estimate. Some sources place the number between 2,000 and 5,000 persons, including those sentenced for illegal departure. The Cuban Committee for Human Rights gave the Special Rapporteur a list of 602 prisoners who were serving sentences in 1992 for political offences. Of those, 342 were sentenced for the offence of disseminating enemy propaganda, 83 for sabotage, 31 for piracy, 52 for contempt, 15 for terrorism, 14 for espionage, 14 for offences against State security, 16 for rebellion, 15 for illegal association and the remainder for miscellaneous offences. A small number of prisoners were recently set free on the condition that they leave the country. Others, such as Sebastián Arcos Bergnes, who is serving a sentence of four years and eight months in the Ariza prison of Cienfuegos and Yndamiro Restano, President of the Harmony Movement, who was sentenced to 10 years, have refused the offer.

IV. CONSIDERATIONS CONCERNING THE ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

44. The report of the group of ambassadors who visited Cuba pursuant to Commission on Human Rights decision 1988/106 sums up the comments made by the representatives of the Government of Cuba on the enjoyment of economic, social and cultural rights in the country. The Special Rapporteur duly recalls some of those comments:

"The Minister of Labour explained to the group that the State guaranteed to all Cubans the right to work. There was no unemployment in Cuba and the existing social security system protected mothers, children and elderly people and looked after people who were temporarily or permanently sick or injured.

"...

"In his talks with the group, the President of the Council of State stated that the achievements of the Revolution in the social sphere had been outstanding and that, as a result of the efforts made by the regime in the areas of preventive medicine, mother and child care, and nutrition, his Government had saved the lives over the last 30 years of approximately 300,000 children who would not have survived if substantial changes in Cuban social policy had not been introduced. He compared the experience of Cuba in this area to that of other countries of the Third World, where as a result of the unjust international economic order many children were dying of hunger every day.

"...

"The Minister of Health said that average life expectancy was currently 74.6 years (as compared with 58 years in 1965 and 52 years in 1959), which placed Cuba on a level comparable with that of many developed countries. He mentioned that other achievements in the area of public health were the treatment of contagious diseases, advances in the area of nutrition and the eradication of malaria, diphtheria, tuberculosis, polio, meningitis and tetanus for children and other common infantile epidemics, with a consequent drastic reduction in the infant mortality index. ... He also mentioned that those efforts with respect to health would have failed if adequate attention had not been paid to the training of future doctors, nurses and specialized technical staff. Other indications of the efforts being made by the regime in the area of health was the current encouragement to applied scientific research, especially in the spheres of genetics and tropical diseases, as well as promotion of the industrial production of medical equipment.

"In talks with the group, the Minister of Education [said that] ... the school-attendance stage ran from 6 to 16 years of age. The percentage of children of those ages registered was 93 per cent, the percentage rising to 98 per cent for the category of 6 to 12 years of age. The whole school system was compulsory and free of charge.

"With regard to university education, the Minister of Higher Education informed the group that there had been 15,000 university students in Cuba in 1959, 35,000 in 1971 and 85,000 in 1976, whereas the current figure was 310,000, or 3 per cent of the total population. ..." 13/

45. Certain statistics in the Human Development Report 1993 issued by the United Nations Development Programme (UNDP) confirm some of the data given by the Cuban authorities:

/...

(a) Life expectancy at birth for 1990 was 75.4 years as against 63.8 in 1960;

(b) Infant mortality (per 1,000 live births) was 14 infants in 1991 as against 65 in 1960;

(c) The percentage of the population with access to health services (1987-1990) was 100 per cent, in both urban and rural areas;

(d) The number of inhabitants per doctor (1984-1989) was 530;

(e) The adult literacy rate for 1990 was 94 per cent as against 87 per cent in 1970;

(f) The combined primary and secondary school-enrolment rate (1987-1990) was 95 per cent as against 76 per cent in 1970.

46. A report prepared and sent to the Special Rapporteur by the Christian Democratic Party (PDC) of Cuba abroad takes stock of the achievements of recent decades in the social sector, which most of the population sees as a positive factor.

