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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Situation of human rights in El Salvador

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report on the situation of human rights in El Salvador prepared by Professor José Antonio Pastor Ridruejo, Special Representative of the Commission on Human Rights, in accordance with paragraph 16 of Commission resolution 1988/65 of 10 March 1988.

ANNEX

Report on the situation of human rights in El Salvador prepared by the Special Representative of the Commission on Human Rights in accordance with paragraph 16 of Commission resolution 1988/65

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I. INTRODUCTION

1. This report has been prepared pursuant to resolution 1988/65 of the Commission on Human Rights. It refers to the situation of human rights in El Salvador during the months that have elapsed in 1988, although it must obviously be read in the light of the reports submitted by the Special Representative since 1981. The Special Representative is grateful for the co-operation extended to him in discharging his mandate by the Government of El Salvador and other Governments, the FDR-FMLN, international and non-governmental organizations and other individuals and institutions.

2. By letter of 20 June 1988, the Special Representative told the Government of El Salvador that he would like to visit the country between 18 and 27 September 1988. The Government replied that the officials with whom the Special Representative wished to meet would be available only between 9 and 15 October, with the result that his visit finally took place on the latter dates. During his stay in El Salvador, the Special Representative met with senior authorities of the executive and legislative branches and the judiciary, generals, chiefs and officers of the armed forces, and Mr. Alfredo Cristiani and Mr. Guillermo Ungo, candidates in the forthcoming presidential elections. He interviewed a large number of witnesses brought forward by non-governmental humanitarian organizations and received extensive oral and written information from those organizations and other individuals and institutions. Lastly, he visited the village of El Barillo, near the Guazapa volcano, where he talked to residents of the community established there.

II. OVERALL POLITICAL SITUATION

3. The armed conflict between the regular armed forces and the FMLN-FDR guerrilla forces is continuing, although this situation has not hindered the electoral process envisaged in the 1982 Constitution. In fact, as was widely reported in the news media, elections were held on 29 March 1988 to appoint deputies to the Legislative Assembly of the Republic and the Municipal Councils. It should be mentioned that the army took extensive security measures, the so-called "voting plan", to protect the elections, while the FMLN called for a transport stoppage, the so-called "fire plan" which paralysed large areas of the country. 1/ Moreover, the FMLN attempted to disrupt the elections by means of abductions, murders and the explosion of two car bombs. 2/ Concerning the elections, the Special Representative learned of a press release issued by Convergencia Democrática (Democratic Convergence, made up of the Movimiento Nacional Revolucionario (National Revolutionary Movement), the Movimiento Popular Social Cristiano (Popular Social Christian Movement) and the Social Democratic Party), stating its decision not to participate in the elections, 3/ because, in its view, the necessary guarantees and conditions did not exist. What actually happened is that, after a careful vote count, a new Legislative Assembly was formed consisting of the following: 32 deputies from the Republican Nationalist Alliance (ARENA), 22 from the Christian Democratic Party (PDC) and 6 from the National Conciliation Party.

4. On 31 May 1988, President Duarte travelled to Washington to undergo treatment for a serious illness in a United States hospital. From the hospital, the

President sent a letter on 7 June to all members of the armed forces and the public security forces, urging support for democracy, respect for human rights, defence of democratic institutions, safeguarding of national sovereignty and internal security and tireless efforts to protect the people and bring about peace. During the Special Representative's stay in El Salvador, President Duarte was in the United States for treatment of his apparently incurable illness. The Special Representative deeply regrets President Duarte's illness and wishes to place on record once again the President's unstinting efforts to improve the situation of human rights in his country.

5. On 20 September 1988, Convergencia Democrática made public its platform for the 1989 presidential elections. 4/ At San Salvador, the Special Representative was able to exchange impressions with Mr. Guillermo Ungo, presidential candidate of Convergencia Democrática, who told him that he had received a variety of threats and expressed concern about security conditions during the electoral campaign.

6. The Special Representative regrets to report that the general political dialogue between the Government and the FMLN, begun on 4 October 1987 pursuant to the Esquipulas II Agreement, has been discontinued. During his stay in El Salvador, the Special Representative gained the impression that President Duarte's illness and the proximity of the presidential elections (March 1989) were not conducive to an immediate resumption of talks. The Special Representative wishes to mention in this connection the importance of the Debate Nacional (National Debate) organized by the Archdiocese of San Salvador in which a very broad cross-section, although not all, of Salvadorian opinion is participating. Among the conclusions of the Final Document of that Debate, the Special Representative attaches particular importance to the decision to "request the Government of El Salvador and the FDR-FMLN to comply responsibly with the decisions of the Final Document of the National Debate by agreeing immediately to a cease-fire and reactivating the process of dialogue and negotiation for peace in El Salvador". The Special Representative in any case believes that the alarming resurgence of violence on both sides does not exactly contribute to creating the necessary conditions for a dialogue which might lead to a negotiated peaceful settlement.

7. The Special Representative considers it appropriate to reproduce here some of the findings of a survey carried out among the Salvadorian people on the occasion of the National Debate promoted by the Catholic Church. According to this survey, "although 57.2 per cent of those surveyed think that no political party will be able to put an end to the war, 12.1 per cent think that ARENA is best equipped to do so, while only 4.8 per cent think that the Christian Democratic Party, and 1.9 per cent think that Convergencia Democrática, is best equipped to do so; 67.4 per cent of those surveyed see nothing positive in the present situation. If all the sections of the survey referring to the economic crisis are added together, we find that 99 per cent out of 200 per cent believe that the economy is the main problem, while second place with 59.9 per cent goes to the war and the violence. On the other hand, only 1.1 per cent of the people surveyed expressed concern about foreign interference, to which the National Debate devoted great importance. More people think that the human rights situation has improved than think it has deteriorated (41.3 as against 26.5 per cent); 39.1 per cent think that the FMLN is the worst violator of human rights, while only 17.4 per cent consider the armed

forces, and 8.1 per cent the capitalist right, the worst offenders. Large numbers think that there has been progress in freedom of speech (51.1 per cent), popular participation (36.5 per cent) and political liberalisation (34.9 per cent). On the other hand, lack of confidence in the Government, the Legislative Assembly, the law courts and the armed forces is considerable. The prevailing view as to the causes of the conflict could be broadly summed up as structural injustice. There is a definite rejection of military operations, whether by the armed forces or the FMLN (62.5 per cent). Only 10.7 per cent believe that El Salvador has complied with the Esquipulas II Agreement. It is clear that the United States is by a large margin viewed as the country which most interferes in the affairs of El Salvador (61.7 per cent), although 29.1 per cent think that this intervention is a good thing. Dialogue and negotiation as the best means of resolving the conflict are viewed as the most appropriate means, but without any great enthusiasm (21.3 per cent), although this would still be the preferred method for ending the war (42.5 per cent). Desire for power is seen as the main cause of the breakdown of the dialogue (24.4 per cent), followed by lack of understanding between the armed forces and the FMLN (22.8 per cent)". 5/

III. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

8. Because of limitations on the length of this report, the Special Rapporteur will not reproduce in detail the extensive data he has received on the country's economic situation, but will simply point out that the factors which have resulted in a worsening of the living conditions of the vast majority of Salvadorian citizens persisted during the months that have elapsed in 1988. These factors include the continuation of the conflict, the absence of conditions safeguarding private investment, FMLN attacks on the country's economic infrastructure, the world economic crisis and the prolonged drought. In this connection, the international press 6/ has reported that "more Salvadorians are living in abject poverty than at any other time in this century".

9. The Special Representative was in fact able to see for himself the extreme poverty and harsh living conditions endured by the residents of El Barillo, a village of a little over 1,000 people which was evacuated in 1986 because of fighting in the Guazapa volcano area and has since been resettled. He was particularly appalled at the lack of health care; one young child with a high temperature was crying desperately in his hammock without being able to receive any kind of medical care. Non-governmental organizations told the Special Representative that, on occasion, the armed forces do not allow international medical and food assistance to get through to villages in combat zones because they fear that it will be used by the guerrilla forces.

10. In October 1987, 4,400 Salvadorian citizens were voluntarily repatriated, while in August 1988 a further 1,200 from the Mesa Grande camp in Honduras were repatriated. Such repatriation was made possible by the efforts of the Office of the United Nations High Commissioner for Refugees and the Salvadorian Government. 7/

11. In the area of labour rights, a comprehensive, documented Americas Watch study published in March 1988 8/ deals with so-called Government repression against

organized labour. At San Salvador, representatives of the National Union of Salvadorian workers (UNTS) complained to the Special Representative about the repressive measures taken against UNTS members, for instance, arrest, ill-treatment and, on occasion, summary execution and disappearance, in addition to having bombs explode in their offices. The competent Salvadorian authorities, for their part, said that the UNTS is very close to the FMLN and that its actions are illegal, provocative and intended to destabilize the Government. The Minister of Labour said that he himself had been attacked by UNTS members on one occasion.

12. The National Union of Workers and Peasants (UNOC) also reported the death of one of its members, Adrián Chavarría Girón, which it attributes to the security forces.

13. At San Salvador, the Special Representative received a visit from authorities, lecturers, students and workers of the University of El Salvador, who complained to him about the tiny budget allocated to the University, murders and murder attempts on University premises, arrests and ill-treatment and even disappearances. They also told the Special Representative that, on the occasion of a demonstration on 13 September 1988 calling for an increase in the University budget, students were arrested en masse and later released. Two of the arrested students claimed to have been ill-treated. The competent Government authorities, however, told the Special Representative that it was the students' aggressive and provocative behaviour during the demonstration that had led to their arrest.

14. Lastly, before completing this section of the report on economic, social and cultural rights, the Special Representative must mention that he has continued to receive extensive information about FMLN attacks on the country's economic infrastructure.

15. So far this year, the FMLN has ordered five traffic stoppages in the country, which have sometimes resulted in civilian deaths and injuries, burning and other damage to vehicles, and overall damage to the economy. One of these stoppages coincided with the holding of the legislative and municipal elections. 9/

16. Again, during his stay in El Salvador, the Special Representative met with the Executive Director of the State Electricity Company (CEL), who gave him documentation according to which, between August 1987 and September 1988, FMLN damage to the company's transmission system, plant, equipment and vehicles totalled \$US 8,026,547, not to mention the damage caused to the country's productive apparatus as a result of the temporary loss of electricity. The CEL management also told the Special Representative that on 23 September 1988, FMLN members attacked a convoy which was on its way to carry out repairs at Sitio Viejo canton in Cabañas Department. According to the Government, 10/ there were 11 deaths and 17 cases of injuries among CEL employees and members of the security forces.

17. The Special Representative was also able to meet with the management of the National Telecommunications Administration (ANTEL). According to the detailed documentation received, between September 1987 and August 1988 FMLN damage to the ANTEL plant and equipment totalled 124,736,015 colones.

18. According to a document handed over to the Special Representative by the armed forces of El Salvador, 11/ between September 1987 and September 1988 the FMLN caused the following damage to property and services:

Burning of properties	307
Destruction of workplaces	147
Destruction, attacks on public transport	330
Destruction of the telecommunications system	145
Destruction of the electricity system	1 256
Destruction of railways	32
Sabotage using dynamite	1 473
Sabotage using incendiary devices	305
Machine-gunnings	72

19. According to the international press, 12/ when guerrilla forces occupied the town of Santiago de María on 19 October 1988, they burnt down three coffee-processing plants and, according to an army spokesman, set free 51 common criminals, killed two policemen and wounded six soldiers and one policeman.

IV. CIVIL AND POLITICAL RIGHTS

A. Summary executions

20. The Special Representative has continued to receive a great deal of information concerning politically-motivated summary executions of non-combatants. As in previous reports, he wishes to draw attention to the difficulty of determining accurately the exact number of such crimes, and to the need for caution in interpreting the relevant figures.

21. The figures below are those supplied by Legal Protection 13/ for 1988, from which those for victims of indiscriminate army attacks on the civilian population, a category which will be taken into account elsewhere, have been subtracted.

	<u>Death squads</u>	<u>Army, security forces, civil defence</u>
January	7	2
February	5	8
March	5	1
April	3	16
May	7	9
June	8	12
July	5	6

22. According to the Salvadorian Human Rights Commission (non-governmental), during the period September 1987 to September 1988, 14/ 45 civilians were murdered by the army, security forces or paramilitary forces. Christian Legal Aid has also provided the Special Representative with documentation on seven cases of arbitrary execution of civilians which occurred in El Salvador in the first six months of 1988. 15/ The information is extremely detailed and shows that one death is attributed to armed persons in civilian clothing while the remaining six are attributed to members of the army.

