



ÉCONOMIQUE
ÉCONOMIQUE ET SOCIALE
**Economic and Social
Council** D'ARCHIVES
A RENDEZ-VOUS AU BUREAU E/9107

Distr.
GENERAL

E/CN.4/1990/45/Add.1
12 December 1989

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Item 23 of the provisional agenda

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Report by the Expert, Mr. Héctor Gros Espiell, on Guatemala,
prepared in accordance with paragraph 9 of Commission
resolution 1989/74

ASSISTANCE TO THE GOVERNMENT OF GUATEMALA IN THE FIELD OF HUMAN RIGHTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 2	2
II. MINISTRY OF THE INTERIOR AND JUSTICE	3 - 62	2
III. OFFICE OF THE PROCURATOR FOR HUMAN RIGHTS	63 - 68	13
IV. MINISTRY OF EDUCATION	69 - 80	18
V. INDIGENOUS COMMUNITIES	81 - 147	21
VI. ADVISORY COMMISSION ON HUMAN RIGHTS MATTERS TO THE OFFICE OF THE PRESIDENT	148 - 149	32
VII. MINISTRY OF FOREIGN AFFAIRS	150 - 151	32
VIII. HUMAN RIGHTS TRAINING COURSES	152 - 156	33

I. INTRODUCTION

1. In chapter V (para. 65) of the report (E/CN.4/1990/45), there is an account of the assistance given to the Government of Guatemala in the field of human rights in accordance with resolutions 1988/50 and 1989/74 of the Commission on Human Rights.

2. While summarizing, as an addendum to his report, the main features of the assistance granted by the Secretary-General of the United Nations to the Government of Guatemala in 1988 (third quarter) and 1989, the Expert wishes to point out that he shares and endorses the conclusions and recommendations of the advisors: Mr. Alejandro González Poblete (chapter II A), Mr. Julio Maier (chapter II B), Mr. Rafael García-Ormaechea and Miss Beatriz Rueda (chapter III C), Mr. Marco Antonio Sagastume (chapter IV) and Mr. Augusto Willemsen Diaz (chapter V).

II. MINISTRY OF THE INTERIOR AND JUSTICE

A. Investigation of cases of enforced or involuntary disappearance

3. In the first quarter of 1989, the services of Mr. Alejandro González Poblete, Head of the Legal Department, Vicaría de la Solidaridad, Archbishopric of Santiago, Chile, were made available for two months to evaluate the quality of the inquiries into cases of enforced or involuntary disappearance and to advise the Government of Guatemala on the subject. The Advisor's observations and recommendations have been sent to the Guatemalan authorities. A summary of his report is given below. The Advisor points out that cases of enforced disappearance cannot be analysed in isolation from the problem of the effectiveness of policies and of the methods of preventing, investigating and punishing crime. A mere reading of the daily newspaper crime reports reveals a significant increase in crime and the inadequacy of the institutions responsible for crime prevention and for identifying the guilty parties and bringing them before the authorities having jurisdiction to judge them in accordance with the law.

4. In his analysis of the effectiveness of the prevention and investigation of crime in general, the Advisor identifies as the determining factors: (i) inadequate training of the police force; (ii) inadequate relations between the courts and police officials; (iii) lack of co-operation by the public in the investigation of offences; and (iv) lack of activity by the Public Prosecutor's Department.

1. Inadequate training of the police force

5. The members of the Executive Board and the National Police Headquarters Staff are well aware of the inadequacy of the professional training of the police force and of the urgent need to improve it: they have initiated the reorganization of the force by a series of initiatives designed to improve the professional and technical standards of police work and to strengthen control machinery so as to ensure responsible behaviour by the police force and to place it at the service of democracy as a guarantee of the people's safety and rights. These aims appear to be shared not only by the top commanders of the National Police but also by all the officials whom the Advisor had the opportunity of meeting during his mission (mainly young officials belonging to recently established sections or departments).

6. The Advisor states that it is vitally important that such initiatives should continue even if they do not produce immediate effects, that they should be extended to wider sectors of the police force and that the various plans should be put into effect as soon as possible. Moreover, given the magnitude of the problem of violence and crime in Guatemala, it is essential to increase the human and material resources available for the reduction and prevention of crime.

2. Inadequate relations between the courts and police officials

7. The inconclusive results of the investigations of criminal offences by police officials are due, according to the Advisor, to the fact that the investigations, started as a result of a complaint submitted and the findings of which are conveyed in a report to the competent court, are not as complete as the judges require and lack sufficient evidence to serve as a foundation for an efficient judicial inquiry.

8. The inadequacy of the judicial inquiry means that a large number of criminal cases remain "investigation pending". The examining magistrates' courts in the capital are supersaturated with files at that stage and have not sufficient capacity to reactivate them by ordering fresh inquiries. Apart from very serious cases which have aroused a public reaction, that is tantamount in practice to shelving the investigation.

9. A kind of vicious circle is produced in this way: the police officials are frustrated by the fact that the judges release individuals whom they bring to the courts accused of an offence while the judges feel they are not receiving the efficient professional collaboration which should be given them by the police to carry out successfully the investigations for which they are responsible.

10. This defect is undoubtedly connected with the inadequate professional and technical training of the average police official but also with shortcomings in the working methods of both the courts and the police. Such methods should help to remedy the inability to communicate and to compel smooth and efficient collaboration.

11. The authorities, of both the Ministry of Justice and the police, are aware of this defect. At the moment, with the technical assistance of the Criminal Justice Centre of Harvard University Law School, a "pilot plan" is being implemented in three courts in Guatemala City, with the participation of the appropriate police officials, for the purpose of improving co-ordination of the work of the officers of the court and that of the police officials and optimizing the performance of both sides for the sake of a better administration of justice.

3. Lack of co-operation by the public in the investigation of offences

12. The lack of co-operation by private individuals, whether witnesses or actual victims, their close relatives and other persons concerned with the investigation of offences, is a defect reported not only by judges and police officials but also by lawyers and by persons not involved in legal or judicial work.

13. Various reasons are given for this unwillingness of private individuals to become involved: on the one hand, there is a fear of possible reprisals by the criminal elements arising from a feeling of defencelessness in the face of very widespread crime and, on the other, a lack of confidence in the police and also in the effectiveness of the judicial system.

14. It seems urgently necessary to plan and put into effect sustained publicity campaigns which would both inform the public of the initiatives and work by the competent organizations to prevent and investigate criminal offences and endeavour to educate it in terms of its civic duty to help eradicate crime.

15. However, as regards the services legally responsible for peoples' safety and for the prevention and punishment of crime, no publicity campaign can be effective if it cannot be supported by effective results. In the case of the National Police, in particular, such a campaign should give an account of its task of ensuring the safety of the public through the prevention and suppression of crime within the framework of the law. The Advisor comments that, although the Citizens' Protection System (SIPROCI) can be justified as a temporary measure in view of the current defects, a professional police organization should have the monopoly of preventing and suppressing crime.

4. Lack of activity by the Public Prosecutor's Department

16. The Guatemalan Code of Penal Procedure provides that the initiation of criminal proceedings is essentially the responsibility of the Public Prosecutor's Department. It must be involved in all the stages of a public trial, of which it must be notified from the very outset, and it is responsible for advancing the investigation, enforcing judicial decisions and, in general, seeing to the prompt and correct administration of justice. It is empowered to approach the respective authorities, even before the trial begins, to ensure that the inquiry and investigation are being carried out properly.

17. None the less, the Public Prosecutor's Department does nothing very much in the investigatory stages of the case, limiting its intervention to appealing against the judgements handed down by the court of first instance when it deems this appropriate. The Advisor recalls that the interests of society are involved in the investigation and legal punishment of offences and that the Public Prosecutor's Department was set up precisely to represent those interests.

18. All the comments made regarding the defects and inadequacies of criminal investigations in general also apply, and to an even greater extent, to the police investigations and judicial inquiries into cases of enforced disappearance and extra-legal executions.

19. In the course of his mission, the Advisor acted as consultant to the Missing Persons Section of the National Police, the Advisory Commission on Human Rights Matters to the Office of the President of the Republic (COPADEH) and the Special Affairs Department of the Ministry of Foreign Affairs.

20. On the basis of an examination of files, conversations with officials and opinions received from other sources, the Advisor made some comments on the work of the Missing Persons Section of the National Police. These are as follows:

(a) The Missing Persons Section has, in fact, received a large number of reports of "disappeared persons". Those relating to Guatemala City, a high proportion of the whole, were investigated directly by the staff of the Section, in productive field work;

(b) Cases occurring in the Departments are investigated by the local police force; the Section neither directs nor guides such investigations, nor does it make a qualitative assessment of them from the point of view of scientific police work;

(c) The work done by the Section is socially necessary and useful, since it meets the demands of the relatives of missing persons, which should be efficiently complied with by the police;

(d) Most of the cases investigated do not arise from situations of enforced or involuntary disappearance; as confirmed by the statistics prepared by the Section itself on the reasons for disappearance, the highest figures (more than 70 per cent) relate to family problems and migration;

(e) It would seem that the purpose of the Section's work is solely to establish what has happened to the missing persons and not to investigate any criminal offences that might have caused the disappearance; thus, when it becomes clear that a missing person is dead, the fact is recorded and, at least as far as the Section is concerned, the investigation is dropped and the case is closed;

(f) The centralization of investigations into cases of disappearance, which the Advisor was informed was the task of the Section, is carried out only with respect to cases in the capital; as regards the rest of the country, it is only the information that is centralized.

21. None the less, enforced disappearances and extra-legal executions still occur in Guatemala. Despite the fact that such cases of political crime seem to be confused with common violence and crime, the Advisor encountered no one who denied their occurrence. On the contrary, there was very general consensus in society that politically motivated crimes were still occurring.

