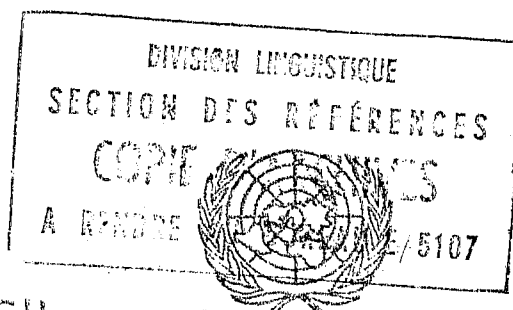


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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND
OTHER DEPENDENT COUNTRIES AND TERRITORIES

Final report on the situation of human rights in El Salvador, submitted
by Professor José Antonio Pastor Ridruejo in fulfilment of the mandate
conferred under Commission resolution 1984/52

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INTRODUCTION

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

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

3. In fulfilment of the mandate conferred on him by the Commission on Human Rights, the Special Representative submitted an interim report to the General Assembly. 1/ On 16 December 1981, the General Assembly adopted, by 68 votes to 22 with 53 abstentions, resolution 36/155.

4. The Special Representative submitted his final report to the Commission on Human Rights, 2/ presenting it personally to the Commission on 4 March 1982. On 11 March 1982, the Commission adopted, by 25 votes to 5 with 13 abstentions, resolution 1982/28, extending the mandate of the Special Representative for one year.

5. In fulfilment of the mandate contained in the above-mentioned resolution of the Commission on Human Rights, the Special Representative submitted his interim report to the General Assembly, 3/ and presented it personally to the Third Committee on 29 November 1982. On 17 December 1982, the General Assembly adopted, by 71 votes to 18 with 55 abstentions, resolution 37/185.

1/ A/36/608, annex. Interim report on the situation of human rights and fundamental freedoms in El Salvador prepared by the Special Representative of the Commission on Human Rights, 28 October 1981.

2/ E/CN.4/1502, Final report on the situation of human rights in El Salvador submitted by Professor José Antonio Pastor Ridruejo in discharge of the mandate conferred by Commission resolution 32 (XXXVII), 18 January 1982.

3/ A/37/661, annex. Interim report on the situation on human rights and fundamental freedoms in El Salvador prepared by the Special Representative of the Commission on Human Rights, 22 November 1982.

6. The Special Representative submitted his final report 4/ to the Commission on Human Rights, presenting it personally to the Commission on 28 February 1983. On 8 March 1983, the Commission adopted, by 23 votes to 6, with 10 abstentions, resolution 1983/29 extending the mandate of the Special Representative for one year.

7. In pursuance of that resolution, the Special Representative submitted his report 5/ to the General Assembly, and presented it personally to the Third Committee on 1 December 1983. On 16 December 1983, the Assembly adopted, by 84 votes to 14 with 45 abstentions, resolution 38/101 on the situation of human rights and fundamental freedoms in El Salvador.

8. The Special Representative submitted his final report 6/ to the Commission on Human Rights, presenting it to the Commission in person on 6 March 1984. On 14 March 1984, the Commission adopted, by 24 votes to 5 with 13 abstentions, resolution 1984/52 on the situation of human rights in El Salvador.

9. In pursuance of that resolution, the Special Representative submitted his report (A/39/636) to the General Assembly, and presented it personally to the Third Committee on 30 November 1984. On 14 December 1984, the Assembly, by 93 votes to 11 with 40 abstentions, adopted resolution 39/119. The text of the resolution is as follows:

"The General Assembly,

Guided by the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the humanitarian rules set out in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto,

Aware that the Governments of all Member States have an obligation to promote and protect human rights and fundamental freedoms and to carry out the responsibilities they have undertaken under various international human rights instruments,

Recalling that, in its resolutions 35/192 of 15 December 1980, 36/155 of 16 December 1981, 37/135 of 17 December 1982 and 38/101 of 16 December 1983, it expressed deep concern at the situation of human rights in El Salvador,

Bearing in mind Commission on Human Rights resolutions 32 (XXXVII) of 11 March 1981, in which the Commission decided to appoint a Special Representative on the situation of human rights in El Salvador, 1982/28 of 11 March 1982, 1983/29 of 8 March 1983 and 1984/52 of 14 March 1984, whereby the Commission extended the mandate of the Special Representative for another year and requested him to report, inter alia, to the General Assembly,

4/ E/CN.4/1983/20. Final report on the situation of human rights in El Salvador, submitted to the Commission on Human Rights by Professor José Antonio Pastor Ridruejo in fulfilment of the mandate conferred under Commission resolution 1982/28, 20 January 1983.

5/ A/38/503, annex. Interim report on the situation of human rights in El Salvador prepared by the Special Representative of the Commission on Human Rights, 22 November 1983.

6/ E/CN.4/1984/25 and Corr.1. Final report on the situation of human rights in El Salvador, submitted to the Commission on Human Rights by Professor José Antonio Pastor Ridruejo in fulfilment of the mandate conferred under Commission resolution 1983/29, 19 January 1984.

Noting that the Special Representative of the Commission on Human Rights points out in his interim report that, owing to the adoption of a new government policy, the number of human rights violations has markedly decreased, which is a welcome development, but that nevertheless a situation of war and generalized violence continues to exist in El Salvador, that there are still serious violations of human rights; that the number of attacks on life and the economic structure remains a cause for concern and that the capacity of the legal system to investigate and punish human rights violations committed in the country continues to be patently inadequate.

Considering that there is an armed conflict not of an international character in El Salvador in which the Government of that country and the opposition forces are obligated to apply the minimum standard of protection of human rights and of humane treatment set out in article 3 common to the 1949 Geneva Conventions as well as the Additional Protocol II of 1977;

Aware that a delicate process aiming at a political settlement has been initiated in El Salvador, which could be hindered if arms or military contributions of any other kind, making it possible to prolong or intensify the war are provided from outside;

Taking into account that the President of El Salvador stated before the General Assembly that the main task of the mandate he was given by the elections of 6 May 1984 is to achieve social harmony and internal peace in El Salvador, and that the Special Representative notes with satisfaction the obvious desire of the new Government to establish a democracy governed by the rule of law and guaranteeing full respect for human rights;

Recognizing that dialogue is the only way, in a spirit of generosity and openness, to achieve a negotiated comprehensive political settlement that will promote genuine national reconciliation; put an end to the suffering of the Salvadorian people and stem the growing tide of internal refugees and displaced persons;

1. Commends the Special Representative for his interim report on the situation of human rights in El Salvador;

2. Expresses its deep concern at the fact that, as indicated in the report of the Special Representative, although the number of human rights violations has decreased, they are still serious and numerous, resulting in suffering for the Salvadorian people;

3. Recalls that the right to life and liberty is paramount and therefore notes with satisfaction the measures which, according to the report of the Special Representative, the Government of El Salvador has adopted to put an end to these serious violations of human rights;

4. Deeply regrets that the persistence of hostilities by the armed forces of the Government has resulted in many civilian casualties and material damage, and also regrets that the hostilities of the guerrilla forces have on occasion caused civilian casualties and material damage to the economic infrastructure of El Salvador;

5. Reaffirms once again the right of the Salvadorian people freely to determine their political, economic and social future without interference from outside, through a genuine democratic process, in an atmosphere free from intimidation and terror;

6. Requests all States to refrain from intervening in the internal situation in El Salvador and, instead of supplying arms or helping in any way to prolong and intensify the war, to encourage the continuation of the dialogue until a just and lasting peace is achieved;

7. Expresses satisfaction at the fact that, in compliance with the appeal made by the President of El Salvador before the General Assembly and the Assembly's own repeated appeals, talks were resumed between the Government of El Salvador and the Frente Farabundo Martí de Liberación Nacional-Frente Democrático Revolucionario, which confirmed its willingness in that respect;

8. Recognizes that this dialogue is an important step in the process of pacification and democratization of the country and therefore calls upon the Government of El Salvador and the Frente Farabundo Martí de Liberación Nacional-Frente Democrático Revolucionario to intensify their talks in the search for a negotiated comprehensive political solution which will put an end to the armed conflict and establish a lasting peace which will allow the full exercise both of civil and political rights and of economic, social and cultural rights by all Salvadorians;

9. Welcomes the fact that the Salvadorian Government and the rebel forces have agreed through indirect talks to exchange prisoners of war and allow the International Committee of the Red Cross to evacuate wounded combatants of the opposition in exchange for the release of Government officials captured in combat, appeals to all States to do what they can to support operations of that kind, and urges the Government of El Salvador and the insurgent forces to continue those practices, which humanize the conflict, and to agree as early as possible to respect the medical personnel and all military hospitals, as required by the Geneva Conventions;

10. Again reiterates its appeal to the Government of El Salvador and to the opposition forces to co-operate fully and not to interfere with the activities of humanitarian organizations dedicated to alleviating the suffering of the civilian population, wherever these organizations operate in the country;

11. Recommends the continuation and strengthening of the reforms necessary in El Salvador, including effective application of agrarian reform, for the solution of the economic and social problems which are the basic cause of the internal conflict in that country;

12. Deeply deplores the fact that the capacity of the judicial system in El Salvador to investigate, prosecute and punish violations of human rights continues to be patently inadequate and therefore urges the competent authorities to continue and strengthen the process of reform of the Salvadorian penal judicial system, in order to punish speedily and effectively those responsible for the serious human rights violations which have been committed and are still being committed in that country;

13. Calls upon the competent authorities in El Salvador to introduce changes in the laws and other measures that are incompatible with the provisions contained in the international instruments binding on the Government of El Salvador in respect of human rights;

14. Renews its appeal to the Government of El Salvador as well as to other parties concerned to continue to co-operate with the Special Representative of the Commission on Human Rights;

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

10. In view of the fact that, in his previous reports 7/ to the Commission, the Special Representative referred to the human rights situation in El Salvador during the last quarter of 1979 and the years 1980, 1981, 1982 and 1983, this report will deal primarily with the situation prevailing in 1984. The Special Representative wishes to point out, however, that there is a continuity between his earlier reports and the present report, which should therefore be considered in the light of those reports.

11. In drafting this report, the Special Representative used information furnished by the Government of El Salvador and other Governments, intergovernmental and non-governmental organizations and other pertinent information concerning the situation of human rights in El Salvador.

12. The Special Representative considered that the report would greatly benefit from continuation of the co-operation extended to him by the Government of El Salvador in the drafting of his earlier reports, and to this end he sought from the Government, through its Ambassador to the international organizations at Geneva, authorization to revisit the country in September 1984. In the third week of July the Ambassador informed the Special Representative that the Government had authorized his visit, but in his personal capacity and not as representative of the Commission on Human Rights, since the Government still had reservations of a legal nature concerning his mandate.

13. As in previous years the co-operation given to the Special Representative by the Government of El Salvador was full and open. The Salvadorian authorities not only granted the Special Representative extensive facilities and freedom of action and movement for the fulfilment of his mandate in the country, but also provided him with copious information and held frank and fruitful conversations with him. The Special Representative once again expresses his gratitude for this co-operation, to which he attaches great importance.

14. Other sectors of the country, including the Church, human rights organizations, private associations and individuals, and left-wing opposition forces likewise gave substantial and valuable assistance in the preparation of the report. The Special Representative expresses his appreciation for this co-operation also.

15. The Special Representative arrived in El Salvador on Sunday, 16 September 1984, and remained in the country until Monday, 24 September. During his visit he had interviews with Mr. José Napoleón Duarte, President of the Republic; Mr. Francisco José Guerrero, President of the Supreme Court of Justice; Mr. José Francisco Guerrero, Attorney-General of the Republic; Mr. Julio Alberto Rey Prendes, Minister in the Office of the President; General Carlos Eugenio Vides Casanova, Minister of Defence; Mr. Fidel Chávez Mena, Minister of Economic Planning; Mr. Julio Alfredo Zamalloa, Minister of Labour and Social Welfare; Mr. Benjamín Valdez, Minister of Health;

7/ E/CN.4/1502, E/CN.4/1983/20 and E/CN.4/1983/25 and Corr.1.

Mr. Ricardo Acevedo Peralta, Deputy Minister for Foreign Affairs; Mrs. Dina Castro de Callejas, Deputy Minister of Justice; Mr. Mario Zamalloa, President of the Central Council for Elections; Colonel Adolfo Antonio Revelo, Director of the National Police; Colonel Aristides Montes, Director of the National Guard; Colonel Ricardo Golcher, Director of the Treasury Police; and Mr. Luis Felipe Alam y Alam, Vice-President of the National Land Bank (FINATA).

16. In El Salvador, the Special Representative also had interviews with the Archbishop of San Salvador, Mgr. Rivera y Damas; members of the Salvadorian Human Rights Commission (governmental), including its chairman, Mgr. Freddy Delgado; Mrs. María Julia Hernández, of the Archdiocesan Legal Protection Office; Father Ignacio Eyacuría, President of the Catholic University of El Salvador; diplomatic representatives of the United States of America, Mexico and Spain accredited in San Salvador; and independent Salvadorian leaders, including Mr. Alfredo Martínez Moreno, a lawyer and university professor.

17. The Special Representative also visited the men's prison at Mariona and the women's prison at Ylopango and the detention cells at the headquarters of the National Police and National Guard of San Salvador, where he was able to talk to political prisoners on a completely confidential basis; he also received, at the office of the United Nations Development Programme (UNDP) in San Salvador, statements from as many as 18 witnesses presented by the Salvadorian Human Rights Commission (governmental), Legal Protection and Legal Aid.

18. In Washington, the Special Representative had an exchange of views with the Inter-American Commission on Human Rights chaired by Ambassador César Sepúlveda. He also met with senior officials of the United States Department of State.

19. In Geneva, the Special Representative talked with Mr. Guillermo Ungo, President of the Democratic Revolutionary Front (FDR); in Madrid, with a delegation from the Political and Diplomatic Commission of the FDR-FMLN, including Mr. Hector Oquellí and Mr. Mario Montes; and in New York, with another representative of the FDR-FMLN.

20. In San José, Costa Rica, he had talks with Mr. Carlos José Gutiérrez, Minister for Foreign Affairs, and with the regional representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Central America, Panama and the Caribbean. He also had talks with Mr. Roberto Cuéllar of Christian Legal Aid; Mr. Rodolfo Villatoro, of Legal Protection; and a representative of the Salvadorian Human Rights Commission (non-governmental).

21. In New York, the Special Representative had conversations with representatives of the Lawyers Committee for International Human Rights, a representative of Medical Aid for El Salvador, and representatives of the Americas Watch Committee.

22. In December 1984, during his stay in New York for the presentation of the interim report to the General Assembly, the Special Representative held meetings with various delegations to the General Assembly, with the Ambassador of El Salvador to the United Nations, and with a representative of the Political and Diplomatic Commission of the FDR-FMLN.

I. GENERAL POLITICAL SITUATION

23. It is public knowledge that, in 1984, the situation of generalized civil violence has unfortunately continued in El Salvador.

24. One event which dominated the country's political life in 1984 and on which the Special Representative commented in his earlier report to the Commission on Human Rights, 8/ was the holding of presidential elections. The first round of the elections took place on Sunday, 25 March 1984 and, according to information received from the Government of El Salvador, 9/ the final results of the voting were as follows: valid ballots, 1,266,276; invalid ballots, 104,557; abstentions, 41,736; contested ballots, 6,924. The participating political parties received the following number and percentage of votes: Christian Democratic Party, 549,727 votes or 43.41 per cent; Nationalist Republican Alliance, 376,917 votes or 29.76 per cent; National Conciliation Party, 244,556 votes or 19.31 per cent; Democratic Action, 43,929 votes or 3.46 per cent; Salvadorian People's Party, 15,430 votes or 1.21 per cent; Permanent Centrist Republican Movement, 6,645 votes or 0.52 per cent; and People's Way Party, 4,677 votes or 0.36 per cent.