23. The Salvadorian Human Rights Commission (governmental) provides the following figures for deaths of civilian non-combatants attributable to members of the armed forces, for the first eight months of 1988:

January	12
February	8
March	10
April	16
May	8
June	6
July	7
August	23

24. With regard to summary executions attributable to agents of the State apparatus so far in 1988, the Special Representative has also received news of specific incidents which are no doubt included in the figures given in preceding paragraphs. The Special Representative will refer to a number of these incidents, on the clear understanding that the report is selective and in no way exhaustive.

25. According to various sources, 16/ during the night of 25 February 1988 uniformed soldiers arrested Sebastián Gutiérrez, Mario Cruz Rivera and Félix Antonio Rivera in the village of Tepemechín in the Department of Morazán; the bodies of the last two were later found. At San Salvador, the Special Representative heard evidence from relatives of the victims, who said that the bodies bore unmistakable signs of having been brutally tortured.

26. According to Legal Protection, on 14 April 1988 at Soyapango, uniformed soldiers arrested three sand diggers, José Arnoldo Cerritos, Vicente Cerritos and Arturo Navarro, whose bodies later turned up in a ravine in Comalapa canton. 17/

27. According to various sources, 18/ three residents of San José de Guayabal, peasants José Luis Cornejo and Manuel Santamaría and a 12-year-old boy Javier Santamaría, were arrested in late January by uniformed soldiers and civilians. Their bodies were found on 1 February in the place known as "La Puerta del Diablo", bearing signs of torture. At San Salvador, the Special Representative heard evidence from their relatives, who said that the victims had been arrested by uniformed members of the armed forces. Proceedings in connection with the incident have been initiated by a criminal court.

28. Amnesty International 19/ reports that Oscar Leonel Corado, a former political prisoner, was shot dead at 3 p.m. on 28 March 1988 while travelling on a public bus.

29. According to CISPES, 20/ on 6 May 1988 six soldiers murdered Calisto Bonilla a trade unionist belonging to ANTA (National Association of Farm Workers), in the town of San Carlos. At San Salvador, the Special Representative was able to hear evidence from a relative of Mr. Bonilla, who said that she herself had witnessed the murder. CISPES also reports that on 25 May uniformed soldiers murdered trade unionist Julio César Inglés near San Vicente, and that another trade unionist, Domingo Gómez, was murdered on 7 June, by armed persons in civilian clothing.

30. Before arriving in the country, the Special Representative had heard about the discovery of the bodies of 10 civilians in San Francisco canton, San Sebastian judicial district, in the Department of San Vicente; the persons in question had been arrested on 21 September 1988 by uniformed soldiers belonging to the regular army. The Special Representative learned at San Salvador that COPREFA (Armed Forces Press Committee) had claimed initially that the dead men at San Salvador on 9 October were FMLN guerrillas who had died in combat. When he met with the Minister of Defence and other members of the High Command at San Salvador on 9 October, the Special Representative was informed that an investigation by the armed forces was under way, but that so far there were a number of conflicting theories as to what had happened; according to one of theory, the peasants had been arrested by an army unit and had died subsequently when that unit was ambushed by the FMLN; another theory was that they might have been murdered by the FMLN so that the latter could then blame the armed forces. In an interview at the San Vicente barracks with the Colonel-in-Chief of the Fifth Brigade, the Special Representative was told that the ongoing investigation showed that the civilians had died, along with two guerrilla fighters, in an FMLN ambush. At San Salvador, the Special Representative was able to read autopsy reports on nine of the bodies, according to which seven of the bodies bore signs of "tattooing", caused by shots fired at very close range, which makes it highly implausible that the peasants died in an ambush or in combat. Lastly, at San Salvador, the Special Representative personally heard statements from three relatives of the victims, who witnessed their arrest by members of the armed forces. These witnesses said that the guerrilla forces had not been in the area for some time and were certainly not present when the incident occurred. All the information points clearly to the presumed responsibility of members of the armed forces, and the Special Representative actually heard at San Salvador that the judge handling the case had ordered the pre-trial detention of four soldiers.

31. According to the international press, 21/ during the night of 14 to 15 October 1988, uniformed soldiers seized four peasants, Cornelio Marroquín, Oscar Marroquín, Pedro Marroquín and Gertrudis Rivera, at Tres Ceibas near San Salvador and killed them as alleged FMLN members. The Special Representative has been unable to obtain further information on this incident, which occurred only the night before he left the country.

32. In his latest report to the Commission on Human Rights, 22/ the Special Representative had expressed concern at the resurgence of "death squad" activities. This year, the persistence of this type of activity has continued to be a source of concern, and in January, the hierarchy of the Salvadorian Catholic Church reported that it was on the increase. 23/ Indeed, non-governmental

organisations attribute not only abductions and disappearances but also summary executions to these squads. The Special Representative has continued to hear many opinions linking the death squads to the armed forces and security forces, but while he does not rule out that possibility, he must say that his investigation does not lead to any absolutely certain and definite conclusions in specific cases. None the less, he believes that the death squads have stepped up their criminal activities.

33. Bearing in mind the methodological cautions expressed earlier and taking into account all the information available to the Special Representative, it must be concluded that the number of summary executions attributable to agents of the State apparatus has increased over that of recent years. Unfortunately, the steady decline in the number of such crimes after Mr. Duarte took office as Constitutional President of the Republic has been reversed, and the Special Representative considers it absolutely essential to put that change on record. Even the Salvadorian Human Rights Commission (governmental) issued a communiqué in late April 1988 noting the increase in violence in the country and making a strong plea for moderation and respect for human rights. 24/

34. At 7 a.m. on 11 May 1988, military judge Jorge Alberto Serrano Panameño was shot dead on his front doorstep. In a telegram dated 13 May 1988, 25/ the Government of El Salvador said that the crime had been committed by "persons unknown", and one source 26/ noted that, the day before his murder, Mr. Serrano had said on a television programme that he was opposed to the granting of amnesty to extreme right-wing officers implicated in a case of kidnapping for profit, although it is also true that the judge was investigating acts of insurgency. The Special Representative recalls that, on earlier visits to El Salvador, he had met with Mr. Serrano, whom he admired for his great bravery and independence and his obvious respect for the law.

