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

Summary of arbitrary executions

Report by the Special Rapporteur, Mr. S. Amos Wako, appointed
pursuant to Economic and Social Council resolution 1985/40 of
30 May 1985

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- I. Economic and Social Council resolution 1985/40
- II. General Assembly resolution 40/143
- III. Note verbale dated 16 August 1985 from the Secretary-General to Governments.

INTRODUCTION

1. The phenomenon of "summary or arbitrary executions" has been observed in various parts of the world and at various stages of modern history since the inception of the right to life as an inalienable right of man.

2. The present report is the fourth report of the Special Rapporteur since he was first appointed in 1982 under Economic and Social Council resolution 1982/35. In the past four years the Special Rapporteur has submitted three reports to the Commission on Human Rights (E/CN.4/1983/16 and Add.1, E/CN.4/1984/29 and E/CN.4/1985/17) and during that period considerable developments have taken place with regard to the question of summary or arbitrary executions. Awareness of the nature of the phenomenon of non-respect for this most basic human right has increased significantly on both national and international levels, and serious efforts have been made by Governments and groups, both national and international, in regard to information gathering and fact finding. This awareness has developed national and international concern about the question of how to deal with the phenomenon and what measures should be taken to combat this widespread human problem. The Special Rapporteur is pleased to report that a number of interesting suggestions have been brought before him in this regard; this is particularly important in view of the fact that the question of summary or arbitrary executions only began to attract the attention of various international forums as a distinct subject in the field of human rights a few years ago.

3. On 30 May 1985, the Economic and Social Council adopted resolution 1985/40 entitled "Summary or arbitrary executions" (see annex I), on the recommendation of the Commission on Human Rights which adopted resolution 1985/37 without a vote at its forty-first session, on 13 March 1985.

4. The General Assembly, at its fortieth session adopted resolution 40/143 entitled "Summary or arbitrary executions" (see annex II).

5. The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Milan, Italy, from 26 August to 6 September 1985, dealt with the question of extra-legal, arbitrary and summary executions and adopted resolution 11 by consensus (A/CONF.121/22, chap. I, sect. E and paras. 181-183, 185 (d) and 190).

6. The present report is submitted pursuant to Economic and Social Council resolution 1985/40 and is intended to inform the Commission of the activities of the Special Rapporteur during the past year, to update the information contained in the previous reports, and to examine various situations in depth with a view to pinpointing causes and probing possible means to put an end to the occurrence of summary or arbitrary executions. It may be noted that in response to paragraph 6 of Council resolution 1985/40 greater emphasis is attached to the Special Rapporteur's activities concerning cases in which summary or arbitrary executions were alleged to be imminent or threatened.

7. Accordingly, the Special Rapporteur has described in this report the allegations he received, which he duly communicated to the Governments concerned, and has reproduced any replies addressed to him by those Governments. In doing this the Special Rapporteur has attempted to show the extent and the nature of the allegations and the views expressed thereon by

the States concerned, thus giving an account of the situation of the right to life as reported to him during the period covered by this report including, where applicable, instances that arose during the previous reporting period, i.e. 1984.

8. The information thus set out provides the global base for chapter III in which the Special Rapporteur draws what he considers to be classic patterns of acute situations which, more than other circumstances, cause violations of the right to life on a serious level. These situations are defined to illustrate the phenomenon rather than to give an exhaustive description. They are divided into the following: situations of internal armed conflict, excessive or illegal use of force and deaths in custody.

9. Finally, the Special Rapporteur gives his conclusions and recommendations, which are based on the totality of the information before him.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

10. During the past year the Special Rapporteur has engaged in activities that fall within the sphere of his mandate, as described below.

A. Consultations

11. The Special Rapporteur visited the Centre for Human Rights in July and October/November 1985 for consultations and again in January 1986 to finalize the report.

B. Communications

1. Request for information

12. On 16 August 1985, a note verbale was sent to Governments seeking information concerning the question of summary or arbitrary executions (annex III). A letter was sent on the same date to specialized agencies, intergovernmental organizations, United Nations bodies, liberation movements and non-governmental organizations, seeking information concerning the question of summary or arbitrary executions.

13. In the course of his present mandate, the Special Rapporteur received replies from the Governments of Australia, Austria, Belize, Brunei, Central African Republic, Chad, Denmark, Panama, Poland, Spain and the Syrian Arab Republic.

14. A reply was also received from the Organization of American States.

15. Replies were also received from the following non-governmental organizations in consultative status with the Economic and Social Council: All-India Women's Conference, Amnesty International, International Commission of Jurists, International Committee of the Red Cross, Inter-Parliamentary Union, International Federation of Human Rights, Pax Romana, World Council of Churches.

2. Allegations of summary or arbitrary executions

16. On 12 July 1985 letters were sent to 12 Governments concerning allegations of summary or arbitrary executions in their countries. On 24 July 1985 letters were sent to five more Governments.

17. On 22 July 1985 letters were sent to 14 Governments which had not replied to the Special Rapporteur's letters sent in 1984 or before 1984, concerning allegations of summary or arbitrary executions in their countries. On 15 October 1985 letters were sent to 23 Governments which had not replied to the Special Rapporteur's letters sent in 1985 and earlier concerning allegations of summary or arbitrary executions in their countries. In those letters the Special Rapporteur again requested information on alleged cases of summary or arbitrary executions which had previously been transmitted to the Governments.

18. The Special Rapporteur received replies to the allegations from a number of those Governments and appreciated their positive co-operation with him regarding implementation of his mandate.

19. However, the Special Rapporteur feels obliged to note that, despite the reminders sent on 22 July and 15 October 1985, some Governments have not replied to his request for information concerning allegations of summary or arbitrary executions.

20. Replies were received from some of the Governments contacted in 1985, but others have not yet replied to the Special Rapporteur's request for information concerning allegations of summary or arbitrary executions. The Special Rapporteur is of the opinion that those Governments might need more time to investigate the allegations, and that the replies already given by Governments should be carefully examined; for this reason and in order to assess the situations in the countries concerned he might require more time. He therefore refrains in the present report from mentioning those Governments and the allegations communicated to them in 1985, except the allegations of consistent patterns of summary or arbitrary executions brought before him both in 1984 and 1985, which are described in chapter III.

C. Urgent appeals to Governments

21. The Special Rapporteur, in the course of his mandate, received information containing allegations of imminent or threatened summary executions which appeared prima facie relevant to his mandate. In this context the Special Rapporteur addressed an urgent message by cable to the Governments concerned and requested information on the allegation of imminent or threatened cases of summary executions. Those Governments are: Angola, Bangladesh, Democratic Yemen, Guatemala, Guinea, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Liberia, Libya, Pakistan, Somalia and South Africa.

22. Replies were received from the Governments of Guatemala, Indonesia, Iraq, Jamaica and South Africa.

23. The substantive parts of the messages of the Special Rapporteur and replies from Governments concerned are reproduced below.

24. On 9 April 1985 a message was sent to the Minister for Foreign Affairs of Angola:

[Original: French]

"... My attention has been drawn to the allegation of possible execution of a person sentenced to death by firing squad on 15 February 1985 by the Regional Military Tribunal in Huambo. The name of the person was given as Afonso Biebi. It was further alleged that the trial procedures did not provide the right of defence nor the right of appeal."

25. No reply has been received from the Government of Angola.

26. On 10 December 1985 a message was sent to the Minister for Foreign Affairs of Bangladesh:

[Original: English]

"... I have received information whereby the following two persons were allegedly sentenced to death by the Special Military Court: Mohiuddin, a student aged 22, sentenced to death on 3 November 1985 by Special

student aged 16 or 17, from Mirpur, sentenced to death on 23 June 1985 by Special Military Court in Dhaka on a charge of murder. It was alleged also that no appeal to a higher tribunal was possible from conviction by the Special Military Court."

27. No reply has been received from the Government of Bangladesh.

28. On 18 November 1985 a message was sent to the Minister for Foreign Affairs of Democratic Yemen:

[Original: English]

"... My attention has been drawn to the allegation of possible execution of three persons. The names of those persons were given as Ali Al-Sayyid Salih, Abdullah Ali Bashbil and Khalid Abdullah Al-Ribati. The information received alleges that the three have been sentenced to death by the High Court of the People's Democratic Republic of Yemen after being convicted on charges of treason. In addition, reference may be made to allegations reaching me according to which the three persons named above among a group of 11 Ba'athists were reported to have been held in prolonged incommunicado detention prior to their trial. It was further alleged that the trial procedure did not provide the right of appeal."

29. No reply has been received from the Government of Democratic Yemen.

30. Three messages were sent to the Minister for Foreign Affairs of Guatemala on 18 April 1985, 17 July 1985 and 1 November 1985:

(a) 18 April 1985

[Original: English]

"... My attention has been drawn to information concerning abduction and/or disappearance of persons who were subsequently found dead. In particular, my attention has been drawn to the case of Carlos Ernesto Cuevas Molina who was abducted by armed men in Guatemala City on 15 May 1984 and whose whereabouts are still unknown. His wife María Rosario Godoy de Cuevas, her brother Mynor Godoy Aldana and her son Augusto Rafael Godoy disappeared on 4 April 1985 and were later found dead. Thus I believe that there should be serious concern for the life of Carlos Ernesto Cuevas Molina. Another case concerns a person whose name was given as Joaquín Rodas Andrade. According to information Joaquín Rodas Andrade was abducted by armed men on 2 March 1985 near a military garrison quote Manuel Lisandro Barillas unquote in Guatemala City. Military personnel in the immediate vicinity of the abduction allegedly failed to intervene to prevent the said abduction. I feel that these circumstances justify serious and legitimate concern that the life of Joaquín Rodas Andrade might be in serious jeopardy."

(b) 17 July 1985

[Original: Spanish]

"... My attention has been drawn to information concerning the abduction on 18 June 1985 in Patzun, Chimaltenango, allegedly by military personnel

belonging to the detachment of Patzun, of a number of persons whose life was feared in serious jeopardy. The names of those persons were given as Juan Pablo Toj, Eustaquí Toj, Encarnación Bay, Florinda Yos, Juana Argip Coyote, Esteban Perez and Isabela Yos. In view of earlier allegations, such as those of the killing of 46 peasants in January 1985 in the hamlet of Xeatzan as well as the abduction of nine peasants in the same village and of 125 peasants in April 1985 in the hamlet of Santa Anita las Canoas, San Martín Jilotepeque, Chimaltenango, I believe that there should be serious concern for the life of the persons reportedly abducted from Patzun. In addition, reference may be made to allegations reaching me according to which the villagers of Patzun are threatened with reprisals by the military detachment commander described as a certain Captain Cabrera."

(c) 1 November 1985

[Original: Spanish]

"... My attention has been drawn to information concerning the abduction on 23 September 1985 in Guatemala City, allegedly by members of the national police, of a person named César Ramos, whose life seems to be in grave danger. According to the information received, César Ramos was allegedly wounded by a bullet in the head while in custody in 'La Parroquia' police station. This event was allegedly described by the police as a suicide attempt. Ramos was transferred to hospital, where he remained under police guard. In view of similar allegations in the past concerning patients who have disappeared or died after being abducted from their hospital rooms, there should be serious concern for the life of César Ramos".

31. A letter dated 22 July 1985, was received from the Permanent Mission of Guatemala to the United Nations Office at Geneva:

[Original: Spanish]

"I wish to refer to your telegram of 17 July 1985 addressed to the Minister for Foreign Affairs of Guatemala.

Your presentation in this cable of a series of grave accusations against my Government and its institutions compels me to approach you in order to explain in writing and in as detailed a manner as possible their nature and origin.

I am sure you are aware that Guatemala, situated in the centre of the American continent, has been converted against the wishes of the Guatemalan people into a focus of attention and a scene of confrontation between the geopolitical and geostrategic interests of the hegemonistic super-Powers.

