

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



Distr.  
GENERAL

E/CN.4/1983/22  
13 December 1982

ENGLISH  
Original: SPANISH

---

COMMISSION ON HUMAN RIGHTS  
Thirty-ninth session  
Item 12 of the provisional agenda

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

Study by the Special Envoy of the Commission on Human Rights,  
Professor Héctor Gros Espiell, appointed pursuant to  
resolution 1982/33 of the Commission on Human Rights, of  
11 March 1982, on the human rights situation in Bolivia

GE. 82-12733

CONTENTS

	<u>Paragraph</u>	<u>Page</u>
I. INTRODUCTION .....	1 - 2	1
II. BACKGROUND INFORMATION .....	3 - 30	1
III. DOCUMENTS AND COMMUNICATIONS RECEIVED .....	31 - 41	1
IV. INTERNATIONAL LEGAL FRAMEWORK .....	42 - 43	1
V. INTERNAL JURIDICAL FRAMEWORK .....	44 - 45	2
VI. ALLEGED VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN BOLIVIA SINCE MARCH 1982. CLASSIFICATION AND ANALYSIS .....	46 - 57	2
VII. POLITICAL DEVELOPMENTS IN BOLIVIA BETWEEN MARCH 1982 AND FEBRUARY 1983 .....	58 - 72	2
VIII. THE VISIT TO BOLIVIA .....	73 - 100	3
IX. CONCLUSIONS .....	101 - 127	15

SECOND STUDY IN ACCORDANCE WITH COMMISSION ON HUMAN RIGHTS  
RESOLUTION 1982/33, OF 11 MARCH 1982, BY THE SPECIAL ENVOY  
OF THE COMMISSION ON HUMAN RIGHTS, PROFESSOR HECTOR GROS ESPIELL,  
APPOINTED PURSUANT TO RESOLUTION 34 (XXXVII), OF 11 MARCH 1981,  
ON THE HUMAN RIGHTS SITUATION IN BOLIVIA

I. INTRODUCTION

1. At its thirty-eighth session, the Commission on Human Rights adopted on 11 March 1982 (59th meeting), resolution 1982/33, which states:

"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 remain fully informed about violations of human rights and fundamental freedoms wherever they occur,

Recalling its resolution 34 (XXXVII) of 11 March 1981, providing for the appointment of a Special Envoy to carry out a thorough study of the human rights situation in Bolivia,

Having carefully examined the study of the Special Envoy and the observations of the Government of Bolivia,

Noting the conclusion of the Special Envoy that, following 17 July 1980, grave, massive and persistent violations of human rights occurred in Bolivia,

Noting also the observations of the Government of Bolivia and especially the conclusion of the Special Envoy that there has been, since 4 September 1981, an improvement in the situation of human rights in Bolivia,

Requesting the Government of Bolivia to expedite its legal studies preparatory to signing and ratifying a number of international human rights instruments, in particular the International Covenant on Civil and Political Rights,

Expressing the hope that the process of restoring respect for human rights and fundamental freedoms will continue unimpeded,

Convinced that the continued attention of the United Nations is warranted in order to monitor developments in the situation of human rights in Bolivia,

Welcoming the co-operation extended by the Bolivian Government to the Special Envoy,

1. Expresses its deep concern over the grave, massive and repeated violations of human rights which took place in Bolivia after 17 July 1980;

2. Expresses further its satisfaction that an improvement in the human rights situation in Bolivia has taken place since 4 September 1981;

3. Urges the Bolivian Government to take further practical measures to implement its stated resolve to ensure full respect for human rights and fundamental freedoms;

4. Requests the Secretary-General to provide advisory services and other forms of appropriate assistance requested by the Government of Bolivia to help the Government to continue to take appropriate measures guaranteeing the enjoyment of human rights and fundamental freedoms;

5. Decides to extend the mandate of the Special Envoy for another year and requests him to report to the Commission at its thirty-ninth session;

6. Invites the Government of Bolivia to continue, as in the recent past, its active co-operation with the Special Envoy of the Commission;

7. Requests the Secretary-General to give all necessary assistance to the Special Envoy;

8. Decides to consider the report of the Special Envoy of the Commission at its thirty-ninth session".

2. That resolution of the Commission on Human Rights deciding to extend the mandate of the Special Envoy for another year and requesting him to report to the Commission at its thirty-ninth session constitutes the basis of this study.

3. This study continues and updates that which the Special Envoy submitted to the Commission at its thirty-eighth session in discharge of his mission under Commission resolution 34 (XXXVII). Consequently, the underlying principles, the sources taken into account, the criteria upheld, the objective of the study and the general approach to the subject are the same as in the previous report (E/CN.4/1500, particularly paragraphs 7-22, 34, 40, 57-59, and 120-142).

4. The Special Envoy will not repeat those general concepts and criteria and will confine himself to applying them in the light of Commission resolution 1982/33, to updating the information given previously, to describing his new visit to Bolivia and the resulting observations and to drawing final conclusions concerning developments in the human rights situation in Bolivia between March 1982 and February 1983.

5. Commission resolution 1982/33 was adopted following consideration of the case of Bolivia which had been included in item 12 of the Commission's agenda.

The Special Envoy introduced his study (E/CN.4/1500) at the 51st meeting of the Commission held on 5 March (E/CN.4/1982/SR.51/Add.1, paras. 3-6). In the subsequent discussion, it was the subject of comments by various delegations and by observers both for Governments and for non-governmental organizations (E/CN.4/1982/SR.59/Add.1, paras. 16, 22, 26, 40 and 60; E/CN.4/1982/SR.52, paras. 9, 64 and 71; E/CN.4/1982/SR.53, paras. 7, 46, 117-125 and 184; E/CN.4/1982/SR.54, paras. 25 and 49; E/CN.4/1982/SR.55, paras. 1, 7-10, 31 and 65-67). <sup>1/</sup> The Commission's resolution, based on a draft resolution submitted by the delegation of Canada (E/CN.4/1982/L.58), was adopted without a vote, following some oral amendments proposed by the delegation of Brazil (E/CN.4/1982/SR.59, paras. 73-82).

6. The report of the Commission (E/CN.4/1982/30) refers to the consideration of the item "Situation of human rights in Bolivia" in paragraphs 235-241.

7. The Government of Bolivia in due course transmitted its observations on the Special Envoy's study (E/CN.4/1500/Add.1).

In introducing his study to the Commission, the Special Envoy drew attention to the importance of those written comments by the Government of Bolivia (E/CN.4/1982/SR.51/Add.1, para. 5).

The observer for Bolivia in the Commission participated in the discussion on several occasions (E/CN.4/1982/SR.53, paras. 117-125, and E/CN.4/1982/SR.55, paras. 65-67). Following the adoption of resolution 1982/33, he specifically drew attention to the desire of the Government of Bolivia to continue its co-operation with the Commission on Human Rights and to its decision to pursue the process aimed at ensuring the full and integral exercise of and respect for human rights (E/CN.4/1982/SR.59, paras. 80-82). In the first of his statements, the observer described the measures already taken to restore respect for human rights and those which it was planned to take in the future (E/CN.4/1982/SR.53, para. 122).

---

<sup>1/</sup> The representative of the United States explained his position in the following terms: "... said that his delegation joined the consensus on the draft resolution in order to express its satisfaction at the improvement in the human rights situation in Bolivia, which the Special Envoy had noted and to encourage the Bolivian Government to continue its co-operation with the Commission". (E/CN.4/1982/SR.59, para. 78).

## II. BACKGROUND INFORMATION

8. Resolution 1982/33, in addition to referring, in paragraph 1, to violations of human rights in Bolivia after 17 July 1980 that are amply analysed in the Special Envoy's study, to dealing, in paragraphs 5, 6, 7 and 8, with matters concerning the discharge of the Special Envoy's fresh mandate and to expressing, in paragraph 2, its satisfaction at the improvements in the human rights situation in Bolivia since 4 September 1981, urged "the Bolivian Government to take further practical measures to implement its stated resolve to ensure full respect for human rights and fundamental freedoms" and requested the Secretary-General "to provide advisory services and other forms of appropriate assistance requested by the Government of Bolivia to help the Government to continue to take appropriate measures guaranteeing the enjoyment of human rights and fundamental freedoms".

9. Consequently, this study will essentially comprise an analysis of the implementation by the Government of Bolivia, since March 1982, of paragraph 3 of resolution 1982/83.

10. The Special Envoy considers paragraph 4 of that resolution as a felicitous practical application of the suggestion contained in paragraph 138 of his first study. <sup>2/</sup> A note, dated 9 June 1982, addressed to the Permanent Representative of Bolivia at Geneva, officially communicates to him the full text of resolution 1982/33 and then requests him to "inform his Government that the Secretary-General would be prepared to provide, upon the request of the Government of Bolivia, advisory services and other forms of assistance, with a view to contributing to and co-operating in the adoption of appropriate measures guaranteeing the enjoyment of human rights and fundamental freedoms". It also states that the paragraph of resolution 1982/33 in question "constitutes a practical application of the desire of the United Nations to co-operate, on the basis of respect for State sovereignty, in the process under way in Bolivia aimed at overcoming the difficulties encountered in the matter and at ensuring the full guarantee of human rights and fundamental freedoms".

## III. DOCUMENTS AND COMMUNICATIONS RECEIVED

11. A list is given below of the communications and other documents concerning Bolivia received during and after the thirty-eighth session of the Commission:

Written statement on the situation of human rights in Bolivia submitted by the International League for the Rights and Liberation of Peoples; <sup>3/</sup>

---

<sup>2/</sup> "In the view of the Special Envoy, the international community should not only draw attention to violations of human rights that have occurred and determine the consequences under the applicable law, but should also take practical steps to discharge its responsibility to strengthen and increase observance of human rights through co-operation and aid, with a view to establishing and developing the necessary basic conditions, thereby contributing to the attainment of the desired goal, namely the gradual improvement of the human rights situation in countries where it presents grave problems."

<sup>3/</sup> E/CN.4/1982/NGO/25.

Document, dated 21 February 1982, on the situation of human rights in Bolivia, submitted to the thirty-eighth session of the Commission on Human Rights by the Ambassador of Canada;

Letter, dated 5 April 1982, sent by the Interecclesiastical Committee on Human Rights in Latin America;

Letter, dated 2 March 1982, sent by the Argentine Human Rights Committee;

Letter, dated 19 February 1982, from the Bolivian Trade Union Federation;

Document, dated January 1982, entitled "The Restoration of Trade Union Activity" and prepared by miners;

Letters, dated 22 March and 16 April 1982, sent by the National Committee for the Defence of Democracy (CONADE), Goteborg branch.

12. Other documentation analysed:

Report, dated 2 February 1982, on human rights practices in Bolivia, prepared by the Department of State of the United States and submitted to the Foreign Relations Committee of the Senate and the Foreign Affairs Committee of the House of Representatives;

Report of the United Nations High Commissioner for Refugees; 4/

Report of the Working Group on Enforced or Involuntary Disappearances; 5/

Report on the activities carried out by the International Committee of the Red Cross; 6/

Documentation and information from the International Labour Office. During the period covered by this study, the ILO Committee on Freedom of Association continued to analyse various cases relating to Bolivia, 7/ but they concern complaints

---

4/ E/1982/29 of 14 May 1982, paras. 184, 187 and 207.

5/ E/CN.4/1435 of 22 January 1982.

6/ Report on activities, 1981, page 26.

7/ GB. 220/8/18. May-June 1982, Case 1104, complaint presented by the World Confederation of Labour, paras. 303-316; Case 1076, complaints presented by the World Federation of Trade Unions, the World Confederation of Labour, the International Confederation of Free Trade Unions and various other trade union organizations, paras. 608-621; Cases 1112 and 1128, complaints presented by the International Confederation of Free Trade Unions, the World Confederation of Labour, the World Federation of Trade Unions and various other trade union organizations; GB. 219/6/17; Case 1093, complaints presented by the International Confederation of Free Trade Unions and the World Confederation of Labour, paras. 378-390; Case 993, complaints presented by the International Confederation of Free Trade Unions, the World Confederation of Labour, the World Federation of Trade Unions and other workers' organizations, paras. 461-486.

made before March 1982 in respect of events which occurred prior to that date and are therefore included in the serious human rights violations that took place in Bolivia in the period covered by the Special Envoy's previous study;

International Labour Office, report of the Committee of Experts on the Application of Conventions and Recommendations, March 1982;

International Labour Conference, report of the Committee on the Application of Conventions and Recommendations, June 1982;

Annual report of the Inter-American Commission on Human Rights, 1981-1982; <sup>8/</sup> It should be noted that the Inter-American Commission on Human Rights, whose special report on Bolivia (OEA/SER.L/V/II/53, document 6) was mentioned in the Special Envoy's previous report (E/CN.4/1500, para. 36), has continued to consider the case and, under the authorization which the Government of Bolivia is now apparently prepared to grant, intends to make a visit to that country. According to the reports received by the Special Envoy, that visit is to take place in early 1983.

The General Assembly of the Organization of American States considered this report at its twelfth session (November 1982).

It should be pointed out in this connection that international and regional action aimed at ensuring better guarantees for human rights in Bolivia, which is the responsibility, respectively, of the United Nations Commission on Human Rights and of the Inter-American Commission on Human Rights, has been carried out harmoniously; this has made it possible for the question to be considered in two separate international systems and has constituted a positive element for the improvement of the human rights situation in that country;

---

<sup>8/</sup> OEA/SER.L/V/II/57, document 6. Rev.1, 20 September 1982. The part relating to Bolivia is in chapter V (Situation of human rights in various countries), pages 112-114. This report, written prior to October 1982, concludes as follows: "The Commission is confident that these initial measures taken by the Government and those which it will undoubtedly continue to take will bring about a national consensus that will make possible agreement between the various political parties and ensure the formation of a new Government based on the will of the people and dedicated to human rights.

5. Lastly, the Commission wishes to reiterate to the Government of Bolivia the request made for permission to carry out an 'on-the-spot' study in that country in order to observe the human rights situation there".



Statement made by the Ambassador of Bolivia to the United Nations and other international organizations at Geneva, Mr. Augusto Saavedra Weiss, on 7 July 1982, during the general debate at the sixty-eighth International Labour Conference;

Statement made by Father Julio Tumini at the conference of the Latin American Human Rights Association at Quito, Ecuador, in June 1982;

Statements made by: the new governmental authorities of Bolivia during the swearing-in ceremony on 10 October 1982; the Minister for Foreign Affairs and Religion before the Organization of American States in November 1982; the President of the Republic before the United Nations General Assembly during the same month.

