



General Assembly

Distr.
GENERAL

A/42/648
12 October 1987

ORIGINAL: ENGLISH

Forty-second session
Agenda item 12

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Situation of human rights in the Islamic Republic of Iran

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by Mr. Reynaldo Galindo Pohl (El Salvador), Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran, in accordance with paragraph 6 of Commission on Human Rights resolution 1987/55 of 11 March 1987 and Economic and Social Council decision 1987/150 of 29 May 1987.

ANNEX

Interim report on the situation of human rights in the Islamic Republic of Iran, prepared by the Special Representative of the Commission on Human Rights in accordance with Commission resolution 1987/55 and Economic and Social Council decision 1987/150

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I. INTRODUCTION

1. At its forty-third session, the Commission on Human Rights decided, by its resolution 1987/55 of 11 March 1987, to extend the mandate of the Special Representative, as contained in Commission resolution 1984/54 of 14 March 1984, for a further year and requested the Special Representative to present an interim report to the General Assembly at its forty-second session on the human rights situation in the Islamic Republic of Iran, and a final report to the Commission at its forty-fourth session.
2. In compliance with paragraph 6 of Commission on Human Rights resolution 1987/55, the Special Representative submits herewith to the General Assembly at its forty-second session his interim report on the human rights situation in the Islamic Republic of Iran.
3. The interim report concentrates on some items and issues that may give the General Assembly an overview of the evolution of the situation of human rights and fundamental freedoms in the Islamic Republic of Iran during the period from September 1986 to October 1987. Three documents constitute the framework of the contents of the interim report. The first one is the final report presented by the Special Representative to the Commission on Human Rights at its forty-third session (E/CN.4/1987/23); the other two are documents that were provided by the Government of the Islamic Republic of Iran on 9 June 1987. They are entitled "The viewpoints of the Government of the Islamic Republic of Iran on Commission on Human Rights resolution 1987/55" and "The viewpoints of the Government of the Islamic Republic of Iran on the issues contained in document E/CN.4/1987/23 of 23 January 1987, prepared by Mr. R. Galindo Pohl, Special Representative of the Commission on Human Rights" (referred to hereafter as "The viewpoints"). Both documents are contained in document E/CN.4/1988/12-E/CN.4/Sub.2/1987/35.
4. The interim report focuses on certain developments in the Islamic Republic of Iran, the allegations received so far, the declarations of a number of persons who appeared before the Special Representative and the improvement of co-operation from the Government of the Islamic Republic of Iran.
5. Some of the issues discussed at length by the Government of the Islamic Republic of Iran in the documents referred to above will be dealt with in some detail in the final report to the Commission on Human Rights. These will include the compatibility of international law with Islamic law, the use of certain terms, and the objections raised in respect to the lists of people alleging violations of their human rights and fundamental freedoms.
6. The present interim report contains three main sections: a section describing the action taken by the Special Representative since the renewal of his mandate by the Commission on Human Rights; a section describing the information available to the Special Representative, consisting of the following subsections: (a) oral and written information received by the Special Representative regarding alleged violations of human rights and fundamental freedoms, and (b) information and comments provided or made available by the Government of the Islamic Republic of Iran; and a final section which contains the considerations and observations of the Special Representative.

II. ACTION TAKEN BY THE SPECIAL REPRESENTATIVE

7. Following the adoption by the Commission on Human Rights of resolution 1987/55, the Special Representative, on 13 April 1987, addressed a letter to the Minister for Foreign Affairs of the Islamic Republic of Iran, transmitting to him the text of that resolution and reiterating his strong conviction of the importance of maintaining and further enhancing direct contacts with the Government of the Islamic Republic of Iran in order to discharge fully his responsibilities as Special Representative of the Commission. The letter read as follows:

"I have the honour to refer to Commission on Human Rights resolution 1987/55 concerning the human rights situation in the Islamic Republic of Iran, of which the text is attached. As Your Excellency may note, the Commission on Human Rights decided to extend my mandate as its Special Representative for a further year and requested me to present an interim report to the General Assembly at its forty-second session and a final report to the Commission at its forty-fourth session.

"I should like to assure Your Excellency, as I had already done following my appointment as Special Representative of the Commission, that I intend to carry out the mandate and the responsibilities with which the Commission has entrusted me in a spirit of total objectivity and impartiality.

"I should like to take this opportunity to reiterate my strong conviction that in order to discharge fully my responsibilities, it is essential that direct contacts with Your Excellency's Government be maintained and further enhanced."

8. On 9 June 1987, the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva addressed a note verbale and two documents to the Under-Secretary-General for Human Rights (contained in document E/CN.4/1988/12-E/CN.4/Sub.2/1987/35). The note verbale contained a suggestion that, after the Special Representative examined the documents and expressed his opinion thereon, a meeting could be arranged between officials of the Islamic Republic of Iran and the Special Representative, with a view to exploring further ways to remove the present difficulties for effective co-operation.

9. Having examined the note verbale and the enclosed documents, the Special Representative, on 22 July 1987, addressed a letter to the Ambassador of the Islamic Republic of Iran to the United Nations Office at Geneva, by which he welcomed the suggestion that a meeting be held between officials of the Islamic Republic of Iran and himself. The letter read as follows:

"I wish to refer to the note verbale and enclosures of 9 June 1987 from the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights. I note the suggestion made in the note verbale to the effect that a meeting be arranged between officials of the Islamic Republic of Iran and myself after I have had the opportunity to examine these documents.

Having done so, I note with appreciation that they contain a certain number of positive and encouraging elements, as exemplified by paragraphs 12 and 13 of the second document entitled 'Viewpoints of the Government of the Islamic Republic of Iran on the issues contained in the document E/CN.4/1987/23 of 23 January 1987, prepared by Mr. R. Galindo Pohl, Special Representative of the Commission on Human Rights', by which the Government of the Islamic Republic of Iran expresses its continuing adherence to the provisions of articles 6, 7, 9, 14 and 18 of the International Covenant on Civil and Political Rights. Nevertheless, differences of opinion still exist on some points. It is my opinion, however, that, instead of formalizing positions on paper, a more flexible approach could be to engage in a constructive and fruitful dialogue, with a view to clarifying the respective views and, eventually, finding a more comprehensive basis of mutual understanding."