25. Since none of the candidates of the various parties had obtained more than 50 per cent of the vote in the first round, the law required that a second round of balloting be held on 6 May 1984 to choose between the candidates who had obtained the highest number of votes in the first round, namely José Napoleon Duarte, the candidate of the Christian Democratic Party, and Roberto D'Aubuisson Arrieta, the candidate of the Nationalist Republican Alliance.

26. On 6 May 1984, the second round of voting for President took place as planned and, according to information received from the Government of El Salvador, 10/ the final results were as follows: valid ballots, 1,404,366; invalid ballots, 81,017; abstentions, 32,582; contested ballots, 6,114; ballots missing, 2,613. The candidate of the Christian Democratic Party, Mr. Duarte, obtained 752,625 votes or 53.59 per cent and the candidate of the Nationalist Republican Alliance, Mr. D'Aubuisson, 651,741 votes or 46.41 per cent. Accordingly, on 11 May 1984 the Central Council for Elections proclaimed Mr. José Napoleon Duarte the winner in the presidential elections.

27. According to information received from the Government of El Salvador, 11/ 37 observer delegations from various countries, totalling over 300 delegates, were present during the first round of voting. According to the same source, representatives of international organizations were also present and the event

8/ E/CN.4/1984/25 and Corr. 1.

9/ Permanent Mission of El Salvador to the United Nations and the International Organizations at Geneva, Boletín Informativo, "Asunto: Elecciones Presidenciales del 25 de marzo de 1984", Geneva, 16 April 1984.

10/ Ibid., Boletín Informativo "Elecciones Presidenciales del 6 de Mayo de 1984", Geneva, 1984.

11/ Ibid., Boletín Informativo of 16 April 1984.

was given wide coverage by the international press. The same source also reported that armed opposition groups conducted a campaign to obstruct the elections which consisted of the burning of thousands of identity cards, numerous acts of sabotage against the electric power system, attacks on villages, polling places, and public transport. The international press 12/ reported that violent but isolated guerrilla actions seriously disrupted the voting process, plunging the capital and the entire eastern part of the country into total darkness the night before the elections.

28. According to the Government of El Salvador, 13/ 32 friendly countries were invited to observe the second round of balloting and the Minister for Foreign Affairs stated later 14/ that nearly 400 observers from 29 countries had come. According to information gathered by the Special Representative from the international press and other sources, the guerrillas also attempted to disrupt the electoral process in the second round of voting. For instance, 15/ two members of the National Police died in San Salvador while attempting to deactivate a bomb; guerrilla fighters attempted, unsuccessfully, to occupy San Miguel, the country's third largest city, where nine civilians were wounded when a mine exploded; and in the early hours of the morning more than 10 explosive devices went off in the suburbs of San Salvador, leaving nine of the country's departments, including the capital, without electric power. Moreover, 16/ the residents of Sensutepeque and Ilobasco, villages in the Department of Cabañas, voted under the continuous threat of guerrilla attack and those in Jutiapa, Tejutepeque and Santa Marta were unable to vote because the rebels occupied their villages. Finally, according to the Government of El Salvador, 17/ guerrilla fighters fired at helicopters transporting foreign diplomats and journalists near San Miguel, but fortunately no one was hurt.

29. It is public knowledge that on 1 June 1984, Mr. José Napoleon Duarte was inaugurated as President of El Salvador in the presence of 45 foreign delegations, which included one President (the President of Guatemala), three Vice-Presidents and eleven Foreign Ministers, including the six Foreign Ministers of the Contadora Group. 18/ Mr. Duarte immediately set up the new Government as follows: Minister for the Presidency, Mr. Julio Alberto Rey Prendes; Minister for Foreign Affairs, Mr. Jorge Eduardo Tenorio; Minister for Economic and Social Development Planning and Co-ordination, Mr. Fidel Chávez Mena; Minister of the Interior, Mr. Rodolfo Castillo Claramount; Minister of Justice, Mr. Manuel Francisco Cardona Herrera; Minister of Finance, Mr. Ricardo J. López; Minister for Foreign Trade, Mr. Manuel Morales Erlich; Minister for the Economy, Mr. Ricardo González Camacho; Minister of Defence and Public Security,

12/ El País, 26 March 1984; International Herald Tribune, 27 March 1984; Le Monde, 27 March 1984.

13/ Government of El Salvador, Ministry of Foreign Affairs, Boletín Informativo "Seinform", 25 April 1984.

14/ Ibid., Boletín Informativo "Seinform", 7 May 1984.

15/ El País, 7 May 1984.

16/ Le Monde, 8 May 1984.

17/ Boletín Informativo "Seinform", op. cit., 7 May 1984.

18/ El País, 2 June 1984.

General Carlos Eugenio Vides Casanova; Minister of Labour and Social Welfare, Mr. Benjamín Valdez; Minister for Agriculture and Livestock Production, Mr. Carlos Aquilino Duarte Funes; and Minister of Public Works, Mr. Ramón Ernesto Rodríguez. 19/ Other appointments included the following: Vice-Minister of Defence in charge of Public Security, Colonel Reynaldo López Nuila, formerly Director of the National Police; 20/ Mr. José Francisco Guerrero, who was elected Attorney-General of the Republic by the Legislative Assembly; and Mr. Francisco José Guerrero, presidential candidate of the National Conciliation Party, who was elected President of the Supreme Court of Justice, also by the Legislative Assembly. 21/ The new Government also replaced the Director of the National Police and the Director of the Treasury Police by Colonel Adolfo Antonio Revelo and Colonel Rinaldo Golcher, respectively.

30. The position of the armed opposition on the elections has been reported in the preceding paragraphs. According to statements by the FDR-FMLN Alliance, neither of those Fronts participated in the elections because, in their view, the conditions for considering the elections genuinely democratic did not exist in El Salvador. Once the elections were over, the Frente Democrático Revolucionario (FDR) stated that it did not recognize their legitimacy, that they could not be termed "national" because a significant part of the Salvadorian people had not participated, the elections having been organized by the right wing for the right wing, and that there was little likelihood that the new Government would be able to pursue a course of dialogue and negotiation. At the same time, however, the FDR said that it was maintaining a positive, receptive attitude, as seen by its readiness to engage in the frankest possible dialogue. 22/ It is indeed public knowledge that, once the elections were over, the FDR-FMLN - which, as mentioned by the Special Representative in his earlier reports, had already shown great interest in dialogue in previous years - made new steps in this direction through the Salvadorian Episcopal Conference, the President of Costa Rica and Mr. Jesse Jackson, candidate for the nomination of the Democratic Party of the United States.

31. In San Salvador, top Government officials told the Special Representative that the Government was prepared to initiate a dialogue with the FDR-FMLN. Indeed, as the Special Representative read in the international press, 23/ in his statement to the United Nations General Assembly on 8 October 1984, President Duarte invited the leaders of the guerrilla movement to hold talks with him, such talks to be held in the town of La Palma on 15 October, without weapons and in the presence of representatives of the international press. The FDR-FMLN leaders quickly agreed, since they had long been calling for the initiation of a dialogue with a view to finding a political solution to the conflict.

19/ Boletín Informativo "Seinform", op. cit., 12 June 1984.

20/ Ibid., 4 June 1984.

21/ International Herald Tribune, 23-24 June 1984.

22/ El Salvador Informativo, International Information Office of the Frente Democrático Revolucionario (FDR) of El Salvador, 30 June 1984.

23/ El País and ABC, 9 October 1984.

32. According to international press reports, 24/ the meeting took place at 10 a.m. on 15 October in the La Palma village church. The Government was represented by President Duarte, accompanied by the Minister of Defence, General Eugenio Vides Casanova, the Minister for the Presidency, Mr. Julio Adolfo Rey Prendes, the President of the Supreme Court, Mr. José Francisco Guerrero, the representative designated by the Assembly, Mr. René Fortín Magaña, and the business executive, Mr. Abraham Rodríguez. The FDR-FMLN was represented by Mr. Guillermo Ungo and Mr. Rubén Zamora and Commanders Fernán Cientuegos, Nidia Díaz, Facundo Guardado and Lucio Rivera. The Archbishop of San Salvador, Mgr. Rivera y Damas, and Bishops Rodrigo Orlando Cabrera and Gregorio Rosa Chávez acted as witnesses. The 10 points of President Duarte's proposal to the FDR-FMLN were as follows:

1. That the Legislative Assembly grant a general and unconditional amnesty to all who had participated directly or indirectly in unlawful acts connected with the situation of political violence.
2. That the necessary measures be taken for the armed forces and the security forces to guarantee freedom of movement to the rebels, who will be reintegrated in society, together with their families and jobs.
3. That political participation be guaranteed for all sectors and all groups irrespective of the ideology they may profess within the framework of the law.
4. That full facilities and official documents be provided to those who want to leave the country, and family members who want to accompany them.
5. That arrangements be made for the arrival of persons wishing to leave El Salvador to settle in some other country.
6. That persons displaced by acts of violence or who left the country because of such violence be provided with the safeguards necessary to enable them to return to their normal place of residence in El Salvador.
7. That their right to engage in political activity be guaranteed.
8. That draft legislation be submitted to the Legislative Assembly which will enable them to register their political party and their slates of candidates.
9. That they be guaranteed freedom of expression and the rights and privileges of political parties.
10. That special programmes be developed for the wounded and disabled.

President Duarte also proposed the establishment of a mixed commission with equal representation for both sides to embark on a continuing dialogue for the achievement of peace.

33. At the La Palma meeting, the two sides agreed to establish a joint mechanism in the form of a commission composed of four delegates appointed by the President of the Republic and four delegates appointed by the FDR-FMLN, with a bishop appointed by the Episcopal Conference of El Salvador acting as moderator. 25/

34. The Special Representative learned through the international press that, shortly after the first round of talks was held, a far-right organization called "Secret Anti-Communist Army" accused President Duarte and the political organizations favouring dialogue of being enemies of the nation and threatened to strike at them through military action. 26/

35. According to information supplied to the Special Representative by the Government of El Salvador and to published reports, 27/ the second round of talks took place on Friday, 30 November 1984 on Catholic Church premises at Ayahualo, close to the capital. The Government delegation comprised the Vice-President of the Republic, Doctor Abraham Rodríguez; the Minister for the Presidency, Mr. Julio Adolfo Rey Prendes; and the Under-Secretary for Public Security, Colonel Reynaldo López Nuilla. Mr. Rubén Zamora, Mr. Héctor Oquelli and Mr. Eduardo Zamalloa spoke for the FDR-FMLN. The Auxiliary Bishop of San Salvador, Mgr. Rosa Chávez, attended as moderator.

36. At this meeting, the FDR-FMLN representatives submitted a "global proposal for a negotiated political solution and peace", a copy of which they transmitted to the Special Representative. In the proposal, after a reminder that "since 1981, our Fronts have repeatedly stressed the need for dialogue in order to arrive at a political solution to the profound national crisis", three phases for dialogue and negotiation are outlined. The first phase involves "establishment of basic political and sovereignty conditions for a negotiated solution" and includes the following points: convening of a national forum in which all the country's social and political sectors can participate and express themselves; agreements on human rights and political freedoms; agreements on the humanization of the war; agreements for the cessation of United States military interference; agreements for the cessation of the arms race; agreements on the cessation of economic sabotage; and an agreement on monitoring of compliance with the foregoing conditions. The second phase concerns the "elimination of hostilities and guarantee agreements" and includes: the adoption of agreements for participation in the Government; the adoption of a jointly agreed electoral time-table; the conclusion of a cease-fire "following demarcation of the territory under the control of each of the parties"; and the resettlement of displaced persons and the repatriation of refugees. The third phase relates to democratic institutions and comprises: the formation of a Government of national consensus; constitutional reform, to be submitted to a national referendum; reorganization of the armed forces on the basis of existing armies; and the calling of general elections.

25/ Political and Diplomatic Commission of the FDR-FMLN of El Salvador, "La Palma: una exposición para la paz. El reconocimiento de la existencia de dos poderes en El Salvador", November 1984. The joint communique appears in annex 5.

26/ El País, 14 October 1984; The Guardian, 25 October 1984.

27/ Government of El Salvador, Ministry of Foreign Affairs, telex No. 28,818 of 25 January 1985 addressed to the Permanent Mission of El Salvador in Geneva; New York Times, 1, 2 and 3 December 1984.

37. According to published reports, 28/ the Ayahualo meeting was long, tense and difficult, although this did not prevent the Government and the FDR-FMLN from drawing up a joint final communique, in which they announced a limited agreement for permitting the free movement of civilian traffic along the country's roads between 22 December 1984 and 3 January 1985. The parties also reached agreement on the working procedures for forthcoming meetings, although they did not indicate when the next one would take place.

38. A few days after the Ayahualo meeting, also according to published reports, 29/ President Duarte stated that he was prepared to suspend military operations during the Christmas period if the opposition guerrillas would do likewise. In addition, referring to the Ayahualo talks, he said that he had not yet lost hope that the negotiations could eventually lead to a negotiated political settlement.

39. The FDR-FMLN alliance, for its part, stated after the Ayahualo meeting 30/ that it had been confronted with "a more complex and difficult situation than at La Palma" but that "in fact -- and despite all its difficulties -- the process of dialogue as a path to peace has been strengthened".

40. According to the international press, 31/ in mid-December the FMLN announced its intention to suspend all offensive military action between 24 and 26 December 1984 and between 31 December 1984 and 2 January 1985. The FMLN stated that the purpose of this truce was to allow soldiers of the regular army to be reunited with their friends and relatives and to enable the people to enjoy the holidays. It further stated that this decision was independent of the agreements signed at Ayahualo for guaranteeing the free and safe movement of traffic in the country between 22 December 1984 and 3 January 1985. The Special Representative has received an FDR-FMLN document concerning this Christmas truce 32/ which terms the truce an "earnest of our willingness for progress in creating conditions conducive to the solution of the conflict through dialogue and negotiation".

41. According to the international press, 33/ the third round of talks between the Government and the FDR-FMLN will take place at the end of January 1985; this was announced by the Auxiliary Bishop of San Salvador, Mgr. Rosas Chávez. By telex dated 25 January 1985, the Government of El Salvador informed the Special Representative that, under Legislative Decree No. 277 of 14 December 1984, the Assembly had extended the suspension of constitutional guarantees for 30 days from 23 December 1984. 34/

28/ New York Times, 1, 2 and 3 December 1984.

29/ New York Times, 7 December 1984.

30/ FDR-FMLN, "Comunicado al pueblo salvadoreño: posición del FDR-FMLN en el proceso de diálogo para la solución política", El Salvador, 7 December 1984.

31/ El País, 13 December 1984.

32/ Executive Committee of the FDR/General Command of the FMLN, 11 December 1984.

33/ ABC, 3 January 1985.

34/ Government of El Salvador, Ministry of Foreign Affairs, telex dated 25 January 1985.

42. According to information provided to the Special Representative by the Government of El Salvador, 35/ the Central Council for Elections of El Salvador has called elections on 17 March 1985 for deputies to the Legislative Assembly, as well as municipal elections. The Special Representative received information on the measures proposed for that purpose from the Central Council for Elections.

II. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

43. The Economic Commission for Latin America and the Caribbean (ECLA) reports 36/ that since 1978 El Salvador has had to cope with two worsening and mutually reinforcing crises in the economic and socio-political spheres. According to that source, the adverse consequences of the international economic recession have been intensified by such concomitant factors as the severe contraction in private investment, the massive flight of capital and even human resources, as well as the increasingly serious effects of the political conflict on the physical and social infrastructure, all manifested in further declines in production and distribution. In summary, ECLA estimates that the evolution of the main economic aggregates in recent years has been as follows: (a) per capita gross domestic product receded to the level achieved in 1961; (b) per capita private consumption is currently lower than that of a quarter of a century ago; (c) open unemployment rose from 6 to 30 per cent between 1979 and 1983, in addition to high levels of underemployment; (d) the minimum wage in real terms dropped by practically one third over three years; and (e) inflation remains at around 13 per cent a year in spite of the stabilization policies applied.