47. In the educational sector, the report mentions that the Cuban Government has managed in 33 years to set up an educational infrastructure. Day-care centres, schools, secondary schools, pre-university institutions, technical institutes and universities exist throughout the country. Teachers and professors have been trained in large numbers, and a series of laws have been put in place that foster education as one of the basic tasks of the Government. Furthermore, education is virtually free of charge.

48. In the health sector, the PDC report indicates that the Cuban Government has created a country-wide infrastructure, not only as concerns hospitals but also the training of doctors, nurses and all health personnel. However, many of the achievements, such as the low infant-mortality rates, the high life expectancy and the eradication of diseases, are being severely compromised by the economic crisis the country is undergoing. Surgical equipment is one of the items most affected. Only emergency operations are being carried out and there is a shortage of medicines and laboratory materials. The shortage of medicines and poor nutrition are producing vitamin deficiencies and serious nutritional deficiencies.

49. In the social security sector, the report recalls the adoption in January 1980 of Act No. 24, which set up the social security system, consisting of two regimes: the social security system and the social welfare system. The former offers protection to workers in case of ordinary or on-the-job illness or accident, maternity, disability and old age. If a worker dies, his family is protected. The social welfare system gives special protection to the elderly, persons incapable of working, and in general all whose essential needs are not insured or who need protection because of their living or health conditions. Some of the established benefits include:

(a) Old age pension, to which men are entitled at the age of 60 and women at 55;

(b) Disability pension;

(c) Death benefit; to which are entitled widows, widowers over 60 or incapacitated widowers who were dependent on the deceased worker, children, including adopted children, under 17, parents, including adoptive parents;

(d) As women's benefits, an 18-week paid maternity leave established by law for working mothers.

50. The same report indicates that, as the Cuban authorities stated, the social security system has remained unchanged despite the present economic crisis.

51. The Special Rapporteur believes that the considerations included in both the report of the visiting mission to Cuba in 1988 and the report of the Christian Democratic Party generally convey the feelings of a large part of the population, which recognizes that in the last 30 years the Government has made an effort and achieved great progress in promoting and protecting economic, social and cultural rights. The economic crisis the country is experiencing at this time might unfortunately be a determining factor as to whether the progress can be sustained. The Government's political will to preserve the people's social welfare benefits seems to be steadfast; however, the lack of adequate resources makes it a real possibility that the system will not be able to continue functioning as hoped.

V. INFORMATION RECEIVED FROM INSTITUTIONS AND ORGANIZATIONS BASED IN CUBA IN ACCORDANCE WITH CURRENT LEGISLATION

52. The Special Rapporteur received letters from a series of organizations and institutions inside Cuba commenting on various aspects of the human rights situation in the country and on the content of the report submitted by the Special Rapporteur to the Commission on Human Rights at its forty-ninth session. These letters are summarized below.

53. The Cuban National Union of Jurists stated, with regard to the above-mentioned report, that the entirety of the Universal Declaration on Human Rights had not been taken into account when analysing the non-fulfilment of its provisions in Cuba. Of its 30 articles, only those relating to the right of everyone to freedom of movement and to leave and enter the country; the right to freedom of thought, conscience and religion; the right to freedom of opinion and expression; and the right to freedom of assembly and association, as well as conditions in the prisons, were considered. However, the analysis of human rights in any country must cover them all; otherwise the conclusions reached are incomplete and do not adequately reflect reality. Furthermore, the focus used for analysing fulfilment of the aforesaid rights was applied, ignoring the climate of hostility which the United States has been imposing on Cuba for the last 34 years, the economic embargo being the fundamental reason for the adverse living conditions experienced by the Cuban people, and taking unreliable information sources as valid or sources based on rumours and speculations of the Miami-based media hostile to Cuba, or others which are supposedly based in Cuba but have no legitimacy, credit, membership or prestige.

