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

Final report on the situation of human rights in El Salvador submitted by
Professor José Antonio Pastor Ridruejo in discharge of the mandate conferred by
Commission resolution 32 (XXXVII).

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INTRODUCTION

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

"The General Assembly,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"The Commission on Human Rights,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. On 16 December 1981, the General Assembly adopted, by 68 votes to 22 with 53 abstentions, resolution 36/155, the text of which is as follows:

"The General Assembly,

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

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

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

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

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

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

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

"Taking note of resolution 10 (XXXIV) adopted by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, which states that only respect for article 25 of the International Covenant on Civil and Political Rights will assure to the Salvadorian nation, through the participation of all its political forces, the full exercise of its fundamental rights in establishing a democratically elected government, but also notes that at the present time these conditions do not exist in El Salvador,

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

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

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

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

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

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

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

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

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

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

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

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

4. Resolution 32 (XXXVII) of the Commission on Human Rights was transmitted, in accordance with operative paragraph 9 of the resolution, to the Government of El Salvador by a Note dated 22 May 1981 addressed to the Chargé d'Affaires a.i. and the Permanent Representative of El Salvador at Geneva. In the same Note, the Government of El Salvador was informed of the appointment of the Special Representative.

5. In fulfilment of the mandate contained in the above-mentioned resolution of the Commission on Human Rights, the Special Representative submitted an interim report to the General Assembly (A/36/608). On 25 November 1981, the Chairman of the Third Committee, on behalf of the Committee, invited the Special Representative to submit his report in person and to assist the Committee in its consideration of the document. The Special Representative replied to that invitation with the following letter, dated 25 November 1981:

"Sir,

"I wish to thank you for inviting me, on behalf of the Third Committee of the General Assembly, to submit in person my interim report on the situation of human rights in El Salvador and to assist the Committee in its consideration. As you will recall, I raised with you, early in the present session, the question of the interpretation to be given to paragraph 10 of resolution 32 (XXXVII) of the Commission on Human Rights, which requests me to submit an interim report to the General Assembly at its current session. I was uncertain whether the paragraph in question required only the preparation of a written report or whether it also called for my presence in the Third Committee.

"In discharge of the mandate entrusted to me by the Commission on Human Rights, I have taken great pains to ensure a climate of mutual trust and co-operation between myself and all interested parties in El Salvador. I am pleased to report in that connection that the Government of El Salvador has given evidence of continued trust and co-operation, despite the difficult circumstances known to all, and the fact that these have necessitated the inclusion in my interim report of information on which not all the parties, perhaps, are necessarily in agreement. The need to retain the absolute trust and co-operation of the authorities in question continues to be the primordial consideration in the fulfilment of my mandate.

"You were good enough to keep me informed of the deliberations which preceded your invitation. I note that during those discussions, certain considerations were put forward which could affect the good relations between myself and the authorities of El Salvador. In these circumstances, I consider that, in order to rule out all possibility of misunderstanding, it would be wiser

not to avail myself of your kind invitation. I am sure the Committee will understand my taking this position. If, during the Committee's deliberations, further explanations should prove necessary, particularly regarding any question of fact or interpretation, I should be happy to communicate them to the Committee in due course and in the proper manner.

"I should be grateful if you would inform the Committee of the contents of this letter.

Yours sincerely,

[Signed] José Antonio Pastor-Ridruejo

Mr. Declan O'Donovan
Chairman of the Third Committee"

6. As in the case of his interim report, the Special Representative based his analysis of the situation on information received from Governments, specialized agencies, intergovernmental organizations and non-governmental organizations, and on any other important information concerning the situation of human rights in El Salvador. The Special Representative considered that the co-operation of the Government of El Salvador would also be useful for the fulfilment of his mandate. To this end, on 4 June 1981, the Director of the United Nations Division of Human Rights wrote a letter to the Minister Counsellor of the Permanent Mission of El Salvador to the United Nations Office at Geneva, conveying the Special Representative's desire to visit El Salvador. On 12 August 1981, that country's Ambassador to the United Nations Office at Geneva transmitted to the Special Representative the authorization for him to visit the country. The visit took place in the second week of September.

7. The Special Representative arrived in El Salvador in the evening of Monday, 7 September and stayed there until the morning of Thursday, 10 September. The Government of El Salvador extended to the Special Representative its full co-operation and allowed him complete freedom of action and movement; in fact, however, because of obvious security reasons, and the inherent confidentiality and short duration of the visit necessitated by those reasons, most of the contacts were with the authorities of the country. Specifically, the Special Representative had an interview with President Duarte, Vice-President Colonel Gutiérrez and Junta member Mr. Avalos; an interview with the Defence Minister, Colonel García, who was accompanied by members of the General Staff and by the heads of the Salvadorian security forces; an interview with Mr. Morales Ehrlich, member of the Junta, in charge of agrarian reform; other interviews with judges of the Supreme Court, the Minister of Justice and the Government Attorney; and an interview with Mr. Chavez Mena, Minister for Foreign Affairs. The Special Representative also interviewed two prisoners detained in national police offices in San Salvador, visited a refugee centre in San Salvador called San José de la Montaña and held other talks with diplomatic representatives of other States and with Salvadorian private citizens.

8. After the visit to El Salvador, the Special Representative went to Mexico City, New York and Washington, and there was able to talk with the following persons, among others: Mr. Hector Dada, former Junta member; Mr. Roberto Lara Velado, former Chairman of the Commission Investigating Political Accused and Missing Persons, established by the first Junta; Judge Atilio Ramirez, who conducted the preliminary inquiries into the assassination of Monsignor Romero; Mr. Guillermo Ungó, former Junta member and President of the Frente Democrático Revolucionario; Mr. Román Mayorga, former member of the first Junta; Mr. Carlos Federico Paredes, Deputy Minister for Economic Planning of El Salvador until January 1981; and Colonel Majano, one of the officials responsible for the coup d'état of 15 October 1979.

9. In Mexico City, the Special Representative also had an opportunity to interview Mr. Roberto Cuellar of Legal Aid, an office of the Archbishopric of San Salvador, and Mrs. García Villas, of the El Salvador Commission on Human Rights. Also in Mexico City, he heard statements and testimony from refugees concerning violations of their human rights or those of their families. Some of this testimony is reproduced elsewhere in this report.

10. After drafting his interim report, and for the purpose of fulfilment of his mandate, the Special Representative had other interviews in New York and Madrid. In the former city, he had talks with some delegations to the General Assembly, inter alia, with the following persons: Mr. Rafael Moreno, representative of the Diplomatic Political Committee of the Frente de Liberación Nacional Parabundo Martí/Frente Democrático Revolucionario (FLNEM/FDR); Mr. Robert White, former United States Ambassador to El Salvador; Mr. Carlos Hernandez, Planning Secretary of the National University of El Salvador; Mr. Enrique Haends, Minister of Economic Affairs of the first Junta of El Salvador and now the Washington representative of the Alianza Productiva, an association of Salvadorian businessmen; and Colonel Adolfo Arnaldo Majano. In Madrid, the Special Representative had other interviews, inter alia, with Father Ignacio Eyacuría, Rector of the Catholic University of El Salvador, and Mr. Roberto Cuellar of Legal Aid.

11. The Ambassador of El Salvador to the United Nations Office at Geneva made available to the Division of Human Rights various documents which the Special Representative used for the preparation of his final report. This material includes a copy of the 9 December 1981 issue of the Information Bulletin Seinform entitled "Government Junta gives approved Electoral Law to Political Parties"; numerous issues from that collection; issue No. 17 (30 November 1981) of the weekly Campus, published in Belgium; a copy of the statement made by the delegation of El Salvador in the Third Committee of the General Assembly and containing the reply of the Government of El Salvador to the interim report submitted by the Special Representative; the 15 December 1981 issue of the Daily Bulletin of the United States Permanent Mission at Geneva; and recent copies of periodicals published in El Salvador, as well as other documents.

12. The present report is the final report submitted by the Special Representative to the Commission on Human Rights in accordance with the mandate entrusted to him by Commission resolution 32 (XXXVII). In this report, the Special Representative considered it appropriate to retain the general structure of the interim report, with the addition of a section containing recommendations. Accordingly, the structure of the final report is as follows:

- I. A description of the principal international and national legal rules currently in force in El Salvador concerning human rights and fundamental freedoms;
- II. A description of the current political situation in the Republic of El Salvador;
- III. An account of the situation with regard to the exercise of economic, social and cultural rights in El Salvador;
- IV. An account of the situation with regard to respect for civil and political rights in El Salvador;
- V. An account of the situation of refugees and other displaced persons as a result of current events in El Salvador;
- VI. An account of compliance with the international rules of humanitarian law applicable in the armed conflicts taking place in El Salvador;
- VII. Some conclusions;
- VIII. Recommendations.

I. INTERNATIONAL AND NATIONAL LEGAL RULES APPLICABLE
IN EL SALVADOR IN THE MATTER OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS

13. On 21 September 1967, the Republic of El Salvador signed the International Covenant on Economic, Social and Cultural Rights, which it ratified on 30 November 1979. On exactly the same dates, the Republic of El Salvador signed and ratified the International Covenant on Civil and Political Rights. El Salvador is thus a party to those instruments. In addition, El Salvador signed the American Convention on Human Rights (San José, Costa Rica, 22 November 1969) on 15 June 1978, and on 23 June that same year proceeded to deposit the instrument of ratification. El Salvador is thus a State party to that Convention. It should be noted, however, that in ratifying the San José Convention, El Salvador entered a reservation to the effect that its ratification was to be understood to be without prejudice to any provisions of the Convention which might conflict with specific precepts in the Constitution of the Republic.

14. Moreover, since 17 June 1953, El Salvador has been a party to the four Geneva Conventions of 12 August 1949: Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; Convention relative to the Treatment of Prisoners of War; and Convention relative to the Protection of Civilian Persons in Time of War. It should be emphasized that article 3 of the four above-mentioned Conventions contains rules applicable to armed conflicts which are not of an international character, such as those requiring respect for the life of non-combatants and combatants who are hors de combat. Since 23 November 1978, El Salvador has also been a party to the Additional Protocols to the four 1949 Geneva Conventions: Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts; and Additional Protocol to the Geneva Conventions of 12 August 1949 relating to non-international armed conflicts.

15. With regard to national rules, reference should be made, firstly, to the Political Constitution of the Republic of El Salvador, promulgated on 8 January 1962. According to that Constitution, sovereignty is vested in the people (art. 1) and the Government has three branches - legislative, executive and judicial - which must act independently within the limits of their powers. Legislative power is vested in the Assembly (art. 36). Executive power is exercised by the President of the Republic and by the Ministers and Under-Secretaries of State (art. 29). Judicial power is exercised by the Supreme Court, the courts of second instance and any other courts established by subsidiary laws (art. 81).

16. Titles X and XI of the Constitution set forth individual and social rights, and specify the procedures for guaranteeing the effectiveness of those rights.

17. Individual rights include the following: individual freedom and prohibition of servitude or any other status damaging to human dignity (art. 151); right of any person to enter, leave or remain in the territory of the Republic, subject to statutory limitations (art. 154); freedom to practise all religions, provided that clerics and laymen do not engage in political propaganda invoking religious grounds or taking advantage of the religious beliefs of the people (art. 157); freedom of expression and thought, with prohibition of the dissemination of anarchic and anti-democratic doctrines (art. 158); inviolability of correspondence (art. 159); freedom of association and peaceful assembly, but prohibition of the

establishment of conventual congregations and monastic institutions (art. 160); right to the protection of the authorities (art. 162); right to protection in the preservation and defence of life, honour, freedom, property, profession and employment (art. 163); rights to justice and a fair trial (arts. 165-171); right to life, freedom and habeas corpus (arts. 164 and 163); non-retroactivity of laws, except concerning public order and criminal matters whenever the new law would be favourable to the offender (art. 172); and right freely to dispose of personal property and freely to enter into contracts (arts. 173 and 174).