10. On 28 July 1987, a meeting was held at the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva between the Special Representative and the Director of International Affairs at the Ministry of Foreign Affairs of the Islamic Republic of Iran, Mr. Sirous Nasseri. The latter explained that his Government could not respond to the detailed allegations submitted to it previously by the Special Representative and by his predecessor, since it considered the various resolutions adopted by the Commission on Human Rights regarding the human rights situation in his country as politically biased and, therefore, totally unacceptable. The Government of the Islamic Republic of Iran further rejected the form in which such allegations had been submitted to it, and in particular the mention by name of certain unrecognized groups which it considers as terrorist groups and the reference to the Baha'is as constituting a religious minority. The Special Representative conveyed to Mr. Nasseri his concern about the protection of individual human beings in Iran, of whichever religious or political convictions and explained the motivations of the actions he had taken. Furthermore, he requested an English or French translation of the Iranian Penal Code and other related legal texts. Both sides expressed satisfaction that a dialogue on concrete issues had been opened and hoped that it would continue and develop further.

11. On 30 September 1987 the Special Representative addressed a letter to the Ambassador of the Islamic Republic of Iran to the United Nations Office at Geneva, communicating to him two summaries of oral and written information containing allegations of human rights violations in Iran. The letter read as follows:

"As you may recall, during my visit to Geneva in July 1987, I conducted, in the framework of my mandate under Commission on Human Rights resolution 1987/55, a series of informal hearings with a number of persons who claimed to have first-hand knowledge and experience of various aspects of the human rights situation in the Islamic Republic of Iran. A summary of the allegations made in the course of these hearings is enclosed herewith for your information.

"A summary of allegations covering the period October 1986-September 1987, which were included in documents provided to me by various organizations and bodies concerned, is also enclosed herewith.

"Given the nature of the allegations contained in these enclosures, I deem it appropriate to draw Your Excellency's attention to their contents. In so doing, I would greatly appreciate receiving any information or comments that Your Excellency's Government may wish to provide.

"I would like to seize this opportunity to express the hope that the dialogue begun on the occasion of the meeting held between Mr. Nasseri and myself in the framework of my mandate as Special Representative will continue and further develop."

III. INFORMATION AVAILABLE TO THE SPECIAL REPRESENTATIVE

A. Allegations of human rights violations

1. Oral information

12. On 22, 23 and 29 July 1987, the Special Representative conducted a series of informal hearings in the course of which 14 persons who claimed to have first-hand knowledge and experience of various aspects of the human rights situation in the Islamic Republic of Iran described their experience and presented certain documents to corroborate their allegations. Nine of the persons received by the Special Representative were Baha'is, who requested that their identity should not be revealed. The others described themselves as sympathizers of the Mojahedin organization who did not take any active part in the organization's activities.

13. They were, in order of appearance before the Special Representative, Mrs. Jaleh Fallah, Mr. Javad Keshavaz, Miss Shahnaz Ehsanian, Mr. Ali Akbar Tabah and Mr. Ali Amani. All the persons appearing before the Special Representative stated that they had spent periods of various duration in prisons in Iran and, consequently, they described in detail the circumstances of their arrest, their interrogation methods, their trial and the conditions prevailing in the prisons in which they were held. Most of these persons left the country in the late months of 1986 and in early 1987. Several of them affirmed that they had close relatives or acquaintances who were executed, or had themselves witnessed executions. The followers of the Baha'i faith also described their personal experience, and that of their co-religionists.

14. Following is a summary of the information collected by the Special Representative, during the informal hearings held on 22, 23 and 29 July 1987, grouped, as in his previous reports to the General Assembly and the Commission on Human Rights, in five sections, in keeping with pertinent articles of the International Covenant on Civil and Political Rights: (a) right to life; (b) right to freedom from torture or cruel, inhuman or degrading treatment or punishment; (c) right to liberty and security of person; (d) right to a fair trial; and (e) right to freedom of thought, conscience and religion and to freedom of expression.

(a) Right to life

15. Mrs. Jaleh Fallah stated that her husband was executed in September 1986, in the Evin prison area. Her husband's brother had been executed in January 1984. Mr. Javad Keshavaz stated that he had witnessed numerous executions in Vakilabad prison, near Mashad. Among those whose execution he witnessed were a 16-year-old youth, Akbar Adalatian, and a woman together with her young son. Another youth from Mashad was executed in the prison by hanging from a crane. Miss Shahnaz Ehsanian stated that her brother had been executed and that, for that reason she was not executed although a revolutionary prosecutor had requested that she be sentenced to death. Mr. Ali Askar Tabeh stated that, while he was held at the Sepelch prison, other inmates who had been sentenced to prison terms were all of a sudden executed. One person who was with him in another prison, Ali Zamanian, was executed after being severely beaten. Mr. Ali Amani stated that a person whose name was not given was imprisoned with him and was executed in his cell after crying slogans hostile to the Government. Some of the followers of the Baha'i faith also stated that members of their family or other acquaintances, often active members of the Baha'i community, had been executed. No additional details were communicated with regard to the alleged executions referred to above.

(b) Right to freedom from torture or cruel, inhuman or degrading treatment or punishment

16. All the persons who appeared before the Special Representative alleged having been subjected to ill-treatment and to physical and psychological torture. Beatings often started upon arrest; it was, however, during their interrogation that these persons allegedly suffered the most severe forms of torture, including flogging with cables on all parts of the body, denial of food and sleep, torture of one's spouse before one's eyes and mock-executions.

17. Some of the persons stated that they were still suffering from various ailments and physical or psychological disorders as a result of the torture inflicted on them in prison. Thus, Mrs. Jaleh Fallah was still suffering from epileptic attacks, because of repeated blows on her head. Mr. Amani had his arm and several teeth broken, allegedly as a result of harsh beating. All the persons appearing before the Special Representative stated that ill-treatment was not confined to the interrogation stage, when it was allegedly inflicted in order to extract information and confessions, but that it continued even after sentences were pronounced.