35. The Special Representative has received news 27/ that on 25 August 1988 unknown gunmen killed two National Police officers who were responsible for guarding Colonel Adolfo Majano, a member of the reformist Junta which took power in 1979, who had left his vehicle minutes earlier. Some sources attribute the killings to the death squads.

36. According to various sources, 28/ on 21 August 1988 Swiss doctor Jurg Weiss, who was travelling around combat zones to investigate the effects of Government aerial bombings, was found dead with two Salvadorians. The Special Representative has been unable to reach any definite conclusions as to how these persons met their deaths.

37. The Special Representative has also received a great deal of information concerning summary executions attributable to members of the FMLN.

38. Legal Protection 29/ gives the following figures for murders attributed to guerrilla members in the first seven months of 1988:

January	1
February	3
March	1
April	5
May	1
June	2
July	-

39. The Salvadorian Human Rights Commission (governmental) gives the following figures for 1988 for deaths of civilians and off-duty military personnel attributable to the FMLN. 30/

January	22
February	30
March	24
April	25
May	16
June	12
July	6
August	22

40. The Special Representative has also received specific information about summary executions attributable to the guerrilla forces, which are undoubtedly reflected in the figures shown above. Examples of such executions are recounted below on an illustrative, non-exhaustive basis.

41. According to Americas Watch, 31/ during the night of 11 January 1988, FMLN forces killed Norberto Velasco, a former guerrilla member, at his home at Santa Marta, in the Department of Cabañas.

42. According to the international press and other sources, 32/ in April 1988 FMLN forces claimed responsibility for having killed Mayor Pedro Ventura, aged 55, of the ARENA party in the presence of his wife and young children. According to the same sources, the FMLN also claimed responsibility for the killing of two civilians, alleging they were thieves and spies.

43. In addition, the Government of El Salvador informed the Special Representative 33/ that, between 30 April and 7 May 1988, FMLN forces killed 10 peasants in the Department of Santa Ana and 7 in the north-western region for not collaborating with the guerrilla movement.

44. According to a communication from the Salvadorian Human Rights Commission (governmental), 34/ on 19 August 1988 FMLN forces abducted and murdered the Mayor of Loloquitillo in the Department of Morazán.

45. Americas Watch 35/ provides a detailed account of other summary executions carried out by the FMLN; the victims were José Delgado, José de la Paz Delgado Rodríguez and 10-year old José Osmin Guardado Delgado, killed on 19 January 1988 in San José canton in the Department of Cuscatlán; two youths Pedro Gómez Hernández and José Eulalio Gómez Hernández, killed on 27 February 1988 at Lolotique in the

Department of San Miguel; Norberto Rubio Andrade, Miguel Rubio Andrade and Reynaldo Rubio Andrade, killed in February 1988 in Pajigua canton, Morasán, when guerrillas set fire to their house; Feliciano Góngora, killed in March 1988 at his home in Berlín, Department of Usulután, although the FMLN denies responsibility for this crime; Atilio Ayala and Inés Ayala killed in March 1988 at Las Vueltas, Chalatenango; and Delfina Calles, Noe de Jesús Valencia Calles and José Luis Alfaro, killed on 30 April 1988 in Concepción canton in the Department of Santa Ana.

46. On numerous occasions, the FMLN has tried to justify summary executions or "ajusticiamientos" alleging that the victims are armed forces collaborators or informers ("orejas") and that the executions take place after an investigation and an impartial trial. However, as the Special Representative has said on earlier occasions, these "ajusticiamientos" are incompatible with generally accepted human rights standards. 36/ Americas Watch agrees, taking the view that these summary executions by the FMLN violate the provisions of article 6 Protocol II additional to the 1949 Geneva Conventions on the protection of the victims of war. 37/

47. The Special Representative also notes that, according to various sources, in some cases guerrilla forces, instead of summarily executing alleged armed forces collaborators, simply force them to leave their customary place of residence.

48. According to the international press, 38/ on 19 October 1988 a guerrilla organization detonated two powerful car bombs near a shopping plaza in one of the wealthiest neighbourhoods of San Salvador, wounding eight people, three of them seriously. It was also reported that the Manuel José Arce Urban Commandos, affiliated with the FMLN had claimed responsibility for the bombings.

B. Arrests, abductions and disappearances

49. The Special Representative has continued to receive a great deal of information about persons arrested or abducted for political reasons, some of whom are reported as missing, and, as in previous reports, wishes to make it clear that the relevant figures must be interpreted with great caution.

50. According to Legal Protection, the figures for actions attributable to the armed forces and security forces for the first seven months of 1988 are as follows: 39/

	<u>Arrests</u>	<u>Persons arrested and subsequently missing</u>	<u>Missing persons</u>	<u>Persons arrested and subsequently released</u>
January	-	10	1	15
February	-	-	1	18
March	7	4	1	16
April	10	12	3	24
May	11	13	3	7
June	22	32	2	30
July	12	11	3	16

51. In addition, Christian Legal Aid has provided the Special Representative with detailed documentation on 10 cases of enforced disappearances that occurred during the first six months of 1988. 40/ In three of the cases, those responsible for the arrests were allegedly members of the armed forces; in the other cases, the arrests were made either by persons in civilian clothing or by persons wearing uniforms other than those of the armed forces or the security forces.

52. In evaluating the above information and figures, the Special Representative wishes to point out, first, that he does not deny the right of the Salvadorian authorities to arrest and take legal action against those who take up arms against the established constitutional order, provided that those authorities respect the domestic and international standards by which the country is bound; secondly, the Special Representative points out that the disappearance of some persons is only temporary since, in time, they are found in official detention centres or even at liberty.

53. Nevertheless, the Special Representative has received from various non-governmental organizations extensive information on specific cases of disappearances of trade unionists, university teachers and students and peasants.

54. When he visited the village of El Barillo, the Special Representative heard testimony from eyewitnesses about the 16 September 1988 arrest of peasant Angel López Portillo by the armed forces, on the charge of collaborating with the guerilla forces; since the date of his arrest, nothing more has been seen or heard of Mr. López Portillo.

55. The Special Representative wishes to supplement the above information with data provided by the Chairman of the Working Group on Enforced or Involuntary Disappearances of the United Nations Centre for Human Rights. According to that information, the statistics on cases transmitted by the Working Group show 29 cases that occurred in 1988.