#### IV. INTERNATIONAL LEGAL FRAMEWORK

13. The situation described by the Special Envoy in paragraphs 23 to 28 of his previous study (E/CN.4/1500) has changed. The recommendation contained in paragraph 137 of that study, 9/ which was made orally to the then President of the Republic, General Torrelio, given a generally favourable reception by the Government of Bolivia, and repeated in the seventh preambular paragraph of resolution 1982/33, has already led to the accession of Bolivia to the two Human Rights Covenants and the Optional Protocol to the International Covenant on Civil and Political Rights. The accession was effected through Supreme Decree No. 18,950 of 17 May 1982. The instrument of ratification was deposited on 12 August 1982. Bolivia has been a party to these instruments since 12 November 1982 (articles 26 and 27 of the International Covenant on Economic, Social and Cultural Rights, articles 48 and 49 of the International Covenant on Civil and Political Rights, articles 8 and 9 of the Optional Protocol to the International Covenant on Civil and Political Rights). It should also be pointed out that Bolivia acceded during the period covered by this study to the United Nations Convention of 1951 relating to the Status of Refugees and to the Protocol of 1967; these instruments were ratified on 9 February 1982. The situation is otherwise as described in the previous study.

---

9/ "It would be most desirable for the Government of Bolivia to accede to the International Covenants on Civil Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, as a token of the new human rights policy which it has announced."

However, attention should be drawn specifically to the fact that, under article 168 of the National Act for the Control of Dangerous Substances, of 17 December 1976, Bolivia ratified the Convention on Psychotropic Substances of 21 February 1971; the Single Convention on Narcotic Drugs, 1961; and the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961.

14. In paragraph 28 of his first study, the Special Envoy expressed the view that the obligations assumed by Bolivia to respect and guarantee human rights derived directly from the Charter of the United Nations and the Universal Declaration of Human Rights and existed in a concrete and specific manner, despite the fact that Bolivia was not yet a party to the two Human Rights Covenants. <sup>10/</sup> The Commission on Human Rights expressly accepted this view in the first preambular paragraph of resolution 1982/33; the Special Envoy feels that this point merits special mention.

---

<sup>10/</sup> "It is nevertheless essential to bear in mind that such obligations exist as a direct consequence of the Charter of the United Nations and the Universal Declaration of Human Rights.

In this connection, the Special Envoy should point out that this view, which he himself has consistently maintained, is based on the practice of the United Nations, on the criteria invoked by the International Court of Justice, and on the most widely accepted current doctrine, and that, in the case of Bolivia this view is reflected in General Assembly resolution 35/185 on the human rights situation in Bolivia, the first paragraph of which states: 'Noting that all Member States have an obligation to respect and promote human rights in accordance with the responsibilities they have undertaken under various international instruments'. The second preambular paragraph of the same resolution recalls General Assembly resolution 34/175 of 17 December 1979 on effective action against mass and flagrant violations of human rights. The latter resolution again refers to the 'responsibility of the United Nations ... in dealing with situations of mass and flagrant violations of human rights', as expressed in General Assembly resolution 32/130."

## V. INTERNAL JURIDICAL FRAMEWORK

15. The comments of the Government of Bolivia on the Special Envoy's report of 19 February 1982 (E/CN.4/1500/Add.1) contained an updated list of the internal regulations which governed the country's institutional system at that time.

Those observations supplemented and explained the information given by the Special Envoy in paragraphs 29 to 32 of his report (E/CN.4/1500).

The Special Envoy considers it helpful to reproduce the relevant part (chapter III) of the above-mentioned comments of the Bolivian Government, because it gives a clear picture of the situation as regards legislation at the end of February 1982, indicates its transitional nature and mentions the possibility of its development in keeping with the foreseeable progress of the current process of reshaping the country. He will outline thereafter the changes made to legislation between March 1982 and the date of the conclusion of this study.

16. Chapter III of the comments of the Government of Bolivia mentioned in the preceding paragraph states:

"(1) With regard to chapter IV, Internal Juridical Framework (paras. 29 to 32), although the Political Constitution of the State is the fundamental juridical instrument, it is certainly true that there are a number of provisions of a transitory nature which have restricted the full force of the Constitution for reasons of internal order. At all events, it is appropriate for me to point out at this juncture, in connection with paragraph 31 of the report and as evidence of the Government of Bolivia's will to correct anomalies and progressively arrive at the exercise of human rights, that the list presented below updates the list drawn up by the Special Envoy:

(a) The Government Statute concerning the Armed Forces, which designated the Board of Commanders-in-Chief as the supreme organ of the State has been repealed.

(b) The Decree of Good Government of 18 July 1980 has been repealed.

(c) Supreme Decree No. 17 530 of 19 July 1980 has been repealed.

(d) Supreme Decree No. 17 531 remains in force and the Government has ordered the gradual development of trade unionism contemplated in the Three-Year Plan of Government, whereby trade union organizations are allowed to reorganize their Base Committees, starting in the mining sector; this is aimed at replacing the labour co-ordinators, who were appointed by Supreme Decree No. 17 545 of 12 August 1980.

(e) Supreme Decree No. 17 536 of 30 July 1980 remains in force.

(f) Supreme Decree No. 17 554 of 18 August 1980 has been repealed.

(g) Decree-Law No. 17 607 of 17 September 1980 remains in force.

(h) Decree-Law No. 17 698 of 17 September 1980 has been repealed.

(i) Decree-Law No. 17 612 of 17 September 1980 remains in force.

(j) Supreme Decree No. 18 187 of 13 April 1981 remains in force.

(k) The reform of the Government Statute concerning the Armed Forces has been repealed.

(l) The decree of 4 August 1981 under which the Armed Forces as a collegiate body assumed the supreme command of the nation has been repealed.

(m) Decree-Law No. 18 564 of 25 August 1981 has been repealed.

(n) The Armed Forces decision of 3 September 1981 remains in force.

(2) With respect to paragraph 32 of the Special Envoy's report, it is appropriate to repeat that the legal acts and measures promulgated by the Armed Forces in exercising public authority have always been of a transitory nature and that, to date, many of the earlier measures have been totally and others partially repealed. At present, the ultimate repeal of other provisions which are still in force is under consideration, for the purpose of continuing the process of the Three-Year Plan of Government begun on 4 September 1981 which contemplates, inter alia, the re-establishment of the national institutions and the return to full operation of the public authorities of the State."

17. Information is given below on the principal changes made to the internal legislation of Bolivia since March 1982 in so far as they relate directly or indirectly to the "status" of the question of human rights:

(a) Bi-Ministerial resolution No. 137/82, of 29 April 1982, provides for the reinstatement in their original posts of all workers dismissed from their functions or their places of work for political or trade-union reasons since 17 July 1980. This resolution is based on a petition submitted by miners, in accordance with the Convention signed between the Church and Government and the Miners' Base Committee in November 1981 in an attempt to resolve the strikes that had been taking place.

(b) Government-Church and Miners Joint Communiqué dated 30 April 1982. This communiqué refers to the above-mentioned Bi-Ministerial resolution No. 137/82 and to a petition submitted by the miners for an unrestricted general amnesty, full freedom of action for trade-union organizations, suspension of the curfew and a thorough investigation into the murder or disappearances of workers. The Government of the Armed Forces ratified and guaranteed the political breakthrough, which implied the adoption of measures relating to all the points listed in the petition of the miners' delegates within the shortest possible period. Lastly, as a result of the

application of the Tripartite Convention of November 1981, 11/ the parties expressed their desire to maintain a continuing dialoguc as the sole means of accelerating the achievement of the objectives in question, which were described as essential to the safeguarding of national harmony. The Catholic church, in its capacity as

---

11/ "Convention signed by the Government of the Armed Forces, **representatives** of the workers, and as mediator the Catholic Church:

In accordance with the Government's Three-Year Plan, under which the Armed Forces of the nation are to carry out restructuring in the economic, political and social sectors, an essential requisite for a return to the process of reshaping the country, and in conformity with the proposals of the miners and the document signed with the Huanuni workers and the Catholic Church, the following is hereby resolved:

1. Full recognition of the right of association and trade union freedom for the Bolivian worker. Consequently, the workers are to re-establish their representative organs, in accordance with a sectoral time-table fixed by the Ministry of Labour and Labour Development, the process to begin with the mining sector and to be copied immediately thereafter by the other sectors.

To this end, the miners:

(a) Are to establish their trade unions within a period of 90 days from the present date.

(b) Are to establish their federations within a period of 180 days from the present date.

(c) The Bolivian National Workers' Directorate, within a period of 365 days, after all the labour sectors have concluded the organization of their federation and confederations.

During the application of the time-tables, worker-management relations will be ensured at the level of the workers by base committees elected democratically in each of the labour sectors.

To ensure that the worker is fully guaranteed the exercise of his trade union rights, candidates for election to the base committees will have to meet the following requirements: be Bolivian by birth, have completed compulsory military service, have no previous criminal convictions, be free from debts or proceedings as regards their enterprise and owe no worker's funds or property.

La Paz, 19 December 1981

Signed by Col. Guido Suarez, Minister of Labour; Carlos Morales, Minister of Mining; Héctor Caballero, Minister of Transport and Juan Carlos Durán, Minister Secretary;

The 61 workers of the COMIBOL enterprises;

As mediators: Monsignor Alejandro Mestre, Monsignor Adhemor Esquivel, Monsignor Julio Terrazas, Fathers Nino Marzoli and Hernan Artale."

mediator of the Church-Government-Liner's Convention of November 1981, participates in the formulation and application of the measures in question.

(c) Supreme Decree No. 18 950, of 17 May 1982, provided for the accession of the Republic of Bolivia to the 31 articles of the International Covenant on Economic, Social and Cultural Rights, the 53 articles of the International Covenant on Civil and Political Rights, and the 14 articles of the Optional Protocol to the International Covenant on Civil and Political Rights. On 12 August 1982, this Decree of accession was deposited with the Secretary-General of the United Nations. It entered into force for Bolivia on 12 November 1982.

(d) A communiqué from the Ministry of the Interior, dated 8 May 1982, lifted the curfew definitively. This exceptional measure was imposed on 17 July 1980 and, according to the period, the curfew was applied at different times. Under General Garcia Meza, no-one could travel in the city between 5 p.m. and 6 a.m. Later, this restriction began at 9 p.m., then at 11 p.m. and, finally, at 1 a.m.

(e) Agreement between the Ministry of Education and Culture, the Ministry of the Interior, Migration and Justice, representing the Supreme Government, and the representatives of the Universidad Boliviana, whereby "the Supreme Government of the Nation in exercise of its powers ratified its recognition and full observance of university autonomy under article 105 of the Political Constitution of the State".

(f) Supreme Decree No. 18 956, dated 26 May 1982, abrogated the Transitional Statute of the Universidad Boliviana, approved by Supreme Decree No. 18 187, of 13 April 1981.

(g) Supreme Decree No. 18 957, of 26 May 1982, rescinded the clamp-down on trade-union organizations, business and vocational associations, thereby abrogating Supreme Decree No. 17 531, of 21 July 1980. It also provided that trade-union organizations should bring their activities into line with the provisions of the General Labour Act and related texts.

(h) Supreme Decree No. 18 958, dated 26 May 1982, abrogated Supreme Decree No. 17 668, of 7 October 1980, which had provided for the freezing of trade-union funds. The Government having lifted the clamp-down on trade unions, there was a need for a legal instrument to enable such bodies to administer their resources. The Decree itself entrusts its execution and implementation to the Ministers of State and their respective Offices.

(i) Communiqué from the Ministry of the Interior, Migration and Justice, dated 26 May 1982, whereby the country was informed that, from that date, the Executive Power had lifted the clamp-down imposed on political parties in July 1980.

(j) Communiqué from the Ministry of the Interior, Migration and Justice, dated 26 May 1982, stated that, on the basis of the decision of the Executive Power to lift, beginning on that date, the clamp-down that had affected political activities in the country, provision had been made for a general amnesty for all Bolivian citizens who had been exiled or had left the country for political reasons. As a result of the amnesty, many exiles have returned or are on the point of returning to the country. The return frequently takes place in very difficult conditions. In this respect, it would be extremely helpful if, in continuance of the humanitarian assistance which was so valuable in the case of the Bolivian exiles, the United Nations High Commissioner for Refugees could arrange to co-operate in the re-settlement of these persons. The Special Envoy considers that an agreement in this respect between the Government of Bolivia and the Office of the High Commissioner would be of great value.

(k) Ministerial Resolution No. 242/82, of 23 June 1982, repealed the Ministerial Resolution of 15 August 1980 authorizing the then National Directorate for the Supervision of Trade-Union Funds and Property to take custody of and maintain the movable property and real estate of the federations and confederations in the labour sector. Since the trade-union organizations regained their status under the above-mentioned Supreme Decree No. 18 957, it was decided through this ministerial resolution that the administration, care and maintenance of the property should be exercised by the relevant sectoral organization.

(l) Ministerial Resolution No. 247/82, of 25 June 1982. In view of the legalization of trade-union activity, it was resolved that the trade-union dues for the months of January, February and March 1982 should be refunded to legally-recognized trade unions.

(m) Decree-Law No. 19 066, of 15 July 1982, provided for the convening of general elections on 24 April 1983.

(n) Decree-Law No. 19 109, of 3 September 1982, constituted and formed the National Electoral Court.

(o) Decree-Law No. 19 143, of 21 September 1982, abrogated Decree-Law No. 19 066, of 15 July 1982, concerning the convening of general elections on 24 April 1983.

(p) Decree-Law No. 19 144, of 21 September 1982, amended the Decree-Law No. 19 109, of 3 September 1982 with regard to the functions of the National Electoral Court and granted that body new competence and specific powers in the matter.

(q) Decree-Law No. 19 157, of 26 September 1982, convened the National Congress for installation and inauguration on 1 October 1982 for the purpose of electing the President and Vice-President in accordance with article 90 of the Political Constitution of the State and set 10 October 1982 as the date for the transfer of presidential authority.

(r) Presidential Decree No. 19 231, of 11 October 1982, appointed the members of the Military High Command.

(s) Supreme Decree No. 19 241, of 28 October 1982, set up the National Commission for the Investigation of the Cases of Disappeared Citizens.

(t) Supreme Decree No. 19 243, of 28 October 1982 provided for the reinstatement at the enterprises where they had previously been employed of workers dismissed for political and trade-union reasons since 17 July 1980.

(u) Supreme Decree No. 19 276, of 5 November 1982, abolished the National Directorate of Investigation and provided that the staff of that body who had not been compromised through involvement in repression, torture, violation of human rights and breach of constitutional principles, would, subject in each case to selection and evaluation, be reinstated in the relevant police services.

