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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED
TO ANY FORM OF DETENTION OR IMPRISONMENT

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT

Report by the Special Rapporteur, Mr. P. Kooijmans, pursuant to
Commission on Human Rights resolution 1988/32

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I. INTRODUCTION

1. At its forty-first session, the Commission on Human Rights adopted resolution 1985/33, by which it decided to appoint a special rapporteur to examine questions relevant to torture.

2. On 12 May 1985, the Chairman of the Commission appointed Mr. Peter Kooijmans (Netherlands) Special Rapporteur who, in pursuance of Commission resolutions 1986/50 and 1987/29, submitted reports (E/CN.4/1986/15 and E/CN.4/1987/13) to the Commission at its forty-second and forty-third sessions respectively.

3. At its forty-fourth session, the Commission had before it the third report of the Special Rapporteur (E/CN.4/1988/17 and Add.1) and adopted resolution 1988/32, by which it decided to continue the mandate of the Special Rapporteur for two years, in order to enable him to submit further conclusions and recommendations to the Commission at its forty-fifth and forty-sixth sessions. The Economic and Social Council endorsed that resolution by decision 1988/130.

4. In submitting his fourth report to the Commission, the Special Rapporteur cannot but conclude that torture is still rampant in various parts of the world. Hopeful developments in some countries are counterbalanced by depressing deteriorations in other. The Special Rapporteur has been confirmed in his opinion, already expressed in previous reports, that situations of civil strife and civil war are particularly conducive to the practice of torture. He has received an alarming amount of information with respect to such situations, revealing a pattern of routinely practised torture and ill-treatment by both parties to such conflicts. In these situations it is generally the local population which is the main victim. Pressed and terrorized by guerrilla movements to provide support and furnish them with food and shelter they are suspected immediately by the security forces of having done so. Thus pressure and violence are used by the security forces to extract confessions and information from them. In the bitterness of the struggle for political power, the universally recognized rights of the individual are considered to be a matter of low priority, indeed almost trivial, to which none of the parties can afford to attach importance, since higher interests are at stake.

5. The majority of the allegations received by the Special Rapporteur deal with torture practised under circumstances such as those just described. Since the prohibition of torture concerns a human right which is explicitly mentioned in article 4 of the International Covenant on Civil and Political Rights as a right from which no derogation may be made in times of public emergency, the Special Rapporteur feels that Governments have a special responsibility to investigate such allegations and to take all appropriate measures to prevent torture being practised by government agents. The often undeniable fact that torture is used by the opposing forces can never justify similar practices by security forces. Therefore, strict instructions should be given to the security forces to respect the prohibition of torture and violation of such instructions should be punished immediately.

6. Other allegations refer to torture practised to instil fear and terror in order to prevent civil strife or to situations of excessively harsh treatment of detainees. Here the opportunities for Governments to take effective steps to put an end to such practices are much greater, since the Government is in full control of the situation. In other cases allegations do not refer to a systematic or regular practice of torture, but to complaints by individuals which reportedly have not been satisfactorily investigated by the authorities. In submitting allegations to Governments the Special Rapporteur does not take a position with regard to their well-foundedness. He merely asks the Government concerned to carry out an investigation and to inform him about its outcome. In some cases, the Special Rapporteur is provided with an extensive report about the investigation and its results; sometimes he is given an explanation as to why the investigation was inconclusive; in other cases, however, the allegation is merely denied or even labelled as slanderous. The Special Rapporteur feels that replies of the latter type do not sufficiently reflect the unequivocal commitment, entered into by all Governments and by the international community of States as a whole, to eradicate torture and to take all necessary measures to prevent its occurrence.

7. The Special Rapporteur again received invitations from three Governments to visit their country. He deeply appreciated these invitations from the Governments of Peru, the Republic of Korea and Turkey and gladly accepted them. He feels that consultations with the authorities in situ are an extremely effective instrument for carrying out his mandate. Through discussions with government officials, professional organizations and other non-governmental organizations, he is in a position to find out where there are still deficiencies in that country's system of law enforcement and to make concrete and specific recommendations for improvements. It should be pointed out that such visits have a consultative character and that the Special Rapporteur does not carry out investigations into specific allegations during such visits. It has been suggested from time to time to the Special Rapporteur that a Government, by extending an invitation to him, would admit that torture is actually practised in that country. The Special Rapporteur wishes to emphasize in this respect that, irrespective of the question whether torture did occur or still occurs in countries visited by him, such a visit should be seen mainly in the light of prevention of torture.

8. Since no society is immune to torture and since torture may take place everywhere, the need to take effective preventive measures is relevant for all countries. Just as the parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have declared themselves willing to admit independent experts to their places of detention, irrespective of whether allegations of torture have been made, in order to enable those experts to recommend improvements, in the same way an invitation to the Special Rapporteur should first and foremost be seen as an expression of the firm intention of the Government to put an effective ban on torture. Of course it is also possible for a Government to ask the Special Rapporteur to carry out an investigation in situ into specific allegations of torture. Until now the Special Rapporteur has not received an invitation of this kind.

9. The number of States which have become parties to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is steadily increasing. As of 31 December 1988, 39 States had ratified the Convention or had acceded to it; 6 belong to the African Group, 3 to the Asian Group, 7 to the Eastern European Group, 10 to the

Latin American Group, and 13 to the Western European Group and other States. The first reports under article 19 of the Convention have been submitted to the Committee against Torture. The Special Rapporteur has noted with appreciation that some Governments have provided him with a copy of their report, thereby complying with the request made in his report of last year.

10. The entry into force of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 1 February 1988 is of paramount importance. In previous reports, the Special Rapporteur has emphasized the importance of a system of periodic visits by independent experts to places of detention and has called it one of the best preventive measures against torture. With the entry into force of the European Convention, useful experience can be gained which may make it easier to consider the question whether and under which conditions the introduction of such a system of periodic visits can also be envisaged in other regions or on a world-wide level.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Correspondence with Governments

11. In pursuance of paragraph 8 of resolution 1988/32, the Special Rapporteur addressed notes verbales to Governments with the request that they provide him with any information relevant to his mandate, including information on preventive measures intended to eradicate the phenomenon of torture and on the establishment of an independent authority, at a national level, able to receive individual complaints.

12. In response to his request, the following Governments submitted information: Bahamas (26 September 1988), Burma (26 August 1988), Burundi (23 September 1988), Canada (26 September and 7 October 1988), Chad (27 September 1988), China (21 July 1988), Cuba (12 September 1988), Denmark (1 July 1988), Dominican Republic (7 September 1988), France (29 September 1988), Germany's Federal Republic (1 September 1988), Guatemala (1 September 1988), Haiti (19 April 1988 and 23 December 1988), Iraq (19 April 1988), Italy (18 October 1988), Libyan Arab Jamahiriya (12 October 1988), Mauritius (26 September 1988), Mexico (5 September 1988), Morocco (29 November 1988), Netherlands (12 August 1988), Philippines (29 August and 20 December 1988), Portugal (11 November 1988), Qatar (31 August and 25 November 1988), Republic of Korea (22 August and 29 August 1988), Samoa (21 September 1988), Saudi Arabia (9 August 1988), Singapore (1 September and 14 September 1988), Spain (21 November), Uganda (19 September 1988), United States of America (12 September 1988).

B. Information transmitted to Governments

13. As in previous years, the Special Rapporteur received numerous allegations of the practice of torture from different sources. After analysing them, letters with a summarized description of the allegations were transmitted to 37 countries for clarification.

14. The letters and the replies received are summarized below.

Afghanistan

15. On 10 June 1988, a letter was addressed to the Government of Afghanistan transmitting information alleging that torture continued to be systematically practised in the Khad security police interrogation centres, military posts and Pol-i-Charkhi central prison in Kabul. Two women were allegedly arrested on the night of 29 July 1987 at a village near Jalalabad. They were taken to the security police and were allegedly severely tortured. Another young woman arrested in May 1987 by Soviet troops near Nani in Ghazni Province was reportedly tortured at the local Soviet military headquarters and later at the Khad Interrogation Centre in Ghazni. An 18-year-old student at Kabul University arrested on 1 April 1987 died on 20 April 1987, allegedly as a result of torture inflicted during interrogation at the Khad detention centre at Shashdarak in Kabul.

Bahrain

16. On 6 April 1988, a letter was addressed to the Government of Bahrain transmitting information alleging that Mohammed Abdullah Darwish had been subjected to torture by a security guard while in detention. At present he is reportedly detained in the Al-Manama prison together with Mohammad Jawad Radhi Al-Asheeri, Jassim Ahmed Jassim Al-Mubarak, Ali Ahmad Jassim Mubarak, Radhi Saleh Ibrahim, Hassan Abd-Ali Hammad and Hassan Al-Asheeri, all of whom were allegedly subjected to torture while in detention.

17. In a letter dated 16 June 1988, the Government of Bahrain informed the Special Rapporteur that the following people had been sentenced to imprisonment in 1986: Mohammed Abdullah Darwish for five years on 23 October, Mohammad Jawad Radhi Al-Asheeri for three years on 23 October, Jassim Ahmed Jassim Al-Mubarak for three years on 21 June, Ali Ahmed Jassim Mubarak for 15 years on 11 October and Radhi Saleh Ibrahim for five years on 20 November. According to prison laws in the State of Bahrain, all convicted persons are to be treated well and provided with medical care. Concerning Radhi Al-Asheeri, the Special Rapporteur was informed that he was currently free and had not been tortured or sentenced to a term of imprisonment. It was stated that Hassan Abd-Ali was not currently held in prison and had not been arrested in the past; his name did not exist in the Ministry's files. (The Special Rapporteur noted that there appeared to be a contradiction in the Government's reply.)

Benin

18. On 10 June 1988, a letter was addressed to the Government of Benin transmitting information alleging that torture of political detainees had become routine. Allegedly, people are arrested by the Permanent National Commission of Inquiry into the Security of the State and systematically subjected to torture at the various detention centres, commissariats and police stations. Remy Glele Akpokpo and Bouraima Malehossou were arrested on 24 December 1987. It was reported that, as a result of being tortured, Remy Glele Akpokpo died on 18 January 1988. Bouraima Malehossou continues to be held incommunicado and is apparently in a serious condition as a result of torture.

19. On 17 August 1988, another letter was addressed to the Government of Benin, transmitting information alleging that Lt.-Col. Hilaire Badjougounne Lue Behanzin, Captain Hountondji, Georges Kitihoun and Lt.-Col. François Konami were arrested in April 1988. They have allegedly been subjected to torture and ill-treatment during interrogation. After being held, in detention in a military camp in Cotonou, they were transferred to Sero Kperea, a military camp in Paraleon.

Brazil

20. On 25 October 1988, a letter was addressed to the Government of Brazil transmitting information alleging that 16 soldiers of the military police, under the orders of a captain whose name was transmitted to the Government, invaded the peasant commune of Mutirad, at Araguatins in the State of Goiás. They allegedly threatened and terrorized the peasants. The same group of soldiers invaded the "Centro dos Multatos" in Sao Sebastiao do Tocantins and attacked several women. They also attacked two nuns, Madalena Hausser and

Beatriz Kruch. Finally, Fathers Miguel and José Pedro of the Sao Sebastiao de Tocantins parish were violently attacked by soldiers of the military police.

21. On 6 January 1989, the Special Rapporteur received a reply referring to the allegations in his letter dated 25 October 1988. The Brazilian Government informed him that the said allegation was currently under careful and detailed consideration by the competent Brazilian authorities. The Brazilian Ministry of Justice opened proceedings on 18 August 1988 in order to investigate the facts and issued official demands for clarification to the Secretary of Public Security of the State of Goiás, to the Secretary-General of the Brazilian Ministry of Agrarian Reform and Development and to the President of the Brazilian Institute for Forestry Development.

Burma

22. On 6 April 1988, a letter was addressed to the Government of Burma transmitting information alleging that Menh Tun Ya was arrested by soldiers of the army in June 1987 in Thanbyuzayat. He was subjected to torture during his detention in the 31st battalion headquarters, north of Thanbyuzayat.

23. In a letter dated 26 August 1988, the Government of Burma informed the Special Rapporteur that Menh Tun Ya was arrested by the 31st Infantry Battalion on 25 September 1986 on charges of collaboration with the illegal Mon Pyithit Party and showing propaganda video tape of the said illegal organization. He was duly charged under article 17 (1) of the Unlawful Association Act. He was tried by the Thanbyuzayat Court (case No. 349/86) and, being found guilty as charged, was sentenced to two years' hard labour on 10 December 1987.

China

24. On 31 March 1988, a letter was addressed to the Government of China transmitting information alleging that torture was applied during interrogation or as punishment for breaches of discipline by prisoners. Allegedly it occurred mostly during the first hours or days of "administrative detention" by the police, by party officials or by members of informal security units. Various methods were said to be used; in some cases the treatment reportedly resulted in the death of the person. In that connection, Gesh Lobsang Wangchuk died on 4 November 1987 in the prison of Lhasa (Tibet) as a result of torture.

25. On 10 June 1988, a letter was addressed to the Government of China transmitting information alleging that Ngawang Denren, Chösle Trugye, Ngawang Chhunden, Ngawang Lengdön, Ngawang Norbu, Ngawang Tsang Chös, Lawa Jampel Lungdo, Ngawang Tsunjör, Jampel Ngoju, Lobsang She Drup, Ngawang Palkhor had been arrested for participation in a demonstration in Lhasa on 6 October 1987 and subjected to ill-treatment and torture by the police during detention. In addition, 840 Tibetans were arrested in early March 1988 (among them: Buchung, Tsadak, Dogha, Lobsang Namgyal, Loyang, Pasang, Tencho, Ngawang Jigme, Ngawang Tsephel, Ngawang Rimdro, Khedrup, Lhundrup, Lungrok, Gyatak, Chokyi, Lhakdon, Tenzin, Karma, Lobsang Tenzin, Tsering Dhondup, Sonam Wangdu, Gyaltzen Chopel and Shudhen). The detainees were reportedly systematically beaten by the police and given electric shocks. Furthermore, Cloused Tempa Chopel was allegedly arrested in December 1987, detained in Sangyip prison and subjected to torture.

26. Another letter to the Government of China was sent on 3 November 1988, transmitting information alleging that Tsangpo, Kelsang Wangchuk and Lhagpa Tsering were arrested on 12 June 1988 by the Chinese security forces in front of the Lhasa Dance and Performance Hall. They were allegedly subjected to torture, as a result of which Tsangpo died. The other two persons were blinded and their spines broken. Cobsang Tenzin, Tsering Dhondup, Sonam Wangdu, Phuntsog and Pemba Chung Chung were also reportedly subjected to torture while in detention. Finally, Lodro and Phurbu Tsering were allegedly kept standing for 14 days whilst being interrogated. For two more days and nights, they were reportedly left hanging in the air and were interrogated.

27. The Government of China transmitted a reply by letter on 12 July 1988, stating that in China torture was strictly forbidden by law. In that connection the Government informed the Special Rapporteur that Gesh Wangchuk had been given a 10-year prison term for participating in counter-revolutionary armed rebellion in 1960. In May 1982, he had again been sentenced to three years and six months imprisonment for carrying out counter-revolutionary propaganda and subversive activities. On 3 November 1987, he had died of liver cancer in the Hospital of the Tibetan Autonomous Region, at the age of 72. During his illness Gesh Wangchuk had received due medical treatment. Therefore, the cases transmitted by the Special Rapporteur were in the Government's view completely unfounded.

28. On 21 July 1988, the Government reported that the riots in Lhasa in October 1987 and March 1988 were serious political events deliberately planned and organized by a few separatists at home in collusion with those abroad. To punish them according to the law was only a normal act within the judicial competence of China. At the same time, their lawful rights and interests were protected by the Chinese judicial organs in accordance with the law; they were given humanitarian treatment and there had been no maltreatment or torture. Approximately 200 persons had been arrested in early March 1988, and not 840 as mentioned in the letter. Most of those who had committed minor offences and expressed willingness to repent had already been released.