54. The Special Rapporteur also received a letter from Cuba from the so-called Felix Varela Centre, commenting that the Rapporteur's report made no mention of the historic context within which the Cuban political system emerged and developed and, in particular, the continued United States aggression over 35 years. Cuban intransigence could thus be explained by the people's rejection of the idea of a possible loss of their independence and a restoration of the former status quo. This organization wonders what legitimacy can attach to a policy which, in the name of "restoring" the Cuban people's civil and political rights, decides to deprive them of their economic, social and cultural rights, and whether it would not be more appropriate to free the people from all outside pressure and give them, with full respect for their self-determination, the material and spiritual assistance whereby they can make their own choice. The Special Rapporteur's report, far from contributing to human rights in Cuba, fosters their violation in two ways: overall, because it does not denounce the United States policy of genocide against the Cuban people and, in individual cases, because it encourages rejection and intolerance, thereby making more difficult the climate of tranquillity needed for any exercise of self-criticism.

55. The Cuban Movement for Peace and Sovereignty of the Peoples stated that, as far as civil and political rights are concerned, the Cuban revolution has created a deep-rooted and wide-ranging democracy based on the direct and systematic participation of all the people in making and implementing decisions and in electing leaders at all levels, from the almost 14,000 district representatives, nominated and elected at the grass roots, to the members of the National Assembly of People's Power and the organs of the State. In Cuba, there is no police repression, or paramilitary gangs, or persons imprisoned without having been tried and sentenced by competent courts on the basis of laws promulgated before the offences are committed, and not including any that relate to political ideas or religious beliefs. While torture, assassinations, disappearances, etc. are rife throughout the world, in Cuba not a single case can be cited of an act of that kind having occurred over more than three decades of revolution. Nor is there a single case of discrimination in Cuba on any grounds. Furthermore, one characteristic of the revolutionary process is the effort towards social, economic and cultural development, aimed at attaining that quality of life repeatedly referred to by the General Assembly in its analysis of the right to development. All attempts at development are hampered by the economic, trade and financial embargo imposed on Cuba by the United States for more than 30 years and condemned by the United Nations General Assembly as well as by many Governments and such bodies as the European Parliament, the European Economic Community, the Latin American Group of Eight and the Third Ibero-American Conference of Heads of State and Government.

56. The Federation of Cuban Women also referred to the embargo, noting that it has caused stringent food rationing and a shortage of products for cleaning and personal use that seriously affect the daily lives of Cuban families. The inclusion of such sensitive categories as food and medicines gravely impairs the people's levels of health and social well-being. Another aspect from which to judge the effects of the embargo is the refusal of visas. On many occasions, members of the Federation invited to the country by universities and women's groups and organizations have been refused entry by the United States Government.

57. The Solidarity Organization of the Peoples of Africa, Asia and Latin America sent the Special Rapporteur a letter giving a brief history of the United States economic embargo against Cuba, an embargo which they claim has caused the Cuban people material losses of more than 40 billion dollars, and including references to acts of military aggression, terrorism and other crimes. The letter also referred to the following aspects of the accomplishments of the revolution in Cuba: the right to life is guaranteed, so much so that, if Cuban public health standards were to prevail in Latin America, the lives of 500,000 children a year could be saved. Cuba has more teachers per capita than any other country in the world. Ninety-five per cent of children have been reached by immunization. Diseases such as poliomyelitis, diphtheria, tetanus, whooping cough, etc., have been eradicated and tuberculosis considerably reduced. The social security system guarantees retired persons the right to a decent old age. Illiteracy has been wiped out. The education budget is 20 times larger than in the previous period and the public health budget 50 times larger than before the revolution. In all the history of the revolutionary period in Cuba, there has been on case of torture or forced disappearance. Voting is not compulsory but, nevertheless, 99 per cent of the voters take part in the elections. Women make up 40 per cent of the country's workers, and 60 per cent of medium and higher level technicians. By making Cubans the owners of their houses, evictions have been eliminated in the towns, and by giving the peasants ownership of their lands, dispossession has been eliminated in the country. It took the United States 69 years to raise life expectancy from 60 to 70 years; Cuba, because of the revolution, did it in less than half the time, attaining a life-expectancy of 76 years for Cuban men.