22. If it is to be investigated effectively, political crime cannot be regarded as a succession of isolated deeds. On the contrary, experience shows that it is not the work of criminals acting individually; behind them, in the planning and the selection of victims, and even in the choice of methods of execution, there are unlawful organizations and associations. Consequently, to halt these activities, it is not enough to discover and punish the actual perpetrators; it is essential to identify these organizations and to prosecute the master-minds and those who help by contributing material resources and information so as to put an end once and for all to their criminal activities. From this point of view, it is obvious that investigations of political offences produce a reciprocal feedback and that inquiries are likely to be effective only if they are centralized in a single investigating unit.

23. The Advisor states that such a central investigating unit should, as an urgent priority, be included in the National Police, with the most experienced and best trained staff available, and supplied with the necessary material resources. It should be responsible for investigating cases of enforced disappearance, extra-legal executions and other forms of political crime, such as threats, short-term abductions and cases of intimidation.

24. With regard to the work of the Advisory Commission on Human Rights Matters to the Office of the President (COPADEF) the Advisor had the following comments to make:

(a) The purpose of the Commission's investigatory work is simply to establish the fate of the person who has disappeared. Once, for example, the death of the missing person is established, there is no attempt to investigate the cause of death;

When the Advisor pointed out to the investigators, in a case received the previous day and whose investigation was about to start, that, in addition to the missing person, four other persons had been kidnapped in the same operation whose bodies had been subsequently found, they informed him that they were concerned only with establishing the fate of the person who was still missing while the case of the other four persons would be passed to the Homicide Section of the National Police for investigation. The Advisor told the investigators that he did not think there was any justification for separating the investigations deriving from a single criminal act. He received a similar reply when he was giving advice concerning another case where four people had been killed; he was informed that it was a closed case because it was outside the Commission's terms of reference;

(b) An essential step in all cases was consultation of the National Police if the person whose disappearance was reported had a criminal record. If the report indicated that the missing person had been working for some individual or company, the Guatemalan Social Security Institute was asked whether the missing person had indeed made contributions through that employer. Until the answers were received, the investigations were suspended;

(c) Various cases discussed had not been handled, despite the fact that they had been received several months previously, either through lack of time or because the investigators had not yet reached the Department in which the deed had occurred (Alta Verapaz);

(d) On comparing the date on which cases were communicated to the Government and that on which the documents were received by the Commission, it was noted that long periods elapsed, sometimes months on end.

25. The Advisor's scrutiny of the Commission's work did not qualify him to make any practical recommendation. All he could do was give his opinions. He does not think that the Commission's achievements are very relevant, especially in the light of the hierarchical position and purposes assigned to it by the Government Order that set it up. Its contribution to the clarification of cases of enforced disappearance is minimal; it has done nothing about situations that occurred before the present Government took office. There appears to be no justification for this self-denying limitation of its competence to simply establishing the fate of the missing persons.

26. Instead of maintaining two organizations with limited resources and inadequate results for such investigations - the Commission and the Missing Persons Section of the National Police - it would seem preferable to concentrate the resources in a political crime investigation unit.

B. COUNSELLING AND TRAINING POLICE OFFICIALS AND
OFFICIALS OF THE JUDICIARY

27. From 18 October to 28 November 1989, the advisory services of Mr. Julio Maier, Professor of Criminal and Trial Law in the University of Buenos Aires, Argentina, were made available to the Guatemalan authorities to counsel and train officials of the administrative or judicial institutions involved in the administration of the criminal law, particularly members of the staff of the Ministry of the Interior. His mission consisted in holding courses for the various police forces operating in the country (with the significant exception of the so-called "Mobile Military Police", a military force which is subordinate to the Ministry of Defence) and talking to their authorities; holding courses for officials of the Public Prosecutor's Department and for judges; interviewing and lecturing senior officials of the Ministry of Justice and helping with the second national human rights training course. The Advisor also visited various prison establishments. Some of the conclusions from the Advisor's report on the administration of justice in Guatemala and his recommendations for improvements are given below.

28. In the procedure currently practised in Guatemala only the records (written documents) are of any importance because, apart from the direct information of the evidential items, the procedure consists of a written inquiry with which the parties interested in the case (the accused or the victim) have no connection at all. With rare exceptions such parties do not attend the proceedings which are going to produce the ultimate verdict (conviction or acquittal) but are, at best, represented by a counsel who is concerned solely with the defence of their interests. The judge gives the verdict on the basis of the written documents, whose preparation is normally delegated to junior officials. The judge who pronounces the judgement is not the one who had listened to the evidence and the dialogue - if the term can be used of this inquiry - is not public in the sense that members of the public or even interested parties, including the press, can attend and follow it. The basis of everything is the dossier, the file which contains the documents prepared by junior officials of the judiciary.

29. It is a highly verticalized system of justice, including internal control machinery which functions independently of the will of the people involved in the proceedings and in which the delegation of functions to junior officials is a way of reducing the extremely heavy work-load, which is completely disproportionate to the human resources available.

30. In view of the fact that the Public Prosecutor's Department plays a purely formal role in the proceedings, the judges have to assume, both legally and practically, the simultaneous functions of interrogator (prosecutor) and adjudicator.

31. It is hardly necessary to say that such proceedings and such an organization are not appropriate to a State subject to the rule of law nor, indeed are they in keeping with the various human rights conventions which provide for a public trial, with the accused being present at all stages and having the possibility of defending himself as well as the legal assistance of a defence counsel. In fact, it is an inquisitorial investigation, based on the colonial law inherited from Spain, apart from some minor, non-systematic, changes that were introduced to bring the procedure into line with certain guarantees of individual safety (e.g. the prohibition of torture or coercion to obtain information).

32. In the system applied in Guatemala, the examining magistrate is a mixture of interrogator and judge: on the one hand, he is trying to ascertain the truth and, on the other, he is the legal guarantor of the citizen's rights. Quite apart from the confusion between the functions of prosecuting and adjudicating, or perhaps on account of this confusion, it may be readily concluded that he is not efficient in either of these tasks.

33. In particular, the machinery of justice is inflexible in its operation and does not allow, for the purposes of the preliminary investigation, of any adaptation to the individual case. The examining magistrate and his material resources are exactly the same, whether it is a question of clarifying a simple act attributed to a single perpetrator (the accused) or to clarifying criminal manoeuvres that are complex, not only with respect to their contents or to the abstract contents of the offence, but also as regards the number of persons accused or the acts involved in the case (numerous suspects and multiple activities). It can readily be understood that, in complex cases, the machinery breaks down.

34. Everything could change if the Public Prosecutor's Department were to assume its true function, that of prosecution, including the conduct of a preliminary investigation, with the help of the police, to find the culprit for submission to the court. In this system, the judges are solely concerned with the work of adjudicating, including that of reaching a decision, by means of question and answer, on aspects of the investigation which involve guaranteed human rights: e.g. deprivation of liberty during the proceedings, house searches, opening of correspondence or interception of communications, etc., giving or refusing permission for the Public Prosecutor's Department or the police to act in the area covered by the guarantee in question, according to the case. In this way, they would more effectively carry out their basic function of protecting the rights of the individual, once they are relieved of responsibility for the efficiency of the investigation of the case.

35. It is thus clear that, whatever the defects in other areas (the police force for instance) and however they may be effectively resolved, such a solution will have no real impact until the judicial system has been modified.

36. It is also clear that, although the judges and officials of the judiciary are not directly and personally responsible for the violations of human rights which occur in the application of the criminal law, the system used to settle social conflicts of that kind is conducive to such failures to observe the basic rights of the human person.

37. Police officials often say, for example, that the judges do not give prompt decisions on their requests for search warrants which, for that matter, require some exaggerated formalities. They also allege that the judges advise them or instruct them to prosecute an arrested person presented for a judicial decision concerning his remand in custody and that, given the function of the police and its purposes (to find out the truth), this encourages them to use alternative ways of doing so, which are always at variance with human rights.

38. In this context, it is essential to secure a radical transformation of the Public Prosecutor's Department which is now carrying out a series of functions not connected with its chief task, prosecution. Whether or not these other functions are retained (representing the State in cases of other

kinds, controlling the legality of the administration, acting as legal advisor to the Executive (executive or administrative power)), a radical change is required in its basic function, criminal prosecution.

39. In the police context (apart from the Military Police which the Advisor's report does not include), the Government has made greater efforts to adapt operations to the rule of law and respect for human rights. In this respect, the establishment of the Office of Professional Responsibility represents a serious effort at self-monitoring and at purging the internal membership of the National Police. It has a section concerned with missing persons which, at the moment, is being equipped with technical facilities, namely, a computerized data bank. It has been noted that, in the minors' section, there are some technically-trained staff members - though few in numbers - and that the rights of the child and the rules concerning the prosecution of minors are known. What is more, the Police School has just been reopened. This trains police recruits and will, it is hoped, improve the training of the officials already in service. Its reopening coincided with the Advisor's lectures and may represent an auspicious event in the promotion and propagation of human rights. The plan of studies which it is intended to apply contains a unit concerned with the propagation of human rights which would be taught in close co-operation with the Office of the Procurator for Human Rights. The members of the Rural Police are trained in a special school and given instruction in human rights.

40. Nevertheless, there are deficiencies which are, in fact, well-known to the top police officials. The chief defect is the low level of civil education of the police officials, a problem that is difficult to solve since, in its turn, it arises from one of the problems basic to Guatemala: illiteracy and poor schooling. Some 85 per cent of the officials of the National Police have had no more than a primary education. There is still little knowledge of human rights, largely on account of the defect mentioned, and efforts in that area should be renewed.