18. The social rights of the inhabitants of the Republic include the following: the family is entitled to protection from the State, which must also protect the physical, mental and moral health of minors, who have the right to education and assistance (art. 179); equal rights of all children born in or out of wedlock and of adopted children with regard to education, assistance and paternal protection (art. 180); work is a social function which enjoys the protection of the State and is not regarded as a commodity (art. 181); the living and working conditions and social security of workers are governed by the Labour Code (arts. 182-195); the preservation, development and dissemination of culture are recognized as a primary obligation of the State (art. 196); one of the aims of education should be to instil respect for human rights and obligations (arts. 197-203); autonomy of the University in teaching, administrative and financial matters (art. 204); duty of the State and of individuals to protect the health of the inhabitants of the Republic, which constitutes a public asset (art. 205); obligation of the State to provide assistance without charge to the indigent sick (art. 206); and a Higher Council of public health responsible for the health of the population (art. 208).

19. The Constitution of El Salvador assigns responsibility for measures to protect constitutional rights to the Supreme Court and, in certain cases, to the courts of second instance. These measures consist of the remedy of habeas corpus when a person's freedoms are restricted by an authority or individual (art. 164) and the right of amparo (enforcement of constitutional rights) before the Supreme Court for violation of the rights granted by the Constitution (art. 221). The Constitutional Procedure Act governs the exercise of these rights and the procedure for requiring the appearance of persons. The latter procedure is followed in cases of imprisonment, detention, custody or restriction not authorized by law or effected in a manner or to an extent not authorized by law, in which the aggrieved party is entitled to be protected by a writ for the appearance of persons.

20. The Constitution also deals with measures for the suspension of guarantees. Under article 175, in cases of war, invasion of the territory, rebellion, sedition, catastrophe, epidemic or other general calamity or serious breaches of the peace, the guarantees established in articles 154, 158 (1), 159 and 160 may be suspended in all or part of the territory of the Republic. The period of suspension must not exceed 30 days but may be renewed for a further 30 days, if the circumstances which necessitated it continue to exist. The National Assembly is responsible for decreeing the suspension of guarantees or, if it is in recess, the Executive Power may provisionally adopt the measure and the Assembly must meet to endorse or disallow the measure within a period of 48 hours.

21. After the Government Revolutionary Council came to power on 15 October 1979, the following provisions affecting human rights and fundamental freedoms were promulgated: Decree No. 1 of 15 October 1979 declaring the legitimacy of the new Government and its assumption of legislative powers through decrees having the force of law. The right of insurrection, proclaimed in article 7 of the Constitution, was invoked in this connection.

22. Decree No. 2 of 16 October 1979, on the basis of article 175 of the Constitution and for the purpose of maintaining public order, suspended the guarantees in articles 154 (right to enter, leave or remain in the territory), 153 (freedom of expression and propagation of ideas), 159 (inviolability of correspondence) and 160 (freedom of assembly and association). On 25 October 1979, the new Government lifted the state of siege, but on 5 March 1980, proclaimed it again for a period of 30 days, which has been extended up to the present time. On 3 October 1981 it was extended for a further six months 1/ although, according to press reports, 2/ the extension does not apply in respect of political parties, so that they may campaign for the forthcoming constituent elections to be held next March. As is indicated in a telex 3/ sent by the Government of El Salvador to its Permanent Mission at Geneva on 15 January 1982 and made available to the Special Representative at Geneva, that Government decreed on 21 October 1981 that "political parties may engage in recruitment campaigns and party propaganda activities without being subject to any of the restrictions imposed by the suspension of guarantees". According to press reports, this extension "does not affect the freedom of the Salvadorian political parties, which may use all means for their campaign" with a view to the general elections". 4/ According to other reports, 5/ the curfew which was in force was lifted on 15 October 1981.

23. Decree No. 114 of 11 February 1980 confirmed the applicability of the 1962 Constitution and supplemented Decree No. 1, establishing the legal framework for the reforms to be undertaken, particularly agrarian reform.

24. Decree No. 43 of 21 August 1980 declared a state of emergency in the Republic, placing under military control the civil servants and employees of the principal autonomous agencies.

25. Decree No. 507 of 3 December 1980, containing the Special Act on procedures applicable to the offences referred to in article 177 of the Political Constitution (treason, espionage, rebellion, sedition and other offences against the independence of the State and against international law). The Decree specifies that the military courts have jurisdiction in such offences. The basic provisions of the Decree are as follows: (1) auxiliary authorities which make an arrest must notify the military judges within 24 hours and must remand the accused within the next 15 days; (2) after proceedings have been initiated, the examining military judge must order the release or detention of the accused, as appropriate, within the next 72 hours; (3) if, at the end of the inquiry period, the judge finds no grounds for detaining the accused but, from a study of the case or by any other means, establishes the need to subject the accused to measures of security, he must so decide and order corrective detention for no more than 120 days, at his discretion (art. 6); (4) the examination phase must be secret and last no longer

1/ Le Monde, 4-5 October 1981.

2/ El País, Madrid, 1 November 1981.

3/ Telex No. 86 of 15 January 1981 from the Government of El Salvador to the delegation of El Salvador to the United Nations, Geneva.

4/ Le Monde, 30 December 1981.

5/ El País, 17 October 1981.

than 180 days, during which period there must be no intervention by the parties;
(5) the law applies only to persons over 16 years of age, but the corrective measures referred to in article 6 may possibly be applied to minors under that age.

26. The Special Representative deems it useful to mention also in this context the Handbook of Normal Operative Procedure for Counter-subversive Actions Undertaken by the National Police, of 23 September 1980, which was handed over to him by the Director of the National Police in San Salvador. According to this Handbook, operations carried out by the National Police must comply with constitutional precepts, with the prime objective of "ensuring respect for moral principles and the inviolability of human rights". 6/

6/ Armed Forces of El Salvador, National Police, Guía de Procedimiento Operativo Normal de las Acciones Contrasubversivas que Realice la Policía Nacional, (Handbook of Normal Operative Procedure for Counter-Subversive Actions undertaken by the National Police), 23 September 1980, p.1.

II. CURRENT POLITICAL SITUATION IN THE REPUBLIC OF EL SALVADOR

27. As will be described in greater detail in Section III of this report, which contains data on the economic and social situation in El Salvador, the economy of the country is basically agricultural, and the unequal distribution of land ownership has produced sharp differences in the income of the population.

28. Traditionally, only a small group of large landowners, who also control foreign trade and the banking system, has benefited from the country's wealth. In contrast to the privileged life-style of this elite, the vast majority of the population lives in a state of economic, social and cultural under-development. It seems appropriate to recall here the words of the Ambassador and Permanent Representative of El Salvador to the Organization of American States, who, speaking on behalf of the Government Revolutionary Junta on 10 July 1980, said that the Junta was trying to put an end to "the infamous accumulation of wealth, culture and power", adding that "the assets produced in El Salvador have been enjoyed and monopolized almost entirely by a privileged group. However, this wealth has been flaunted before the middle and lower classes ... they have seen it, it was their labour that produced it, but they have not enjoyed it; as a result, they have become embittered and frustrated and have reacted vengefully". 7/

29. Only under an authoritarian political régime could such a situation have been maintained in recent decades. The Special Representative does not think it necessary in this report to go back to the political vicissitudes of the Republic of El Salvador prior to 1970; for the purposes of this report, it would seem sufficient to describe the political developments of the past and present decades.

30. In 1972, elections were held; they were actually won by José Napoleón Duarte, a member of the Partido Demócrata Cristiano, who had the support of other parties. However, election fraud prevented the popular will from being respected, and Mr. Duarte was obliged to seek refuge abroad. The authoritarian situation was perpetuated under the military régimes of Colonel Molina and General Romero. Under Colonel Molina, there were some attempts to initiate agrarian reform, but they never reached fulfilment. The situation remained as in the past, although there were mounting demands for political, economic and social change.

31. At the end of the decade, on 15 October 1979 to be precise, there was another successful military coup. Its instigators - army officers Adolfo Arnoldo Majano and Jaime Abdul Gutiérrez - immediately set up a Junta composed of three civilians and themselves. The Junta at once issued a proclamation describing its objectives: these included, essentially, the declaration of a general amnesty allowing political prisoners to be released and exiles to return, guarantees for political and trade-union activities, agrarian reform with a view to equitable land distribution, reform of the financial and banking system, all this with due respect for human rights. In this connection, it should be noted that, under Decree No. 3 of 19 October 1979, a general amnesty was proclaimed for political prisoners and exiles and that, under Decree No. 12 of 6 November 1979, the extreme right-wing paramilitary organization Orden was dissolved.

7/ Organization of American States, Annual Report of the Inter-American Commission on Human Rights, 1979-1980 (Washington, D.C., General Secretariat, Organization of American States, 1980), p. 136 of Spanish version. See also E/CN.4/1453.

32. However, the Government Revolutionary Junta formed in October 1979 apparently encountered major difficulties in carrying out its government programme, for two main reasons, according to information received by the Special Representative: in the first place, strong opposition from powerful extreme right-wing groups and sectors, one of them organized militarily and having connections with or protected by some high-ranking military leaders, and, secondly, the need to attack extreme left-wing guerrilla strongholds, which even controlled some parts of the national territory and were seeking to overthrow the Junta and seize power for themselves.

33. In the circumstances, the civilian members of the Junta and other senior government officials tendered their collective resignation on 3 January 1980. The military members of the Junta then invited important members of the Partido Demócrata Cristiano - including Mr. Hector Dada - to join the Government. They agreed to do so, provided that the promised reforms would be undertaken, the system democratized and human rights respected. A few days later, several popular organizations merged to form the Co-ordinadora Revolucionaria de Masas. The Communists, Socialists, Independents and a few Christian Democrats formed an opposition political group called the Frente Democrático Revolucionario, while the guerrilla groups banded together as the Frente de Liberación Nacional Farabundo Martí.

34. However, the general situation in the country not only did not improve; it deteriorated in an alarming manner. Violations of human rights increased in unprecedented proportions, according to the information contained in section IV of this report of the Special Representative.

35. At the beginning of March 1980, Mr. Hector Dada resigned from his post in the Junta; his resignation was followed by that of other important members of the Christian Democrat party. The Junta was then joined by Mr. José Napoleón Duarte, also a member of the Christian Democrat party who, as indicated earlier, was the real winner in the 1972 elections. On 22 December 1980, another change occurred, when Colonel Adolfo Arnoldo Majano, one of the authors of the coup d'état of 15 October 1979, left the Government. According to a statement made by Colonel Majano to the Special Representative in November 1981, "the reason for the irreconcilable conflict between the Junta and myself was my aim of seeking out and disbanding secret extreme right-wing terrorist groups connected with and protected by certain members of the Government". On 22 December 1980, Mr. José Napoleón Duarte became President. Colonel Jaime Abdul Gutiérrez was appointed Vice-President of the Republic and Commander-in-Chief of the Armed Forces.

36. According to information contained in other parts of this report, the violent conditions in the country did not change for the better during 1981. In January of that year, the leftist guerrillas launched a major offensive, which the regular army was able to contain. In the remaining months of 1981, the consistent pattern of gross violations of human rights continued, as did the fighting between the army troops and the leftist guerrilla groups.

37. On 20 February 1981, Colonel Adolfo Arnoldo Majano was arrested because, according to press reports, he was considered to be a deserter for refusing to accept the position of military attaché of El Salvador at the Embassy in Madrid. ^{8/} According to a public announcement, Colonel Majano was freed in March and left the country.

^{8/} International Herald Tribune, 23 February 1981, "Former member of Junta is arrested in El Salvador", and Le Monde, 24 February 1981, "Le Col. Adolfo Majano est arrêté".

38. During 1981, a few attempts were apparently made to mediate between the Junta and the leftist opposition with a view to ending the bloody conflict in the country. One such attempt was made by the Governments of Mexico and Venezuela and another by the Socialist International but, according to information received, they were unsuccessful. It has been publicly announced that Mr. Duarte has promised to hold free and fair elections in El Salvador in March 1982 and subsequently to hand over power to the winners in those elections. Elections to the Constituent Assembly have been called for 28 March 1982. They will be governed by the transitional electoral Law prepared by the Central Election Council and approved by the Revolutionary Government Junta, under Decree No. 914 published in the Diario Oficial of 18 December 1981. According to statements made by President Duarte when this Law was presented to the political parties, the Government of El Salvador undertakes to do its utmost to ensure that the elections are absolutely free, above-board and genuine, and to guarantee that the wishes of the people are respected. 9/ Furthermore, the Government of El Salvador has invited 66 governments and a few individuals and non-governmental organizations to send observers to the elections. 10/ According to Government information 11/ there will be 5,000 polling stations in the country and voters will have to produce their identity card and have one of their fingers marked with indelible purple ink that leaves a stain lasting roughly 18 hours.