44. In his previous reports, 37/ the Special Representative referred at length to the agrarian reform programme undertaken by the Revolutionary Government Junta in 1980. It should be recalled from this information that, according to article 105 of the current Constitution, adopted on 15 December 1983 and in force since the following 20 December, any natural or legal person in El Salvador may own a farm of up to 245 hectares, which means that the first phase of the agrarian reform programme does not include farms larger in area. It should also be noted that the second phase of the agrarian reform has never been implemented.

45. As far as the first phase of the agrarian reform programme is concerned, according to a memorandum of the Salvadorian Institute for Agrarian Reform (ISTA), 38/ given to the Special Representative in San Salvador, as of 31 May 1984 the number of properties affected was 439, 291 of which were under 500 hectares and 148 over, with a total area of 222,100.4 hectares. It is also reported that between 1 July 1983 and 31 May 1984 ex-owners were compensated for 93 properties, which brought to 249 the number of properties for which compensation was paid in the course of the programme. In addition, 33 deeds of ownership were issued to co-operatives in that period.

35/ Ibid.

36/ E/CEPAL/PLEN.17/L.2, "El Salvador, Principales Rasgos de su Evolución Económica Reciente", New York, 28 May 1984.

37/ E/CN.4/1502; E/CN.4/1983/20; and E/CN.4/1984/25 and Corr. 1.

38/ Salvadorian Institute for Agrarian Reform (ISTA), "Memoria de Labores del 1 de julio de 1983 al 31 de mayo de 1984", San Salvador.

46. Regarding the third phase of the agrarian reform programme - assignment and transfer of certain parcels of agricultural land to those working it as provided under Decree No. 207 of the Revolutionary Government Junta - the Special Representative learned 39/ that, at the end of June 1984, the National Assembly decided not to extend the time-limit for new applications, notwithstanding the plan of the Christian Democratic Party to extend the period. At all events, and according to information received personally by the Special Representative in San Salvador from the management of FINATA - the agency responsible for implementing Decree No. 207 - the situation as of 17 August 1984 with regard to the third phase of the agrarian reform programme was as follows: 40/ 79,105 applications received; 63,635 direct beneficiaries; 381,810 beneficiaries in all. According to the same source, as of the same date 56,152 provisional deeds of ownership had been issued, with 47,565 direct beneficiaries and a total of 285,390 beneficiaries. The FINATA authorities also explained to the Special Representative that the quality of life of the people who have benefited from Decree No. 207 has improved overall, though not to the extent that those authorities would have wished.

47. In another connection, the Special Representative has been informed of the 236th report of the Committee on Freedom of Association of the International Labour Organisation 41/ which includes case No. 1258, entitled "Complaints presented by the World Federation of Trade Unions and the International Confederation of Free Trade Unions against the Government of El Salvador". The report refers to the trial of 11 union members and leaders of the Electrical Energy Workers' Trade Union who were taken into custody on 23 August 1980, noting that the Government of El Salvador states that it has released the trade union leader Héctor Bernabé Recinos and another nine union members, but supplies no information on Mr. Jorge Artigas. Regarding this case, the Committee recommends a number of conclusions to the Governing Body for approval, including the following: it requests the Government to indicate the specific facts with which Mr. Jorge Artigas is charged and expresses its concern at the fact that Mr. Artigas is being tried by a military court; it notes that the detention or sentencing of union leaders or members for reasons connected with their activities in defence of the interests of workers constitutes a serious interference with trade union rights in particular; and it regrets that the Government has not replied to other allegations.

48. The Committee on Freedom of Association of the International Labour Organisation 42/ also dealt with a complaint submitted by the World Confederation of Organizations of the Teaching Profession against the Government of El Salvador for its treatment of the Salvadorian organization "ANDES 21 de Junio". Regarding this complaint, the Committee recommends a number of conclusions to the Governing Body for approval, including the

39/ Washington Post, 30 June 1984; New York Times, 30 June 1984; International Herald Tribune, 2 July 1984.

40/ Financiera Nacional de Tierras Agrícolas (FINATA), "Actividades operativas de Ejecución del Decreto 207".

41/ Document GP.228/11/12, Two hundred and twenty-eighth session, Geneva, 12-16 November 1984.

42/ Ibid.

following: it regrets that the premises of "ANDES 21 de Junio" were searched and that lists of members were seized without any judicial warrant authorizing this action appearing to have been issued; it notes that freedom of association can be exercised only in conditions in which fundamental human rights, and in particular those relating to the inviolability of human life and personal safety, are fully respected and guaranteed. The Committee requests the Government of El Salvador to take steps to end the persecution of "ANDES 21 de Junio" and its members and to enable them fully to exercise their trade union rights, and it further requests the Government to conduct an investigation into the alleged interception of correspondence between "ANDES 21 de Junio" and other trade union organizations.

III. CIVIL AND POLITICAL RIGHTS

49. The Special Representative has continued to receive assorted information concerning violations of civil and political rights in El Salvador. The nature of the information makes it inappropriate to conduct a detailed, critical review of the events reported in the light of the specific domestic and international legal provisions which are binding on the Republic of El Salvador in this area. Accordingly, as in his earlier reports, the Special Representative has felt it preferable to adopt a different method, namely, classification which takes comprehensive account of the most serious violations and the actual circumstances in which such violations occurred. This classification, which in no way implies any rigid distinctions between the various categories, is as follows: (a) murders; (b) abductions and disappearances; (c) political prisoners; (d) position of Salvadorian criminal justice; and (e) human rights violations attributed to guerrilla forces.

1. Murders

50. The Special Representative has continued to receive information concerning political murders of civilian non-combatants in the country. As in his earlier reports, the Special Representative is fully aware of the difficulty of accurately determining the exact number of crimes of this kind and considers that this difficulty is due to a variety of causes. The first is the magnitude of the figures involved. Another is that in many cases information on murders comes to light only when bodies are found, and it is therefore very difficult to determine whether they were really prompted by political motives or were simply ordinary murders. There is also the fact that the armed conflict is between a regular army and a guerrilla organization and it may sometimes be difficult to determine whether those killed are civilians or combatants. The Special Representative considers that this is an area in which figures must be treated with great caution, since there is no way of being sure that the reported figures for political murders of civilians are completely reliable; the discrepancies between the lists provided by the various sources clearly indicate the need for circumspection.

51. Even greater caution, if possible, is required in assessing the figures in this report than in earlier reports. Information received by the Special Rapporteur from various sources indicates that, particularly in recent months, there has been a substantial reduction in the number of political murders of non-combatants unrelated to hostilities, whereas, according to some sources, there has been a less significant reduction or no reduction at all in civilian deaths resulting from the hostilities or in combat.

52. The Special Representative has learned, in this connection, about the dispute between the United States Embassy in El Salvador and the Archdiocesan Legal Protection Office of San Salvador. The United States Embassy, in a document dated 3 July 1984, ^{43/} referred in particular to Legal Protection's list of violent deaths, almost all attributed without further qualification to the armed forces, and criticized the figures on the ground that, despite the assertion that they were virtually all based on eye-witness accounts, they failed to provide such basic

^{43/} United States Embassy in El Salvador, San Salvador, "Analysis of Legal Protection's Statistical Approach to Violence in El Salvador", 3 July 1984.

information as the sex, age or identity of the victims. The view of the United States Embassy is that Legal Protection is using local press reports of numbers of victims of political violence, then including guerrilla losses as though they were civilians. Legal Protection's response to the Embassy's criticisms 44/ recognized that there might be flaws in the method used, such as omission of events which do not come to its attention, the possibility of incorrect information and a serious drawback, namely that the events could not be corroborated in situ. The Special Representative is of the view that, with respect to victims of hostilities, it is frequently very difficult to specify, owing to the lack of an immediate on-the-spot investigation, both the exact number of dead and whether those killed were guerrillas or civilians. The difficulty is compounded by the existence of so-called masas or politically committed civilians who, without actually fighting, nevertheless assist the guerrillas. The Special Representative refers to the particular problem of attacks on masas elsewhere in this report. 45/

53. The figures supplied by Christian Legal Aid for the first eight months of 1984 46/ attribute the following civilian deaths to the army, security forces and paramilitary squads: 493 in January; 222 in February; 432 in March; 205 in April; 231 in May; 121 in June; 229 in July; 223 in August; 69 in September; and 60 in October. The source stresses that of those victims, there were reportedly 478 unidentified persons in January; 194 in February; 387 in March; 176 in April; 197 in May; 97 in June; 145 in July; 141 in August; 37 in September; and 48 in October. Christian Legal Aid also points out that "the numbers of unidentified victims largely represent civilian victims killed in large-scale hostilities, for example, indiscriminate bombing and shelling". It would then follow, in Christian Legal Aid's view, that the number of persons killed aside from combat deaths would be as follows: 15 in January; 28 in February; 45 in March; 29 in April; 34 in May; 24 in June; 84 in July; 82 in August; 32 in September; and 12 in October. That is to say, a total of 385 persons during the first 10 months of the year.

54. According to Archdiocesan Legal Protection, 47/ in January 1984 241 civilians were murdered by members of the army, security forces and paramilitary squads. The information does not give even an approximate figure for those killed behind the frontlines or as a result of the fighting or in combat. In February, 269 civilians are reported to have been murdered, 48/ including 195 by the Salvadorian army, 169 in military operations, and 14 by the army of another country. In March, 49/ 407 civilians are reported to have been murdered, of whom 269 were killed in military operations and 43 in circumstances unknown. In

44/ Archdiocesan Legal Protection Office, Archdiocesan Commission on Justice and Peace, San Salvador, El Salvador, C.A.; "Comentario al 'Análisis de las Estadísticas de Tutela Legal sobre la violencia en El Salvador' presentado por la Embajada de los Estados Unidos de Norteamérica al Arzobispado de San Salvador", San Salvador, 31 July 1984.

45/ Chapter V.

46/ Christian Legal Aid "Archbishop Oscar Romero" of El Salvador, "Victimas de la población civil por la violencia política que azota el país, imputadas al Ejército, Cuerpos de Seguridad y Escuadrones Paramilitares", document submitted in person to the Special Representative in September 1984, and supplemented in November 1984.

47/ Archdiocesan Legal Protection, report No. 21, January 1984.

48/ Ibid., report No. 22, February 1984.

49/ Ibid., report No. 23, March 1984.

April, 50/ there were reportedly 229 civilian deaths, 47 of them in military operations and 46 in circumstances unknown. In May 51/ 174 civilians were reported killed, 70 of them in military operations and 15 in circumstances unknown. For the month of June, 52/ Legal Protection, using a new methodology, reported eight murders attributable to paramilitary squads, one to the civil defence organization and two to the army; it also referred to 68 victims of political violence in military actions, comprising non-combatants, combatants and civilians, who could not be classified without an on-the-spot inspection although most of them were probably civilians; and 50 killed in ambushes, clashes or patrols, most of them probably combatants, although without an on-the-spot inspection that could not be established with certainty. For July, Legal Protection reported 53/ two murders attributable to paramilitary squads and 73 to the army, 72 of which occurred during indiscriminate attacks on the civilian population, two after the victims were dragged out of their houses and one in circumstances unknown. It also reports 37 victims of political violence in military actions, comprising combatants, non-combatants and civilians who could not be classified without an on-the-spot inspection, although most of them were probably civilians, and 73 killed in ambushes, clashes or patrols, most of them probably combatants, although without an on-the-spot inspection, that could not be established with certainty.

55. Owing to understandable communication difficulties, by the time when this final report to the Commission on Human Rights was completed, the Special Representative had not received any direct information from Legal Protection regarding murders committed at later dates. He has, however, received some indirect information. According to the Boletín of UCA (Catholic University), 54/ Legal Protection reported that 146 persons had died as a result of political violence attributable to the army, security forces and death squads between 31 August and 4 October; of these deaths, 92 occurred in operations and clashes, and consequently 54 occurred in non-combat situations. The same source 55/ reproduces the Legal Protection figures for the period 28 September-18 October: they show 87 deaths, 41 of them in military operations, which means that 46 occurred in non-combat situations. The report in question states that, during the week of 12-18 October, there were no known deaths attributable to the security forces or the death squads.

56. The Salvadorian Human Rights Commission (governmental) for its part 56/ gives the following figures for victims of political violence in El Salvador during the period 1 January 1984 to 2 September 1984: civilian deaths attributable to members of the armed forces, 90; civilian deaths resulting from acts by unidentified persons, 97; civilian deaths attributable to identified organizations or groups, 18; civilian deaths resulting from clashes between the army and the FDR-FMLN, 9.

50/ Ibid., report No. 24, April 1984.

51/ Ibid., report No. 25, May 1984.

52/ Ibid., report No. 26, June 1984.

53/ Ibid., report No. 27, July 1984.

54/ "Cartas a las Iglesias. Desde El Salvador", UCA, 1-15 October 1984.

55/ Boletín, 16-31 October 1984.

56/ Salvadorian Human Rights Commission, San Salvador, "Estadísticas Enero-Agosto de 1984".

57. The United States Embassy in El Salvador submitted another list to the Special Representative, based on local press reports. ^{57/} According to that list, the number of civilian deaths attributable to political violence in 1984 was 96 in January, 68 in February, 100 in March, 144 in April, 57 in May, 62 in June, 46 in July, and 43 in August, or a total of 616. Also according to that list, which had estimated the number of civilian dead in June, July and August 1983 at 297, the figure for the corresponding months of 1984 - when Mr. Duarte was already President - was 151.

58. These, then, are the lists made available to the Special Representative which he is submitting to the Commission on Human Rights. The Special Representative wishes to add that an analysis of the various figures shows that there has been an appreciable reduction in the number of civilians murdered for political reasons outside of military actions in 1984 as compared with previous years and that it has been particularly apparent in the last few months. The Special Representative can only report this trend and take satisfaction from it. However, it is also his fundamental duty to recall that the separate branches of government of the Republic of El Salvador - legislative, executive and judicial - have an obligation to take all necessary steps to eradicate completely the political murder of civilians, thereby ensuring full respect for the fundamental right of all human beings, the right to life.

59. The downward trend in political murders has also been confirmed by the Americas Watch Committee in its preliminary report of July 1984, ^{58/} which speaks of significant reductions in certain kinds of major abuses, including a decline in death-squad killings. In any case, that source believes that there has been no reduction in other kinds of abuses that are more difficult to monitor, referring to indiscriminate attacks on civilian non-combatants in conflict zones of El Salvador, particularly by the Salvadorian Air Force. This is a question that is also of serious concern to the Special Representative and it will be dealt with as extensively as possible in chapter V of this report in connection with human rights violations during or as a result of hostilities.

2. Abductions and disappearances

60. The Special Representative continues to receive information about persons abducted or arrested for political reasons, some of whom are reported as missing, and he wishes to observe in this connection that again the figures must be interpreted with the greatest caution. This must be done, firstly, because subsequent to their arrest or abduction the bodies of such persons are sometimes found and those cases are counted as murders. In other cases, it is discovered that persons abducted are alive in official detention centres, and these are counted as political prisoners. In still other cases, the arrested persons are released. Finally, there are cases in which those arrested are not found, presumably because they have been murdered and their bodies hidden; only then can one properly speak of disappearances. The Special Representative has considered it necessary to give these explanations before including in his report information on figures concerning abductions and disappearances which, in many cases, overlap with those for murders and political prisoners.

^{57/} United States Embassy, San Salvador, "Civilian deaths attributable to political violence as reported by the press from 1 September 1983 to 31 August 1984".

^{58/} Americas Watch Committee, "Preliminary Report on the Human Rights Situation in El Salvador during the first six months of 1984", 13 July 1984.