41. Next in importance is a defect common to all police forces: a tendency towards bureaucratization. According to the information received, more than 30 per cent of the staff of the National Police are engaged in purely administrative and non-operational matters and, at times, this percentage climbs to more than 50 per cent.

42. Corruption is also important. This is known to the police authorities and attempts are being made to deal with it. There are a number of reasons for such corruption, the main ones being low wages and limited education.

43. In Guatemala, as in many Latin American countries, the limited degree of development reaches only one of its cities, the capital of the Republic, or to some extent another important city, while the remainder of the country suffers from internal underdevelopment. It may be noted that the National Police - with approximately 12,000 men - assigns almost 50 per cent of its strength to safeguarding Guatemala City. This, however, is a defect which is to be found in other areas also, e.g. apparently in the judiciary. As regards policing, it is noteworthy that the Rural Police sometimes covers country areas which are not covered by the National Police.

44. There is a certain competition between the National Police and the Rural Police, since there is no clear-cut division of areas of competence between the two organizations and this has, in the past, even given rise to some confrontation.

45. As regards imprisonment and pre-trial detention - the penitentiary system - it is noteworthy that, despite the fact that the treatment of prisoners does not conform to all the Standard Minimum Rules for the Treatment of Prisoners, the situation is far from being chaotic, as in some other Latin American countries, and, in the Advisor's experience, those rules are, in many ways, respected to a greater extent than other countries in the region.

46. It should be explained that not all the detention establishments (penal centres) belong to the penitentiary system or are administered by it. There are departmental prisons run by the police, in which the penitentiary system has minimum influence: some employee, called a "registrar" notes down the main data concerning the prisoner (identification, entry and departure) for statistical purposes. This situation is explicable solely on historical grounds (the police was formerly responsible for executing judgements in criminal matters), since both the penitentiary system and the National Police are subordinate to the Ministry of the Interior. I do not know the penal centres administered by the Police, so the report covers only the penitentiary system.

47. It should be mentioned, also, that the judiciary quite correctly controls the execution of a sentence of imprisonment, with regard to its beginning, its ending and conditional release. Such control might possibly be increased, in the interests of the relative "judicialization" of the enforcement of penal verdicts, but it already exists in embryo.

48. Despite what has been said above, there are still some violations of the Standard Minimum Rules for the Treatment of Prisoners. The main ones are:

(a) Untried prisoners are not regularly kept separate from convicted prisoners (rule no. 8 (b)), though efforts are being made to comply with this rule. The "Constitutional Restoration" Remand Home is being built (it is almost finished) and this will render it possible to observe this rule properly, a rule which is also contained in the Guatemalan Constitution (article 10);

(b) The accommodation of prisoners does not always (Pavón Penal Farm) meet the conditions of rule no. 9, especially those of paragraph (1). This violation is, however, mitigated by the extent of the recreational facilities and the freedom of prisoners to use them at will during many hours of the day; and

(c) There is a certain neglect of the installations at the Pavón Penal Farm which is due partly to a lack of means and partly to the behaviour of the prisoners themselves, who do not look after the installations.

49. The Government is endeavouring to improve the situation. Apart from the construction of the Remand Home already mentioned, for untried prisoners, which will make it possible to separate them from the convicted prisoners, new kitchens and dining rooms have been completed in the Pavón Penal Farm which are well up to hygiene and health requirements. The prison population has

been brought approximately into line with the maximum accommodation potential of the prison system, whereas in the past it was sometimes as much as 4 times the capacity.

50. The work system deserves a separate paragraph. Prisoners work only on their own initiative, since the prison establishment does not provide machinery or materials to manufacture goods although it does tolerate and permit private initiative. The produce is marketed in the same way. While the Advisor has not been able to investigate the actual situation owing to lack of time, this presupposes the existence of "capitalists" who finance the work and the production and workers who produce the goods for wages, although individual undertakings are also conceivable. It also presupposes marketing shortcomings in the form of free middlemen paying low prices. In any case, the working portion of the prison population is low as compared with the idle portion and, here again, there is no distinction made between untried prisoners and convicted prisoners.

51. There are also some model establishments such as the Female Training Centre, but it must be recognized that the women do not present great problems. The convicted prisoners housed there are only 50 in number (at the moment of the visit), an ideal size for a prison.

52. According to the general statistics, which were supplied by the administration of the penitentiary system and, in the case of the Pavón Penal Farm, by the Director of the establishment, 70 per cent of the inmates are untried prisoners (remanded in custody) while only 30 per cent are convicted prisoners. Such a proportion is yet another indication of the failure to comply with the express rules of the human rights conventions (International Covenant on Civil and Political Rights, article 9, paragraph 3).

53. What is more, detention in custody is ordered in cases of offences which are punishable only by fines, a decision which violates the principle of proportionality by inflicting, during the trial, greater suffering - and indeed excessively greater suffering - than the law provides as a penalty for a person convicted.

54. Neither of these situations constitutes, however, a criticism of the penitentiary service which, in this respect, is only carrying out decisions by the courts but they do confirm the breakdown of the administration of justice in criminal matters and the damage that it does to the practical application of human rights.

55. The Advisor recommends that counsel and assistance be given to achieve a radical transformation of the system of administering justice in criminal matters, particularly in order to:

(a) Introduce public trials in criminal matters, the only way to consolidate the rule of law in the administration of justice, so as to render transparent the operational procedures which lead to judicial decisions and the judicial decisions themselves;

(b) Modify the system of preliminary investigation in criminal cases, by giving the leading role to the Public Prosecutor's Department (the natural organ for State prosecution though it will have to be changed structurally to carry out this function efficiently) as director of the investigation and the

Police as its immediate assistant (co-ordination of the functions of the two professions). This is the only way of rationalizing the existing human and material resources and tailoring them to the case being handled and thus rendering possible a certain efficiency in prosecution without impairing the rights of the accused;

(c) Reserve to the judges the right to decide, during the preliminary investigation also (by means of question and answer), if some investigatory action by the Police or the Public Prosecutor affects any of the guaranteed human rights of the accused, the sole way in which the judges can escape involvement in the success of the investigation and prosecution and thus be efficient custodians of citizens' rights; and

(d) Create a system of case selection which will make it possible to unblock the excessive work-load of the judiciary in criminal matters through rational methods with agreed solutions (diversion) and thus adjudicate effectively the important cases entering the system, in accordance with the human and material resources available.

56. The efficiency of the entire criminal system in protecting the human rights of the people depends on transforming the system of administering criminal justice. This will also condition the efficiency of the system in protecting the human rights of persons caught up in it. Any positive change in the other agencies of the system (such as the police) will have little real social impact if the judicial system is not changed and the transformation of the judicial system will require a profound change in the routines of the system's operators.

57. For the rest, the system of administering justice is one of the pillars on which the entire system of democratic life rests and a correct administration of justice, with procedures adapted to the requirements of the rule of law, is the best support for the consolidation of a democratic State.

58. Within the programme of changes to the administration of justice, it is essential that assistance be given to study the role of that service in the context of the indigenous population, which constitutes the majority in the country, to ensure that the new system respects the cultural background and the participation of members of this population in the task of judging their peers, even if special treatment is required, in keeping with the policy of developing and assisting and not discriminating against those people. Trial by jury, in criminal matters, could perhaps supply a solution to this problem, which is a major one and which deserves a special investigation.

59. The Advisor also recommends that assistance and counsel should continue to be given in promoting and spreading knowledge of human rights in Guatemala through:

(a) Training courses for judges, officials from the Public Prosecutor's Department and public defenders on the values protected by human rights, the consequences of the existence of such rights and the appropriate judicial system for ensuring that they are protected and respected;

(b) Courses and seminars to promote and spread knowledge of human rights aimed at police officials, including support for their ordinary training programmes;

(c) Support for the programmes to improve the administration of criminal justice and the police service undertaken by the Guatemalan Government, including the Ministry of Justice, in keeping with the aim of ensuring protection and respect for human rights in the State's exercise of penal authority.

60. It should be mentioned that besides assistance from the United Nations Centre for Human Rights on matters relating to the administration of justice, Guatemala is also receiving the following aid: (a) international programme of assistance for training in criminal investigation with advice and finance from the United States Justice Department; (b) training of Guatemalan police officials in Spain, a programme financed by that country; (c) training of Guatemalan officials in the Federal Republic of Germany under a two-year programme financed by that country; (d) regional project on the administration of justice by the United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders (ILANUD); (e) Harvard University project for setting up pilot model courts; (f) bilateral project by AID and the Ministry of Justice for reforming or improving all institutions involved in the administration of justice.

61. It should also be noted that following the Advisor's mission and the counsel and training he gave to the Ministry of Justice, Mr. Maier was invited by Mr. Edmundo Vasquez, President of the Supreme Court of Justice, to work on the reform of the Guatemalan penal system in 1990.

C. Training fellowships

62. Four fellowships were given to the following police officials and officials of the Ministry of the Interior to enable them to attend specialized policing courses: Mr. Enrique Cifuentes de la Cruz, Superintendent of Police, Chief of the Office of Professional Responsibility; Mr. José Alberto Esteban López Coronado, Legal Advisory Service of the National Police; Mr. Luis Arturo Pantagua Galicia, Superintendent of Police and Chief of the Fifth National Police Corps; and Mr. Francisco Flores Sandoval, Chief of the Legal Department of the National Police. These fellowships enabled two Guatemalan officials to attend each of two specialized policing courses, in 1988 and 1989, respectively, organized by the Centre for Sociological, Criminal and Prison Research and Studies in Messina, Italy, the XIth course being held from 4 to 14 October 1988 and the XIIth from 3 to 13 October 1989.