VI. CONCLUSIONS AND RECOMMENDATIONS

58. The Government of Cuba still refuses to accept the Commission on Human Rights decision to continue monitoring human rights conditions in that country and rejects all cooperation with the Special Rapporteur. The Rapporteur once again calls upon the Government of Cuba to modify this stance and to enter into open and direct dialogue on the circumstances and specific cases described and presented in his reports and on any other aspect of the human rights issue. He also calls on the Government to afford him the opportunity to visit the country as is customary for those fulfilling the mandates of the Commission on Human Rights.

59. The Special Rapporteur has, however, recently received communications from organizations and institutions based in Cuba in conformity with the current laws. The basic content of the communications is included in this report (paras. 52-57). The statements of these organizations focus on successes achieved in the social and educational sector but also refer to the United States economic, commercial and financial embargo of Cuba as the fundamental reason for the economic shortfalls and lack of room for political reforms.

60. The present report concentrates foremost on analysing reports received concerning conditions in the areas of civil and political rights and comments both on aspects related to the constitutional and legal framework and on specific cases of violations of justice and the way it operates. The report presents in detail the investigation carried out by the Committee of Experts on the Application of Conventions and Recommendations of the International Labour

Organization (ILO) and the Committee on Freedom of Association, which examine the implementation of different conventions in Cuba. It does so not only for their fundamental relevance but also because they are a way of involving committees with which the Government has maintained a dialogue. In addition, some economic and social development data, based on information supplied to the United Nations by government sources, have been collected: the most recent Human Development Report compiled by the United Nations Development Programme, reports from non-governmental sources and communications from Cuba transmitted by the above-mentioned institutions.

61. Bearing all this in mind, the Special Rapporteur considers that the recommendations presented in his latest report are, unfortunately, still valid and current, and that is the reason for repeating them as follows:

(a) Ratify the principal human rights instruments to which Cuba is not a party, in particular, the Covenant on Civil and Political Rights with its Optional Protocols and the Covenant on Economic, Social and Cultural Rights;

(b) Cease persecuting and punishing citizens for reasons relating to the freedom of peaceful expression and association;

(c) Permit legalization of independent groups, especially those seeking to carry out human rights or trade-union activities, and allow them to act within the law, but independently;

(d) Respect the guaranties of due process, in accordance with the provisions set forth in international covenants;

(e) Ensure greater transparency and guarantees in the prison system, so as to avoid incidents of excessive violence exercised against prisoners. In this connection, it would be a major achievement to renew the agreement with the International Committee of the Red Cross and to allow independent national groups access to prisons;

(f) Review sentences imposed for offences with political connotations and for trying to leave the country illegally;

(g) Expedite and make more transparent the procedure for applying for permission to leave and enter the country, while at the same time avoiding measures of retaliation against the applicants. Family reunification cases should be given priority attention. On this subject, the Special Rapporteur is aware of the need for persons wishing to travel to have visas for entry into other countries. 14/

62. In early September 1993, the bishops of Cuba published a long pastoral letter analysing different aspects of the country's social, economic and political conditions. In addition to the letter, the Special Rapporteur received a document signed by several groups, considered dissident within Cuba, that had joined forces. Both the letter and document make a series of proposals, listed below, which were outlined and presented to the Government. The Special Rapporteur felt it was important to take note of these texts since they are the products of real life experiences and actual day-to-day contact with the realities of Cuban life.

63. The pastoral letter contains the following passage specifically:

"It seems to us that, concomitant with certain economic changes in the life of the country now beginning to be put into practice, some of the irritating policies should be eradicated because it would generate unquestionable relief and a source of hope in the national soul.