39. On 28 August 1981, the Governments of France and Mexico issued a joint statement in which they recognized the Alliance of the Frente de Liberación Nacional Farabundo Martí and the Frente Democrático Revolucionario as being a representative political force and, as such, entitled to take part in establishing the necessary machinery of rapprochement and negotiation for finding a political solution to the crisis. This statement was followed by another joint statement from the Ministers for Foreign Affairs of Argentina, Bolivia, Chile, Colombia, the Dominican Republic, Guatemala, Honduras, Paraguay and Venezuela, transmitted to the Secretary-General of the United Nations on 4 September 1981 and expressing the view that the Governments of Mexico and France had intervened in the internal affairs of El Salvador, as well as their surprise at such an attitude, "which sets an extremely grave precedent". The Special Representative took note of various statements made by government representatives during the general debate at the thirty-sixth session of the General Assembly and indicated his support for one or other position.

40. On 11 December 1981, the General Assembly of the Organization of American States adopted, by 22 votes to 3, with 3 abstentions, the following resolution on El Salvador:

9/ Information Bulletin of the Government of El Salvador, Seinform, No. 16, 9 December 1981.

10/ Telex to the Permanent Mission of El Salvador to the United Nations Office at Geneva.

11/ Seinform, 11 January 1982.

THE GENERAL ASSEMBLY,

RECALLING the provisions of articles 3 and 16 of the Charter of the Organization of American States, concerning the principle of solidarity of American States with a political entity based on the effective exercise of representative democracy, respect for the fundamental rights of the individual and the principle of the self-determination of peoples,

RECALLING, ALSO, resolution GA/RES.510 (X-O/80), which lays down that the democratic system shall form the basis for establishment of a political society respectful of human values, and

HAVING HEARD the statements made by Heads of Delegation on this question during the discussion in the General Assembly,

CONSIDERING that the Government of El Salvador has expressed its intention of seeking in the democratic process a political solution to the violence which is affecting that country and, to that end, has decided on March 1982 as the date for the election of a National Constituent Assembly,

That the Government of El Salvador has announced that the Salvadorian political electoral procedure is in process of development, and

That the Government of El Salvador has invited other governments to observe the holding of the elections.

RESOLVES:

1. To express the wish that the people of El Salvador may achieve peace, social justice and democracy within a pluralistic system that will enable the citizens of that country to exercise their inalienable rights;
2. To express the hope that all Salvadorians may achieve a climate of peace and harmony through genuinely democratic elections;
3. To suggest that governments which so desire should consider the possibility of replying favourably to the invitation extended to them by the Government of El Salvador to observe the holding of the elections;
4. To repudiate violence and terrorism and any act which constitutes a violation of the principle of non-intervention;
5. To reiterate that, in conformity with the principle of non-intervention, the solution of its internal problems is a matter for the Salvadorian people alone.

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

41. El Salvador is a small country in Central America with an area of 21,040 km² and a population of 4,539,500 inhabitants, comprising a rural population of 2,637,000 and an urban population of 1,902,500. The population density is 215 inhabitants per km² and the growth rate 3.28 per cent.^{12/}

42. The country's economy is basically agricultural and the pattern of land ownership is thus important to the exercise of economic and social rights. The distribution of ownership is, however, very unequal. According to information received by the Special Representative, before agrarian reform, 60 per cent of the land was owned by 1.6 per cent of the population. Of the remainder, 21 per cent belonged to 91 per cent of the inhabitants. Consequently, the distribution of the national income reveals gross inequalities.^{13/} According to information received, 5 per cent of the population receives 21.4 per cent of the national income and the poorer half of the population 17.9 per cent.^{14/}

43. In addition, according to information supplied to the Special Representative by the Economic Commission for Latin America (ECLA), official figures show that the national unemployment rate rose from about 7 per cent in 1979 to approximately 17 per cent in 1980. In the Commission's opinion, the figure for open unemployment would be even higher if the large number of workers who emigrated had remained in El Salvador. According to the same source, in 1980 the highest level of official unemployment was reached in March, when it was 48 per cent in the agricultural sector and 23 per cent for the economy as a whole; the lowest level was in June, when official unemployment in the agricultural sector was 25 per cent and the level for the whole nation about 10 per cent.^{15/}

^{12/} Data taken from the document issued on 11 December 1981 by the General Directorate of Economic and Social Affairs of the Ministry of Foreign Affairs of El Salvador.

^{13/} Interchurch Committee on Human Rights in Latin America, Submission to the Canadian Ambassador to the thirty-seventh session of the Commission on Human Rights, 22 January 1981, "El Salvador", p. 48.

^{14/} U.S. Department of State, Country Reports on Human Rights Practices, report submitted to the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives, 2 February 1981, "El Salvador", p. 430.

^{15/} United Nations, Economic and Social Council, Economic Commission for Latin America (ECLA), El Salvador, Note for the Economic Study of Latin America, 1980 (CEPAL/MEX/1 45/Rev.1, 25 May 1981) p. 17.

44. It should also be noted that the violence in El Salvador has been accompanied by a marked deterioration in the economic situation. According to ECLA, the economic consequences of that situation were a decline in production - with some exceptions in the agricultural sector, partly attributable to the start of the agrarian restructuring promoted by the Government - a drop in private investment and flights of capital, exodus of the entrepreneurial class and material damage to productive firms and to capital formation. Per capita income thus declined in real terms for the second consecutive year: by 4.5 per cent in 1979 and by 10 per cent in 1980. According to the same source, the per capita domestic product, which was \$463 in 1978, dropped to \$442 in 1979 and to \$398 in 1980.^{16/}

45. The Government Junta which came to power on 15 October 1979 at once announced its intention of undertaking a series of reforms, including agrarian reform, in order to achieve a fairer distribution of land in the Republic of El Salvador, nationalization of the banking system and nationalization of foreign trade. Because of its special importance, the Special Representative wishes to refer primarily to agrarian reform, whose objectives, essential features and stages were explained to him in El Salvador by Mr. Morales Ehrlich, member of the Junta and mainly responsible for this reform.

46. A preparatory agrarian reform measure is contained in Decree No. 43 of 8 December 1979, which imposes restrictions on the division and transfer of rural property, specifying that such transactions require the authorization of the Instituto Salvadoreño de Transformación Agraria in the case of owners of 50 to 100 hectares, the apparent aim being to prevent the big land-owners from dividing land among their relatives in an attempt to evade the expected agrarian reform.

47. On 6 March 1980, the Revolutionary Government Junta promulgated two important Decrees: Decree No. 153 containing the Basic Agrarian Reform Act, and Decree No. 154 relating to estates of over 500 hectares.

48. Decree No. 154 governs the first phase of agrarian reform, providing for expropriation of estates of over 500 hectares. The Act contained in Decree N. 153 provides for compensation of land-owners with State bonds and allows them to retain estates of less than 100 or 150 hectares, according to circumstances. The estates expropriated are given to rural co-operatives. According to the report by Simon and Stephens published in 1981 by OXFAM America^{17/}, this first phase of agrarian reform in El Salvador may affect 238 large estates totalling 218,000 hectares, or 15 per cent of the cultivable land. But this report is highly critical of the preparation and results of the first phase of agrarian reform. Some land-owners apparently exerted pressure to recover their estates and a commission was established for the return of land; apparently 68 estates were returned. The rural population, for its part, reacted with feelings of insecurity and fear. The reform apparently actually benefited some of the permanent estate staff (such as managers,

^{16/} Ibid., p. 2.

^{17/} Simon, Lawrence R. and Stephens, James C. Jr., El Salvador and Land Reform 1980-81 Impact Audit (Boston Massachusetts, OXFAM America, Inc., 1981), p. 22.

accountants, drivers, mechanics and other such staff) but not the farm workers or labourers, who are dominated in the co-operatives by the permanent staff and by other leaders such as officials of the Instituto Salvadoreño de Transformación Agraria. In all, over 60 per cent of the rural population appears to have been excluded from the reform.

49. According to data supplied by ECLA^{18/}, this phase of agrarian reform affected 376 large estates of 500 hectares or more, totalling 244,083 hectares in the hands of 244 land-owners. Nevertheless, according to the same source, it was slowed down by technical, operational and financial difficulties. Although expropriation did occur, estates continued to be occupied by the Army and, after lengthy and complicated procedures, were transferred to some rural organizations which did not always succeed in obtaining the necessary technical and financial assistance to enable them to maintain output. ECLA adds that, on some holdings, some success was nevertheless achieved with the production of staple grain crops.

50. According to information supplied by the weekly Campus,^{19/} the first stage of the reform has already been completed and 320 estates have been handed over to as many co-operatives, regrouping 35,000 rural families and benefitting some 250,000 persons.

51. The Junta again proclaimed a state of siege at the same time as it promulgated the two Decrees of 6 March 1980, claiming that the purpose was to prevent the forces opposed to agrarian reform from achieving their goal. According to complaints received by the Inter-American Commission on Human Rights,^{20/} the result of this measure was that the Armed Forces occupied some land affected by the reform, triggering certain acts of violence which affected quite a few rural inhabitants.

52. The second phase of agrarian reform, prescribed in Decree No. 153 containing the Basic Agrarian Reform Act, affects estates of over 100 or 150 hectares - depending on the quality of the land - and less than 500 hectares. Provision is made for expropriation of such estates, which are to be handed over to co-operatives similar to those set up during the first phase, with compensation to the owners, partly in cash and partly in State bonds.

53. According to the above-mentioned report by Simon and Stephens^{21/}, this phase concerns between 1,500 and 2,000 estates, accounting for 70 per cent of the coffee crop and thus constituting the real core of Salvadorian agrarian reform. As noted in that report, however, there are good reasons for believing that the second phase

^{18/} ECLA, op.cit., p. 10.

^{19/} Campus Hebdomadaire, No. 17, 30 November 1981, pp. 2-3.

^{20/} Organization of American States, op.cit., p. 139.

^{21/} Simon and Stephens, op.cit., p. 19.

will in fact never be implemented. In this connection, it is said that on 14 May 1980, Colonel Jaime Abdul Gutiérrez announced that no more reforms would be carried out other than those in phase one and those envisaged in Decree No. 207, which will be considered below; this would halve the impact of the agrarian reform. The report of the United States Department of State^{22/} notes that this second phase of reform is still under consideration. This is apart from other technical difficulties mentioned in the report by Simon and Stephens.

54. According to the weekly Campus, the second phase of agrarian reform is now being implemented and 200,000 hectares will be steadily incorporated in the reform process; apparently 60 landowners have proposed to the Instituto Salvadoreño de Transformación Agraria (ISTA) that it should purchase their estates and the payment agreements have already been concluded. A further 200 landowners are said to be negotiating with ISTA for the sale of their lands.^{23/}

55. The third phase of agrarian reform undertaken by the present Salvadorian Junta is set out in Decree No. 207 of 18 April 1980. Holdings of any size formed under a landleasing and sharecropping system would become the property of the tenants and sharecroppers, on the understanding that no person benefitting under the Decree could become the owner of holdings of more than seven hectares. Provision is also made for compensation of the owners.

56. According to the above-mentioned report by Simon and Stephens^{24/}, the Decree is open to serious criticism and has encountered considerable resistance, not only from the landholders affected, many of them poor, but also from tenants and sharecroppers. It would exclude most of the rural inhabitants of El Salvador and apparently the title deeds have not in fact been distributed, no special credit lines have been opened and very few rural workers have ceased to rent land.

57. Nevertheless, in the opinion of the weekly Campus, the implementation of Decree No. 207 has so far affected 40,000 hectares of land, and 23,000 peasant families have been transformed into landowners with the help of public credits.^{25/} According to the El Salvador Government Bulletin Seinform (12 December 1981), more than 32,000 requests have been processed to date and more than 18,000 title-deeds handed over.^{26/}

^{22/} U.S. Department of State, Country Reports ..., op.cit., p. 431.