18. All the measures adopted since 10 October 1982 by the new Constitutional and Democratic Government have been aimed at restoring fully the exercise of human rights and fundamental freedoms.

19. The change of Government that took place in October 1982 and which forms part of a political process described in chapter II of this Study is of an importance that goes beyond the mere substitution of governmental authorities.

It is clear that this change came about after a process of gradual improvement in the human rights situation beginning in September 1981 following the very serious, massive and repeated violations resulting from the activities of the military Government established on 17 July 1980. However, it is also clear that the return to the full observance of the 1967 Constitution and the establishment of a democratic Government emanating from the people, accepting, recognizing and drawing its inspiration from a humanist philosophy that considers human beings as having inalienable rights and understanding that the State is only a means at the service of man, constitute a change of the utmost importance and the best guarantee of a new line of governmental action, the goals whereof must be to promote respect and guarantees for the rights and freedoms of the human person and to strive to create the basic conditions that will render feasible the effective enjoyment of all those rights.

20. The Special Envoy further wishes to draw attention to the facts that this democratic and constitutional Government came to power as a result of a national consensus - and without the shedding of a single drop of blood - based on the broad support of workers, peasants and university students and that the assumption of political power did not provoke any subsequent process of vengeance and violence. Constitutional order was installed thanks to the conviction that only the reestablishment of a genuine state of law which provided equal guarantees for all of respect for their rights and freedoms could create a situation of lasting peace, national consensus and political stability.

21. The Special Envoy is, however, bound to admit that, in Latin America, the sometimes severely criticized legalistic approach of its politicians and its men of law has frequently caused it to be forgotten that the assumption of political power derived from the Constitution does not mean that the new Government possesses or controls real practical power, which often has been and still is in the hands of economic pressure groups, paramilitary sectors, the mafias in various criminal categories, and, in the case of Bolivia, the tremendous network of corruption, murder and power run by drug traffickers. It is to be hoped that the new democratic Government will be able to break out of the formalist framework of political power and really dominate the essential factors of power, so that the democratization of Bolivia will be a matter not only of legal appearance but also of complete reality.

22. The new Government has pledged to effect a vigorous economic and social transformation, to adopt radical measures for moral reform, to combat with all its force the drug traffic <sup>12/</sup> and to prosecute and punish those responsible for the serious violation of human rights that took place subsequent to 17 July 1980.

In taking note of these declarations, which are contained in various official documents from the new Government and were reiterated during his visit to Bolivia by all the officials whom he met, starting with the President of the Republic, Dr. Hernan Siles Zuazo, the Special Envoy hopes that this resolve will be translated into concrete facts. He merely wishes to add his view that accused parties should be examined and punished through the application of just and non-discriminatory

---

<sup>12/</sup> It should be noted that in Bolivia the criminal prosecution of drug traffickers provided for by article 217 of the Criminal Code is in fact based on the standards contained in title 5 (Offences and Penalties) of the National Act of 17 December 1976 for the Control of Dangerous Substances.



judicial procedures based on the pre-existing legal order, which is consistent with the genuine rule of law.

23. The installation of a constitutional and democratic Government on 10 October 1982 put an end in Bolivia to a long period of military government which, with some interruptions and civilian interludes - a few of considerable institutional and political importance - lasted for 18 years.

The end of militarism <sup>13/</sup> and the return of a civilian, constitutional and democratic Government are potentially of historic importance for the definitive respect of human rights and fundamental freedoms in Bolivia.

---

<sup>13/</sup> With regard to militarism, the Bolivian constitutional expert, Alipio Valencia Vega (Manual de Derecho Constitucional, Libreria Editorial Juventud, La Paz, 1982, pp. 395-396), has said: "However, it may happen, particularly in backward countries, that because they have the prerogative of the use of the nation's weapons, the military consider that they constitute a 'tutelary' body of the nation, which means, strictly speaking, that the armed forces view themselves as the supreme authority of the nation, in the position of a veritable father and that, in exercising their peculiar tutelary activity, they have the right to guide and to correct a minor - in this case, the nation. This criterion inevitably leads to the belief that the arbiters in political matters are the military and they come, as a result, to view as a logical conclusion of their course peremptory intervention by themselves in the political life of the nation through the occupation of the highest offices of State.

In fact, if this happens, it is because there has been a degeneration of the military function or of the armed defence of the nation and what follows is undoubtedly military despotism. This degeneration of the normal military function is what is called militarism, and the latter is nothing more than usurpation of the rights and functions of the people by the military, who take advantage of the fact that they have in their hands the arms of the nation. Like any form of degeneration, militarism must be actively combated".

Alcides Argueda says, in the third edition, published in 1936, of his much discussed and controversial book, Pueblo Enfermo: "Many concordant symptoms lead to the presumption that soon, perhaps before this book is published, there will be in Bolivia, as in other countries, and in these times of universal confusion, a military Government, perhaps a military dictatorship ... What will the military do in the Government? This is the great mystery, and those who come after us will be able to give an accurate answer in 20 years' time ... Really, nothing bad should or may be said about the military because that would be tantamount to renouncing the fatherland. But just as one should denounce dishonest politicians without renouncing politics, dishonest judges without renouncing justice, incompetent teachers without renouncing education and, lastly dishonest priests without renouncing religion, so it is a duty and even an obligation to attack and combat evil military personnel without that meaning in any way the expression of contempt for or renunciation of the armed forces, since that would - I repeat - be tantamount to renouncing the fatherland ... The army and militarism are two different things. The army, i.e., the nation in arms, has waged the war of the Chaco and has demonstrated its heroism. The military and the politicians lost that war. And now, after their defeat in the war, the military wish to enter the Government ... What rights do they have? Only one: to be strong and to bear arms ... But is that sufficient? ... Let us turn once again to the good Iberian Alomar: 'Militarism is peculiar to weak nations, where the Civil Power lacks the guarantees of opinion necessary to support and strengthen the authority vested by the people in their representatives; nations where the general lack of culture is reflected in an ignorance of their own sovereignty on the part of the citizens, or by indifference in this respect or an inability to exercise that sovereignty because of a herd instinct or a lack of capacity for thought' ..." Edición Gisbert y Cia S.A., La Paz 1979, pp. 409-410.

VI. ALLEGED VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS  
IN BOLIVIA SINCE MARCH 1982:--CLASSIFICATION AND ANALYSIS

24. Although the complaints of human rights violations in Bolivia made after March 1982, when the Commission considered the previous study of the Special Envoy (E/CN.4/1500), were far fewer than those submitted during the period covered by that study, the Special Envoy did receive a number of new documents containing complaints or declarations. 14/

The following paragraphs are, accordingly, devoted to a study of the human rights situation in Bolivia between March 1982 and the time of the conclusion of this study (December 1982) in the light of the juridical changes made with regard to human rights and guarantees therefor, taking into account specific cases which have been the subject of communications or allegations.

25. The situation of civil rights (paras. 29 and 30) and political rights (para. 31) will be considered first, and attention will then be concentrated on the topic of economic, social and cultural rights (paras. 32 to 37).

26. The Special Envoy reiterates the conviction he expressed in paragraph 128 of his previous study that: "Human rights violations in Bolivia should be considered and assessed in the light of the political, economic, social and cultural conditions prevailing in the country. The traditional and endemic political instability which has always existed in Bolivia, the weakness of democratic precedents, the strength - often beyond the control of the authorities - of the real centres of power and the practice of political intervention on the part of the armed forces are factors which cannot be overlooked. In addition, however, there are economic, social and cultural factors which must be taken into account. The vast majority of Bolivians clearly do not enjoy an acceptable minimum of economic, social and cultural rights. Bolivia is a developing country with a small gross national product and very low per capita income. Moreover, national wealth is still distributed unfairly and unequally, and public education, health, social and cultural services do not adequately meet the needs of the majority of the population."

27. Moreover, it is also necessary to take into account, as stated in paragraph 129 of the above-mentioned study, that "the special characteristics of the Bolivian population, comprising as it does an exceptionally high proportion of indigenous groups, many of whose members have traditionally remained outside the political process and, in some cases, have regarded themselves as outcasts in a State that they look upon as an imposed structure external to themselves, in which they have no part to play and to which they do not belong, make it easier to understand the factors which have made, and continue to make, the effective and real implementation and practical observance of human rights in Bolivia extremely difficult".

28. These points make it necessary to consider, with special care in the case of Bolivia, the implementation of the principles of equality and non-discrimination in relation to the exercise of and effective respect for human rights in that

---

14/ The most important of these documents are listed in chapter III, paragraph 11, of this study.

country. Bolivia is a party to the International Convention on the Elimination of All Forms of Racial Discrimination <sup>15/</sup> and the implementation of that instrument in a country with the characteristics of Bolivia is of particular importance for understanding the problems of human rights as a whole. <sup>16/</sup>

29. (A) Civil Rights

The main complaints of violations of human rights examined by the Special Envoy relating to civil rights during the period covered by this Study are as follows:

(a) The first incident examined by the Special Envoy was the complaint made by the Inter-Church Committee on Human Rights in Latin America, dated 5 April 1982, sent to the Ministers of the Interior and of Foreign Relations of Bolivia, the newspaper Presencia, the Bishop of La Paz, and the Special Envoy of the Commission on Human Rights. According to the statement in the complaint, on 27 March 1982, during a peaceful demonstration at Cochabamba, six persons were killed; eleven were injured and more than one hundred detained by the security forces. The demonstrators had been trying to exercise their right of free expression by indicating their opposition to the economic measures imposed by the Government.

(b) During his visit, the Special Envoy received information and allegations of violations of human rights committed at Chulumani on 2 October 1982 against seven agents from the Department of Drug Traffic Control. The victims were brutally tortured, mutilated and killed by the local peasants. Their widows came in person to La Paz to meet the Special Envoy and present their case. According to their statements, the probable culprits had been released, although they had confessed to committing the acts.

(c) The Special Envoy was also informed by a letter from the Central Trade Union of Dismissed Persons, dated 22 November 1982, of an aggression committed by the Bolivian police against a peaceful demonstration which had been held by the unemployed of La Paz on 19 November 1982 to call for the creation of "soup kitchens" for the starving. Forty persons were severely attacked and injured during the demonstration. Five were minors, some only a few months old. On 22 November, representatives of the Central Trade Union of Unemployed Persons came to the Palacio Legislativo at 3.30 p.m. to meet the Special Envoy, but, according to their telephoned complaint to the Special Envoy, the Bolivian police would not allow them to enter.

(d) Among the allegations relating to economic rights, the Special Envoy heard a committee composed of savers affected by the change made in the official dollar

---

<sup>15/</sup> Date of receipt of the instrument of accession, 22 September 1970. Entry into force, 22 October 1970.

<sup>16/</sup> It must be pointed out that Bolivia has not yet submitted the information required by article 9 of the Convention. It was expected that it would be submitted on 21 October 1979, but it was not received by that date. The Government of Bolivia was requested to comply with its obligations by notes dated 21 April 1980, 10 October 1980 and 28 April 1981 (report of the Committee on the Elimination of Racial Discrimination, General Assembly, Official Records, thirty-sixth session, Supplement No. 18, A/36/18, New York, 1981, p. 158.) In the report of Ambassador José Ricardo Martínez Cobo on the problem of discrimination against indigenous populations, various references are made to this issue in Bolivia. See, for example, the First Part of the Final Report (E/CN.4/Sub.2/476, Add.6, paras. 11, 12, 245 and 246).

exchange rate by the Government. Those persons protested against the disparity existing between the official exchange rate (196 Bolivian pesos per dollar at the time when the complaint was received) and that imposed by the authorities for the conversion of dollar deposits (145 pesos per dollar), which, they claimed, would result in an unjustified loss for savers.

In subparagraph 63 A (g) of his previous study (E/CN.4/1500), the Special Envoy referred to the problem of missing persons and to the results in that respect of his visit to Bolivia. Some of those who appeared in the list of missing persons which the Special Envoy took with him to La Paz had already left the country in October 1981 and their whereabouts were known with certainty; others were residing in Bolivia and could be identified or located without difficulty, and others still had died. However, their names were maintained on the list drawn up by the Working Group on Enforced or Involuntary Disappearances, in application of the criteria which that Group had adopted for its work.

During the current visit to Bolivia, the Special Envoy reverted to the question of missing persons.

In the first instance, he took up the matter with the President and Vice-President of the Republic, the Minister of the Interior and the National Commission on Disappeared Persons.

He took note with satisfaction of Supreme Decree No. 19 241, of 28 October 1982, establishing the National Commission on Disappeared Persons, which will be responsible for assessing and clarifying this question. 17/

---

17/ "Article 1. There is hereby established a National Commission for the Investigation of the Cases of Disappeared Citizens; the said Commission shall be composed of the following representatives:

One representative of the Executive, to be designated by the Ministry of the Interior, Migration and Justice;

Two representatives of the Legislation drawn from the human rights committees of the Chamber of Deputies and the Senate;

One representative of the Church;

One representative of the national armed forces;

One representative of the Bolivian Trade-Union Federation;

One representative of the Permanent Assembly of the Commission of Human Rights;

One representative of the Bolivian Red Cross;

One representative of the Press.

Article 2. The object of the Commission shall be to analyse, investigate and ascertain the situation of citizens who have disappeared in the national territory. The Commission shall be empowered to require information of any person or institution, shall have access to such documentation as it deems advisable, may seek the assistance of the police authorities in its investigations and in dealing with complaints and shall make public its findings within a period of 90 days from the date of its establishment.

Article 3. The President of the Commission as constituted shall be the representative of the Executive and the representatives of the Legislature shall be its Vice-Presidents.

Article 4. The National Commission for the Investigation of the Cases of Disappeared Citizens may appoint committees with jurisdiction over such Districts

This Supreme Decree is extremely important and is laudable and exemplary in intent. It is to be hoped that the work of the Commission set up by the authorities will lead to the ultimate clarification of the painful matter of disappeared persons.

At the hearings he held, the Special Envoy heard several statements concerning disappeared persons. He received communications informing him of isolated points in Bolivian territory, that were said to be outside the control of the present Government and where some disappeared persons might still be found. He immediately brought this information to the attention of the authorities for verification and clarification.

The Minister of the Interior told him that, owing to the circumstances that had obtained throughout the country under previous military regimes, the demographic and social characteristics of Bolivia, the lack of documentation for identifying persons and the impossibility in many instances of gaining access to international bodies, he had the impression that the number of disappeared persons in Bolivia might be far higher than that officially recorded by the United Nations and total several hundreds. The Special Envoy, while taking due note of this and of the resolute decision of the present Bolivian Government to solve the problem of disappeared persons, lists below cases that, according to the list drawn up by the United Nations Working Group are unresolved and adds in each case comments based on information provided to him by the Government of Bolivia.