This has given rise to a situation in which since 1962 subversive factions professing the ideology of one of the above-mentioned parties have been carrying out military activities - frequently of a terrorist nature - in Guatemalan territory and among the Guatemalan people.

In this situation, many acts of violence have taken place in Guatemala, responsibility for which - as part of the war of propaganda - is regularly attributed by the subversives to Government institutions.

The investigations made, when these were possible, showed, however, that many of these charges are fabricated by the subversives themselves whenever there is a forthcoming international event at which it suits them to disparage Guatemala and its Government.

As you may see for yourself from the photocopied documents attached, a military action carried out by subversive criminals of the self-styled Revolutionary Armed Forces (FAR), involving the murder of 11 persons and the abduction of a further 9 persons in December 1984 in the Department of Chimaltenango, was used by the subversives themselves as a basis for levelling an accusation against my Government on the occasion of the forty-first session of the Commission on Human Rights.

In response to the charge, my Mission presented to the Assistant Secretary-General for Human Rights an explanatory note, circulated as official document E/CN.4/1985/60, with which you are no doubt familiar.

Many of the other accusations against my Government so lavishly circulated at the international level by the subversives fall into a similar category. Both the Special Rapporteur on Guatemala of the Commission on Human Rights and other prominent international figures interested in establishing the veracity of the allegations of the subversive organizations and their allies, have been able to prove this by means of investigations in situ.

Since such accusations can be fabricated in their hundreds by the subversives, and since their investigation and clarification require from my Government an outlay of resources urgently needed for the solution of other social problems, it is necessary to consider whether it may not be advisable for accusations of this kind to be accepted by the responsible international organizations only when they are based on proofs judged valid by the members of these organizations responsible for evaluating them.

Requesting you to take all these factors into account in evaluating any accusations which may be brought to your attention in future, since this will largely determine whether an objective assessment can be made of the real course of events in Guatemala ..."

32. On 23 July 1985, the Permanent Representative of Guatemala to the United Nations Office at Geneva visited the Special Rapporteur in connection with the allegations contained in the messages.

33. A letter dated 14 January 1986, was received from the Permanent Mission of Guatemala to the United Nations Office at Geneva:

[Original: Spanish]

"... I have the honour to refer to your telegram dated 17 July 1985, concerning information which has been brought to your attention.

In that respect, the Permanent Mission of Guatemala would like to make the following comments:

(1) Abductions on 19 June 1985 in Patzun, Chimaltenango

In its Note No. 1442/DH/85 of 12 September, the Permanent Mission of Guatemala informed the Working Group on Enforced or Involuntary Disappearances that the persons who had been reported missing had taken advantage of the amnesty and were now back in their homes. These persons are:

Santiago Toj Chirix
Daniel Takera Muj
Esteban Pérez Tuxal
Alejandro Yoz Cum
Juan Tzay Bajam
Eugenia Yoz Muy
María Ana Arcip Coyote and her two daughters:
(Florinda Yoz Arcip and Isabel Yoz Arcip)
Leona Sisajan Bac.

As you will see, some of these names are among those mentioned in your telegram of 17 July.

(2) Massacre of 46 Indian peasants in January 1985 in Xeatzan village, Chimaltenango

In this connection, the Permanent Mission of Guatemala has submitted a Note in explanation of the true events, to the Commission on Human Rights, which was circulated as an official document of the forty-first session of the Commission (E/CN.4/1985/60), and we should like to refer you to that document again.

(3) Massacre of 125 peasants at the end of April 1985 in the village of Santa Anita de las Canoas, San Martín Jilotepeque, Chimaltenango

In this connection, the Permanent Mission of Guatemala encloses a detailed report on the alleged massacre, from which it may be seen that there was no massacre in the village in question, as had been reported in the local press on 20 April 1985 and communicated to the Special Rapporteur.

The Permanent Mission of Guatemala would be obliged if the Special Rapporteur would take the above information into account when drawing up his final report for submission to the Commission on Human Rights at its forty-second session.

With reference to the allegations made in Note G/SO 214(33-3) of 12 July 1985, the Permanent Mission of Guatemala encloses a photocopy of the forensic medical report of an autopsy carried out on the body of Hector Orlando Gómez Calito, which states that the cause of death was 'internal haemorrhage due to ruptured liver'....".

34. Two messages were sent to the Minister for Foreign Affairs of Guinea.

(a) 10 July 1985

[Original: English]

"... My attention has been drawn to the allegation of possible execution of a number of persons ... allegedly responsible for a coup attempt on 4 July 1985. It was further alleged that they might be executed without trial."

(b) 18 July 1985

[Original: English]

"I have the honour to refer to my cable of 10 July 1985 ... In view of the serious nature of the allegation and also the encouraging statement of 7 July 1985 by President Conte in which His Excellency reportedly invited quote those who wish to intervene in defence of human rights to do so unquote, I earnestly hope that positive measures have been or are now being taken in order to ensure that the safeguards set out in the International Covenant on Civil and Political Rights, especially those concerning fair trial in article 14, are respected in the above-mentioned case. I should be grateful ... to receive from Your Excellency's Government any information on this case. Meanwhile, I shall remain at your disposal in case Your Excellency's Government may wish to hold a constructive dialogue on matters concerning protection of the right to life."

35. No reply has been received from the Government of Guinea.

36. On 3 June 1985 a message was sent to the Minister for Foreign Affairs of Indonesia:

[Original: English]

"... My attention has been drawn to the allegation of possible execution of three persons whose names were given as follows: Djoko Untung, Gatot Lestario and Rustomo. According to the information received the three were arrested in 1968 and 1969 in connection with an attempted coup on 30 September 1965 for which the Communist Party of Indonesia was held responsible. Their appeal to the Supreme Court and appeal for clemency to the President were rejected in 1983 and 1984. It was further alleged that a person, whose name was given as Mohammad Munir, was arrested in connection with the same attempted coup and was executed on 14 May 1985, and that there were approximately 35 persons still under death sentence for alleged offences relating to the 1965 coup attempt. It was also alleged that many of the trials in which those persons were sentenced to death were held in secrecy without prior notice, that the accused were not given sufficient time to consult with their court-appointed counsel, that little time was given to the defendants or their counsel to cross-examine witnesses or to call witnesses in their own defence, and that the conduct of the trials was not impartial."

37. A press release, dated 22 July 1985, was received from the Permanent Mission of Indonesia to the United Nations Office at Geneva which contained the following information on Mr. Munir:

[Original: English]

"...

1. Although Munir was known as an avowed communist, yet the execution was carried out not merely because he was a member of the outlawed Communist Party of Indonesia (PKI), but the death sentence was passed on him due to the unpardonable crime he had committed against the State and people of Indonesia.

2. The passing of the death sentence on Munir and his collaborators has gone through normal court proceedings in accordance with due process of the existing Indonesian laws. The legal proceedings were carried through court sessions open to the public and conducted through various stages of courts based on the legal proceedings. Munir as well as the others were given the right to submit clemency to the President and it is the constitutional prerogative of the President to grant or reject clemency after having received the advice of the Supreme Court, the Minister of Justice and the Attorney-General. Thus the carrying out of the execution is but part of the normal legal process in a civilized society, which has nothing to do with human rights issues or feeling of revenge on the part of the Government of Indonesia against members of the Communist Party, as claimed by certain quarters.

3. The seemingly long delay of the carrying out of the execution was due to the time needed by the judicative executive bodies in Indonesia to ascertain that justice be really upheld in Munir's and other similar cases.

..."

38. It was reported that Djoko Untung, Gatot Lestario and Rustomo were executed between 1 and 3 July 1985.

39. On 9 April 1985 a message was sent to the Minister for Foreign Affairs of the Islamic Republic of Iran:

[Original: English]

"... I also wish to refer to my cable of 29 August 1984 addressed to Your Excellency concerning the allegation of possible execution of 32 persons. Subsequently 8 of the 32 persons were reported to have been executed. Information was recently received that 3 of the 32 mentioned above, whose names were given as Farid Dhakiri, Mihran Tashakkur and Vahid Qudrat, might be facing possible execution. While I have had occasion to note the statements made by the representatives of the Islamic Republic of Iran in the course of the forty-first session of the Commission on Human Rights, I nevertheless would like to reiterate my concern regarding the protection of the fundamental right to life and to request any information in your Government's possession on these cases, in particular concerning the safeguards applied in those cases."

40. No reply has been received from the Government of the Islamic Republic of Iran.

41. Two messages were sent to the Minister for Foreign Affairs of Iraq.

(a) 24 September 1985

[Original: English]

"... I should also like to recall my cable of 29 June 1983 addressed to Your Excellency concerning execution of six members of the Al-Hakim family on 19 May 1983 and my letter of 12 July 1985 addressed to Charge d'affaires A.I. of Permanent Mission of Iraq in Geneva concerning alleged execution of further 10 members of the same family, and 15 members of the Kurdish Democratic Party and 3 members of the Assyrian Christian Community in Iraq.

I have taken note with appreciation of notes verbales of 5 January, 7 November 1983 and 26 December 1984 from your Permanent Mission in Geneva conveying your Government's views on the subject of summary or arbitrary executions. The note verbale of 7 November 1983 contained information on the execution of the six members of the Al Hakim family on 13 May 1983 and stated that the execution of these six persons had taken place after proper investigation and trial during which they benefited from the legally prescribed safeguards including the right to legal counsel. While reiterating my appreciation for the constructive approach which has characterized your Government's attitude to my mandate I am compelled to draw your attention to information which has now reached me that may call into question the substance of the reply of Your Excellency's Government; furthermore I am told that another member of the Al-Hakim family, Sayyid Muhammad Husain Al-Sayyid Muhammad 'Ali Al-Hakim, is said to have died in detention in the first week of June 1985 as a result of torture or ill-treatment and that those members of the three groups that were the subject of my letter of 12 July 1985 had not been charged or tried before their execution. These allegations have necessitated that I approach Your Excellency once more to seek the appropriate clarifications and to transmit the serious concern that has been expressed for the life and treatment of the members of those groups held in detention, in particular members of the Al-Hakim family who were arrested on 10 May 1983 and allegedly detained to date without charge ..."

(b) 6 December 1985

[Original: English]

"... I should like to bring to Your Excellency's attention that I have received information whereby four persons whose names were given as Husam Ali Najim, Hazem Ali Najim, Haidar Ali and Saad Salem Youcif, were allegedly shown on the Iraqi television on 23 November 1985 with signs of harsh treatment on their faces, confessing their planned attack on Iraqi territory. It was also alleged that these persons have been detained incommunicado without access to a legal counsel and that no judicial proceedings concerning their case have been made public. In this connection fear was expressed that the four persons might have been executed or might be executed shortly.

Without wishing to take any position on this information, I should very much appreciate it if Your Excellency could look into this matter and provide me with any pertinent information Your Excellency may have as soon as possible. I should also appreciate it if I were to receive any information on the cases of the Al-Hakim family members referred to in my cable of 24 September 1985..."

42. A letter, dated 23 October 1985, was received from the Permanent Mission of Iraq to the United Nations Office at Geneva, containing relevant information on the cases referred to in the above mentioned cables. The letter is reproduced in chapter II, paragraph 121.

43. Two messages were sent to the Governor-General of Jamaica:

(a) 8 March 1985

[Original: English]

"... My attention has been drawn to the cases of Louis Cooper and Elijah Kerr who, according to the reports I have received, are facing imminent execution. I would be grateful to Your Excellency if I could be provided with authoritative information on these cases and would appeal to Your Excellency to stay the execution for the time being."

(b) 7 June 1985

[Original: English]

"... I wish to refer to my cable of 9 March 1985 addressed to Your Excellency in which I requested authoritative information on the cases of Louis Cooper and Elijah Kerr who were allegedly facing imminent execution. Recently I received information that new warrants have been issued for the two persons to be executed on 11 June 1985 after stay of execution was granted on 11 March 1985. I would still be grateful to Your Excellency if I could be provided with information on these cases."