- "(1) The exclusive and ubiquitous presence of the official ideology, accompanied by identification of terms that cannot be construed as unambiguous: Fatherland and socialism, State and Government, authority and power, legality and morality, Cuban and revolutionary. This centralist and ideologically all-embracing role of the State generates a feeling of fatigue caused by constant repetition of guidance and instructions;
- "(2) Limitations imposed not only on the exercise of certain freedoms, which could be occasionally justifiable, but also on freedom itself. A significant change in this policy would guarantee, inter alia, administration of an independent judiciary which would lead us, based on stable foundations, towards consolidation of a state of law;
- "(3) Excessive control by the State Security agencies which at times reaches even into the strictly private lives of individuals. That explains fear, the origin of which is poorly understood but felt as though it were caused by something ungraspable under a veil;
- "(4) The large number of persons imprisoned for activities which might be decriminalized or reconsidered as a way to free many of those serving sentences for economic, political or other similar reasons;
- "(5) Discrimination for philosophical, political or religious beliefs, the effective elimination of which would encourage participation of all the Cubans, without distinction, in the life of the nation."

64. The dissident organizations group, for its part, speaks of a common platform: amnesty for political prisoners; vindication for the freedom of association, speech, meeting and peaceful demonstration, the press, trade unionism, and the right to enter and leave the country, eradication of all forms of social and political discrimination, safeguarding the national identity, independence and sovereignty. In addition, these organizations, distinguished by their peaceful modus operandi, have demonstrated the willingness to begin a dialogue with the authorities within the law.

65. In the opinion of the Special Rapporteur, the most constructive measures, in an international context, for improving the human rights situation in Cuba should start by eliminating, as soon as possible, the vestiges of the cold war as they relate to Cuba while endeavouring, instead, to promote the country's return to the regional and world system of cooperation and settlement of conflicts. The Rapporteur has the impression that a few timid steps are now

starting to be adopted towards greater confidence between Cuba and its neighbours, particularly the United States. This may have a favourable repercussion in the matter of human rights.

66. Cuba's role in the cold war has vanished along with the economic assistance it received from the former Soviet Union. Fundamental changes in the way the domestic economy operates are more decisive than any other as a way for the nation to provide for its own citizens. To avoid traumatic and costly disruptions, these changes should emerge without delay. The international community must encourage a reform programme designed to improve productivity and efficiency in the economy. Such reforms would naturally assume a greater place for market forces to operate and greater entrepreneurial freedom. The Special Rapporteur considers that incentives or, at the very least, a policy which does not obstruct changes in the current system, rather than pressure or external conditioning, are likely to produce reforms tending towards deregulating not only the economy but also political life. This opinion is not shared by all those concerned about Cuba's future, but neither is it isolated. It was also expressed in a different context by the United Nations General Assembly in resolution 47/19 of 24 November 1992, "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba" which, in paragraph 2, states that the Assembly urges States with laws and regulations whose extraterritorial effects affect the sovereignty of other States and the legitimate interests of entities or persons under their jurisdiction, as well as the freedom of trade and navigation, to take the necessary measures to set them aside or to cancel their effect as quickly as possible in accordance with their own legal system.

Notes

1/ A/CONF.157/23.

2/ Throughout this report the names of groups and their posts are used as transmitted to the Special Rapporteur by non-governmental sources.

3/ International Labour Organization, 79th session, 1992, Report III (Part 4A), Report of the Committee of Experts on the Application of Conventions and Recommendations (Geneva, 1992), pp. 410-411.

4/ Ibid., 80th session, 1993, pp. 361-362.

5/ Ibid., p. 364.

6/ E/CN.4/1993/39, para. 57.

7/ International Labour Office, 287th report of the Committee on Freedom of Association, 27-29 May 1993 (GB.256/7/12).

8/ For this case, see E/CN.4/1993/39, para. 54 (b).

9/ International Labour Conference, 79th session, 1992, ... p. 409.

10/ Ibid., 80th session, 1993, p. 363.

11/ Ibid., E/CN.4/1993/39, paras. 63-72.

12/ Gaceta Oficial of 25 August 1977.

13/ E/CN.4/1989/46, paras. 124, 128, 130, 143 and 144.

14/ E/CN.4/1993/39, para. 87.