29. The Government of China transmitted, on 30 November 1988, a reply to the Special Rapporteur's letter of 3 November 1988 stating that, as indicated in the previous reply, 200 persons had been arrested during riots in Lhasa, Tibet, since September 1988. The rioters have been said to have caused great damage to the life and property of the people and gravely disrupted social order and public security. The great majority were released soon afterwards, only 22 of those who had committed the most serious crimes were still being held. Careful investigations had been undertaken in regard to the accusations. It was verified that all those detained had been treated strictly in accordance with the law, and no cases of torture and ill-treatment had been found.

Colombia

30. On 10 June 1988, a letter was addressed to the Government of Colombia transmitting information alleging that Juan Bautista Berdugo Sandoval was arrested by the members of the Batallón Caldos of the armed forces on 3 April 1987 in Vereda Pitala, commune of San Vicente de Chucuri, Department of Santander. During his detention he was allegedly subjected to torture.

Czechoslovakia

31. On 6 April 1988, a letter was addressed to the Government of Czechoslovakia transmitting information alleging that Pavel Wonka was arrested on 26 May 1986. Since 6 November 1987, he was reported to have been detained in the prison of Pilze-Plazen-Bory, where he was severely beaten and kept in solitary confinement.

32. In a letter dated 23 August 1988, the Government of Czechoslovakia informed the Special Rapporteur that during his detention (13 August 1987 to 26 February 1988) no violence was used against Pavel Wonka and that he was not subjected to any degrading treatment. The representatives of the independent Helsinki Watch Group stated in their report that they had not found any physical evidence of violence or mistreatment.

El Salvador

33. On 6 April 1988, a letter was addressed to the Government of El Salvador transmitting information alleging that Gerardo Hernández Torres had been subjected to torture on 16 December 1987, as a result of which he had died. Furthermore, it was alleged that José Guadalupe Domínguez and Vladimir Gusmán Rosales had been arrested on 11 December 1988 and subjected to torture, first in the barracks of the 1st Infantry Brigade in San Salvador and later in the national police headquarters.

34. On 10 June 1988, a letter was addressed to the Government of El Salvador transmitting information alleging that Celestino Gómez Granados was detained on 4 April 1988 by members of the 4th Military Detachment of San Francisco de Gotera. He was allegedly beaten, tortured and then handed over to the national police. His whereabouts are still unknown. In addition Abraham Chávez and José Telesforo González were reported to have been transferred to the barracks of San Francisco de Gotera where they were subjected to torture. Mr. Chávez was then transferred to the penal centre in Morazar and Mr. González was released. Furthermore, Cruz Rivera and Félix Rivera were allegedly detained by the army on 26 February 1987, subjected to torture and later found dead.

35. On 17 August 1988, another letter was addressed to the Government of El Salvador transmitting information alleging that Mijail Machuca, Rigoberto Ventura, Nicolas Vásquez and Godofredo García were arrested on 24 May 1988 by the 3rd Brigade of the army. They were reportedly beaten and prevented from eating for three days. On 27 May 1988, the four of them were transferred to the police headquarters in San Miguel, where they were allegedly again subjected to torture. Mr. García, however, was released on 1 June 1988 and the other three on 2 June 1988.

France

36. On 28 July 1988, a letter was addressed to the Government of France transmitting information alleging that S. J. Kalibi and A. Monachipour, both of Iranian nationality and resident in France, were arrested on 20 September 1986 and subsequently sentenced to four years' imprisonment for forming a criminal association. They were allegedly subjected to various forms of ill-treatment during the four days that they were held incommunicado. Both had reportedly been subjected to beatings, threats,

prolonged periods of standing and - at least in one case - of enclosure of the head in a plastic bag. Finally they had lodged a complaint with the Public Prosecutor. The Special Rapporteur requested information on the outcome of the investigation.

37. By a letter dated 4 January 1989, the Government of France submitted a note prepared by the Services de la Direction de la surveillance du territoire containing the facts of the case and the observations of the Government on the communication transmitted by the Special Rapporteur. It was stated, inter alia, that M. S. Kalibi and Miss A. Monachipour "... were each examined twice by doctors, Hôtel-Dieu interns who found no traces of injury on them. Furthermore, when they appeared before the examining magistrate, neither of the two complainants reported any police brutality against them. In view of these clarifications and in the absence of any evidence to the contrary, the Prosecutor took the decision to close the proceedings permanently".

Greece

38. On 28 July 1988, a letter was addressed to the Government of Greece transmitting information alleging that Vangelis Katsikoyannis was arrested on 12 October 1987 on a charge of having committed drug offences. After being taken to Hersonisos Police Station (near Heraklion), he was allegedly beaten with whips and clubs, hung upside-down and subjected to the falanga (beating on the soles of the feet) by five policemen. The medical judge of Heraklion, Mr. Phrangoulis, testified to the existence of many injuries all over the body, the hands and the feet, said to have been caused by blunt instruments. An inquiry was initiated by the Deputy Prosecutor. The Special Rapporteur requested information on the outcome of the investigation.

Grenada

39. On 10 June 1988, a letter was addressed to the Government of Grenada transmitting information alleging that 14 persons were detained in connection with the death of the former Prime Minister, Mr. Maurice Bishop, on 6 October 1983. In particular, Phyllis Coard reportedly continued to be subjected to inhuman and degrading treatment while imprisoned in Richmond Hill prison in Grenada. Prisoners allegedly continued to be denied proper medical attention, kept in their cells for more than 24 hours at a time and their diet remained inadequate. Reportedly Mrs. Coard was being held under constant psychological pressure, was frequently put on "bread and water" and was deprived of visits and letters.

Guatemala

40. On 6 April 1988, a letter was addressed to the Government of Guatemala transmitting information alleging that Ana Elizabeth Paniagua Morales was found dead on 11 February 1988 on the road between Guatemala City and the Department of Palencia. It was alleged that her body showed signs of torture, gun shot wounds and injuries caused by a knife. In addition, José Alberto Grijalba Estévez was reportedly abducted on 16 February 1988 and was found dead the following day in the Department of Santa Rosa; his body bore signs of torture. Furthermore, Barbara Ramírez and Dolores Pospoj Ajcabal were found dead on 27 December 1987 on the road between Santiago Atitlán and Tzanchichan. It was alleged that their bodies also bore signs of torture. Finally, José Mecía Ramírez and his brother Antonio were reportedly kidnapped on 23 January 1988 in Tzanchichan, Santiago Atitlán,

Department of Solola and subjected to torture. Diego Sicay Puluc and Gaspar Yataz Pablo were kidnapped on 24 January 1988 and it was alleged that they had been subjected to torture. On 28 January 1988, they were found dead on the road between Santiago Atillán and San Lucas Toliman; according to reports their bodies bore signs of torture.

41. On 17 June 1988, another letter was addressed to the Government of Guatemala, transmitting information alleging that Gaspar Mendoza y Mendoza and Gaspar Mendoza Mendoza were arrested on 12 May 1988 by the local chief of the military base. They were subjected to ill-treatment during interrogation until they were released on 17 May 1988. Furthermore, members of the armed forces gathered the inhabitants in Huehuetenango of the village of Aguacatán, Huehuetenango, and threatened them with "serious consequences" if they did not agree to cooperate with vigilance activities.

42. In a letter dated 4 August 1988, the Government of Guatemala rejected the allegation referred to in the previous paragraph, stating that Gaspar Mendoza y Mendoza and Gaspar Mendoza Mendoza had never disappeared or been arbitrarily detained either by military forces or by any other authority or person.

43. In a letter dated 2 December 1988, the Government of Guatemala transmitted information to the Special Rapporteur stating that the Dirección General de Relaciones Internacionales Bilaterales (General Directorate of bilateral international relations) did not have on file any documentation, or specific complaints lodged against those allegedly responsible for the cases transmitted by the Special Rapporteur on 6 April 1988. It was also stated that the Government would continue its efforts to solve those cases and it reaffirmed its invitation to the Special Rapporteur to visit Guatemala.

Haiti

44. On 6 April 1988, a letter was addressed to the Government of Haiti transmitting information alleging that several hundreds prisoners had died of malnutrition and torture in the past six months due to the inhuman prison conditions at the Service des recherches criminelles (criminal investigation service) in Port-au-Prince. Eddy Moise, Sénèque Jean-Louis and Kadar Dérésil were reportedly arrested on 7 February 1988 in Gonaives and detained in the Casernes Dessalines in Port-au-Prince. They were reportedly severely tortured by the police. In addition, Roland Nelson was said to have been arrested in Port-au-Prince on 8 January 1988 and released one week later, having been badly beaten while in detention. Edner Dorsainville was allegedly arrested by armed men, believed to be members of the security forces, near the church of St. Gerard in Port-au-Prince on 31 January 1988. He was taken to the Casernes Dessalines, where he was subjected to torture during his detention.

45. Another letter was sent to the Government of Haiti on 28 July 1988 transmitting information alleging that some leaders and members of Tet-Ansanm, a peasant organization, had been systematically persecuted by armed police in Jean Rabel in the north-western region of Haiti. In that connection Solivert Belizaire Toussaint was reportedly arrested on 25 April 1988 by a policeman and tortured by another during interrogation, both names have been transmitted to the Government.

46. Furthermore, on 11 August 1988, a letter was sent to the Government of Haiti transmitting information alleging that two members of the political party of the ex-President, Mr. Leslie Manigat, (René Louis and Etienne Philoctete) were arrested on 21 and 23 June 1988, in connection with the military coup d'etat of June 1988, and subjected to torture.

47. Finally, the Special Rapporteur transmitted a letter on 7 November 1988 with information alleging that Mrs. Cirius Casseus, Mrs. Pierre, and Messrs. Mallet, PONDY and CLEMONT were arrested by the local army on 11 October 1988 in Matheux, L'Arcahaie, brought to the L'Arcahaie military detachment and subjected to torture.

48. By a letter dated 19 April 1988 the Government of Haiti informed the Special Rapporteur that the allegations transmitted on 6 April 1988 were unfounded. In that connection, it pointed out that the Service de recherche criminelle was not, as indicated, a prison, but a body in charge of the investigation of common crimes connected with the work of the police services.

49. On 12 September 1988, the Government of Haiti submitted information stating that no member of the political party of ex-President Manigat had recently been in detention. A copy of the Special Rapporteur's letter dated 11 August 1988 was submitted to the Minister for Foreign Affairs.

Honduras

50. On 6 April 1988, a letter was addressed to the Government of Honduras transmitting information alleging that Santos Narciso Sánchez, Concepción Osorio Orellana, Pascual Valle Melara and Juan José Serrano Guillén had been detained on 3 and 5 October 1987 at the Department of Yoro, where they had been subjected to torture. In addition, Margarita Murillo was reportedly arrested by heavily armed men in civilian clothes on 6 October 1987 in Santa Ana de Aguan, Department of Yoro. She was allegedly subjected to torture and raped during her detention.

51. On 17 June 1988, another letter was addressed to the Government of Honduras transmitting information alleging that Amauri Alejandro Aguilar Contreras, César Antonio Alvarez Calderón, Héctor Aquiles Aguilar Contreras, Jaime Francisco Atúnez Lobo, Julio Nolasco Amador Carranza, Vicente Omar Servellón Silva, Rubén Rivera Castillo, David Elias Fernández, Arnulfo Pacheco Arias, Sales Mendoza Avila, Martín Pineda and Nelson Antonio González were arrested during incidents at the United States Embassy on 7 April 1987 and later accused of terrorism. They were reportedly subjected to ill-treatment and torture during their detention at the Departamento Nacional de Investigaciones (National Department of Investigation), under the responsibility of an officer whose name was transmitted to the Government. They were currently being held in the detention centre at Tegucigalpa.

52. In a letter dated 2 December 1988, the Government of Honduras informed the Special Rapporteur that it had taken note of the allegations transmitted from 1985 to 1988 by the Special Rapporteur and stated that the information had been submitted to the Interinstitutional Commission for Human Rights, for investigation and that the Commission would issue a report upon conclusion of

its investigations. Therefore the Government of Honduras requested the Special Rapporteur to defer his study of the communications regarding Honduras until the above-mentioned Commission had pronounced itself and forwarded its conclusions to him.

India

53. On 6 April 1988, a letter was addressed to the Government of India transmitting information alleging that Seikh Jamal was arrested on 30 July 1987 by the Government Railway Police in West Bengal. On 31 July 1987, he reportedly died as a result of torture; his body was found inside the Satragachi police station in Haora (West Bengal). Ajay Kuman allegedly died on 13 August 1987 as a result of the beatings he had received at Danapur police station (Bihar). In addition, A. Rasheed was reportedly arrested on 14 August 1987 by police officers of the High Grounds police station in Bangalore, Karnataka. During his detention he was allegedly subjected to torture. On 18 August 1987, he was found dead by the Railway Police in Salim, Tamil Nadu; his body reportedly showed signs of torture. Furthermore, R.H. Mahil was allegedly detained on 23 August 1987 at the Welcome police station, New Dehli. According to the allegations, he died on 24 August 1987 after his release; his body bore signs of torture. Finally, it was reported that Mahinder and Ram Kumar were beaten with sticks and hung upside-down on 24 August 1987 at the Viveck Vihar police station, New Delhi. They were brought to the hospital, where Mahinder died on 25 August 1987 at 2 p.m., due to serious kidney damage, and Ram Kumar received treatment for fractured limbs.

54. On 10 June 1988, another letter was addressed to the Government of India transmitting information alleging that seven tribal leaders of Dungarpur District in southern Rajasthan (Ram Prasad Dindod, Lal Shankar, Halji, Sardara, Lakshman, Sardara and Ghattur) were arrested by the police on 14 August 1987, during a demonstration in Dungarpur District, southern Rajasthan, and were taken to the police station. Two days after their arrest, they were reportedly severely beaten and subjected to torture by the police officers of Sagbara Thana Shambola Thana and by the Dungarpur Police. In accordance with the information collected during judicial inquiries, it was reported that all named detainees were transferred in small groups for short periods of time to Hadha Kothi in the District of Sangrur, where they were subjected to severe torture during interrogation. Furthermore, Mr. Balkan Sing was arrested on 2 November 1987 and allegedly subjected to torture by the police at the Ma Madu central reserve police.

Indonesia

55. On 10 June 1988, a letter was addressed to the Government of Indonesia transmitting information alleging that in East Timor torture of prisoners appeared common and widespread. Mrs. Indrawati was allegedly arrested on 26 October 1987 in Sleman, Yogyakarta, Central Java. As a result of severe beatings, she was found half conscious in her cell days later and placed in hospital for treatment for 10 days. Furthermore, a young boy, Binsar, was arrested and allegedly severely tortured by eight prison employees during interrogation in room 5 in the Tanjung Gusta prison on 21 September 1987. He was reportedly no longer able to stand or walk and had difficulty in speaking.

56. On 19 October 1988, another letter was addressed to the Government of Indonesia transmitting information alleging that on 25 April 1988 several hundred Moluccans had been arrested by the military police in the Moluccas. Finally, it was reported that Pieter Nasarany was detained on 13 July 1988 in Piru, a village in West Seram Island. He was allegedly held incommunicado and subjected to torture.

57. On 22 July 1988, the Government of Indonesia informed the Special Rapporteur that Mrs. Indrawati had been arrested by the police on charges of arson in October 1987. During her detention she had fallen ill and been admitted to the Sleman Public Hospital. According to her medical examination there was no sign of violence on her body. She was no longer detained as evidence to be forwarded to the court by the District Attorney was lacking. Furthermore, the Government submitted information concerning Binsar, rejecting the allegation that his paralysis was a result of beatings by prison officers and stating that it was a result of high fever and feebleness of the legs. He had been released on 28 October 1987, but was still under the supervision of the Child Supervisory and Guidance Agency. His health had been restored and he had regained his ability to walk and speak without difficulty.