56. With regard to abductions attributable to guerilla organizations, Legal Protection provides the following figures for the first seven months of 1988: 41/

	<u>Persons abducted by guerilla organizations</u>	<u>Persons abducted by guerrilla organizations and subsequently released</u>
January	5	5
February	3	-
March	3	-
April	5	1
May	3	5
June	1	-
July	2	-

57. The Salvadorian Human Rights Commission (governmental) gives much higher figures for civilians abducted by the FMLN so far in 1988: 42/

	<u>Minors</u>	<u>Women</u>	<u>Men</u>	<u>Mass abductions</u>	<u>Total</u>
January	-	6	22	21	49
February	-	-	24	-	24
March	1	1	20	8	30
April	12	3	35	-	50
May	5	1	28	15	49
June	2	-	15	-	17
July	-	2	4	-	6
August	-	1	2	-	3

58. The Special Representative has received from the armed forces of El Salvador extensive information on specific cases of abductions carried out by the FMLN, 43/ in particular on the abduction of minors of both sexes. The information is very detailed, giving names, dates, places and circumstances, and shows that so far in 1988 guerrilla organizations have abducted at least 16 minors. The information also shows that in some cases the minors were released by the FMLN after their relatives had paid a ransom. According to the same source, the FMLN also abducts very young children in order to train them to use weapons and incorporate them in its forces when they reach 11 or 12 years of age.

C. Treatment of political prisoners

59. At San Salvador, the Special Representative asked the Minister of Justice how many political prisoners there were as of 10 October 1988. The Minister replied that there were currently no political prisoners within the meaning of Salvadorian law, just 45 persons who were being detained pending trial for terrorist offences. The latter were being held in various of the country's prisons, along with detainees awaiting trial for other kinds of offences (so-called ordinary offences). The Special Representative notes in any case that, irrespective of how the 45 detained persons are categorized, their number is substantially lower than the 492 political prisoners detained in the Mariona and Ylopango prisons as of 29 September 1987. This decline in numbers is no doubt explained by the application of the Amnesty Act promulgated by the Legislative Assembly on 27 October 1987, which the Special Representative evaluated in his latest report to the Commission on Human Rights. 44/ In any case, according to information supplied by Amnesty International, 45/ 16 political prisoners did not benefit from the Amnesty Act.

60. The Legal Protection Office of the Archdiocese of San Salvador made available to the Special Representative a document 46/ which shows that, as of 17 August 1988, 56 persons which that organization classifies as "political prisoners" were being detained in various prisons in the Republic. The Special Representative believes that the discrepancy between the figures supplied by Legal

Protection and those provided by the Minister of Justice is attributable to the release of prisoners in the interim between submission of the two figures.

61. The Special Representative has received extensive information from some non-governmental organizations working in El Salvador concerning torture, in particular psychological torture, of persons detained for political reasons. To cite one example, Christian Legal Aid has provided the Special Representative with detailed documentation 47/ from which it appears that there were 14 cases of arrest followed by maltreatment during the first six months of 1988. According to that documentation, the alleged ill-treatment took place in detention centres belonging to the army or the security forces.

62. During his stay in El Salvador the Special Representative was informed by various persons who had been detained for political reasons that they had been subjected to ill-treatment, such as being kept blindfold for long periods of time, deprived of food for many hours, subjected to various forms of beating and threats, and prevented from sleeping, even lying or sitting down, for long periods. Although the Special Representative took pains personally to question the broadest possible sample of people, he has to admit that the witnesses he was able to question were too few in number for him to establish precisely what percentage were subjected to ill-treatment and psychological pressure. However, his opinion is basically that taken in his latest report to the Commission on Human Rights, 48/ namely, that there is no generalized practice of psychological maltreatment and that whether or not a detainee is subjected to such treatment depends on a series of contingent factors, such as the value of the prisoner's statements to his interrogators, the military situation, the identity of the captors, etc.

D. Criminal justice

63. In his latest report to the Commission on Human Rights, the Special Representative concluded that, in 1987, activities of the Salvadorian criminal justice system to investigate and punish serious human rights violations remained highly unsatisfactory. With regard to 1988 thus far, the Special Representative has found no information to justify his changing this opinion.

64. According to a document of the Office of the Attorney-General of the Republic dated 11 October 1988 made available to the Special Representative, the Human Rights Department of that Office has initiated 147 investigations since 1 December 1987, of which only 24 have resulted in the identification of the perpetrators and the issuance of the corresponding judicial warrants for their arrest.

65. The same document of the Attorney-General's Office shows that the proceedings brought in connection with the murder of Archbishop Romero, an event which took place in 1980, are still at the investigation stage, pending the extradition of an officer against whom proceedings have been brought; the Armenia case is also at the investigation stage, as are the proceedings instituted in connection with the murder of the Dutch journalists, and little progress has been made in other important proceedings.

66. Regarding the Las Hojas massacre, which took place in February 1983, the Special Representative has learned from Americas Watch 49/ that on 18 July 1988, the Supreme Court rejected the appeal by the Attorney-General against of the lower court ruling granting amnesty to the perpetrators. The Special Representative fully shares the concern of Americas Watch at the Supreme Court ruling.

67. The Special Representative is aware of the efforts being made by the Attorney-General of the Republic and some judges to investigate and punish the serious human rights violations committed in El Salvador, although he is compelled to say that those efforts practically never achieve the desired results, namely, convictions passed down within a reasonable period of time. The murder of Judge Serrano Panameño, described elsewhere in this report, shows the risks to which genuinely honest and independent judges, who undoubtedly do exist in El Salvador, are exposed. But the criminal justice system as a whole is not functioning properly and this state of affairs encourages a pernicious climate of impunity which was exacerbated by the promulgation and implementation of the Amnesty Act in October 1987, as the Special Representative pointed out in his latest report to the Commission on Human Rights. 50/

68. Once again, the competent Salvadorian authorities informed the Special Representative of some of the difficulties impeding the proper functioning of criminal justice. These were enumerated in his latest report to the Commission on Human Rights. 51/ The authorities also explained to the Special Representative the difficulties they were encountering in some cases in finding witnesses to the events who, they said, were being hidden by non-governmental organizations.