18. The Special Representative received medical certificates established by Dr. Ebrahim Jeddli, M.D., of Baghdad, Iraq, with regard to four of the persons who appeared before him: Ali Askar Tabeh, Javad Keshavaz, Jaleh Fallah and Shahnaz Ehsanian. The certificates were dated 19 July 1987 and attested that, considering the past history of these persons and their existing physical and psychological conditions, the description of their experience was compatible with their alleged torture. The Special Representative, aware of the continuing war between Iran and Iraq, deems that the medical certificates issued by an Iraqi physician, living in Iraq, should be considered with reservations.

19. With regard to Mr. Ali Amani, the Special Representative received a medical certificate established at Ankara in April 1987 by a French physician, Dr. H el ene Jaff e, President of the "Association pour les victimes de la r epression en exil" (AURE), Paris, which attested the following:

"The examination was done superficially because of the limited time available and the lack of medical equipment. It confirms the following: scars suggesting cigarette or cigar burns; traumatism of the elbow, which has a 'flattened' look and makes a cracking sound when it is moved (dislocation/fracture probably dating back to 1983); nasal obstruction and curved nose-bridge (fracture of the septum?); testicle not in left part of scrotum. Fully developed testicle can be felt in fingertip-sized inguinal canal, which is swollen and painful. Normal-looking right testicle is in place - inguinal canal is permeable and sensitive; athlete's foot; oedematous, 'pulpy' sole; uneven gait; several broken or missing teeth."

20. According to all the persons who appeared before the Special Representative, conditions in the prisons in which they were held were extremely poor. The most frequent complaints concerned overcrowding, very bad hygiene, poor quality and quantity of food, lack of access to doctors and to medicine and denial of family visits. Prisons where conditions were allegedly particularly bad included Ghezel-Hesar in Karaj, Gohar-Dasht, Vakilabad, Iranshahr and Evin, in Tehran.

(c) Right to liberty and security of person

21. All persons appearing before the Special Representative invariably described the circumstances of their arrest as excessively harsh. In all the cases no warrant of arrest was shown. In many cases, persons were apprehended in the street and led, blindfolded, to an interrogation centre, where ill-treatment was applied immediately upon arrival. In most of the cases, no explanation or reason were given to the detainees regarding their arrest. Some of the persons stated that revolutionary guards had arrested other members of their family, including very elderly persons, as hostages, in cases when the persons wanted by them could not be found. Others stated they had been arrested in the place of other family members who were wanted by the guards.

(d) Right to a fair trial

22. Following are statements made by some of the persons appearing before the Special Representative regarding the circumstances under which their trial was held.

(1) Mrs. Jaleh Fallah stated that, during her imprisonment, she was convened on three occasions, in 1981, 1985 and 1986, by a religious judge who was sitting alone. This took place in the Evin prison. Each time she was asked whether she would renounce her political sympathies. On the first occasion, when she refused, the judge sentenced her to be executed. She was never given any access to a legal defence. Each time the whole procedure took two or three minutes.

(2) Mr. Javad Keshavaz affirmed that his trial was held inside the Mashad prison. The date of the trial was not communicated. He was sentenced to one

year's imprisonment and three years' suspended term. But three months later he learned that his sentence had been increased to four years' imprisonment.

(3) Mr. Ali Amani was put on trial in January 1984, nine months after his arrest. During his trial, he was constantly insulted. After the accusations were read out and he denied them, the sentence was not pronounced and he was taken away. He was never informed of the contents of his sentence. The entire procedure took less than five minutes. He had no access to legal defence.

(4) A follower of the Baha'i faith stated that three persons attended his trial, a mollah, a judge and a clerk. No lawyer was present. The accusations consisted of participation in Baha'i meetings, membership of Baha'i administration, possession of Baha'i material and helping Israel. Another Baha'i appearing before the Special Representative stated that his trial lasted for about 20 minutes. A judge named Gilani accused him of spying for Israel, going there on several occasions and sending money there.

(e) Right to freedom of thought, conscience and religion and to freedom of expression

23. The followers of the Baha'i faith appearing before the Special Representative described various instances of persecution and harassment to which they personally or their family members, had been subjected. Some of them attached various documents to confirm their allegations. Several have close family members who were executed or were killed by incited mobs. Most of them spent periods of various duration in prison and were themselves victims of beating and ill-treatment or were witnesses to other co-religionists being beaten and ill-treated.

24. In most cases they and their family members suffered from harassment and various restrictions affecting their livelihood, access to education and other aspects of their daily life. In one instance, the case of a murder of a Baha'i was dropped, although the murderers were known to the police and a file of evidence had been sent to the attorney-general. The police advised the victim's family not to pursue their complaint.

25. In another instance a former civil servant who was dismissed from his job submitted to the Special Representative a translation of an official document informing him of his dismissal from service without any explanation, the document stated the following: "it is obvious that you will have no position and no rights in this organization whatsoever from the date of the dismissal". The same person's daughters were prevented from continuing school. When one of them inquired about the reason, she received a written reply from the chancellor of the university concerned, announcing that "in reply to the letter dated ... with regard to the reason for preventing you to continue education, this is to inform you, that as announced by the Ministry of Culture and Higher Education, because of your being a member of the misled sect, of Baha'ism, your admission is not possible according to paragraph 1, of article 11, of the Ministry's directions". The daughter of another person produced a similar document which attested that "... according to the order of Karaj Ministry of Education, since Baha'ism is not recognized as an official religion, she cannot continue her education at the Islamic educational centre.

Since the above-mentioned student is a Professional Baha'i and believes in Baha'ism, her dossier has been submitted to herself". A Baha'i pharmacist and his wife were dismissed from their jobs. According to a document presented to the Special Representative, he was dismissed "considering the provisions under Directive No. 7560 dated 31 December 1980 of the Ministry (of Health), since it was inconsistent with the restrictions and regulations stated under Article 14 of the Civil Service Act, due to faith corruption ...". The Special Representative received several other documents to the same effect.