58. By a letter dated 30 November 1988, the Government of Indonesia rejected the accusation that several hundred Moluccans had been detained for the last four months in Molucca. It stated that, after a thorough investigation conducted by the authorities, the accusations were found to be factually untrue. Referring to the case of Pieter Nasarany, the Government informed the Special Rapporteur that he had been arrested on 13 July 1988, but had not been held incommunicado, nor subjected to torture.

Islamic Republic of Iran

59. On 25 October 1988, a letter was addressed to the Government of the Islamic Republic of Iran transmitting information alleging that torture was systematically used in that country. According to reports, children as young as six years old and women who had just given birth were subjected to torture. Complaints were also transmitted regarding poor prison conditions (narrow, damp, dark and overcrowded cells, insufficient food and non-existent sanitary conditions). In addition, three cases of alleged torture while in detention (Maryam Abdelahi, Maghrebi and Rashidi) were transmitted to the Government.

Israel

60. On 3 October 1988, a letter was addressed to the Government of Israel transmitting information alleging that the practice of torture on detainees, in particular minors, had become a routine in the occupied territories. Children and youths were subjected to beatings, sometimes until they lost consciousness in Ansar II, Al-Far'a Prison, Gaza Central Prison and Ramallah prison. Many children were reportedly tortured to extract confessions. Torture was allegedly also carried out by the Israeli Defence Forces.

61. The Government of Israel transmitted a reply to the letter of 3 October on 24 November 1988, repudiating the allegation that a policy of torture and ill-treatment was practised in the administered territories. It stated that Israel had been confronted with continual outbreaks of violence and that it was Israel's responsibility, recognized by international law, to protect its

population and the population of the territories against such violence, which involved the use of force. The Israeli authorities had taken all the necessary steps to ensure that the use of force was limited and proportionate to the situation. Where cases of excessive force had occurred, they had been investigated and, where necessary, those accused of such offences had been tried and, if found guilty, punished. However, such cases were not to be considered a general tendency, as had been alleged.

Kenya

62. On 6 April 1988, a letter was addressed to the Government of Kenya transmitting information alleging that Peter Karanja was arrested on 6 February 1987 in Nakuru by the police, but was not charged with a crime. Mr. Karanja allegedly died on 28 January 1987 in the Kenyatta Hospital at Nairobi as a result of torture.

Mexico

63. On 25 October 1988, a letter was addressed to the Government of Mexico transmitting information alleging that, according to information received on 14, 15 and 16 February 1988, soldiers from the 6th Artillery Regiment with headquarters in Matías Romero were patrolling the area of Aserradero Viejo and Estación Malatengo de los Egidios de Piedra Blanca and El Zorzal, in the municipality of San Juan Guichicovi. It was alleged that during that military exercise soldiers mistreated the local population. Within that context, the case of Gregorio Castañón López, 31 years old and living in Mogoñe Viejo, Municipio de San Juan Guichicovi, was brought to the attention of the Special Rapporteur. According to information he was detained on 16 February 1988 by a soldier, whose name was transmitted to the Government. It was alleged that Mr. López was severely beaten and his head was submerged in water. Medical certificates issued by the Instituto Regional de Seguridad de Servicios Sociales de Tehuantepec (Tehuantepec Regional Safety and Social Services Institute) certified that, at his medical examination, Mr. Castañón López showed visible injuries on the neck, arms and legs as a result of torture.

Morocco

64. On 28 April 1988, a letter was addressed to the Government of Morocco transmitting information alleging that Dahbi Machrouhi and Najib Hamdani, sentenced to 10 and 6 years' imprisonment, respectively, were the victims of an assault on 29 January 1988. On 1 April 1988, the Ministry of Justice issued a statement regarding the circumstances of the incident and stating that the two prisoners had sent for the Deputy Prison Director on 29 January 1988 and made a number of requests concerning prison conditions, for example with regard to insufficient medical treatment and restrictions on their right to receive visits, which he could not fulfil as they were said to be in violation of prison administration regulations. It was further stated that the two prisoners together with five others had insulted and attacked the Deputy Prison Director. As a consequence, they were ill-treated by the prison guards and put in isolation cells for several days. In protest they began a hunger-strike, Hamdani on 8 February and Machrouhi on 11 February 1988. It was said that the prison doctor had not seen them since the beatings and throughout the time they had remained in prison. Subsequently they were brought to Ibn Rachid Hospital in Casablanca and on 8 April 1988 they were returned to prison.

65. On 7 November 1988, another letter was addressed to the Government of Morocco, transmitting information alleging that Ahmed Chaib and Ahmed Chahid, had been held incommunicado since March 1988 in the Laalou Prison in Rabat. During that period they had allegedly been subjected to torture and ill-treatment.

Panama

66. On 6 April 1988, a letter was addressed to the Government of Panama transmitting information alleging that William Wong was arrested on 7 October 1987 and had been subjected to severe torture during his detention at Modelo Prison. One of his kidneys had to be removed as a result of the beatings he received.

67. On 10 June 1988, another letter was addressed to the Government of Panama transmitting information alleging that 54 persons were arrested on 10 July 1987 during demonstrations in Panama City, and later transferred to Modelo Prison. They were reportedly subjected to beatings, ill-treatment and torture. Furthermore, Gerónimo Fischer was allegedly tortured while in the custody of the Atlantic Coast division of army intelligence (5-2) in August 1987. Finally, Bartolo Cisneros was reported to have been badly beaten and tortured in the same prison in October 1987.

68. On 21 November 1988, a letter was addressed to the Government of Panama, transmitting information alleging that Carlos Alfaro was detained on 22 September 1988 and taken to the G-2 premises (State Security), where he was subjected to torture and other degrading treatment. It was reported that Mr. Alfaro was beaten on several parts of his body by a person who received his orders from a military officer. In addition, it was alleged that the victim was threatened with electric shocks and placed naked in a room where he could hear the screaming of other detainees allegedly being subjected to torture.

Paraguay

69. On 28 July 1988, a letter was addressed to the Government of Paraguay transmitting information alleging that Norma Garcete de Pintos was arrested in August 1987 by police personnel. She was dragged from her bed and beaten by the police before being taken to the police station in Encarnación. As a result of the ill-treatment she miscarried. In addition, Augusto Monges was allegedly beaten by soldiers in the Coronel Oviedo police station on 13 November 1987. Furthermore, Remigio Giménez Gamarra was arrested on 19 December 1978 and detained until 1987 in the Brazilian border town of Foz do Iguaçu by Brazilian police and subsequently handed over to the Paraguayan police. He was allegedly tortured during the first 16 months of his detention.

Peru

70. On 17 August and 25 October 1988, letters were addressed to the Government of Peru transmitting information alleging that Sonia Muñoz de Yangal was arrested on 18 May 1988 by a group of soldiers and accused of having contacts or connections with the Sendero Luminoso guerrilla group. In addition it was alleged that her two sons were beaten by soldiers. Mrs. Muñoz

was taken to the military detachment in Churcampa and was then transferred to Castro Pampa in Huanta, Department of Ayacucho, where she was reportedly subjected to torture and shot at with intent to kill.

71. In a letter dated 11 November 1988, the Government informed the Special Rapporteur of the actions undertaken by the Provincial Attorney in Huanta, Ayacucho, Mr. Cupertino F. Cuevas-Flores, by the Government Attorney and People's Advocate, Mr. Hugo Denegri Cornejo and by the Minister of the Interior, Admiral (Retd.) Juan E. Soria Díaz. It should be noted that the Minister of the Interior, in a letter dated 23 September 1988, stated that Mrs. Muñoz had not been detained by the police forces and, in view of the alleged involvement of military personnel and since the reported incident had taken place in an area under the state of emergency, a request for investigation had been sent to the Ministry of Defence.

Philippines

72. On 6 April 1988, a letter was addressed to the Government of the Philippines transmitting information alleging that Rolando Matos was arrested on 12 October 1987 at 1 p.m. by members of the integrated national police in Hacienda Star, Sitio Kinalumsan, in Negros Occidental. He was brought to the 334th Philippine Constabulary headquarters in Tan-aw, Sagay, where he was reportedly severely tortured by members of the Philippine Constabulary Forward Command. Rosalinda Albio was arrested on 12 April 1987 by ALSA MASA members, in Barangay Burecan, Lapaz, Leyte. She was brought to a camp in La Paz, where she was allegedly tortured by two men, whose names were transmitted to the Government. The same day she was released by the police. Furthermore, Andrés Gabión was reportedly severely beaten by a Lieutenant (his name was transmitted to the Government) on 30 June 1987 in Barangay Kiling, MacArthur, Leyte. He had to be treated at Leyte provincial hospital for injuries caused by the torture he had received. Another case was that of Fidel A. Alpez who was allegedly arrested on 2 September 1987 in Borongan, Samar, by members of the 34th Infantry Battalion of the Philippine army and civilian home defence force. He was brought to the army headquarters of the 34th Infantry Battalion in Army Hills, Alang-Alang, Borongan, where he was tortured for eight days. He was released on 10 September 1987. Finally, Andrés Río and Manuel Dotollo were allegedly attacked, tortured and killed on 30 January 1988, at 2 p.m., by soldiers of the 43rd Infantry Battalion, Bravo Company, outside the home of Manuel Dotollo in Himacugo, Leyte.

73. On 10 June 1988, another letter was addressed to the Government of the Philippines transmitting information alleging that Reynaldo Francisco and Hilario Bustamante were abducted on 19 March 1988 by unidentified armed men on Taft Avenue in Manila. Three days later they were found in Dagat-Dagatan, Navotas, with signs of severe torture. Mr. Bustamante was transferred to José Reyes Memorial Centre for treatment and Mr. Francisco died. In addition, Rodiger de los Santos was reportedly abducted by unknown men in February 1988. A month later he was found in Antiopolo, Rizal, with multiple gunshot wounds in the neck and torture marks, and placed in an intensive care unit.

74. Finally, on 1 December 1988, a letter was addressed to the Government of the Philippines transmitting information alleging that Rogelio Jaime Vafloor and Felipe Gantalao, residents of San Antonio, municipality of Tukuran in Zamboanga del Sur, were arrested by the "Scout Rangers" of the Philippines

army, with the complicity of a hooded civilian on 16 September 1988. It was alleged that during the day they were brought with their hands tied to an isolated area, where they were interrogated, subjected to severe torture and summarily executed.

75. The Government of the Philippines transmitted a letter on 6 June 1988 stating that the Commission on Human Rights Regional Office in Tacloban City had set up an investigation team, but so far nobody had been found who had actually witnessed the killings. Regarding the cases of Rolando Matos, Rosalinda Albio, Andrés Gabión and Fidel A. Alpez, the Government suggested that the relatives should write directly to the National Commission on Human Rights, however, the Commission had had no record of any complaint. The Government stated that it would also initiate an investigation of these cases.

76. Together with a letter of 29 September 1988, the Government of the Philippines submitted a report on the status of the investigations of the case of Reynaldo Francisco and Hilario Bustamante by the Philippines Commission on Human Rights. It was stated that the case required further investigation, since Bustamante had not yet fully recovered and as a result had not been able to identify any of his abductors. Concerning the case of Rodiger de los Santos, the Commission on Human Rights team was still continuing its investigation and hoped eventually to come up with a protection programme for the witness so that his abductors might be brought to court. As for the case of Andrés Río and Manuel Dotollo, the Commission considered that if it found that the evidence was sufficient to establish a prima facie case, it would file the appropriate criminal charges against the respondents.

77. On 20 December 1988, the Government of the Philippines transmitted a letter stating that the outcome of an investigation of a police blotter at the police station of La Paz, Leyte, and the information gathered by the special investigator, the regional officer of the Commission on Human Rights (region VIII), had provided no plausible basis to warrant further investigation of alleged torture and, in the absence of Rosalinda Albio, the case had been considered closed.

Republic of Korea

78. On 6 April and 8 July 1988, letters were addressed to the Government of the Republic of Korea transmitting information alleging that a group of 12 people (Park Chung-ryal, Lee Min-young, Woo Jong-won, Mun Min-song, Lee Ui-hyop, Cho Jung-sik, Park Si-jong, Kim Jin-ho, Chon Won-ha, Lee Pyong-ju, Kim Hyon-kwon and Kim Ku-hyon) was arrested between 23 October and 4 November 1986. They were allegedly tortured by the Anti-Communist Bureau of the national police of Kyonggi Province in police stations in Incheon.

79. On 30 November 1988, another letter was addressed to the Government of the Republic of Korea transmitting information alleging that Choi Eung-sok was arrested in early August 1987, because he had placed a wall poster in his barracks' lavatories condemning disciplinary beatings of conscripts by officers and calling on fellow soldiers to join in a collective protest. Furthermore, it was alleged that he was arrested and interrogated by the military security police attached to his unit. Reportedly, during his interrogation he was beaten with his hands and feet tied and his mouth filled with small stones; he was also placed in a steel drum filled with water, which was then beaten. He was tried in late 1987 by a military court and sentenced to five years and six months' imprisonment.

80. On 13 September and 11 October 1988, the Government of the Republic of Korea informed the Special Rapporteur by letters that Park Chung-ryal and Lee Min-young had been arrested and detained on 23 November 1986 as they were found guilty of violation of the National Security Law prohibiting anti-State organizations. In the case of Park Chung-ryal and Cho Jung-shik, it would be objectively established during the trial whether they had been tortured during the investigation. Furthermore, Lee Ui-hyop, Park Si-jong, Kim Jin-woo and Woo Jong-won had been released on parole on 3 October 1988.

81. On 21 December 1988, the Government of the Republic of Korea informed the Special Rapporteur by a letter that, on the same date, the Government had granted a sweeping amnesty and restoration of civil rights for 2,015 people, including all politically motivated detainees. As a result of the amnesty, Choi Eung-sok and the last two remaining detainees in connection with Park Chung-ryal and Lee Min-young, were released on 21 December 1988.

Sao Tome and Principe

82. On 10 June 1988, a letter was addressed to the Government of Sao Tome and Principe transmitting information alleging that Manuel Alfonso Rosario dos Santos and a number of government opponents were arrested by security services on 8 March 1988 near the capital. The detainees are ill-treated and held incommunicado without access to the family or legal counsel.

83. On 25 July 1988, the Special Rapporteur had talks with Mr. Carlos Graca, Foreign Minister of Sao Tome and Principe, on the subject of his letter of 10 June 1988. The Foreign Minister told him that the Bishop of Sao Tome and Principe had visited the detainees and had reported that they were well-treated and their relatives could visit them regularly. The trial of 41 prisoners was under preparation and would be public.

Saudi Arabia

84. On 3 October 1988, a letter was addressed to the Government of Saudi Arabia transmitting information alleging that Neil Edwin B. Tubo was detained in section 4, Ruways Central Prison in Jiddah, where he was serving a sentence and was subjected to flogging every Friday.

85. In a letter dated 12 October 1988, the Government of Saudi Arabia rejected the allegation, stating that the Special Rapporteur's interpretation of the international law vis-à-vis the sovereignty of a State Member of the United Nations and its judiciary system was entirely unacceptable and, hence, rejected.

Singapore

86. On 10 June 1988, a letter was addressed to the Government of Singapore transmitting information alleging that Patric Seong, Tang Lay Lee, Kenneth Tsang, Chng Suan Tze, Yap Hon Ngian, Wong Souk Yee, Kevin de Souza and Tang Fong Har were arrested on 19 April 1988 by the International Security Department in Singapore. During detention, they were allegedly subjected to ill-treatment and torture (harsh and intensive interrogation, deprivation of sleep for up to 70 hours, forced standing during interrogation for over 20 hours in freezing rooms).