^{23/} Campus Hebdomadaire, No. 17, 30 November 1981, p. 3.

^{24/} Simon and Stephens, op.cit., pp. 56-57.

^{25/} Campus Hebdomadaire, No. 17, 30 November 1981, p. 3.

^{26/} Seinform, 12 December 1981.

58. As regards banking reform, the Special Representative would refer to Decree No. 158 of the Revolutionary Government Junta, dated 7 March 1980, which contains the Act nationalizing credit institutions and savings and loan associations. Under this Act, the shares of these institutions are expropriated and become the property of the State. The latter must offer up to 20 per cent of the expropriated shares to the employees concerned, to whom it will grant credit facilities for their purchase; up to 29 per cent of the shares will be offered to private investors, with the restriction that no natural or legal person apart from the State may be a shareholder in more than one financial institution, or hold more than 1 per cent of its shares. The Act also provides for compensation of the expropriated shareholders. According to the Government of El Salvador,^{27/} between January 1979 and 15 March 1980 savings and loans declined by 200 million colones, "with the nationalization of the bank and the savings and loan associations, savings and loans rose to 275 million colones within a period of 14 months, reflecting a sharp recovery in a short time". It is also reported^{28/} that the greater part of the expropriated shares has been paid for with bonds and that the nationalized commercial bank is exercising stricter control over its lending, in the interest of a better utilization of financial resources.

59. Decree No. 114 of 8 February 1980 provides for the nationalization of foreign trade, in the context of which there have been established in El Salvador the National Coffee Institute (INCAFE) and the National Sugar Institute (INAZUCAR). According to the Government of El Salvador,^{29/} (INAZUCAR was set up on 20 May 1980) to market the country's sugar production, both at home and abroad; seven sugar mills and refineries were transferred to it in October 1980. According to the same source, sugar output declined, for two reasons: difficulty of access to many of the properties, because of the prevailing violence; and lack of any investment initiative on the part of private medium-sized growers, although this indecision was counterbalanced by the positive action of co-operatives in the reformed agrarian sector. This information refers to certain successes achieved in the sugar sector as a result of the nationalization of foreign trade: (1) more efficient production; (2) the formulation of a planned national sugar policy; (3) the avoidance of a collapse of the national sugar industry; and (4) savings under the head of transport.

60. With regard to the health situation, the El Salvador Commission on Human Rights reports^{30/} that there is one physician for every 3,650 inhabitants, one dentist for every 10,000 inhabitants and one nurse for every 3,500 inhabitants. According to the same source, 67 per cent of the physicians are practising in the capital, where

^{27/} Ibid., 28 August 1981.

^{28/} Ibid., 28 July 1981.

^{29/} Document of the Ministry of Foreign Affairs, No. 9893, San Salvador, 28 July 1981.

^{30/} El Salvador Commission of Human Rights (CDHES), Boletín Informativo, November 1980, No. 2, pp. 3-4.

17 per cent of the population lives. The report of the U.S. Department of State notes that the departments in the Ministry of Health are over-staffed and poorly administered.^{31/} The same report adds that the infant mortality rate in rural areas is more than 1 in 10 and that life expectancy is 54 years in rural areas and 59 in the country as a whole. According to the report of the Toronto Inter-Church Committee^{32/}, El Salvador has the lowest per capita consumption of calories in Latin America. The El Salvador Commission on Human Rights states that the calorie deficiency is 26 per cent and the protein deficiency 47 per cent^{33/}.

61. On the subject of education in El Salvador, the El Salvador Commission on Human Rights gives the following information^{34/}; the illiteracy rate is 40 per cent; the school enrolment rate is 44 per cent; 15 per cent of the teachers are in rural areas and 85 per cent in urban areas. According to the report of the U.S. Department of State, approximately 67 per cent of the adult population can read and write.^{35/}

^{31/} U.S. Department of State, Country Reports ..., op.cit., p. 430.

^{32/} Inter-Church Committee on Human Rights in Latin America, op.cit., p. 49.

^{33/} CDHES. op.cit., p. 3.

^{34/} Ibid.

^{35/} U.S. Department of State, Country Reports, op.cit. p. 430.

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

62. According to information received by the Special Representative, there has been a consistent pattern of gross violations of civil and political rights of all kinds over the past two years in the Republic of El Salvador, involving attempts on human life, cases of torture and cruel, inhuman and degrading treatment, arbitrary deprivation of freedom, arbitrary interference in individuals' private life, family, place of residence and correspondence, and violations of freedom of thought, conscience, religion, expression, peaceful assembly and association, etc. One characteristic of these violations is that they often ended tragically in the violation of the basic and primary right of the human person, the right to life. Apparently torture was very often followed by the death of the person tortured, and the same can be said of persons arbitrarily deprived of their freedom. People who are abducted disappear and rarely reappear alive. In addition, attempts to put an end to freedom of expression or assembly or association very frequently involved attempts against human life. All of this reportedly took place in an over-all context of inactivity and passivity on the part of the Salvadorian judiciary in which victims or their relatives were unable to get any action taken on their complaints.

63. In these circumstances, the Special Representative decided that it would be inappropriate to conduct a detailed review of information on human rights violations in the light of specific provisions of the domestic and international legal instruments which are binding on the Republic of El Salvador in this area. The nature of the violations mentioned above calls for a different approach. Since the greater part of the reported violations involved attempts against human life, the Special Representative decided that it would be preferable to base this part of his report on such attempts, adopting by way of exposition a classification which takes into account the actual circumstances in which these repeated attempts take place. This classification, which does not imply any rigid distinction between the various categories, is as follows: (a) murders; (b) abductions and disappearances; (c) other terrorist acts; and (d) other human rights violations. In this, the Special Representative is essentially using the categories of human rights violations given in paragraph 7 (a) of resolution 32 (XXXVII) of the Commission on Human Rights, which also contains his mandate.

1. Murders

64. According to Legal Aid 36/ (an office run by the Archdiocese of San Salvador which works in situ on the basis of direct information and testimony, but which according to a statement by Monsignor Rivera y Damas appearing in the weekly review Campus does not speak on behalf of the Archdiocese), 37/ in 1979 the security forces murdered 1,030 people for political reasons.

36/ Legal Aid Service of the Archdiocese of San Salvador, El Salvador: One Year of Repression, (Geneva, World Council of Churches, Commission of the Churches on International Affairs, 1981), p. 32. Translated from: El Salvador: Del Genocidio de la Junta Militar a la Esperanza de la Lucha, written by Legal Aid.

37/ Campus Hebdomadaire, No. 17, 13 November 1981, p. 6.

65. According to the same source, 38/ in 1980 there were 8,062 political murders. The 1980 report of the Inter-American Commission on Human Rights 39/ speaks of some 6,000 people killed during the first nine months of that year. The 1981 report of the United States Department of State 40/ puts the number of murders in 1980 at around 9,000. The report of the Toronto-based Inter Church Committee on Human Rights in Latin America 41/ gives the figure of 12,076 people murdered in 1980.

66. According to documentary information handed over to the Special Representative by Legal Aid, the murders continued subsequently, and between 1 January and 25 September 1981 the figure rose to 10,714. 42/ According to the same source, between 26 September and 2 October 1981, 49 murders were committed, between 3 and 9 October the number of murders was 65; between 31 October and 6 November, 247; between 7 November and 13 November, 50; between 14 and 20 November, 345; between 21 and 27 November, 138; between 28 November and 4 December, 62; and between 12 and 18 December, 119. 43/ According to the Acting Archbishop of San Salvador, Monsignor Rivera y Damas, 11,723 deaths resulted from the political violence in the first 11 months of 1981, most of them involving non-combatant peasants. The sources of these data are the Archdiocese of San Salvador, the Red Cross and the Commission on Human Rights. 44/

67. However, the opinion of the United States Assistant Secretary of State for inter-American Affairs, on 14 December 1981, was that "Violent deaths, other than in combat, are down by more than half since last year". 45/

68. According to a publication by the National Police Force of El Salvador, 46/ between 1 January and 8 September, terrorist organizations carried out 37 kidnappings and murders and killed 293 civilians (executions).

69. As to those responsible for the murders, Legal Aid attributes the figures for 1980 and 1981 to the Army, military security forces and paramilitary organizations co-ordinated by the Armed Forces High Command and considers the murders to have been politically motivated. 47/ In the view of the Toronto Inter Church Committee,

38/ Ibid., p. 11.

39/ Organization of American States, op. cit., p. 428.

40/ United States Department of State, Country Reports, op. cit., p. 428.

41/ Inter-Church Committee on Human Rights in Latin America, op. cit., p. 39.

42/ Legal Aid, Archdiocese of San Salvador, El Salvador, C.A. 8 October 1981.

43/ Ibid.

44/ International Herald Tribune, 5 January 1982; The Guardian, 5 January 1982.

45/ United States Mission in Geneva, Daily Bulletin, Tuesday, 15 December 1981.

46/ Fuerza Armada de El Salvador, Policía Nacional, Resumen estadístico sobre las actividades de organizaciones terroristas clandestinas, tendientes a destruir la economía de la República de El Salvador, (San Salvador, 8 September 1981).

47/ Legal Aid, El Salvador, One Year of Repression, p. 9.

those murdered were the victims of officially approved repression. ^{48/} According to Amnesty International, there are reports of human rights violations committed by non-governmental opposition forces. However, Amnesty International goes on to say that analysis of all the available data would suggest that most of the reported violations, including torture, disappearances and murders in cold blood, were carried out by security forces and were directed against people who were not involved in guerrilla activities. ^{49/} The 1980 report of the Inter-American Commission on Human Rights refers to "terrorist assaults by armed groups of the extreme left and the extreme right" which in 1980 became increasingly frequent. ^{50/} However, the Commission's annual report of 20 October 1981, in referring to the question of illegal executions in certain Latin American countries including El Salvador, states that: "In most cases such executions were directly committed by security forces which act with impunity outside the law, as well as by paramilitary groups which operate with the acquiescence or tacit approval of the governments". ^{51/} The report submitted to the Committee on Migrations, Refugees and Demography of the Council of Europe states in reference to recent developments that "extreme right-wing military organizations and extreme left-wing revolutionary groups have stepped up their action, resorting increasingly to acts of violence, murder and torture". ^{52/} The report of the United States Department of State ^{53/} asserts that homicides and terrorist acts are the work of both the forces of the left-wing Frente Terrorista, which often claim responsibility for them, and of right-wing elements joined by a number of members of official security organizations, and adds that armed left-wingers have taken hostage or murdered many government officials, diplomats, landowners, members of right-wing paramilitary groups and suspected informers. According to documentation provided to the United Nations Commission on Human Rights by the Head of the United States delegation ^{54/} guerrilla fighters claim to have killed nearly 6,000 people in 1980.

70. The Special Representative wishes to refer to information on some especially blatant and illustrative cases of murder, such as mass killings of peasants and other individuals, attempts against Church leaders, priests and monks in a general climate of persecution of the Church, assassinations of political leaders and human rights advocates and murders of university and school teachers.

71. Among the information on mass killings of peasants, mention should be made of the incident on 14 May 1980 on the banks of the Sumpul River, which forms the border between El Salvador and Honduras, in the province of Chatanalengo in the north of El Salvador. According to information provided by Legal Aid ^{55/} the Salvadorian Army and other military forces, such as the National Guard and the Policía de Hacienda (Treasury police), accompanied by members of the paramilitary organization ORDEN, hounded the population throughout vast areas of the countryside,

^{48/} Interchurch Committee on Human Rights in Latin America, op. cit., p. 40.

^{49/} Amnesty International, news release, 11 June 1981, p. 3.

^{50/} Organization of American States, op. cit., p. 134.

^{51/} Organization of American States, Annual Report of the Inter-American Commission on Human Rights, 1981. Washington, D.C., General Secretariat, Organization of American States, 1981, p. 111.

^{52/} Council of Europe, Parliamentary Assembly, Report on Refugees from El Salvador, 7 April 1981, p. 2.

^{53/} United States Department of State, Country reports, op. cit., pp. 423 and 429.