III. OFFICE OF THE PROCURATOR FOR HUMAN RIGHTS

A. Training fellowships

63. A fellowship was awarded to Mr. Jorge Cabrera Hurtarte, Secretary to the Procurator for Human Rights of Guatemala, for the period 20 November-22 December 1988, to study the organization and operation of every department of the Office of the Spanish Parliamentary High Commissioner and see whether the systems developed in Spain could be introduced in the circumstances prevailing in Guatemala. On the basis of the work done during Mr. Cabrera's secondment to the Office of the Parliamentary High Commissioner in Madrid, the Office of the Procurator for Human Rights of Guatemala has set up the following activities and departments:

(a) Press Department: This has a staff of two persons, who prepare a daily press summary, from which information is taken as a basis for opening files on cases for ex-officio investigation. The Director of the Department is responsible for ensuring that the Procurator for Human Rights is mentioned in the newspapers at least three times a week, in which he has so far been successful. The staff of the Department also accompany the Procurator to take video films and photographs of his activities. Arrangements have been made to monitor radio and television broadcasts in order to note new complaints and to keep abreast of what is being said about the Procurator for Human Rights and of reports of violations of human rights.

(b) Library: A library was organized, and has since been expanded with books and documentation provided by the United Nations Centre for Human Rights.

(c) Data-processing: A Data-processing Department has been set up with a computer donated by AID, on the basis of some of the programmes used in the Office of the Parliamentary High Commissioner. It is at present issuing weekly reports designed to keep a check on the way cases are being dealt with and is working on the development of new programmes, since delivery of three more computers is expected at any moment.

(d) Correspondence: The arrangements for delivery of correspondence have been reorganized; at present some 90 per cent of notifications are made by post. Final decisions in cases are always notified in person, and the fact of the notification is noted on the copy. A private firm has been engaged which delivers documents more cheaply and rapidly than the post office.

(e) Registration Department: The Department has been completely reorganized and moved to a room separate from the other offices, with individual booths so that a number of complaints can be received at the same time. There has been a change of staff in this Department, and special training is now being given in dealing with the public.

(f) Areas of work: Efforts are being made to reorganize the areas of work to bring them into line with the practice in the Office of the Parliamentary High Commissioner. It is hoped that this project will be completed by the end of this year.

(g) Investigation Department: The Investigation Department has been set up and currently employs a staff of three persons, who investigate in particular reports of disappearances. They do this confidentially, reporting direct to the Procurator for Human Rights.

(h) Promotion and Education Department: A Director has been appointed to co-ordinate human rights publicity and education within the country. A nation-wide programme on the rights of the child has been undertaken, sponsored by the Government of the Kingdom of the Netherlands at a cost of some \$300,000. The first publications have already been issued, and the launching of the campaign has been publicized by radio in five dialects all over the country.

(i) Annual report of the Procurator for Human Rights: The annual report which the Procurator for Human Rights has to submit to the Congress of the Republic has been remodelled on the basis of the report of the Parliamentary High Commissioner for 1987.

64. In his report, Mr. Cabrera stated that the action taken at the Office of the Procurator for Human Rights in Guatemala had improved and streamlined its operations, so that his visit to the offices of the Parliamentary High Commissioner in Madrid, Spain, had been a very useful one.

B. Supplies of books and equipment

65. In 1989, books and documents were supplied to the Office of the Procurator for Human Rights, as was office equipment.

C. Advice by the Office of the Parliamentary High Commissioner in Spain

66. From 20 September to 5 October 1989, the Office of the Procurator was provided with the services of two Advisors from the Office of the Parliamentary High Commissioner in Spain. Mr. Rafael García-Ormaechea and Miss Beatriz Rueda Muñoz, General Secretary and Principal Private Secretary respectively of the Office of the Parliamentary High Commissioner in Spain for the purpose of: (a) giving training on general aspects of human rights; (b) providing information on the role of the Parliamentary High Commissioner in protecting human rights; (c) supplying advice on practical aspects of the application of the law and the Constitution in defence of human rights; (d) evaluating the reforms introduced in the Office of the Procurator following the 1988 visit of his Secretary, Mr. Cabrera, to the Office of the Parliamentary High Commissioner in Spain and making appropriate suggestions; and (e) advising on the operation of branch offices throughout the country.

67. The two Advisors' recommendations, which have already been transmitted to the Guatemalan authorities, were as follows:

(a) Given that the initial establishment of the Central Office in the capital has been completed, with adequate staff and an acceptable level of organization and methods of work, it is essential that the budget of the Office of the Procurator should in future be big enough for it to maintain at very least the level achieved. If that is to be done, it will be necessary to envisage giving priority to gradual development of the data-processing system, making the investment necessary to cope with the increase there will inevitably be in the number of complaints.

(b) Any economic aid sought by the Procurator's Office from abroad should be supplementary. The Office's activities should not, as hitherto, depend upon such aid; if it has office furniture, computer equipment and vehicles - essential for outside investigations - and if it has funds for its publicity campaigns, that is due to financial contributions from outside sources, such as USAID, the United Nations and the Netherlands Government.

(c) Attention has to be drawn to the disadvantages of the Central Office's present location in Guatemala City, in a residential district far away from the centre, transport connections and the areas where most people live. While we recognize that a move would be difficult, we believe the problem should be tackled in the near future, a more central location being chosen with better transport facilities so as to give the inhabitants of the capital and its suburbs better access to the Office of the Procurator.

(d) It is necessary to make people better informed about the Office of the Procurator for Human Rights as an institution, reaching all urban and rural areas in the country. The number of complaints will then rise to a level more consistent with the sociological facts and the size of the population. For this purpose, it will be essential to maintain the publicity campaign launched in the media - which has been well organized so far, in the various official languages and dialects - and to promote the establishment of branch offices in the departments. The existing departmental offices maintain a decent level and their staff seem adequate. However, the idea of setting up 20 offices by the end of the year, without definite budgetary resources, seems overambitious. A degree of caution is perhaps to be recommended in the selection of sites, staff, installations, etc., in the light of the budgetary resources available. This does not, of course, mean that there should be any curbing of the effort to establish these branch offices, which, as already stated, seem to be essential.

(e) To sum up, the Office of the Procurator for Human Rights ought in the short term to have a budget which would enable it to perform the following tasks out of its own resources: (i) transfer the Central Office to a location in the centre of the capital; (ii) gradually and judiciously establish branch offices in the departments; (iii) expand the data-processing resources at the Central Office in the short term and establish them at branch offices in the medium term; (iv) further develop the publicity campaign on the Office's terms of reference and the work it does. All this should be done without prejudice to resources which, without being essential, might be forthcoming from third parties for specific related purposes in order to supplement the work of the Procurator's Office. Thus, for the record, we might mention the reference library on human rights donated by the United Nations Centre for Human Rights to the Office, which lacked one of its own.

(f) Greater efforts are called for in the activities entrusted to the Procurator's Office under the Constitution and the law, namely, to protect human rights, promote human rights education and awareness and ensure respect for those rights. Specific agreements should be entered into with the Ministry of Education and the universities stressing the need for a good knowledge of the subject at different levels and in different disciplines. Arrangements might also be made for inspectors to visit educational institutions and assess the level of the teaching staff and the instruction they give. Sectoral agreements could also be reached with the army and with the appropriate ministries with a view to reaching those sectors of the population who, because of their social circumstances, may find their opportunities for exercising their rights limited, such as soldiers, prisoners and inmates of institutions for the old and mentally ill, and also other groups such as women and children.

(g) Every year the Procurator's Office should establish an order of priority in its objectives, making adequate plans well in advance with regard to the matters on which it is going to conduct investigations. That does not mean that it should neglect its immediate daily task of dealing with individual complaints by citizens, but that it should give due thought to the number and nature of cases it will tackle on its own initiative, for the most part on the basis of reports in the media.

(h) The extent of the powers invested in the Procurator under the law makes it essential, in our view, that they should be interpreted restrictively, at least until his Office gains enough acceptance and resources to enable it to do more. For the time being it should as far as possible select matters that involve the private sector. There should also be a clear demarcation of questions that are a matter for government economic policy or that are strictly the concern of the judiciary.

(i) It is urgently necessary to secure greater collaboration between the Office of the Procurator and the Congress of the Republic, through the Chamber's Human Rights Commission. At present such collaboration is purely formal. The two bodies should establish joint work programmes and hold periodic meetings, and in general work to achieve greater flexibility, so that matters dealt with by the Commission can be investigated by the Procurator and so that the results of his investigations can, in their turn, produce some response, with the Procurator himself attending to provide information whenever parliamentary proceedings make that necessary. At present, the Office of the Procurator seeks support for its activities from the media, from public opinion and, as appropriate, from the international organizations. But it lacks the natural environment it should operate in, which in the long term, since it has been given a parliament Commission, can only be the Congress of the Republic.

(j) Proper arrangements should also be established for collaboration and co-operative action with the Human Rights Commission reporting to the President of the Republic, with the highest body of the judiciary and, in particular, with the Attorney General.

(k) With regard to investigations into reports of disappearances, by far the most serious cases - both qualitatively and quantitatively - that the Procurator for Human Rights has to deal with, it is to be recommended that the Office of the Procurator itself, together with other institutions and the general public, should realize that this problem goes far beyond the possibilities and resources available to the Procurator;

(l) In the relative terms already indicated, a state of opinion should also be created tending towards decisive institutional and governmental support for specific individual investigations undertaken by the Procurator into disappearances;

(m) For obvious reasons, priority attention should be given to new or recent reports of disappearances, in the form of immediate investigations;

(n) The resources available to the Investigations Department to deal with disappearances should be increased without fail. They are definitely inadequate as things now stand, so it can be imagined what the situation will be when it also has to co-ordinate the work of the departmental offices, which will need to be continuously staffed;

(o) Methods of investigation should be improved by conducting on-the-spot inquiries to the fullest possible extent, interviewing as appropriate all witnesses, relatives and neighbours, and also interviewing any military or police authorities that may have been involved in the case, obtaining compulsory official documents of all kinds, such as doctors and

lawyers' reports, police-cell or prison registers of admissions and discharges, etc. and following up judicial proceedings in this area, without interfering with the work of the judiciary.