26. One of the Baha'is appearing before the Special Representative alleged having been severely harassed and ill-treated after it was discovered that he had married a Moslem wife. Pressure was exerted on him to separate from his wife and children, since his marriage was considered illegal and his children illegitimate. He was told that, if he recanted his faith and converted to Islam, he could remarry his wife. He was forced to sign a paper to that effect in order to be released from prison. Other Baha'is also stated that it had constantly been made clear to them that, if they recanted their faith, all measures against them would cease and they could regain their posts and studies.

2. Written information

27. The Special Representative has continued to receive written information made available to him by various bodies concerned, including non-governmental organizations in consultative status with the Economic and Social Council. That information contained allegations of human rights violations in the Islamic Republic of Iran of a similar nature to those reflected in previous reports of the Special Representative and his predecessor. A summary of such allegations is reproduced below.

(a) Right to life

28. According to information made available to the Special Representative, some 100 persons were allegedly executed in the Islamic Republic of Iran in the period October 1986 to September 1987. The charges against these persons were not communicated to the Special Representative. According to the sources that made the allegations, these persons had been executed because of their political or religious convictions. It was alleged that all of them had been tortured prior to their executions and that some were tortured to death.

29. Following are the names of persons who were allegedly executed or who died under torture and, when available, the date and place of their execution or death.

Ahmad Kavih, 26 January 1987, at Isfahan;

Tahereh Pour, Baqer Dehkordi, Rahman Shojaie and Jalal Ramezani, March 1987, at Isfahan. Surush Jabbari and Abul-Qasim Shayiq, March 1987, at Tehran. Sheida Behzadi and Massoud Hojati, March 1987;

Said Samani, Reza Lofti, Mohamed Ali Tzafari, Behrouz Afsari, April 1987, at Tehran;

Riomars Shahi, May 1987, at Tehran;

In addition, it was alleged that Mohamed Reza Ghabrai, Raziyeeddin Taban and Jahangir Behtaji had been executed. The date of their alleged execution was not communicated to the Special Representative.

30. It was further alleged that, on several occasions, mobs or individuals, allegedly incited by religious officials, killed followers of the Baha'i faith without any action taken by the authorities to prosecute those responsible for the killings. The names of two victims were communicated to the Special Representative: Bijan Talibi, killed on 2 September 1986 in the village of Vardavard, near Karaj, and Iraj Mihdi-Nizhad, killed on 4 September 1986 at Bandar-Abbas. (See also sect. III, subsect. A (d).)

(b) Right to freedom from torture or cruel, inhuman or degrading treatment or punishment

31. Most of the specific allegations communicated to the Special Representative under this section concerned the treatment of detainees in Iranian prisons and the conditions prevailing therein. There were also a number of specific allegations regarding methods of torture applied in Iran to prisoners and a number of individual cases of prisoners who had allegedly been subjected to torture. The written information concerning torture and ill-treatment of detainees is consistent with the oral information referred to above.

(c) Right to liberty and security of person

32. Following are some of the specific allegations communicated to the Special Representative:

(1) According to communications dated 30 March and 10 April 1987, the Iranian Deputy-Minister of Information had stated on 18 March 1987 that, during the summer of 1986, around 700 persons had been arrested and imprisoned allegedly for political reasons. It was alleged that arrests had been carried out in secrecy, by abducting persons in the streets, homes and working places, and that no details were given to the families of 'the detainees' whereabouts.

(2) In May 1987, it was alleged that Evin prison officials were authorized to detain and keep in custody what was described as "objecting visitors of political prisoners" for up to 10 days. It was further alleged that many political prisoners who had served their term of prison continued to be imprisoned.

(d) Right to freedom of thought, conscience and religion and to freedom of expression

33. Allegations communicated to the Special Representative under this section principally concerned the situation of followers of the Baha'i faith - as a community and as individuals - in the Islamic Republic of Iran. According to information received by the Special Representative, relative to the period July 1986 to June 1987, executions of Baha'is continued, albeit at a lower level

than in previous years. Six followers of the Baha'i faith were allegedly executed during the period under consideration. In addition, four Baha'is, including two youths of 15 and 16, were killed by mobs that were allegedly incited by religious officials. It was further alleged that the judicial authorities took no steps to bring those responsible for the killings to justice, even when their identities were known. In two cases, the victims' relatives were allegedly themselves imprisoned when they complained to the authorities about the murders.

34. Followers of the Baha'i faith allegedly continued to be subjected to summary arrest and detention without trial. By June 1987, some 200 Baha'is were in detention, allegedly solely because of their faith. This reportedly represented a significant drop from earlier figures, following the release of a large number of Baha'is who had completed their prison term or were released after being imprisoned without trial. Another 200 were released on bail on condition that they must return to prison whenever ordered to do so by the authorities.

35. Baha'i children at primary and secondary levels were reportedly gradually being readmitted to school, but were allegedly being subjected to constant pressure and indoctrination and to threats of being prevented from taking their examinations unless they renounced their faith. Admission to universities and other institutions of higher education was allegedly forbidden to Baha'is.

36. Economic pressure and harassment allegedly continued. Employment in governmental or para-governmental institutions, including hospitals and schools, allegedly continued to be denied to Baha'is. The seizure of business enterprises and of real and personal property of Baha'is allegedly persisted. Baha'i merchants, shop owners and businessmen allegedly had their licences withdrawn and were thus deprived of their means of livelihood. Baha'is living in certain rural areas of the country had allegedly been driven out of their homes, farms and orchards and the properties were subsequently sold. In cases where Baha'is had rented out their properties, the tenants were told that the rent should be paid to government agencies.

37. Baha'i cemeteries allegedly continued to be desecrated and closed. In many cities, including Tehran, Rasht, Tunikaban, Urumiyeh, Yazd, Hamadan, Qazvin, Karaj and Mashad, the Baha'is had difficulty in burying their dead.