^{54/} E/CN.4/1467, 24 February 1981.

^{55/} Legal Aid, op. cit., p. 13.

causing several hundred peasants to take refuge on the banks of the Sumpul River where they machine-gunned them. The forces in question were aided by two helicopters. Some peasants managed to cross the river but were turned back by Honduran troops and forced to return to El Salvadorian territory. In all, some 600 people, including women and children, lost their lives. The 1980 report of the Inter-American Commission on Human Rights 56/ gives an essentially similar account. According to this source, however, the Government of El Salvador denied all responsibility and, in view of the contradictory versions, the Inter-American Commission decided to open an investigation, the results of which have not as yet been transmitted to the Special Representative. In any event, the report on refugees from El Salvador prepared for the Committee on Migrations, Refugees and Demography of the Council of Europe 57/ refers to the testimony of an Amnesty International representative which would confirm Legal Aid's version of the Sumpul massacre. Amnesty International's version 58/ of the massacre coincides with that of Legal Aid and also indicates that the account was confirmed by eyewitnesses and Salvadorian human rights groups. It also reports that, on 19 June 1980, the Honduran diocese of Santa Rosa de Copan published a declaration **condemning** the massacre signed by 36 priests and monks. The declaration was published in The United Church Observer in October 1980. However, the Government of El Salvador denied all responsibility and in a telex sent to its Ambassador to the United Nations Office at Geneva on 26 June 1980 invited the national and international press to investigate personally the version which journalists had proved to be false. In a telex 59/ the following day the Government stated that the area in which the act allegedly took place is under the supervision of OAS military observers, whose chief has also denied the affair ... the charge is made forty days after the alleged events, an incomprehensible interval of time if an occurrence of such magnitude had really taken place According to information transmitted by the Government of El Salvador to the Division of Human Rights, the presence of OAS military observers in the border area between Honduras and El Salvador was due to the establishment of a demilitarized zone along the border, following the conflict between the two countries in 1969. 60/

72. Another mass killing of peasants reported by Legal Aid 61/ and Amnesty International 62/ was that perpetrated by members of the paramilitary organization ORDEN on 9 July 1980 against members of the Mojica-Santos family in

56/ Organization of American States, Annual Report of the Inter-American Commission on Human Rights, 1979-1980. Washington, D.C., General Secretariat, Organization of American States, 1980, pp. 132 and 133.

57/ Council of Europe, op. cit., p. 23.

58/ Amnesty International, Letter dated 6 May 1981 from the Secretary-General of Amnesty International addressed to the United States Secretary of State (AI Index: AMR 29/31/81).

59/ Telex Nos. 719 and 725 of 26 and 27 June 1980, from the Government of El Salvador to the Permanent Mission of El Salvador to the United Nations Office at Geneva, made available to the Special Representative.

60/ Note verbale from the Permanent Mission of El Salvador to the United Nations Office at Geneva of 18 January 1982.

61/ Legal Aid, op. cit., p. 15.

62/ Amnesty International, Letter dated 6 May 1981 from the Secretary-General of Amnesty International addressed to the United States Secretary of State.

the Mogotes canton of San Pablo Tacachico, in which ORDEN members were protected by Army troops. Thirty-one members of the family were killed, including 15 children under 10 years of age. The Legal Aid report gives the names and ages of the people murdered.

73. According to press reports, 63/ on 7 April 1981 in Monte Carmelos, a district of San Salvador, uniformed and non-uniformed individuals murdered seven people in their homes and dragged a further 23 out and killed them in the street. Two houses were also set ablaze by bazooka fire. According to the same sources, the Ministry of Defence stated that the deaths occurred when the police, having found out that guerrilla fighters were to hold an important meeting in Monte Carmelos, arrived on the scene and were attacked by 60 people. Many sources state that, according to one report, four soldiers were killed. The El Salvador Commission on Human Rights, for its part, reported by telex from Mexico 64/ that on 16 June 1981, in the Plan del Pino canton near San Salvador, six adolescents were murdered in an operation carried out by more than 200 members of the Policía de Hacienda backed up by two small tanks. The report gave the names of those murdered, who were aged between 14 and 20 years, and indicated that they were killed before their relatives' eyes.

74. The Special Representative also has information on murders committed in what appears to be a general climate of persecution of the Catholic Church, whose leaders, priests and members have courageously defended human rights. These murders include, notably, the assassination of the Archbishop of San Salvador, Monsignor Oscar Arnulfo Romero. The Special Representative was able to read the sermons of the assassinated prelate, 65/ which courageously denounced human rights violations and advocated the need for social reforms and reconciliation among the country's various forces and sectors. In his sermon on the day before his assassination, Monsignor Romero appealed to members of the Army and security forces, saying that the murder of peasants was contrary to divine and human law and warning the Government that reforms were useless if they were accompanied by so much bloodshed. On 24 March 1980, the Archbishop was shot dead while saying mass in a chapel in San Salvador. The question of the responsibility for this murder has been the subject of much speculation. The Special Representative was able to hear the testimony of Mr. Jorge Pinto who was until recently editor of the San Salvador daily newspaper El Independiente. According to that testimony, at the time of the assassination, Msgr. Romero was saying mass for the soul of Mr. Pinto's mother and Mr. Pinto asserts that he heard someone who arrived late for the mass say that the assassins were protected by national police patrols stationed near the chapel. The 1980 report of the Inter-American Commission on Human Rights states that ... "The Commission has learned that Judge Atilio Ramírez, who is responsible for the investigation into the assassination of Monsignor Romero, has accused Colonel José Medrano and Major Roberto D'Abuissou, former-officers of the National Guard and former members of ORDEN, of hiring the assassins." 66/ The Special Representative also heard the statement of Judge Atilio Ramírez who was responsible for the first judicial investigation into the Archbishop's assassination.

63/ International Herald Tribune, 8 and 9 April 1981; Le Monde, 9 and 11 April 1981; Time, 10 April 1981; Le Continent, 13 April 1981.

64/ Telex of 19 June 1981 from the El Salvador Commission on Human Rights (Mexico City), transmitting a communiqué.

65/ Romero, Monsignor Oscar A., Cese la Represión!, Editorial Popular, Madrid, 1980.

66/ Organization of American States, op. cit., p. 134. See also document E/CN.4/1453, p. 136.

According to the judge, in the days immediately following the assassination, he received death threats at his home and subsequently two young men a little over 23 years of age entered his home armed with machine-guns, obviously intending to kill him. The judge was able to defend himself with a shotgun and a revolver and left the country as soon as possible. At the time of preparation of this report, the Special Representative had no news of the progress of the legal proceedings initiated by Salvadorian justice to determine responsibility for the murder of Monsignor Romero. Legal Aid 67/ reports the murder of other priests and monks. According to these reports, seminarist José Otsmaro Cáceres was murdered on 25 July 1980 by members of the National Guard and ORDEN in Platanares canton. According to the same source, Italian priest Cosme Spezzotto was murdered in the department of La Paz, Father Manuel Antonio Reyes Monio was murdered on 6 October 1980 and Father Marcial Serrano on 28 November 1980. Amnesty International 68/ refers to these and other killings of priests and monks. To these reports we should add that of the murder on 2 December 1980 of three United States nuns and a woman lay missionary, whose bodies were found in Santiago Nonualco in the department of La Paz bearing signs of violence. According to the 1981 report of the United States Department of State, 69/ a United States mission reported, on the basis of circumstantial evidence, the possible implication of the security forces in these murders and, according to press reports, 70/ the Salvadorian Minister of Defence, Colonel José Guillermo García, announced that six members of the armed forces had been arrested on 29 April 1981 as murder suspects.

75. The widespread persecution of opposition political leaders and Salvadorian human rights advocates has also frequently ended in murder. Thus, according to information provided by Legal Aid, 71/ on 27 November 1980, 25 police in civilian clothes entered the Legal Aid office which was surrounded by 200 police and soldiers, and captured six leaders of the Frente Democrático Revolucionario (FDR) who were there at the time: Enrique Alvarez Córdoba, President of the FDR, Manuel Franco, Juan Chacón, Humberto Mendoza, Enrique Escobar Barrera and Doroteo Hernández. The bodies of all these people were found later, bearing signs of strangulation, and mutilation and with various bullet holes in their skulls. Amnesty International 72/ gives a similar version of what happened. The Special Representative was able to read letters and telegrams denouncing these murders from private individuals and associations who of course had not actually witnessed them.

67/ Legal Aid, op. cit., p. 24.

68/ Amnesty International, Letter dated 6 May 1981 from the Secretary-General of Amnesty International addressed to the United States Secretary of State, p. 4.

69/ United States Department of State, Country report, op. cit., p. 432.

70/ International Herald Tribune, 11 May 1981, "Six soldiers arrested in deaths of women, El Salvador confirms"; The Guardian, 11 May 1981, "Salvador confirms murder arrests".

71/ Legal Aid, op. cit., p. 3.

72/ Amnesty International, Letter dated 6 May 1981 from the Secretary-General of Amnesty International addressed to the United States Secretary of State, p. 3.

76. According to reports from the El Salvador Commission on Human Rights 73/ and also the report of the Toronto Inter-Church Committee on Human Rights in Latin America, 74/ on 3 October 1980 Mrs. Maria Magdalena Henriquez, press attaché for the El Salvador Commission on Human Rights, was abducted by two uniformed members of the police. Her body was found on 7 October with eight machine-gun wounds. The Special Representative read a photocopy, provided by Legal Aid, of the statement by a witness to the murder. Again, according to information from the El Salvador Commission on Human Rights 75/ and the Toronto Committee, as well as from Legal Aid, 76/ on 25 October 1980 the administrator of the El Salvador Commission on Human Rights, Mr. Ramón Valladares, was murdered. Regarding the killings of Mrs. Henriquez and Mr. Valladares, the Special Representative was able to read letters and telegrams from private associations and individuals who had not, however, witnessed what happened.

77. Furthermore, on 3 January 1981 Mr. José Rodolfo Viera, Director of the Instituto Salvadoreño de Transformación Agraria, and United States citizens Michael Hammer and Mark Pearlman, advisers on labour, were murdered in the Sheraton Hotel in San Salvador. Amnesty International 77/ indicates in reference to these murders that, according to published reports, the Government of El Salvador has made arrests in connection with this case, an occurrence which, in Amnesty International's view, is an exception to the general rule.

78. According to information furnished to the Special Representative by Legal Aid 78/ after guerrilla forces had blown up the Puente de Oro, the Salvadorian Army carried out an enveloping military operation on the south-east bank of the Río Lempa and surrounding villages between 20 and 29 October 1981. This source reports that the operation resulted in the murder of 44 minors, the capture and disappearance of 24 other minors, the destruction by murder and capture of 10 family groups, the murder of 33 women and the capture and disappearance of 36 other women. According to Le Monde, "The prelate estimated that there had been a number of civilian victims of this large-scale offensive by the army in the Río Lempa area". 79/ According, however, to the information provided by the Press Committee of the Salvadorian Armed Forces, 80/ the military action resulted in

73/ El Salvador Commission on Human Rights, Boletín Informativo, No. 4, January 1981, p. 6.

74/ Inter-Church Committee on Human Rights in Latin America, op. cit., p. 45.

75/ El Salvador Commission on Human Rights, Boletín Informativo, No. 4, p. 11.

76/ Legal Aid, op. cit., p. 19.

77/ Amnesty International, letter dated 6 May 1981 from the Secretary-General of Amnesty International to the United States Secretary of State, p. 11.

78/ Legal Aid of the Archdiocese of San Salvador, El Salvador, Apartado Postal 294, Boletín Urgente.

79/ Le Monde, 3 November 1981.

80/ Diario de Hoy, San Salvador, 31 October 1981.

the death of seven soldiers and 15 army casualties and the death of 132 terrorists on the side of the guerrillas; their bodies had been buried there to prevent epidemics; the information also states that "Some boats sank in the river Lempa, and with them a number of terrorists". It was stated that these must have been some of the corpses which people in the area saw floating past in the river.

79. The Special Representative also wishes to mention a number of reports on murders of secondary and primary school teachers. Thus, according to information provided by Legal Aid, 81/ the Asociación Nacional de Educadores Salvadoreños reported on 21 June 1980 that 136 schoolteachers had been killed since 1 January of that year.