(p) The staff of the Procurator's Office should, in this sector, be selected on the basis of the highest professional standards, for their knowledge and dedication. Obviously it is not every official who is qualified to run this department and carry out the investigations it is required to make.

(q) Finally, the results of investigations into disappearances should be given maximum publicity, both the positive and the negative aspects, the circumstances of each particular case being spelt out. Thus they should be:

- (i) Reproduced in full detail in the Procurator's regular annual report to the Chamber;
- (ii) Brought to the attention of public opinion through the media;
- (iii) Reported regularly to the Human Rights Commission of Congress, with the attendance of persons whose appearance the Procurator or the Commission considers necessary in more serious cases;
- (iv) Brought, without fail, to the attention of the international bodies responsible for protecting and guaranteeing human rights.

(r) The fact that the Procurator for Human Rights may resign and be replaced means, legally, that the staff of the Office can also be replaced, and in practice implies, according to our information, that the whole staff can be changed at all levels. Without passing judgement on the advantages and disadvantages there may be to this administrative policy in general, we would point out how serious it is for an institution just getting under way, whose staff are beginning to achieve the level of specialization and professional skills their difficult work requires. We would therefore recommend that as far as possible some qualified advisers and a permanent administration should be kept in their posts. Otherwise the exchange and training missions undertaken, including the present one, would be largely wasted.

68. Finally the advisory staff should be required to observe, with the greatest strictness, the legal provisions regarding incompatibility.

IV. MINISTRY OF EDUCATION

A. Advice on human rights training and teaching

69. From January to December 1989 the Ministry of Education was provided with the services of a local Advisor, Mr. Marco Antonio Sagastume Gemmell, for the following purposes: (a) selecting and training a team of 10 persons intended to have a multiplier effect in human rights education; (b) planning and implementing an educational project on human rights for primary-school teachers; (c) advising the Ministry of Education on the introduction of human rights into primary education; (d) preparing teaching materials on human rights; (d) developing policies for fostering belief in the rule of law as a prerequisite for the observance of human rights. These activities were affected by a nation-wide strike of primary-school teachers beginning in May

and ending in August. It has also to be said that, after the Advisor had received threats to his personal safety if he did not abandon all his human rights activities, he had to leave the country and spend some days in Costa Rica.

1. Selection and training of a team of 10 intended persons to have a multiplier effect in human rights education

70. Because of the teachers' strike, activities were concentrated more at private educational institutions. Talks were given at 233 private educational institutions on human rights in the teaching profession (primary and secondary education). This resulted in the formation of four teams of students at these institutions, each with 10 members, with the aim of producing a multiplier effect in human rights education. The first activity of these teams, which meet regularly every week with the local United Nations Advisor, was for each of them to invite 100 boys and girls to attend a children's human rights course. These activities were scheduled for the end of November/December and were held on Sunday mornings in four parks, with readings of stories on human rights, followed by an exhibition of children's drawings.

71. The Advisor states in his report that he also gave courses on human rights at secondary level in military colleges. They were attended by officers who recognized the importance of the subject in education. On the other hand, primary-school teachers in various parts of the country are afraid of reprisals if they give courses on human rights.

2. Planning and execution of an educational project on human rights for primary-school teachers

72. This could not be carried out because of the teachers' strike. A Centre for Human Rights was, however, set up in the Ministry of Education, and a human rights documentation centre is in the preparatory stage.

3. Advice to the Ministry of Education on the introduction of the subject of human rights into primary education

73. A document was prepared setting out the subject matter that should be covered from the first to the sixth year of primary education in the area of human rights, including a knowledge of the United Nations. The Advisor was in contact with UNESCO experts on this matter. The proposal prepared for the Government is on the lines that, in Guatemala, it is essential that every schoolchild and student should know how to protect his rights and that human rights should therefore be dealt with as a separate subject.

4. Preparation of teaching material on human rights

74. The Advisor is at present working on a document to provide primary-school teachers with a knowledge of the educational methods and techniques and the information they need in the area of human rights. Material is also being prepared for children aged 7 to 12, using short stories and play-school techniques. At the request of the Minister of Education, 15 booklets on different human rights subjects and a poster on the Universal Declaration of Human Rights have been prepared for the schools.

5. Planning of policies to foster belief in the rule of law as a prerequisite for the observance of human rights

75. A series of lectures were given on this subject at universities in the capital teaching law and social and political science. A proposal was drawn up for the establishment of a chair of human rights. The possibility of setting up a Guatemalan institute for human rights education was also discussed.

76. The Advisor also gave a series of talks to different government bodies, such as the Ministry of Labour and Social Welfare and the Ministry of Foreign Affairs, and to the Guatemalan Bar Association. Columns designed to educate readers about human rights were introduced in the weekly newspaper 7 días and the daily newspaper El Gráfico.

77. Under the project, a compilation has also been made of the international treaties on human rights to which Guatemala is party.

78. The Advisor draws the Government's attention to the fact that human rights education needs to be supported by respect for those rights in everyday life. It is difficult to make the idea of respecting human rights credible if armed groups are violating them in broad daylight. A Government's legitimacy is based on acceptance of its authority. Every effort should therefore be made to ensure that wrongdoers cannot behave with impunity in Guatemala.

79. Among the recommendations made by the United Nations local Advisor to the Guatemalan Government are the following:

(a) Continuation of the project on human rights education with the appointment of two officials to provide better services to the teaching profession;

(b) Launching of a national campaign on human rights education in 1990;

(c) Organization of a seminar on "human rights education and the teacher's responsibility";

(d) Acquisition of educational material on human rights for the different public libraries, since at present they have none;

(e) Provision of support to enable the Ministry of Education to introduce the subject of human rights into primary education;

(f) Broadcasting of educational programmes concerning human rights on national radio and television, using the resources and air-time available to the Secretariat for Public Relations of the Office of the President.

B. Training fellowships

80. In July 1989, two fellowships were made available to the Ministry of Education for Mrs. Lidia Mercedes Rabanales Prust, an urban primary-school teacher, and Mrs. Olga Evelyn Amado Jacobo, Director of the Sectoral Unit of the Ministry's Advisory Service, to enable them to attend the seventh international session on teaching human rights and peace, organized at Geneva from 3 to 8 July 1989 by the International Centre for Teaching Human Rights and Peace.

V. INDIGENOUS COMMUNITIES

A. Advice on promotion and protection of the rights of indigenous communities

81. The services of Mr. Augusto Willemsen Diaz, an expert on indigenous affairs and former member of the Centre's staff, were made available so that he could advise the Guatemalan authorities on matters relating to the protection and promotion of indigenous communities' rights. On his first mission, from 13 February to 31 March, Mr. Willemsen Diaz gave training and advice to officials from the Ministries of Urban and Rural Development, Education, Culture and Public Health, from the Advisory Commission on Human Rights Matters to the Office of the President and from the Indigenous Communities Commission of Congress. His first report, with recommendations, has been sent to the Guatemalan authorities. At the time of the preparation of this report he is engaged on a second mission (15 November to 20 December 1989) with the aim of advising more specifically the Indigenous Communities Commission of Congress, in response to a request by the Commission to the Secretary-General, on the drafting of a law on indigenous communities which will develop the principles set forth in the Constitution. The Advisor is to undertake a third mission lasting two and a half months in 1990 to finalize the text of the law.

82. On his first visit, Mr. Willemsen Diaz gave advice to officials from different State bodies on the question of indigenous rights in the light of the standards, principles and ideas embodied in the United Nations system of protection.

The expert Advisor's recommendations are given below:

1. Development

83. The indigenous communities must be regarded as a separate component within Guatemalan society as a whole and, as such, receive the individual attention they deserve;

84. It is essential to adopt positive and constructive approaches to indigenous development, which must meet certain requirements, the main ones being:

(a) Such development has to be endogenous, i.e. it has to originate in the communities themselves and spread from the inside outwards and from the bottom upwards;

(b) It has to be complete or comprehensive, i.e. it has to cover all the necessary elements, which must be duly integrated with each other;

(c) It requires the indigenous community to be settled on its own territory, with effective access to the natural and spiritual resources of its ancestral lands or the lands where it is settled and to the necessary human resources;

(d) It calls for autonomy (or internal self-determination) of the kind and level the community needs in order to follow its own model in undertaking this historic project, with plans of its own, co-ordinated in its own way with those of society as a whole and without suffering ill-treatment imposed from outside.

85. In the daily work of the Ministry of Urban and Rural Development, it is essential to respect the ethnic identity, lifestyle and forms of internal organization of the indigenous communities and their special relationship with "mother earth", with the concept of their indigenous territory, and the communal forms of tenure of the land and the resources it contains.

86. It is necessary to support the processes of decision-making by indigenous communities and their members, their freedom to take independent decisions in accordance with their own cultural standards and the processes of self-management, self-government, endogenous development and autonomy (or free internal self-determination), in particular when they are participating in one way or another in development programmes and projects with other sectors of the population.

87. Any intervention by the village social promoter as provided for in the relevant texts, who must always be proposed and freely chosen by the communities themselves, should be designed to support their activities under genuine communal decisions, and should be integrated into genuine processes and projects for self-management and ethnic development by the indigenous communities in which he works and facilitate and help to guide action by the communities themselves, while at the same time proposing ways of encouraging their development so as to make them able to confront more effectively the actual circumstances they face.