38. The right to leave Iran legally was allegedly still denied to Baha'is, who were allegedly required to recant their faith in order to obtain a passport and exit permit.

39. Baha'is were allegedly denied religious freedom in all its aspects. This included the prohibition from manifesting their faith, meeting as a community, maintaining places of worship, teaching their faith and disseminating their literature. Former members of Baha'i administrative institutions, which were disbanded in 1983, continued to be persecuted by the authorities and were allegedly victims of torture when they were arrested and imprisoned. All Baha'i holy places and religious sites in Iran had allegedly been confiscated and many, including the holiest Baha'i shrine in Iran, had allegedly been totally destroyed.

40. In addition to that information, the Special Representative received copies of Iranian court rulings which denied redress or compensation to the families of two Baha'is killed by Muslims, on the grounds that the Baha'i victims were "unprotected infidels". The first case concerned a Muslim driver who had killed a Baha'i in a traffic accident. Following are excerpts of the court ruling, as translated from the Persian language:

"In reviewing File No. ... and in consideration of the reports of the clerks of the Ministry of Justice, and of the views of the official experts of the Ministry of Justice, and of the adviser of the Court, as well as the evidence reflected in the file pertaining to the case of Mr. ..., who is 23 years old and accused of manslaughter caused by driving a motor vehicle without observance of the Government traffic rules, the Court is certain that the accused is guilty. However, as far as the fine and payment of damages are concerned, ... since the victim was a member of the misguided and misleading Baha'i community and is considered as an unprotected infidel, and since there is no explicit provision in Islamic laws about damages and fines payable to unprotected infidels; considering all the points mentioned above, the Court rules that the accused is relieved of any obligation (towards the family of the victim). However, because of his negligence of traffic rules, he is sentenced to three months disciplinary imprisonment in accordance with Article 149 of the Penal Code." (Signed) Sultani (Judge of the No. 1 Penal Court of Teheran, Branch 146).

41. The second case concerned a Muslim who was accused of delivering a premeditated blow to a Baha'i, resulting in the latter's death. The document, written on an official interrogation and minutes sheet bearing the letterhead of the Ministry of Justice of the Islamic Republic of Iran, as translated from the Persian language, reads as follows:

"With reference to the case of Mr. ... who is accused of delivering a premeditated blow to ... resulting in his death, and concerning the contents of the files of the investigation as well as the statements of the relatives of the deceased, reflected in the minutes of the Court dated 1 October 1964, it is stated that their son (the victim) was a Baha'i. There is nothing in the files to contest this claim. The question is that, in the law of punishments and fines, there is no provision that clearly states that Muslims are not to be punished or fined in a case involving a Baha'i claimant.

"The accused has not yet been called for investigation and hearing of the charges. (We therefore request) that you please deliver your decision, taking into consideration the law of the Fitwas (religious decrees) about this case." (Signature illegible) Counsel of the Court.

The reply from the President of the Court written under the question on the same official sheet reads as follows:

"Considering that the one who was killed was, according to the testimony of his father and mother, a Baha'i, and was following the laws and customs of Baha'ism, and also taking into consideration the Fitwas of the famous

theologians, ... which states that infidels cannot receive money derived from non-Muslim citizens (followers of the Book) (i.e. Christians and Jews) and are not to be compensated (by Muslims), the natural conclusion would be that such (infidels) cannot claim QISAS (retaliatory punishment). Irrespective of the right or wrong of the above (conclusion), the verdict is hereby issued that the defendant should not be prosecuted." (Signed) Rida'i, President of the Court.

B. Information and comments provided or made available by the Government of the Islamic Republic of Iran

42. The Special Representative considered material that was provided, or made available to him, by the Government of the Islamic Republic of Iran, as well as statements and declarations by Iranian officials at various United Nations bodies. Following are views of the Government of the Islamic Republic of Iran, regarding some of the issues referred to in subsection 1 of section III, as reflected in the above mentioned material and statements:

43. With regard to the right to life, the Government of the Islamic Republic of Iran on several occasions expressed the view that the provisions of article 6 of the International Covenant on Civil and Political Rights were in conformity with the Islamic law prevailing in that country. This view was most recently expressed in "The viewpoints". Paragraph 12 of that document states the following:

"With respect to the right to life, the Islamic Republic of Iran finds the provisions of article 6 of the International Covenant on Civil and Political Rights mainly in conformity with Islamic law. Application of the death penalty is only called for in the cases of the most serious crimes and requires the consent of the Supreme Judicial Council, the highest judicial authority in the Islamic Republic of Iran."

44. The Government of the Islamic Republic of Iran has provided the Special Representative with a very large amount of material, describing in great detail acts of sabotage and terrorism that had been perpetrated in Iran since 1980, resulting in the death of a large number of civilians, including Government officials, elderly people, women and children. The perpetrators of these acts were allegedly members of groups that have been providing the Special Representative with information containing allegations of human rights violations by Iranian government agents. A document entitled "Dimensions of terrorist crimes", published in February 1986 by the Public Relations Department of the Ministry of Foreign Affairs of the Islamic Republic of Iran, describes in detail acts of terrorism perpetrated in Iran in the years 1981 and 1982. According to that publication, those acts included assaults on Friday prayer imams, the country's authorities and leading personalities, assaults on banks, assaults on cultural centres, news agencies and newspaper offices, assaults on Islamic associations, assaults on governmental organizations, assaults on schools and teachers, assaults on mosques and Islamic scholars and assaults on shopkeepers. All these acts were reportedly perpetrated by members of the Mojahedin group, which claimed responsibility for them in its various publications. In another booklet entitled "Commands of

terrorist activity", published by the same department on the same date, it is stated that on 12 August 1983, Ali Zarkesh, deputy of (Mojahedin leader) Massoud Rajavi, issued a statement reporting that 2,800 persons were assassinated in one year from 20 June 1982 to 20 June 1983. Among the victims were very high-ranking clergy and 40 commanders of the Revolutionary Guards Corps. Another booklet published by the same department, entitled "Victims of terrorism", includes a list of several hundred names of persons who were killed indiscriminately by terrorists in their houses, streets or while at work. It was alleged that the Mojahedin organization had claimed responsibility for many of these killings. Other booklets describe in detail instances of torture inflicted by members of the Mojahedin organization on civilians. No information has been received regarding possible recent terrorist activities in the country.