87. In a letter dated 1 September 1988, the Government of Singapore stated that, under the criminal law provisions on the rights of detainees, a detainee could file a police complaint, produce his evidence in court and seek redress in Singapore. Moreover, the Special Rapporteur should be informed that the persons concerned had not been subjected to torture, since they had not even been touched during their interrogation.

Somalia

88. On 31 August 1988, a letter was addressed to the Government of Somalia transmitting a list of names of people who had reportedly been arrested since June 1988 and allegedly subjected to torture: Ali Adbillahi, Ismail Hashi Madar, Mohamoud Hashi Madar, Abiib Mirreh, Haji Jama Mohamed Miyateen, Faiza Ahmed Mohamed, Abdi Ali Obsiye, Abdi Jama Sed, Haji Nur Yassir, Mohamed Haji Abdi, Mohamed Abdillahi, Mohamed Jama Aden, Mohamed Ismail Awale, Hussein "Dheere", Abdi Mohamed Horre, Mohamed Ibrahim, Sulub Ibrahim, Hussein Hassan Jama, Ismail Jama Mohamed, Mohamoud Saeed Mohamed, Mohamed Guleid Olujog, Ahmed Robleh, Abdi Mohamed Rodol, Ahmed Hussein Shakur, Dahir Mohamed Warsame, Amina Nuh Yusuf.

Spain

89. On 28 July 1988, a letter was addressed to the Government of Spain transmitting information alleging that Román Landero Martín was arrested on 3 October 1987 after being expelled from France. Subsequently he was taken by the Guardia Civil to their headquarters at Intxaurreondo (San Sebastián), where he was reportedly hooded, beaten, kicked, given electric shocks and threatened. He was then transferred to La Salle (Bilbao) where he was again subjected to torture. After three days he was released without charge.

90. The Government of Spain informed the Special Rapporteur, by a letter dated 11 November 1988, that Mr. Román Landero Martín received correct treatment during detention and that all enacted law provisions on the right of detainees had been observed. The medical certificates signed by the doctors at the time of discharge from the Guardia Civil headquarters proved the absence of any form of maltreatment. Finally, it was important to note that the person in question had not filed a complaint citing torture either to the police or to the judicial authorities. A full report on the case was transmitted to the Special Rapporteur.

Sri Lanka

91. On 14 November 1988, a letter was sent to the Government of Sri Lanka transmitting information alleging that at least 250 Tamils were taken into custody in Colombo and surrounding areas between March and the end of July 1988. They were reportedly subjected to ill-treatment and torture by the police during interrogation. Furthermore, Tamils recently sent back to Sri Lanka had been arrested and ill-treated either by the Sri Lankan police or by the Indian Peace-keeping Force (IPKF). The following cases were also submitted to the Government for information: (a) Apputhurai Sivadas was allegedly arrested on 15 February 1988 and taken to IPKF camp at Fellipalai; he was reportedly subjected to torture, after which he was released on 25 February 1988; (b) Gunaratnarajah Sinniah was arrested and transferred to Fellipalai camp; he was allegedly subjected to torture and, on 19 January 1988, his body was handed over to his father;

(c) Subramaniam Suthaharan, together with 12 other workers from Eelamurasu press, were reportedly arrested in Alaveddy on 10 October 1987; Mr. Suthaharan was released and rearrested on 16 February 1988; he was taken to Hotel Paradise (a mini camp of the IPKF), where he was reportedly subjected to torture until his release on 19 February 1988.

92. On 30 November 1988, the Government of Sri Lanka submitted information concerning the Tamils allegedly taken into custody in Colombo, stating that the letter submitted by the Special Rapporteur on 14 November 1988 and the annex had been referred to authorities in Colombo. In the period from the beginning of March until the end of July 1988 there had been incidents of internal violence between rival separatist groups, which had left several dead. With regard to the information that Tamils returning to Sri Lanka from abroad were being ill-treated at the hands of the Sri Lankan authorities, the Government had no substantiated information.

Sudan

93. On 3 October 1988, a letter was addressed to the Government of Sudan transmitting information alleging that the penalties of amputation and flogging as contained in the so-called "September Laws" promulgated in 1983 were still being carried out. At least 60 persons had reportedly been sentenced to the penalty of amputation and the sentence of flogging was still being imposed.

Syrian Arab Republic

94. On 6 April 1988, a letter was addressed to the Government of the Syrian Arab Republic transmitting information alleging that Muhammad Al-Araj, arrested on 3 October 1987 by members of Al-Amn Al-Askari (military security), had been held in Fara' Falastin in Damascus where he died in early January 1988 as a result of torture. In addition, Trad Khalil, Na'man Abdo, Nizar Maradni, May Al-hafez, Na'man Jib, Sanar Al-bunni and Ghassan Maradni were arrested by Al-Amn Al-Askari between 7 September and 12 December 1987 and held in Al Ladhigiyah Halab (Aleppo) and Damascus. According to reports they were allegedly subjected to severe torture.

95. On 8 June 1988, a letter was addressed to the Government of the Syrian Arab Republic transmitting information alleging that political prisoners were systematically subjected to cruel treatment. According to reports, Riad Al-Turk, arrested on 28 October 1980, was systematically tortured, which resulted in a broken arm and leg and deafness in his right ear. Ghassam Najjar, arrested in April 1980, had been reportedly tortured and beaten by prison guards since 1984. Finally, Ahmad Mahdi, arrested in March 1980, died at the end of April 1984, allegedly as a result of force-feeding and electric shock treatment.

96. On 3 October 1988, another letter was addressed to the Government of the Syrian Arab Republic transmitting information alleging that torture of political detainees was systematically used by security personnel during interrogation to extract information. In that connection it was alleged that Albert Laham and his son Victor Laham were arrested in December 1987 outside Damascus and held and subjected to torture in Adra Civil Prison. In addition, Kassem Ghounegh, Musa Khalife and Faraj Dirzieh (15- and 16-year-old students) were allegedly arrested on 5 September 1987 near the Syrian-Lebanese

border. They were reportedly held for eight months in an interrogation centre in Damascus, where they were subjected to torture, including beatings and electric shocks, as a consequence of which Musa Khalife has suffered paralysis of the limbs. Musa Khalife and Faraj Dirzieh were released in May 1988.

Turkey

97. On 19 October 1988, a letter was addressed to the Government of Turkey transmitting information alleging that Mahmut Aslan, Ali Ucak, Veysi Sami Turkmen, Adem Kutuk, Oguz Lule and Kamer Tayhani were detained on 19 September 1988 in Mersin (southern Turkey) after they had escaped from Kirsehir closed prison in central Anatolia. In connection with the same event, Ahmet Turan Guler was arrested on 19 September 1988 and sent to Ankara closed prison. Those seven persons have reportedly been subjected to torture or ill-treatment while in detention.

98. On 30 November 1988, another letter was addressed to the Government of Turkey transmitting information alleging that Ali Poyraz and Sakine Polat were on hunger-strike in prison, where they had been tortured and sexually abused. Furthermore, it was reported that Sabri Erdir Civmaz, Raif Gumus and Mukkader Gumus were arrested on 9 October 1988 and subjected to torture during two weeks of incommunicado detention at Istanbul police headquarters. Finally, it was reported that, during a planned transfer of political prisoners on 30 September 1988 to Bursa Special Prison, some 70 prisoners were beaten by the guards; 20 were seriously injured; Hasan Fikret Umsoydan, who had been imprisoned since 17 November 1988, was also allegedly seriously injured.

99. In a letter dated 19 December 1988, the Government of Turkey informed the Special Rapporteur that it rejected the allegations of torture transmitted on 19 October 1988. Investigation of the case by the competent authorities indicated that none of the persons had been subjected to any kind of torture or ill-treatment during interrogation or detention. Those findings concurred with medical reports on the state of health of the persons in question.

100. In a letter dated 2 January 1989, the Government of Turkey stated that Sakine Polat had been sentenced to 42 years and 10 months' imprisonment for having violated the Penal Code and the Law on Firearms. It was reported that she had health problems and that she had always been given appropriate medical treatment without delay. Since her arrest in 1979, Sakine Polat had not submitted any complaint for ill-treatment to the competent authorities. Nevertheless, the allegations of ill-treatment mentioned in the Special Rapporteur's letter with regard to Miss Polat, had been looked into by the said authorities who had concluded that she had not been subjected to torture or sexual maltreatment during her interrogation and detention. Furthermore, the name of Ali Poyraz could not be found in the list of prisoners kept by the Ministries of Justice and the Interior. The conclusions of the investigation into the allegations of ill-treatment concerning Sabri Erdir Civmaz, Raif Gumus and Mukkader Gumus stated that those persons were treated in conformity with the existing law and regulations. Moreover, medical reports confirmed that they had not been subjected to torture and ill-treatment during interrogation and detention. The inmates who had been digging a tunnel to escape from prison had been removed from their rooms; they had filed complaints with the competent authorities with respect to having been tortured by the guards. The case was being investigated by the Public Prosecutor, the last inmate mentioned in the Special Rapporteur's letter was not among those who had filed the above-mentioned complaints.

United Kingdom of Great Britain and Northern Ireland

101. On 28 July 1988, a letter was addressed to the Government of the United Kingdom transmitting information alleging that Brian Hunter and Thomas Maguire were arrested on 12 August 1987 and taken to Castlereagh police station (Northern Ireland), where they were slapped, hit, punched and subjected to verbal threats during interrogation. Furthermore, Arthur Forbes was arrested on 14 January 1988 in Londonderry and taken to Strand Road Royal Ulster Constabulary station, where he was allegedly hit on the head and slapped in the face. In addition, it was reported that Brian Gillen, who was arrested on 22 January 1988 was slapped on the back of his head, hit in the stomach and on the left ear during interrogation at Castlereagh interrogation centre. As a consequence of the ill-treatment received, Messrs. Maguire, Forbes and Gillen had reportedly suffered from a perforated ear-drum.

102. On 19 October 1988, another letter was addressed to the Government of the United Kingdom transmitting information alleging that male Vietnamese refugees had been subjected to ill-treatment on 19 July 1988 in the Hei Ling Chau Detention Centre, Hong Kong. From there they were reportedly all transferred to Lai Chi Kok prison in Kowloon, where they were again subjected to ill-treatment before being confined three to a cell.

103. On 17 November 1988, the Government of the United Kingdom replied that an independent inquiry had been conducted into the allegations concerning the Vietnamese boat people, which had concluded that, as a result of the considerable pressure under which the staff of the Correctional Services Department of the Hong Kong Government was operating at the time of the incident, unnecessary force had been used by some Correctional Services Department staff. The Hong Kong Government was currently examining the operational procedures of the Correctional Services Department and considering whether disciplinary action should be taken against the staff involved.

104. On 29 November 1988, the Government of the United Kingdom transmitted a reply concerning the allegations contained in the Special Rapporteur's letter of 28 July 1988. All complaints of alleged ill-treatment of terrorist suspects by the security forces in Northern Ireland were fully investigated by the Royal Ulster Constabulary (RUC) and/or the Army and prosecutions were ordered where appropriate. In the case of Brian Hunter and Thomas Maguire, it was not possible to comment further on the allegations until the outcome of the RUC investigations was known. In the case of Arthur Forbes and Brian Gillen, the papers on both cases had been forwarded to the independent Director of Public Prosecutions (DPP) for consideration. The DPP had directed that there should be no prosecution in respect of the allegations made by both. The Independent Commission for Police Complaints would consider whether there was a case for disciplinary action against any of the police officers concerned, after the outcome of the civil claims which Mr. Forbes and Mr. Gillen had instigated against the RUC was known.

Viet Nam

105. On 29 November 1988, a letter was addressed to the Government of Viet Nam transmitting information alleging that Pham van Thuong, Le Manh That and Tran van Luong had been arrested in April 1984 and sent to the Phan Dang Lun prison. They were allegedly condemned to death last September by the Supreme Court of Justice of Ho Chi Minh City, because of their involvement with a movement known as "the Front for Human Rights in Viet Nam". Furthermore, it was reported that during their detention in the Phan Dang Lun prison they were subjected to torture and ill-treatment.

C. Urgent action

106. A number of requests for urgent action were received during 1988. The Special Rapporteur decided to bring 42 of these to the immediate attention of the respective Governments on a purely humanitarian basis, to ensure that the right to physical and mental integrity of the individual was protected. He also requested information on remedial measures, including those taken by the judiciary, in case the allegations were proved correct. Most of the allegations concerned persons subjected to torture during interrogation while being held incommunicado by security police.

107. The urgent appeals sent and the replies received are summarized below.

Benin

108. A message was sent on 24 March 1988 concerning Antoine Yelome, Marcellin Glele Akpokpo and Bah Bagnikan Yaya Malehossou arrested on account of the non-violent political activities of their sons. It was reported that Antoine Yelome was arrested on 8 February 1988 and taken to camp Sero Kpera in Parakou on 10 February 1988 where he was subjected to torture. Marcellin Glele Akpokpo and Bah Bagnikan Yaya Malehossou were reportedly arrested on 7 December 1987 and are still held in the police station in Abomey. They have allegedly been subjected to torture and ill-treatment in order to make them provide information on the whereabouts of their sons.

Burkina Faso

109. A message was sent on 4 July 1988 concerning five students (Guy Yogo, Sasa Sereme, Christophe Dima, Serge and Kanwoussa Tall) allegedly arrested on 17 May 1988 in connection with a demonstration organized to commemorate the arrest of former president Thomas Sankara on 17 May 1983. None of the students and school pupils who remained in detention had been charged. One of them was transferred to hospital several days after his arrest because of serious injuries to his head sustained while in custody. The others are held in detention, either at the security police headquarters or the central Commissariat. Fear was expressed that they might have been subjected to torture.

Burma

110. On 22 April 1988, a message was sent concerning Theing Maung, a resident of Ohn-Ta-Bin quarter of Sittwe, who was allegedly arrested on 30 November 1987. A second detainee, a native of Mrauk-oo village who was living in Sittwe's Padalikshik quarter, was reportedly arrested in mid-November 1987. Both were arrested by elements of the military intelligence service, unit 10, based in Sittwe. After their arrest they were sent to a detention centre and reportedly subjected to torture.

111. The Government of Burma sent a letter on 26 August 1988 stating that Theing Maung and Hla Min (the second detainee mentioned above) were arrested under the Emergency Provisions Act 5 (a), (d) and (j) and in accordance with the existing laws of Burma.

China

112. A message was sent on 2 December 1988 concerning four Tibetan nuns (Gyaltzen Locho, Gyaltzen Tenzin, Gyaltzen Keljon and Ngawang Dolma) arrested during a pro-independence demonstration staged by a small group of nuns in the Barkhor area of Lhasa in March 1988. They were reportedly taken in handcuffs to a nearby public security office, where they were beaten, kicked, stamped on, stripped naked and poked with cattle prods.

Colombia

113. A message was sent to the Government of Colombia on 2 December 1988 concerning eight trade-union leaders (Orlando Meza, Edilberto Ramírez, Gloria Martínez, Eduardo Yando, Guillermo Chitán, Ramón Sinisterra, César Carrillo and Josafat Tarazona) allegedly detained and held incommunicado on 24, 25 and 26 October 1988 in the administrative department in El Batallón Nueva Granada. Fear was expressed that they might have been subjected to torture.

El Salvador

114. A message was sent on 2 December 1988 concerning René Benítez Medrano, member of the Asociación Nacional de Trabajadores Agropecuarios (ANTA) (National Association of Agricultural Workers), allegedly detained on 30 September 1988 and tortured by soldiers in San Francisco Gotera. According to the information received, he was liberated but ordered to report to the military every 15 days. In addition, five people (Andree Martínez, Adán Santos, María Cristina Mejía, Herculano Méndez and Rufina Figueroa) were reportedly detained and held incommunicado on 28 and 29 October 1988 in Cantón de San Antonio la Junta, Departamento de Santa Ana by members of the army. Fear was expressed that they had been subjected to torture.