44. The following letter from the Governor-General, dated 24 May 1985, was received through the Resident Representative of the United Nations Development Programme in Jamaica:

[Original: English]

"... I write to acknowledge your letter of 9 March 1985, forwarding telex from Mr. S. Amos Wako, Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions.

I would wish you to inform him of my receipt of the telex. I would wish him also to be advised that the cases of Louis Cooper and Elijah Kerr do not come under the heading of Summary of Arbitrary Executions.

They were found guilty of murder after having gone through the due process of law in long and well established legal procedures in Jamaica by way of a preliminary court inquiry by a judge then by a circuit court of judge and jurors, where they were found guilty and sentenced to be hanged according to law. They appealed and the appeal was dismissed by the Appellate Court of three judges.

The case was then taken on appeal to the Judicial Committee of the Privy Council in England where it was dismissed by the learned Law Lords.

The Privy Council of Jamaica, a body over which I preside and which advises me, gave the most careful consideration to the case on two

Since then further legal action was taken but the net result is the same as at paragraph 5.

45. Three messages were sent to the Minister for Foreign Affairs of Liberia on 23 August 1985, 18 November 1985 and 10 January 1986:

(a) 23 August 1985

[Original: English]

"... My attention has been drawn to information concerning the trial by the Military Court of Ellen Johnson-Sirleaf, a civilian, who is tried in camera by the Military Court without legal assistance of her own choosing on a charge of subversion. It is also alleged that if she is found guilty execution may be carried out without delay. In this connection I should like to refer Your Excellency to article 14 of the International Covenant on Civil and Political Rights, which provides for safeguards to ensure fair trials. Any capital punishment resulting from trials conducted in a manner incompatible with the provision of article 14 of the Covenant is prima facie considered as a violation of the right to life, as is stipulated in article 6 of the Covenant:"

(b) 18 November 1985

[Original: English]

"... My attention has been drawn to information according to which, as a result of recent events, a number of innocent civilians might have been summarily executed and information indicating that the right to life of several others may be threatened. In this context may I recall my urgent appeal in regard to Mrs. Ellen Johnson-Sirleaf, whose life, I am given to understand, may once again be in jeopardy as may that of Mr. Byron Tarr, Mr. Tuan Wren and others..."

(c) 10 January 1986

[Original: English]

"I ... refer to my message of 18 November 1985 ... [concerning] a number of allegations according to which the life of a number of persons may have been in jeopardy and [expressing] the wish to receive any information that your Government may wish to furnish in regard to [these] allegations.

I am currently in the process of completing my report to the Commission on Human Rights scheduled to commence on 3 February 1986 and I therefore hope that Your Excellency's Government may find it possible to furnish any information relevant to my message of 18 November 1985. If necessary, I am prepared to undertake direct consultations with your Government for this purpose and would be ready to proceed to Morrovia at an appropriate time should this be considered desirable..."

46. No reply has been received from the Government of Liberia.

47. On 4 April 1985 a message was sent to the Minister for Foreign Affairs of the Libyan Arab Jamahiriya:

[Original: English]

"...My attention has been drawn to an allegation that a person whose name was given as Fathi Ash Sha'iri was sentenced to death in February 1985 and that he might be executed shortly. It was also alleged that he was denied access to legal assistance and the right to appeal. It was further alleged that a number of other individuals might also be sentenced to be executed, some of them without trial."

48. No reply has been received from the Government of the Libyan Arab Jamahiriya.

49. Two messages were sent to the Minister for Foreign Affairs of Pakistan:

(a) 4 March 1985

[Original: English]

"... with reference to my cable ref MSC 7495 of 9 November 1984, in which I drew the attention of Your Excellency to the allegation of possible execution of four persons whose names were given as Abdul Nasir Baluch, Mohammad Essa Baluch, Saifullah Khalid Lashari Baluch and Mohammad Ayub Malik, further information was received that Mohammad Essa Baluch, Saifullah Khalid Baluch and Mohammad Ayub Malik have had their sentences commuted. However Abdul Nasir Baluch, whose petition for clemency has been denied, is allegedly scheduled to be executed shortly."

(b) 8 March 1985

[Original: English]

"... My attention has been drawn to the allegation of possible execution of one person whose name was given as Ayaz Samoo. According to this information Ayaz Samoo was sentenced to death on 3 March 1985 by Special Military Court in Karachi on charges of murder. It was further alleged that the trial was held in camera and that the trial proceedings of the Special Military Court did not provide adequate safeguards to protect the rights of individuals, in particular, the right to a fair and public hearing by a competent, independent and impartial tribunal established by law. It was also alleged that the confession which Samoo was said to have made under duress was accepted as evidence by the Special Military Court."

50. No reply has been received from the Government of Pakistan.

51. It was reported that Ayaz Samoo was executed on 26 June 1985 in the Karachi prison.

52. On 24 December 1985 a message was sent to the Minister for Foreign Affairs of Somalia:

[Original: English]

"... I should like to bring to Your Excellency's attention that I have received information that a number of persons might be tried by the National Security Court on charges of treason and conspiracy against the State under the National Security Law No.54 of September 1970. In this

connection fear was expressed that they might face immediate execution if they were found guilty. Among those who might be tried by the National Security Court on 25 December 1985, the following four names were given: Omar Arteh Ghalib, Omar Haji Mohamed, Mohamed Aden Sheikh and Mohamed Yusuf Weirah. Dates of trials of four others, whose names were given as Asmail Ali Abokor, Osman Mohamed Ghelle, Abdi Ismail Yunis and Suleiman Nuh Ali, were said to be as yet unknown."

53. No reply has been received from the Government of Somalia.

54. Two messages were sent to the Minister for Foreign Affairs of South Africa:

(a) 20 August 1985

[Original: English]

"... My attention has been drawn to information concerning the scheduled execution by hanging on 21 August 1985 of Benjamin Moloise, who was sentenced to death on 6 June 1983 by Pretoria Supreme Court after having been found guilty of murdering a security police officer. The information received has raised serious doubts in regard to the proceedings of the trials in which Moloise was found guilty, in particular as regards the resort to secret or in camera proceedings. This relates to article 14 of the International Covenant on Civil and Political Rights, which provides for safeguards to ensure fair trials. Any capital punishment resulting from trials conducted in a manner incompatible with the provision of article 14 of the Covenant is prima facie considered as a violation of the right to life, as is stipulated in article 6 of the Covenant..."

55. The following reply, dated 13 September 1985, was received from the Permanent Representative of South Africa to the United Nations Office at Geneva:

[Original: English]

"... I have been instructed by the competent South African authorities to acknowledge receipt of telex No. 1339 sent by the Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions to the South African Minister for Foreign Affairs in regard to the sentence imposed by the Transvaal Provincial Division of the South African Supreme Court on 6 June 1983 on Malesela Benjamin Moloise.

You will doubtless recall that on 5 May 1983 Moloise was charged in the Transvaal Provincial Division of the Supreme Court of South Africa on a charge of murder, in that on or about 7 November 1982 at or near Mamelodi in the district of Pretoria North he wrongfully and willfully caused the death of Phillipus Selepe, an adult black male. Selepe was a member of the South African Police. The prosecution alleged that Moloise opened fire and hit the deceased several times. The deceased died of multiple gunshot wounds. At least eight bullets fired from the firearm had entered his body.

On 18 February 1983, after his arrest by the Police, Moloise made a confession to a Magistrate in which he inter alia admitted to having shot the deceased at his house. The aforesaid confession was confirmed by Moloise on 31 March 1983 when he appeared in terms of section 119 of the

Criminal Procedure Act 1977, in the Magistrate's Court Pretoria North to plead to the charge of murder. The case was subsequently referred to the Transvaal Supreme Court for trial.

During his trial, Moloise denied having shot the deceased and his defence was based on an alibi. The prosecution inter alia tendered evidence of the deceased's brother-in-law who testified that he witnessed the shooting in front of the house. He was unable to identify the assailant. Moloise's denial and alibi was rejected by the judge in his judgement.

On 6 June 1983 Moloise was convicted on his own confession as confirmed in material respects by independent evidence.

On 14 September 1983 the trial judge refused leave to Moloise to appeal to the Appellate Division. Thereafter Moloise petitioned the Chief Justice for the necessary permission. On 7 November 1983 leave to appeal was refused by the Chief Justice. When pronouncing the sentence the Trial Court judge found no extenuating circumstances to be present in Moloise's favour and remarked inter alia:

'It is very clear from the evidence that the accused himself supplies the reason for this abhorrent deed of his, and that is namely that he was requested or called upon by ANC, the people with whom he had associated, who conveyed an order to him to eliminate an innocent policeman, who as far as I can deduce from the evidence before the Court was merely performing his duties, and in effect, performed the function of an executioner when he shot the deceased.'
(translation)

Moloise was convicted of the common law crime of murder for which the supreme penalty is imposed if no extenuating circumstances are found. The charge, in no way connected with South African security legislation, is purely based on normal legal principles.

You also suggested in your telex that the information you have received raised serious doubts in regard to secret or in camera proceedings and that it relates to article 14 of the International Covenant on Civil and Political Rights, which provides for safeguards to ensure fair trials.

In this regard I have been asked to point out that:

1. Only one of the 18 witnesses testified in camera;
2. The court record comprises 548 pages of which only 39 contain in camera evidence;
3. The reason for the in camera hearing was to protect the person of this one witness. The witness was threatened and therefore detained for his own protection. The defence had no objections to this part of the hearing being held in camera. During the in camera hearing, normal legal procedures were followed;
4. Article 14, paragraph 1, of the International Covenant on Civil and Political Rights makes provision for in camera hearings;

5. The Republic of South Africa's Criminal Procedure Act 51 of 1977 makes provision for in camera hearings.

For the above-mentioned reasons it is felt that there was no violation of article 14, paragraph 1, of the Covenant, as suggested by Mr. Wako in his telex to the Minister for Foreign Affairs."

(b) 6 December 1985

[Original: English]

"... I should like to bring to Your Excellency's attention that I have received information that during the alleged attacks carried on 24, 25 and 26 November 1985 by the so-called vigilantes on residents of the township of Huhudi in the Northern Cape, a person by the name of Sylvester Gasebue was allegedly dragged from a home and shot dead at point-blank range by one of the vigilantes on 25 November. Another person by the name of Thomas Seitsang was assaulted by the vigilantes on 26 November and later found dead in the mortuary with bullet wounds. It was further alleged that the vigilantes, including some community counsellors, were acting under police protection and that no police action was taken against the attackers nor was the eyewitness heard by the police for deposition. In this context fear was expressed that life of other residents of Huhudi might be in danger."

D. Joint hearings on southern Africa

56. The Special Rapporteur, together with the Chairman of the Working Group of Experts on southern Africa, met in Lusaka, Zambia, for joint hearings on southern Africa from 13 to 19 November 1985. The hearings were the outcome of the consultations held between the Special Rapporteur and the Chairman during the Working Group's emergency meeting in August 1985. On that occasion, the Special Rapporteur and the Chairman shared the opinion that, in view of the gravity of the situation of human rights and increasingly serious allegations of human rights violations in South Africa and Namibia, in particular allegations of the widespread disregard for the right to life, it was of the utmost importance to obtain up-to-date and first-hand information. The information obtained by the joint hearings is reflected in chapter III (paras. 179-183 and 192-195).

II. SITUATIONS

57. The information received by the Special Rapporteur in the course of his present mandate includes allegations of executions or deaths which may have taken place in the absence of the safeguards designed to protect the right to life embodied in various international instruments, such as the International Covenant on Civil and Political Rights (arts. 4, 6, 7, 9, 14 and 15); the Standard Minimum Rules for the Treatment of Prisoners; the Code of Conduct for Law Enforcement Officials and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46 of 10 December 1984), and the Safeguards guaranteeing protection of the rights of those facing the death penalty adopted by the Economic and Social Council in resolution 1984/50 of 25 May 1984.