45. A recent illustration of the Iranian position on terrorism may be seen in "The viewpoints", paragraphs 14 to 17, which reads as follows:

"... People's Mojahedin Organization is the main source of the Special Representative, as the majority of the so-called allegations have been produced by this organization. People's Mojahedin is a terrorist organization with its headquarters based at Baghdad. They hold military bases in the territory of Iraq from where espionage and military activities are conducted alongside the military forces of Iraq against the Islamic Republic of Iran ... They are also involved in acts of sabotage in factories, farms and other resources and wealth of the Iranian people. Their activities have, in general, been a threat to the "life of the nation" as they have engaged in a direct confrontation with our people on all fronts, including the war imposed by foreign forces.

"On this basis, it is clear that the People's Mojahedin Organization cannot, by any means, be considered a political group eligible to enjoy the same rights as other legally recognized political groups and parties. On the other hand, our information related to the names of members, and sympathizers of this group, particularly those with whom the Special Representative has met, reveals that they have acquired citizenship from Iraq and are not recognized as Iranians. At the same time, these members, along with their leadership, are being handsomely paid by Iraq, the country currently at war with the Islamic Republic of Iran, to engage in combat and other military activities on the front, as well as within the Iranian territory, against Iranians. They are therefore collaborators with the enemy at wartime and may, at best, be considered as mercenaries whose definition and rights are described in article 47 of Protocol I, supplementary to the Third Geneva Convention of 12 August 1949. Before addressing any individual case, therefore, the legal status of these persons needs to be clarified by the Special Representative.

"The Tudeh Party is well known as a surrogate organization whose members are subjects of a foreign country. People's Fedaiyan Organization is a faction of the People's Fedai Guerrillas which split over some ideological disputes and choice of alliance with foreign Governments."

46. As regards the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, the Government of the Islamic Republic of Iran has, on several occasions, stated that torture was forbidden by its constitution. In a document entitled "Report on the performance of the Islamic Republic of Iran in 1985", submitted to the Special Representative by the Ministry of Foreign Affairs of the Islamic Republic of Iran, which was attached as annex IV to the report of the former Special Representative to the General Assembly at its fortieth session (A/40/874), the following was stated regarding this question:

"In accordance with article 38 of the Constitutional Law of the Islamic Republic of Iran, any kind of torture exercised to extort confession from the prisoner is forbidden; threatening third parties to bear testimony or to take oath is not permissible and such a testimony, confession or oath is of no value. The violator of this article shall be penalized. To this end, the lawmaker has formulated regulations which shall severely punish the violator.

"In conformity with Islamic Penal Code, approved on 18 May 1983, and according to article 58:

'If a prison staff, or one of the judicial officials molests or applies corporal punishment on the accused to extort a confession, he shall be sentenced to a term of imprisonment ranging from six months to three years, and that, in case the convict dies, the individual responsible shall be condemned to death. Furthermore, the legislator has banned any kind of molestation even if it is not aimed at extorting a confession or any information, in which case the violator shall be severely punished.

"According to article 62 of the Islamic Penal Code, ratified on 18 May 1983:

'In the case of one of the judicial or non-judicial staff molesting or having the prisoner molested without legal consent, he shall have to pay mulct or be flogged 74 times in compliance with Retribution. And even if a prison official commits an illegal act in the process of enforcing the law, he shall be punished; for article 59 of the Islamic Penal Code stipulates: Whenever an official chastises the convict or has him punished more severely than he should, he shall be punished either in compliance with Retribution or shall have to pay mulct, otherwise the violator shall be sentenced either to an imprisonment term ranging from six months to three years or to any other punishment consistent with the type of crime he has perpetrated.'

47. In this context, it may be noted that the Iranian Chargé d'affaires in Paris, Ghulamreza Haddadi, was quoted by the Iranian English language newspaper "Kayhan International", of 23 May 1987, as stating, in reaction to an Amnesty International report alleging torture of Iranian prisoners: "Torturing the prisoners in Iran is forbidden in accordance with the Islamic law ... None of the instances of alleged torture have specific sources and even the hypothetical victims are not identified. Moreover, the illustrated documents are not related to Iran ... No one in the Islamic Republic of Iran is threatened or detained because of his ideological beliefs".

48. As regards the right to liberty and security of persons, the document referred to above (A/40/874, annex IV), states the following:

"Article 32 of the Constitutional Law stipulates:

'No one may be arrested except as dictated by law. In case of arrest, the accused must be immediately informed of the reason for his detention, in writing, and within 24 hours at the latest, a preliminary file must be placed in the hands of a competent judge and the trial proceedings must be initiated as soon as possible. The violator of this provision shall be punished according to the law.

"Therefore, the above-mentioned provision has not only secured the individual against wilful arrest, but the conditions for the arrest following the perpetration of a crime have also been stipulated and the official shall place a file in the hands of competent judges within 24 hours.

"The Islamic Penal Code approved on 18 May 1983, in its article 71, has pointed out the legal punishment for any illegal arrest. The said provision shall affect all the government judicial or non-judicial officials and even ordinary citizens, as stated in article 71:

'Any one of the government high-ranking officials or officers of the three sovereign powers (the legislative, the executive or the judiciary) without having any order issued by the competent authorities, except the instances dictated by law, detains or sends an individual to prison and/or forcibly confines him in a place, he shall be condemned to an imprisonment term ranging from six months to three years and/or he shall be divested of his position. The individual who has knowingly set up a hiding place to commit such a crime shall be regarded as an accomplice who shall be flogged 74 times and/or be sentenced to an imprisonment term ranging from three to six months and, in either case, he shall be divested of his position for five years. If the violator releases the detainee prior to prosecution and in case the length of detention does not exceed five days he shall be sentenced to an imprisonment term ranging from two to six months.'