88. In the forms of organization promoted by the Ministry of Development in the communities, the forms of community organization that have arisen historically within the indigenous communities themselves should be respected. It is essential always to proceed in such a way as not to destroy these existing forms of organization by promoting others within the indigenous communities. Otherwise there would be a danger of creating parallel institutions in place of those of the communities themselves, with the effect of alienating them and cutting them off, which could cause them incalculable harm.

89. The action taken should be governed by a recognition that the indigenous communities have their own procedures for discussing matters, reaching agreements and taking decisions. These procedures may be different from those of the Western type, which the authorities often impose from outside, believing them to be better. The Western world's system of voting is not the only one that can be used. Indigenous communities take decisions by processes of quiet informal contact and consultation, through which the feelings of the whole group are sounded out, leading to a general consensus in which nobody's interests are disregarded.

90. The action taken should also respect the ecological equilibrium that indigenous communities have been able to preserve over the centuries and should support the maintenance of a healthy environment. Care must be taken

not to cause damage by using agrochemicals or any other kind of harmful substances, nor to embark on activities that may have an adverse effect on the fauna, flora or general ecology by contaminating the soil or subsoil, the water or the air space.

2. Indigenous Communities Commission

91. With regard to legislation on the indigenous communities, it is recommended that consideration should be given to the possibility of including the following among the tasks to be carried out as soon as possible in this area.

92. Promoting amplification (modification or amendment) of the operative part of Congress Decree 59-88 of 12 October 1988, or the adoption of another legal text to supplement it, in such a way as to cover not just the children of persons who were refugees in other countries but also displaced persons inside the country, who at present are mentioned only in the preamble to the Decree.

93. Such persons encounter very similar problems because of late registration of births while they were displaced. They will not have the same nationality problems, but they will have problems with paying the fines, the stamp-duty required for registration and the certification charges, from which such legislation would exempt them.

94. Supporting the organization of conferences, workshops and seminars to discuss the suitability of the officially approved phonemes and alphabets and arrive at appropriate agreements to facilitate the application of those which are most suitable for these purposes so as to give them a basis in law.

95. Supporting, promoting and expediting adoption of the Establishment of the Academy of Mayan Languages of Guatemala Act to encourage recognition of and respect for the languages of Mayan origin in all relevant fields, thus making it possible for this important institution to discharge its functions and responsibilities to the full in this most necessary process.

96. Embarking as soon as possible on the preparation of a bill to develop the programme following from article 70 of the present Constitution of 1985, together with any other law which will give support to the indigenous communities in defending and promoting their cultures, traditions, customs, forms of social organization and languages and their special relationship with the land and forms of land tenure in accordance with their age-old traditions and in the light of the relevant constitutional provisions.

97. Supporting the communities' legitimate claims and doing more to meet their just requirements, wishes and preferences in their activities as members of Parliament and of the Indigenous Communities Commission of Congress of the Republic.

98. Making sure that these initiatives and activities are always in line with the wishes of the communities in question and that there is a genuine consultation process constantly under way and that due account is taken of their wishes at all times.

99. Similarly, every effort should always be made to ensure the drafting of texts that are in systematic harmony and accord with the United Nations provisions on human and indigenous rights.

3. Education

100. It is recommended that, when legislating on indigenous education, the education given to indigenous schoolchildren should be treated as bilingual and bicultural, in its underlying principles, in the means used in the educational process and in the actual content of the education, at least at the primary level. It should be aimed at all-round development of the pupil's personality through the fullest possible realization of his potential, at making him capable of meeting his fundamental needs and of overcoming the limitations that have for so long been imposed on indigenous peoples and communities. To that end, the pupil should be given the necessary knowledge of his fundamental rights within the context of the overall society he lives in, so that he can then defend them.

101. The expert Advisor considers that there is a solid basis for this in the current Constitution of the Republic of Guatemala.

102. The prime aim of education is regarded by the 1985 Constitution as being "full development of the human personality, knowledge of the life and culture of the nation and the world" (Constitution, art. 72, para. 1).

103. In the nature of things, the "national culture" in a society which recognizes that it is "made up of different ethnic groups, including indigenous groups of Mayan origin" cannot fail to include the culture or ethnic identity of these groups, in accordance with their values and characteristics, especially since the State is to "recognize, respect and promote their ways of life, customs, traditions and forms of social organization, the wearing of indigenous costume by men and women, their languages and dialects" (Constitution, art. 66).

104. Indigenous languages and dialects are listed among various cultural elements that the State shall "recognize, respect and promote", as stated at the end of article 66 of the present Constitution just quoted. The Constitution also states that "the vernacular languages are part of the nation's cultural heritage" (art. 143, second sentence). Those languages are not, however, mentioned explicitly in article 60, which refers to the "assets" that form part of the nation's cultural heritage, listing among them "the country's palaeontological, archaeological, historical and artistic assets". It specifies that they are all "under the protection of the State".

105. The idea that the way for people to overcome the factors limiting them is through knowledge and defence of their fundamental rights within the context of society as a whole finds a firm basis in the second paragraph of article 72 of the Constitution, which reads:

"Education, instruction, social training and systematic teaching of the Constitution of the Republic and of human rights are declared to be of national importance."

106. At least in the case of the major ones, the Mayan languages must not be confined to the role of a medium or vehicle for arriving at Spanish. They should instead be used as languages of instruction at least from the pre-primary stage to the end of primary school. It has to be remembered that these are the mother tongues of hundreds of thousands of Guatemalans and part of Guatemala's cultural heritage.

107. It is likewise recommended, with regard to the bilingualism advocated by texts and by writers in the field of indigenous education, that:

(a) It should be explicitly stated as an essential condition that there should be full use of the indigenous languages and Spanish in the educational process, as regards both teaching the languages themselves and teaching through those languages. It should be borne in mind that full use of the indigenous languages is justified in the first instance by the simple fact that they are the mother tongues of large sectors of the Guatemalan population (who together form the majority). This fact is, moreover, recognized in the Constitution, when it proclaims them to be an integral part of Guatemala's cultural heritage, which does not mean that, within just, equitable and realistic limits, the necessary emphasis cannot be placed on Spanish as the official State language.

(b) The mother tongue inherited from the family and the surrounding society should in all cases be taught first, so that the pupil has a wide and accurate enough grasp of it before any attempt is made to give him formal teaching in another language.

(c) It should be specified that only when the above condition has been met is a start to be made on the formal teaching of any other language, although steps may be taken earlier to familiarize the pupil with the other language in which he will also receive instruction.

108. Only in this way would the pupil have a real chance of learning both languages - his mother tongue and the acquired language - to a high enough level in terms of correct use and functional mastery.

109. The conscious policy of basing Guatemalan nationality on two cultures and two languages, one indigenous and the other Spanish, should apply to all Guatemalans and not just to indigenous persons, as seems to be the case under the legislation now officially in force.

110. Thus, just as indigenous persons are expected to make themselves familiar with the Spanish language and culture, non-indigenous persons should also become familiar with the indigenous language and culture that predominate in their region of Guatemala. The aim is that everyone should be bilingual in Spanish and at least one of the country's more important indigenous languages and bicultural in the sense of being familiar with both the Spanish and the indigenous cultures of Guatemala.

111. It is desirable that both sectors, the indigenous and the non-indigenous, should also respect the right to be different enjoyed by the various sectors of Guatemalan society, which recognizes itself to be multi-ethnic, pluricultural and multilingual.

112. Educational programmes and material should therefore be developed which will give children a better preparation for life in this complex society on the basis of pluralist principles, eradicating misconceptions, false or distorted ideas and fixed prejudices held by one group about another. To that end, it is necessary to eliminate aggressive ethnocentrism in the interpretation of history and to promote wider relations between the existing ethnic, linguistic and cultural groups. Steps should also be taken to foster interethnic, interlinguistic and intercultural understanding, tolerance and friendship, while strengthening respect for the human rights and fundamental freedoms of all parties and for the historic and specific rights of the indigenous peoples and communities.

113. Article 76 of the Constitution should be interpreted as meaning that bilingual education is always to be preferred when there is a significant proportion of indigenous schoolchildren in a particular area (Mayan linguistic area) and that education for indigenous schoolchildren should be bilingual and bicultural, always in accordance with the provisions of the Constitution referred to above (arts. 58, 66, 72 and 143).

114. If it were decided that in other cases there was a right to choose that education in the community school should be either in a language of Mayan origin or in Spanish, it should at the same time be established that there was an obligation to:

(a) Inform the communities fully and clearly of the foreseeable consequences of linguistic insularity with abandonment of the official language, namely, doubtful acceptance by the State and loss of an important element of identity respectively.

(b) Create appropriate conditions and machinery in order to guarantee the genuineness of whatever decision may be taken and to ensure freedom of action, without violence, pressure, intimidation, explicit or implicit condemnation or incentives, rewards or recompenses of any kind, since they would all be unlawful or spurious.

115. It would be desirable to use terminology that is precise in the way it describes the phenomena it refers to, and accordingly that:

(a) The term "Mayan speaker" or "Mayan language(s) speaker" should be used for a person who speaks one or more languages of Mayan origin when it is not wished to refer specifically to the language(s) he speaks;

(b) The term "Mayan speaker who does not know Spanish" should be used to indicate the lack of knowledge of the Spanish language that these words describe so aptly;

(c) The term "acquired language" should be used to refer to a language other than the mother tongue which the person has learnt to speak (read and write), in preference to the expression "second language";

(d) The term "monolingual" should be kept exclusively for cases where it has been established that the person in question speaks only his mother tongue.