61. According to Legal Protection, 59/ 61 arrests attributed to security bodies were reported in January and 45 of the persons arrested subsequently reappeared in official detention centres; in February, 60/ there were 65 persons arrested, 35 of whom turned up in official detention centres; in March, 61/ there were 43, 28 of whom turned up in official detention centres; in April, 62/ there were 25, 17 of whom turned up in official detention centres; in May, 63/ there were 47, 21 of whom turned up in official detention centres; in June, 64/ there were 15, 8 of whom turned up in official detention centres; and in July, 65/ there were 11, all of whom reappeared in official detention centres.

62. The foregoing figures indicate that, according to Legal Protection, 16 persons disappeared in January 1984; 30, in February; 15, in March; 8, in April; 26, in May; 7, in June; and none in July. These figures indicate an appreciable decline in the number of disappearances as compared with previous years. The Special Representative welcomes this decline in the number of disappearances and takes special note of the fact that no disappearance was reported during July.

63. Christian Legal Aid, for its part, provides information for the period June-October 1984, 66/ according to which the number of reports of arbitrary arrests attributed to the Government armed forces and paramilitary groups (death squads) was as follows: June, 26; July, 24; August, 44; September, 34; October, 18. According to the same source, the number of reports concerning disappearances was: 10 in June; 5 in July; 12 in August; 9 in September; and 3 in October.

3. Political prisoners

64. According to information supplied to the Special Representative in San Salvador, 67/ a total of 375 men and 23 women were being held as political prisoners in La Esperanza Prison at Mariona and the Ylopango Women's Rehabilitation Centre, respectively, as of 21 September 1984. The Special Representative also learned that 2 political prisoners were being held in the quarters of the Treasury Police in San Salvador and 5 in the San Salvador quarters of the National Guard on 19 September 1984; on 20 September 1984, 45 political prisoners were being held in the San Salvador quarters of the National Police.

59/ Legal Protection, report No. 21, January 1984.

60/ Ibid., report No. 22, February 1984.

61/ Ibid., report No. 23, March 1984.

62/ Ibid., report No. 24, April 1984.

63/ Ibid., report No. 25, May 1984.

64/ Ibid., report No. 26, June 1984.

65/ Ibid., report No. 27, July 1984.

66/ Christian Legal Aid, "Informe sobre la situación de los derechos humanos en El Salvador en el período junio-octubre 1984", San Salvador, 30 November 1984.

67/ Government of El Salvador, Ministry of Justice, official list from the Vice-Minister of Justice, 21 September 1984, given to the Special Representative.

65. The Special Representative visited Mariona Prison for men, which, as in the previous year, was, generally speaking, well-ventilated and clean. There he talked privately with as many political prisoners as he wanted. He talked first with 10 former workers of the River Lempa Electricity Company (CEL) who had been held since 22 August 1980. They expressed their frustration at not having been brought to trial although the competent Salvadorian authorities told the Special Representative that a public hearing would be held soon. The Permanent Mission of El Salvador to the United Nations and International Organizations at Geneva sent a note verbale dated 24 October 1984 to the Centre for Human Rights stating that 10 trade-unionists, former CEL workers, had been released on 10 October 1984. The Special Representative also met with three leaders of the Salvadorian Political Prisoners' Committee (COPPEs), Mr. Ricardo Ramos, Mr. Jorge Alberto Linares and Mr. Bernabé Resinos, the last of whom is a former CEL worker who was released on 10 October, as mentioned above.

66. The Special Representative also visited the Ylopango Prison for women, which, in addition to being well-ventilated and clean, had a garden. There he talked privately with three prisoners who were members of COPPEs, namely, Ana Silvia Vazquez Marroquín, Olimpia Montoya, and Santos de los Angeles Díaz Herrera.

67. As in the previous year, the Special Representative was able to see that many posters containing FDR-FMLN political propaganda were displayed in the quarters of the Ylopango Prison allocated to political prisoners. The prisoners told the Special Representative that permission to display such propaganda was one of the privileges they had "won". According to the men held as political prisoners at Mariona, they were also free to display whatever political propaganda they wanted in their quarters.

68. Some of the political prisoners interviewed by the Special Representative said that they had been tortured following their arrest, although there were fewer such charges in 1984 than in previous years. The political prisoners also said that torture had not been practised in Mariona and Ylopango for some time. In that respect, the Special Representative shares the view expressed recently by Americas Watch 68/ that there has been "a modest abatement in the use of torture" in 1984. At all events, according to information from Christian Legal Aid received by the Special Representative after the preparation of his interim report, 69/ during the period May-August 1984, that body examined 121 cases of torture committed in military units and on premises of the security forces.

69. With regard to the legal status of political prisoners, the Special Representative was once again able to observe that judicial procedures were extremely slow. That subject will be discussed in greater detail and depth in the next chapter of this report.

68/ Americas Watch Committee, "Preliminary report ...", op. cit., 15 July 1984.

69/ Christian Legal Aid, statement to the Working Group on Enforced or Involuntary Disappearances set up by the United Nations Commission on Human Rights.

4. Status of Salvadorian criminal justice

70. In his previous report to the Commission on Human Rights, the Special Representative expressed his concern at the general inactivity and passivity on the part of Salvadorian criminal justice in the face of violations of human rights, although he acknowledged the difficulties and the plans to reform the judicial system. In this report, the Special Representative intends to assemble and update the information relating to the months elapsed in 1984, taking into account two considerations: first, judicial efforts to investigate and punish serious human rights violations; and, second, judicial action to investigate and punish suspected acts of collaboration with the armed opposition.

71. With regard to the first point (judicial efforts to investigate and punish serious human rights violations), the Special Representative received a memorandum from the Attorney-General of the Republic 70/ which indicated, without specifying any period of time, that the Office of the Attorney-General had been involved in 602 public proceedings for serious offences which had resulted in 107 convictions, 287 acquittals and 208 "abortive" proceedings (the Attorney-General explained to the Special Representative that "abortive" proceedings were cases where proceedings could not be held for various reasons). Five hundred and thirty-seven cases of less serious offences were heard, according to the memorandum, resulting in 15 convictions, 374 acquittals and 148 "abortive" proceedings. Thus, only 122 persons had been convicted for serious and less serious offences.

72. The Attorney-General's report did not specify whether the 122 offences for which guilty verdicts had been handed down were political crimes or common offences. However, even on the assumption, which the Special Representative considered unlikely, that the majority of the offences consisted of politically motivated violations of human rights, the number of convictions bears no reasonable relationship to the large number of human rights violations which the Special Representative is morally certain were committed in 1983.

73. Nor has Salvadorian criminal justice been particularly active in cases of "international relevance". It is true that the five members of the National Guard implicated in the murder of the Americans Mary Elizabeth Clarke, Ita Forse, Jean Donovan and Dorothy Kazel on 4 December 1980 were given prison sentences of 30 years on 23 May 1984. This fact is public knowledge, having been widely disseminated by the press. It is also true that another final sentence - in this case, an acquittal - was handed down on 16 March 1984 in the case against Major Guillermo Antonio Roeder Escobar and others for an alleged crime of abduction. 71/ It is also true, however, that the Special Representative has not learned of sentence being pronounced in any of the other cases of international relevance of which he was informed by the Attorney-General the previous year and which he mentioned in his report. 72/ In any case, as in his previous

70/ Government of El Salvador, Memorandum from the Office of the Attorney-General of the Republic, 17 September 1984.

71/ Ibid. The event was also reported in the international press.

72/ E/CN.4/1984/25 and Corr.1, para. 90.

report, the Special Representative cannot conceal his uneasiness that he has not received information on judicial proceedings which ought to have been instituted in a great many other cases of serious human rights violations in which the victims were ordinary Salvadorian citizens. The Special Representative considers that this is a matter where cases should not be singled out, regardless of the international pressure exerted in respect of some of them. From the human rights standpoint, all cases should receive equal attention and treatment by the judiciary.

74. In his previous report 73/ the Special Representative reported on charges of serious irregularities in connection with the massacre of peasants allegedly perpetrated by members of the Army in February 1983 at Las Hojas. According to an article in the press, 74/ leaders of the Asociación Nacional Indígena Salvadoreña (ANIS) recently requested that the guilty parties in the case should be brought to justice and that the relatives of the murdered peasants should receive compensation. According to the ANIS leaders, three of the perpetrators had already been arrested, while the remaining seven were still at liberty.

75. Other proceedings which the Special Representative mentioned in his previous report concerned the killing of Mr. Viera and two United States trade-union advisers on 3 January 1981. Notwithstanding the time elapsed since those events occurred and the international pressure that has been exerted, sentence has not been handed down in the case to date. The Special Representative did read in the Salvadorian press 75/ that in August 1984 the case against a lieutenant was dropped while the case against two members of the National Guard was continuing. The article also said that the Attorney-General's Office intended to appeal to the Supreme Court of Justice to have that dismissal overturned. After his interim report to the General Assembly had been prepared, the Special Representative learned through the international press 76/ that the Supreme Court of Justice had confirmed the dismissal of the proceedings against the lieutenant and that at the end of November 1984 the President of the Republic, after consulting the Army High Command, had ordered the officer concerned to be discharged without any pension entitlement.

76. As in previous years, the military authorities of El Salvador have provided information to the Special Representative on the adoption of disciplinary measures and the initiation of judicial proceedings against members of the armed forces and security bodies. Of interest in this connection is a document prepared by the National Police, 77/ according to which 48 members of the National Police, 10 members of the National Guard, 10 members of the Treasury Police, 71 members of other units, 9 members of military patrols and 9 members of the Civil Defence (a total of 157 persons) were brought before the ordinary courts for various offences.

73/ E/CN.4/1984/25 and Corr. 1, para. 94.

74/ El Mundo, San Salvador, El Salvador, C.A., 21 August 1984.

75/ La Prensa Grática, San Salvador, El Salvador, C.A., 5 August 1984.

76/ New York Times, 30 November 1984.

77/ Government of El Salvador, Ministry of Defence, "Nómina de Elementos de la Fuerza que han sido capturados por la Policía Nacional y consignados a Tribunales comunes por diversos delitos cometidos en contra de la población. Período 1 de septiembre de 1983 a 1 de septiembre de 1984", San Salvador, September 1984.

committed against the population between 1 September 1983 and 1 September 1984. After carefully examining the document in question, the Special Representative is of the view that most of the offences referred to in the document are ordinary offences; they do not appear to be politically-motivated violations of human rights. He would also point out that the document gives no indication of the stage judicial proceedings have reached, and, in particular, whether or not sentences have been handed down in any of them.

77. According to another document given to the Special Representative in San Salvador by the Treasury Police 78/ approximately seven members of the army and security forces were turned over to the ordinary courts from September 1983 to August 1984. The Special Representative also believes that theirs are ordinary offences and that they were not politically motivated; he also notes that the document does not indicate what stage the proceedings have reached or whether sentence has been imposed in any of the cases.

78. The aforementioned document from the Treasury Police also reports that between 1 September 1983 and 31 August 1984, 108 members of the forces were discharged: 6 in September 1983, 11 in October, 2 in November, 17 in December, 5 in January 1984, 9 in February, 2 in March, 2 in April, 2 in May, 11 in June, 27 in July and 14 in August.

79. Furthermore, according to international press reports, 79/ on 27 April 1984 the Salvadorian police arrested an army sergeant and a member of the Civil Defence on the grounds that they were members of death squads and were responsible for the murder of four people.

80. The foregoing remarks would suggest that, generally speaking, the efforts of the Salvadorian criminal justice system to investigate and punish serious politically-motivated violations of human rights in the country continue to be highly unsatisfactory. Although it is true that proceedings are initiated in the case of such crimes, the impression is that they are virtually at a standstill for the most part. And in the few cases in which sentences are imposed, this occurs long after the acts have been committed. There is no doubt whatsoever that top Salvadorian authorities are aware of the situation, which explains their efforts to bring about far-reaching reforms in El Salvador's criminal justice system. These efforts are described and evaluated by the Special Representative in chapter VI of this report.

81. The Special Representative will deal next with judicial action to investigate and punish the activities of persons suspected of collaborating with the armed opposition. It should be noted in this regard that Decree No. 507, issued by the Revolutionary Government Junta on 3 December 1980 and containing a Special Act on procedures applicable to the offences referred to in article 177 of the 1962 Constitution, was repealed on 24 February 1984. The Special Representative had recommended the repeal in his earlier reports and accordingly takes note of it with satisfaction.

78/ Government of El Salvador, Treasury Police, "Nómina del Personal de este Cuerpo que ha sido consignado a los tribunales comunes a partir del 1 de septiembre de 1983 hasta la fecha", San Salvador, 10 September 1984.

79/ El País, 28 April 1984.

32. Decree No. 507 was repealed by Decree No. 50 of the Salvadorian Legislative Assembly promulgated on 29 February 1984. The latter Decree contains the "act on penal procedures applicable when constitutional guarantees are suspended", which is to remain in force until 28 February 1985.

83. The Decree is applicable to persons over 16 years of age accused of offences against the legal person of the State and offences of international relevance. It also applies to offences jeopardizing the exercise of political rights and the right to vote; to escape from custody, espionage and offences against international law; and to destruction of property, looting, sabotage, rebellion and sedition. The jurisdiction and competence to hear such cases come within the purview of various levels of military justice (military trial courts; military courts of the first instance; courts martial; and Armed Forces High Command). The Decree stipulates that the presumed perpetrator may be detained for 3 days for questioning; he may be held an additional 15 days for administrative proceedings and detention; he shall be remanded during the next 15 days to the military judge of the first instance, who shall either confirm or revoke the provisional detention order. Upon notification of the order, the accused shall be entitled to designate a defence counsel for the 60 days of the pre-trial proceedings. If the case reaches the trial stage, evidence shall be receivable for 15 days, and each side has 3 days to present its arguments. The verdict must be handed down within 10 days after the last arguments have been heard. It can be appealed to the courts martial; and the Armed Forces High Command is required to review any judgement by the courts martial imposing a sentence in excess of 10 years' imprisonment. It should be noted that the law shall apply also to offences committed prior to its promulgation and to cases in which jurisdiction and competence have already been determined, and where proceedings have already begun, but not to matters of evidence which continue to be governed by the repealed legislation.

84. Decree No. 50 has been criticized by Christian Legal Aid. 80/ This organization's objections to the Decree may be summarized as follows: (a) it is unconstitutional because legislative initiative in this area was the province of the Supreme Court of Justice; (b) it is unconstitutional because it establishes a state of siege for one year, contrary to article 29 of the Constitution, which stipulates that the suspension of guarantees of individual rights may not exceed 30 days; (c) it is unconstitutional because it provided for the retroactivity of criminal laws; (d) it is unconstitutional because it provided that the jurisdictional bodies established by the Decree shall provide legal protection to persons under 16 years of age; (e) it is unconstitutional and runs counter to El Salvador's international obligations in that it permits administrative detention for a period of 15 days, during which time the detained person is not entitled to defend himself; (f) it provides that in proceedings initiated prior to its promulgation, the provisions concerning evidence of Decree No. 507 remain applicable; (g) it is arbitrary in that it authorizes military judges to detain criminals in the compounds of the security forces.

85. Lawyers Committee for International Human Rights 81/ also makes some critical comments on Decree No. 50, which, in its opinion, "reproduces some of the objectionable features of Decree 507". The Committee refers in particular to the

80/ Christian Legal Aid, "Análisis jurídico del Decreto 50". San Salvador, El Salvador, C.A., March 1984.

81/ Americas Watch Committee and Lawyers Committee for International Human Rights, "Free Fire, a Report on Human Rights in El Salvador, Fifth Supplement", New York, August 1984.

explicit reference made in Decree No. 50 to Decree No. 507 on the question of evidence. "The effect of this provision - Americas Watch states - is to legitimize the admission of extra-judicial confessions as long as two witnesses attest to the fact that they were given without coercion. It also allows the Ministries of Interior and Defence to provide reports on the illegitimate or subversive nature of associations, and those reports are sufficient evidence to that effect".