Unresolved Cases:

- (1) Arequipa, Victor Hugo;
- (2) Caballero, Felipe;
- (3) Cimenetti, Giuseppe;
- (4) Condori Claire, Julio;
- (5) Delgado Echenique, Julio;
- (6) Flores, Elias Raphael;
- (7) Flores, Félix;
- (8) Inca, Antonio;
- (9) Laime, Ernesto;
- (10) Lima Mamani, Carmelo;
- (11) Martínez Machicao, José Luis;
- (12) Mendoza Arismendi, Octavio;

~~as may-be-necessary~~ or desirable.

Article 5. Any citizen who feels affected by the disappearance of friends, relatives or citizens shall have recourse to the National Commission or to its committees in person or through a representative in order to make a complaint, which shall be investigated in summary proceedings.

Article 6. The President of the Commission shall issue invitations to all the bodies named in article 1 with a view to the constitution of the National Commission for the Investigation of the Cases of Disappeared Citizens.

The execution and implementation of this Supreme Decree shall be the responsibility of the Minister of the Interior, Migration and Justice."

- (13) Miranda, Alejandro;
- (14) Osinaga Carvajal, Mario;
- (15) Pérez, José Antonio;
- (16) Quisbert Montes, Freddy;
- (17) Rodríguez, Pedro;
- (18) Rojas Vargas, Angel;
- (19) Salazar, David;
- (20) Sanchez, Remigio Tarquinio;
- (21) Sanchez, René;
- (22) Ticona Esteban, Huanaco;
- (23) Torres Pérez, Carlos Ismael;
- (24) Tusco, Jorge;
- (25) Vargas, René.

Persons who figure in the list of disappeared persons as disappeared persons and who have died:

- (1) Cassio Meruvia, Julio;
- (2) Flores Bedregal, Juan Carlos;
- (3) Victoria, Humberto.

Persons who figure in the list of disappeared persons as disappeared persons and whom the Special Envoy has ascertained are living in Bolivia or abroad:

- (1) Antelo, Adolfo - living in Santa Cruz;
- (2) Ardaya Salinas, Gloria Gaby - living in La Paz;
- (3) Arias Mortimer - living in the United States of America;
- (4) Cutili, Mario - living in Peru;
- (5) Crespo Inofuentes, German - living in La Paz;
- (6) Flores, Genaro - living in La Paz;
- (7) Heredia Miranda, Nila - living in Peru;
- (8) Ticona Estrada, Renato - living in Oruro (Bolivia);
- (9) Zarzuri, Luis - living in Sweden;
- (10) Zegales, Adolfo - living in Santa Cruz.

The Special Envoy considers that the Working Group on Enforced or Involuntary Disappearances should take account of the official information that is transmitted to it, for example, the information contained in the present study, when drawing up its list since a basic need for consistency dictates that the information contained in United Nations official documents should be uniform.

30. In conclusion, the Special Envoy wishes to state his opinion that the existing situation with regard to civil rights in Bolivia is correct and entirely positive.

The encouraging situation which exists today is the result of a gradual process of improvement that has been hastened, strengthened and consolidated by the coming to power of the constitutional and democratic Government on 10 October 1982.

### 31. Political rights

No communications or complaints regarding the violation of political rights were received in the period under review. It must, however, be said that the violation of political rights inherent in the coup d'Etat of 17 July 1980 and the subsequent series of military Governments, to which the Special Envoy referred in paragraph 68 of his previous study, ended with the re-establishment of legitimate constitutional government and the consequential observance of the political rights to which the Universal Declaration of Human Rights (article 21), the International Covenant on Civil and Political Rights (article 25) and the American Convention on Human Rights (article 23) refer.

The political process of return to a constitutional regime that started in 1981 and was consolidated in 1982 must be viewed as a way of moving gradually towards recognition of the political rights, particularly the rights to vote and to be elected, that are proclaimed in and guaranteed under the internal law of Bolivia and the relevant international law and that again became fully and effectively applicable when the earlier violations came to an end with the restoration of the constitutional Government on 10 October 1982.

### 32. Economic, social and cultural rights

For the reasons explained in paragraph 125 18/ of his earlier study, the Special Envoy did not deal in that document with the issue of the violation of economic, social and cultural rights.

Now, without wishing to enter into a detailed analysis of the question, he believes it is necessary to make certain clarifications, notably because of what has been said in many commentaries regarding the effect on the human rights question of the economic measures adopted by the Government of Bolivia on 5 February 1982 and of other decisions regarding economic matters taken on 3 and 4 November 1982.

33. The Special Envoy believes that international responsibility for the monitoring and enforcement of human rights in a State covers not only civil and political rights, but also the question of economic, social and cultural rights. He says this bearing in mind the differences which stem from the special regime of protection to which these two categories of rights are subject 19/ and considering the interdependence and indivisibility of those rights and the fact that "the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible". 20/

---

18/ "In this report, the Special Envoy has dealt only with violations of civil and political rights. This does not mean that violations of the economic, social and cultural rights enumerated or referred to in the Universal Declaration of Human Rights (articles 22 to 27) and in the American Convention on Human Rights (Pact of San José, article 26), to which Bolivia is a party, have not taken place or are not continuing to occur. However, in view of the gravity of violations of civil and political rights and their significance and importance for an analysis of the situation, the Special Envoy elected to limit the study to this aspect, while at the same time pointing out the traditional and tragic lack of respect accorded to economic, social and cultural rights in Bolivia."

19/ Because of the different systems for applying the two International Covenants on Human Rights (articles 16-23 and 28-45, respectively, and articles 1-6 of the Optional Protocol to the International Covenant on Civil and Political Rights), the European Convention on Human Rights and the European Social Charter, and the American Convention on Human Rights (articles 26 and 34-73), to which Bolivia is a par-

20/ United Nations General Assembly resolution 32/130, subparagraphs 1 (a) and (b), 16 December 1977.

He likewise believes that any economic and social policy, as also the specific measures for applying such a policy adopted by the Government of a country, must actually be reflected in the economic and social rights of the persons who live in that State.

On the other hand, he does not think that the choice of a given economic policy by a Government and the consequent adoption of the measures necessary to introduce and apply it - which constitutes an inherent part of the activities of a sovereign State within an international community that comprises States having different political, ideological, economic and social systems - can be regarded, a priori and automatically, as a violation of the economic and social rights of the human being. 21/

34. This is why, whatever personal, doctrinal, theoretical or political opinion may be held as to their substance, purpose and consequence, the economic measures adopted by successive Governments of Bolivia on 5 February and 3 and 4 November 1982 - which, logically, differ in their basis and in their nature - cannot automatically be regarded as a violation of economic and social rights.

In order to form an opinion on such violations, it is necessary - viewing the question from the standpoint of possible international action based on the principles of the Charter of the United Nations and on the international instruments that now exist in the matter - to refer not to the general economic plans and guidelines adopted by the Government but, concretely and specifically, to the situation as regards economic and social human rights at a given moment.

35. The tragic situation of these rights in Bolivia, which originated in facts that the Special Envoy described in his previous study 22/ and was very serious at the time of his earlier visit to Bolivia (November 1981), has possibly worsened as a result of the gradual decline of the economy. But in law it cannot be asserted, with the consequences which such an assertion would entail, that this deterioration, as it applies to human rights, is the direct and necessary consequence of the economic measures to which reference has been made above.

But what can be said in an international study of this kind is that, whatever the doctrinal line and theoretical choice adopted under a Government's economic policy, there can be no forgetting that development and economic readjustment measures must be harmonized without fail with the duty to respect, guarantee and promote the economic, social and cultural rights of all human beings as they have been laid down in the Universal Declaration of Human Rights (articles 22-27) and other international instruments to which Bolivia is a party, such as the Charter of the Organization of American States as amended by the Protocol of Buenos Aires (articles 29-50), the American Convention on Human Rights (article 26) and the

---

21/ On this topic in general and for a theoretical approach, with a doctrinal viewpoint that does not totally accord with that of the Special Envoy, see Antonio Casese, Study of impact of foreign economic aid and assistance on respect for human rights in Chile, E/CN.4/Sub.2/412, Vol. I, "Domestic jurisdiction and the social and economic policies of member States", paras. 33-41.

22/ ... "The vast majority of Bolivians clearly do not enjoy an acceptable minimum of economic, social and cultural rights. Bolivia is a developing country with a small gross national product and very low per capita income. Moreover, national wealth is still distributed unfairly and unequally, and public education, health, social and cultural services do not adequately meet the needs of the majority of the population."



International Covenant on Economic, Social and Cultural Rights. In the serious economic and social situation through which Bolivia is now passing, the Government must not overlook this objective and principle if it is to respect its international obligations in the matter in a rational and proper manner.

36. While it is not possible, owing to lack of the requisite basic documentation, to study the change in economic and social factors in Bolivia during the period under review and the impact of that change on the effective recognition of economic, social and cultural rights, an analysis is made below of the present situation of some of those rights in terms of their legal basis and normative protection in the period falling between the previous Study and the present time.

37. During the period under review, there was, as a result of the legal activity listed in paragraph 17 and of Bolivia's accession to the International Covenant on Economic, Social and Cultural Rights, a significant improvement in the legal situation regarding these rights. But the actual economic and social situation of individuals is still very depressed and that in itself implies an effective violation of this category of human rights. It is to be hoped that the economic measures adopted in November 1982 will be reflected in economic and social change - which, to be effective, will require a long period of political stability and effort by popular and democratic Governments - and in the improvement in basic economic and social conditions on which inevitably rests the effectiveness of the economic, social and cultural rights of all human beings.

VII. POLITICAL DEVELOPMENTS IN BOLIVIA BETWEEN MARCH 1982 AND FEBRUARY 1983

38. The Special Envoy has analysed political developments in Bolivia between March 1982 and the present time with a view to studying the repercussions of this process on the human rights situation in Bolivia. It is not his intention to pass judgement on that process in itself or on the major changes that have occurred, particularly since the events of September and October 1982. Such a course would be unacceptable, since it would obviously constitute interference in a domestic matter outside his sphere of competence. Political developments in Bolivia during the period in question are studied only to the extent that those developments and political events have had a tangible and specific impact on the respect for and guarantee of human rights and fundamental freedoms in Bolivia.

39. It must be pointed out, however, that the decision by the military Government, which had directed political life through a series of changes in the holders of Executive Power following the overthrow of the legitimate constitutional Government on 17 July 1980, to withdraw from power and to reinstate the National Congress which had been dissolved on that date, a decision reflected de jure in the restoration of the constitutional order which had been destroyed, is a far-reaching change in itself and in its repercussions on human rights and must be viewed as extremely positive.

40. It means not only a return to recognition of the Bolivian people's political rights, but also an end to the military régimes following that which, immediately after 17 July 1980, perpetrated, inspired or tolerated the grave, massive and repeated violations of human rights reported in the Special Envoy's first study.

41. Further, a Government which is the outcome of a democratic popular election is one of the most important bases for a system that respects and guarantees the human rights and fundamental freedoms of all. The establishment of a constitutional Government in Bolivia in October 1982 was thus to some extent the culmination of the investigation and analysis of the human rights situation that brought about the appointment of the Commission's Special Envoy.

42. As stated in the preceding study, on 4 September 1981, the Board of Commanders-in-Chief of the Armed Forces designated General Celso Torrelio Villa as President of the Republic of Bolivia. He appointed Dr. Gonzalo Romero Álvarez García Minister for Foreign Affairs and Worship and Colonel Rómulo Mercado Garnica Minister of the Interior, Migration and Justice. 23/

43. When swearing in his first ministerial cabinet, General Celso Torrelio Villa announced on 7 September 1981 that his Government would return within three years to the exercise of democracy. During his statement he said: "In compliance with this historical necessity, the outcome of the exceptional circumstances of the present time, I wish to announce that the basic political objective of my Government will be to achieve, within three years, a juridical, administrative and institutional reorganization that will lead gradually and progressively to the exercise of national democracy."

44. The three-year period was subsequently incorporated into the Government's Three-Year Plan, which provided that Bolivia would be institutionalized in 1984 without, however, specifying the form that institutionalization was to take.

45. This Plan was mentioned on various occasions in connection with the development of the human rights situation in Bolivia. For instance, the tripartite agreement signed on 19 December 1981 between the Government, the mine workers and the Catholic Church as mediator, following mining industry conflicts in November, stated: "In conformity with the Government's Three-Year Plan whereby the Armed Forces of the Nation will effect an economic, political and social reorganization ...". Also in the human rights context, the Ambassador of Bolivia to the United Nations Office and the International Organizations at Geneva, said during the thirty-eighth session of the Commission on Human Rights, when discussing resolution 1982/33 referring to Bolivia, that, in conformity with the objectives of the Government's Three-Year Plan, the progressive policy launched in September 1982 to improve the human rights situation in Bolivia would be pursued. 24/

46. The economic measures adopted by the Government on 5 February 1982 led to serious labour conflicts during February and March 1982. The strikes were not confined to the mining areas, but spread virtually throughout the country. To find a solution, General Celso Torrelio Villa announced on 5 April 1982 that talks would begin with the political forces in Bolivia. On that date, and in view of the prevailing situation, the Ministerial cabinet resigned, although Colonel Rómulo Mercado, Minister of the Interior, Migration and Justice, and Dr. Gonzalo Romero Alvarez, Minister for Foreign Affairs and Worship, were retained in their posts. In public statements, the latter confirmed the opening of talks with the political sector with a view to solving "the acute crisis in Bolivia".

47. On 29 April 1982, Bi-Ministerial resolution No. 137/82 prescribed the reinstatement of all workers who had lost their jobs on grounds of political or trade-unions activity since July 1980. In addition to alluding to that resolution, a joint communiqué by the Government, Church and mine workers on 30 April referred to a petition submitted by the mine workers for an unrestricted general amnesty, full freedom of action for trade-union organizations, the lifting of the curfew and an exhaustive inquiry into the death or disappearance of workers. On that occasion, the Government confirmed and guaranteed the relaxation of its policy and the parties expressed their desire to maintain a continuous dialogue as the only way of achieving the aforementioned aims.

48. On 8 May 1982, the curfew was lifted for good and on 26 May a number of significant measures were taken. The Transitional Statute of the Bolivian University was repealed, (Supreme Decree No. 18 956), the suspension of trade unions, employers' and professional associations was lifted (Supreme Decree No. 18 957), the system for administering frozen trade-union funds was ended (Supreme Decree No. 18 958), the suspension of political parties and activities was ended (communiqué issued by the Ministry of the Interior, Migration and Justice), and a general amnesty was decreed for all those Bolivian citizens who had been expelled or had left the country for political reasons (communiqué from the Ministry of the Interior, Migration and Justice).