80. In a communiqué of 20 August 1980, the same Association reported that in 1979 33 university teachers belonging to the Association had been murdered by military forces and officially backed paramilitary groups and that so far in 1980 84 secondary schoolteachers had been murdered.

81. Amnesty International, for its part, reports that 90 primary schoolteachers were murdered between January and October 1980. Legal Aid 82/ also refers to individual murders such as that of Bladimir Barrios, director of a school group in Tecapán, who was machine-gunned in front of his pupils by heavily armed individuals wearing bulletproof vests who identified themselves as members of the Death Squad, in an action co-ordinated by the National Guard, and that of the Rector of the National University, Félix Antonio Ulloa, and his driver, Francisco Antonio Cuellar Menendez, on 28 October 1980.

82. Furthermore, according to a telex communiqué from the El Salvador Commission on Human Rights, 83/ the Asociación Nacional de Educadores Salvadoreños reported the abduction and subsequent murder of 12 schoolteachers, including the headmistress of the Ahuachapan Rural School between 1 and 18 June 1981.

83. A letter and report handed to the Special Representative on 25 November 1981 by Carlos Hernandez, Secretary for Planning at the University of El Salvador states that in a period of less than two years 16 teachers, 43 students and 3 university employees were murdered and that the campus of the University of El Salvador was occupied and looted by the military almost a year and a half ago. No classes were being held and the education of more than 45,000 students was suffering. According to information provided by the Government of El Salvador, 84/ there were 16 private universities in the country with 16,000 registered students.

81/ Legal Aid, op. cit., p. 14.

82/ Ibid., pp. 14 and 19.

83/ Telex dated 19 June 1981 from the El Salvador Commission on Human Rights (Mexico City), transmitting a communiqué.

84/ Seinform, 25 November 1981.

2. Abductions and disappearances

84. We are dealing here with a category of serious human rights violations which has much in common with the previous category of murders. In fact, many of those abducted lost their lives at the hands of their abductors, but only after some time. In addition, their bodies are not always found and if they are, they have been tortured, mutilated and disfigured to such an extent that they are often unrecognizable.

85. According to Legal Aid,^{85/} under the military governments of Colonel Molina and General Romero (1972-1979), the office had records of 215 people who had been captured and later disappeared. The Working Group on Enforced or Involuntary Disappearances, established within the United Nations by resolution 20 (XXXVI) of the Commission on Human Rights^{86/} received reports of 104 cases of disappearances for the period January to October 1979.

86. On 6 November 1979, Decree No. 9 of the Government Revolutionary Junta of El Salvador established a Special Commission to investigate Political Prisoners and the Disappeared. The Commission issued its final report on 3 January 1980, in which it stated: "In general terms, we can report that to date we have not found a single person of those who appear on the list of the disappeared; but on the other hand, we have proof of the capture of many of them by various official security forces, as of the detention of several of them in the barracks of the security forces." Since the Special Commission had not found any prisoners in any of those places, it added the following comment: "All this brings us to the conclusion that we can presume that all the disappeared are dead".^{87/}

87. With regard to 1980, Legal Aid^{88/} has reported 211 cases of people who disappeared for political reasons between January and August, inclusive, of that year. According to that information, the individuals in question were captured by the Army and military security forces. The United Nations Working Group on Enforced or Involuntary Disappearances,^{89/} for its part, received 199 reports on disappearances in 1980. Of these, 19 related to trade unionists, 40 to students and 45 to peasants, day labourers and casual workers. The Working Group also received reports of disappearances of teachers, industrial workers, two priests and one journalist.

88. According to the reports analysed by the Working Group, to which the Special Representative had access, the arrests usually occurred at the home of the missing person, in the street or in public places. Also according to those reports, most of the arrests were made by members of the Army, the National Guard, the rural police, the security forces or the paramilitary organization ORDEN. In some cases, it was reported that the national police and even the Air Force took part in the arrests. Several reports state that the subject's home was searched and ransacked by the persons making the arrest.

^{85/} Legal Aid, op.cit., p. 17.

^{86/} United Nations, Commission on Human Rights, Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1435), para. 86.

^{87/} E/CN.4/1435, para. 91.

^{88/} Legal Aid, op.cit., p. 17.

^{89/} E/CN.4/1435, para. 88.

89. The Working Group itself states that, with regard to disappearances in 1980, little information has been received on the fate of disappeared persons or on places where they might be held. In a few cases, the body of the victim has been reported found some time after his arrest. In addition to the information on the arrests, there is evidence that, prior to their death, these persons had been detained somewhere for a period: the bodies bore marks showing that their hands had been bound and that they had been tortured. Further, the Working Group says that it is aware of reports that numerous bodies have been found in El Salvador, often mutilated beyond recognition, which precluded their identification as missing persons.

90. In June 1981, the International Committee of the Red Cross 90/ reported that, on average, 40 people visit its office in El Salvador each day to report cases of persons presumed to have disappeared or to ask for news of disappeared relatives. Since June 1980, the ICRC office has opened some 1,900 files on persons presumed missing and, through its efforts, has managed to find 438 of them, 76 of whom were found dead.

91. With regard to detentions, the International Committee of the Red Cross reports 91/ that, after it opened its office in El Salvador in June 1980, the authorities allowed staff of the office to visit all permanent or temporary, civilian or military detention centres without notice, to interview all the prisoners without any officials in attendance and to assist them. According to the same source, staff of the office made 295 visits to 159 detention centres between 1 January and 31 May 1981. A further 775 people were detained during that period, but by making frequent visits, staff of the office were able to interview a total of 4,290 prisoners. The competent authorities of the Government confirmed the freedom of movement of the ICRC to the Special Representative when he visited El Salvador.

3. Other terrorist acts

92. The murders, abductions and disappearances reported in the preceding pages are extreme manifestations of terrorist acts. We shall now turn to a number of other terrorist acts which were designed, on a massive and violent scale, to prevent the exercise of such human rights as freedom of opinion, expression and peaceful assembly, trade union rights, etc., but on occasion also culminated in the tragic loss of human lives.

93. According to information supplied by Legal Aid 92/ on 18 February 1980, the explosion of a charge of dynamite destroyed the radio station of the Archdiocese of San Salvador, YSAX, La Voz de la Verdad, which used to broadcast the sermons of Monsignor Romero. The 1980 report of the Inter-American Commission on Human Rights 93/ also reports this attack, but gives the date as 19 February.

94. Legal Aid also reports 94/ raids on trade union premises, in particular the 19 March 1980 raid on the premises of the Federación Sindical Revolucionaria (Revolutionary Trade Union Federation), in which a worker, Mauricio Barrera, was

90/ International Committee of the Red Cross, Acción del CICR en El Salvador, situation report No. 2, June 1981 (OP/AML/2e - 81, 25/06/81).

91/ Ibid., p. 2.

92/ Legal Aid, op.cit., pp. 19 and 20.

93/ Organization of American States, op.cit. p. 136. See also E/CN.4/1453, p. 136.

94/ Legal Aid, op.cit., p. 18.

killed. According to information from the same source, as a result of the destruction of trade union premises, since July 1980 Salvadorian workers have been unable to exercise their rights of association and assembly. The report of the Inter-Church Committee on Human Rights in Latin America 95/ also refers to various attacks on trade unions.

95. According to information reproduced in the 1980 report of the Inter-American Commission on Human Rights, 96/ on 2 April 1980 two Dutch journalists were wounded by the police who fired on the vehicle in which they were riding, despite the fact that they had identified themselves as reporters and the car had visible press signs.

96. According to information in the same report, 97/ on 26 June 1980 some 300 people, including the leaders of the Comité Revolucionario de la Coordinadora de Masas (Revolutionary Committee for Mass Coordination) were trapped, together with national and foreign newsmen, in the basement of a building at the National University of El Salvador. Army and police forces surrounded the University for three hours and then entered it shooting. The result was 27 dead, 15 wounded and 200 arrested. Legal Aid 98/ also refers to this action reporting that 23 students were killed, including a 14-year old.

97. Again, on 5 July 1980 the Legal Aid offices 99/ were raided, according to a report by that organization. The Inter-American Commission on Human Rights 100/ also refers to this incident, which it reports took place on 3 July, indicating that the raid was carried out by 120 national security agents who made a complete search of the offices, confiscating records compiled since 1975. Amnesty International 101/ reports that Legal Aid's various offices had to close down temporarily in mid-December 1980 after they had been raided 17 times in one week by the National Police. Employees had tried to open the offices but the attacks had continued and many of them had been forced to go into hiding or to go into exile abroad.

98. According to information provided by Legal Aid, 102/ on 16 August 1980 the Army raided and searched a refugee centre authorized by the Archdiocese, which was situated at Mejicanos, to the north of the capital, and housed more than 400 women and children who were fleeing government repression.

99. Again, according to the report of the Inter-Church Committee on Human Rights in Latin America 103/ on 19 November 1980 Army units together with a group of heavily armed civilians invaded the refugee centre behind the San Salvador diocesan offices

95/ Inter-Church Committee on Human Rights in Latin America, op. cit. pp. 45 and 46.

96/ Organization of American States, op. cit. p. 137.

97/ Ibid., p. 137.

98/ Legal Aid, op. cit., p. 18.

99/ Ibid.

100/ Organization of American States, op. cit., p. 136.

101/ Amnesty International, letter dated 6 May 1981 from the Secretary General of Amnesty International addressed to the United States Secretary of State, p. 3.

102/ Legal Aid, op. cit., p. 3.

103/ Inter-Church Committee on Human Rights in Latin America, op. cit., p. 47.

and seminary. Firing into the air in order to terrorize more than 600 refugees, they searched and destroyed the small clinic next to the entrance to the refuge. According to the same source, on 12 December soldiers occupied the Soyopango church and refuge centre.

100. The Special Representative would also like to refer to attacks on the San Salvador newspaper El Independiente. According to testimony given by its former editor, Mr. Jorge Pinto, the newspaper's printing shop was bombed by members of the military one day in June 1980 and a few days later the home of the newspaper's owner was machine-gunned. According to the same testimony, on 15 January 1981 the API press agency, also headed by Mr. Pinto, was occupied and all its staff imprisoned. On 18 January 1981, the El Independiente offices were taken over by the military. The following day, Mr. Pinto went into exile.

101. Also in connection with attacks against the press, an open letter 104/ signed by approximately 1,000 United States journalists draws attention to several cases of ill-treatment of journalists, including the murder of five journalists and an interpreter, as well as the disappearance of two others. It states that violence against journalists in El Salvador goes far beyond that normally occurring in combat zones and is used as a weapon against freedom of the press.

102. With regard to the terrorism in general carried out by left wing opposition groups, the Special Representative wishes to recall the information given in paragraph 1 of section IV, according to which reports from four sources also attribute terrorists acts to such groups. Furthermore, the Special Representative read reports in the El Salvador press of numerous terrorist acts, including murders and hostage-taking attributed to the guerrilla movements.

103. In this connection, we should mention that, according to information published by the International Committee of the Red Cross (1979 and 1980), 105/ opposition groups occupied a number of buildings such as government offices and embassies, taking hostage civilians who happened to be there. On one occasion, the Ambassador of the Republic of South Africa was taken hostage. According to information which the Special Representative received from other sources, the Ambassador was later murdered 106/ at the beginning of October 1980 after having been abducted on 28 November 1979.

104. The Special Representative would also like to mention here the report on the burning of the home and the murder of Colonel Carlos Alfredo Choto, his wife and two children aged 15 and 11 years, which took place late on 16 November 1980 and, according to the file opened on the case by the authorities of El Salvador, was the work of a militant of the Fuerzas Armadas de la Resistencia Nacional (FARN) (Armed Forces of the National Resistance). This information is contained in the file dated 9 September 1981 and entitled Diligencias relacionadas con el Caso del Asesinato del Señor Coronel Carlos Alfredo Choto y su familia, which the competent authorities made available to the Special Representative during his visit to El Salvador.

104/ Letter dated 18 November 1981 from the Committee to Protect Journalists to the United Nations Division of Human Rights.