69. With regard to plans to reform the Salvadorian judicial system, the impression the Special Representative gained this year is not very encouraging. It is true that the Review Commission on Salvadorian Legislation and the Criminal Investigation Commission are functioning, but it is no less true that despite the activities of the latter, serious human rights violations continue to go uninvestigated and unpunished. As for the Legal Protection Unit, which was another important component of the legal reform, the Special Representative learned in El Salvador that it is not functioning at all, with the result that judges, witnesses and other persons involved in criminal proceedings are not provided with special protection and are exposed to intimidation and coercion, if not to attempts on their lives as happened in the case of Judge Serrano Panameño.

V. RESPECT FOR INTERNATIONAL HUMANITARIAN LAW IN ARMED CONFLICT

70. According to Legal Protection, 52/ the figures for civilian victims of indiscriminate army attacks are as follows:

January	-
February	-
March	3
April	1
May	-
June	-
July	-

71. According to the same source, the figures for victims of violence in military actions "including both guerrilla fighters and civilians, it being impossible to establish the appropriate category for lack of on-site investigation, but most of whom are civilians" are as follows:

January	32
February	65
March	44
April	62
May	42
June	27
July	14

72. In evaluating the high figures given in the previous paragraph, the Special Representative recalls the considerations he presented in his previous reports to the Commission on Human Rights. ^{53/} If one starts from the assumption that it is a war between a regular army and guerrilla forces, distinguishing between a civilian and a guerrilla fighter can be extremely difficult at times. Moreover, because it is difficult or impossible to conduct investigations in situ, extreme caution is advised in evaluating the figures.

73. The Special Representative deduces from his questioning of a number of witnesses that, as in 1987, in the course of fighting with the guerrilla forces, the regular armed forces cause deaths and injuries among the civilian population which, while unjustifiable and disturbing, are in the Special Representative's opinion sporadic occurrences during aerial bombing and mortar attacks, and that it is very difficult to establish their number accurately. The armed forces also cause damage to property, including housing, crops and farm implements. In fact, most of the deaths of peasants and other civilians at the hands of the armed forces are attributable to the summary executions, including some mass executions, which are described in the corresponding part of this report, rather than to attacks on the FMLN guerrilla forces as such.

74. The Special Representative has also received information about deaths and injuries among the civilian population caused by mines planted by El Salvador's regular army. According to Legal Protection, ^{54/} there were seven such deaths in January 1988 but none in the following months up to July. Some of the witnesses questioned by the Special Representative at San Salvador also described two cases of civilian deaths caused by mines planted by the army; the witnesses said that they had seen members of the armed forces lay the mines.

75. CISPES also reports ^{55/} that while the FMLN was transporting a wounded combatant to the ICRC on 5 August 1988, the unit was attacked by the Salvadorian army and suffered serious casualties, including the death of two members of the guerrilla forces and the subsequent disappearance of another.

76. With regard to civilian casualties caused by the military operations of the guerrilla organisations, the Special Representative has continued to receive many disturbing reports of deaths or maimings caused by mines planted by these organisations. The only figure given by Legal Protection ^{56/} is six deaths in

February 1988, but other sources give higher figures. For example, the Salvadorian Human Rights Commission (governmental) gives the following figures:

	<u>Minors</u>	<u>Women</u>	<u>Men</u>
January	1	-	2
February	6	1	4
March	1	1	3
April	5	1	1
May	1	-	-
June	-	-	-
July	-	-	2
August	1	-	-

77. In his previous reports to the Commission on Human Rights, the Special Representative gave the reasons why he thought that most of the civilian deaths and injuries caused by the explosion of contact mines were caused by devices planted by the guerrilla forces. 57/ After his investigation during his visit to El Salvador this year, the Special Representative reached the same conclusion. Americas Watch recently published the following statement: 58/ "Although in many cases it is impossible to determine who is to blame for the mines, the majority are believed to have been laid by the FMLN".

78. The Special Representative has learned, however, of other civilians killed during or as a result of fighting by the FMLN. According to various sources, 59/ six civilians, four of them very young, died on the morning of 17 February when an FMLN bomb or mortar-shell exploded among housing during the attack on the Usulután barracks.

79. Furthermore, according to the Salvadorian Human Rights Commission (governmental), during the FMLN attack on the Army Engineers Training Centre (Zacatecoluca) and the Entre Ríos Cotton Co-operative on 28 June 1988, indiscriminate fire caused the death of a civilian, Mrs. María Victoria Iraheta, and damaged civilian housing. 60/

80. According to the same source, 61/ on 1 September 1988 during the FMLN attack on the National Guard post at Tejutepeque, Cabañas Department, FMLN forces destroyed private housing and machine-gunned a bus, causing serious injuries among the civilian passengers.

81. With respect to humanitarian treatment of injured or wounded combatants, the Special Representative reports that on 4 May 1988 30 FMLN war-wounded (29 men and 1 woman) left the country for Mexico under the auspices of the Catholic Church and the ICRC and with the Government's consent. 62/ However, although the FMLN is holding 36 wounded guerrilla fighters who are awaiting evacuation from the country under the agreement signed with the Government of El Salvador in Panama in January 1982, the evacuation has yet to take place. During his visit to El Salvador, the Special Representative asked the Armed Forces High Command about

the evacuation of the guerrillas in question. The reply given was that the Government was opposed to the measure because the FMLN was mounting the operation for political propaganda purposes, not for humanitarian reasons. The Special Representative thinks that if the guerrilla organisations were to agree to have their wounded members leave the country unobtrusively, the Government would be more likely to authorize the operation.

VI. EFFORTS TO STRENGTHEN RESPECT FOR HUMAN RIGHTS, AND THEIR RESULTS IN 1988

82. In his previous reports to the Commission on Human Rights, the Special Representative emphasized that the Constitutional Government of President Duarte was sincerely concerned about respect for human rights. In his visit to the country in October 1988, the Special Representative found that the same concern continues to exist as a Government policy. In this connection, most of the measures described in the Special Rapporteur's previous report, 63/ which he will not reproduce here in order not to lengthen the present report unnecessarily, remain in force. A new development worthy of note 64/ is that the Salvadorian Human Rights Commission (governmental) drew up a plan of action for 1988 entitled the "Promotion of Human Rights Project", which has one general and one specific goal. The general goal is to improve procedures and techniques for the teaching of human rights and will involve bringing foreign specialists into the country; the specific goal is to secure the advisory services of the relevant specialized agencies.