49. For its part, the Government's Three-Year Plan (1981-1984), originally submitted by General Celso Torrelio Villa and providing for economic, social political reorganization culminating in general elections in 1984, was reconsidered. On 31 May 1982, the Government decided to call elections in order to expedite the efforts directed towards democratizing Bolivia. Arrangements were made to hold elections for a Constituent Assembly in April 1983. On 15 July 1982, General Celso Torrelio Villa gave official notice of general elections for 24 April 1983 and

stated: "The nation's political and administrative power will be handed over by the Armed Forces on 6 August 1983 to those who are freely and lawfully elected to rule". Decree Law No. 19 066, of 15 July 1980, was issued to that effect.

50. On 16 July 1982, General Celso Torrelío Villa, President of the Republic, offered his resignation to the Board of Commanders-in-Chief of the Armed Forces, composed of General Angel Mariscal of the Army, General Natalio Morales of the Air Force and Rear-Admiral Oscar Pommo of the Navy. After consultations, they decided to designate General Guido Vildoso Calderón as President of the Republic of Bolivia.

51. In his inaugural speech, General Guido Vildoso Calderón stated that he would respect the process of constitutionalization in Bolivia and the announcement of general elections for April 1983. His cabinet was made up as follows: Minister for Foreign Affairs and Worship: Mr. Agustín Saavedra Weise; Minister of the Interior, Migration and Justice: Lieutenant-Colonel Edgar Rojas Ruiz; Minister of Defence: General Alfredo Villarroel; Minister of Labour: Colonel Julio Will Gomez; Transport and Communications: Commander Douglas Estremadoiro; Finance: Mr. Alfonso Revollo; Agriculture: Lieutenant-Colonel Víctor Balderrama; Education: Mr. Marcelo Calvo; Planning: General Amadeo Saldias; Industry and Trade: Lieutenant-Colonel Jorge Escobar; General Secretariat of the Office of the President: Mr. Alfredo Careaga; Health: Mr. Dorian Gorena; Energy: Lieutenant-Colonel Augusto Sánchez; Integration: Captain José Antonio Oua; Information: Mr. Gonzales Rioja; Urban Affairs and Housing: Lieutenant-Colonel Manuel Luján Alba.

52. The political parties, trade unions and private enterprise considered the date proposed by the Government for holding elections to be very remote. The Bolivian Trade-Union Federation (Central Obrera Boliviana) called for elections before the end of the year, and some of the political parties and private enterprise proposed that the 1980 Congress which had been dissolved by the military coup of 17 July 1981 should be convened in order to elect the constitutional Government.

53. On 18 August 1982, the Electoral Law of 30 April 1965 entered into effect by decree, with the amendments introduced in 1979, as the legislative instrument for the elections and the electoral law of 1980 was repealed, because it was said to suffer from serious substantive defects. The Electoral Law regulates the procedure, conduct and supervision of the voting process in the elections of members of the Legislative and Executive, as well as of the Municipalities. The supreme authority in this regard is the National Electoral Court. It exercises jurisdiction throughout the territory of the Republic and its decisions are final and irrevocable, except in cases of valid or invalid elections of Senators, Deputies and Councillors, cognizance of which is the responsibility of the Judiciary. The Court is formed of five regular members and five alternate members designated as follows: two regular members and two alternates designated by the Legislative; one regular member and one alternate designated in full session by the Supreme Court of Justice from among its own members and who, from the date on which they are sworn in, must cease their judicial activities; one regular member and one alternate designated by the President of the Republic with the approval of the Council of Ministers; and one regular and one alternate elected by all the political parties. The regular member and the alternate must belong to different parties. The functions of the National Electoral Court include publicly totalling the votes in elections to the Presidency and Vice-Presidency of the Republic, recognizing the legal and political personality of the parties, examining their policies and action programmes and approving their statutes. In conformity with its totalization of the votes, the National Electoral Court issues the credentials of the President and Vice-President of the Republic for ratification by the National Congress.

54. Far from abating, the national crisis became more acute. Protest strikes sparked off by the economic situation continued during the month of September. The workers, employers and many Bolivian political groups rejected the economic emergency plan proposed by the Government.

55. Confronted with the choice of holding elections immediately or convening the Congress elected in 1980 to elect the constitutional Government, the Armed Forces opted for the second course. 25/

56. On 21 September 1982, the Government issued Decree-Law No. 19 143, the preamble of which expressed the opinion that, in view of the situation then obtaining in Bolivia, the minimum requirements to guarantee a normal electoral process could not be met. It was therefore decided to recommend convening the Congress elected in 1980.

57. Decree-Law No. 19 066 of 15 July 1980, was repealed and a new Decree-Law, No. 19 144, was issued on 21 September 1982 convening the citizens elected as national representatives in 1980 and conferring upon the National Electoral Court the necessary competence and faculties to enable it to validate the summoning of the National Congress elected in that year. Accordingly, it was provided that the National Electoral Court should have the following powers: (a) to verify and establish the entitlement of the citizens elected in the voting of July 1980 to form the Legislative; (b) to issue the credentials of senators and deputies in conformity with the provisions of the existing Electoral Law; (c) to announce the constitution of the Legislative so as to enable the Executive to proceed forthwith with the Convening and solemn installation of the Honourable National Congress for the purposes of article 90 of the Bolivian Constitution 26/ and the subsequent transmission of the presidential powers

---

25/ The political parties that took part in the 1979 elections and have now resumed political life are the following: (1) The Democratic and Popular United Front (Frente de Unidad Democrática y Popular) (UDP) comprising the MNRI, PCB, MIR, MIN, PSPYA, NPLN, ALIN, PRINM, MRE, PORTA and ODEUR, which obtained 34.050 per cent of the votes counted; (2) The Revolutionary Nationalist Movement (MNR-Alliance) (Movimiento Nacionalista Revolucionario) (MNR-Alianza), comprising the PRA, PDC, FRI, MRTK, which obtained 17.704 per cent of the votes; (3) The Nationalist Democratic Alliance (Alianza Democrática Nacionalista), made up of the ADN, FSBN, PRAR, ARB and MNR, which obtained 14.780 per cent of the votes; (4) The Socialist Party One (Partido Socialista 1) (PS-1), which obtained 7.650 per cent of the votes; (5) The Bolivian Union Party (Partido de la Unión Boliviana) (PUB) which obtained 1.099 per cent of the votes; (6) The Tupac Katari Indian Movement (Movimiento Indio Tupac Katari) (MITEKA), which obtained 1.064 per cent of the votes; (7) The Popular Alliance for National Integration (Alianza Popular de Integración Nacional) (APIIN), consisting of MARC and FSB, which obtained 1.151 per cent of the votes.

26/ Article 90 of the Bolivian Constitution: "If no candidate for the Presidency or the Vice-Presidency of the Republic obtains an absolute majority of votes, Congress shall take the three persons who received the greatest number of votes for the office concerned and the election shall be made from among them.

If, after the first ballot, no candidate has an absolute majority of the votes of the members present, the next ballot shall be limited to the two candidates who received the greatest number of votes. In the event of a tie, voting shall continue until one of the candidates obtains an absolute majority.

Voting, the counting of votes and the proclamation of results shall be effected in permanent and public session."

to the new constitutional authorities; (d) when the Congress has been installed, the National Electoral Court shall comply with article 144 (referring to the departmental court) et seq. of the Electoral Law.

58. Having thus conferred authority on the National Electoral Court, the Government issued, on 26 September 1982, Decree-Law No. 19 157 convening the National Congress for its installation and formal inauguration on 11 October 1982 in La Paz so that, in compliance with article 90 of the Constitution, it might elect the President and Vice-President of the Republic in conformity with the results obtained in the 1980 elections. The transfer of the presidential powers was set for 10 October.

59. On 4 October 1982, in his address to the General Assembly of the United Nations, Dr. Agustín Saavedra Weiss, the Minister for Foreign Affairs, said:

"It is this unswerving support for the principles of self-determination and sovereignty which has led the Government of Bolivia, presided over by General Guido Voldoso Calderón, to apply a policy of a return to democratic institutional rights for our people.

In Bolivia we have set in motion the pre-electoral process, with the scheduling of a general election for April 1983. The consensus achieved among the political parties on the basis of the invitation to participate made by the Government without any discrimination has led to the constitution of a National Electoral Court. We have also started on the study of a plan for economic recovery in order to apply emergency provisions to overcome the situation of deficit and the serious crisis inherited by the present Government. As a result of a study, the economic plan was, also on the basis of consultations, brought to the notice of the political forces and the trade unions; a political and economic dialogue thus took place.

Giving effect to the general feelings expressed by the political parties and labour representatives, who requested an immediate transition to a democratic system, the Bolivian Government has decided to convene the representative Parliament elected in the 1980 elections, which had been suspended by a military coup at the time, so that that Parliament will, in accordance with the norms of the political Constitution of the State, appoint the new office holders who will have charge of the nation from 10 October next. For them and their arduous task in government we request the solidarity of all nations, particularly on account of the grave economic crisis that my country is experiencing. The new constitutional authorities will have to overcome that crisis and will need all the co-operation that they can possibly obtain from friendly countries - combined, of course, with Bolivia's own efforts - in order that Bolivia may progress.

All this process of transition to democracy has taken place within the framework of an unchanging respect for human rights and the prerogatives of the citizens, and on the basis of the fulfilment of the treaties and international commitments entered into by Bolivia.

On 10 October next, the armed forces of Bolivia will restore the political control of the nation to a civilian Government. This voluntary gesture, in keeping with the wishes of the Bolivian people, is worth emphasising in this international forum."

60. By Act of Congress on 6 October 1982, Dr. Hernán Siles Zuazo and Dr. Jaime Paz Zamora were respectively elected President and Vice-President of the Republic of Bolivia by 113 votes to 29, with 4 abstentions, by the 146 deputies present. The President was sworn in on 10 October 1982, in the presence of special delegates and Presidents from other parts of Latin America. 27/

61. During the ceremony transferring the supreme powers, which was held in the Palacio Legislativo, statements were made by General Guido Vildoso and the Constitutional President of the Republic. Dr. Siles Zuazo read his Message to the Nation. 28/

---

27/ Following the military coup of 17 July 1980, the Permanent Council of the Organization of American States issued, on 25 July 1980, a resolution deploring that event and expressing its concern at the serious violations of human rights. That resolution was quoted and considered in paragraph 36 of the Special Envoy's first study.

On 21 November 1982, at its XIIIth regular session, the OAS General Assembly, after noting "that the Republic of Bolivia has succeeded in a unique and exemplary manner in effecting a peaceful transition from authoritarianism to democracy, and enabling the country to revert to the results of the electoral process interrupted on 17 July 1980" and that this act indicated "the effectiveness of the Bolivian Constitution and the full exercise of human rights and individual freedoms in Bolivia", resolved "To declare the satisfaction of the General Assembly at the re-establishment of a democratic system in Bolivia".

28/ During this ceremony, General Guido Vildoso Calderón, the former President, spoke the following words, which the Special Envoy considers worth reproducing in order to convey a clear idea of how the situation was viewed at that time by the last military Government: "in our capacity as the Armed Forces, we shall maintain the machinery for assuring scrupulous compliance with the Constitution, in order to defend and protect the sovereignty and territorial integrity of the Republic.

Historically, the Armed Forces have been a factor of power, not only in Bolivia, but also in much of Latin America. On this solemn occasion, I do not wish to dwell unduly on these considerations, but I believe that it is appropriate to make one comment.

The fact that the Armed Forces have intruded in political life, carrying out constructive acts and sometimes, it must be recognized, having negative attitudes and results, as is only human, is not entirely the fault of the military. It is due in the first instance to complex historical situations linked to the political development of Bolivia and other countries, but it also stems from the fragility of our political structures and institutions. This is the sad truth, which we cannot and must not disregard.

To avert the recurring cycles of military rule and civilian rule and establish a solid, durable and exemplary democracy, we need an authentic and genuine reconciliation between civilians and the military. We in the military will do what we can to assist in consolidating the country's institutions. I venture very respectfully to ask that the civilian institutions and their leaders should be

---

strengthened and endowed with the structures which are urgently needed if the country is to overcome its social and economic problems, for it has been proved that it is solid and normally functioning political institutions that can guarantee and make viable the great future which, thanks to the quality of its people and the wealth of its soil, our country deserves".

In the same ceremony, Julio Garret Aillon, the President of the Senate, said: "The transfer of power to the citizens elected by the people is the fulfilment of the pledge given by the Armed Forces of the Nation to take the process of constitutionalizing the country to its conclusion. They have rendered a service to the cause of democracy and now that they are taking the institutional path to return to their barracks with dignity and become guardians of national sovereignty and defence within the framework of the Constitution. The de facto period has ended. Henceforward, the Armed Forces will not take the decisions. From now on, the Government and the representatives of the people, whose only form of force is the moral force of their investiture, will take the decisions.

Democracy implies primarily respect for the law and the full functioning of the republican system, which wisely prescribes independence and harmonious equilibrium for the powers of the State. There will be freedom within the Constitution and order within freedom. That is what is known as the rule of law and its establishment means the end of any kind of de facto power".

Dr. Herman Siles Zuazo, the President of the Republic stated: "Full sovereignty is at all times the due of the people whom those of us here, as its representatives, are duty bound to serve.

It is clear to this Congress, and I stress the matter out of respect for the truth which the whole nation should acknowledge, that at no time did we seek negotiations or transactions of an electoral nature; we have made no commitments other than to our people and in public. The votes by which we have been invested as the President of the Republic within these precincts were a mandate from the people, directly expressed through their various organizations, trade unions, civic committees, meetings and, finally, a labour stoppage. As well as demanding the constitutionalization of the country, they clearly pointed to the need to ratify the triumph of the winners at the last elections. There were no political arrangements before the vote of the Congress, I repeat this very firmly.

We must end poverty and privilege. Bolivia owes much to international solidarity, and this democracy, this ceremony, is especially meaningful for Bolivians because of the presence of distinguished Heads of State and representatives from all parts of the world who honour us with their presence because they know that we are working for democracy, that we are extending the frontiers of democracy southwards, in the irresistible advance of freedom and human rights for all the peoples of the earth."

During the swearing in of the new cabinet, Dr. Mario Velade Dorado, the Minister for Foreign Affairs, said on behalf of his colleagues: "As far as political pluralism is concerned, we and the country are aware of the people's unshakeable faith in and love of participative democracy. Consequently, in all its acts of administration, this cabinet will recognize the right of citizens to exercise public functions, with no other requirement than morality and suitability."