105/ International Committee of the Red Cross, Informe de actividades, 1979, p. 38, 1980, p. 32.

106/ Information provided by the Governments of El Salvador and the United States of America.

105. The international press has also reported other acts attributed to the guerrilla forces. Thus, the 6 April 1981 issue of the International Herald Tribune 107/ reproduces statements by the El Salvador authorities blaming the guerrilla forces for attacks on the office of the International Harvester Company and the building of the conservative newspaper Diario Latino. In its 10 April and 25 May issues, 108/ the same newspaper reproduced statements by the El Salvador authorities blaming guerrilla forces for attempts to destroy electric power lines, bridges and means of transport in order to destroy the country's economy. According to the same report, this action had been followed by attempts to cut off the country's food supply. The International Herald Tribune also reported on 9 and 13 July 1981 109/ that Army troops had been sent to fight guerrilla units which had surrounded a major power generating plant. According to press reports, 110/ on 14 October 1981 guerrilla forces of the Frente de Liberación Nacional Farabundo Martí destroyed an important communications link on the Pan-American highway known as the Puerte del Oro. The Government of El Salvador information bulletin Seinform of 16 October 1981 111/ states that the destruction of the bridge was accompanied by the burning of the ANTEL offices and a railway station. It is estimated that rebuilding the bridge will take 18 to 24 months and will cost between 10 to 14 million colones.

106. According to information handed over to the Special Representative by the El Salvador authorities 112/ there were 780 cases of economic sabotage in 1980 and 681 cases in the first eight months of 1981. The major attacks reported are the following: in the District of San Salvador, setting fire to buses and dynamiting commercial and industrial enterprises as well as banks, agencies, savings and loan banks; in the District of Santa Ana, setting fire to buses, dynamiting commercial and industrial enterprises, sabotage of electrical plant and dynamiting of banks, agencies and savings and loan banks; in the District of San Miguel, dynamiting of commercial and industrial enterprises, setting fire to buses and dynamiting of banks, agencies and savings and loan banks; in the District of La Paz, setting fire to buses, vehicles and agricultural machinery and commercial enterprises, and destruction of light aircraft used for crop spraying; in the District of La Libertad, dynamiting of pylons carrying power lines, sabotage of municipal buildings and burning of commercial enterprises; in the Department of San Vicente, setting fire to private vehicles, burning of ANTEL offices, railway sabotage, and damage to the highways; in the District of Usulután, burning of commercial enterprises and dynamiting of banks, agencies, and savings and loan banks; in the District of Sonsonate, sabotage against electricity pylons and sub-stations; in the District of Chalatenango, sabotage with dynamite against road bridges and burning of petrol stations; in the District of Cuscatlán, sabotage of municipal buildings and of highways; in the District of Ahuachapán, setting fire to buses and dynamiting of commercial enterprises. The document handed to the

107/ International Herald Tribune, 6 April 1981.

108/ Ibid, 10 April 1981 and 25 May 1981.

109/ Ibid, 9 July and 13 July 1981.

110/ Le Monde, 17 October 1981; ABC, Madrid, 17 October 1981.

111/ Seinform, 16 October 1981.

112/ Fuerza Armada de El Salvador, Policía Nacional, Resumen Estadístico sobre las Actividades de Organizaciones Terroristas, Tendientes a Destruir la Economía de la República de El Salvador, C.A.: September 1981.

Special Representative in January 1982 113/ gives a figure of 870 attacks against the economy between 1 January and 8 September 1981. The Government has repeatedly stated that such acts are aimed at destroying the national economy and making it difficult for the Government Revolutionary Junta to carry out its work. It should be said that neither the Frente de Liberación Nacional Parabundo Martí nor the Frente Democrático Revolucionario deny that such acts of economic sabotage were carried out, although in a document provided to the Special Representative 114/ such acts are presented by both organizations as being directed against the economic infrastructure of the oligarchy and never against the Salvadorian people.

107. More recently, according to information in the El Salvador Government bulletin Seinform, such attacks have continued. The 10 November 1981 issue 115/ contained information on a terrorist attack against the Cerrón Grande hydro-electric dam; that of 18 November 1981 on an attack on theft from a farm and the abduction of the farm workers; the issue of 1 December 1981 115/ referred to an attack on theft from and the ransacking of a farm owned by ISTAS, as well as others in the area; the 17 December 1981 115/ issue contained information on an 11-hour power cut caused by the terrorists; the 18 December 1981 issue 115/ referred to damage in the town of San Miguel as a result of an attack on electric power plants; while the 16 December 1981 issue 115/ contained reports of harassment of peaceful families. According to El Diario de Hoy 116/ of San Salvador of 3 December 1981, left-wing terrorists tried to boycott the coffee harvest in the central and eastern parts of the country. According to the 7 December 1981 issue 116/ of this newspaper, subversive elements dug trenches in the road leading to Gotera in order to halt traffic. According to the same source, in the 10 December 1981 issue, 116/ in Usulután a terrorist attack was carried out on CEL pylons, leaving the eastern part of the country without electricity. The terrorists are also reported to have carried out a boycott of elections on coffee farms situated between Chalchuapa and Santa Ana, terrorizing the peasants, confiscating their identity cards and subsequently burning them. According to information from the Government of El Salvador, 117/ subversive groups dynamited a railway freight convoy coming from Guatemala, attacked a passenger train going to San Miguel, dynamited a commercial printing works in San Salvador, destroyed electricity stations in the districts of Chalatenango and Cuscatlan, set fire to a lorry-load of sugar near Injiboa, abducted and murdered members of the civil defence force in several towns in the country and deposited explosive devices in urban service buses, causing the death of one person. According to information from the same source, 118/ the offences committed by terrorist groups against the civilian population included the burning of lorries containing agricultural produce, abductions, murders and other attacks.

113/ Fuerza Armada de El Salvador, Policía Nacional, Resumen Estadístico sobre las Actividades de Organizaciones Terroristas, Tendientes a Destruir la Economía de la República de El Salvador, C.A.: 8 September 1981.

114/ Frente Farabundo Martí para la Liberación Nacional, Frente Democrático Revolucionario, Informe sobre la Sistemática Violación de los Derechos Humanos en El Salvador, 30 July 1981.

115/ Seinform, 10 and 18 November 1981 and 1, 16, 17 and 18 December 1981.

116/ El Diario de Hoy, San Salvador, 3, 7 and 10 December 1981.

117/ Seinform, 13 January 1982.

118/ Seinform, 14 January 1982.

4. Other human rights violations

108. The information received by the Special Representative on abductions and disappearances would indicate that people captured by the Army and other security forces are rarely handed over to the Salvadorian judiciary. This violates the right to a public and impartial trial.

109. The Special Representative also wishes to recall the provisions of Decree 507 reproduced in section I of this report, according to which judicial subsidiary organs and the judicial authorities themselves enjoy excessively broad discretionary powers to decree preventive measures involving deprivation of freedom and also corrective measures for long periods of time, during which the accused are not given an opportunity to present their defence. Corrective measures are even applied to persons under 16 years of age.

110. Such information also indicates that, in cases of murder, abduction and disappearance and other terrorist acts, the competent organs of the Republic of El Salvador frequently did not take the requisite legal action to investigate the facts and punish those responsible. As the 1980 report of the Inter-American Commission on Human Rights 119/ indicates in relation to the murders in that year, the Commission has no knowledge "that Government authorities, including the Attorney-General and judicial branch, are conducting investigations with the promptness called for by such assassinations". The Commission's report of 20 October 1981, 120/ referring to illegal executions in certain Latin American countries, including El Salvador, by security forces and paramilitary groups operating with the acquiescence of governments, states textually that "as a rule, such acquiescence has meant that the governmental authorities are not undertaking appropriate and effective inquiries in order to identify the perpetrators of such crimes". The report of the United States Department of State 121/ indicates in this connection that the judicial system's total inadequacy has prompted elements of the security forces to ignore the system and dispense their own justice. A report published in the International Herald Tribune on 7 May 1981 is illustrative in this connection, according to which a diplomat posted to El Salvador had said that no one had been tried and sentenced for political crimes because no judge dared to try anyone, whether from the right wing, the left wing or the centre, since he knew that if he did so he would be murdered. And in the opinion of a Salvadorian lawyer published in the same source, the judicial system functions only in cases of trivial, non-political offences such as theft or petty larceny.

111. The Special Representative would like to refer here to the explanations given by the competent authorities of the Republic of El Salvador during his visit there regarding the difficulties which prevent the normal functioning of justice in the present situation of widespread violence. According to these explanations, the structure of the judiciary is not suited to the investigation and to the institution of criminal proceedings for the vast number of offences currently committed. In addition, in most murder cases, eyewitnesses are very reluctant to make depositions and will only say that the crimes were committed by masked people whom they cannot identify, so that it is impossible for justice to be done effectively and expeditiously.

119/ Organization of American States, op. cit., p. 133.

120/ Organization of American States, Annual Report of the Inter-American Commission on Human Rights, 1981, p. 111.

121/ U.S. Department of State, Country reports, op. cit., p. 429.

112. None the less, there is information on some arrests made by the authorities. According to Amnesty International 122/ reports have been published on the arrest by the Government of El Salvador of individuals involved in the January 1981 murder of two United States labour advisers together with José Rodolfo Viera, Director of the Instituto Salvadoreño de Transformación Agraria. According to information from the Government of El Salvador, 123/ the Supreme Court of Justice has ordered the release of one of the accused and continuation of the criminal proceedings against the other. In Amnesty International's view, however, this exception does not alter the already well-established rule that no steps are taken to prevent or punish human rights violations. Furthermore, it should be remembered that, according to press reports already mentioned in this report, the Minister of Defence of El Salvador reported the arrest on 29 April 1981 of six members of the armed forces suspected of involvement in the 2 December 1980 murder of three United States nuns and a woman lay missionary.

113. The Special Representative also wishes to mention here the explanations given to him during his visit to the country by the military authorities of the Republic of El Salvador to the effect that 610 members of the National Guard have been expelled for abuses of authority which did not warrant judicial proceedings, and 40 more handed over to the courts. President Duarte, for his part, has indicated in statements to the United States press that his Government has expelled 600 members of the National Guard and arrested a further 64 for crimes against Salvadorian civilians.124/

114. It is also obvious that the Salvadorian people do not exercise the political right of participation in public affairs. As already indicated in section I of this report, the Government Revolutionary Junta assumed legislative powers by Decree No. 1 of 15 October 1979 and in fact *exercises* such powers through law-ranking decrees. All the legislative measures adopted in El Salvador since that time, including those on the agrarian reform, are contained in decrees of this kind and the people have never been consulted in any way.

122/ Amnesty International, Letter dated 6 May 1981 from the Secretary General of Amnesty International addressed to the United States Secretary of State, p. 11.

123/ Seinform, 23 October 1981.

124/ The New York Times, 22 September 1981, p. A 13.

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

115. The events in El Salvador are forcing many people to leave their homes and normal places of residence and to move to other parts of the country or to seek refuge in neighbouring countries.

116. The report submitted to the Committee on Migrations, Refugees and Demography of the Council of Europe speaks of tens of thousands of displaced persons inside the country.^{125/} The report of the United States Department of State ^{126/} gives the figure of some 62,000 displaced persons. According to the report of the International Committee of the Red Cross of June 1981 ^{127/}, the number of persons who have left their homes as a result of the fighting and insecurity is 150,000. The information received by the Special Representative indicates that some displaced persons are accommodated in refugee centres operated by the Church. Others are receiving assistance from the International Committee of the Red Cross in two ways; by the evacuation of civilians and wounded from combat zones and by the provision of medical and food aid in areas where fighting occurs.

117. According to information provided by the Government of El Salvador ^{128/} approximately 250,000 persons driven from their homes by left-wing violence are cared for in various ways by the National Committee for Aid to Displaced Persons, set up by the law contained in Decree 805 of 18 September 1981. According to the same source, in addition to the official organizations, the International Development Agency, Military Civil Action, the Green Cross, the World Food Programme, Caritas Internationalis, the International Red Cross, the European Economic Community and the Argentine Government also collaborate and assist in this humanitarian work.