4. Culture

116. In the cultural field it would be a positive step to support the Academy of Mayan Languages more vigorously and promote reorganization of the National Indigenous Populations Institute and the Social Integration Seminar, so that they can discharge their respective functions fully within the context of the new constitutional provisions on recognition of and respect for the existence of indigenous communities in Guatemala and their fundamental rights.

117. In the light of the constitutional articles on culture and the indigenous communities, the State has adopted a pluralist policy on cultural matters. This policy is to be based on full recognition of the existence of the separate culture of indigenous peoples and communities within Guatemalan society as a whole. It is also to be applied in accordance with rules of conduct that respect the fundamental rights of these peoples and communities and the determination they have shown clearly and continuously for nearly 500 years to keep, develop and transmit their own separate culture to future generations.

118. It is essential in cultural matters to evolve procedures for preventing improper authoritarian behaviour, offensive attacks, violence, intimidation, coercion or material incentives, rewards and recompenses for exercising influence, encouraging certain kinds of behaviour or inducing cultural or religious changes. Use of any of these means leads direct towards something like ethnocide.

119. It is necessary for people to realize the destructive effects that unacceptable intervention of this kind has on indigenous societies. For this reason, steps should be taken immediately to create conditions to end practices involving interference in the internal organization and forms of land tenure of indigenous peoples and communities and a series of measures should be taken aimed clearly at making it possible in practice for these human groups to pursue the way of life they have freely chosen, while ensuring that they continue to live in harmony with other sectors of Guatemalan society.

120. National unity can be achieved more fully and profoundly through a diversity which respects the differences between existing groups claiming the right to a different way of life within society as a whole. Such unity will be more solid if it is rooted in diversity than if attempts are made to base it on a uniformity which does not correspond to the deeper feelings of the people.

121. Diversity is not in itself a denial of unity, nor does uniformity in itself necessarily produce the desired unity. On the contrary, there can be weakness in uniformity produced artificially and strength in diversity co-ordinated within a harmonious if multifaceted whole on the basis of respect for the specific nature of each of the components. In such diversity, each group would participate more fully, since it would do so on the basis of its own ideas, values and standards and not by making vain efforts to use means of expression that were alien to it.

122. Pluralism, self-management, self-government, autonomy and self-determination, within a policy of endogenous development, would do justice to the present claims and aspirations of the indigenous peoples and communities, which have for so long been subjected to interference and authoritarian treatment from outside.

123. This would not mean fostering or encouraging artificial differentiation or separatism where it did not exist. It would simply mean recognizing the multifarious reality of the societies of the State in which the indigenous peoples and communities live.

124. It is essential not to stand in the way of their full recovery of a historic awareness of their own existence and dignity as such or to hinder them from taking charge of their own destinies, in accordance with their own aspirations. They must have this chance, like any other people, if Guatemala is to avoid the friction and conflict that will inevitably result from lack of understanding and injustice.

125. It is necessary to recognize and guarantee equal rights for all the peoples and communities making up the country's population and the type and degree of autonomy that each of them claims for itself.

5. Health, medical services and pharmacology

126. Given the present situation with regard to the health of the indigenous peoples and communities and bearing in mind the individual socio-cultural context of each separate group, it will be necessary:

(a) To take the necessary action, in consultation with the indigenous communities, to encourage the development of effective health measures among the indigenous peoples, approaching the matter through a combination of traditional indigenous medical practices with those of modern medicine and through co-operation between traditional and scientific doctors in constant contact with each other, in order to provide these peoples with primary health services as fully and adequately as possible;

(b) To develop the necessary means of communication to meet health needs in remote areas;

(c) To create adequate health services in areas where indigenous people live;

(d) To ensure that health and other social services are more accessible to these peoples and communities and meet their needs better;

(e) To improve health and medical services of a preventive, curative and rehabilitative nature and programmes relating to social security and social services, adapting them to the needs of the communities and groups concerned.

127. The competent authorities should clearly determine the socio-cultural and environmental factors hindering the provision of efficient health and social services for indigenous peoples and should make themselves more aware of the socio-cultural and environmental characteristics that can help to make such programmes and services a success so that they can turn them to good account.

128. In this context it seems necessary to:

(a) Intensify efforts with regard to the preliminary, initial and further training of indigenous persons as medical, paramedical, nursing and medical auxiliary staff within integrated programmes formulated, conducted and applied in active consultation and co-operation with the indigenous communities or groups concerned, and;

(b) Actively encourage the participation of the indigenous community in the administration and provision of the services.

129. Renewed recognition of the merits of traditional medicine and pharmacology would help to: (a) raise the general level of basic health, at the same time making it easier for the communities to revive their own culture, and (b) improve the quality and availability of medical services and encourage the use of medicines that have proved their value over centuries of use.

130. Special attention should be devoted to finding the best way of using traditional medicine and the people who practise it. Indigenous medical practices and pharmacology should be studied to determine what positive and useful aspects they have that can be combined with the positive and useful aspects of modern services and medicaments.

131. On this last point, there should be support and encouragement for the publication of the Phytotherapeutic Products Regulations, now in draft form, a copy of which was made available to the Advisor during his visit. This text is concerned with products prepared from plants which are therapeutic in form and use (phytotherapeutic products). It calls for botanical and toxicological study, physico-organoleptic and microbiological analysis for public health purposes, identity, purity and quality controls (evaluation, verification and supervision) and registration of these products.

132. Laboratories producing these products and retail outlets ought to be licensed and subject to public health controls with regard to their installations and their operations in storing, packaging, manufacturing and/or retailing the various products they are concerned with - provision for which is made in the draft regulations.

6. Proposals submitted by the participants in the working meetings held with the Advisor

133. After these proposals had been sent to the Centre for the attention of the Secretary-General of the United Nations, the Advisor's report was transmitted to the Government of Guatemala, together with the proposal that working groups on indigenous affairs should be set up in every ministry represented in the Cabinet to contribute to the investigation, planning, programming, assessment and execution of the various government actions that might affect the country's indigenous communities. These working groups should be multidisciplinary and include genuine and authentic representatives of the indigenous peoples who can bring to those efforts their age-old knowledge and wisdom.

134. It should be added that such indigenous representatives would be freely selected by the communities themselves according to their own procedures and criteria and that they would have powers of initiative, discussion and decision at least equal to those of the other members of the working groups, with broad possibilities of consulting their grass-roots communities, whenever they considered it necessary or useful.

135. The said proposals also asked the World Health Organization (WHO):

(a) To help set up an international section of a documentation bank to be established in the General Directorate of Health, Ministry of Public Health and Social Assistance, on the subject of traditional medicine and pharmacology, by contributing its own publications and documents and any others it may have available on the subject; and

(b) To arrange the visit to Guatemala of a WHO expert on traditional medicine and pharmacology for the purpose of supplying information on and publicizing the work done by the Organization in that area.

136. They also asked for help from the Centre for Human Rights, within the framework of the Advisory Services, in:

(a) Organizing an international seminar of Latin American regional scope on the subject of "The use of traditional medicine and pharmacology in the context of supplying primary health services", with the participation of indigenous and non-indigenous experts from the region and the attendance of experts from other parts of the world, arrangements being made to supply documents containing practical information based on actual experience of the subject of the seminar. In this connection, the co-operation of the World Health Organization and the Pan American Health Organization might be secured;

(b) Holding a seminar on "The present and future situation of the Academy of Mayan Languages of Guatemala" and transmitting the request to UNESCO and ILO, to which organizations it was also addressed, in the hope that they might be able to take action in that respect within the framework of interagency co-operation;

(c) Organizing fellowship programmes, interchanges of experience, training courses and advisory programmes on the fundamental rights of indigenous peoples and communities; and

(d) Setting up, in the Ministry of Urban and Rural Development, a document bank on the subject of the human rights and fundamental freedoms of indigenous peoples and communities, through the contribution of documentation published by the United Nations and other relevant documentation available to the Secretary-General.

7. The Advisor's final reflections on indigenous communities

137. The indigenous peoples and communities of the Americas, including those of Guatemala, have passed through wars of aggression to the state of societies which are extremely down-trodden as a result of domination, discrimination, exploitation, oppression and repression for nearly 500 years.

138. After centuries of such maltreatment, of discrimination and socio-cultural intolerance, of submission and political manipulation, there is now the possibility in Guatemala, in the light of the new constitutional provisions, that the public authorities and the various power groups existing in the country might adopt policies of respect, justice and equity towards those peoples and communities.

139. In the Advisor's view, the positive actions that are being attempted or currently being carried out in Guatemala, particularly with regard to education, the Mayan languages and health, together with the participants' proposals which have just been examined in this report and the proposals and recommendations put forward in the report itself in an endeavour to bring such actions more into line with the principles and standards prevailing internationally in the precise and specific areas assigned to the expert Advisor for examination during the visit, would help to create a favourable atmosphere for improved observance of the human rights of the indigenous peoples and for some acknowledgement of the historic and specific rights of the indigenous peoples and communities of Guatemala.

140. In this regard, such measures constitute initial steps only but they are nevertheless important steps whereby the authorities and various power groups within the State - in deference to the provisions of the Constitution - move more steadily towards policies of economic, social and cultural pluralism. It would then also be possible to introduce more significant forms of political pluralism than the mere pluralism of political parties.

141. However, such positive steps based on the provisions of the Constitution or planned by the Constituent Assembly of 1985 would be of little use if, at the same time, there is a continuation of the kinds of violence which threaten lives and physical integrity and jeopardize many other human rights and fundamental freedoms in the areas traditionally occupied by these peoples and communities. Still less so if, in parallel, patterns of organization and behaviour based on alien criteria are introduced from outside which upset the types of action and internal organization generated by history in those peoples and communities. This would deny their right to their life-style, to their special relationship with mother earth and with their ancestral territories and their traditional methods of communal landholding. This would be in flat contradiction to the criteria and principles put forward in the Constitution and could hardly be reconciled with respecting the right "of communities to their cultural identity, in keeping with their values, language and customs", as established by article 58, or with the recognition, respect and protection accorded, inter alia, to "their forms of life, customs, traditions, forms of social organization ..." as established in article 66.