58. In 1984 the Special Rapporteur communicated to 21 Governments allegations of summary or arbitrary executions which might have taken place in their countries. By the time the present report was completed, replies had been received from 15 Governments.

59. Those allegations which the Special Rapporteur has taken into consideration concern:

(a) Actual or imminent executions:

(i) Without a trial,

(ii) With a trial but without:

- a. A fair and public hearing by a competent, independent and impartial tribunal established by law,
- b. Prompt notification of the charge against the accused,
- c. The right to legal defence and counselling,
- d. The right not to be compelled to testify against oneself or confess guilt,
- e. The right to appeal to a higher tribunal according to law,
- f. The right not to be tried or punished again for an offence for which the accused has already been finally convicted or acquitted,
- g. The right not to be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed, and not to be subject to a heavier penalty than the one that was applicable at the time when the criminal offence was committed.

(b) Deaths which took place:

(i) As a result of torture or cruel, inhuman or degrading treatment during detention,

(ii) As a result of abuse of lethal force by police, military or any other governmental or quasi-governmental forces,

(iii) As a result of assault by paramilitary groups under official control,

(iv) As a result of assault by non-governmental groups.

60. In 1985, the Special Rapporteur communicated allegations of summary or arbitrary executions to 17 Governments. Replies had been received from 11 Governments at the time of the completion of this report.

61. After having carefully examined the information received, the Special Rapporteur decided to request further information in regard to several of these cases.

A. Allegations communicated in 1984

62. In his report to the forty-first session of the Commission on Human Rights (E/CN.4/1985/17), the Special Rapporteur refrained from mentioning specific allegations of summary or arbitrary executions (see chap. III, paras. 63-72 of the report). The Special Rapporteur considered that the Governments concerned might need more time to investigate those allegations, as the majority of the Governments to which allegations were communicated had not replied before the report was completed. By the time the present report was completed most of those Governments had replied to the allegations communicated in 1984, which the Special Rapporteur could then examine. In some cases, the Special Rapporteur recognized positive efforts by the Governments and decided not to seek further information. In some other cases, Governments requested the Special Rapporteur to provide further details on the allegations in order to make their investigation possible, and the Special Rapporteur responded positively in the context of continuing his co-operation with those Governments.

63. The following paragraphs reflect the allegations communicated to the Governments concerned and the replies thereto which were the subject of the Special Rapporteur's concern in addition to those cases pending from the previous year. They appear in alphabetical order by country and they concern the provisions of the International Covenant on Civil and Political Rights designed to safeguard the right to life, namely, articles 4, 6, 7, 9, 14 and 15.

64. The Special Rapporteur transmitted a summary of the allegations received in regard to Afghanistan which reads as follows:

"A number of persons were reported to have been executed after having been sentenced to death by a Special Revolutionary Court, without the possibility of judicial appeal to a higher court.

A number of names among those executed were given as follows:

In September 1984

Modir Nasrat, Mohammad Nasim, Mohammad Akbar, Khwaja Esma'il, Mohammad Wali, Ata Mohammad, Mohammad Ma'em, Ni'az Mohammad, Mohammad Akbar, Mohammad Jofar, Habiborrahman, Chaghal Mohammad, Mohammad Mahfuz and Habibollah.

Furthermore a number of other persons were sentenced to death by the same court in the same manner as in the above-mentioned cases."

65. No written reply has been received from the Government of Afghanistan. However, the Special Rapporteur received a telephone communication from the Permanent Mission of Afghanistan to the United Nations Office at Geneva on 14 January 1986 to the effect that in Afghanistan there were no summary or arbitrary executions.

66. The Special Rapporteur transmitted a summary of the allegations received in regard to Brazil which reads as follows:

"A large number of persons said to be mainly peasants and labourers were allegedly killed by police forces or persons hired for the purpose in various parts of the country over a number of years as a result of disputes on landownership. Union leaders and lawyers who were said to have become involved in protecting peasants and labourers in these disputes were also reported to have been among the victims."

67. On 15 January 1986, the Permanent Representative of Brazil to the United Nations Office at Geneva visited the Special Rapporteur concerning the above-mentioned allegation. During the visit the following letter, dated 15 January 1986, was received:

[Original: English]

"...

The lack of specificity in the allegations brought to the attention of the Brazilian Government does not permit the Brazilian authorities to try to give a precise reply, which might be helpful in clarifying particular incidents.

However, being duly appreciative of the work undertaken by the Special Rapporteur, the Brazilian Government wishes to present a few observations of a general nature.

The Government is fully aware that tensions have developed in several areas of the country in connection with problems of land tenure and that unfortunately these tensions have resulted in serious incidents, with violence and loss of lives.

It is the determined policy of the Government not to allow such violence to subsist and the action of the authorities is being conducted along two lines.

Firstly, by intervening as promptly and as effectively as possible to put an end to violence and to bring to justice those responsible for illegal actions.

Measures were recently taken to increase the effectiveness of the national institution entrusted with the protection of Human Rights, the Council for the Defence of the Rights of the Human Being. Among these measures was the creation of a particular section in the Secretariat, under the responsibility of a Special Rapporteur ('defender'), to deal with instances of violence in rural areas. The Council will then be in a better position to focus its attention on these problems, so that appropriate action can be taken by the Government.

Secondly, the Government has decided to tackle the problems of landownership and use, with a view to eliminating situations in which

tensions arise, leading to acts of violence. The Government is convinced that the implementation of the recently adopted National Plan for Agrarian Reform will be an important contribution to the achievement of that goal. It is its intention to work steadily and resolutely to that end."

68. The Special Rapporteur transmitted a summary of the allegations received in regard to Chad, which reads as follows:

"In September 1984 a number of persons, civilian non-combatants, who were suspected of opposition to the Government, were reportedly killed in Moyen-Chari and Logone Occidental prefectures in southern Chad by Government troops, including an incident of 27 September at Deli in Logone Occidental prefecture in which a number of former opponents of the Government were allegedly executed by Government troops.

In several of such cases killings were allegedly carried out indiscriminately as random reprisals."

69. No reply has been received from the Government of Chad.

70. The Special Rapporteur transmitted a summary of the allegations received in regard to Colombia, which reads as follows:

"A number of persons were allegedly killed by the army, police or paramilitary forces in particular, in the areas where guerrilla groups were reported to be active. The number of persons killed between August 1982 and May 1984 was said to be in the region of 900. The victims reportedly included peasants, human rights activists, union leaders and a number of those who had been released as a result of an amnesty law in November 1982 and, in all cases, they were reportedly unarmed civilians. According to an official communiqué issued on 20 February 1983, the Attorney-General had made a report on the participation and responsibility of security forces in extra-legal killings with recommendations for appropriate legal action in regard to a number of members of the forces concerned."

71. The following letter, dated 30 October 1984, was received from the Permanent Mission of Colombia to the United Nations Office at Geneva:

[Original: Spanish]

"...

As you know, Colombia is governed by a rule of law which is exemplary in many respects, the means of democracy are available, including the right of opposition and respect for the fundamental freedoms of citizens in accordance with our legal system and the international agreements which the country has signed.

I believe it is highly relevant to draw to your attention in your official capacity the proposal adopted by consensus at the 34th meeting of the Sub-Commission on Prevention of Discrimination and Protection of Minorities held on 29 August 1984. The proposal related to the amnesty law and the process of peace, reconciliation and rehabilitation of armed rebels set in motion by the Colombian Government.

As you can see, the independent experts on the Sub-Commission considered not only that the Government of Colombia deserved commendation for this law and this process but also that 'this valuable precedent should be encouraged, since it progressively transforms a process of conflict into a momentum for peace, creating conditions for national reconciliation, inasmuch as it takes into account not only the effects but also the economic and social causes of the situation'.

May I respectfully suggest that you should take this precedent into account in arriving at a position on the situation in Colombia and should proceed accordingly, allowing a reasonable period of time for the amnesty and reconciliation process to bear fruit.

I take this opportunity to renew to you the assurances of my highest consideration. In any event, I am forwarding your letter of 24 October to my Government out of a desire to co-operate with you in your task."

72. The Special Rapporteur transmitted a summary of the allegations received in regard to Honduras which reads as follows:

"During 1983, several persons were alleged to have been killed for what were described as political motives. The majority of the victims were political or trade-union leaders, who, days before being assassinated, had publicly alleged that they were being pursued by government security forces. It was furthermore alleged that the perpetrators of the crimes travelled in vehicles without license plates and carried arms that were only available to the army or security forces.

The following are some of the cases reported:

Herminio Deras who died on 29 January 1983 in a street in the neighbourhood of Las Flores de San Pedro Sula;

Ovidio Santos who died on 10 March 1983;

Dagoberto Padilla and a number of other persons who died on 29 March 1983 in the Aldea El Bálsamo, City of El Progreso, Department of Yoro;

Juan Patrón Frish who died on 28 February 1983 in the Hospital Escuela de Tegucigalpa;

José Bustamente and three of his brothers who were killed after being taken from their homes in San Esteban, Department of Olancho, on 18 April 1983;

José Luis Alvarez Rivera who died on 1 June 1983 in a private clinic in El Progreso, Department of Yuro;

Margarita López who died on 11 February 1983 in the zone of Guanchias, Department of Yoro;

José Leonel Chevez, a citizen of Nicaragua, who died on 28 June 1983 in the police station at San Pedro Sula;

José Angel Pinto Palencia who died on 10 March 1983 in the town of Ocotepeque."

73. The following letter, dated 15 January 1986, was received from the Permanent Mission of Honduras to the United Nations Office at Geneva:

[Original: Spanish]

"... in this Note I have the honour to reproduce the text of a telex sent care of this Mission by the Ministry of Foreign Affairs of Honduras which reads as follows:

'Re your telex 005 concerning the communication of the Special Rapporteur of the Commission on Human Rights on Summary or Arbitrary Executions, the Government of Honduras reaffirms its willingness to continue its efforts to resolve the cases reported.'

..."

74. The Special Rapporteur transmitted a summary of the allegations received in regard to Indonesia, which reads as follows:

"Killing of a number of persons by security forces reportedly continued to take place as in 1983 in connection with an anti-crime campaign, especially in Jakarta and West Java. The total number of people killed since the beginning of the campaign in April 1983 was estimated at between 4,000 and 8,500.

"In East Timor in 1983 and 1984 a number of persons were reported to have died in custody or to have been executed after trials which allegedly did not provide safeguards to protect the right to life of individuals. Also a large number of civilians, mostly unarmed, were reportedly killed by the army. Furthermore, two persons were reported to have been killed in detention in the Irian Jaya police station in Jayapura in April 1984. Their names were given as Arnold Ap and Edward Mofu. Another person, whose name was given as Azer Demotekai was reported to have died as a result of torture in February 1984 after being abducted and detained by an Indonesian paracommando unit."

75. The following letter, dated 10 January 1985, was received from the Permanent Mission of Indonesia to the United Nations Office at Geneva:

[Original: English]

"...

1. As regards the alleged killings in 1983 by security forces in connection with an anti-crime campaign referred to in your letter and the annex, the Indonesian Permanent Representative has provided adequate clarification in his letter number 141/POL-040/84 dated 24 January 1984 mentioned in your letter. We have no further information to add except that there has been no more incidence of mysterious killing since 1984. This could be seen as the outcome of effective preventive measures undertaken by the Government to put an end to such killings.

2. The allegations mentioned in the annex of your letter that in 1983 and 1984 a number of persons died in custody or had been executed after trials which allegedly did not provide safeguards to protect the right to life of individuals, and that a large number of civilians were reportedly killed by the army are simply untrue. They are part of a malicious campaign to discredit Indonesia waged by certain elements opposed to the

decision of the majority of the East Timorese to integrate with Indonesia. Due process of law for each and every Indonesian, including East Timorese, is guaranteed by the Constitution and the law. To date there are 79 persons who have been sentenced by the District Court in Dili (Court of First Instance) to prison terms on being found guilty of charges under article 110, paragraph 1, together with article 106 of the Penal Code (involvement in a conspiracy aimed at subjugating the whole or a part of the territory of the State to foreign government or for the purpose of seceding a part of the territory of the State). They are at present serving their prison terms in Dili and other places in Indonesia.