62. The ministerial cabinet was made up as follows: Minister for Foreign Affairs and Worship: Mr. Mario Velarde Dorado; Minister of Defence: Mr. José Ortíz Mercado; Minister of the Interior, Migration and Justice: Mr. Mario Roncal Antezana; Planning and Co-ordination: Mr. Arturo Nuñez del Prado; Rural Affairs and Agriculture: Mr. Zenón Barrientos Mamani; Information: Mr. Jorge Gonzales Roda; General Secretariat of the Office of the President: Mr. Horacio Torres Guzmán; Finance: Mr. Ernesto Aranibar Quiroga; Industry, Trade and Tourism: Mr. Jorge Crespo Velasco; Energy and Oil: Mr. Jorge O'Connor D'Arlach; Social Security and Public Health: Mr. Mario Argandoña Yañez; Education and Culture: Mr. Alfonso Camacho Poppe Martínez; Integration: Mr. Hormando Vaca Díez; Employment and Labour Development: Mr. Roberto Arnez Villarroel; Mining and Metals: Mr. Carlos Barragan Vargas. 29/

63. On 11 October 1982, by Presidential Decree No. 19 231 and in conformity with article 96 (19) of the Bolivian Constitution, 30/ Major-General Alfredo Villarroel Barja was designated as Commander-in-Chief of the Armed Forces of the Nation, Major-General Simón Sejas Tordoya as Commander-in-Chief of the Army, Brigadier-General Juan Muñoz Rebollo as Commander-in-Chief of the Bolivian Air Force and Rear-Admiral Wilfredo de la Barra Saavedra as Admiral of the Fleet of the Bolivian Navy.

---

29/ This Government has a multi-party membership. The President belongs to the MNRI (Revolutionary Nationalist Movement of the Left, Movimiento Nacionalista Revolucionario de Izquierda) which formed part of the UDP (People's Democratic Union, Unión Democrática Popular), in the last elections; the Vice-President belongs to the MIR (Revolutionary Left Movement, Movimiento de Izquierda Revolucionaria) which also formed part of the UDP; six Ministers (Education, Health, Energy, Industry, Finance and Integration) to the MIR party, two Ministers (Employment and Mining) to the Bolivian Communist Party, which also formed part of the UDP; six Ministers to the MNRI (Foreign Affairs, Interior, Defence, Planning, Information and General Secretariat of the Office of the President); two Ministers (Urban Affairs and Housing) to the Christian Democrats (Democracia Cristiana), which did not form part of the UDP at the last elections, and one Minister (Rural Affairs) to the MITKA (Tupac Katari Indian Movement, Movimiento Indio Tupac Katari).

30/ Article 96 (19) of the Bolivian Constitution reads: "The powers and duties of the President of the Republic are: to designate the Commander-in-Chief of the Armed Forces and the Commanders of the Army, Air Force, Navy and the Director of the High Command of Public Security".

64. In the statement he made on 18 November 1982, at the XIIth regular session of the General Assembly of the Organization of American States, the Minister for Foreign Affairs said:

"I am proud to represent a Government which is not only the product of a majority vote but also of tenacious, heroic and sacrificial resistance to those who had usurped popular sovereignty. This conflict united under the same banner patriotic peasants, workers, members of the middle classes, industrialists and soldiers. I can say with absolute certainty that the Government led by Dr. Hernán Siles Zuazo is supported by a consensus of the social and political forces of Bolivia. This national agreement on the objective of democratization was the keystone of the peaceful transition from a dictatorship to a democracy. In a world as contradictory as the one in which we live today, when we see people shed their blood in the defence of justice and freedom, such a transition from ignominy to dignity is an event of tremendous significance, with repercussions that extend beyond the frontiers of my country. The unity of the people has once again proved to be a force capable of vanquishing any dictatorship. Our victory has extended the frontiers of democracy in South America. It is part of our own historical development, in the context of a process begun with the popular revolution of 9 April 1952, which was one of the most serious attempts to achieve truly independent economic development, with freedom in democracy and social justice.

The nascent Bolivian democracy is also the outcome of the struggles waged by the masses against the attempts of dictatorships to stamp out any prospect of freedom and turn the State into an instrument serving the interests of a new oligarchy organically linked to anti-national interests. The extreme indebtedness, the irrational use of our natural resources and the utilization of the State sector of the economy as a source for private gain were flimsy supports for a model which was not only a resounding failure but sullied national dignity with corruption and traffic in drugs".

65. The Special Envoy considers it important, in the context of the political evolution achieved in the period covered by his mandate, to make special reference to developments in the situation of the universities.

66. The Constitution of Bolivia of 1967 expressly guaranteed the autonomy of the public universities in articles 185 et seq. The coup d'état of 17 July 1980 destroyed the autonomous regime and closed down Bolivia's universities; they were reopened in 1981. In paragraph 79 of his first study (E/CN.4/1500), the Special Envoy, alluded to this situation and to the regime established by the Transitional Statute of Universidad Boliviana, in Supreme Decree No. 18 187, of 13 April 1981. During the military regime, on the fiftieth anniversary of university autonomy, the Executive Committee of the Universidad Boliviana issued a manifesto calling for the military and police forces to evacuate university premises, for the release of the students and teachers who had been arrested and for fully effective university autonomy. In September 1981, a group of distinguished academics published the document reproduced in foot-note 39 to paragraph 79 of the earlier study, which reiterates the fundamental principles of the Bolivian university and calls for them to be implemented. After a complex process during 1981 and the early part of 1982 involving direct action by the university community to demand recognition of its rights, the agreement, cited in chapter V of this report, was signed on 20 May 1982. It re-established the validity of the principle of university autonomy in accordance with the provisions of article 185 of the Constitution and provided for the issue of a Supreme Decree repealing Supreme Decree 18 187. Following the change of Government, the autonomy and system of joint administration of the Bolivian universities were fully restored on 10 October 1982.

67. On 22 October 1982, the rectors and university leaders of the Universidad Boliviana system, meeting at their XIIIth conference, defined their position "vis-à-vis the new policy initiated in Bolivia as a result of the Bolivian people's struggle to recover democratic freedoms". This interesting document ends with the statement that "the role and the future of Bolivia's universities can only be realized in a context of complete and effective democracy that respects university autonomy".

68. The statement made by Dr. Mario Velarde Dorado, the Minister for Foreign Affairs, to the Diplomatic Corps on 3 April 1982 alluded to the subject of this study:

"Of the struggles waged by the Bolivian people, perhaps none has been more sustained and protracted than that to acquire a form of government that underpins democracy with freedom and social justice. The Republic of Bolivia was born under this sign, but for the greater part of its history it has suffered from authoritarian regimes that violated constitutional rights on the pretext that our country can only be governed by the iron fist of dictators.

The Bolivian people has proved once again that it possesses the will and determination needed to rebuild its democratic institutions. In an unequal struggle, the weaker side, that which was defending democracy, ultimately prevailed because of its moral strength and with the support and encouragement of the international community which you represent.

(...)

Our country is embarking, in the context of the rule of law, upon a new phase of its historical development with a view to effecting economic and social changes that will make possible accelerated growth and the fairer distribution of wealth while strengthening the effectiveness of democratic institutionalism".

69. Following the coup d'état of 17 July 1980, the Ministers of the Supreme Court of Justice, who had been designated in accordance with the procedure established by the Constitution, 31/ were replaced. The new members were nominated by the military Government without regard for the procedures concerning appointments prescribed in the 1967 Constitution, which called for the submission of lists of three by the Senate and designation by the Chamber of Deputies.

70. When constitutional Government was restored on 10 October 1982, the question naturally arose of replacing the members of the Supreme Court of Justice. In the choice between reinstating the justices of the Court appointed in 1980 or making new appointments, the latter course was preferred. This decision gave rise to protests, some commentators taking the view that it was inconsistent with the action taken in the case of the Legislature, namely, instead of the holding of fresh elections, the convening of the body which had been elected in 1979. 32/

---

31/ Articles 125 and 126 of the Bolivian Constitution.

32/ El Diario, 14 November 1982, "Interpretacion Constitucional" by Santiago Berríos Caballero.

At all events, following this political decision, the constitutional precept was complied with and the Senate presented the lists of three to the Chamber of Deputies for the appointment of the justices of the Supreme Court.

71. At the time of the Special Envoy's visit, the Senate had not yet finalized the appointment of the new members of the Supreme Court.

72. The Special Envoy believes that he is duty bound to point out that the functioning of an independent Judiciary is an indispensable guarantee for the effective exercise of human rights and fundamental freedoms. It is to be hoped that, in the phase now beginning in Bolivia, the Judiciary, and particularly the Supreme Court of Justice, will be able to perform in independence and complete freedom its function of monitoring matters related to rights and freedoms and that the remedies of amparo and habeas corpus prescribed in the Constitution and in Bolivian law 33/ will operate in a fair, positive, effective, practical and expeditious manner.

---

33/ Articles 18 and 19 of the Bolivian Constitution. Code of Civil Procedure, 1975, Part VII, Chapter II (arts. 758-761), Habeas corpus; Part VII, Chapter III (arts. 762-767), Constitutional amparo.

VIII. THE VISIT TO BOLIVIA

73. Resolution 1982/33, of 11 March 1982, requested the Special Envoy to report to the Commission at its thirty-ninth session on the discharge of his mandate and invited the Government of Bolivia to continue its active co-operation with the Special Envoy.

The Special Envoy considered it essential for his mission to make a further visit to Bolivia and duly sent in an application to the Bolivian Government.

In note DGOI/JPI/1669/57, dated 26 July 1982, transmitted to the Director-General of the Centre for Human Rights by a note from the Permanent Mission of Bolivia to the International Organizations in Geneva (109/88/GV, dated 9 August 1982), the Government of Bolivia agreed to a further visit by the Special Envoy in November 1982.

In a note dated September 1982, the Director of the Centre for Human Rights informed the Government of Bolivia on behalf of the Special Envoy that the visit would take place from 13 to 22 November 1982.

74. The Special Envoy arrived in Bolivia on the afternoon of 13 November and was met at the airport by the Under-Secretary for Worship, Dr. César La Faye Borda, representing the Minister of Foreign Affairs, and by Mr. Pedro Mercader, Acting Representative of the United Nations Development Programme in Bolivia. The Minister of Foreign Affairs duly appointed a Commission made up of Dr. Karem Longaric, Miss Rose-Marie Crespo and Mr. Mauricio Etienne to draw up the programme of the Special Envoy's visit and to assist him at all times with a view to making his mission more successful.

75. The next day, Sunday 14 November, saw the official activities begin with a public hearing for the purpose of receiving communications, information and reports. Many such were received at this meeting, which was held at the United Nations office; nearly all of them concerned situations which had occurred during the period covered by the previous study and had therefore already been examined. Requests were made for the investigation of these situations and the punishment of the culprits. Speakers also raised again the case of a number of missing persons listed in paragraph 63 of the previous study. The Special Envoy brought up this information in his interviews with the Minister of the Interior and the new National Commission on Missing Persons, as will be described below.

There are very few new cases. With some exceptions, it can be said that there were no complaints of violations of civil and political rights subsequent to October 1982. Two situations referred to at the hearing must, however, be mentioned: the assassination of seven persons on 2 October 1982; and a statement by the Association of Savers in Fixed-Term Foreign Currency Deposits concerning the injustice of the decree of 3 November 1982 on the conversion of existing dollar deposits into Bolivian currency, which, for the holders of such deposits, violated the rights guaranteed by the Constitution and by Bolivian law.

76. On 15 November, the Special Envoy had an interview with the President of the Republic, Mr. Hernan Siles Zuazo, who was accompanied by the Under-Secretary for Foreign Affairs, Mr. Franklin Anaya Vasquez and the Minister Secretary to the Office of the President. In the lengthy interview, the President referred to Bolivia's example in effecting peace and freedom, thanks to the decisive and constant activity of the forces of the people and the existence of a genuine national consensus, a change of such magnitude as that of October 1982. He expressed his

Government's firm resolve to ensure full respect for all human rights. He thanked the United Nations for its action, which had been of great help in making the change possible guaranteeing those rights and freedoms. He summed up the measures adopted and specifically described the effort made by the Government to do away with the remaining paramilitary groups, to fight delinquency, the drug traffic and corruption and to punish, in full observance of the law, those responsible for the monstrous violations of human rights of 1980. Lastly he commented extensively on the question of the drug traffic, the economic problems involved in the production and marketing of drugs, the measures required to combat them and the economic plan implemented by the Government to put the national economy, which was in a very serious state, back on its feet. He also referred to Bolivia's need for understanding, solidarity and international aid at the start of what was a new stage in its history.

77. The same day, the Special Envoy had an interview with the Vice-President of the Republic, Mr. Jaime Paz Zamora. The discussion covered the same questions as the interview with the President of the Republic, but with special emphasis on the problem of the responsibility for human rights crimes, particularly assassinations, torture and disappearances. The question of exiles and their return to the country was also discussed and reference was made to the efficacious contribution which could be made in that respect by the United Nations High Commissioner for Refugees. In addition, a detailed review was made of the question of economic and social rights and the links between the drug traffic and violations of human rights. The Vice-President of the Republic mentioned the great importance which the Government attached to the consideration of the case of Bolivia at the forthcoming session of the Commission on Human Rights (31 January - 11 March 1983) and its wish to submit written comments on the Special Envoy's report and to take part in the discussion of the topic in the Commission.

78. On 16 November, the Special Envoy began by meeting the Minister of the Interior, Dr. Mario Roncal and various matters were studied during their working meeting. Following the reiteration by the Minister of the new Government's firm resolve to respect human rights and to elucidate and investigate past violations, and use the relevant juridical procedure to punish those responsible, the discussion covered the topics listed below. With regard to missing persons, the Special Envoy delivered to the Minister the note dated 26 October 1982 from the Director of the Centre for Human Rights addressed to the Bolivian Chargé d'Affaires in Geneva, giving the list of persons missing in Bolivia prepared by the Working Group on Enforced or Involuntary Disappearances and requesting further information. The Minister said that he had not previously seen the note, but would study it immediately and report on all the cases in question to the Special Envoy and through him, to the Working Group on Enforced and Involuntary Disappearances. There followed an analysis and discussion of Supreme Decree No. 19241, of 18 October 1982, setting up the National Commission on Missing Persons, and a study of the procedure for its application. Both parties expressed the hope that the implementation of that Supreme Decree of the new Bolivian Government would permit the full clarification of the disappearances which occurred in Bolivia under the previous military Governments.