Guatemala

115. A message was sent on 21 September 1988 concerning Pedro Quino Morales, Juan Quino-Quino and José Lastor Capel who were reportedly abducted in Cantón de Panimache, in Chichicastenango by Patrulleros Civiles (civil guards) and two military officers (all names were transmitted to the Government). Fear was expressed that they might have been subjected to torture.

Haiti

116. A message was sent on 2 June 1988 concerning René Pierre Louis allegedly held incommunicado for six months in the Criminal Investigation Service in Port-au-Prince. He was reportedly subjected to torture.

117. Another message was sent on 29 September 1988 concerning Serge Joseph, arrested on 5 August 1988 and held in detention in the les Cayes barracks. Afterwards he was taken to hospital suffering from serious injuries as a result of torture.

Honduras

118. A message was sent on 25 March 1988 concerning Héctor Hernández Fuentes, who had been harassed by security personnel. Furthermore, kidnap threats were made against his 15-year-old son, Héctor Hernández Salinas and Gustavo Meléndez Madrid.

119. Another message was sent on 5 May 1988 concerning Roger González allegedly detained on 19 April 1988 by members of the Dirección Nacional de Investigaciones (DNI) (National Police Directorate). It was reported that Mr. González was transferred on 25 April to the police headquarters in Casamata. Two habeas corpus procedures were filed on his behalf, one on 22 April 1988 in Tegucigalpa and the other on 25 April 1988 in Casamata. Fear was expressed that he might have been subjected to torture.

120. Furthermore, a message was sent on 23 September 1988 concerning the alleged detention of Father Alberto Rayman on 14 September 1988 by three members of DNI. It was reported that Father Rayman was detained near the headquarters of the Honduran Workers' Federation in San Pedro Sula. Fear was expressed for his physical integrity.

121. Finally, a message was sent on 2 December 1988 concerning the detention of Ramón Alfredo Betanco on 17 October, Juan Bautista Valladares Aguilar on 19 October, Francisco Javier Ruiz on 21 October 1988. They were arrested in the city of Choluteca by security forces. In addition, it was alleged that two Nicaraguan citizens (Marco Antonio Cheves Sovermelleri and Jacinto Martínez Dávila) had been detained by security forces in Gualiquene, Orocuina, Department of Choluteca. Fear was expressed that they had been subjected to torture.

122. In a letter dated 2 December 1988, the Government of Honduras informed the Special Rapporteur that it had noted the allegations transmitted from 1985 to 1988 by the Special Rapporteur and stated that the information had been submitted to the Inter-institutional Commission for Human Rights, which would issue a report upon conclusion of its investigations. Therefore the Government of Honduras requested the Special Rapporteur to defer his study of the communications regarding Honduras until the above-mentioned Commission had pronounced itself and forwarded its conclusions to him.

123. In addition, on 7 December 1988, the Government replied to the urgent action transmitted on 2 December 1988 stating that certain elements from the military in Choluteca had been charged with having committed several crimes and were being held at the military premises in Salamar awaiting trial.

Islamic Republic of Iran

124. A message was sent on 15 November 1988 concerning Fereidoun Faroughi allegedly arrested at the end of September 1988 in Saghez, in the north-western part of the Islamic Republic of Iran, where he was reportedly held in prison. He had not been given the right to legal representation, he might have been subjected to torture and could be at risk of execution. In addition, it was reported that Hamzeh Mahjoub was arrested in 1981 and Massoud Alla'I Khastou in 1982 and that they were being held in Roodsar and Evin Prisons, respectively, in Tehran. It was alleged that they had been subjected to torture and prolonged periods of solitary confinement during their imprisonment.

Israel

125. A message was sent on 2 June 1988 concerning Ihab Ahmed Kura'an who was allegedly stopped on 2 May 1988 by an Israeli Defence Force (IDF) patrol outside Al-Bireh in the West Bank. Afterwards he was taken to the intensive care unit at Ramallah hospital and transferred to Hadassah hospital for further treatment. On 18 May 1988, an IDF patrol entered the West Bank village of Arura and it was alleged that they beat Anwar Shehadah and his son Ahab, who lost consciousness after being hit on the head and burned with cigarettes. Three others (Hassan Abed Al Rahman, Mohammad Awad and Mohammad Zaid) were allegedly also subjected to torture.

Liberia

126. A message was sent on 2 June 1988 concerning Gabriel William Kpolleh, Harold Ndama, Cephar A. Mbandi, Joe Robert Kaipaye, Moses Dennis and 15 other persons arrested on 15 March 1988. They were allegedly brought to Monrovia Central Prison and were then transferred to a military base at the Barclay training centre. Joe Robert Kaipaye reportedly died while in custody as a result of torture. The rest were said to be still in detention and had reportedly been subjected to ill-treatment.

127. Another message was sent on 5 October 1988 concerning Nathaniel Nimley Choloply who was allegedly arrested and detained without charge or trial on about 22 December 1987 on his return to Liberia from studying in the United States of America.

Mauritania

128. A message was sent on 19 September 1988 concerning Memed Ould Ahmed, Tourad Ould Sidi, Martre Mohamdy Ould Babah, Mohamed Yehdih Ould Breidelleyl, Yahya Ould Ely, Moctar Ould Salek, Capt. Mohamed Mahmoud Ould Hadj, Capt. Ould Waguev, Mohamed Said Ould Hossein, Abdallah Ould Mohamed, Omar Ould El Mamy and Saleck Ould Brahim, who were allegedly subjected to torture and ill-treatment at the army barracks in Nouakchott and J'Reida.

Panama

129. A message was sent on 8 April 1988 concerning Carlos Ernesto González de la Lastra arrested on 28 March 1988 in Panama City when trying to seek the release of trade-union leaders, arrested earlier during a police raid at the Marriott Hotel. According to another union member, arrested at that time,

González de la Lastra was beaten and complained of suffering from kidney pains. González de la Lastra was reportedly being held at the military headquarters in Panama City. In addition, Major Cristobal Santiago Fundora was reportedly held in El Resacer, a military controlled prison in Gamboa, and subjected to torture.

130. Another message was sent on 4 October 1988 concerning Humberto Dilsa and Carlos Reynolds, Raymark Alberto Cleman G., Alberto Conte, Diana del Río de Bates, Hernán Luque, Raymundo Collado, Roberto Méndez, Doris Elena Murillo, José Acosta, Iván Mojica, Mario Tufón, Jorge Córdoba, Trinidad Morales, Carlos París, José del Carmen Serracid, Aracelli Morales, Dwight Brenner Pardo, Boris Alberto Vásquez, Leo Murillo, Betsaida de Sauri, Giovanni Carlucci, Giovanni Carlucci (hijo), Lúgía de Loaiza, Manuel A. Ulloa, Fernando del Río Gaona and Angel Julio Corbalán, who were allegedly detained on 22 September 1988 and subjected to torture while held incommunicado.

131. A message was sent on 7 April 1988 concerning Marcial Cardenas Cáceres allegedly detained on 26 March 1988 in Lima by members of the security forces. The authorities acknowledged that he was being held at the Dirección contra el Terrorismo (DIRCOTE), the main police interrogation centre in Lima. Fears were expressed that he might be tortured during his detention.

Peru

132. Another message was sent on 18 August 1988 concerning Carmen Zarzosa Pulido and María Rodríguez Atilano allegedly arrested on 10 August 1988 in the city of Chimbote by members of the investigatory police. Both were allegedly subjected to physical and psychological torture.

133. Finally, a message was sent on 2 December 1988 concerning Giovan Vera allegedly detained on 27 October 1988 by military personnel in Chacoche, Province of Abancay, Department of Apurímac. It was reported that Mrs. Vera was taken to the military barracks in Santa Rosa. Three of her colleagues witnessed her arrest. Fear was expressed that she had been subjected to torture.

Philippines

134. A message was sent on 18 July 1988 concerning Armando Natividad allegedly arrested on 15 July 1988 in Tondo, Manila. He was blindfolded and taken by officers to the police station, where he was severely beaten and subjected to electric shocks during interrogation.

135. Another message was sent on 29 July 1988 concerning Noel Villalba, reportedly released on 15 June 1988, but re-arrested in Manila on 27 June 1988 by three armed men in civilian clothes and taken to the headquarters of the regional command of the Philippines Constabulary (PC) at camp Bagong Diwa. He was allegedly held incommunicado for over a week and subjected to torture.

136. A further message was sent on 5 August 1988 concerning Mr. Fernando Suanaco reportedly arrested on 4 July 1988 inside a hospital. On 13 July 1988 he was transferred to Angeles Metro Discom under Capt. Roman Cabap of the 174th PC Company in Pampanga, where he was reportedly subjected to torture.

137. On 16 August 1988, the Government of the Philippines transmitted a letter informing the Special Rapporteur that the Philippines Commission on Human Rights, the armed forces of the Philippines and the Philippine Department of National Defence had been duly instructed to investigate the case concerning Fernando Suanaco and that, as soon as the results of the investigations were received, the Special Rapporteur would be informed.

138. On 29 August 1988, the Government of the Philippines informed the Special Rapporteur by letter that Armando Natividad was not illegally detained. He had been charged with murder before the Manila City Fiscal's Office. His case had likewise been referred to the Commission on Human Rights. Under those circumstances it was impossible that Mr. Natividad had been subjected to torture or maltreatment.

139. In a letter dated 29 September 1988, the Government of the Philippines reported that the Philippines Commission on Human Rights had decided to subpoena Noel Villalba and, if he still refused to appear at the hearing to determine the validity of his complaints, the Commission would have no alternative but to order the case closed.

Somalia

140. A message was sent on 5 May 1988 concerning Yusuf Ali Arapeh, Ali Hesse Badeh, Mahamed Bahir, Aden Abdullahi Dindeel, Ismail Jama Elmi, Abdi Musse Gadeed, Nur Mohamed Ibrahim, Ahmed aw Jama, Hahdi Labaleh, Mohamed Mawel, Ahmed Meaad, Mohamed Musse, Mohamed Samatar, Mohamed Haji Tubeer and Aden Absiyeh Warsame allegedly arrested by military personnel on 10 March 1988, in the western town of Gebiley. They were reportedly subjected to torture and Mohamed Warsame was later released, but died soon afterwards as a result of having been tortured.

141. Furthermore, a message was sent on 1 June 1988 concerning nine students (Aden Mussa Abdullahi, Faisal Abdullahi Aden, Abdulkadir Haji Arap, Abdulrahman Abdi Elmi, Amal Jama Ibrahim, Mohamed Mahamoud Ismail, Abdullahi Kayd Mohamed, Anisa Abdi Yusuf, Nasir Aden Yusuf) and three schoolteachers (Abdi Abdullahi, Mahdi Osman and Ahmed Ali Toor), allegedly arrested in Hargeisa in the last week of March 1988. They were reportedly being held at National Security Service detention centres and at the central prison. All of them were reportedly subjected to torture and ill-treatment and were currently detained without charge.

142. In addition, a message was sent on 1 July 1988 concerning Nut Abbey, Jama Abdi Farah, Mohamed Mahamond Ismail, Haji Mohamed Bursade, Ali Mohamed Diree, Abdillahi Jirre Duale, Ali Jirre Duale and Mohamed Karshe, allegedly arrested in June 1988, held in Godka National Security Service Centre in Muqdishu and subjected to torture.

143. Another message was sent on 18 July 1988 concerning Safia Hashi Madar. Allegedly arrested on 14 July 1984, she had been held in the penitentiary of Hargeysa since she was sentenced to life imprisonment in March 1988. As a result of the ill-treatment she suffered at the time of her arrest and of having given birth to her son whilst under detention, her health was said to be deteriorating constantly.

144. A further message was sent on 20 September 1988 concerning Mohamed Hersi Oiriye, Ardiwahab Haji Hassan, Mohamed Mohamoud Ibrahim, Yasin Mohamed and Dirive Sugale Roble arrested on 20 August 1988 at Muqdishu Airport on arrival. They were reportedly held incommunicado in military custody and subjected to torture. It was alleged that they could be sentenced to death and executed.

145. Finally, a message was sent on 4 October 1988 concerning Abdi Ismail Yunis who had reportedly been held at Labatan Jirow prison in Somalia since 1982 and subjected to torture.

South Africa

146. A message was sent on 14 October 1988 concerning Veliswa Mhlawuli, allegedly detained on 5 October 1988 in Cape Town and reportedly held incommunicado and subjected to torture.

147. Another message was sent on 15 December 1988 concerning Misile Stemele (a field worker with the Transkei Council of Churches), Mlindlele Majama (an employee of the Umtata General Hospital), Twasile Mbanda Zayo (a high school teacher in Butterworth, Transkei), Mr. Dayo (a teacher at the Umtata Technical College) allegedly detained on 17 and 18 November 1988 under section 47 of the Transkei Public Security Act. They were reportedly held incommunicado without charge or trial. Fear was expressed that they had been subjected to torture by Transkei and South African security police during interrogation.

Syrian Arab Republic

148. A message was sent on 11 August 1988 concerning Badr El-Om Shanan, allegedly arrested in 1983 for being a member of the Communist Party Political Bureau. He was said to be critically ill as a result of torture; he was taken from Halab (Aleppo) Central Prison in mid-June 1988 for interrogation and subsequently to Al-Kindi Hospital in Halab for urgent medical treatment.

149. Another message was sent on 2 December 1988 concerning Riad Al-Turk, a lawyer and first secretary of the Communist Party Political Bureau, who was allegedly arrested on 28 October 1980 in Damascus by agents of Al-Amn Al-Siyassi (political security). It was reported that he had been subjected to severe torture at various stages throughout his detention. He had been held incommunicado since his arrest and had never been charged or tried. Riad Al-Turk was allegedly transferred to a hospital in Damascus in mid-1988 and received kidney dialysis treatment. Following his treatment he was returned to solitary confinement at the military interrogation branch, Damascus, under the jurisdiction of military intelligence. Fear was expressed that he had been subjected to torture.

Turkey

150. A message was sent on 2 June 1988 concerning Aziz Celik, allegedly detained on 6 May 1988 at the Unions Building in Istanbul and taken to Istanbul Police Headquarters, First Branch. On 17 May 1988, he was transferred to Ankara closed prison, where he remains incommunicado. While undergoing interrogation he was reportedly subjected to torture.

151. Furthermore, a message was sent on 27 September 1988 concerning Nadir Nadi Usta allegedly arrested on 17 September 1988 in Ankara. He was reportedly subjected to torture, as a result of which he was unable to stand and fainted twice. Three other persons, Hatice Onat, Metin Faruk Tamer and Resat Akyazili were reported to be held in detention with him.

152. A message was also sent on 2 December 1988 concerning Riza Satilmis, allegedly detained on 6 November 1988 in Ankara. In addition, it was reported that Imdat Halis, Sunay Halis, Tarhan Alatas and Abdulcabbar Ozel were detained a few days later in Istanbul and sent to Ankara for interrogation. All of them were held incommunicado. They had allegedly been subjected to torture during interrogation.

153. On 27 July 1988, the Special Rapporteur received information from the Government of Turkey concerning the case of Aziz Celik. According to the competent authorities, he had been treated in accordance with the existing laws and not subjected to any kind of torture or ill-treatment while undergoing interrogation. After interrogation he was taken through medical inspection and the medical report indicated that there was no sign of physical violence observed on his body.