3. Arnold Clemens Ap, the former Curator of the Museum of Anthropology of the Cendrawasih University in Jayapura, Irian Jaya, was detained on 30 November 1983 for his suspected involvement in subversive activities. On 22 April 1984, together with other detainees of the same category, including Edward Mofu, he escaped from the place of detention after overpowering the prison guards and seizing their weapons. Their attempt to escape by sea ended in failure and Edward Mofu was drowned in the attempt. Arnold Ap was killed in a shoot-out with the police in Pasir Enam, Jayapura on 26 April 1984. The report that Azer Demotekai died as a result of torture in February 1984 is false. No case involving a person by the name of Azer Demotekai is on the records of the Indonesian Government.

It is our sincere hope that the foregoing comment will clarify the matters referred to in your letter and will enable you to prepare an objective report for the benefit of the Commission on Human Rights."

76. The Special Rapporteur met the representative of the Government of Indonesia on 22 October 1985 and the Permanent Representative of Indonesia to the United Nations Office at Geneva on 16 January 1986. At both meetings it was confirmed that the killings connected with the crime, which the Government attributed to conflicts within the criminal bands, had been drastically reduced and was virtually non-existent. The Special Rapporteur was also told of the understanding between the Government of Indonesia and the International Committee of the Red Cross on an arrangement for tracing missing persons.

77. The Special Rapporteur transmitted a summary of the allegations received in regard to the Islamic Republic of Iran, which reads as follows:

"A number of persons were reported to have been executed secretly or publicly without any trial or after trials which did not provide safeguards to protect the rights of the defendant. The total number of executions in the Islamic Republic of Iran since June 1981 to date was said to be 40,000.

"It was alleged that among those executed 10,231 persons were identified. Among those identified there were reportedly 430 persons under 18 years old, 15 children and 18 pregnant women. Among the alleged victims were a number of Baha'is and members of the Tudeh Party."

78. No reply has been received from the Government of the Islamic Republic of Iran.

79. The Special Rapporteur transmitted a summary of the allegations received in regard to the Libyan Arab Jamahiriya, which reads as follows:

"Eight persons were reportedly hanged in various locations throughout the Libyan Arab Jamahiriya between 3 and 10 June 1984. They were reportedly executed without a trial, following a decision by the Basic People's Congresses.

The names of those executed were given as follows:

1. Sassi Ali Sassi Zikri, hanged on 3 June in Nalut Central,
2. Ahmad Ali Ahmad Sulayman, hanged on 3 June in Nalut Central,
3. Mohammad Said Al Shaybani, hanged on 4 June in Tamzin,
4. Othman Ali Al Zarti, hanged on 5 June in Souk Al Juma',
5. Assadeq Hamed Al Shuweihdi, hanged on 5 June in Birkah, Benghazi,
6. Al Mehdi Rajab Abdel Salam, hanged on 7 June in Tobruk,
7. Abdel Bari Omar Mansour Fannoush Al Mijbiri, hanged on 7 June in Jalu,
8. Farhat Ammar Hlab, hanged on 10 June in Zuwarah.

The executions of Assadeq Hamed Al Shuweihdi and Othman Ali Al Zarti were alleged to have been carried out within an hour of their arrest."

80. No reply has been received from the Government of the Libyan Arab Jamahiriya.

81. The Special Rapporteur transmitted a summary of the allegations received in regard to Nigeria, which reads as follows:

"During 1984 in various states of Nigeria, a number of persons were reportedly executed after having been sentenced to death by the Special Tribunals established under Supreme Military Council Decree No. 5, the Robbery and Firearms (Special Provisions) Decree, 1984, issued in March 1984. The procedure of these Special Tribunals allegedly did not permit the convicted persons the right to appeal."

82. The following letter, dated 20 March 1985, was received from the Permanent Mission of Nigeria to the United Nations Office at Geneva:

[Original: English]

"...

Trials of persons accused under Robbery and Firearms (Special Provisions) Decree No. 5 of 1984 is neither summary nor arbitrary as the decree contains in the schedule thereto elaborate rules of procedure which guarantee to both the prosecution and the defence equal rights of audience, examination in chief and cross-examination. The accused may also defend himself in person or through a legal practitioner of his own choice. As regards composition of a tribunal constituted for the trial of persons accused under the decree, such tribunal is, by provision of

section 6, presided over by a high court judge. Should an accused person be found guilty and convicted by tribunal, sentence shall not take effect or be carried out unless confirmed by the Military Governor of the state concerned who may confirm or disallow the conviction as the facts and circumstances of the particular case may warrant. In this regard, instances abound of cases in which a Military Governor has commuted a death sentence or has remitted a term of imprisonment or has even completely disallowed a conviction and released the accused person. Consequently, it becomes very clear that Robbery and Firearms Decree 1984 contains adequate provisions to guarantee the fair hearing of a case against an accused standing trial thereunder and for the review of the decision of a tribunal set up for the trial of robbery on firearms cases.

In the light of the above, it is the candid opinion and conviction of the Government of the Federal Republic of Nigeria that the allegations of the denial of the right of appeal under Decree No. 5 are groundless. The Decree operates in total conformity with the relevant provisions of the International Covenant on Civil and Political Rights, in particular with article 14, paragraph 5, of the Covenant which provides for the right of appeal to a higher tribunal against a sentence.

Finally, I wish to assure you of the readiness of my Government to co-operate with you, to the best of its ability in carrying out the mandate given to you at any time you seek that co-operation."

83. The Special Rapporteur transmitted a summary of the allegations received in regard to Pakistan which reads as follows:

"A number of persons were reported to have been executed after having been sentenced to death by special military courts in various parts of the country. The procedures of the court allegedly do not embody legal safeguards to protect certain rights of the defendant, such as the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, the right to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing and in particular, the right to appeal to higher court. Furthermore, it was alleged that the Provisional Constitution Order of 1981 prohibited the civilian court from reviewing any action taken by a military court or by the martial law administration."

84. The following letters, dated 14 November 1984 and 10 January 1985, were received from the Permanent Mission of Pakistan to the United Nations Office at Geneva:

(a) 14 November 1984

[Original: English]

"...

I wish to inform you that the allegations contained in the annexure received with your letter under reference are unfounded. To put the record straight I would like to state that the military courts were given powers to try cases of the violation of Martial Law Orders and Martial

Law Regulations as well as some heinous cases under the normal laws. Cases under the normal laws were transferred to the military courts because of general demand made by the public for the reason that trials in ordinary courts take a longer time to conclude than in military courts. However, the establishment of these military courts has not in any way materially affected the normal functions of the civil courts as only a few cases of a heinous nature are referred to military courts.

It is incorrect to suggest that trials by military courts are devoid of fair process. These courts, while trying cases, observe normal judicial norms necessary for the administration of justice. The accused has the right to be heard personally as well as by a lawyer of his own choice who appears as next friend. He can cross-examine the witness and argue on points of law and fact. The proceedings are in public and can be witnessed by anyone subject to the availability of space in the court room. There is also a right of appeal to the designated Martial Law or Sub-Martial Law Administrators and in a fairly large number of cases such appeals have been accepted and the sentences were either quashed or reduced."

(b) 10 January 1985

[Original: English]

"...

As promised I am forwarding the following for your information:

- (i) Setting up and composition of Military Courts,
- (ii) Our reply to the written statement of the World Peace Council at the last session of the Human Rights Commission,
- (iii) Programme of elections and return to civilian rule,
- (iv) Reply to the claims of persecution of the Ahmadiyya Community (Ahmadyya Community was written on the small piece of paper you gave me).

'SETTING UP AND COMPOSITION OF MILITARY COURTS

There are two classes of Military Courts, i.e. the Special Military Courts and Summary Military Courts which have been exercising criminal jurisdiction after the promulgation of martial law in the country. According to Martial Law Order No. 4 of 1977 the Special Military Court is convened and constituted in the same manner, exercises the same powers and follows the same procedure as that of a Field General Court Martial convened and constituted under the Pakistan Army Act 1952. Section 87 of the Pakistan Army Act provides that a Field General Court Martial should consist of not less than three officers. However, as laid down in the above-mentioned MLO, any person exercising the power of a Magistrate of the First Class or of a Session Judge may be appointed a member of the Court and it is not necessary that the prosecutor should be a person subject to the Pakistan Army Act 1952 but any officer of the Armed Forces of Pakistan or of the Police Force or a Public Prosecutor or a lawyer who can be appointed as a prosecutor.

Similarly, a Summary Military Court exercises the same power and follows the same procedure as the Summary Court Martial held under the Pakistan Army Act 1952 and the provisions of that Act and rules made thereunder apply to and govern such proceedings, provided that section 88 of the Pakistan Army Act 1952, which provides that the proceedings of a Summary Court Martial shall be attended by two officers or two junior commissioned officers or one officer and one junior commissioned officer, shall not apply to a Summary Military Court established under martial law.

As to the appearance of the counsel on behalf of the accused before the Summary or Special Military Court it may be pointed out that under Rule 23 of the Pakistan Army Act Rules 1954 an accused person is afforded proper opportunities of preparing his defence, is allowed free communication with his witnesses and with any friend, defending officer or legal adviser whom he may wish to consult and, subject to the aforesaid rules, counsel is allowed to appear on behalf of the accused.'

'EXTRACT FROM A REPLY BY THE REPRESENTATIVE OF PAKISTAN TO THE FORTIETH SESSION OF THE COMMISSION ON HUMAN RIGHTS, REGARDING A STATEMENT SUBMITTED BY THE WORLD PEACE COUNCIL (E/CN.4/1984/NGO/9)

... May I now refer to the written statement submitted by the World Peace Council. We categorically reject the charges as contained in document E/CN.4/1984/9 dated 9 February 1984. The allegations concerning the arrests of thousands of political prisoners are completely without foundation and have been repeatedly refuted by my Government. Political prisoners listed in the document, including Mrs. Bhutto are all free. The small number still under detention by reason of having committed criminal offences remain under detention as they have been convicted by courts of law. They are not targets of political victimization.'

'PROGRAMME OF ELECTIONS AND RETURN TO CIVILIAN RULE

During the referendum campaign in December 1984, the President stated that elections to the National and Provincial Assemblies would be held in accordance with his 12 August 1983 plan, the process being completed by 23 March 1985. By that date the Constitution, which is presently held in abeyance would be promulgated, civilian administration installed and martial law lifted. When that happens the martial law courts would cease to function and martial law regulations would be withdrawn.'

'PAKISTAN'S REPLY TO THE ALLEGATIONS OF PERSECUTION MADE BY THE AHMADIYYA COMMUNITY IN PAKISTAN

The allegations made by some members of the Ahmadiyya community deserve examination in their historical and socio-economic perspective. It was in 1974 after an extensive debate in the National Assembly and after careful consideration of all points of view, including those presented by the leaders of the Ahmadiyya community, that a decision was reached by the Parliament to declare the Ahmadiyya community a non-Muslim minority. Despite the National Assembly's decision, the members of the Ahmadiyya community

continued to preach and propogate their beliefs under the name of Islam which created tension and increased the possibility of conflict thus threatening above all their own security. The Government of Pakistan accordingly decided to promulgate the Anti-Islamic Activities of the Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance 1984, which, besides restraining the Ahmadiyya community from carrying out activities prejudicial to Islam, also provides for the protection of their rights. Under the ordinance they are free to practice their beliefs and there has been no compulsion to change their religion. The law only prevents them from preaching and propagating their beliefs as Islamic. The members of the community enjoy the same rights and privileges as any other citizen or group in the country. They continue to participate fully in the affairs of the country, some of them holding senior positions in the Government.