83. In addition, the Salvadorian Human Rights Commission (governmental) has continued to perform various activities such as receiving and processing complaints; regularly visiting persons being held in prisons and by military detachments, brigades and security forces; confirming reports of human rights violations; providing medical services; and teaching members of the armed forces and security forces, students in schools and universities, justices of the peace and trade unionists about human rights. 65/ The Special Representative has nothing but praise for such activities, which undoubtedly help to make broad sectors of the population aware of the need to respect human rights and in some measure alleviate the plight of the victims.

84. During 1988, however, the Government policy mentioned in the preceding paragraphs has been unable to produce the effects that one would have hoped and wanted, particularly where respect for the most important of all human rights, the right to life, is concerned. In the Special Representative's view, the reason for this state of affairs is that while in the immediately preceding years the Government did not control all the agencies of the State apparatus as efficiently as it should, so far in 1988 it has exerted even less control. One could say that, unfortunately, the actual day-to-day situation of human rights is very different from that envisaged by President Duarte's Government policy.

85. At San Salvador, the Special Representative listened to reliable, independent individuals and institutions who attributed the present human rights situation to a combination of factors: the new balance of political power after the March legislative elections; the vacuum created by the serious illness of the President of the Republic; the climate of impunity resulting from the promulgation and application of the Amnesty Act of October 1987 and the inactivity of the criminal courts; and, lastly, the mounting violence by guerrilla organisations and the resulting heightened response by the people and institutions responsible for dealing with that violence.

VII. CONCLUSIONS

86. Having carefully assessed the information included in this report on the situation of human rights in El Salvador thus far in 1988, the Special Representative draws the following conclusions:

Economic, social and cultural rights

87. The situation of the economic, social and cultural rights of Salvadorian citizens has continued to deteriorate as a result of a combination of factors, principally the persistence of the war and the resultant climate of violence, the world economic crisis, and the drought. The Special Representative draws particular attention to the difficult conditions under which some communities in resettled areas are living.

88. In the opinion of the Special Representative, the FMLN's continuing systematic attacks on the country's economic infrastructure also seriously undermine the present and future enjoyment by Salvadorian citizens of important economic, social and cultural rights.

Summary executions

89. An alarming number of politically motivated summary executions, including mass executions, have been carried out by members of the State apparatus, particularly members of the armed forces, to the point that the clear downward trend in such crimes that occurred after Mr. Duarte took office as Constitutional President of the Republic has been reversed.

90. Many sources attribute summary executions and other serious human rights violations to the so-called "death squads", allegedly linked to the armed forces or the security forces or at least tolerated by them. The Special Representative does not rule out that possibility, although the difficulties he has encountered in investigating such crimes prevent him from reaching absolutely definite conclusions in specific cases. It is his opinion, in any case, that the death squads have increased their criminal activities.

91. The guerrilla organisations, for their part, have persisted in the alarming practice of "ajusticiamientos" of alleged collaborators with the armed forces, a practice which, being incompatible with generally accepted national and

international human rights standards, is equivalent to summary execution. Guerrilla organisations have also revived the equally disturbing practice of indiscriminate urban terrorism, which seriously endangers the lives and physical integrity of civilians.

Abductions and disappearances

92. Disturbing cases of politically motivated disappearances of individuals have been reported. While it is difficult to determine precisely who was responsible, the Special Representative certainly does not rule out the possibility that the death squads were involved.

93. It is disturbing that the guerrilla organisations have also abducted individuals, including young people and very young children.

Treatment of political prisoners

94. As in previous years, the Special Representative has encountered cases of intense psychological pressure amounting to cruel, inhuman or degrading treatment during police interrogation of political detainees. It is difficult to determine the extent of the practice, although it is his belief that it is not widespread and does not represent a Government policy.

Criminal justice

95. Despite the valiant efforts of some judges and of the Attorney-General of the Republic, activities of the criminal justice system to investigate and punish serious human rights violations remain highly unsatisfactory. This, combined with the promulgation and application of the Amnesty Act of October 1987, fosters and reinforces a dangerous climate of impunity.

The armed conflict

96. In the course of hostilities, the armed forces occasionally kill and injure civilians, in numbers not easily established with any accuracy, and damage private property. In the opinion of the Special Representative, some of these deaths and injuries have been caused by the explosion of contact mines.

97. The guerrilla organizations, for their part, continue to cause more civilian deaths and injuries than the army as a result of the explosion of contact mines. The Special Representative also draws attention to the fact that other civilians have been killed or injured by guerrilla fire.

Efforts to strengthen respect for human rights

98. The Special Representative believes that the Government of President Duarte continues to be committed to a policy of respect for human rights although, unfortunately, in recent months the actual day-to-day situation of human rights has been very different from that envisaged by Government policy, particularly where the crucial right to life is concerned. The Special Representative attributes this

situation to the fact that the Government's ability to exert efficient control over all agencies of the State apparatus constitutionally under its authority is less than in the immediately preceding years.

VIII. RECOMMENDATIONS

99. The Special Representative is extremely disturbed by the number and seriousness of the human rights violations committed thus far in 1988. He therefore once again appeals most emphatically to the Government and all the country's political powers, agencies and forces including the guerrilla organizations, to take all necessary steps immediately to put a complete end to attempts on the life and physical integrity of individuals both in non-combat situations and in or as a result of combat.

100. The Special Representative also recommends most emphatically that the constitutional authorities of the Republic and the FMLN should create as soon as possible the conditions for a generous and open dialogue conducive to an early peaceful settlement of the conflict, in accordance with the principles of pluralistic, representative democracy and fundamental human rights as set forth in the Constitution and in the international instruments binding on El Salvador.

101. The Special Representative particularly reiterates to the constitutional authorities of El Salvador the recommendations made in his latest report to the Commission on Human Rights, 66/ and specifically:

(a) The adoption of appropriate measures to ensure efficient control of all agencies of the State apparatus constitutionally under their authority, including the dismissal of members and authorities of the army and the security forces directly responsible for human rights violations;

(b) The earliest possible judicial investigation and punishment of human rights violations;

(c) Urgent attention to the most basic needs of peasant populations resettled in combat zones, particularly their health and food needs.

102. The Special Representative especially recommends to the FMLN and the guerrilla organizations:

(a) That they refrain from the practice of "ajusticiamientos" and from indiscriminate urban terrorist acts;

(b) That they refrain from planting contact mines in a manner incompatible with the norms of international humanitarian law applicable to the civil war in El Salvador;

(c) That they refrain from attacking the country's economic infrastructure and from the practice of prohibiting road traffic.