142. He emphasizes as an essential and irreplaceable element that there must be direct and full participation of genuine and authentic representatives, freely chosen by the indigenous peoples and communities according to their own criteria and procedures, in everything that affects their destiny including, of course, the actions suggested in the next three paragraphs.

143. It is imperative therefore to seek out earnestly and resolutely ways of overcoming the existing obstacles and creating the conditions needed to guarantee the lives and physical integrity of these peoples and communities and the other human rights and fundamental freedoms of their members and ensuring respect for their ethnic identity, customs, traditions, ways of life and internal social organization, as required by the Constitution.

144. Above all, it is both imperative and urgent that the present public authorities and all current social and political sectors in the country should tackle the pressing and vital task of creating a favourable atmosphere and

securing the necessary agreements and arrangements for terminating the campaign of open repression that has been waged for a number of years by various power groups, both official and unofficial, against these peoples and communities and should redouble their efforts to lay the foundations for the changes in society in general which will render possible and encourage the elimination of the phenomena of general discrimination, economic exploitation and ethnic oppression which, in Guatemala as in other countries, have been plaguing these peoples, communities and persons for several centuries.

145. On the contrary, policies are needed which favour the self-management, ethnic development, autonomy, (internal self-determination) of these peoples and communities and mutually respected pluralism in the economic, social, cultural and political spheres.

146. Only in that way would the measures considered in this report, though as initial steps only, fit completely into the framework of what was specified and programmed by the National Constituent Assembly in 1985 and the principles and standards prevailing internationally on these subjects and thus take on a genuine significance.

147. The international community would undoubtedly be ready to co-operate and render assistance, if so requested, to launch activities of such vital importance for the future of the indigenous peoples and communities of Guatemala, by putting forward practical proposals and initiatives and collaborating with the Guatemalan authorities to that end.

VI. ADVISORY COMMISSION ON HUMAN RIGHTS MATTERS TO THE OFFICE OF THE PRESIDENT (COPADEH)

148. The international Advisors supplied by the Centre for Human Rights have been in contact with the Commission and have counselled it on specific matters such as "enforced or involuntary disappearances" or "indigenous communities". The conclusions and recommendations they have submitted in their reports and which have been reproduced in this document appear, however, under the State organ which made greatest use of the services of these Advisors, despite the fact that there are specific references to the Advisory Commission to the Office of the President.

149. It should be pointed out also that books and documents were supplied to the Advisory Commission for the establishment of a basic human rights reference library.

VII. MINISTRY OF FOREIGN AFFAIRS

A. Study fellowships

150. During the forty-fifth session of the United Nations Commission on Human Rights, two officials of the Ministry of Foreign Affairs responsible for human rights matters were granted fellowships to enable them to familiarize themselves with the work of the main human rights organs of the United Nations and the protection mechanisms. The two Guatemalan officials, Miss Araceli Phefunchal, and Mr. Juan Carlos Cuestas Galvez, also had the

opportunity to study the working of the Centre for Human Rights, the Human Rights Committee, and various international organizations (ILO, UNHCR, ICRC, etc.). The main purpose of these fellowships was to train the officials of the Ministry and give them a better knowledge of the work being done at the international level, so that better co-ordination could be ensured between the Centre and the Guatemalan authorities.

B. Supply of books

151. The Ministry has also been supplied with books and documents for a basic human rights reference library.

VIII. HUMAN RIGHTS TRAINING COURSES UNDER THE UNITED NATIONS TECHNICAL ASSISTANCE PROGRAMME

152. Under the United Nations technical assistance programme, two national human rights training courses have been held. The courses catered for judges, magistrates, civil servants, police officials and officers of the armed forces, members of parliament, teachers, officials of the Office of the Procurator for Human Rights, members of the Human Rights Commission of Congress and of the Advisory Commission on Human Rights Matters to the Office of the President and representatives of non-governmental organizations. The first course was held at Guatemala City from 14 to 18 November 1989 with the participation of some 60 people. The second course, which was a follow-up to the first, was held in the city of Antigua from 23 to 27 October 1989, with the same participation.

153. At the second course, there were four main themes around which all the activities of the course revolved and which had as their goal the spreading of awareness of and teaching human rights in the following areas:

(a) At the primary, secondary and university education levels, and through social communication media;

(b) To the officers of the armed forces, emphasizing the relationship between international humanitarian law and human rights;

(c) To police officials and prison officials; and

(d) To judges responsible for the administration of justice, emphasizing the application of international human rights standards in the domestic law of Guatemala.

154. Among the experts, international specialists in human rights, were: Mr. Hector Gros Espiell, President of the Inter-American Court of Human Rights and Expert on Guatemala of the United Nations Commission on Human Rights; Mr. Eduardo Jiménez de Aréchaga, former President of the International Court of Justice at The Hague; Mr. Manuel Núñez Pedraza, a senior official of State Security of the Spanish Police; Mr. Jean-Pierre Givel, representative of the International Committee of the Red Cross, and Mr. Marco Antonio Sagastume Gemmell, Advisor on Teaching Methods.

155. Each of the themes mentioned above formed the subject of a debate in round tables each made up of senior Guatemalan office-holders from the judiciary, the legislature and the executive as well as persons from the university world and institutions for the defence of human rights. There was a discussion of what was being done in each of the fields in question and what ought to be done in Guatemala.

156. The participants broke up into multidisciplinary groups which worked on each of the themes of the course preparing conclusions and recommendations to the Guatemalan authorities that could form the foundations for a co-ordinated action to spread awareness of and teach human rights. Some of the recommendations elaborated by the various groups are given below.

Group I - Spreading awareness of and teaching human rights at the primary, secondary and university education levels and through social communication media

(a) A National Committee should be set up, co-ordinated by the Procurator for Human Rights, which would bring together representatives of the various institutions and of non-governmental organizations interested in promoting human rights;

(b) The Ministry of Public Education should hold courses and carry out other educational activities concerning human rights and ways of teaching them at the various levels and in the various languages of the national educational system;

(c) It should be borne in mind, in a policy of promoting human rights, that non-formal education is also a vehicle for the transmission of human rights values and standards;

(d) A knowledge of human rights should be disseminated to the various ethnic groups in their own languages;

(e) The universities should be asked to include the subject of human rights and their implications in the curricula for the various professional courses;

(f) The Ministry of National Defence should set up machinery to spread awareness of human rights within its jurisdiction;

(g) Courses on human rights should be given in the military training centres;

(h) A centre of human rights documentation should be established within the Office of the Procurator for Human Rights. It would contain all the publications and documentation supplied by the Centre for Human Rights of the United Nations under the technical co-operation programme. This centre would be open to the public and would also serve as a depositary library for other United Nations publications. It should preferably be located in the city centre;

(i) There should be programmes to train social communicators and journalists in the need to promote the teaching of human rights and specific techniques therefor; and

(j) The Government of Guatemala should edit, publish and disseminate the papers, conclusions and recommendations of the seminar. The local United Nations Advisor, Mr. Sagastume Gemmell, should be responsible for editing and co-ordinating the said publication.

Group II - Spreading awareness of and teaching human rights
to police officials

(a) A committee should be set up in the Ministry of the Interior representing all the departments involved, its basic purpose being to co-ordinate actions to spread awareness of and teach human rights to members of the police force and prison officials;

(b) A handbook of national and international legal instruments protecting human rights should be printed and supplied to all police and prison officials. More especially, it should contain the Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners, both of which had been adopted by the United Nations General Assembly;

(c) A simple handbook of basic rules, for the behaviour of policemen and prison officials should be prepared, published and distributed;

(d) Some kind of incentive should be established for policemen and prison officials who collaborate in spreading awareness of and teaching human rights or distinguish themselves in the defence of human rights;

(e) The activities of the Ministry of the Interior, the Supreme Court of Justice, the Ministry of Defence and the Procurator for Human Rights should be co-ordinated so as to establish criteria for the teaching of human rights to police and prison staff; and

(f) Advantage should be taken of the knowledge of and experience of the persons who attended the Second Human Rights Training Course.

Group III - Incorporation of international human rights standards
in Guatemalan domestic law

(a) The international treaties, conventions and covenants relating to human rights that Guatemala has accepted and ratified should be collected and circulated to State organs, officers of the judiciary, professional colleges, universities and libraries throughout the nation;

(b) The reservation on article 80 of the OAS Inter-American Convention to Prevent and Punish Torture, should be lifted, since if that were not done the aims of the Convention would be nullified;

(c) Immediate ratification of the International Covenant on Civil and Political Rights and the Optional Protocol thereto, because their contents were already included in the American Convention on Human Rights, to which Guatemala is a State Party;

(d) The Human Rights Commission of Congress should carry out a study of all international treaties, conventions and covenants on human rights to which Guatemala is not yet a party with a view to ratifying them, incorporating them and applying them in Guatemalan domestic law;

(e) The Human Rights Commission of Congress should explore or identify machinery for co-ordination with the other existing commissions on the subject, establishing a department responsible for circulating in a specific form reports of violations and the work being done by each commission so as to keep the general public and the international community informed. For example, the various functions of the Office of the Procurator, of the Commission of Congress - whose function is to legislate, and that of COPADEH - whose function is purely advisory, should be clearly delimited.

Group IV - Spreading awareness of and teaching humanitarian international law and human rights to the officers of the armed forces

A programme for the teaching, promulgation and practising of international law, of human rights and of international humanitarian law should be carried out involving the members of the armed forces at all levels.