The rights of the Ahmadiyya community as a minority are fully protected and allegations of their disenfranchisement, removal from high government posts, denial of promotions to higher ranks, non-admission to universities or other institutions of higher learning are totally unfounded. The Government has taken full measures to protect their life, property and places of worship. There have been no cases of any maltreatment or victimization of the Ahmadiyya community for reasons of their belief.

The Ordinance promulgated by the Government of Pakistan has a historical perspective and is in continuation of the 1974 National Assembly decision. The basic purpose of the Ordinance is to curb any anti-Islamic activities which could hurt the sentiments of society in general and could lead to creating tension between various sections of society. The Ordinance provides full legal protection to the life, honour and property of the Ahmadiyya community as to the other minority communities. All constitutional documents since Pakistan's independence in 1947 contain provisions ensuring the rights of minorities.

The communications of the Ahmadiyya community forwarded by the Secretary-General themselves admit that "there has not yet been any widespread execution of the Ordinance ..." and the contents of the communications do not allege or indicate "gross and consistent violation of human rights". It must be stressed that the consistent endeavour of the Government is to defuse rather than exacerbate any tension between the Ahmadiyya community and other sections of society and it is well known that no incident of any significance resulting in loss of life or property has been reported."

85. The Special Rapporteur transmitted a summary of the allegations received in regard to Peru, which reads as follows:

"In August 1984 a number of corpses were reportedly found in mass graves at Pucayacu, Huanta, Ancojasa and Pucayacu Gorge in the Ayacucho region. Some of the corpses were allegedly identified as the bodies of those who had disappeared after being detained by security forces, and were said to have been mutilated and to have shown signs of torture.

Furthermore, a person whose name was given as Jesús Oropeza Chonta was reportedly found dead on 10 August 1984 after having been detained by members of the civil Guard in Huanta."

86. The following letter, dated 12 November 1984, was received from the Permanent Mission of Peru to the United Nations Office at Geneva:

[Original: Spanish]

"...I should point out that Peru has consistently attached special importance to the problem of summary or arbitrary executions, in whatever country they might occur, and that my Government values and reiterates its great appreciation of your work in this area.

"With regard to the cases referred to in the documentation sent by you to the competent Peruvian authorities, I should inform you that the Executive, the legislature and the judiciary have taken steps, within their respective areas of competence, to bring the facts to light. Appropriate steps have also been taken by the Attorney-General as the ombudsman is known in Peru.

The population is co-operating to the full in shedding light on these allegations. In addition, the information media, in reporting on the matter, are exercising the very broad freedom of expression which, as the international community is aware, exists in Peru.

In April next year, the people of Peru will be called upon once again to vote in general elections, thus exercising the right of full participation in national political affairs. In this connection, it is worth recalling that the conduct of the last municipal elections in Peru, at the end of November 1983, was universally hailed as a genuine demonstration of the climate of democracy prevailing in Peru. As a result, the Municipality of Lima became the first South American capital to have a Marxist mayor elected by popular suffrage. It is against this background of democracy existing in Peru that the allegations to be investigated - allegations which relate to the Ayacucho region - should be seen.

It must be borne in mind that there are cases in which it is difficult to arrive at any identification of individuals since there are segments of the population, principally in rural areas far removed from urban centres - as in the case of Ayacucho - about whom no information is recorded in the appropriate civil registers. Since this frequently hinders investigations, it would be most helpful if you could provide the Peruvian authorities with specific information on the persons said to have been involved in the alleged summary executions.

It is also worth noting that the existence in Peru of the democratic system in respect of the separation and independence of powers does not allow the Peruvian Government to intervene in cases which fall within the jurisdiction of the judiciary.

Despite the difficulties involved, the Government is doing its utmost to co-operate with you further, and will continue to do so, in order to shed light on the allegations of summary executions. Accordingly, a list is attached which will provide you with a further insight into the allegations in question.

In addition, for your information, I attach copies of the following documents:

- (1) Official communication on events in Pucayacu;
- (2) Official communication on the case of Mr. Jesús Oropeza Chonta;
- (3) Copy of note No. 39, of 21 August 1984, sent by this Mission to the Working Group on Enforced or Involuntary Disappearances, concerning the case of Mr. Jesús Oropeza Chonta;
- (4) Official communication on the use of uniforms of the forces of law and order by terrorists;
- (5) Statements by the Minister of the Interior published in the newspaper El Peruano on 23 October 1984;
- (6) Clipping from the periodical Oiga, of 20 August 1984, concerning the massacre carried out in Sachabamba by terrorist elements, and
- (7) Statements by the Deputy Prime Minister of the Republic, on the massacres carried out by terrorists and the case of Mr. Oropeza Chonta."

86. The Special Rapporteur transmitted a summary of the allegations received in regard to the Philippines, which reads as follows:

"It was alleged that a number of persons had been killed mostly in urban areas by law enforcement agents of the Philippine auxiliary police known as 'secret marshals' since August 1984. Those agents were said to have been given licence to shoot suspected criminals in connection with an anti-crime campaign.

Furthermore, incidents of killing of civilians by armed forces and paramilitary groups reportedly occurred in various regions of the Philippines, and particularly in Mindanao. At least 384 such cases were reported for 1983 and 108 cases during the first half of 1984. In a number of cases the victims were arrested first by the armed forces and later found dead, often reportedly showing signs of torture. Some of those cases which allegedly occurred in 1984 are listed as follows:

Benjamin Ybanez, 33, who was shot dead on 23 June 1984 by members of the Scout Rangers in Buenavista, Agusan del Norte;

Pepito Deheran, Lito Cabrera and Rolando Castro who were said to have been tortured and killed on 31 May 1984 after being arrested on 28 May 1984 by soldiers of the Philippines constabulary in Angeles City;

Ronelio Clarete, 21, Ronelio Evangelio, 24, Ismael Umali, 26, who were found dead on 31 March 1984 in Silang, Cavite; they were said to have been the object of surveillance and harassment by security forces;

Antonio Oyas, 24, Eulogio Aximar, 27, Mario Jamin, 19, Rodolfo Jamin, 18, Alfredo Muñoz, 18, Abundio Aldaya, 23, Armando Guillermo, 17, Alejandro Guillermo, 22, Viviano Fajardo, who were arrested in Tambo, South of Inayawan by the Philippines constabulary on 14 May 1984 and were shot dead on the same day. Some of the bodies were said to bear signs of torture;

Eddie Almonte, 18, Francisco Bulacan, 21, Pedro Callenero, 28, Semion Dagape Jr., 19, Poping Damar Jr., 18, Ricardo Kipkipan, 26, and Cenon Lage, 22, who were reported missing in Tunango, Butuan City on 17 March 1984 and on 11 April 1984 the decapitated bodies were found in shallow graves at the camp of the 36th Infantry Battalion of the 4th Infantry Brigade of the Philippines Army."

88. The following letter, dated 26 January 1985, was received from the Permanent Mission of the Philippines to the United Nations Office at Geneva:

[Original: English]

"I have the honour to refer to your letter dated 24 October 1984, requesting information on a reported summary execution, quoted hereunder:

'...on 14 May 1983, a seminarian whose name was given as Asagani Valle, was killed in Buenavista, Agusan de Sur, by members of the local police force. His body was allegedly exhumed on 24 May after the family received an anonymous letter about his death.'

In response to your request, I have the honour to submit the following information from the Philippine Government:

'On or about 16.30 h of 14 May 1983, at Barangay Agonggong, Buenavista, Agusan del Norte, a police patrol led by TSg. Manuel Meis, Acting Station Commander of Buenavista Station of the Integrated National Police, encountered armed men and as a result thereof, three of the armed men identified later as Romeo alias Frank, alias Commander Dimas, Mario Dagan and Isagani Valle alias Dayan were killed. Recovered from the scene of encounter were two magnum revolvers, cal. 22 and 11 rounds of live ammunition and subversive documents and leaflets. The three were connected with the underground movement and were the principal suspects in the killing of three members of the Integrated Civil Home Defence force, in 1981.

No case was filed in court considering that the death of Valle and his companions was the result of an armed encounter. The police team was in the actual performance of duty.'

I hope that the foregoing information will be taken into consideration in the preparation of your report to the forty-first session of the Commission on Human Rights scheduled in Geneva from 4 February to 15 March 1985."

89. The Special Rapporteur transmitted a summary of the allegations received in regard to Sierra Leone, which read as follows:

"A number of persons were reported to have died in detention in 1983 and early 1984 in Pujehun prison and in Koindu prison due to malnutrition and serious undernourishment."

90. No reply has been received from the Government of Sierra Leone.

91. The Special Rapporteur transmitted a summary of the allegations received in regard to Sri Lanka, which reads as follows:

"In 1984 two incidents allegedly occurred in which civilians were killed by the security forces. On 28 March at Chunnakam eight persons were reported to have been killed as a result of random shooting by air force personnel. Inquest proceedings were waived on all of the deaths. Between 9 and 12 April 1984 a number of persons were killed by the security forces in and around Jaffna in connection with incidents which started after a bomb attack on an army truck on 9 April 1984. In 30 reported cases, it was said that no inquests were held."

92. The following aide mémoire was received by the Special Rapporteur from the Representative of the Permanent Mission of Sri Lanka to the United Nations Office at Geneva on the occasion of the Representative's visit to the Special Rapporteur on 11 December 1984:

[Original: English]

- "1. Separatist-terrorists have launched a series of attacks against civilian and military targets in northern and eastern Sri Lanka.
2. They have also issued statements from their headquarters in Madras, India, that this stepped-up terrorist activity is aimed at securing a separate State by force, no later than 24 December. Mr. Uma Maheswaram, a well-known and self-acknowledged terrorist leader, has said: 'Only one more major battle stands between us and the establishment of Eelam.' (Note: 'Eelam' is the name that separatist-terrorists give to the State they wish to carve out of a dismembered Sri Lanka.)
3. According to press reports, this strategy was agreed upon at a meeting in Madras on 10 November 1984. Leaders of almost all known terrorist groups attended. A 'minimum programme' to 'liberate Eelam immediately' was proposed, and the proposal adopted, according to press reports.
4. Ten days later (on 20 November), the British news agency Reuter reported from Madras that it had received a statement in Madras from representatives of the terrorist Tamil Eelam Liberation Organization (TELO) claiming credit for the murder of 29 police officers in an attack on a police station at Chavakachcheri in northern Sri Lanka. TELO leaders were present at the 10 November meeting.
5. The Chavakachcheri attack was a major event in the campaign of stepped-up violence intended to 'liberate' selected parts of Sri Lanka. The 'State of Eelam' would be declared in such 'liberated' areas, and recognition sought from various countries.
6. A partial chronology of incidents in this campaign is as follows:

19 November

The terrorists set off a land-mine explosion that killed the Commanding Officer of the army detachment in Jaffna and two other soldiers. The same day they also opened fire on a police contingent that provides escort to the Jaffna-Colombo express train.

20 November

Two hundred and fifty Tamil terrorists attacked the police station in the northern city of Chavakachcheri. Twenty-nine police officers were killed when terrorists set explosives to the police station and demolished it, while police officers were inside.

21 November to
29 November

The branches of several banks, and the entire payroll of a hospital in northern Sri Lanka were robbed, roads were mined, and the homes of civil servants were attacked across a swathe of territory in the north and east of Sri Lanka.

30 November

A large Tamil terrorist group attacked settlers in Kent Farm and Dollar Farm near the north central town of Padaviya, killing some 100 Sinhalese settlers - men, women, and children.

Eighteen boats were sighted off the coast of Mannar attempting to land terrorists. When fired upon by a Sri Lanka Air Force (SLAF) aircraft, the boats turned round and sped in the direction of Tamil Nadu. In another incident off Delft, the Navy opened fire on a terrorist boat killing nine and injuring one. Before succumbing to injuries, the survivor said that he was part of an invasion task force.