154. On 10 November 1988, the Turkish Government provided the Special Rapporteur with the following information: Nadir Nadi Usta, Hatice Onat, Metin Faruk Tamer and Resat Akyazili had been arrested and put on trial on charges of having violated article 142/3-b of the Turkish Penal Code. Competent authorities had investigated the allegations of maltreatment concerning the said persons and it had been established that they had been treated in accordance with the existing legislation. Medical reports prepared by doctors who had examined those persons confirmed that they had not been subjected to any kind of maltreatment during interrogation and detention.

United Arab Emirates

155. A message was sent on 4 July 1988 concerning Ala Abd Al-Rasul Judi, allegedly arrested on 2 May 1988 at the Ministry of the Interior Department of Immigration and Passports. He was being held incommunicado and had reportedly been subjected to torture during interrogation.

Zaire

156. A message was sent on 18 August 1988 concerning Tshisekedi Wa Mulumba, reportedly arrested on 9 April 1988. He was allegedly abducted during the night of 17 to 18 June by civil guards. He was said to have been subjected to severe beatings and, when in a coma, was taken to Manga. He was reported to be in bad physical condition, with untreated wounds, allegedly as a result of ill-treatment and the subsequent lack of medical treatment. Serious concern had been expressed about his health. Since 1981, and especially during 1988, several reports had been received alleging that Tshisekedi Wa Mulumba had been subjected to different forms of ill-treatment; he had reportedly been denied adequate medical treatment while in detention and had previously been released in March 1988.

157. In addition, messages were sent on 18 May and 30 August 1988 concerning more than 100 individuals allegedly arrested and subjected to torture, including Birindwa Faustin, Kyungy wa Kumwanza, Kabeya Joseph, Nzita, Mulumba Andrew Mukadilia Mpanya, Nzamba Jean, Kimpaka, Kamba Homere, Kadima Leon and Mipika Mpoyi.

D. Reminders

158. In addition, the Special Rapporteur decided to retransmit, on 13 October, 4 and 14 November 1988, allegations sent to 23 Governments in 1986 and 1987. The following countries received such reminders: Aghanistan, Algeria, Burkina Faso, Burundi, Comoros, Congo, Ethiopia, Guatemala, Honduras, Islamic Republic of Iran, Israel, Kenya, Malta, Mozambique, Nepal, Peru, Philippines, Sri Lanka, Suriname, Syrian Arab Republic, Uganda, Zaire and Zimbabwe. At the time of preparation of the present report, replies to those reminders had been received from the Governments of: Honduras, Kenya, Sri Lanka and El Salvador. Attention is drawn to the reply provided by the Government of Kenya, in a letter dated 24 November 1988, which expressed regret that the allegations had been made and denied them.

E. Consultations

159. The Special Rapporteur held consultations in Geneva during his visits in May, July, October and November 1988. Private consultations with those Governments that had expressed a wish to meet him were arranged. He also received non-governmental organizations, private individuals and groups. In July and December 1988, the Special Rapporteur heard witnesses, who testified on the methods of torture used by security forces while they had been in detention.

III. VISITS BY THE SPECIAL RAPPORTEUR

160. It may be recalled that, on several occasions (E/CN.4/1987/13, paras. 22 and 87), the Special Rapporteur has expressed his readiness to travel to the territory of a Member State with the consent or at the invitation of its Government, for the purpose of carrying out on-site consultations with the authorities, private organizations or individuals; such visits may take place not only on account of allegations of torture, but on any other occasion for which a visit may be deemed useful by the Government concerned.

161. In the conclusions and the recommendations submitted to the Commission at its forty-third session (E/CN.4/1987/13, para. 82), the Special Rapporteur stated that "a society that tolerates torture can never claim to respect other human rights; the duty to eradicate torture is thus a primordial obligation. Efforts to realize that goal should first and foremost be concentrated on the prevention of torture".

162. In 1987, the Special Rapporteur held consultations in Geneva with representatives of the Governments of Argentina, Colombia, Peru and Uruguay to explore the possibility of a regional visit for an exchange of views with the local authorities on preventive and remedial measures. It was felt that such a visit would help to contribute to the eradication of the phenomenon of torture.

163. In this connection, it should be mentioned that, on 31 August 1988, the Government of Guatemala sent the Special Rapporteur a formal invitation to visit its country.

164. In December 1987, the Special Rapporteur visited Argentina, Colombia and Uruguay and submitted a report (E/CN.4/1988/17/Add.1) to the Commission on Human Rights at its forty-fourth session. The Government of Peru expressed a preference for the visit to take place in 1988, in view of the fact that, during the period suggested by the Special Rapporteur, few, if any, of the officials he wished to meet would be available.

165. In 1988, in addition to the visit to Peru, the Special Rapporteur considered it useful to extend his on-site consultations to other regions and held preliminary talks with the Ambassadors of the Republic of Korea and Turkey to the United Nations in Geneva. By letters dated 8 July 1988, he formally transmitted to those Governments dates and programmes for the proposed visits which were both accepted by the Governments concerned. The Special Rapporteur visited the Republic of Korea from 24 to 30 September 1988 and Turkey from 31 August to 6 September 1988.

166. In the course of his visit to Peru, the Special Rapporteur met the following authorities: Minister for Foreign Affairs, Mr. Allan Wagner Tizon; Minister of the Interior, Mr. José Barsallo; President of the Supreme Court, Mr. Juan Manuel Méndez Osborn; Attorney General, Mr. Pedro Sagástegui Urteaga; Vice-Minister of Justice, Mr. Rucio Galarza; Government's Attorney and People's Advocate, Mr. Hugo Denegri Cornejo; Vice-Mayor of Ayacucho, Mr. Jaime Urrutia; Prosecutor of Ayacucho, Mr. Cupertino F. Cuevas Flores; and the Resident Representative of the UNDP Office in Peru, Mr. Pedro Mercader.

167. In the Republic of Korea he met the Director of the International Organizations and Treaties Bureau, Mr. Sai-Taik Kim; the Director of the

Investigation Bureau, Mr. Yoon-Hue Ahn; the President of the Korean Bar Association, Mr. In Koo Moon; the Assistant Minister for Legal Affairs in the Ministry of Justice, Mr. Sang Hyun In and the Director of the Criminal Affairs Department, Mr. Kun Gae Lee. He also met Mr. Jung-Il Chi of the Korean Bar Association; the Resident Representative of the UNDP Office in the Republic of Korea, Mr. N. S. Subbaraman; and the Director of the Human Rights Committee of the World Council of Churches in Korea, Mr. Iam Dong-Van.

168. Finally, in Turkey he was received by the Minister of Justice and Deputy Under-Secretary, Mr. Yildirim Turkmen; the Deputy Under-Secretary of the Ministry for Foreign Affairs, Mr. Ayhan Kamel; the Deputy Director for Multilateral Political Affairs, Mrs. Fügen Ok; the Under-Secretary of the Ministry of the Interior, Mr. Vesdi Gonul; the Chairman of the Commission of Justice, Mr. Alpaslan Pehlivanli; the Head of Military Judicial Affairs in the Ministry of Defence; the Director of the Police Academy; Mr. Mumetz Soysal of the Faculty of Political Sciences; the Director of the Istanbul Sigmacilar Prison and the Director of the Ankara Mamok Prison; a member of the Turkish Medical Association, Mr. Ragip Cam; and the Chairman of the Turkish Association for Human Rights, Mr. Nevzat Helvacı.

A. Visit to Peru

1. Background and legal and institutional framework

169. For a number of years Peru has been ridden by internal unrest, due to the activities of guerrilla movements in some parts of the country. Since 1980, the Sendero Luminoso (Shining Path) movement has conducted guerrilla warfare in the mountainous areas in the eastern part of the country, using terrorist methods to strengthen its grip on the local population. It has deployed its heaviest activities in the Province of Ayacucho. More recently, Sendero Luminoso has extended its activities to urban areas, in particular to the capital, Lima.

170. Another armed organization, the Movimiento Revolucionario Tupac Amaru (MRTA), was originally based in the urban areas, but has, since 1987, transferred its field of operations to the countryside, mainly to the Province of San Martín.

171. In a number of provinces where the guerrilla movements are active, a state of emergency has been declared (at the time of the Special Rapporteur's visit 29 provinces were under emergency law, including the metropolitan Provinces of Lima and Callao, covering about 40 per cent of the population). Under article 231 of the 1979 Constitution, the declaration of a state of emergency is restricted to a 60-day period, which can, however, be extended by presidential decree. Under the state of emergency, the following rights guaranteed by the Constitution may be suspended: the right to personal freedom and security, inviolability of the home, freedom of association and freedom of movement. In fact, all these rights have been suspended in the areas under emergency law.

172. The right to life and the right to physical integrity, guaranteed in article 2.1 of the Constitution, therefore, are not among the rights from which derogation may be made. However, what has been suspended is the provision that no person may be arrested without warrant or may be kept in detention for more than 24 hours without such a warrant, unless he has been

arrested for terrorist acts, espionage or drug-trafficking, in which case he may be held without charge for a period of 15 days. The provisions on habeas corpus and amparo (enforcement of constitutional rights) procedures, however, remain in force under emergency law, at least with reference to those rights which have not been suspended. This was confirmed by the President of the Supreme Court. Since torture comes under the provisions on habeas corpus, the habeas corpus procedure can function as a highly effective instrument to prevent torture.

173. According to the same article 231, the armed forces assume control of internal order when the President of the Republic so decides. Under the previous administration, Act No. 24.150 legalized the practice of placing areas under a state of emergency almost exclusively under the authority of a "political-military command". This Act, like the previous practice, has led to controversies about its constitutionality, since the politico-military command replaces the civilian authorities also in fields not confined to internal order. In 1987, the present Government announced its intention to repeal Act No. 24.150 and to replace it with a statute providing for a much greater role for the civilian authorities in areas under emergency law. The Government, however, did not carry out that plan and an initiative taken by the opposition in the Senate to repeal the law was blocked in the Senate Committee.

174. The legal régime established by Act No. 24.150 is of paramount importance, since nearly all information on torture received by the Special Rapporteur since 1985 (the year his mandate was established) has dealt with alleged torture practices in the areas under emergency law. It was reported that thousands of people had disappeared (in a report to the Human Rights Commission of the Chamber of Deputies, submitted in August 1987 by the Fiscal de la Nación (Attorney-General), the total given was 2,417), some of whom were presumably abducted by the security forces. It was further reported that many of those people were held temporarily in military camps and barracks where they were interrogated. During those interrogations, they were reportedly often tortured and afterwards either released or killed. Many allegations referred to the finding of dead bodies with marks of torture (see also the report of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/1987/15/Add.1).

175. Whenever human rights are violated, the victim or his relatives can lodge a complaint with the office of the Fiscal de la Nación, who is the Head of the Ministerio Público. According to article 250 of the Constitution, the Ministerio Público is an independent and autonomous institution. Its main functions are, on the one hand, the promotion and defence of the rule of law and the rights of citizens, and on the other, the supervision of criminal investigations and the initiation of criminal proceedings. The officials of the Ministerio Público, therefore, are simultaneously ombudsmen and public prosecutors. Within the Ministerio Público a Human Rights Office is established, an administrative body which, through the collection of reports on alleged human rights violations, enables the Fiscal de la Nación to carry out the first function. The Ministerio Público investigates reports about human rights violations and has, for example, solved 205 cases of disappearances. According to a press release of 12 July 1988, it also deals with allegations of torture. The representative of the Fiscal de la Nación in Ayacucho told the Special Rapporteur that he had looked into 348 reported cases of torture in 1987 alone. Only in relatively few cases, however, had he

been able to complete the inquiry. In many cases the victims had been unwilling to testify, either because they were frightened right from the beginning or because they had received death threats before or after giving testimony. In other cases which had been reliably documented, it had been impossible to identify the military officers allegedly involved in torture, since they were only known by nicknames. As an example, he mentioned that a completed case had been declared inadmissible, since the suspect was not known under the name given in the file.

176. When a case has been completed and the allegation of torture has been reliably attested, it has to be decided whether it will be brought before a military or a civilian court. Under article 10 of Act No. 24.150 "offences defined in the Code of Military Justice and committed in the course of duty (delitos de función) are exclusively within the competence of the military courts, save offences which are unrelated to the service". During the discussions he had, it became clear to the Special Rapporteur that interpretation of the term "delitos de función" was a highly controversial matter. According to some sources, serious common crimes, like homicide, kidnapping or torture, committed by members of the armed forces could never be seen as "delitos de función" and should therefore always be tried by civilian courts. The military, however, take the position that all crimes committed by the armed forces in the emergency areas are "delitos de función" and therefore should be referred to military courts. In December 1986, the Senate approved unanimously a bill amending Act No. 24.150, limiting the "delitos de función" to offences mentioned in the Military Penal Code and stating that all serious crimes mentioned in the Civil Penal Code should be tried in civilian courts. At the time of the Special Rapporteur's visit, the bill was still pending in the Chamber of Deputies which had repeatedly postponed its consideration.

177. If there is a controversy as to whether a case should go to a civilian or a military court (in the latter case the Fiscal has to hand over the dossier to the Auditor (military public prosecutor)), the decision must be taken by the Supreme Court. The President of the Supreme Court told the Special Rapporteur that each case was taken on its own merit but that as a rule of thumb, it could be considered that abuses committed by members of the armed forces in the absence of orders from their superiors (e.g. crimes committed by military personnel when off duty) came within the jurisdiction of civilian courts, whereas abuses committed when under orders from their superiors went to the military courts. In actual practice, this meant that most cases were referred to military courts where the proceedings were secret. Although in some cases members of the police force had been tried and sentenced to - sometimes - severe prison terms, the Special Rapporteur was also informed that, at the time of his visit, no member of the armed forces had as yet been convicted by a military tribunal. Concern was expressed that sometimes members of civilian courts dealing with such cases had been subjected to threats and harassment. The phenomenon of harassment and intimidation of members of the judiciary, however, was also quite common in the case of trials of members of subversive groups, which contributed to a climate of fear within the judiciary. According to several authorities, this has increased the feelings of discontent within the population about the administration of justice in the country.

178. Recently enacted laws (like Act No. 24.651, amending the Penal Code by introducing a new section on "Crimes of terrorism" and Act No. 24.700 which regulates police investigation and adjudication of crimes of terrorism) lay down the rules which have to be complied with in case of arrest on suspicion of involvement in terrorist activities. An arrested person may be held for a preliminary inquiry for a period of 15 days; the public prosecutor (fiscal), however, must be informed within 24 hours of the arrest and must not only be present at all investigatory stages but is in charge of the investigation. Access to a lawyer is also guaranteed.

179. It was reported, however, that those rules were scarcely heeded by the armed forces in rural areas under emergency law. It had become common practice, according to those reports, for large numbers of people to be taken from the streets or from their houses during round-ups and brought to the military barracks where they were interrogated. After a certain period, which might range from a couple of days to several weeks, a number of them were released (often left on the roadside, with their hands and feet tied). According to the same reports, the round-ups were often arbitrary in nature and people were just arrested in order to find out whether they could provide the armed forces with information. It was alleged that, during such interrogations, torture was commonly practised and that it was no exception that interrogated persons died as a result of torture.

180. It was also submitted that the initiation of habeas corpus procedures, if declared admissible, usually produced no result, since the military authorities simply denied that the person concerned had been detained.

181. The public prosecutor (fiscal), who was authorized to carry out investigations whenever a disappearance was brought to his attention, often had the same experience.

182. It was also reported that torture was practised at the Lima headquarters of the Division against Terrorism (DIRCOTE), a special branch of the Investigatory Police (PIP). In that context, concern was expressed about the fact that the International Committee of the Red Cross (ICRC), which had been given access to prisons and police stations from 1984 on, had been informed in April 1987 that visits to DIRCOTE detention centre were cancelled (a similar measure had been taken in January 1987 by the political-military command with regard to the right to visit prisons and police stations in the Province of Ayacucho at the beginning of 1988, however, those visits were resumed). The Minister of the Interior told the Special Rapporteur that it was virtually impossible for torture to take place in the DIRCOTE detention centre since all interrogations were conducted in the presence and under the supervision of the public prosecutor (fiscal), the representative of the Ministerio Público, which is completely independent and is not under the orders of the authorities. Since a fully independent person was always present during interrogations, the ICRC visits had been found to be superfluous.