With regard to the activities of the State Intelligence Directorate (DIN), the Special Envoy was informed of its dissolution by Supreme Decree No. 19276, dated 5 November 1982, of its activities in the past, and of the new Government's determination to suppress it and similar organizations and end the unlawful activities of paramilitary groups or forces. Reference was also made to the activities of another organ no longer in existence, DOP (Department of Public Order): provision had been made to demolish its premises, where all kinds of torture and ill-treatment had occurred, and the building had been handed over to the National Congress, which it adjoined. A study was made of Government policy to prevent the

action of persons or groups - frequently connected with the drug traffic - which had been notorious in the past for their violations of human rights and were still an integral part of the state apparatus. The final topic of discussion was the future co-operation between the United Nations and the Bolivian Government regarding the exercise of human rights and the activities to be undertaken or programmed in that respect.

The Minister of the Interior also referred to the grave matter of the files and confidential documents of certain security and intelligence services, which contained, generally on the basis of reports from informers or those with a desire for vengeance, completely unproven comments, opinions and allegations concerning individuals' political and personal backgrounds. Those files, which had for the most part disappeared after the change which took place on 10 October 1982, contained supposed information which the new Government considered invalid and which accordingly could not be invoked because of its illegal origin. 34/

79. That same day, the Special Envoy met with the Minister of Transport, Mr. Ernaudo Poppe Martinez, representing the Ministry of Labour (since the Minister was not in La Paz), and his advisers and immediate collaborators. An analysis was made of the new legal system regarding labour and trade-union matters, which has replaced the previous system based on disregard of trade-union rights and the prohibition of trade-union activity. The Special Envoy was given plentiful documentation which is described in the section of this report on the present internal juridical framework. The Special Envoy was also informed that a study was being made of the possible ratification of a group of international labour agreements to which Bolivia had not yet acceded. In addition, a study was made of the provisions for the securing of economic and social rights, the relation between those rights and the actual economic and social situation, and the measures taken by the present Government to guarantee wages and levels of living in view of the very serious economic situation existing in the country. The last topic studied was the reinstatement of workers dismissed under the previous regime for trade-union activities.

80. On 17 November, the Special Envoy first had a meeting with the President of the Chamber of Senators, Mr. Julio Garrett Ayllón, and with the Chairman and members of the Human Rights Commission of the Chamber of Senators,

---

34/ In this connection, Dr. Roncal said in his statement on the handing over of the premises of the ex-DOP on 22 October 1982: "As Minister of the Interior, I cannot fail to mention on an occasion which, I repeat, I consider to be of exceptional importance, the instruments of the repression which took place on these premises. Like a conjuror's cards, the tormentors manipulated dirty files with dossiers containing clumsy and lying information against members of the public to whom they attributed various political affiliations that were, according to them, a danger to the status quo of the dictatorship. It was a job for idlers and sycophants who amused themselves by using these obnoxious documents to play with the fate, the freedom and the very lives of innocent citizens irrespective of their age or sex. These dossiers seem to have taken to their heels with their authors, whether to some other part of the country or abroad we do not know; this notwithstanding, the Government hereby proclaims that those files are totally invalid as descriptions of the true situation of the citizens in question, and that that is how their depositaries must see the situation if they are not to offend against their own consciences by failing in honesty and veracity. If they believe in those slanderous documents, they deceive themselves. If they do not believe, then they are liars."

Mr. Luis Pelaez Rioja, Mr. Jorge Arteaga Flores, Mr. Carlos Barragán Vargas and Ms. Clara Torrico. During this long working meeting, reference was made to the importance of having a parliamentary human rights commission to monitor for congress in this area and to prepare relevant legislation. A study was made of the future work of this recently-created Commission, which constitutes a novel and positive innovation in Latin American parliamentary law. A useful exchange of views took place between the members of the Commission and the Special Envoy.

81. At the end of the meeting, the Special Envoy, accompanied by Senator Clara Torrico, visited the detention cells of the Political Order now defunct DOP; the latter's prison, now disused, was intended for political prisoners, including many who are now parliamentarians. <sup>35/</sup> The Special Envoy was able to observe the sub-human conditions, the sordid nature and the humiliating and degrading features of this place of detention, an example of a prison system for oppression, that was in itself an offence to human dignity and to the rights and freedoms of the individual.

82. Later the Special Envoy had a meeting with the President of the Chamber of Deputies, Mr. Samuel Gallardo Lozada, and with the Chairman and members of the Human Rights Commission of that Chamber, Mr. Guido González, Mr. Guido Fernández, Mr. Epifanio Conde and Mr. Edgar Ramírez. During a long meeting, the matters dealt with in the meeting with the Human Rights Commission of the Senate were studied again, with new approaches and considerations. In particular, the question of the possibility of dismissals on political grounds was discussed, and the Special Envoy described what in his opinion were the limitations in that respect in a democratic State.

83. Both on his previous visit in October 1981 and during that made in November 1982, the Special Envoy received repeated reports from very varied sources that foreign advisers or collaborators participated in the events of 17 July 1980 and in the commission of torture, ill-treatment and unlawful coercion and in the disappearances which took place in the following months, and that in some cases they acted personally, while in others they instigated or directed very serious violations of human rights.

---

<sup>35/</sup> The Minister of the Interior, Dr. Mario Roncal, in his speech of 22 October 1982, said in this regard: "Particularly during the last 18 years, these premises became a kind of backwater of terror in the neighbourhood of the Congress. How many people groaned with pain and misery here under the criminal yoke of their tormentors, who still walk free or have found new refuges when their portion should have been to have been branded with disgrace by all Bolivians. In the corridors of this resort of crime, before the windows of the high cells, the tears of the prisoners' dear ones wet the floors of the building, but never touched the consciences of the professional tormentors or of the tyrants who gave them orders.

The so-called Department of Political Order or DOP which occupied this building was the main link in a chain of points where political prisoners were concentrated, a chain made up of other safe houses, as they were called in cynical rivalry with those clandestinely established in former times by the misguided extremists.

It was the chief place of prisoners' suffering, a sort of main island of a fantastic South American Gulag Archipelago, of a grotesque system in imitation of the sadism of the Nazis, with the novel feature that it was counselled and advised by the very persons who had in their time declared themselves to be the soldiers of democracy against that type of fascist terror. For this reason, because the inspiration and the guidance of repression were entrusted to ex-fascists who had taken refuge in Bolivia, we are bound to say that we are not yet out of the wood".



The Special Envoy received information concerning the invocation or attempted dissemination by these foreign advisers of the so-called doctrine of national security, 36/ on which the Government authorities of the time sought to base the violations committed.

The Special Envoy considers that this information, which was transmitted to him on both the occasions on which he visited Bolivia, should receive a mention in the present Study.

84. On 18 November, the Special Envoy began by meeting with the Permanent Assembly for Human Rights. Among those present at the meeting were its Chairman, the Reverend Father Julio Tumiri, Mr. Germán Crespo Infantes and Miss Emilia Torrico. During the discussion, Father Tumiri expressed the Assembly's gratitude for the action taken by the United Nations and repeated information concerning violations of human rights by the successive military Governments between 17 July 1980 and 9 October 1982, with particular reference to the question of torture and missing persons. He also gave the Special Envoy a large number of documents on the activity of the Permanent Assembly for Human Rights during the military regimes. Of particular note among points mentioned by Father Tumiri is his affirmation of the need for a fundamental reform of the 1976 Penal Code, which he considers to be based on authoritarian and anti-democratic doctrinaire and legislative criteria. For his part, the Special Envoy thanked and praised the Permanent Assembly for Human Rights for its work and also referred to the fact that many of the Assembly's members had suffered directly as a result of its activities. After discussing the fresh reports of violations of human rights submitted by the Assembly, the Special Envoy asked about the events which took place in Chulumani on 2 October 1982 and were reported at the public hearings on 14 November. Miss Torrico, a member of the Commission sent by the Permanent Assembly for Human Rights, and Mr. Crespo Infantes gave a full explanation of those events. They condemned the seven murders committed, although they mentioned facts which, in their opinion, could explain the collective reaction of the peasants who had executed the officials of the Drugs Control Office; it had not been possible to identify by name those responsible since the act had been a collective one by the peasant community as a whole.

85. The Special Envoy was then received by the Executive Council of the Universidad Boliviana. The following persons attended the meeting: Mr. Ramón Rada Velasco, Executive Secretary of the Universidad Boliviana; Mr. Gastón Vilar, Secretary of Planning of the Universidad Boliviana; Dr. Dulfredo Rua, Academic Secretary of the Universidad Boliviana; Dr. Felipe Ñiñgues, General Adviser; Mr. Nilo Ramos, Vice-Chairman of the University Confederation; and Mr. Luis Pozo and Ms. Debra Pereira, leaders of the Bolivian University Trade Union Federation (Central Universidad Boliviana). During the meeting, statements were made by Messrs. Rada Velasco, Nilo Ramos, Luis Pozo and Dulfredo Rua. The fight put up by the university community against the violations of university autonomy by the military Governments was discussed and analysed, as was that against the 1981 Transitional

---

36/ See, in the earlier study (document E/CN.4/1500), paragraph 47, and footnote 13, which refers to the informative article entitled "Electoral process, national security and collective security" written by the Bolivian jurist, Eduardo Arce Quiroga, and published on 17 September 1980, under the García Meza regime.

statute of the Universidad Boliviana, which ended with the agreement of 20 May 1982 re-establishing university autonomy. The participants also reviewed the current situation, the legality - except in the case of the University of Santa Cruz, where there still applied a system derived from that existing under the military Governments - of the present composition of the university authorities, and the question of student participation in university administration. Several of the speakers mentioned the importance of the Special Envoy's previous visit, which for them personally had meant their release and the possibility of leaving the country as exiles. The Executive Committee of the Universidad Boliviana gave the Special Envoy a wealth of documents on the subject, the relevant points of which are summed up in chapter VII of this study.

86. The Special Envoy then met the Governing Commissions of the Bolivian Trade Union Federation (COB) and of the Trade Union Federation of Mining Workers of Bolivia (FSTMB). Among the leaders present were Mr. Juan Lechín, Executive Secretary of COB and FSTMB; Mr. Simón Reyes, Secretary for International Relations of COB; and Mr. Víctor López Arias, Secretary-General of FSTMB.

After recalling that, on the occasion of the Special Envoy's previous visit, which had taken place during the suspension of trade union activities, interviews had been held with various trade union leaders underground, the participants examined the current situation - the main feature of which was full observance of human rights in general and of trade union freedom in particular - and the questions of the effective exercise of economic and social rights and the serious aspects of the country's present economic situation. Several leaders expressed their gratitude for the action taken by the United Nations on behalf of human rights in Bolivia, for its extent and for its contribution to the restoration of freedom. Lastly, it was recalled that, when the headquarters of COB had been attacked and demolished by the military authorities in July 1980, <sup>37/</sup> some murals by the Bolivian painter José Alandía Pantoja had been saved. Those paintings, which had been kept since then, should be restored and placed in the new union premises. Technical and financial assistance for that purpose was requested.

87. Later, the Special Envoy met the Minister of Education, Mr. Alfonso Camacho Peña, with whom he first considered the topics examined a few hours previously in the meeting with the Executive Committee of the Universidad Boliviana and Government action to ensure enjoyment of cultural rights and to re-establish full autonomy and joint administration of the universities. The Minister then gave a broad analysis, in terms of his activities and personal experience, of the political process in Bolivia between 17 July 1980 and 9 October 1982. Of note is the Minister's assertion that the sadism, brutality and techniques of persecution which had typified the activity of the military Government established on 17 July 1980 had been practically unknown in Bolivia prior to that date. Although the country's history had always been marked by institutional instability, harsh conflicts and the bloody nature of many political acts, systematic torture, assassination as a political instrument and disappearances had been extremes practically unknown in Bolivia until then. The Minister also mentioned the authorities' great expectations of the consideration of the case of Bolivia by the United Nations and how essential were international understanding and support for the democratic Government now in charge of the country's future. He said lastly that to take action against and punish violators of human rights, not as a matter of vengeance but in objective application of the law, was not only an imperative of justice but also a practical means of showing that such persons would always receive their due punishment and that those who desired a return to a reign of terror must bear in mind

---

<sup>37/</sup> According to the newspaper Presencia de La Paz, the Minister of the Interior, Luis Arce, said on 6 January 1981: "With the demolition of this building and the construction of a new and more useful building, the era of chaos and anarchy has come to an end. A multi-story car-park will be built here."

the inescapable consequences of their activities against democracy and against the people. The Special Envoy expressed his thanks for that information and said that, as he fully shared many of those views, he intended to develop the relevant concepts in the conclusions of his study.

86. On the morning of 19 November, the Special Envoy met with the Commander-in-Chief of the Armed Forces, General Alfredo Villarroel Barja, the Chief of the General Staff, General Lucio Añez Rivero, the Commander-in-Chief of the Army, General Simón Sejas Tordoya, the Commander-in-Chief of the Air Force, General Juan Muñoz Nebollo, and the Commander-in-Chief of the Navy, General Wilfredo de la Barra Saavedra.

During the long, interesting and fruitful dialogue, the military chiefs affirmed in the statements made by some of their number, and from which there was no dissent, the firm commitment of the Armed Forces of Bolivia to democracy and to guaranteeing the existence of a constitutional Government. They said that the establishment of such a Government on 10 October 1982 had been the result of a broad national consensus in which the people and the majority of the Armed Forces had been motivated by a common objective. They said there now existed in the Armed Forces a new spirit implying complete accord with democracy and a will to continue the process of restoring fully dignity and morality. They referred to the union between the people and the Armed Forces and said that many military men had also been victims of violations of human rights and therefore understood and knew what such violations meant and were fully aware that the Armed Forces must be an active element within a democratic Government like the present Government of Bolivia in defending and safeguarding those rights in accordance with the Constitution.

89. Immediately afterwards, the Special Envoy met with the High Court of Justice of La Paz. Dr. Agustín Camacho Pazo, President, Dr. Enrique Gonzalez Carraga, Magistrate of the First Criminal Court, Dr. Gastón Pizarro Jara, Magistrate of the Second Criminal Court, and Doctor Orlando Gutierrez Silva, Clerk of the High Court, were present.

The meeting studied the operation of the remedies of habeas corpus and amparo under the military Governments. The Special Envoy commented on the scarcity and ineffectiveness of appeals for those remedies during that period. Very few persons had filed such applications, their processing had been slow and the results had not been indicative of the safeguarding of the rights infringed. This observation led to a broad exchange of ideas on the reasons for that situation, including the situation of the judicial authorities at the time and the population's fear of filing legal appeals. The Special Envoy mentioned the decisive importance of legal action in the defence and protection of human rights and the need for the absolute independence and genuine security of tenure of the judiciary as guarantees of fair and impartial proceedings free from political pressures or fears of any kind. The Special Envoy was told that, at present time the Bolivian Judiciary was being completely renewed, following the nomination, in accordance with the Constitution, of new members of the Supreme Court of Justice, the High Courts and the other courts of the Republic.