118. With regard to Salvadorians who have sought refuge abroad, the United Nations High Commissioner for Refugees ^{129/} reports that, since April 1980, many Salvadorians have been seeking refuge in other countries and that the number of refugees abroad is steadily rising. According to that information, on 31 May 1981 the number of Salvadorian refugees in neighbouring countries had grown to 180,000. Of these 7,000 are in the territory of Belize; 10,000 in Costa Rica; 40,000 in Guatemala; 35,000 in Honduras; 70,000 in Mexico; 10,000 in Nicaragua; and 1,500 in Panama. Most of these refugees come from poor rural areas and women and children represent a high percentage. In Mexico, however, there is a relatively large number of non-rural refugees.

119. The United Nations High Commissioner for Refugees has worked hard to protect the refugees and to provide material assistance. The World Food Programme is meeting most of the food requirements of the Salvadorian refugees, but the High Commissioner has had to appeal for international contributions to the assistance programme for Salvadorian refugees.

^{125/} Council of Europe, *op. cit.*, p. 7.

^{126/} U.S. Department of State, Country reports, *op. cit.*, p. 428.

^{127/} International Committee of the Red Cross, *Acción del CICR al Salvador*, p.1.

^{128/} *Seinform*, 18 December 1981.

^{129/} "Appeal for humanitarian assistance to Salvadorian refugees in Central America, Mexico and Panama, 25 June 1981" by Mr. Poul Hartling, United Nations High Commissioner for Refugees.

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

120. The information reaching the Special Representative indicates that the minimum rules of humanitarian law laid down in international instruments, to which El Salvador is a party and which are referred to in section I of this report, are not always complied with in the armed conflicts taking place in that country between regular forces of the Army and groups of guerrillas.

121. According to Amnesty International 130/ both non-combatants and other persons have been taken out of hospitals and killed, apparently for the sole reason that they sought medical attention after being wounded in the civil conflict. It is further alleged that medical personnel have been abducted and murdered, apparently for having treated the wounded, including non-combatants. There are also reports of the abduction of emergency aid personnel when they tried to bring medical supplies to the victims of the hostilities.

122. Amnesty International 131/ provides miscellaneous information on the subject and the Special Representative deems it useful to summarize some of it. On 12 January 1981, troops apparently entered a clinic at Chatalenango where they killed five wounded patients and abducted five young women. On the same day, three Baptist emergency service assistants were reportedly killed when they tried to bring supplies to the Red Cross. On 5 February 1981, Dr. Alcides Ortega and Dr. Mauricio Gonzalez were allegedly arrested in Chutitoto and their mutilated bodies were found two days later. On 19 February 1981, the medical student Carlos Alberto Vazquez Sanchez was reportedly arrested in Soyapando by members of the Air Force and his present whereabouts are unknown. On the same day, medical student Luz América Vaquerana was apparently arrested in the capital by members of the National Police and her present whereabouts are unknown.

123. According to information from the Public Health Commission to El Salvador of July 1980, since the 1979 coup d'état death squads and uniformed forces have been repeatedly entering hospitals and clinics and firing on patients, doctors, nurses and medical students in cold blood. According to the same source these murders were often preceded by cruel forms of mutilation and brutality, at least nine doctors and seven medical students were murdered after the coup d'état and many other health workers have been victims of violence and harassment.132/

124. Legal Aid reports that, between January and July 1980, at least 10 doctors were murdered, hospitals were invaded and some patients were taken and disappeared and others were murdered.133/

130/ Amnesty International, Letter dated 6 May 1981 from the Secretary General of Amnesty International addressed to the United States Secretary of State, p. 51.

131/ Ibid.

132/ Committee for Health Rights in El Salvador, "Abuses of Medical Neutrality", report of the Public Health Commission to El Salvador, July 1980 (New York, N.Y., USA).

133/ Legal Aid, op. cit., p. 15.

125. The report of the United States Department of State 134/ indicates that prisoners are seldom taken in the clashes between the army and security forces and the guerrillas, and this opinion has been confirmed in testimony heard by the Special Representative. According to its report, 135/ the International Committee of the Red Cross has been conducting an extensive campaign since November 1980 to propagate fundamental humanitarian principles. The purpose of this campaign, aimed at the general public and particularly at all those participating in the fighting, is to ensure, on the one hand, that the combatants respect the civilian population, the wounded and prisoners and, on the other hand, that they respect the insignia and personnel of the Red Cross.

VII. CONCLUSIONS

126. After studying and evaluating the information recapitulated in the foregoing pages of this interim report, the Special Representative can formulate some conclusions.

127. First of all, it is obvious that the great majority of the Salvadorian people do not exercise economic, social and cultural rights of particular importance at acceptable minimum levels. The figures cited in paragraphs 38 and 39 above speak for themselves. The living conditions of the majority of the population of El Salvador are below the acceptable minimum and are in flagrant contrast to the way of life of a privileged minority. As well as enjoying the benefits of land ownership, this minority also controls and benefits from the banking system, processing industries and foreign trade. The Special Representative is, of course, aware that El Salvador is a developing country with a low gross national product and a low per capita income, but it is impossible to overlook the fact that the national wealth is unfairly and inequitably distributed and that the essential public services of the State, including educational and health services, are not sufficient to meet the requirements of the great majority of the inhabitants. Consequently, far-reaching administrative and social reforms are necessary in El Salvador, among which agrarian reform is paramount. With regard to agrarian reform, the measures taken by the Government Revolutionary Junta, the difficulties and resistance it has encountered and the criticisms levelled against it should be borne in mind. The agrarian reforms undertaken in El Salvador were planned by the Government and there is no indication that the sectors concerned, in particular the peasants, took part in drawing up the current legislation.

128. As for civil and political rights, the information collected by the Special Representative has convinced him that, under the régime of the Government Revolutionary Junta which assumed power on 15 October 1979, there has been in El Salvador a consistent pattern of gross violations of these rights which, in many cases, has culminated tragically in attempts on human life. Members of the State apparatus, and violent groups of the extreme right apparently acting in collusion with them and armed groups of the extreme left are both responsible for these violations. In his interim report to the General Assembly, the Special Representative

134/ United States Department of State, Country reports, op. cit., p. 429.

135/ International Committee of the Red Cross, "Acción del CICR al Salvador", p. 5.

stated that he was "not in a position to establish, even approximately, how much responsibility lies with one or the other sector, although he has to admit to having received more abundant, precise and detailed information concerning violations of human rights imputable to members of the State apparatus and violent groups of the extreme right". Following further information and consideration of the question, the Special Representative in this final report to the Commission on Human Rights can state that there are indications that violations of human rights involving attempts on life, liberty and security of person are in the majority - but not solely - perpetrated by members of the State apparatus and violent groups of the extreme right, while terrorist acts against public and private property are mainly due to guerrilla groups.

129. The Special Representative is also convinced that the executive and judicial organs of the Republic of El Salvador have adopted a very widespread attitude of passivity and inactivity with regard to these violations of civil, political and human rights. He takes note of the difficulties currently standing in the way of a normal functioning of justice in El Salvador and of the existence of attempts to take legal sanctions in cases of violations of human rights.

130. On the other hand, it is a fact that, under the 1962 Constitution and the international instruments binding on El Salvador in respect of human rights, the authorities of this country should not be denied the power to take exceptional measures to deal with the special circumstances of violence prevailing in the territory. But neither those instruments nor the most elementary moral obligations to respect the human person, which are inherent in any normal conscience, would in any case justify, in the guise of exceptional measures, the violation of fundamental and inalienable human rights including, first and foremost, the right of every person to life.

131. The Special Representative has also come to the conclusion that, as a result of the development of the armed clashes between regular forces of the Salvadorian Army and opposition guerrilla groups; there have been serious violations of human rights which, in many cases, have culminated in the deaths of persons whose lives should have been respected by virtue of the moral obligations inherent in any normal human conscience and in accordance with international instruments binding on El Salvador. In connection with these violations, the Special Representative also finds it impossible at this time to establish even approximate percentages of the violations imputable to one sector or the other.

VIII. RECOMMENDATIONS

132. The Special Representative has not the slightest doubt as regards the ultimate objective that should be sought in the Republic of El Salvador and as regards the future which its inhabitants deserve: a situation of peace and social justice in which human rights and fundamental freedoms are respected and in which the Salvadorian people is the sole master of its destiny, without any form of outside interference. The attainment of this objective implies that democratic elections should be held in El Salvador in a manner to be later specified, whereby a fundamental political right of the Salvadorian people would be granted, in accordance with article 21 of the Universal Declaration of Human Rights, article 25 of the International Covenant on Civil and Political Rights and article 23 of the American Convention on Human Rights.

133. The positions of the Government and of the opposition are, however, different at present as regards the possible holding of elections. So far as the Government is concerned, and as President Duarte said to the Special Representative during his visit to El Salvador and repeated in his address to the United Nations General Assembly on 29 September 1981, 136/ the Government "considers that the solution of the present crisis in the country must be essentially political and democratic in its nature", and in that connection his plan is to hold elections in March 1982 for the formation of a constituent assembly which would have to draft a new constitution and elect a provisional president, in addition to calling for general elections. According to the press, 137/ elections to the constituent assembly have been called for 28 March 1982 and, as President Duarte stated in presenting the transitory electoral law to the political parties, the Government of El Salvador undertakes to make every effort to ensure that the elections will be absolutely free, open and above-board and to ensure that the will of the people is respected, other governments having been invited to observe the conduct of the elections. The position of the opposition movements as regards the elections is more complex. According to a document delivered to the Special Representative by the Frente de Liberación Nacional Farabundo Martí - Frente Democrático Revolucionario (FLNMM - FDR), elections are not per se a way out of the Salvadorian crisis and may even intensify it. Both political forces of the opposition, however, state that they are prepared to consider the elections "as part of a solution process and as an outcome of the conditions which an international mediation process may create". In any case, the FLNMM - FDR takes the view that "an electoral process makes sense as the expression of the people's will if the conditions and climate exist for the people to express its will freely".

134. The Special Representative, for his part, regards this last point as crucial. The Government plan for holding elections is perfectly legitimate and acceptable if and when the electoral process takes place in a climate of social peace in which the rights of free expression, association and assembly are fully respected, both de jure and de facto, a complete and genuine roll of voters is available and, lastly, the authenticity of the ballot and effective respect of the people's will are guaranteed. This is certainly the sense of paragraph 6 of the resolution laying down the terms of reference of the Special Representative, in which the Commission:

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

135. Consequently, as a sine qua non for the holding of elections, the Government of El Salvador and the other parties concerned should take all necessary steps to end the serious violations of human rights occurring in the country. In the view of the Special Representative, the following measures, in particular, should be taken by the Government and authorities of El Salvador in this connection:

136/ A/36/PV.17.

137/ ABC, Madrid, 6 January 1982.

- (1) Repeal of any legal enactments or other measures that are incompatible with the standards laid down in the international instruments that are binding on the Republic of El Salvador in respect of human rights; especially repeal of Decree 507 of 3 December 1980 containing the Special Act on procedures applicable to the offences referred to in article 177 of the Political Constitution;
- (2) Real and effective control by the Government over all the members and units of the armed and security forces and over all types of armed organizations and individuals to ensure that they conduct themselves in accordance with the provisions of the international instruments that are binding on El Salvador in respect of human rights, including the 1949 Geneva Conventions and the 1977 Protocols;
- (3) Adoption by the Salvadorian governmental and judicial authorities of all appropriate legal measures to prevent and effectively punish violations of human rights and fundamental freedoms, including if necessary the dismissal from their posts of officials of the civil administration and the leaders, officers and other ranks of the armed and security forces who have carried out such violations;
- (4) The Government of El Salvador should also show itself to be open and flexible as regards any other measures which might lead to the holding of elections in a climate of social peace, which measures should not exclude dialogue with the opposition forces, whether directly or through the good offices or mediation of another or several other governments, an international organization or individuals or private associations.

136. Once a climate of peace and effective respect for human rights and fundamental freedoms have been established in El Salvador, elections should be held so that the people can become sole masters of their destiny. For that purpose, consideration should be given to the possibility that some international organization, such as the United Nations or the Organization of American States, or some other impartial observer, might monitor the proper development of the electoral process along the lines described above.