2. Evaluation and recommendations

183. The political situation in Peru is extremely complex. The problem created by the activities of subversive movements are compounded by the fact that the country is seriously plagued by the production of, and traffic in, narcotics. It is even more difficult to determine exactly all the causes which have resulted in the present problems. From all the talks the

Special Rapporteur has had, whether with persons connected with the Government or with persons who were highly critical of government policy, there emerged, however, one common conclusion: one of the main causes of the problem in the rural (mainly mountainous) areas where the guerrilla forces are active is the fact that the local population (campesinos) has always been a neglected group within Peruvian society; hardly any investments have been made in those areas to promote and further their economic development and political awareness in general was low. It was submitted from various sides to the Special Rapporteur that, in the present struggle between the authorities and the guerrilla movements the campesinos were again the victims: their human rights were violated in a massive way by both sides, whereas they themselves seemed to have no stake in the cause of either; some sources were of the opinion that, unless the Government succeeded in giving them a stake in its cause, the local population in the long run would inevitably take the side of the Government's opponents.

184. The crucial role of the local population in the solution of the present problems seems to be recognized by the Government as well. Both the Minister of the Interior and the Vice-Minister of Justice stressed the importance of motivating the local population in the struggle against terrorism: "the war must be won by the Peruvian people and Peruvian society". In a public statement, made during the Special Rapporteur's visit, the Minister of Defence said that the main problem was the realization of social and economic rights and that the struggle against subversion should not be left to the military alone.

185. From all information received by him, the Special Rapporteur came to the conclusion that serious human rights violations must be ascribed to the guerrilla movements, in particular Sendero Luminoso, which has committed many atrocities. On the other hand, neglect for the respect of human rights on the part of the security forces, in particular in areas under emergency law, should be a matter of serious concern.

186. The legal framework for the protection of human rights in Peru is basically sound. Human rights are satisfactorily guaranteed by the Constitution and by other legal provisions. In this respect in particular the institution of the Ministerio Público deserves mention. The existence of an independent authority, with the competence to investigate alleged cases of human rights violations and to bring charges against the responsible authorities, is in itself a highly effective protective instrument. This effectiveness is increased by the fact that this same functionary has a dominant role in criminal investigations and conducts the investigations himself, in cases of terrorism. If all legal provisions were properly implemented, basic human rights would be well protected even under a state of emergency.

187. The main problem, therefore, is that, in particular in the emergency areas, the machinery provided by the law, has ground to a halt. It has been submitted to the Special Rapporteur that these legal provisions are seen by those who are directly responsible for the restoration of law and stability as too burdensome in the fight against a ruthless enemy. This, however, can never be an argument to condone practices which are unequivocally forbidden by law. The following recommendations, therefore, may be made:

(a) Since many of the problems seem to be connected with the complete control the political-military command has in areas under emergency law, implementation by the Government of its 1987 plan to replace Act No. 24.150 by a statute which establishes shared responsibility of civilian and military authorities in emergency areas, confining the role of the military to matters of internal order, could contribute to a climate which is more beneficial to the respect for human rights. Some authorities informed the Special Rapporteur that it was the Government's intention to establish such a mixed command in some provinces in the near future;

(b) Already unanimously adopted by the Senate, the bill defining the concept of "delitos de función" by providing that serious crimes committed by members of the armed forces and the security police, like torture, are always within the jurisdiction of civilian courts should be enacted. It would be an important measure from the viewpoint of suppression, as well as of prevention;

(c) Persons who are suspected of having seriously violated basic human rights, including torture, should be tried without delay and, when found guilty, punished severely;

(d) Violation of the rule providing that the public prosecutor (fiscal) must be informed within 24 hours of an arrest, and of other rules intended to guarantee a detainee's rights, should lead immediately to disciplinary measures;

(e) The provisions on habeas corpus should be strictly applied by the judiciary in areas under emergency law, as this is a highly effective instrument for the prevention of violations of basic human rights, including torture;

(f) In view of the fact that the public prosecutor (fiscal) is only present during the interrogation of detainees, ICRC visits to places of detention must be considered to be an effective complementary measure to prevent torture. ICRC should therefore have the right to visit all places where arrested persons are held in the areas under emergency law;

(g) In the training programmes of all military and law enforcement personnel, high priority should be given to the necessity of respecting basic human rights under all circumstances.

B. Visit to the Republic of Korea

1. Background and legal and institutional framework

188. On 1 July 1987, after a period of serious unrest and sometimes violent demonstrations, it was decided that direct presidential elections would be held. The presidential candidate and Chairman of the ruling Democratic Justice Party (DJP), Mr. Roh Tae-woo, had made a declaration two days before, on 29 June 1987, in which he had committed himself and his party to an improvement of the human rights situation.

189. On 27 October 1987, a new Constitution was approved by referendum. On 16 December 1987, presidential elections took place. Mr. Roh Tae-woo was elected President and took office in February 1988. In April 1988, elections

for the National Assembly were held and, as a consequence, the ruling DJP is now in a minority position in the National Assembly, which is dominated by three opposition parties.

190. Since July 1987, a number of presidential amnesties have been declared under which more than 400 political prisoners have been released. The number of political prisoners still in detention is a matter of dispute between the Government and the opposition.

191. Human rights violations reportedly had taken place on a wide scale in the previous years. Since the inception of his mandate, the Special Rapporteur has received a fair number of allegations which were subsequently brought to the attention of the Korean authorities. Public debate on torture reached a peak at the beginning of 1987 when a student, Park Chong-Chol, died on 14 January 1987 as a result of torture during interrogation. Five police officers who had been involved in the interrogation were sentenced from 5 to 15 years' imprisonment, whereas three senior officers received prison sentences of up to one year, because they had participated in an attempt to cover up the events. In another case that became widely known, namely that of a female trade-unionist, Mrs. Kwon In-Sook, who was sexually abused by her interrogator, the police officer was sentenced to five years' imprisonment.

192. Under the 1987 Constitution, torture is absolutely forbidden (art.12, 2). A confession which has been obtained by torture or under duress is not admissible as evidence. Perhaps even more important is the provision that a confession is not admissible if it is the only piece of evidence against a defendant; this implies that, under the law, a defendant can never be convicted on the basis of a confession which has been extracted by torture alone (art. 12, 7). These provisions are also part of the Code of Criminal Procedure (art. 309-310). No one may be arrested without a warrant issued by a judge, unless the suspect is apprehended in flagrante delicto; arrests without a warrant may also be made in the case of various crimes (punishable by more than three years' imprisonment), if there is a danger that evidence will be destroyed or that the suspect will escape (Constitution, art. 12.3 and Code of Criminal Procedure, art. 207). The provision in the Constitution that an arrested person must be informed of the reason for his arrest and of his right to legal assistance, which assistance shall be prompt, is of great importance, as is the new provision that the relatives of the arrested person shall be informed about the arrest and the person's whereabouts without delay (Constitution, art. 12, 4 and 5); incommunicado detention therefore is strictly forbidden.

193. During his visit the Special Rapporteur received information from various sources stating that a person arrested by the police can be kept in a police station for preliminary interrogation for a maximum of 48 hours. If no warrant of arrest has been obtained after this period, the person must be released immediately. If a warrant has been issued, the person may be held at the police station for a period of 10 days, after which the public prosecutor has to decide whether the suspect will be formally charged or not. If the investigation has not yet been finalized, the period of investigative detention may be extended by another 10 days by a judicial authority. In that case, however, the suspected person must be transferred to the public prosecutor's office. If the person is suspected of having committed a crime against the security of the State, another 10 days' extension can be granted;

in that case, the total period of investigation can amount to 30 days, after which the prosecutor has to decide whether he will officially charge the person or release him.

194. During this whole period, the detainee is entitled to the assistance of a legal counsel. In case of arrest without warrant, no ex post facto warrant may be issued within a 48-hour period, unless it is clear from the documents that a defence counsel has been appointed and the relatives have been informed about the arrest.

195. The Special Rapporteur was told at the Ministry of Justice that an instruction had been issued to the police to send the case to the public prosecutor's office by the seventh day after arrest, in order to enable the prosecutor to abide by the legal term of 10 days.

196. The Special Rapporteur was also informed that it made no difference whether a person was arrested by the police or by a State security agency. In all cases a warrant had to be obtained within 48 hours and the investigation was carried out under the responsibility of the public prosecutor. He ultimately had to decide whether the person will be brought before a military court (if he belonged to the military) or before a civil court (in all other cases), or whether he would be released. A civilian could not be subjected to military jurisdiction unless a state of martial law was declared.

197. Apart from the constitutional provision that any person who is arrested or detained shall have the right to request the court to review the legality of the arrest or detention (art. 12, 6), any person (whether a detainee or a relative) who feels that his legal rights have been violated can lodge a complaint with the public prosecutor. He is under a legal obligation to investigate the complaint. In all prosecutor's offices human rights counselling offices have been set up to deal solely with cases involving human rights violations, including complaints about torture or ill-treatment.

198. If a complaint about torture or physical violence is found to be justified, the official can be prosecuted and punished by penal servitude of not more than five years (Criminal Code, art. 125). If the complainant has been injured or has died as a result of the act of torture, an additional penalty may be inflicted (Act concerning Additional Punishment for Specified Crimes, art. 4); moreover the victim is entitled to compensation from the authorities (National Compensation Act, art. 2, 1).

199. The provision in the Code of Criminal Procedure (art. 198, 2) that the public prosecutor is obliged to inspect (at least on a monthly basis) all places of detention within his area, to investigate whether illegal detentions have been made is of great importance for the prevention and suppression of torture. The inspecting prosecutor must examine and question detainees in private. It is not clear whether this competence also covers places of detention where a person is held for interrogation other than normal police stations. During these investigatory visits by the prosecutor, complaints about torture or ill-treatment may be brought up.

2. Evaluation and recommendations

200. Many of the legal provisions mentioned above are not new. In spite of the fact that these legal safeguards against the practice of torture in themselves are highly satisfactory, in actual practice they are not respected by the authorities. According to reports received by the Special Rapporteur, in many cases the 48-hour rule was not respected nor was the detainee's right of prompt access to legal counsel. As a result, incommunicado detention, which might easily lead to torture, was quite common. Relatives of a detainee were often not told about his or her whereabouts, in spite of their legal right to receive that information, and in spite of the fact that they had made requests to the authorities. Detainees reportedly were often held for interrogation in locations not mentioned in the Penal Administration Act, which exhaustively enumerates the places where unconvicted detainees may be held. Complaints about torture were not properly investigated, according to those reports, and hardly ever led to prosecution or punishment.

201. The present Government of the Republic of Korea has unequivocally stated that it will improve the human rights situation in the country and will comply with the legal rules. On 18 January 1988, the Director-General of the National Police Headquarters instructed the police, "to respect the human rights of criminal suspects as prescribed in the Code of Criminal Procedure" when carrying out investigations and stressed the importance of education and training. The Special Rapporteur was informed by the present Director-General of the Investigations Bureau of the National Police Headquarters that several courses were given in the field of investigation techniques, with great emphasis on the prevention of human rights violations. Complaints about torture or ill-treatment were investigated with all due attention: he mentioned that during the past year, 160 cases had been reported, of which 57 had been found admissible. He referred to two recent cases of alleged torture inflicted on common criminals, where the police officers responsible had been relieved of their posts and had been held for further investigation. In that respect, it was also stressed that not only the police officers actually involved in torture practices were punished, but that in various cases measures had also been taken against their superiors.

202. The authorities of the Republic of Korea have indicated to the Special Rapporteur that it is the firm intention of the Government to become a party to the United Nations International Covenants on Human Rights and to the United Nations Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, preferably without any reservations, and that it envisages recognizing the right of individual complaint under the latter Convention. It was submitted that the approval of the National Assembly would be sought for the ratification of those instruments during the second half of 1988.

203. If the Government indeed continues its instructions to the authorities throughout the country to comply strictly with the provisions of the national legislation of the Republic of Korea safeguarding the rights of citizens, if these national legal provisions are strengthened by the acceptance of obligations under international law and if violations of these obligations are severely punished, there are good chances that the evil of torture will be effectively eradicated in the Republic of Korea.

204. During discussions with representatives of professional and other non-governmental organizations and private individuals, however, the Special Rapporteur was told that there were some shortcomings in the infrastructure which prevented the legal system from working effectively. In particular, it was pointed out that the prosecutors' offices were understaffed and therefore were not in a position to carry out their function satisfactorily with regard to compliance with the 48-hour rule and the 10-day term, or the inspection of places of detention. The lack of personnel could also be detrimental to the proper conduct of investigations regarding complaints about ill-treatment.

205. In the latter respect, it was also pointed out that the reactivation of the human rights counselling offices in the prosecutors' offices had not been very effective so far. Doubt was expressed as to whether people would make use of them, since a certain mistrust existed with regard to such counselling offices as they were part of the prosecutors' offices. It should not be forgotten that, in the past, abuses had occurred under the responsibility of the prosecutor, who was the official supervising the police force.

206. Concern was also expressed over the risk of physical abuse by the authorities during and after the often violent confrontations between the police forces and demonstrating students. It was feared that such confrontations, which were indeed often unusually violent, could easily lead to undue use of physical force and physical intimidation when arrests were made.

207. It was also brought to the attention of the Special Rapporteur that some acts, punishable under the National Security Law and the Law on Assemblies and Demonstrations, were defined so loosely that arbitrary arrests might easily result, in turn leading to abuses on the part of the authorities. The Special Rapporteur was also informed that some of the so-called "undemocratic laws" were currently under discussion in the National Assembly with a view to revising or repealing them.

208. Within this context some adaptations of legal provisions and some measures to strengthen the existing machinery may be recommended:

(a) Measures of a disciplinary or penal character should be taken against police officials who have violated the arrested person's right of prompt access to a lawyer and the obligation to inform the arrested person's relatives;

(b) The 48-hour rule and the 10-day period should be strictly observed. In this respect, the instruction to the police that a case must be brought before the prosecutor within seven days must be welcomed;

(c) All criminal investigations should be carried out in officially recognized locations. Evidence obtained from the detainee in other places should not be admitted as evidence in court;

(d) The staff of the prosecutor's offices should be strengthened in order to enable the prosecutors to carry out their obligation satisfactorily under article 198, 2 of the Code of Criminal Procedure, to inspect places of detention under their jurisdiction regularly and to carry out investigations if a complaint about alleged unlawful detention or about torture or

ill-treatment has been lodged. In this context, it is assumed that the prosecutors also have the competence to visit places of detention, other than police stations, where suspected persons may lawfully be held, since all criminal investigations are carried out under their responsibility. Strengthening the staff of the prosecutor's offices also seems necessary, in order to enable the prosecutors to comply strictly with the 48-hour rule and the 10-day period;

(e) Training programmes for law enforcement personnel focused on respect for human rights should be a matter of high priority;

(f) The human rights counselling offices could be given an independent status. If this proves to be impossible, an independent body should be established, where citizens can bring complaints about violations of their human rights, including torture or ill-treatment. Whenever a complaint about torture has been brought and found justified, the official who has abused his authority should be severely punished in accordance with the current practice, initiated at the beginning of 1988;

(g) Speedy ratification of the International Covenants on Human Rights and of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would be a meaningful contribution to the prevention and suppression of torture.