103. Lastly, the Special Representative would like to recommend to all the States of the international community, in particular the richest and most developed countries, that they increase the assistance necessary to alleviate and improve the living conditions of Salvadorian citizens who have been displaced, made refugees or resettled as a result of the conflict.

Notes

- 1/ El País, 21 March 1988; telex of the same date from the Government of El Salvador to the Special Representative.
- 2/ Americas Watch, Nightmare Revisited 1987-88, September 1988.
- 3/ Convergencia Democrática, press release, San Salvador, 28 January 1988.
- 4/ El Sol, El Salvador on Line, No. 78, 26 September 1988.
- 5/ Final Document. National Debate 1988, Organized by the Archdiocese of San Salvador, September 1988; and document "El Significado del Debate Nacional" (The significance of the National Debate).
- 6/ The New York Times, 16 October 1988.
- 7/ UNHCR, Fact Sheet: Central America and Mexico, October 1988, Vol. 2, No. 1.
- 8/ Labor Rights in El Salvador, March 1988.
- 9/ Information provided to the Special Representative by the Government of El Salvador and other sources.
- 10/ Communication to the United Nations Centre for Human Rights, 3 October 1988.
- 11/ Report by the Armed Forces of El Salvador on human rights during the period September 1987 to September 1988.
- 12/ The New York Times, 20 October 1988.
- 13/ Statistics for the period September 1987 to July 1988.
- 14/ Salvadorian Human Rights Commission (non-governmental). Statistics for the period September 1987 to September 1988 according to newspaper sources.
- 15/ Documentation enclosed with a letter to the Special Representative on 15 July 1988.
- 16/ Amnesty International, AMR 29/12/88; The New York Times, 11 June 1988; and Legal Protection which has provided copies of statements by witnesses.

Notes (continued)

- 17/ Legal Protection has provided the Special Representative with copies of the witnesses' statements.
- 18/ Sermon by Monsignor Rosa Chávez, 6 February 1988; Diario El Mundo, San Salvador, 4 March 1988; Amnesty International, AMR 29/12/88.
- 19/ Amnesty International, AMR 29/11/88, 30 March 1988.
- 20/ CISPES, U.S. Committee in Solidarity with the People of El Salvador bulletin of 11 May 1988; Legal Protection.
- 21/ Miami Herald, 16 October 1988.
- 22/ Document E/CN.4/1988/23.
- 23/ The Washington Post, 4 January 1988; El Sol, Mexico City, 4 January 1988.
- 24/ Diario El Mundo, San Salvador, 27 April 1988.
- 25/ Transmitted to the Special Representative through the Embassy of El Salvador in Madrid.
- 26/ El Sol, El Salvador on Line. A weekly publication of the Center for Central American Studies, 16 May 1988.
- 27/ El Sol, El Salvador on Line, No. 74, 29 August 1988.
- 28/ CISPES, bulletin of 29 August 1988; El Sol, El Salvador on Line, No. 74, 29 August 1988; Legal Protection; Salvadorian Human Rights Commission (non-governmental).
- 29/ Statistics for the period September 1987 to July 1988.
- 30/ Salvadorian Human Rights Commission (governmental). Statistics Section.
- 31/ Americas Watch, Nightmare Revisited, 1987-88, September 1988.
- 32/ International Herald Tribune, 21 April 1988; Americas Watch, Nightmare Revisited, 1987-88, September 1988.
- 33/ Telex dated 13 May 1988 transmitted through the Embassy of El Salvador in Madrid.
- 34/ Communication dated 30 August 1988 from the Embassy of El Salvador in Madrid to the Special Representative.
- 35/ Americas Watch, Nightmare Revisited, 1987-88, September 1988.

Notes (continued)

- 36/ Document E/CN.4/1988/23, para. 28.
- 37/ Americas Watch, Nightmare Revisited, 1987-88, September 1988.
- 38/ The New York Times, 20 October 1988.
- 39/ Statistics for the period September 1987 to July 1988.
- 40/ Documentation attached to the 15 July 1988 letter to the Special Representative.
- 41/ Statistics for the period September 1987 to July 1988.
- 42/ Civilians abducted by the FMLN-FDR during the period September 1987 to August 1988.
- 43/ Report of the Armed Forces of El Salvador on human rights for the period September 1987 to September 1988.
- 44/ Document E/CN.4/1988/23, para. 76.
- 45/ Amnesty International, AMR 29/13/88S 18 July 1988.
- 46/ List of political offenders detained in the various prisons of the Republic, 17 August 1988.
- 47/ Documentation attached to the 15 July 1988 letter to the Special Representative.
- 48/ Document E/CN.4/1988/23, para. 99.
- 49/ Americas Watch, Nightmare Revisited 1987-88, September 1988.
- 50/ Document E/CN.4/1988/23, para. 76.
- 51/ Document E/CN.4/1988/23, para. 58.
- 52/ Statistics for the period September 1987 to July 1988.
- 53/ Document E/CN.4/1987/21, paras. 88-92 and document E/CN.4/1988/23, paras. 62-63.
- 54/ Statistics for the period September 1987 to July 1988.
- 55/ Bulletin of 1 August 1988.
- 56/ Statistics for the period September 1987 to July 1988.

Notes (continued)

- 57/ Document E/CN.4/1987/21, paras. 105-108 and document E/CN.4/1988/23, para. 71.
- 58/ Americas Watch, Nightmare Revisited 1987-88, September 1988.
- 59/ Legal Protection; Americas Watch, Nightmare Revisited 1987-88, September 1988; International Herald Tribune, 19 February 1988, Le Monde, 17 February 1988.
- 60/ Communication dated 15 July 1988 to the United Nations Centre for Human Rights.
- 61/ Communication dated 6 September 1988 from the Embassy of El Salvador in Madrid to the Special Representative.
- 62/ El Sol, El Salvador on Line, No. 58, 9 May 1988; communication dated 10 May 1988 from the Embassy of El Salvador in Madrid to the Special Representative.
- 63/ Document E/CN.4/1987/21.
- 64/ See letter of 28 June 1988 to the United Nations Centre for Human Rights.
- 65/ See Report submitted by the Government of El Salvador, October 1987.
- 66/ Document E/CN.4/1988/23, para. 109.