86. The Special Representative was informed in El Salvador that only four out of the five military courts responsible for implementation of Decree No. 50 were working; that they had a large number of cases to hear and inadequate material means for the accomplishment of their task. The Special Representative also read in a document, 82/ that between 30 June 1983 and 31 August 1984, 587 cases were brought before those courts; of these, 482 were disposed of and 28 referred to the Supreme Court. That meant that 67 cases remained to be disposed of. In any event, according to the document, the number of offenders is greater than the number of cases, because 892 male offenders and 109 female offenders were received, of whom 453 men and 102 women were released.

87. The Special Representative has some difficulty in determining, on the basis of the data contained in the above-mentioned document, to what extent Decree No. 50 has actually been operational, since the time period covered includes months in which Decree No. 507 of the Revolutionary Government Junta was in force. From testimony received from political prisoners, the Special Representative gained the impression that many of them have been languishing in prison for a long time without being brought to trial within a reasonable period. The case of the former CEL workers mentioned in the part of this report dealing with political prisoners is particularly significant. Some political prisoners told the Special Representative that in many instances the quickest way to obtain a release was to bribe certain officials; they said that suggestions to that effect had actually been made to them.

88. On the other hand, the President of the Supreme Court of Justice provided documents to the Special Representative 83/ indicating that in the first six months of 1984, the Court had received 275 applications for writs of habeas corpus. As a result of those applications, 33 persons were released without the need for a Court decision; 43 persons were released by Court order; 24 persons could not be found by the sheriffs; in the case of 8 persons, the Court found reasons why they should

82/ Government of El Salvador, "Cuadro demostrativo de trabajo y estadísticas de los Juzgados Militares del 30 de junio de 1983 hasta el 31 de agosto de 1984".

83/ Government of El Salvador, Supreme Court of Justice, "Cuadro estadístico de las Exhibiciones Personales correspondientes al primer semestre de 1984", August 1984.

remain in detention; in 1 case the writ of habeas corpus was not carried out because the person concerned had died; and 5 cases related to persons whose movement was thought to be restricted but in fact was not. According to the Court, evidence concerning the remaining 161 cases was still being collected, since action on them had only recently been requested. It should also be noted that it is impossible for the sheriffs to implement the writ of habeas corpus when the person who has applied for it is being held in a place which is a theatre of military operations, and out of fear of going to those places they request to be relieved of that task. It was said, finally, that while in the months of July to December 1983, 354 applications for writs of habeas corpus were recorded, from January to June 1984 there were only 273 applications.

89. With respect to actions for amparo (enforcement of constitutional rights) before the Constitutional Affairs Chamber of the Supreme Court of Justice (actions relating to violation of human rights recognized by the Constitution), the documents given to the Special Representative show that on 1 August 1984 there were 109 cases pending and that during the month 15 more actions were brought. In the same month, 9 were decided and in 115 cases legal proceedings were under way.

90. As in previous years, the Special Representative was informed by the competent authorities in El Salvador of the overriding difficulties in the way of the normal functioning of the judicial system. 84/ According to those explanations, the difficulties are attributable to various factors, namely, (a) the small budget available for operation of the courts and various units of the Attorney-General's Office, in terms not only of equipment and supplies but of salaries for judges, lower-level prosecutors and other staff; (b) the lack, also because of budgetary difficulties, of adequate systems for investigating the facts; (c) the psychological pressure exerted on judges, many of whom are threatened and even murdered in the prevailing climate of violence; (d) the witnesses' fear of testifying in proceedings with political implications; (e) the jurors' fear of making the necessary decisions in such proceedings; (f) the criminal law itself and criminal procedures, designed for peaceful and normal times; (g) destruction of courts and judicial archives in areas of military operations. Some authorities added that those factors were not new or peculiar to El Salvador but that they had become more acute in the country in recent years as a result of the serious economic crisis and the situation of generalized violence and the resulting increase in politically-motivated crimes. The Special Representative takes note of all those difficulties.

84/ Documentation furnished to the Special Representative by the President of the Supreme Court of Justice and other documents. San Salvador, September 1984.

5. Human rights violations attributed to the guerrilla forces.

91. The Special Representative has continued to receive information concerning politically motivated murders of civilian non-combatants which are attributed to the guerrilla forces. Obviously, the circumspection recommended with reference to murders attributed to members of the State apparatus and extreme right-wing paramilitary organizations must also be exercised with regard to murders attributed to the guerrillas.

92. According to the Archdiocesan Legal Protection Office, in January 1984, 85/ the guerrillas committed 4 murders; in February, 86/ 15; in March, 87/ 7; in April, 88/ 3; in May, 89/ 3; in June, 90/ 2; and in July, 91/ 5: in other words, a total of 39 individuals in the first seven months of the year. It should be mentioned that Legal Protection also attributes combat deaths to the guerrillas. This type of crime will be examined elsewhere in the report.

93. The figures provided by the Human Rights Commission of El Salvador (governmental) in this connection are higher, however. According to that source, 92/ between 1 January and 2 September 1984, 88 deaths of civilians and off-duty military personnel as a result of terrorist acts were recorded.

94. The Office of the Director of the National Guard of San Salvador gave the Special Representative a list of individuals murdered or wounded by the guerrillas between 1 September 1983 and 30 August 1984. 93/ According to that list, during the period in question, 136 civilians were killed by the guerrillas and 98 wounded. The Special Representative noted that the list included combat-related deaths as well as murders of non-combatants.

95. The international press, for its part, reported on some of these murders, specifically those of Ismael Ayala, Echeverría, PAISA deputy to the Legislative Assembly; 94/ retired colonel José Montenegro; 95/ deputy Mario Julio Flores; 96/

85/ Legal Protection, report No. 21, January 1984.

86/ Ibid., report No. 22, February 1984.

87/ Ibid., report No. 23, March 1984.

88/ Ibid., report No. 24, April 1984.

89/ Ibid., report No. 25, May 1984.

90/ Ibid., report No. 26, June 1984.

91/ Ibid., report No. 27, July 1984.

92/ Human Rights Commission of El Salvador (governmental), San Salvador, "Estadísticas, enero-agosto de 1984".

93/ Government of El Salvador, National Guard, "Informe de los delitos cometidos por elementos terroristas contra los derechos humanos y la economía nacional; medidas tomadas por la Dirección General de la Guardia Nacional, a fin de darle vigencia al respeto de los derechos humanos, al trabajo propio de la institución, al proceso democrático y a la consecución de la paz".

94/ Le Monde, 25 February 1984; El País, 24 February 1984.

95/ El País, 3 March 1984.

96/ The Times, 16 March 1984.

retired colonel Tito Adalberto Roca; 97/ ERENA deputy Ricardo Arnoldo Pohl; 98/ Rafael Hasbun, former Vice-President of the Central Council for Elections; 99/ Salvadorian police officer Alfredo Zapata, security guard at the United States Embassy in El Salvador; 100/ retired colonel Fernando Barrios Escobar; 101/ and Raúl Meléndez Aguino, security guard at the United States Embassy in San Salvador. 102/

96. Politically-motivated abductions are also attributed to the guerrillas. The Special Representative will deal with abductions of individuals here and with forcible mass recruitment in chapter V. Obviously, the circumspection recommended with regard to abductions attributed to members of the State apparatus should also be exercised here. Christian Legal Aid provides information for the period June-October 1984, 103/ according to which the number of reports of arbitrary arrests attributed to the guerrillas was: 8 in June; 5 in July; none in August; 1 in September; and 2 in October.

97. According to the Archdiocesan Legal Protection Office, in January 1984, 104/ the guerrillas abducted 7 people, plus 9 "prisoners of war"; in February, 105/ 5 people, said to have been "day workers"; in March, 106/ 4 people, plus 1 "prisoner of war"; in April, 107/ 2 people, 1 of them a worker, the other a peasant; in May, 108/ 3 people, plus 3 "prisoners of war"; in June, 109/ 7 people; and in July, 110/ another 7. In other words, apart from forcible recruitments, the guerrillas reportedly abducted 43 people in the first seven months of 1984, including Dr. Eduardo Vides Casanova, brother of the Minister of Defence, who was later released in an exchange. 111/

98. The Salvadorian Human Rights Commission (governmental), for its part, 112/ attributes to the FDR-FMLN 27 abductions during the period 1 January to 31 August 1984.

97/ Ibid.

98/ El País, 16 March 1984.

99/ The Guardian, 2 April 1984.

100/ El País, 17 April 1984.

101/ El País, 17 May 1984.

102/ El País, 27 October 1984; The Guardian, 27 October 1984.

103/ Christian Legal Aid, "Informe sobre la situación de los derechos humanos en El Salvador en el período junio-octubre 1984", San Salvador, 30 November 1984.

104/ Legal Protection, report No. 21, January 1984.

105/ Ibid., report No. 22, February 1984.

106/ Ibid., report No. 23, March 1984.

107/ Ibid., report No. 24, April 1984.

108/ Ibid., report No. 25, May 1984.

109/ Ibid., report No. 26, June 1984.

110/ Ibid., report No. 27, July 1984.

111/ Le Monde, 6 June 1984; El País, 6 June 1984; El País, 13 June 1984.

112/ Human Rights Commission of El Salvador (governmental), "Estadísticas, enero-agosto de 1984".

99. The Office of the Director of the National Guard of El Salvador, 113/ on the other hand; reports that 105 people were abducted during the period 1 September 1983 to 30 August 1984.

100. It was widely reported in the international press 114/ that, on 11 May 1984, five guerrillas seized 75 hostages in a robbery attempt on a grocery store in San Salvador, and held them for nine hours. The hostages were released after the guerrillas negotiated a safe conduct out of the country. According to Le Monde, 115/ the five guerrillas were members of the Clara Elizabeth Ramirez Metropolitan Front. It should be emphasized that this Front is not a member of the FMLN. This information was also transmitted to the Special Representative in a cable dated 17 May 1984 from the Executive Secretary of the Human Rights Commission of El Salvador (governmental), in which it was specified that children and women were among the hostages.

101. Also according to the international press, 116/ on 2 August 1984 a guerrilla commando took approximately 100 people, including a number of pregnant women and some children, hostage after an unsuccessful attempt to rob a bank at Soyapango, near San Salvador. According to the same source, the attackers identified themselves as members of the FMLN and requested mediation by representatives of the Church and the Red Cross.

102. As in previous years, the Special Representative has received a great deal of information about the systematic sabotage by the guerrilla forces of the economic infrastructure of the country. The Salvadorian authorities once again provided the Special Representative with exhaustive information about such attacks, 117/ but the list would be much too long and detailed to reproduce in this report. The Special Representative considers it preferable to quote some of the abundant information on the subject provided by the international press and other sources.

103. According to Le Monde, 118/ the guerrillas blew up two high-tension pylons in the capital. Just prior to the 26 March election, the guerrillas were also reported to have blown up power pylons and cut transmission cables in co-ordinated acts of sabotage throughout the country, cutting electricity across half of El Salvador and telephone service throughout the north-eastern province of Morazán. 119/

104. The day before the 26 March election, Le Monde reported harassment of military posts, surprise roadblocks in the interior, bombings and dynamitings in the capital, confiscation of the identity cards of travellers who were stopping on the road, abductions of younger people. 120/ In addition, a number of reports cited warnings

113/ Government of El Salvador, National Guard, "Informe de los delitos ...", op.cit.

114/ The Guardian, 14 May 1984; International Herald Tribune, 14 May 1984; New York Times, 13 May 1984.

115/ Le Monde, 15 May 1984.

116/ El País, 3 August 1984.

117/ Government of El Salvador, National Guard, "Informe de los delitos ...", op.cit.

118/ Le Monde, 24 March 1984.

119/ International Herald Tribune, 26 March 1984; El País, 26 March 1984; The Guardian, 26 March 1984; Le Monde, 27 March 1984.

120/ Le Monde, 25 March 1984.

to people not to travel because roads would be mined. According to the same article, the volume of traffic on the Pan American Highway between the capital and the eastern provinces had diminished by 50 per cent. 121/

105. Much of the same guerrilla activity was reported before the 6 May 1984 election as follows: on 4 May, according to El País, the guerrillas announced on their radio, Radio Venceremos, that they intended to mine the country's main highways. 122/ It was reported that, on 5 May, guerrillas blacked out 11 of El Salvador's 14 provinces in sabotage attacks. 123/

106. According to The Guardian of 7 May 1984, on 6 May, guerrillas staged harassing attacks around La Unión and a series of bomb blasts were reported in San Salvador. In the province of Chalatenango, it was reported that the guerrillas mined principal highways and destroyed telephone and electricity poles along the highway, leaving the entire province without power. However, according to the same report, the FMLN failed "to prevent the vote and the expected high turnout".

107. According to the International Herald Tribune of 9 May 1984, rebels backed by artillery and mortars attacked a strategic bridge near the village of San Marcos Lempa in the province of Usulután, 42 miles east of San Salvador, and 10 miles north of San Salvador, near the town of Nejapa, guerrillas blew up two power poles. 124/

108. In mid-June it was reported that the guerrillas warned drivers that all traffic was prohibited indefinitely on El Salvador's main roads, which would be mined. Disrupted traffic and burnt vehicles were reported. 125/

109. It was widely reported in the international press 126/ that on 28 June the guerrillas overran El Salvador's largest hydro-electric plant, the Cerrón Grande dam, 54 miles north of San Salvador, where they took civilian and military hostages and threatened to destroy the installation. According to The Guardian of 2 July 1984 and The Times of the same date, "American Embassy officials in El Salvador ... accused left-wing guerrillas of executing 50 Government soldiers captured during the attack ... Around 30 were killed in combat, but 50 soldiers guarding the dam were executed". According to the International Herald Tribune of 30 June and 1 July 1984, "about 60 troops were killed and at least 50 wounded". The FDR, in their publication El Salvador Informativo, 127/ reported that the taking of the Cerrón Grande dam resulted in over 100 dead and 50 wounded in combat, as well as the taking of 96 prisoners of war.

121/ International Herald Tribune, 26 March 1984; El País, 26 March 1984; Le Monde, 27 March 1984.

122/ El País, 5 May 1984.

123/ International Herald Tribune, 7 May 1984.

124/ International Herald Tribune, 9 May 1984.

125/ The Times, 18 and 20 June 1984; El País, 29 and 30 June 1984; Tribune de Genève, 29 June 1984; The Guardian and The Times, 2 July 1984.

126/ The Guardian, 2 July 1984; The Times, 2 July 1984; International Herald Tribune, 30 June/1 July 1984.

127/ FDR, El Salvador Informativo, No. 45, 15 July 1984.

110. The Special Representative also received information alleging a number of guerrilla activities during the month of June. 128/ These included the destruction, in a number of locations throughout the country, of 13 high-voltage towers between 13 and 15 June, several robberies, among them the theft of medicines and surgical material from a health clinic in Santa Elena on 12 June, the robbing of the drivers and passengers of four vehicles and their destruction on 18 June and the robbing of passengers on a bus at Pasaquina, Department of La Unión, on 20 June. A number of incidents in which the tyres of cars, buses and pick-up trucks were deflated were reported between 16 and 19 June in various parts of the country. On 19 and 20 June, 34 vehicles were reportedly burned by the guerrillas, as well as several buses and four fuel trucks; these incidents occurred on the Pan American Highway, in San Vicente, others near the Honduran border and in the capital, San Salvador. On 20 June, guerrillas also reportedly destroyed three trucks carrying cotton in San Vicente. Other incidents also reported during the same period include the placing of three bombs at a gas station in San Salvador on 8 June, which injured two young girls, the destruction of a bridge in the town of Las Guaritas on 12 June, the fire-bombing of a warehouse in San Salvador on 14 June, the destruction of three telephone line distribution boxes in San Salvador on 18 June, the sabotage of electrical lines in Usulután province on 19 June, and the destruction of a communications centre in Chapeltique, also on 19 June. According to the same information, on 19 June the guerrillas claimed responsibility for the machine-gunning of businessman Ernesto Quintanilla, found dead in front of a church in San Salvador.