Further, in the same document, the following is stated:

"In the Islamic Republic of Iran, the guardians of the peace (the Police and Gendarmerie for ordinary crimes, and the revolutionary committees, for terrorist crimes) can arrest the accused in cases of obvious crimes and present to the examiner the reasons for the charge and arrest in 24 hours. Those found in violation of their specified duties shall be prosecuted according to the procedures mentioned above in paragraphs 16 to 26."

49. As regards the viewpoint of the Government of the Islamic Republic of Iran concerning the situation of the Baha'i community in that country, the Special Representative has received over the past few years a considerable amount of material provided by the Government, including declarations and statements by

Iranian officials. The Iranian Government has systematically refused to recognize the Baha'is as a religious minority.

50. A recent illustration on the Iranian Government's position regarding the Baha'is may be seen in "The viewpoints", paragraph 18 of which states as follows:

"Baha'ism is a foreign-affiliated political movement established through the then tsarist Russia and Great Britain as a means to ensure their colonial interests and long-term objectives in Iran. All activities of this political movement, disguised as a religion, either directly or through other conspiratorial means, have been aimed at the subversion of the Governments in Iran and gradual obliteration of Islam as the established faith and unifying base of the Iranian people. Such subversive activities were only diminished during the latter period of the Pahlavi régime when they infiltrated all segments of the Government and held high positions in the Army and in SAVAK, the Shah's notorious secret police. Most of the Shah's policies, in respect to both internal and external affairs, were practically formulated and executed by the Baha'is. This is despite their claim that Baha'is are forbidden to become involved in partisan politics or to hold any political post. The Baha'is also maintain that they are obedient to the Government of the country in which they live, and preach non-violence. Their brief history is, to the contrary, filled with long periods of riots and armed rebellion against the established Governments in Iran and other countries in the Islamic world."

51. As regards the right to freedom of expression and the prosecution of persons for their political beliefs, the document referred to above (A/40/874, annex IV), stated the following:

"No one is prosecuted in the Islamic Republic of Iran for his political beliefs. According to Principle 23 of the Constitution: 'inquisition into beliefs is prohibited and no one should be persecuted and remonstrated merely for holding a belief'.

"... However, creating organizations and group activities for the purpose of propagating corruption and covert campaign against Islam upon which the Islamic Republic of Iran is based and for whose propagation it is founded may be considered as detrimental to the national security and in opposition to the system of the Islamic Republic; activities of these organizations and other similar organizations may be considered as counter-revolutionary and membership of such organizations could be considered a crime.

"These crimes, being as they are crimes against security or terrorist crimes, are not in fact political crimes, though committed with political motives, because they are detrimental to the territorial integrity and the internal security of the country. Therefore, they are liable to legal punishment and like other ordinary crimes are subject to the regulations for criminal procedures, the only difference being that these crimes are investigated in the Revolutionary Courts in accordance with the Law of Revolutionary Courts, ratified in 1361 (1982)."

IV. CONSIDERATIONS AND OBSERVATIONS

A. Considerations

1. Information provided by the Government of the Islamic Republic of Iran

52. The Iranian Government has reacted to some extent positively to the activities of the Special Representative, as contained in the final report presented to the Commission on Human Rights at its forty-third session. The presentation of "The viewpoints" facilitates the discharge of the duties of the Special Representative because this document clarifies the problems that the Iranian Government encounters in co-operating with the implementation of the mandate which the Commission entrusted to the Special Representative in 1986 and which it renewed at its forty-third session (Commission on Human Rights resolution 1987/55, para. 5). Consequently, it provides elements to overcome those problems. Furthermore, "The viewpoints" offers a summary of the theoretical and factual position of Iran on issues that have hindered the implementation of the resolutions of the General Assembly and the Commission on Human Rights since the very inception of this item on their respective agendas.

53. The exact knowledge of the Iranian thinking on the theoretical and factual issues regarding the pertinent resolutions and the terms of the mandate offers the elements for a dialogue within the lines of co-operation that the competent organs of the United Nations have consistently stressed in their consideration of this question.

54. The meeting the Special Representative held with Mr. Sirous Nasserri provided the opportunity for further clarification of certain issues and positions.

2. Recent events in the Islamic Republic of Iran

55. It is interesting to note two recent occurrences in the Islamic Republic of Iran: the solution of the problem affecting the medical profession, and the pardoning of numerous prisoners. The Iranian Government informed on the denouement of the problem confronted by the medical profession in 1986 ("The viewpoints", p. 12, para. 29; final report E/CN.4/1987/23, paras. 61-62). According to that information, the call for a strike of the physicians was illegal and was made without previous notice to the Government. The document acknowledged that some medical doctors had been arrested on charges of violation of State regulations. Finally, the bill that was the source of the protest and the strike was rejected by the Council of Guardians of the Iranian Parliament.

56. The Special Representative has not received any information contradicting the statement contained in the Iranian document. The Special Representative therefore considers that the problem that affected the medical profession last year is solved.

57. The second occurrence is the pardoning of prisoners. The Iranian document reported that many prisoners had been pardoned and released in recent months.

"These included 1,800 prisoners in Sistan and Baluchistan and 1,200 prisoners in Khorasan provinces alone, and other provinces are following suit" ("The viewpoints", p. 24, para. 39). Although it has not been specifically stated that the pardoning included political prisoners, it may be inferred that this has been the case, on account of the activities attributed to some of the prisoners after being set free. The Special Representative welcomes the pardoning of prisoners, and expresses the hope that this may be the first stage of a process leading to a general amnesty for political prisoners.

3. Co-operation from the Government of the Islamic Republic of Iran

58. The Iranian Government has restated selective adherence to certain provisions of international instruments on human rights and fundamental freedoms ("The viewpoints", p. 8, para. 10). The Special Representative cannot agree on this stand, on grounds that legal obligations and commitments on human rights do not foresee or admit partial acceptance of instruments that have been conceived, drafted and adopted as a unified, coherent and complete set of norms.