2-3 December

In the pre-dawn hours on 2 December, sea-borne terrorists attacked two fishing villages in the north-eastern district of Mullaitivu, killing 11 and injuring over 20 - men, women, and children.

Some 3,000 to 4,000 displaced persons (Sinhala, Malay and Moor) from these villages and their environs have fled their homes and are in makeshift centres for emergency relief in Anuradhapura. Civilians from the majority ethnic group in other areas where the terrorists have struck have also fled to these centres for displaced persons and the Government of Sri Lanka is being assisted by non-governmental organizations and voluntary organizations to care for them.

Terrorists carried out a night attack on Joint Security Services Operation Headquarters at Vavuniya deep inside north Sri Lanka killing one sentry and injuring another.

Having frightened away the fishermen in the area, about 25 terrorists in two boats landed near Talaimannar in north-western Sri Lanka.

On 3 December, terrorists attacked a goods train at Chunnakam in Jaffna and took hostage nine passengers from the majority Sinhalese ethnic

group, including one abducted from Tellipalai hospital. Terrorists demanded a ransom of Sri Lanka rupees 10 million (SwF 1 million approximately), release of a key terrorist leader in custody, and withdrawal of all Sinhalese from the cement factory at Kankasanthurai, Jaffna.

4-7 December

Terrorists blew up an army jeep in a mine explosion in Mannar killing one and injuring seven.

The Minister of National Security of Sri Lanka announced at a press conference that he is inclined to believe that the nine Sinhalese hostages taken into terrorist custody in Chunnakam have been killed. With no further information from the kidnappers about the hostages the authorities believe that they may have already been murdered even before the ransom was asked for and that the ransom demand was a publicity stunt. Significantly the kidnappers did not name the terrorist leader whom they wanted released by the Government.

Consequent to the hostage taking by Tamil terrorists, on 4 December some Sinhalese people took 11 Tamils as hostages at the Cement Factory in Puttalam in the north-western part of Sri Lanka. The police were able to prevail on the captors and obtain the release of those hostages on 5 December.

The terrorists disrupted the holding of the General Certificate of Education (Ordinary Level) Examination (at Grade 10 level) in the north of Sri Lanka by robbing some question papers and threatening students to keep away from the examination. They stormed Vasivalan examination centre near Jaffna and removed question papers. This act will no doubt disrupt the education of students in the northern part of Sri Lanka as it will take some time for the examination authorities to hold another examination.

No incident which could be identified as a backlash for atrocities committed by separatist Tamils on the Sinhala civilians in the northern part of Sri Lanka was reported in the southern and central parts of Sri Lanka where the majority Sinhala community live along with nearly 600,000 Tamils. Indian Tamils who constitute 5.6 per cent of the total population in the island and who are distinct from the Sri Lanka Tamils who are 12.6 per cent, also live in these

areas and their leader, Mr. S. Thondaman, is one of the three Tamil Cabinet Ministers of the Government.

About 1,000 youths have been taken in for questioning by the Colombo police during the last several days. Most of them have come from the north to escape working for the terrorists and the majority of those questioned have been released. However, about 160 are still in custody until their credentials are proved.

7. The attacks at Kent and Dollar farms were particularly brutal. Farm houses were burnt down or blown up with the occupants inside. Men were rounded up, their hands and legs tied, and they were shot through the head. Children (ranging in age from one to five) were shot through their bellies. All women were shot through the head at close range.
 8. Sri Lankans of all communities live at Kent and Dollar farms, as well as in the fishing villages in Mullaitivu. Survivors have described how Sinhala settlers were deliberately and carefully selected for murder by the terrorist attackers.
 9. Terrorists captured in engagements have admitted to receiving military training abroad. The evidence of such training is overwhelming. The explosives and military equipment captured carry distinct markings of a foreign country. The arms seized include rocket propelled grenades and self-loading rifles not available in Sri Lanka.
 10. The Government of Sri Lanka has been taking prompt and strenuous measures to ensure that terrorist atrocities do not provoke any reprisals in other parts of the country against the Tamil population living there. These measures have included imposing curfew hours, and the police and army being kept on high alert in sensitive areas.
 11. In response to the threats against Sri Lanka's sovereignty and territorial integrity, the Government of Sri Lanka has taken pre-emptive security measures in the threatened areas. These measures ensure that the normal amenities available to the citizens of all areas continue unabated. Food supplies to Jaffna for example continue uninterrupted and fishermen are being duly compensated for loss of income."
93. The following letter, dated 8 January 1984, was received from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva:

[Original: English]

"I have the honour to refer to your letter of 31 October 1984, and to convey to you the following information from the Government of Sri Lanka concerning the matters referred to in your letter:

- (1) Sri Lanka government agencies have not effected any executions of a summary or arbitrary nature.

- (2) Article 13 (4) of the Constitution of Sri Lanka provides that 'No person shall be punished with death or imprisonment except by order of competent court, made in accordance with procedure established by law'. However, even capital punishment in consequence of legal procedures through competent courts has not been enforced since 1976.
- (3) As regards the regulations and practice regarding the conduct of armed services and other law enforcement agencies to ensure adequate protection of the right to life, under the Penal Code of Sri Lanka the armed services or law enforcement agencies do not have any greater rights to self-defence than the civilians.

They would be entitled to cause death only to prevent death or grievous injury being caused either to them or any other person. However, in assessing whether the action which resulted in causing of death was done bona fide in the exercise of the right to private defence, greater weight is likely to be given to the assertion when it is made by a member of the armed services or of the law enforcement agencies. Even under the emergency regulations a member of the armed services or law enforcement agencies who causes the death of any person otherwise than in the exercise of the right of private defence or defence of others could be charged in courts with the sanction of the Attorney-General.

A course of lectures has been conducted by a senior officer of the Attorney-General's Department where the members of the armed forces and other law enforcement agencies have been addressed on their role in the protection of society. It has been made clear to them that they must act with discipline and restraint even in the face of the greatest provocation. These lectures have been structured on the guidelines contained in the United Nations Code Of Conduct for Law Enforcement Officials.

(4) As regards the specific incidents referred to in the annex to your letter, the Government of Sri Lanka wishes to state the following:

- (i) In regard to the incident at Chunnakam on 28 March 1984, investigations conducted by the Government have revealed that on this date some air force personnel were returning from Chunnakam after transacting business at the bank and purchasing supplies of food. On their return journey to camp they had been ambushed at two points by groups of terrorists agitating for the establishment of a separate State i.e. 'Eelam' in Sri Lanka through violence. The first ambush was at Chunnakam market and the second was on the road between Chunnakam and Tellipalai. On both occasions when air force personnel were forced to fire in self-defence - not at random as has been asserted - some bystanders who were tragically caught in the cross-fire succumbed to their injuries. The Government greatly regrets this needless loss of life but is compelled to point out that by purposely selecting crowded areas for their violent activities, the terrorists deliberately heightened the risk of injury to innocent members of the public. The report of the official delegation of the Government of Switzerland, which visited Sri Lanka in August 1984 to see for themselves the situation in the country, acknowledged that the terrorists operating in the north of Sri Lanka use 'urban guerrilla

tactics' and conduct their operations in public places in order to disappear among the people and conceal themselves.

- (ii) As regards the incidents that took place in the Jaffna peninsula between 9 and 12 April 1984, the following is a narration of the sequence of events as they transpired:

On 9 April 1984 when the army detachment which was assigned to ensure the security of passengers - most of whom are Tamils - against terrorist attack on the daily Colombo-Jaffna railway express train, was being transported back to its camp in Jaffna, it was subjected to a bomb attack which seriously injured 14 soldiers and totally destroyed the vehicle in which they were travelling. The blast had resulted not from a bomb that was thrown at the army truck, as has been widely reported, but by a bomb that had been planted in a derelict car parked by the roadside. Since the evidence was that the bomb in the booby-trapped car could only have been activated by persons who were taking cover in the adjoining premises, which was the Church of Our Lady of Refuge, the accompanying army escort, which included an armoured car, took instantaneous defensive action, which included the return of small arms fire and the firing of a single shell from the armoured car. It was unfortunate that as a consequence the Church itself was hit, but it must be clearly stressed that the damage - which at most involved some of the windows and the roof of the Church and, contrary to reports that were widely circulated abroad, did not result in the total destruction of the Church - was the result of defensive action taken by armed personnel immediately after the bomb attack referred to above.

On the contrary, wanton acts against religious institutions can be clearly established in the attacks by terrorists on 10 April on the Sinhala Maha Vidyalaya (a school) and the Buddhist Naga Vihara (temple) and on 11 April on the Sacred Bo-Tree in the vihara (temple) premises, which were in no way connected with any military operation.

As a consequence of these wanton acts of terrorism, the Government was compelled to increase supervisory military patrolling of the areas where terrorists had been known to operate. These increases of military activity resulted in skirmishes with terrorist groups in various parts of the Jaffna peninsula. While it is correct that some innocent bystanders lost their lives in the course of this exchange of small arms fire, the Government of Sri Lanka must repeat the observations it has already made in regard to the incident at Chunnakam, that the terrorists themselves deliberately put members of the public at risk by selecting crowded areas for their activities. While the Government again reiterates its regret at this needless loss of life, it should also be said that a number of notorious terrorists, such as Kethiswaran and Kiriupanandan, both leading members of the terrorist group PLOTE which is among the terrorist groups whose declared objective is to establish through violence a separate State in Sri Lanka on racial lines, had also succumbed to injuries received during these incidents."

94. The Special Rapporteur transmitted a summary of the allegations received in regard to Uganda, which reads as follows:

"Large numbers of persons were said to have been killed by the Ugandan army in the Luwero triangle area in Buganda over a five-year period beginning in 1979. Several persons were reported to have died of starvation as a result of the deviation by the Ugandan army of humanitarian relief from its destination.

Other deaths allegedly committed by members of the army are the killing of some 300 persons, including women and children, in the town of Namugongo at the end of May 1984, 18 persons in the village of Kigombe reported in mid-August, and 20 clergymen at an Anglican Theological College and Seminary at Namugongo."

5. No reply has been received from the Government of Uganda.

96. The Special Rapporteur transmitted a summary of the allegations received in regard to Zaire, which reads as follows:

"More than 100 prisoners were reported to have been summarily executed at two detention centres in Kinshasa during the past two years. It is alleged that the executions occurred at the Deuxième Cité de l'OUA and the detention centre at the headquarters of the National Gendarmerie, supervised by the Brigade spéciale de recherches et de surveillance. During January 1984 some eight prisoners were reported to have been killed at this centre."

97. No reply has been received from the Government of Zaire, resulting in loss of life or property has been reported."

B. Allegations communicated in 1985

98. In 1985, the Special Rapporteur communicated allegations of summary or arbitrary executions to Governments concerned with a request for further information thereon. The majority of the Governments responded positively to the Special Rapporteur's request and furnished comments and/or information in regard to the allegations.

99. The Special Rapporteur was also visited by representatives of a number of Governments in connection with the allegations communicated to their Governments. He has found such visits extremely useful for obtaining a better understanding of specific situations with specific backgrounds. Also he considers it important to establish a channel of contact with Governments for the purpose of his mandate.

100. The following paragraphs reflect the allegations communicated to the Governments concerned and their replies thereto. They are organized in alphabetical order by country; they concern the provisions of the International Covenant on Civil and Political Rights designed to safeguard the right to life, namely, articles 4, 6, 7, 9, 14 and 15.

101. The Special Rapporteur transmitted a summary of the allegations received in regard to Afghanistan, which reads as follows:

"Further to the allegations communicated to the Government by letter of 31 October 1984, a number of persons were reported to have been sentenced to death by a Special Revolutionary Court. Those sentenced to death were convicted of committing offences against the security of the State, such as anti-State, counter-revolutionary activities, armed resistance against the security forces, terrorism and escape from military service (see list below).

"It was alleged that the defendants were not given the right to appeal to a higher tribunal.