111. In July, a number of reports concerned the sabotage campaign by the guerrillas against the country's transport system. Some of the reports are reproduced below:

(a) On 12 July, five vehicles were burned and a driver killed on the road between San Salvador and El Amarillo, Honduras. Traffic was reported totally paralysed in the Department of Usulután and reduced 95 per cent (according to Radio Venceremos) in the north and east of the country. 129/

(b) A mine exploded on railway tracks near Guazapa, derailing a railway car. 130/

(c) According to the International Herald Tribune, "leftist rebels blocked major highways in El Salvador for the third day as part of an economic sabotage campaign that they said was costing the country at least \$US 750,000 a day in lost commerce. Transportation in six of El Salvador's 14 provinces was virtually paralysed". 131/

(d) El País of 14 July 1984 also reported that El Salvador's two main highways, the Pan American Highway and the coastal highway, were the centre of intense fighting between Government forces and FMLN guerrillas. 132/

(e) The International Herald Tribune of 17 July 1984 reported that on 14 July "leftist guerrillas attacked a cargo train near San Antonio Grande (40 kilometres north of San Salvador), wounding at least three civilians".

128/ United States Department of State, unclassified information, cable 1190152/01, dated 28 June 1984.

129/ Le Monde, 14 July 1984.

130/ International Herald Tribune, 13 July 1984.

131/ International Herald Tribune, 14 and 15 July 1984.

132/ El País, 14 July 1984.

112. According to the international press, 133/ in October 1984 a rebel detachment blew up an electricity facility 26 km from San Salvador. It is also reported that during the second half of October the FMLN again paralysed traffic throughout the eastern region of the country. 134/

113. The FDR-FMLN continues to acknowledge that it is carrying out acts of sabotage against the economic infrastructure as part of its military campaigns. Once again, however, the FMLN maintains that these acts, carried out in the context of an armed conflict, are not prohibited by the Geneva Conventions but, on the contrary, expressly permitted by Protocol I as "attacks on military objectives". It adds that the fact that it did not destroy the strategic Cerrón Grande dam, although it could have done so when it occupied it for more than eight hours on 28 June 1984, proves conclusively that the FMLN is trying to abide by international rules of war by respecting economic structures which are not military objectives. Finally, the FDR-FMLN maintains that the attacks on question are also aimed at shortening the war since they exert pressure in favour of a dialogue. 135/ According to information supplied to the Special Representative by the Government of El Salvador, 136/ the guerrillas are continuing to attack and destroy economic infrastructure and particularly farming activities, threatening the harvesting of crops and burning coffee. They are also continuing their campaign of destroying private vehicles and public transport and are stepping up destruction of electricity and communications facilities.

114. The Special Representative is none the less deeply concerned about the above-mentioned attacks, since they seriously undermine the country's already impoverished economy, gravely threatening the Salvadorian people's present and future enjoyment of important economic, social and cultural rights.

133/ International Herald Tribune, 23 October 1984.

134/ El País, 23 October 1984.

135/ Political and Diplomatic Commission of the FDR-FMLN of El Salvador, "Las principales violaciones de los derechos humanos en el conflicto armado salvadoreño, 1984, Informe preliminar", 31 July 1984, pp. 10-11.

136/ Government of El Salvador, Ministry of Foreign Affairs, telex dated 25 January 1985, ibid.

IV. THE SITUATION OF REFUGEES AND DISPLACED PERSONS

115. As he has done in the past, the Special Representative intends to report on the situation of the many Salvadorian citizens compelled to leave their homes, either in order to move to other parts of the country (displaced persons) or to seek refuge in other countries (refugees). The Special Representative considers that the violence prevailing in El Salvador is an important, but not the only, cause of these mass exoduses, since with regard to emigration in particular he believes, as stated in his last report, 137/ that it is due not only to non-economic factors but also to economic factors.

116. According to a report by the Lawyers Committee for International Human Rights and Americas Watch, 138/ "The situation of displaced persons in El Salvador is critical. Approximately 500,000 people ... have been internally displaced in the past four years because of the violence and the current civil war between Government forces and the (Frente) Farabundo Martí de Liberación Nacional. As the war has dragged on, the numbers of displaced have swollen and their problems have become long-term and increasingly difficult to resolve".

117. In their August 1984 report on human rights in El Salvador, 139/ Americas Watch and the Lawyers Committee for International Human Rights reported an increase in the size of the displaced population in El Salvador, in both conflict and Government-controlled areas.

"When the Lawyers Committee and the Americas Watch conducted an investigation of the situation of the displaced in El Salvador in January 1984, the ICRC was providing services to some 80,000 displaced persons in conflict zones. By July 1984, the ICRC reported that it was providing services to some 105,000 displaced persons in conflict zones. It is possible that some part of this increase reflects the ability of the ICRC to reach additional conflict zones. On the other hand, given the danger in conflict zones, there is a general movement away from these areas as people try to escape."

118. Furthermore, according to these same organizations:

"The monthly reports of CONADES, the agency that administers the Salvadorian Government's program for the displaced, indicate that the displaced persons population in Government-controlled areas also has increased recently. CONADES reports an increase in its list of registered displaced from 262,000 in November to 342,000 in May 1984. The Roman Catholic Archdiocese of San Salvador reports a recent surge of new arrivals to each of the displaced persons camps that it administers ... Similarly, when we visited Government-assisted displaced persons camps recently, we found that there had been a new influx of displaced persons ... Again, in our interviews with new arrivals, the predominant reason for the flight from their homes was to escape indiscriminate attacks on civilians by the Salvadorian armed forces". 140/

137/ E/CN.4/1984/25 and Corr.1.

138/ Lawyers Committee for International Human Rights and Americas Watch Committee, "El Salvador's other victims: the war on the displaced", New York, April 1984.

139/ Americas Watch and Lawyers Committee for International Human Rights, "Free Fire ...", op. cit.

140/ Ibid.

119. With regard to the Salvadorian citizens who have sought refuge abroad, according to information supplied to the Special Representative by UNHCR, 141/ that organization is assisting 34,300 Salvadorian refugees throughout various countries in Central America, including as follows: Belize: 2,000; Costa Rica: 10,000; Honduras: 17,631; Nicaragua: 1,700; and Panama: 1,000.

120. The Special Representative also wishes to report on the number of refugees repatriated to El Salvador. According to a document prepared by UNHCR for the "Reunión del Grupo Técnico de Cancilleres de Centroamérica y Contadora" dated 4 April 1984, 142/ "between January 1981 and mid-March 1984, UNHCR assisted in the repatriation of 985 Salvadorian refugees". During the Special Representative's visit to Costa Rica in September 1984, the UNHCR Regional Representative informed him that "more than 1,200 Salvadorian refugees have returned to El Salvador with the help of UNHCR".

141/ Office of the United Nations High Commissioner for Refugees "Fact Sheets, Central America, Mexico", No. 11, June 1984.

142/ Office of the United Nations High Commissioner for Refugees, "Protección y asistencia de refugiados en América Central, México y Panamá: documento preparado para la Reunión del Grupo Técnico de Cancilleres de Centroamérica y Contadora", Panama, 4 April 1984.

V. HUMAN RIGHTS IN ARMED CONFLICTS

121. Paragraph 18 of resolution 1984/52 of the Commission on Human Rights renewing the Special Representative's mandate 143/ specifically requests that he should "pay special attention in his report to the question of humanitarian law in armed conflicts and to violations of such law". The Special Representative believes that this type of human rights violation is particularly serious and that its consequences are particularly distressing; as in his previous reports, he will attempt to collate the information received on this subject and update it as much as possible.

122. The Special Representative considers it pertinent to recall first of all that the Republic of El Salvador is a party to the four Geneva Conventions of 1949 and the Additional Protocols of 1977 on the protection of victims of war. Since the current conflict in El Salvador is an "armed conflict not of an international character" within the meaning of the Conventions and Protocols, the relevant rules apply, particularly those contained in article 3 of each of the Conventions and in Additional Protocol II, and must be observed by each of the parties to the conflict - in other words, by the Salvadorian regular armed forces and the opposition guerrilla forces.

123. The Special Representative will deal first with the genuinely disturbing information concerning the civilian casualties inflicted by bombing and other military activities of the Salvadorian regular army.

124. Christian Legal Aid reports that, during the period January-April 1984, the armed forces (air and ground) carried out bombing raids which affected an indeterminate number of civilians. More specifically, it reports that, during the three weeks prior to the presidential elections (26 March 1984), an average of 30 bombs per day were dropped in different areas of the national territory. 144/

125. The Special Representative received a letter dated 24 July 1984 from Mrs. Jenny Pearce of London, a member of the Latin American Bureau, stating that she had conducted an on-the-spot investigation in February and March of the areas of El Salvador controlled by the FMLN and had been able to verify that those areas, particularly in Guazapa, had been heavily bombed.

126. This information corroborates the reports published in some international news publications. The Christian Science Monitor, for example, 145/ contains testimony on this type of bombing, although it also includes a statement by an Air Force Officer denying those attacks. A later issue of the same newspaper 146/ discusses the dropping of incendiary bombs. Similarly, the National Catholic Reporter 147/ makes reference to the increase in indiscriminate bombing, including bombing of civilian areas, and cites the opinions of Western and Salvadorian observers, members of the clergy and persons involved in refugee assistance.

143/ E/CN.4/1984/77, resolution 1984/52.

144/ Christian Legal Aid, "Informe sobre la situación de los derechos humanos en El Salvador: período enero-abril 1984".

145/ The Christian Science Monitor, 6 April 1984.

146/ Ibid., 27 April 1984.

147/ National Catholic Reporter, 20 April 1984.

127. During his visit to the country, the Special Representative had occasion to question witnesses about bombings by the Salvadorian Air Force. One 22-year-old witness from a town in the Department of Suchitoto who was questioned told the Special Representative that during the first weeks of March 1984 the area had been heavily bombed; on 14 March two of her children, aged five and seven, had been killed by a bomb. She also said that, on another occasion, an Army unit had carried out a massacre of women and children, explaining that, while she had not witnessed the massacre, she had seen the bodies with her own eyes. The witness added that guerrilla troops frequently passed through her town, asking the people for food, which they did not refuse to provide. The witness showed obvious scars of burns on her arms and other parts of her body, caused, she claimed by bombs.

128. Another witness, aged 27 and living in the Department of San Vicente, told the Special Representative that two of her children, three and five, had died in August 1983 as the result of a bomb, and that she had witnessed more bombings and deaths since that time. She also said that, in August 1983, a military unit had killed her brother, the brother's wife and seven other persons when they were fleeing from the Army. The witness also said that guerrilla troops asked for food when they passed through the town, and that she and other local women agreed to give it to them.

129. Another witness, aged 60, from the Department of Cuscatlán, told the Special Representative that in June 1984 the Cerro de Guazapa area had been heavily bombed and that on one day during that month one of the bombs had killed her daughter and two granddaughters; on another day, she had seen another bomb kill seven more people. She added that guerrilla troops constantly passed through her town and that the townspeople provided them with food.

130. Another witness, younger than the one just mentioned and also from the Department of Cuscatlán, told the Special Representative that she had witnessed heavy bombing in Cerro de Guazapa in June 1984, and that she had personally seen a bomb kill four civilians; she added that guerrilla troops constantly passed through her town and that the local people gave them food.

131. Another witness, aged 40 and likewise living in the Department of Cuscatlán, said that on a day in March 1984, she had seen bombs dropped by the Air Force kill nine civilians (eight men and one woman) and wound two more in a town near Cerro de Guazapa. She also said that guerrilla troops frequently passed through the town and that the residents of the area helped to feed them.

132. The Special Representative read similar accounts in the recent report of Americas Watch and the Lawyers Committee for International Human Rights. ^{148/} The report states that "thousands of non-combatants are being killed in indiscriminate attacks by bombardment from the air, shelling, and ground sweeps" and that "thousands more are being wounded", although it admits that "indiscriminate attacks on the civilian population by the Salvadorian armed forces are more difficult to monitor and reports on them are less precise than those that can be compiled on such abuses as death squad killings and disappearances".

^{148/} Americas Watch and Lawyers Committee for International Human Rights, "Free Fire ...", op.cit.

133. The Special Representative also learned of the report prepared by Medical Aid for El Salvador after a visit to the country from 10 to 22 September 1984, 149/ which indicates that the Air Force uses the following weapons: fragmentation bombs with fuse extenders, napalm-like incendiary bombs and white phosphorous. The report states that "the group remains profoundly saddened and concerned by the apparent disregard for civilian casualties of the air war waged by the Salvadorian Air Force". Finally, with regard to napalm-type bombs, the Special Representative read in a United States newspaper on 30 September 1984 that "the Salvadorian military possesses stocks of napalm incendiary weapons, the United States Ambassador to El Salvador said today". 150/

134. The Special Representative has also received reports of bombing by Government forces in places situated in guerrilla-controlled conflict zones where displaced persons were receiving assistance from the International Committee of the Red Cross (ICRC). Americas Watch and the Lawyers Committee for International Human Rights 151/ report incidents of this kind in February and March 1984.

135. According to various sources, the Salvadorian Army has also carried out mass killings of non-combatants. According to the international press, 152/ an Army unit carried out such a massacre in the northern part of the Department of Cabañas between 18 and 22 July 1984; the same source points out that the High Command presumably ordered an investigation. A later report 153/ appears to refer to the same massacre, specifying the number of persons killed - 68 - as well as where it took place (Los Llanitos). It also indicates that the massacre was punitive in nature and reiterates that an investigation is being opened on the order of the President of the Republic.

136. According to the accounts of some witnesses whom the Special Representative heard in El Salvador, some Army units were also involved in massacres of peasants in 1984. One 40-year-old witness from the Department of Cabañas, for example, told the Special Representative that he had been present at a massacre in the small village of Cinquera from 17 to 21 July. He testified that from a nearby hillside he had seen an Army unit kill 61 persons (old people, women and children) after torturing them. He also said that the village was virtually destroyed, that guerrilla troops passed through the area frequently and that the inhabitants helped the guerrillas with food and by turning over part of their harvest to them.

137. Another witness told the Special Representative that he had seen five bodies (two women and three children) after a massacre perpetrated in Cinquera between 17 and 22 July 1984; the day before he had heard grenade explosions and gunfire. The same witness said that on three occasions he had witnessed indiscriminate bombings in the Departments of Cabañas and Cuscatlán, and that the bombs had produced strange flames which caused severe headaches; finally, he said that he and his neighbours frequently saw guerrilla troops going through and that they helped them with food.

149/ Medical Aid for El Salvador, El Salvador Delegation, 10-22 September 1984.

150/ New York Times, 30 September 1984.

151/ "El Salvador's Other Victims: the War on the Displaced", New York, April 1984.

152/ El País, 29 August 1984.

153/ El País, 11 September 1984; New York Times, 9 September 1984.

138. Through a publication of UCA (Catholic University), 154/ the Special Representative has learned of a Legal Protection report concerning events which allegedly occurred at the end of August 1984 in the Department of Chalatenango, in El Tamarindo, Haciendita and other cantons coming under San José Las Flores. According to these reports, units of the regular army harassed and persecuted large numbers of civilians coexisting with the guerrillas (the so-called "masas"), killing many and causing some to drown in the River Sumpul while taking flight. In San Salvador, the Special Representative had his attention drawn to a document containing the testimony of a Mexican subject, Mrs. Graciella Colunga Velázquez, which gives a similar description of the incidents concerned.