59. Within the selective adherence mentioned above, the Iranian Government has indicated that important provisions of the International Covenant on Civil and Political Rights are compatible with Islamic law: "As is evident, no significant divergence exists between the provisions of international law and those of the Islamic law on some of these certain classifications of rights of individuals". It is possible, therefore, to address so-called allegations regarding rights of individuals that have been guaranteed by both Islamic and international law.

60. The Iranian document mentioned the provisions of the International Covenant on Civil and Political Rights that it considered fully compatible with Islamic law: right to life (art. 6); prohibition of any kind of torture (art. 7); safeguards in case of arrest or detention (art. 9); guarantees for a fair trial (art. 14); and freedom of thought, conscience and religion (art. 18). The document refers to provisions of municipal law that reflects those international norms. For instance, the Iranian Constitution (art. 23), prohibits inquisition into beliefs and persecution of individuals for their beliefs ("The viewpoints", pp. 8 and 9, paras. 12 and 13).

61. The provisions of the International Covenant on Civil and Political Rights that the Iranian Government selectively accepts give legal support to the bulk of the five categories of allegations presented to its consideration. Consequently, the legal bases of those allegations are not under discussion. The pending question is the official information on those specific allegations.

62. Strictly following the generally recognized practice of international organs dealing with human rights, it is pertinent to insist that the thorough reply to the allegations of violations of human rights constitutes a paramount element of the process of ascertainment of the situation concerning human rights in any country that is a member of the United Nations and bound by the corresponding legal instruments. The denial of the allegations as a whole, without details, as was

done by the Iranian Government ("The viewpoints", p. 14, para. 40 (d)), is not sufficient for a sensible assessment of the situation on human rights in that country.

63. The Iranian Government agreed with the thesis of the Special Representative, included in his oral presentation of the final report, in the sense that absence of co-operation from a State in respect to measures adopted by the competent organs of the United Nations cannot paralyse international action ("The viewpoints", p. 12, paras. 30 and 31). No de facto veto is legally admissible in respect to activities undertaken within the United Nations system of protection of human rights. This is a foundation from which important conclusions may be deduced.

64. Among the obstacles to the extension of full co-operation, the Iranian document referred to resolution 1987/55 of the Commission on Human Rights and the negotiations it had tried to undertake with the sponsors "in order to remove some of the obstacles and pave the way for full co-operation" ("The viewpoints", pp. 11 and 12, paras. 24-28).

65. Considering the obstacles and reactions to specific activities related to the mandate, the Iranian document concluded that it had extended partial co-operation to the Special Representative. To that effect, the document mentioned some information and the meeting of the Special Representative with the Permanent Representative of the Islamic Republic of Iran to the United Nations in New York. The Special Representative acknowledged the importance of this meeting in his oral introduction to the interim report before the Third Committee of the General Assembly and in his final report (E/CN.4/1987/23, para. 5).

66. The Special Representative wishes to point out that the partial co-operation he received last year from the Iranian Government had proceeded further, both through documents and personal contacts. Therefore, there are grounds to hope that it may still increase in the months preceding the presentation of the final report.

B. Observations

67. Detailed allegations of human rights violations were transmitted to the Government of the Islamic Republic of Iran in order to enable it to verify their accuracy and to provide information and comments.

68. The Iranian Government has denied all the allegations without specifically referring to any of them. Though the Iranian Government has made known its motivations for refusing to answer those allegations, the Special Representative still believes that circumstantial replies constitute a significant element to clarify the situation of human rights and correspond to the prevalent practice of States. Moreover, those replies would enhance the co-operation the Iranian Government is expected to extend to the competent organs of the United Nations.

69. The allegations transmitted to the Iranian Government resemble, in nature, the allegations transmitted in previous years. The bulk of those allegations concern right to life, freedom from torture and inhuman treatment, due process of law, and

freedom of religion. The problem concerning the medical profession, which deserved particular attention from the General Assembly and the Commission on Human Rights, appears to have been solved (see para. 55 above).

70. In his final report to the Commission on Human Rights (E/CN.4/1987/23), the Special Representative indicated that the number of alleged violations of the right to life had diminished over the past two years. It would seem that this trend has continued during the period covered by the present report.

71. On the other hand, the treatment of prisoners and the violations of the regulations of fair trial continue to be matters of concern. The oral and written information received by the Special Representative coincided in stating that maltreatment and torture, both physical and psychological were common in Iranian prisons during interrogation and before and after the final verdict. They also coincided in affirming the existence of extremely summary and informal proceedings, unawareness of specific accusations, lack of legal counsel and other irregularities in respect to fair trial.

72. In the course of the informal hearings, the Special Representative reached the moral conviction that the persons appearing before him referred to facts that certainly happened to them, and that their declarations were not the product of feverish imagination or of mere fabrication quided by political or religious motivations. These persons presented the traces of maltreatment, and exposed their account of events in a convincing, articulate and coherent manner.

73. The alleged practice in Iranian prisons is contrary to international norms and is against Iranian law, and consequently deserves to be investigated by the Government of the Islamic Republic of Iran. The Special Representative believes that this practice, which is illegal, does continue to occur in some Iranian prisons.

74. The Iranian Government has improved the partial co-operation that it has extended to the Special Representative, both through written material and personal contacts, and this improved co-operation has been helpful to the clarification and understanding of the prevalent situation of human rights in Iran. None the less it has not reached the level of co-operation that both the General Assembly and the Commission on Human Rights have consistently requested in their resolutions concerning this matter.

75. The information received so far from the Government, the opposition groups and independent sources do not contain elements liable to change the view the Special Representative expressed in his final report to the Commission on Human Rights (E/CN.4/1987/23) according to which he believed that acts continued to occur in Iran that were inconsistent with international instruments to which the Government of that country was bound.

76. It would appear that the frequency and number of allegations during the recent past have somewhat diminished; nevertheless, the persistence of certain facts justify continuing international concern. Indeed, among the several factors that may have contributed to the trend mentioned above is the persistent interest and monitoring by the competent organs of the United Nations.