C. Visit to Turkey

1. Background: legal and institutional framework

209. During the latter part of the 1970s Turkey went through an extremely turbulent period. Right-wing and left-wing factions fought each other in an eruption of ever-increasing violence, leading to the death of more than 5,000 people. On 12 September 1980, the armed forces intervened and, until the end of 1983, when general elections were held, Turkey was under military rule. Since that time, civilian rule has been gradually restored; in July 1987, martial law was lifted in the last five provinces where it had been in effect. After the military take-over thousands of people were arrested. Although some estimates are as high as 250,000, the Turkish Association for Human Rights has certified at least 65,000 cases. It was reported that the majority of those arrested were subjected to torture. At the trials which were held later, and are still being held, the majority of the accused stated that their confessions had been extracted by torture.

210. When the present Government came into power in 1983, it committed itself to respect and guarantee human rights. On the international level, it took some highly significant steps to strengthen the protection of human rights. Already a party to the 1966 United Nations International Covenants on Human Rights as well as to the European Convention on Human Rights, it recently ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force for Turkey on 1 September 1988, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. This latter Convention, concluded in the context of the Council of Europe, provides for a system of periodic visits by independent experts to all places of detention and will enter into force on 1 February 1989. As stated by the Special Rapporteur in previous reports, such a system of periodic visits is

one of the most effective instruments for the prevention of torture, and the fact that the Turkish Government has declared that it is prepared to accept such outside monitoring must, therefore, be seen as an expression of its firm decision to eradicate the evil of torture. Another highly important step was taken in January 1987, when Turkey recognized - be it under certain conditions - the right of individual complaint under the European Convention on Human Rights which, inter alia in its article 3, states that no one shall be subjected to torture or to inhuman or degrading treatment or punishment.

211. In view of these strong commitments, it is all the more remarkable that reports about torture being practised continue uninterruptedly, although the number of arrests has decreased considerably since the civilian Government took over from the military. It is alleged that those who are arrested are often subjected to torture, in particular during the earlier stages of the investigation. The Turkish daily papers regularly report alleged cases of torture; torture is a hotly debated issue in parliament and various members of parliament and leading politicians have frequently stated that torture is still widespread in the country.

212. The Special Rapporteur himself continues to receive allegations, though they no longer refer to torture practised in prisons, but exclusively to the practice of torture in police stations.

213. Under the law, a person can be arrested and held in custody for a period of 24 hours without charge. The public prosecutor has to be informed immediately of the arrest. If the person is not released after 24 hours, the period of detention may be extended to 15 days by court order. If, however, the offence is committed by three or more persons collectively, detention for up to 15 days is possible without a court order. For offences involving State security, the period of 15 days can be extended to 30 days. After that period, the detainee has to be arraigned before a judge or released.

214. During this entire period, the detainee may be kept incommunicado. The Special Rapporteur was informed that if the arrested person already had a lawyer at the time of arrest, the police were legally obliged to give the lawyer access to the detainee after the 24-hour period, if the lawyer so requested. It was admitted, however, that, although the rule existed, police personnel were not well aware of it, and that therefore administrative instructions should clarify the procedure. It was also said that the family of the detainee had a similar right. It was submitted, on the other hand, that those rules might also be ineffective because a lawyer or the family were generally not aware that a person had been arrested, let alone where he was detained.

215. When an arrested person does not have a lawyer at the time of arrest, he is only allowed to appoint one after the period of 15 or 30 days.

216. When asked by the Special Rapporteur why the detainee did not have an opportunity to appoint a lawyer immediately after his arrest, the reply was that it was quite common for a lawyer to be chosen who belonged to the same political group or faction, and that contacts between the detainee and the lawyer during the preliminary steps of an investigation could easily lead to valuable evidence being destroyed and to the leaking of important information.

217. If, after the period of incommunicado detention, the detainee brings a complaint about torture, he has to be examined by a public health officer immediately. The Special Rapporteur was told that counter-expertise by a doctor of the detainee's own choice was not admitted as evidence of torture. During his talks with the Board of the Turkish Medical Association, the opinion was expressed that the public health officers were generally not trained to examine patients subjected to torture and to recognize cases of torture. One of the doctors present told the Special Rapporteur that he himself had been instructed to carry out such examinations when serving in the army, but that after a certain period he had asked to be discharged from such duties since he did not consider himself qualified to perform it satisfactorily. It was suggested that an independent body of qualified and experienced doctors (e.g. to be appointed by the Medical Association) should be established and authorized to carry out professional investigations of claims of torture.

218. When an accused person states during a trial that his confession was obtained by torture, that he has filed a complaint against the alleged torturer with the public prosecutor and that his confession should not be accepted as evidence, it is not necessary for the court to await the verdict in the case opened against the official who allegedly carried out the torture. Unless it is prima facie clear that torture has been used, (in which case the accused person must be acquitted), the main trial can continue and be concluded. In the event that in an appeal the court finds that torture has been practised, the case is sent back to the court of first instance and the trial is reopened. It was asked why the court itself was not obliged to investigate the accusation of torture and the answer was that that would cause undue delay. The judiciary system had already been criticized for being too slow and it had therefore been decided to open parallel cases on the torture complaints.

219. On the other hand, concern was expressed that this way of handling torture complaints could result in a long period of detention or imprisonment which could afterwards prove to be unjustified. Some cases were cited in which persons had spent several years in prison before it was concluded that evidence had been obtained under torture.

220. After parliamentary approval of the United Nations Convention against Torture and its publication in the Official Gazette of 10 August 1988, article 15 of the Convention was invoked by the defence in some cases. This article states that each State party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings ... The reaction of courts to this plea has been that, since this article addresses itself to State parties, its application should not be regarded as falling within the competence of the court, but rather as a matter falling within the competence of the legislature. In discussions with representatives of the Turkish Bar Association, concern was expressed that that might lead to the rejection of appeals based on article 15, with the argument that internal legislation must be changed before article 15 could be applied and that, consequently, the applicability of the Convention would be seriously weakened.

221. If a torture complaint is made, the public prosecutor is obliged to carry out an investigation. If the evidence is sufficient, a criminal case must be opened. If the prosecutor is of the opinion that there is not enough evidence, the case will be dismissed. The individual can then appeal against this decision.

222. Although the figures given by various authorities do not coincide, it is clear that investigations have been carried out concerning torture complaints against a large number of members of the security forces, and that well over a hundred of them have been on trial. During his visit, the Special Rapporteur asked the authorities to provide him with recent data, but he has not yet received them. In 1987, the Special Rapporteur was informed by the Turkish authorities that legal action had been taken in 1986 against 1,459 public officials accused of maltreatment of individuals and that 100 of them had been convicted. In that same year, the Special Rapporteur received information that, in the period from 1980 until 26 May 1987, 1,513 persons had been indemnified for having been arrested or detained in a manner that was not in conformity with the law.

223. Concern was expressed on various sides that only a minority of the reliably attested cases of torture had been brought to court and that the penalties imposed were usually relatively light. Too many complaints had been summarily dismissed. During his visit, the Special Rapporteur received information to the effect that two leaders of the banned Communist Party, Haydar Kutlu and Nihat Sargin, who had returned to their country from exile on 16 November 1987 but were immediately arrested at the airport, had filed a petition with the European Commission of Human Rights after their torture complaints had been dismissed in Turkey.

224. Torture is not a separate crime under Turkish penal law. If a person is tortured and subsequently dies, this is categorized as manslaughter and is punishable by eight years' imprisonment, whereas in other cases punishment may range from three to five years. At present, the Criminal Code is being revised and it has been proposed that the penalty for torture should be increased up to 16 years in cases where it results in death.

225. Complaints about prison conditions have been made quite regularly, and from time to time lead to hunger-strikes by prison inmates. In 1987, a parliamentary committee was set up to supervise the prison situation and the treatment of prisoners. The committee regularly visits prisons and can make recommendations. As a result of one of these recommendations, it was decided to transfer all civilian prisoners held in military prisons to civilian prisons. Such visits can also have a preventive effect on the occurrence of torture.

226. Since 1983, education and training programmes for police personnel have been revised and updated. According to the information received, human rights are now an important part of the curriculum. The Special Rapporteur has visited the Police High School in Ankara and was informed about the teaching programme. Human rights is taught as part of constitutional law. When asked whether the Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners were among the material used, the Director of the School answered that he did not know of those documents.

2. Evaluation and recommendations

227. The tragic events of the late 1970s and the military rule of the early 1980s have left their scars on public life all over the country. A great number of persons who were arrested many years ago have either not yet been sentenced or are awaiting a decision in appeal procedures. The slowness in the administration of justice, caused by the fact that mass trials, sometimes of over 300 defendants, are held, is in itself a matter for concern. The Special Rapporteur was told that some persons who had been in prison since the beginning of the 1980s would probably receive their appeal decisions only in the early 1990s.

228. The coverage given to these trials by the press, the controversies to which they lead and the incidents which take place at court sessions are all factors which contribute to the fact that the events of the past will determine public life for a considerable time to come, and have thus cast their shadows far ahead. Much of what happens today, including the arrests of persons who are considered to be a threat to the security of the State and to public life in general, has its roots in the past.

229. Present-day Turkey is a society in which lively public debate takes place, and one of the most hotly debated issues is that of human rights. This debate ranges from subjects such as the broad definition of punishable offences with regard to the security of the State under the Criminal Code, at present under revision, to the right to establish trade unions or the right of associations to take political stands. In this human rights debate, the most sensitive element undoubtedly is the issue of torture, where the wounds of the past seem to be particularly raw.

230. During his visit, the Special Rapporteur was given the opportunity to acquaint himself with the viewpoints of all groups taking part in that debate. Apart from widely-ranging consultations with the authorities, he met representatives of professional and other non-governmental organizations. He was allowed to visit a civilian and a military prison where he had lengthy talks with the prison authorities as well as with prison inmates.

231. The organization of his visit by the authorities to a certain extent reflects the way in which human rights issues are currently being discussed.

232. From all these contacts, it became clear to the Special Rapporteur that torture was regularly practised in the past. The great number of investigations which have been carried out is in itself indicative. That torture has not yet been fully eradicated is also quite clear and is in fact denied by nobody. The extent to which it still occurs, however, is highly controversial, the authorities claiming that most of the allegations are made for political reasons to smear government officials, whereas representatives of opposition parties and of professional and other non-governmental organizations state that the practice of torture is still widespread. It was submitted that this was particularly the case in the eastern part of Turkey, where the Government and the armed forces are confronted with a Kurdish guerrilla movement and where the local population is severely harassed by both the guerrilla movement and the security forces.

233. As has been said before, the Government of Turkey has taken highly significant measures at the international level to promote respect for human rights in general and the prohibition of torture in particular. The Special Rapporteur feels that these measures could be supplemented in a meaningful way by taking measures at the national level. The following recommendations may, therefore, be made:

(a) It is a well known fact that torture takes place most frequently during periods of incommunicado detention. In all previous reports the Special Rapporteur has recommended the abolition of incommunicado detention. He may, therefore, recommend to the Turkish Government that it should introduce legal provisions guaranteeing that an arrested person has the right to have a lawyer appointed within 24 hours of his arrest. If the authorities feel that the arrested person cannot be allowed to appoint a lawyer of his own choice for the reasons mentioned in paragraph 216, he should be given the opportunity to appoint a lawyer from a list drawn up by an independent professional organization. Once a lawyer has been appointed, he should be given regular access to the detainee throughout the whole period of detention;

(b) If a person files a complaint that he has been tortured during his detention, medical examination of that person could be entrusted to a doctor, chosen from a panel of qualified and experienced physicians; such a panel could be established by an independent professional organization;

(c) The investigation of torture complaints could be carried out by an independent (ombudsman-type) body which, after the investigation is concluded, would transmit the case to the public prosecutor for further action (either dismissal or court action);

(d) Implementation of recommendations (b) and (c) would strengthen the feeling that torture complaints are taken seriously. It would also serve to prevent the filing of unfounded complaints;

(e) In cases where a complaint of torture has been found to be correct, severe penalties should be imposed;

(f) Evidence obtained by torture should under no circumstances, be admitted in court, nor should it be accepted as supplementary evidence. No one should be convicted on the basis of evidence which has allegedly been obtained by torture, unless the allegation is manifestly unfounded;

(g) Training programmes for law enforcement personnel should give high priority to the necessity of respecting basic human rights under all circumstances. In this context it may be recommended that the Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners should be translated into Turkish and used as material in the teaching programmes.

IV. ADVISORY SERVICES

234. The Special Rapporteur is of the view that the programme of advisory services and technical assistance are of vital significance to his mandate. In the same context, the Commission of Human Rights adopted at its forty-fourth session resolution 1988/54 entitled "Advisory services in the field of human rights", by which it requested its special rapporteurs and representatives to include in their recommendations, whenever appropriate, proposals for specific projects to be realized under the programme of advisory services. The Special Rapporteur has observed that the thematic mandates, such as the one on the question of torture, have, in the past three years, expanded in scope. The task of receiving written and oral information and its transmission to Governments for information and action has moved into two new phases, one complementary to the other: on-site consultations and requests for assistance.

235. In the course of all his visits, without exception the Special Rapporteur received repeated appeals for assistance and advisory services.

236. Taking into account different situations, the Special Rapporteur is of the view that the Centre for Human Rights could assist Governments either to correct a given situation or to prevent the recurrence of past errors.

237. In countries where civil strife prevails, every effort should be made by the international community to spare the physical and mental integrity of the individual and to help newly elected Governments to correct a situation which may lead to a state of lawlessness. Therefore the following programmes are recommended:

(a) Courses in international humanitarian law on situations related to internal conflicts;

(b) Prototype regulations to safeguard human rights under states of emergency;

(c) Courses for medical associations on norms for the conduct of medical personnel, having regard to the role that the medical profession may play in the practice of torture;

(d) Courses for magistrates and law enforcement officials on amparo and habeas corpus procedures.

238. In countries where the military authorities have taken power in the recent past, courses on preventive measures may be envisaged. In fact, instruction programmes for security personnel, with emphasis on training for the correct approach to respect for the human rights of the individual, have already been requested by some countries. The Special Rapporteur considers that courses related to provisions contained in international instruments, specifically those contained in the new Convention against Torture, are indispensable.

V. RECOMMENDATIONS

239. The great majority of allegations received by the Special Rapporteur refer to torture practised during incommunicado detention. It seems, therefore, that a formal prohibition of incommunicado detention would greatly reduce the number of reported cases of torture.

240. In this context, the following recommendations are made, which are in conformity with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in resolution 40/34.

241. Legal provisions prescribing that a person shall be given access to a lawyer not later than 24 hours after he has been arrested usually function as an effective remedy against torture, provided compliance with such provisions is strictly monitored. Security personnel who violate such provisions should, therefore, be severely disciplined. A useful supplementary provision would be the obligation to inform the relatives of an arrested person within 24 hours of both the arrest and the place where the detainee is being held.

242. At the time of his arrest, a person should undergo a medical inspection; such an inspection should be repeated regularly, but in any case should be compulsory whenever a detainee is transferred from one place of detention to another.

243. Since many allegations refer to situations in which the victim of torture was blindfolded or the interrogators were made unrecognizable, each interrogation should be initiated with identification of all the persons present.

244. Interrogation of detainees should only take place at official interrogation centres. Evidence obtained from the detainee in other places and not confirmed by him during interrogation at official locations should not be admitted as evidence in court.

245. Independent bodies should be established which may regularly inspect places of detention and may speak confidentially with the detainees. Such bodies should report publicly on their findings.

246. Each detainee should be able to initiate proceedings before a court on the lawfulness of his detention, in conformity with article 9, paragraph 4, of the International Covenant on Civil and Political Rights. It is recommended that this right should also be recognized under a state of siege or emergency. The right of habeas corpus should be strictly respected in all circumstances and should never be suspended.

247. The Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners should be translated into the national language and used as teaching material during training courses for law enforcement personnel. In particular, such personnel should be instructed on their duty to disobey orders received from a superior to practise torture.