90. The Special Envoy is convinced that among the elements which have contributed both in the past and in the present to the lack of guarantees of human rights in Bolivia are the inefficacy, the lack of prestige and of real independence, the disorganization and the professional incompetence of many of the magistrates and of the courts making up the Judiciary in that country.

91. In the afternoon, the Special Envoy visited the Secretary-General of the Bolivian Episcopal Conference, Monsignor Alejandro Mestre. He thanked him for the Church's co-operation in the successful discharge of his mission and its great contribution to the progressive establishment of respect for human rights during the period following that described in the first report.

Monsignor Mestre reiterated the Church's commitment to human rights in accordance with the teachings and directives of His Holiness John Paul II.

92. The Special Envoy then met members of the recently appointed National Commission on Missing Persons, set up under Supreme Decree No. 19241, of 18 October 1982; the meeting was attended by Naval Captain Jorge Bustos, Mr. Germán Crespo Inofuentes, Mr. Iván Paz Claros, Mr. Casto Rivero Velasco, Dr. César Moreno, Dr. Epifanio Conde Wiña, Mrs. Gladys de Solón and Mrs. Gabriela Martínez.

93. Although this Commission was officially to take office the week following the Special Envoy's visit, an informal working session was held. This revealed that several of the missing persons on the list of the United Nations Working Group on Enforced or Involuntary Disappearances are alive; it was even the case that one of those persons, Mr. Germán Crespo Inofuentes, was present at the meeting, as future Chairman of the National Commission on Missing persons. It also transpired that other persons who appear on that list as missing or dead, and that the names of yet other people who have still not been found should be added to it. The details of this matter and the names of the persons concerned are contained in paragraph 29 of this study.

Note was taken of all this information, which the Special Envoy will send to the Working Group on Enforced or Involuntary Disappearances, and agreement was reached on a system of effective practical co-operation with the Bolivian National Commission on Missing Persons.

94. On the morning of 20 November, the Special Envoy had an interview with Messrs. Alfonso Quiroga Santa Cruz, Orlando Quiroga Santa Cruz and Alfonso Bueno Quiroga, the relatives of Marcelo Quiroga Santa Cruz whose murder was described in paragraph 63 (a) of the previous study. Also present was Mrs. Elena Velarde de Tabora. The relatives said that, after the murder, they received what they were told were the ashes of Marcelo Quiroga, but without any documents or any acceptable legal guarantee. Furthermore, they had still not been given the death certificate. They requested legal certification whether the ashes were or were not those of the murdered man and the delivery to themselves of the death certificate. They also said that in the next few days they would begin legal proceedings for a final investigation of the murder, so that its direct and indirect perpetrators could be identified and appropriately sentenced. Immediately afterwards, the Special Envoy met Mr. Ramiro Velasco Romero, a representative of the Socialist Party One (PS-1), who referred to the events in question and said that his Party had already filed a criminal complaint, based partly on recent statements by General Arce Gómez, with a view to obtaining the punishment not only of those who had actually committed the murder but also of those who had planned and ordered it.

95. The Special Envoy held further public interviews that day to receive communications, complaints or statements concerning violations of human rights.

Many of the situations reported had been the object of statements received during his previous visit to Bolivia, while others referred to cases which had occurred under the Government of General Banzer, and some were specifically connected with arbitrary arrests, torture, maltreatment and disappearances. They all, however, concerned violations of human rights under the previous military Governments. Special reference is made elsewhere in this study to some of the most pertinent cases of torture and situations involving disappearances.

The Special Envoy also received the widows and orphans of the massacre which occurred in Chulumani on 2 October 1982, an incident which had already been raised in the hearings on 14 November and discussed with the Minister of the Interior on

15 November and with the Permanent Assembly for Human Rights in Bolivia on 17 November. This complex case, involving the murder of seven officials of the Service for the Control of Drug Traffic were murdered by infuriated peasants is an example of the link between the drug traffic and violations of human rights and illustrates the terrible violence which dominates certain sectors, the inefficacy of the security services and the deficiencies and defects of the criminal justice system. Naturally, the Special Envoy cannot pronounce on the question of guilt or responsibility, but he does wish to point out that the murdered agents were on their first visit to Chulumani and were not those who had committed the earlier acts which probably caused the peasants' reaction, that they were not protected or defended by the forces of law and order when attacked, and that, because of the solidarity and common position of all the peasants, the few persons arrested were released although, in the confessions recorded, some of them admitted and regretted that they had committed the murders, massacres and unspeakable tortures which took place that day. It is to be hoped that there will be no repeat of statements such as those which were apparently made at an early stage by a non-governmental human rights organization, for they are a serious slight to the honour and good name of the victims and their relatives which should, as a matter of principle, always be defended. It is also to be hoped that the Bolivian criminal justice system will finally elucidate the offence and sanction the true culprits in person, and that the Governments declared, but as yet unimplemented, intention of giving the victims' families money to enable them to face up to their present impoverished situation will be carried out.

96. On Monday 22 November, the Special Envoy met a group of leaders of MIR (Revolutionary Left Movement) and relatives of militants of this Party murdered on 15 January 1981. Among those present were: Antonio Aranibar Quiroga, Deputy for MIR; Gloria Arlaya, Deputy for MIR; Oscar Eid, political representative of MIR; and the widows Juana de Camargo and Gladis de Velasco.

The meeting concerned the question of the economic and social situation of human rights in Bolivia in the light of the very serious present situation and the question of the ultimate responsibility for the violations of human rights under the military Government which came to power on 17 July 1980. The Special Envoy was told that the legal proceedings which MIR intended to institute had still not begun because the Judiciary was still being reorganized and the present magistrates were still those appointed by the military Government. In addition to responsibility for torture, inhuman and degrading treatment and arbitrary detention, it was also felt necessary to refer to the question of compensation for the pillaging, theft and abuses committed by the security services and by the paramilitary groups. In commenting on these observations, the Special Envoy repeated the ideas discussed in the conclusion to this study.

97. On 22 November, the Special Envoy held a further hearing to receive communications, complaints or statements. Details of the reports so obtained of further instances of violations of human rights after 17 July 1980, will be found elsewhere in this study, in the section on civil rights. Due note was also taken of cases of disappearances, which are analysed in paragraph 29.

Several statements referred to violations of human rights committed under the Government of General Banzer. The persons who came to give them said that they wished it to be made known that the precedents for the violations subsequent to 17 July 1980 were the abuses which had occurred while General Banzer was in power.

There were other very varied statements, notably requests for economic assistance and for compensation for looting and theft by the security and paramilitary forces.

98. In many of the interviews with officials of the present Government of Bolivia, the Special Envoy was assured that the authorities are very much aware of the importance of the current political process in their country to respect for and the guaranteeing of human rights throughout Latin America and of the general tragic and adverse consequences which the failure of this process would have.

99. On the evening of 22 November, the Special Envoy had another conversation with the President of the Republic. During this interview, the results of this visit to Bolivia were analysed, comments were made on some of the interviews held and an assessment was made of the present situation and the prospects for the future course of the problem of human rights in the country.

Dr. Siles Zuazo repeated the present Government's commitment to democracy and freedom, his gratitude for the action of the United Nations vis-à-vis the tragic political situation in Bolivia after 17 July 1980, the great importance he attached to international co-operation and solidarity in the restoration of the rule of law in Bolivia and the desire of his Government to guarantee human rights to the full, to redress the adverse legacy of the past in that regard and to ensure their full validity for the future.

100. The Special Envoy ended his visit to Bolivia on 25 November 1982.

## IX. CONCLUSIONS

101. In chapter XIV (para. 120-142) of his earlier study (E/CN.4/1500), the Special Envoy gave his conclusions with regard to the situation of human rights in Bolivia for the period under analysis.

102. First of all, he said in paragraph 122 that:

"The Special Envoy is convinced that, following 17 July 1980, grave, massive and persistent violations of human rights were committed in Bolivia".

Later, in paragraphs 132 and 133, he added:

"The Special Envoy could not conclude this report, in which he has stated his moral conviction that grave, massive and persistent violations of human rights have occurred in Bolivia since 17 July 1980, without mentioning that, in his estimation, the situation has improved in recent months and that the most serious and grave violations committed following 17 July 1980 have not recurred with the same intensity.

It is to be hoped that this positive trend, which is a result of the decision adopted by the present Government on 4 September 1981, will continue, intensify and succeed in overcoming the obvious difficulties which restrict, hinder and affect it."

103. During his visit to Bolivia in November 1982, the Special Envoy found an auspicious and positive situation of full respect for human rights and a total identification of the authorities with the idea that it is necessary to ensure, uphold and increase the promotion, defence and guarantee of those rights and that their protection should be free from any kind of discrimination.

104. This situation - which contrasts radically with that which existed after 17 July 1980 - is, however, limited by the adverse economic and social conditions, which can only be overcome by political stability and economic and social development.

105. The difficult issues which the transfer from the earlier military régimes to a democratic system pose for respect for human rights are also being tackled. The present situation gives rise, with regard to the rights of the individuals in general, and of the workers and employees of public enterprises and civil servants in particular, who co-operated with the former authorities to complex problems concerning the reconciliation, without resorting to forms of revenge, of the recognition of the rights of all persons to their own political ideas, to full freedom of thought and conscience and to work and stability of employment with the defence of the democratic State and action against persons who performed punishable acts in the past.

106. Where the violations committed since 17 July 1980 are concerned, the Special Envoy considers that, as the Government authorities of Bolivia recognized both before and after October 1982, the situations must be investigated in depth, responsibilities established and the culprits adequately sanctioned. The

consequences of perpetration of those serious violations of human rights must not remain restricted to verbal and platonic expressions of condemnation, but should take the form of attitudes which, within the bounds of the law and with reasonable political restraint, convey in an exemplary and practical manner the repudiation and the sanctions consequent on the performance of acts which were at the time and always will be morally and legally offensive to all. Naturally, the application of such sanctions and the measures relating to their adoption are the exclusive competence of the Government of Bolivia and the exercise of this competence is an expression of State sovereignty. The Special Envoy cannot, however, refrain from observing that the credibility of the entire system for the guarantee and protection of human rights, which is a result of a harmonious co-ordination of domestic and international law, and its present and future existence depend to a large degree on whether proven violations give rise to effective sanctions and whether the responsibilities deriving from acts of the type in question remain at the stage of words in limbo or are translated into deeds.

107. Nothing definitive would be achieved, however, if it were only a question of establishing individual responsibilities and applying the corresponding sanctions. Particularly in the developing countries like Bolivia, it is necessary to create, construct, maintain and promote the basic political, economic, social, cultural and legal elements which are inescapably the basis for the genuine existence of human rights and fundamental freedoms, and true respect for them, within the pluralism of a state of law.

108. There has been obvious materialization of the positive prospects for the re-establishment, safeguarding and observance of human rights noted in paragraphs 132 and 133 of the Special Envoy's previous study since the inception of a political and legal process that has given rise to basic changes following the events of September and October 1982. By different means and in different phases this process has given very positive results.

109. Between March 1982 and the moment of writing this report, and particularly since 10 October 1982, when the constitutional Government of President Hernán Siles Zuazo was established, the situation of human rights in Bolivia has improved notably. Not only have provisions which inherently effected the recognition and legal guarantees of human rights been repealed: there have in actual fact, been no serious violations of human rights.

110. One extension of the development of the political process, particularly since October 1982, has been this improvement in the situation of human rights, as was explained in paragraph (c). This assertion is based on and supported by the absence of fresh complaints of serious incidents and the direct personal conviction reached by the Special Envoy as a result of his visit.

111. The restoration of the constitutional system in October 1982 put an end to an era which, particularly at its start, was characterized by serious, massive and persistent violations of human rights. The present democratic constitutional Government will thus be the culmination of the process aimed at respect for and the guarantee of human rights and fundamental freedoms in Bolivia within the limits of the de facto situations existing in the country.

112. While gratified by the achievements to date, the Special Envoy cannot refrain from remarking that the United Nations should continue, through advisory services and assistance, to support and promote the local effort - which is the irreplaceable and determining factor - to ensure the full observance of human rights and



fundamental freedoms in Bolivia. This objective, mentioned in the previous report, was restated in terms of some weight in Commission on Human Rights resolution 1982/33, paragraph 4. 38/

113. In the opinion of the Special Envoy, the action of the United Nations with regard to the situation of human rights in Bolivia has been extremely positive and most exemplary. With the comprehension and co-operation of the Government and its activities since September 1981, and with wide-ranging and open contacts with the grassroots, political, trade union and university sectors, but without intervention in matters which are not of the United Nations competence, it has been possible to carry out a task which has assisted and furthered the efforts made to date in Bolivia to re-establish respect and safeguards for human rights. This case, which may well serve as a precedent for action in other similar situations, should also constitute an inspiration and an incentive to Bolivia to continue the process and to strengthen, confirm and develop a situation of respect for human rights in the context of a harmonious and just balance of freedom and order.

114. Much yet remains to be done for Bolivia in terms of human rights. The difficulties and obstacles of all kinds which block, restrict and condition progress, are undeniable and serious. If the present democratic process continues, however, considerable progress is possible in human rights.

115. The Special Envoy believes that consideration of the case of Bolivia, as provided for in Commission on Human Rights resolution 34 (XXVII), should be regarded as concluded. This does not mean, however, that United Nations advisory services, assistance and support should not be continued in order to contribute to progress towards respect for and the guaranteeing of human rights, or that the analysis of the situation of human rights in Bolivia by the competent organs of the United Nations should not be pursued under other procedures.

116. In concluding his work, the Special Envoy wishes not only to express his thanks to the Commission on Human Rights for the confidence it placed in him, but also to mention the honour it has been for him to draw up this study as a contribution to elucidating the present situation of human rights in Bolivia and, essentially, as a small and modest contribution to the task of assistance and co-operation in the restoration of observance of and respect for the human rights and fundamental freedoms of all the persons without distinction of race, sex, nationality, religion or ideology living on Bolivian soil.

117. The Special Envoy cannot end this study without reiterating what he said in paragraphs 117 and 118 of the previous study, and expressing his thanks to the staff of the secretariat of the Centre for Human Rights, the persons who accompanied him on his visit to Bolivia and who co-operated in drafting this report, and the Acting Representative of the United Nations Development Programme in La Paz.

---

38/ "4. Requests the Secretary-General to provide advisory services and other forms of appropriate assistance requested by the Government of Bolivia to help the Government to continue to take appropriate measures guaranteeing the enjoyment of human rights and fundamental freedoms".