139. In a conversation which the Special Representative held at the Ministry of Defence with senior officers of the Salvadorian Armed Forces, the latter said that, when the Army encounters peasants belonging to the so-called masas in the course of a military operation, the first thing the unit does is to urge them over loudspeakers to separate themselves from the guerrillas. Some of the officers added, however, that the masas have been convinced by the guerrillas that they should not leave the guerrillas because they will be attacked no matter what they do, and that without the guerrillas they are defenceless. It is thus very common for the masas to stay with the guerrilla forces during combat. Some of the officers added that 90 per cent of all guerrilla operations take place at night, making it very difficult to distinguish combatants from civilians in all cases, which would explain why there are civilian casualties in a few instances.

140. The Special Representative is actually convinced that as a result of or during fighting, the Salvadorian army produces civilian, and thus unwarranted casualties, particularly among the so-called masas, or groups of peasants who, while not personally involved in the fighting, coexist with the guerrillas and supply them with means of subsistence. In any event, inasmuch as the so-called masas take no part in combat, they must be considered civilians. The reference in article 50 of the 1977 Additional Protocol to the Third Geneva Convention of 12 August 1949, means that any persons who follow armed forces without forming an integral part of them, such as suppliers and members of work units or service units responsible for troop welfare, must be considered civilians. In the view of the Special Representative, if the masas who accompany the guerrilla troops meet the conditions established in those international instruments, they cannot be considered combatants; they are civilians.

141. The Special Representative is convinced, then, that the Salvadorian Army's military operations result in unwarranted civilian casualties. However, he appreciates the real difficulty of determining, even approximately, the number of casualties. The fact of the matter is that these deaths occur in combat zones, where investigation is extremely dangerous, or in guerrilla-controlled territories, to which access may be difficult. This difficulty has been demonstrated by the most recent methodology used by Legal Protection in its effort to establish a head count of civilians who died in the hostilities. In fact, as already indicated in paragraph 54 of this report, the Legal Protection reports for the months of June and July 1984 155/ include the following two categories: victims of political violence in military operations, including combatants, non-combatants and civilians,

154/ "Cartas a las Iglesias. Desde El Salvador", Boletín, 1-15 October 1984.

155/ Legal Protection, report No. 26, June 1984; report No. 27, July 1984.

it being impossible to establish the appropriate category for lack of identification in situ, most of whom are probably civilians; and persons killed in ambushes, clashes or patrols, most of whom are probably combatants, it being impossible to establish the appropriate category for lack of identification in situ. The figures for these categories for May and June have already been given in paragraph 54.

142. In any event, the Special Representative has heard of a case in which the army respected sectors of the civilian population which presumably were part of the so-called masas. Documents given to the Special Representative in San Salvador by the Minister of Defence 156/ include one pertaining to the handing over to members of the International Committee of the Red Cross (ICRC) of members of terrorist masas of the Peoples' Liberation Forces (FPL). The document, which is dated 5 September 1984, gives the names and ages of the 47 people involved, noting that they were well treated by the armed forces holding them and were given food and medical treatment. The Special Representative learned that they were subsequently interned in a displaced persons camp. This is important in the view of the Special Representative because, contrary to what some sources had suggested, it indicates that the Salvadorian army is not pursuing a policy of deliberate systematic extermination of the masas.

143. Moreover, the Special Representative found in El Salvador that at the end of August 1984, the President of the Republic and the Armed Forces High Command issued orders to control air support for units of the armed forces. According to these orders air support to combat units must minimize damage in order to guarantee respect for and implementation of the human rights of the civilian population and to avoid harming innocent civilians or their property. Basically, the orders state that any operation by the Salvadorian air force shall be authorized, as appropriate, by the Head of COFAES (Centro de Operaciones de las Fuerzas Armadas de El Salvador) or by the Joint Chief of Staff of the Armed Forces of El Salvador.

144. There is relatively little information regarding the Salvadorian army's treatment of guerrillas captured in the fighting. When asked by the Special Representative, the reply given by the competent Salvadorian authorities was similar to that of previous years, namely, that owing to their courage and readiness to fight to the death few guerrilla fighters were captured but that when they were, their lives were spared not only on humanitarian grounds but also in order to extract information from them. After interrogation, added the Salvadorian authorities, the captured guerrillas were confined to prisons and put through judicial procedures.

145. Later in this report, the Special Representative will collate and update the information received regarding the conduct of the guerrilla forces in relation to the war.

146. In that connection, the Special Representative feels compelled to report, first, that he has received many reports of forced recruitment of young civilians. According to the international press, 157/ some 60 youths, including some 14-year-olds, had been forcibly recruited by the guerrilla forces in March 1984 in

156/ Government of El Salvador, Ministry of Defence, "Oficio del Comandante del Destacamento Militar No. 1 - Chalatenango - al señor Jefe del Estado Mayor Conjunto de la Fuerza Armada", San Salvador, 5 September 1984.

157/ The Times, 13 March 1984; The Guardian, 13 March 1984.

the village of San Esteban Caterina, Department of San Vicente. A similar incident was alleged to have occurred on 14 May 1984 in the canton of El Limón, district of Soyapango. The Salvadorian Human Rights Commission (governmental) reports 158/ that on that date and in that place guerrillas dressed in olive green and wearing red berets forcibly recruited young boys and girls, dragging them from their homes or from school. The Times 159/ published the same report. In mid-June The Guardian 160/ reported that since 1 March 1984 the guerrillas had forcibly recruited over 1,200 young people. According to the Salvadorian press 161/ the number of persons forcibly recruited by the guerrillas was as follows: 230 in January; 67 in February; 43 in March; 376 in April; 266 in May; 74 in June; 110 in July; and 195 in August. The figures provided by the Archdiocesan Legal Protection Office are lower: 162/ 9 in January; 5 in February; 4 in March; 2 in April; 23 in May; 13 in June and 4 in July. Christian Legal Aid, for its part, reports that it received 6 complaints in June, 11 in July, none in August, 3 in September and none in October. 163/

147. In San Salvador the Special Representative heard testimony from five mothers whose sons had been forcibly recruited by the guerrillas. They said that some had been taken from their own homes, others as they were leaving school. The Special Representative also heard the testimony of one young man who managed to escape after being forcibly recruited. He said that while he was in guerrilla hands he was subjected to strong ideological pressure and that the guerrillas also told the forcibly recruited men that there would be pretty girls and good food to eat in the guerrilla camps.

148. Speaking of the practice of forcible recruitment, a representative of the FDR-FMLN who was interviewed by the Special Representative in Madrid said that at a meeting of military commanders of the FMLN, it had been decided to conduct mass recruitments rather than recruit individuals so as to counteract the aid that the Salvadorian regular army was receiving from abroad. In line with that decision, recruitment would be done by harangues designed to motivate young people and, after a period of observation and selection, they would become members of the guerrilla forces. Nevertheless, according to that explanation, in some regions, the local commanders did carry out a number of forcible recruitments. The result was that at a meeting held in July 1984, the FMLN command, after evaluating the practice, decided to discontinue it. The FDR-FMLN alliance further maintains that the Government of El Salvador is currently practising recruitment which is not only forcible but also discriminatory.

158/ Cable dated 19 May 1984 from the Human Rights Commission (governmental) of El Salvador addressed to the United Nations Centre for Human Rights.

159/ The Times, 17 May 1984.

160/ The Guardian, 19 June 1984.

161/ Information provided by the Government of El Salvador.

162/ Legal Protection, reports Nos. 21 to 27, January to July 1984.

163/ Christian Legal Aid, "Informe sobre la situación de los derechos humanos en El Salvador en el período junio-octubre 1984", San Salvador, 30 November 1984.

149. Another serious incident attributed by various sources to the guerrilla forces was the death, on 6 March 1984, of two Red Cross health workers, Rafael de los Angeles Cornejo and Joaquín Arnaldo Pérez Salinas. Christian Legal Aid attributed those deaths to a guerrilla military operation 164/ and The Times 165/ says that the Red Cross workers died when their ambulance entered a combat zone with siren blaring and lights flashing and that it appeared to have been machine-gunned from FMLN positions. Neither source maintained that the deaths were intentional, but the Special Representative nevertheless points out that in such cases combat forces must take every possible precaution to ensure that attacks on the life and limb of persons engaged in humanitarian work do not recur. The Special Representative notes that the FDR-FMLN sources, when questioned specifically about the incident, admitted that the Red Cross workers might have died as a result of gunfire by guerrilla forces, but denied that the deaths were in any way intentional.

150. The civilian population is also suffering the consequences of the guerrilla attacks. Christian Legal Aid reports that, in February 1984, the guerrilla forces attacked a goods train that was being guarded by the military and that 10 civilians died. 166/ The international press 167/ published the same item but reported a higher number of civilian casualties, including 4 children. Legal Aid also reported that 3 civilians died in San Sebastián, in April 1984, when the guerrillas dynamited a house. 168/ In addition, the reports of Legal Protection for June and July 1984 169/ indicate that, in June 1984, 3 of the civilians killed by the guerrillas were killed in military operations; the figure for July was 6.

151. With regard to the treatment given by guerrilla forces to regular soldiers captured in combat, the Special Representative has received reports that, in 1984, the FMLN generally persisted in its policy of releasing such soldiers. In this connection, the Special Representative notes from an ICRC publication 170/ that "on 4 and 5 January, the Farabundo Marti National Liberation Front (FMLN) liberated and transferred to the CICR 136 persons (civilians and members of the armed forces) they had previously captured and held. These persons were subsequently handed over by CICR delegates to local military authorities". In other cases, the release took place through local authorities. 171/ However, The Times reported the protest made by officials of the United States Embassy in El Salvador alleging that at the end of June, in connection with the attack on the Cerrón Grande hydroelectric complex, the guerrillas murdered 50 soldiers they had captured. 172/ When interviewed by the Special Representative, senior military officers in San Salvador said that in the attack on the Cerrón Grande dam the

164/ Christian Legal Aid, "Informe sobre la situación de los derechos humanos en El Salvador: período enero-abril 1984", 15 May 1984.

165/ The Times, 9 March 1984.

166/ Christian Legal Aid, "Informe sobre la situación de los derechos humanos en El Salvador: período enero-abril 1984", 15 May 1984.

167/ The Guardian, 1 March 1984; Le Monde, 1 March 1984; International Herald Tribune, 29 February 1984.

168/ Legal Aid, "Informe sobre ...", op.cit.

169/ Legal Protection, report No. 26, June 1984; report No. 27, July 1984.

170/ Central Amrep, No. 6, January-June 1984, 27 July 1984.

171/ Americas Watch and Lawyers Committee ..., "Free fire ...", op.cit.

172/ The Times, 2 July 1984.

guerrillas killed five soldiers who were sleeping in the command post, captured and shot others in the barracks and murdered the woman who cooked for the guards and a child. Representatives of the FDR-FMLN interviewed by the Special Representative denied the charges, adding that there was not a shred of evidence to support them, although they acknowledged that many regular soldiers had died in the fighting.

152. In any case, in the headquarters of the Treasury Police of San Salvador, the Special Representative heard the testimony of an officer of that body, Isabel Fabián Pérez, who said that other fellow officers who had been captured had been murdered by the guerrillas. According to that testimony, on 14 July 1984, 31 members of the Treasury Police, under the command of an officer, had gone to escort a train from San Salvador to Metapán. At about 9 a.m. bombs went off, derailing the train and killing some of the members of the police unit. The survivors came under heavy gunfire and many died while the witness suffered serious injuries to the head and arm. Later, the guerrillas seized the witness and four other policemen and took them with their hands tied to a cave. Taking advantage of the confusion created by the presence of a military plane, one of the policemen managed to escape but the witness and the others did not. When they neared the cave the guerrillas opened fire on the prisoners, killing two of them. The witness pretended to be dead and, when the guerrillas left, she went for help.

153. There have, however, been more encouraging reports in the international press 173/ according to which, on Tuesday, 11 December 1984, at La Joya, 8 km from the town of San Vicente, the FMLN released 42 captured regular soldiers through the International Committee of the Red Cross and in the presence of Mgr. Rivera y Damas, Archbishop of San Salvador, and Mgr. Rosa Chávez, Auxiliary Bishop. The Special Representative has received a document from the FDR-FMLN 174/ reporting the captives' release and stating that Mgr. Rivera y Damas had confirmed that all the prisoners had been well-treated in accordance with the Geneva Conventions.

154. One gratifying development with respect to the treatment of persons captured in combat that the Special Representative felt should become a common practice was the exchange on 10 May 1984, under the auspices of the Catholic church and the Red Cross, of seven guerrilla leaders, including one woman, for the former Deputy Minister of Defence, Colonel Castillo, captured by the rebels almost two years earlier. 175/

155. According to reports in the international press, 176/ in September 1984, after indirect talks between Salvadorian Army commanders and the guerrillas in which the International Committee of the Red Cross and the Catholic church acted as intermediaries, an agreement was reached whereby the Government agreed to allow 60 guerrillas wounded in the war to leave the country while the guerrillas, for their part, freed a lieutenant, a cadet and eight soldiers they had captured. According to the same source, the wounded guerrillas passed through Mexico to various European hospitals. The Special Representative warmly welcomes the news, which might really mark the start of a humanization of the war.

173/ El País, 13 December 1984.

174/ FDR-FMLN, "El FMLN libera 42 prisioneros de guerra", 11 December 1984.

175/ El País, 12 May 1984; Le Monde, 13-14 May 1984.

176/ Miami Herald, 14 September 1984.

156. After preparing the interim report submitted to the General Assembly, the Special Representative learned of another exchange of captives. According to documents transmitted to the Special Representative by the Director of National Police, on 26 September 1984 four guerrilla activists - Mr. Francisco Edmundo Argueta Carcía (or Julio Edgardo Martínez Cruz), of the FPL; Mr. Efren Adolfo Beltrán Chávez, of CONAMAS; Mr. David Linares Cortes, of the FAL; and Mr. José Antonio Crullan Posada, of the FAL - were handed over to Mgr. Emil Lorenz Stehle, Auxiliary Bishop of Quito, Ecuador, in exchange for four members of the El Salvador Armed Forces. The exchange took place at police headquarters in San Salvador, in the presence of Mgr. Marco René Revelo, member of the Episcopal Conference of El Salvador, and the representative of the International Committee of the Red Cross in El Salvador. The document recording the exchange states that the prisoners are "in good health and are satisfied that they received the objects which they deposited" on entering prison.

157. According to reports made public by the International Committee of the Red Cross 177

"during the night 11-12 May, the ICRC was asked to intervene as a neutral intermediary between the authorities and a small opposition group who had taken 35 persons as hostages in a supermarket in San Salvador. ICRC delegates acted as mediators and ICRC nurses assisted the hostages during the night. Fortunately, an agreement was reached between the parties after some hours and the members of the opposition group were driven to the Mexican Embassy under ICRC protection. Once liberated, the hostages were assisted by a team of delegates from the ICRC and Salvadorean Red Cross Society (SRCS) and subsequently accompanied to their homes".

177/ International Committee of the Red Cross, Central Amrep No. 5, bulletin of 21 June 1984.

VI. CONCERN OF THE GOVERNMENT OF EL SALVADOR FOR HUMAN RIGHTS

158. In his previous report 178/ the Special Representative indicated that he had found the top officials of the Republic of El Salvador to be sincerely concerned about improving the human rights situation in the country and had even seen some practical demonstrations of that concern. He felt that those efforts were intrinsically commendable - but in the light of the over-all human rights record of El Salvador in 1983, he was wary of a considerable gap between those intentions and the ability to achieve results.

159. During his visit to the country in September 1984, the Special Representative observed that the new Government was continuing to pursue a policy of improving the human rights situation. His conversations with top officials, including the President, convinced him that in the context of the progressive democratization of the country, respect for human rights was an important aspect of current Government policy.

160. As the competent authorities explained to the Special Representative, a unit of the Treasury Police, the so-called S-2 intelligence section, was disbanded by order of the new Government and that action had been widely publicized. 179/ Furthermore, as many as 45 local commanders were dismissed. These changes and others - for example, in the Division of the Treasury Police - seem to have greatly reduced the activities of the death squads and other abuses. As the competent authorities explained to the Special Representative, these squads can no longer assume that their activities will go unpunished, as they did in the past: their members know that their activities will be investigated and that they will have to take the consequences.