APPENDIX I

Note verbale dated 24 August 1993 from the Special Rapporteur
addressed to the Permanent Representative of Cuba to the
United Nations Office at Geneva

I have the honour to refer to resolution 1993/63 adopted by the Commission on Human Rights on 10 March 1993 entitled "Situation of human rights in Cuba". As you know, this resolution was endorsed by the Economic and Social Council in its decision 1993/274, thereby confirming the extension of the Special Rapporteur's mandate for another year.

In paragraph 2 of resolution 1993/63, the Commission calls upon the Government of Cuba to permit the Special Rapporteur the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba, and, in paragraph 7, it requests the Special Rapporteur to maintain direct contact with the Government and the citizens of Cuba. In accordance with these provisions, it is my duty to write to you to request your Government's cooperation in the discharge of my mandate, including an opportunity to visit Cuba, in order to verify the human rights situation firsthand.

(Signed) Carl-Johan GROTH
Special Rapporteur on the Situation
of Human Rights in Cuba

APPENDIX II

Note verbale dated 8 October 1992 from the Permanent Representative
of Cuba to the United Nations Office at Geneva addressed to the
Special Rapporteur

I have received your letter of 7 September 1992, on which, after a careful reading and upon instructions from my Government, I wish to make the following comments:

For more than 30 years, our people has had to wage a heroic struggle against the attempts of successive United States administrations to destroy us by means of a dirty war, plans to assassinate our supreme political leaders, threats of aggression, mercenary invasions and the most brutal acts of terrorism, from sabotaging our national economy to blowing up a CUBANA commercial aircraft in mid-air with 73 passengers on board.

Another key element of this policy is the economic embargo which the United States has unilaterally imposed against Cuba throughout this same period, and which is now being stepped up and expanded with the aim of starving an entire people.

This criminal policy is still being applied against my people, with the ultimate aim of overthrowing by all possible means the political, economic and social system chosen by the Cuban people in exercise of their right to self-determination. Despite the tremendous challenge that the evil, continued hostility of the mightiest power on the planet has constituted for a small, poor country, Cuba has stood its ground. Not only has it managed to resist: it can also point with justifiable satisfaction and pride to tangible achievements and evidence as regards its economic and social development and the strengthening of its democracy with the full and effective participation of its people.

The campaign unleashed by the United States in recent years on the so-called "situation of human rights in Cuba", in which it is attempting to involve and drag in the United Nations, is part of the same policy of hostility and harassment.

Resolution 1992/61 and similar earlier resolutions adopted by the Commission on Human Rights are the illegitimate fruit of the United States determined efforts to intervene in our domestic affairs, taking advantage of the situation of a politically and militarily polarized world.

In this context, the Cuban Government has expressed its determination not to accept the selective, discriminatory treatment which the United States is seeking to impose on it. This is an immutable position of principle consistent with the Charter of the United Nations and international law.

The fact that the country which supported for decades and, yes, maintained, oppressive regimes that violated human rights in many parts of the world is attempting to set itself up as our judge and accuser is, to say the least, an immoral paradox. This is the same country which, throughout our history, has continued to add to the long list of aggressions, invasions and interventions it

/...

has committed against our peoples, whom it exploited yesterday and is extorting today while at the same time attempting to force us into dependence and subordination. These are our accusers.

For these reasons - and no others - we emphatically reject resolution 1992/61 and, accordingly, we cannot cooperate in its implementation in any way.

You must understand - and our own experience shows - that it will not lead anywhere, for what is at issue here is not a genuine concern for human rights, but rather a foreign power's intention to dictate to our country which model of democracy or form of Government to adopt.

At the same time, Cuba has stated - and will state again - that it is ready and willing to continue cooperating with the United Nations in the field of human rights where mechanisms are applied equally to all Member States, and in accordance with the contractual obligations derived from those international treaties and agreements to which Cuba is a party. The files of the Centre for Human Rights contain very useful documents which prove the extent of our cooperation.

(Signed) José PEREZ NOYOA
Ambassador