161. In that connection, the Special Representative wishes to refer to the formation of a separate secretariat for public security in the Ministry of Defence, which Colonel Reynaldo López Nuila, former commander of the National Police, has been appointed to head. 180/ As the competent authorities explained to the Special Representative in San Salvador, the purpose of this measure is to co-ordinate and rationalize the activities of the security forces in a context of democracy and respect for human rights.

162. Another step taken by the President of the Republic in this field is the creation, through Decree No. 15 of 27 August 1984, of a Special Commission to investigate some of the political crimes with the greatest international relevance committed in the last few years; 181/ according to information supplied to the Special Representative by telex dated 25 January 1985, 182/ the members of the

178/ E/CN.4/1984/25 and Corr.1.

179/ Le Monde, 15 June 1984; El País, 15 June 1984; The Guardian, 15 June 1984; Boletín Informativo "Seinform", 15 June 1984.

180/ Boletín Informativo "Seinform", 4 June 1984.

181/ Ibid., 24 May 1984; El País, 22 May 1984. The Decree was published in the Diario Oficial of the Republic of El Salvador on 27 August 1984.

182/ Government of El Salvador, Ministry of Foreign Affairs, telex dated 25 January 1985.

Special Commission of Investigation were appointed by Executive Decree No. 201 of 9 September 1984. According to the explanations which the Special Representative heard in San Salvador, this Commission will give priority to investigating the following incidents: the murder of Mgr. Romero, Archbishop of San Salvador; the murders of Mr. Viera, director of the Salvadorian Institute for Agrarian Reform (ISTA), and of two United States labour advisers; the murder of John Sullivan, an American journalist; and the massacres at Las Hojas and Armenia. While this measure is in itself commendable, the Special Representative feels that there are many other cases which also merit investigation followed by judicial action. He therefore hopes that future investigations will not be confined to the above-mentioned cases.

163. Another earnest of a willingness to investigate and punish serious human rights violations is the news reported in the international press ^{183/} that the High Command of the Salvadorian Armed Forces has ordered an investigation of the alleged participation of an army unit in the massacre of 68 peasants from 18 to 22 July in the northern part of Cabañas province. The information is said to have come from official military sources. The investigation was apparently ordered by the Minister of Defence upon learning of a report by the Legal Protection Office.

164. With regard to the activities of the Human Rights Commission (governmental), whose establishment under the Apáneca Pact was described by the Special Representative in his previous reports, documents provided by the Commission indicate that it has continued its work during 1984. ^{184/} It is collaborating with the Ministry of Education to devise an educational programme that would promote greater awareness of the need for respect for human rights, and is planning to set up regional offices in various parts of the country. According to information received by the Special Representative, ^{185/} from 1 December regional offices will be opened in the departments of Santa Ana, San Vicente and San Miguel. According to the same information, programmes for promoting awareness of human rights are currently being carried out for members of security bodies, the armed forces and security units of various institutions. Another development reported is the establishment of an "office for tracing missing persons" as a link between the Human Rights Commission and the Armed Forces High Command. Apart from this, from January to August 1984, it considered 212 requests for help in finding persons whose whereabouts were unknown to their relatives; assisted 67 persons who came to its offices to find out why their relatives were being detained; conducted searches for 791 individuals who had been detained in the premises of the security bodies and military units; interviewed 471 detained persons; provided assistance, by supplying such items as clean clothing, soap and reading material, to 167 detained persons; carried out 192 inspections of places of detention; made 17 visits to the courts to obtain information on the legal status of prisoners; carried out 25 inspections of prison facilities; and made 41 trips to the interior to verify reports of human rights violations. The above-mentioned documents indicate further that the Commission gives immediate attention to urgent complaints of human rights violations and in many cases has prevented such violations from being committed; that it has become involved in the investigation of the most

^{183/} El País, 28 August 1984.

^{184/} Human Rights Commission of El Salvador, "Informe de la Comisión de Derechos Humanos de El Salvador, 18 de septiembre de 1984", San Salvador.

^{185/} Government of El Salvador, telex dated 25 January 1985.

serious or sensational cases; that it monitors legal actions brought against individuals under Decrees 507, 943 and 50; and that it currently has a team investigating complaints of human rights violations. During the period October-December, the Commission recorded 245 prisoners released and 143 placed at the disposal of the military judge; interviewed 217 detained persons; cited 71 persons to testify about the arrest of their relatives; made 95 visits to security bodies, military units and municipal gaols; and made 22 trips to the interior to verify reports of human rights violations. Moreover, between August and December 1984, 54 persons were released by security bodies and handed over to its representatives. ^{186/} Finally, the Special Representative feels that although in the over-all scheme of things, the Commission's role is a modest one, its activities frequently make things easier for persons who are suffering the distressing consequences of the civil war in El Salvador.

165. The Special Representative was told by the Chairman of the Human Rights Commission, Mgr. Freddy Delgado, that the Commission gives periodic lectures in the barracks to make members of the armed forces aware of the need to respect human rights.

166. Some of the testimony heard by the Special Representative in San Salvador confirms the view expressed above regarding the activities of the Human Rights Commission (governmental). For example, one witness told the Special Representative that after his son was detained by members of a security body, the International Committee of the Red Cross (ICRC) helped him to locate the prisoner's whereabouts, and the Human Rights Commission secured his release after seven months of detention. Another witness recounted that, having been accused by her live-in companion with whom she had quarrelled, of being a "subversive", the Human Rights Commission secured her release after two months.

167. The Special Representative has also received reliable reports ^{187/} that the International Committee of the Red Cross is continuing to conduct its humanitarian work in El Salvador. In addition to the activities mentioned in other parts of this report, members of the organization continued to visit detention centres where they questioned detainees without witnesses, to make inquiries about persons who have been detained or who have disappeared, to furnish medical aid and to organize courses for members of the armed forces on international humanitarian law and the principles of the Red Cross. Obviously, the fact that the Government of El Salvador permits these humanitarian activities is one more indication of its concern for respect for human rights.

168. The Special Representative was also told by the military authorities that guerrillas who present themselves voluntarily at the headquarters of the army or the security bodies are quickly released. If the "arrivals" hand over their weapons, they get 1,000 colons' reward (approximately \$250). Treasury Police documents ^{188/} show that in July 1984, three guerrillas from FAL, three from FPL and one from FARN presented themselves voluntarily before that security body, as did one from ERP in August. The documents report that these persons were handed over to family members or to the ICRC.

^{186/} Government of El Salvador, Ministry of Foreign Affairs, telex dated 25 January 1985.

^{187/} International Committee of the Red Cross, Central Amrep No. 5.

^{188/} Government of El Salvador, Treasury Police, "Subversivos presentados a la Policía de Hacienda de septiembre de 1983 a agosto de 1984".

169. The top officials of the country are also greatly concerned about the criminal justice situation, as the Special Representative could see in his conversations with them. In his previous report to the Commission on Human Rights, the Special Representative described attempts to reform the criminal justice system. During his trip to the country in September 1984, he found that those efforts had been strengthened. On 24 August 1984, the Government of El Salvador promulgated Decree No. 14, ^{189/} the purpose of which is to reform the administration of justice in order to improve it. The Decree establishes a Commission to review the administration of criminal and civil justice, which is granted 60 days from the date its members are sworn in to submit a plan of work and the broad lines of the proposed reforms. The Decree also provides that the Commission may agree to request technical and financial assistance from specialized international agencies and friendly Governments. The Government of El Salvador reports that the members of the Commission were appointed by Executive Order No. 145 of 9 November 1984. ^{190/}

170. In a related development, the Special Representative has learned that on 13 July 1984, an agreement was signed between the Republic of El Salvador and the United States under which a financial contribution will be made to El Salvador, through the Agency for International Development, for a project entitled "Judicial Reform". The agreement was subsequently amended, and it describes the project as follows: (a) support for the review committee; (b) assistance in protecting participants in criminal justice proceedings; (c) support for the development of investigative capacity and for the establishment of a forensic laboratory; and (d) administrative support for the court system and the training of judges.

171. The Special Representative welcomes this project for reform of the administration of justice and finds it worthwhile, but he does not think it will produce tangible results in the short term. Its effects will make themselves felt gradually in Salvadorian society in the medium and long term, because in the final analysis, individual and collective attitudes and habits will have to be changed, and those changes cannot be made overnight.

172. Although in his previous reports to the Commission on Human Rights, the Special Representative pointed to a considerable gap between the Government's intentions regarding respect for human rights and its ability to achieve results, he can now state that this gap has been narrowed in recent months. One indication of this is the sharp decline in statistics on politically-motivated murders, abductions and disappearances not connected with the fighting. There is no doubt that the new legitimacy of the Salvadorian Government and its determination to establish a democracy in which the rule of law and respect for human rights prevail account for the change in the situation. But while the gap is smaller, it still exists, and the legislative, executive and judicial authorities in the Republic of El Salvador must therefore co-ordinate and intensify their efforts until they succeed in abolishing all violations of human rights and fundamental freedoms in the country.

^{189/} The Government of El Salvador gave the Special Representative a copy of the Decree, which was published in the Diario Oficial of the Republic of El Salvador on 24 August 1984.

^{190/} Government of El Salvador, Ministry of Foreign Affairs, telex dated 25 January 1985.

VII. CONCLUSIONS

173. After careful and conscientious evaluation of the information contained in this report, the Special Representative is in a position to offer some conclusions, which reflect his personal convictions. It should be pointed out, however, that, owing to the terms of his mandate and the nature of the investigation, these conclusions do not refer to specific acts or events, but to the general human rights situation in El Salvador during 1984. In fact, because of the massive character of the allegations of human rights violations, the Special Representative has been unable, as in previous years, to undertake the necessary investigations in order to try to ascertain the real facts in each of the many cases about which he has received information.

174. With regard to economic, social and cultural rights, the Special Representative notes that the general situation described in his previous reports continues to worsen, although he cannot fail to take into account the serious economic difficulties being experienced by El Salvador, owing, inter alia, to the situation of war and generalized violence. The Special Representative further understands that these rights cannot improve overnight but only through a gradual process of reforms, including agrarian reform, which require among other things a climate of genuine social peace. The Special Representative also notes with concern that the methods of war used - aerial bombings by the regular forces and, in particular, systematic attacks by the guerrilla forces on the country's economy - seriously jeopardize the current and future enjoyment by the Salvadorian people of major economic, social and cultural rights. The Special Representative also draws attention to the violation of trade union freedoms by the Government of El Salvador.

175. As concerns the violations of civil and political rights attributable to the State apparatus and armed paramilitary organizations, presumably tolerated by, or connected with, that apparatus, the Special Representative is morally convinced that, during 1984, serious violations have continued; there is still concern about the numbers of violations of the right to life through political murders of civilians that are not combat-related. In any event, with regard to these kinds of murders as well as detentions and disappearances of individuals, the Special Representative must point out that, according to all indications, their numbers have considerably declined compared to recent years, undoubtedly as a result of the adoption of a new government policy, recommended in his previous reports, of greater prevention and control of the activities of the death squads and specific State organs. The Special Representative welcomes this policy and the subsequent development of events, although he feels obliged to point out the inescapable obligation of the authorities in El Salvador - legislative, executive and judicial - to adopt the necessary measures for the total eradication of violations of the fundamental right of human beings, namely, the right to life.

176. The Special Representative is also morally convinced that different branches of the opposition guerrilla forces have committed grave violations of such basic human rights as the right to life and liberty - through murders and abductions - although, according to most sources, they are fewer in number than the violations mentioned in the previous paragraph.

177. The Special Representative believes that the capacity of the Salvadorian judicial system to investigate violations of human rights committed in the country continues to be patently inadequate. It is true that in 1984 a guilty verdict was handed down in the trial for the murder, in December 1980, of four United States missionaries, and that another trial was also concluded. Nevertheless, most human rights violations have still not been investigated and punished; moreover, judicial procedures for investigating and punishing acts of collaboration with the guerrilla opposition are excessively slow. The Special Representative takes note, none the less, of the difficulties which clearly exist in this connection and the efforts to promote the reform of the Salvadorian system of criminal justice. It cannot be assumed, however, that these attempts will produce tangible results in the short term, but only gradually in the medium and long terms.

178. With regard to violations of human rights committed during or as a result of the fighting between the Salvadorian regular army and the guerrilla forces, it must be stated that, during 1984, there have been favourable developments, such as the exchange of persons captured in combat, a humanitarian practice which the Special Representative cannot but encourage. But while this practice is a cause for satisfaction, other events are of grave concern to the Special Representative, in particular the persistence of bombings and other attacks by the Salvadorian armed forces, that have resulted in what is probably a high number of unnecessary deaths among the non-combatant civilian population. There are also reliable indications that the aggressive actions of the guerrilla forces have at times resulted in the unwarranted deaths of combatants and civilians and that these forces have also practised the forcible recruitment of young people. In the opinion of the Special Representative, the persistence of civilian deaths in or as a result of combat weakens the favourable impression created by a decline in the number of political murders in non-combat situations.

179. Finally, whereas in his previous report 191/ the Special Representative observed a considerable gap between the intentions of the Government of El Salvador to improve the human rights situation and its ability to achieve results, he can now state that during 1984 that gap has been narrowed as a result of the present government policy designed to establish a democracy in which the rule of law and respect for human rights and fundamental freedoms prevail, although, albeit to a lesser extent than in the past, the gap nevertheless still exists.

VIII. RECOMMENDATIONS

180. Bearing in mind the concern expressed by the Government of El Salvador and other interested sectors about human rights violations, and taking into account in particular the quintessential character of the right to life and the fact that violations of that right are irreversible, the Special Representative once again recommends in the first place and again most emphatically that both sides should immediately take the necessary steps to terminate attacks on the lives of non-combatants, both in non-combat situations and in combat or as a result of the fighting.

181. The Special Representative continues to think that the achievement of civil peace is a vital prerequisite for the respect of civil and political rights and for gradual improvement of the situation with regard to economic, social and

191/ E/CN.4/1984/25 and Corr.1.

cultural rights. He therefore once again recommends that the Government of El Salvador and the left-wing opposition forces should take the necessary measures to bring peace to the country. In this connection, both the Government and the armed opposition should endeavour to ensure peace through the dialogue initiated at La Palma on 15 October 1984; in the Special Representative's opinion, this dialogue should be generous and open, thus making it possible to save the lives of Salvadorian citizens and establish peaceful, democratic and pluralistic coexistence in the country. In any event, for as long as there is no negotiated peace in El Salvador, the Special Representative recommends that the Government and the FMLN should adopt the necessary measures to humanize the war, which would be done by ensuring scrupulous compliance with the 1949 Geneva Conventions and the 1977 Additional Protocols.

182. In addition, the legislative, executive and judicial authorities in power in the Republic of El Salvador should be recommended to adopt the following measures:

(1) The repeal of all legislative and other measures that are incompatible with the provisions contained in the international instruments binding on the Republic of El Salvador in respect of human rights.

(2) The strengthening of control by the Government over the members and units of the armed forces and security bodies and over all types of armed individuals and organizations, including the so-called "death squads", until the violations of human rights and fundamental freedoms have been completely eradicated.

(3) The adoption by the authorities of the Republic of El Salvador of the necessary measures to prevent, investigate and punish as rapidly and effectively as possible violations of human rights, including the dismissal of civilian officials and heads, officers, non-commissioned officers and other members of the armed forces and security bodies who have committed such violations.

(4) The furtherance and intensification at all levels of mass campaigns to promote respect for human rights.

(5) The continuation and broadening, in a genuinely human, social, democratic and pluralistic spirit, of the necessary administrative and social reforms, including agrarian reform, so that the people of El Salvador may enjoy to the fullest extent possible the economic, social and cultural rights proclaimed in the international instruments binding on the Republic of El Salvador.