Death sentences by the Special Revolutionary Court

- | | |
|---|--|
| 1. Three unnamed men | Sentence passed in November 1984 in Ghazni Province for charges described as 'evading military service and participating in attacks on government security forces' |
| 2. Mohammad Jan | Sentence passed in January 1985 for charges described as 'multiple murder' |
| 3. Two unnamed men | Sentence passed on 12 January 1985 in Jozjan Province, for 'smuggling arms and fighting against the Government' |
| 4. Khan Gul | Sentence passed in January 1985 in Khost, Paktia Province, for charges described as 'fighting against the State, killing and looting' |
| 5. Abdul Khaliq
Suleiman Khan
Abdul Hakim | Sentence passed on 12 February 1985 in Mazar-i-Sharif, Balkh Province, for a charge described as 'opposing the |

6. Mohammad Sharif
Mohammad Ali
Mohammad Hashem
Baz Mohammad (Bazo)
Mohammad Nasim
Sentence passed on 10 and 12 February 1985 Mazar-i-Sharif, Balkh Province, for charges described as 'anti-State, counter-revolutionary activities, armed resistance against the security forces and escape from military service'
7. Three unnamed men
Sentence passed in April 1985, Kabul, for charges described as 'killing eight people and setting off bombs in various parts of Kabul'
8. Emamoddin (Mawlawi Ahmed)
Sentence passed in April 1985, for charges described as 'terrorism, murder and resisting the security forces'
9. Mohammad Taier
Said Aref
Ramazan
Sentenced on 4 June 1985 in Kabul for charges described as 'major terrorist acts'
10. Abdul Razzaq
Fida Mohammad
Sentenced in June 1985 for charges described as 'killing innocent people and looting on highways'

102. No written reply has been received from the Government of Afghanistan. However, the Special Rapporteur received a telephone communication from the Permanent Mission of Afghanistan to the United Nations Office at Geneva on 14 January 1986 to the effect that in Afghanistan there were no summary or arbitrary executions.

103. The Special Rapporteur transmitted a summary of the allegations received in regard to Angola, which reads as follows:

"Between February 1984 and January 1985, 36 civilians were reported to have been sentenced to death by military courts. Those sentenced to death were convicted of committing offences against the security of the State, such as treason, espionage and armed rebellion (see list below).

It was alleged that trials by the military courts in which those persons were sentenced to death were not conducted by an independent and impartial tribunal, that the defendants and their counsel were not given adequate time and facilities for the preparation of their defence, that their conviction was based on evidence or statements which they made under duress while in pre-trial custody, and that appeal to a higher tribunal was not guaranteed.

<u>Name</u>	<u>Date</u>	<u>Regional Military Tribunal</u>	<u>Charge</u>
NANGOLO, Isaias Jeremias	20 Feb. 1984	4th Region, Huambo	treason and espionage
QUINTAS, Simao	25 April 1984	4th Region, Cuito	treason, espionage and sabotage

<u>Name</u>	<u>Date</u>	<u>Regional Military Tribunal</u>	<u>Charge</u>
SINDACO, Abilio SEGUNDA, Paulo	1 May 1984	3rd Region, Moxico	armed rebellion
CHIMBAIA, Albino CHITUNBA, Felisberto Mateus PANDERA, Afonso Tchiamba	6 May 1984	6th Region, Menongue	armed rebellion
GANDO, Justo MANUEL, Joaquim	29 Aug. 1984	5th Region, Lubango	offences against the security of the State and crimes against the people
CHIMUCO, Miguel MULANGUE, Cândido	7 Sept. 1984	5th Region, Lubango	armed rebellion
CAMBINDA, Daniel CATUCUTUCO, Paulino KESSONGA, Eduardo	13 Oct. 1984	5th Region, Lubango	armed rebellion and offences against the security of the State
BANGO, Fernando ISALA, Antonio LINGUMBA, Manuel MANUEL, Floriano	24 Oct. 1984	6th Region, Menongue	armed rebellion
EPALANGA, Frederico MANUEL, José UMBA, Domingos Alberto	3 Nov. 1984	9th Region, Malanje	espionage and treason
FELISBERTO, Filipe SOMRI, Gaspar	9 Nov. 1984	4th Region, Huambo	espionage and sabotage
CAMEQUE, João Domingos	29 Nov. 1984	5th Region, Huíla	treason and armed rebellion
BARROS, Antonio Quarta	5 Dec. 1984	9th Region, Malanje	treason and armed rebellion
NUNDA, Antonio Calufele	28 Dec. 1984	7th Region, Benguela	military rebellion and sabotage
KATACU, Afonso KIAMBASSUCA, Alberto KIMBOTO, Adriano (tried and convicted in absentia) SECANDO, Eurico	29 Dec. 1984	9th Region, Ndalatanda	treason, armed rebellion and economic sabotage

<u>Name</u>	<u>Date</u>	<u>Regional Military Tribunal</u>	<u>Charge</u>
LUQUEMBE, Fuastino TCHOQUILINHA, Xavier Félix UAIKA, Tiago	10 Jan. 1985	9th Region, Dondo	conspiracy to cause explosions in the town of Dondo
DUMBA, Francisco JOÃO, Augusto SEGUNDA, Geraldo	12 Jan. 1985	6th Region, Menongue	counter- revolutionary activities and membership of UNITA"

104. No reply has been received from the Government of Angola.

105. The Special Rapporteur transmitted a summary of the allegations received in regard to Chile, which reads as follows:

"A number of persons were alleged to have died in detention as a result of ill-treatment while in the custody of the police of the National Information Agency (Central Nacional de Informaciones (CNI)).

The names of those who died in detention were given as follows:

Juan Antonio Aguirre Ballesteros (23)

arrested on 4 September 1984 and taken to the 26th Comisaría in Pudahuel,
found dead on 24 October 1984, headless and mutilated

Mario Fernández López (about 50)

arrested on 17 October 1984,
died on 18 October 1984 in hospital after having been taken there from a CNI detention centre in Colo Colo, La Serena, with serious internal injuries

Patricio Manzano (21)

arrested on 8 February 1985 in San Felipe,
died on 9 February 1985 in an ambulance on the way to hospital from the 1st Comisaría in Santiago

Carlos Godoy (23)

arrested on 21 February 1985 in Quintero,
died on 22 February 1985 in an ambulance on the way to hospital from the police station"

106. The following letter, dated 29 October 1985, was received from the Permanent Mission of Chile to the United Nations Office at Geneva:

[Original: Spanish]

"I have the honour to refer to your communication of 15 October 1985 in which reference is made to the communication of 12 July 1985 from Mr. Amos Wako, Special Rapporteur on summary or arbitrary executions.

In this connection, I have the honour to inform you that, according to information received today from my Government, the four cases referred to by the Special Rapporteur are currently the subject of separate proceedings taking place before the courts with a view to determining the precise circumstances of the deaths and those responsible for them.

The various proceedings in question are at the pre-trial stage and a number of preliminary inquiries have been ordered as a result of which, in some cases, persons have been committed for trial. It can thus be seen that the courts are following up the cases with a view to investigating them thoroughly.

In any event, these regrettable incidents are ordinary offences of homicide and are being dealt with as such by the courts. They could hardly, therefore, be included among the cases described as 'summary or arbitrary executions'."

107. The Special Rapporteur transmitted a summary of the allegations received in regard to Colombia, which reads as follows:

"A number of persons were reportedly found dead after having been detained by the police, security agents and the military, sometimes with signs of torture or gunshot wounds on their corpses.

The names of those found dead were given as follows:

Luis Cardona

arrested on 27 January 1985, found dead one week later in Antioquia

Alcides Santo

arrested on 3 February 1985, found dead on 5 February 1985 in Antioquia

Augusto Suárez

arrested on 3 February 1985, found dead on 15 February 1985 in Caquetá

Guillermo Quiroz

arrested on 12 April 1985, found dead on 14 April 1985 on the road from Cartagena to Barranquilla"

108. The following replies, dated 28 November 1985 and 3 December 1985, were received from the Permanent Mission of Colombia to the United Nations Office at Geneva:

(a) 28 November 1985

[Original: Spanish]

"On the day that a group of terrorists attacked the Palace of Justice of my country and proceeded to carry out 'arbitrary', 'summary' and 'extra legal' executions of the President of the Supreme Court of Justice of Colombia and 10 other judges, I had the opportunity to visit you, as previously arranged, and to provide you with the information which you requested on 12 July of this year, in accordance with the mandate conferred on you by the Economic and Social Council (resolution 1985/40, 30 May 1985).

I now have the honour to transmit an additional written reply to your note of 22 July 1985, on behalf of the Government of Colombia.

In the first place, may I say how much we admire and respect your work and reiterate our readiness to co-operate in it. Nevertheless, for that work to be more useful to our shared goal of preserving human rights, we venture to point out that it cannot be generally stated - nor is there any proof whatsoever - that summary or arbitrary executions have been carried out by the Colombian authorities. It has not been established that the informants have had first-hand and reliable knowledge of such executions, and domestic remedies for investigating the charges made have not been exhausted.

We should like to have more detailed information on the sources and evidence on which the annexes to your notes of 22 July 1985 and 31 October 1984 are based, in order to give a more specific reply.

We cannot apply to Colombia a kind of 'devil's advocate' approach by assuming the truth of certain allegations of violations by the authorities, simply because those authorities are not, for the moment, in a position to prove the contrary. The burden of proof, according to tradition and prevailing norms of international law, and in the Commission of Human Rights itself, is on the accuser, especially when there is an additional circumstance such as the existence of an interest on the part of violent elements connected with drug traffic and terrorism in using the Commission on Human Rights to discredit a democratic régime, a state under the rule of law, and a republic where all modern public freedoms prevail.

An attempt is made to confuse and deceive the organizations and persons responsible for seeing that human rights are respected by distorting the facts and covering up violence against innocent persons, the legitimate democratic authorities and judges themselves, with exaggerated and distorted allegations of various acts. Moreover, the outrage perpetrated against Colombian justice by an unspeakable and monstrous alliance between drug-trafficking terrorists and common criminals who are trying to pass themselves off as political offenders, is the tragic culmination of threats and previous attacks against judges in Colombia, which an objective, calm and impartial rapporteur such as yourself cannot fail to take into account when he analyses our situation, and which partially explains the difficulty in carrying out investigations.

You will doubtless agree that a firmly-rooted democracy such as Colombia, with separation of powers and an independent judiciary (co-opted with no participation by the Executive), a free press and free trade unions, an opposition with guaranteed rights, regular elections, all the freedoms of a modern constitutional State (despite the enormous difficulties and problems of underdevelopment), cannot be judged according to the same criterion as a dictatorship in which the only recourse left to the opposition is to overthrow it through some form of force or unconventional armed uprising. In Colombia, the normal procedures are available to the opposition, something which should not be forgotten.

Regarding the state of siege, Strachey gave it the perfect definition when he stated that a totalitarian State did not need to decree a state of siege because totalitarianism was tantamount to living in a permanent (and, I would add, highly developed) state of siege. What is revealed by the imposition of a state of siege in Colombia is precisely the State's weakness when faced with the terrible and implacable phenomena of pseudo-political criminality, common criminality and drug trafficking, with their blurred dividing lines, shameful alliances and common aims of destabilizing one of the few nations which has managed - in the midst of difficulties which we do not deny - to preserve the essence of law, liberty and democracy, despite the Latin American conflagration.

Your note of 12 July (page 2) stated 'in some cases the safeguards usually envisaged to protect the right to life did not seem to function adequately' (the underlining is mine) an assertion which implies that these cases are isolated and cannot be qualified as systematic or gross violations of our obligations under the international covenants which we have signed and which we observe. We admit that there are situations of violence in Colombia. It distresses and concerns us that, in some cases, subordinate authorities have become involved in this spiral of violence. However, this action has been in spite of Government efforts and indeed contrary to the express wishes of the Government. We also have an Office of the Government Attorney, which is independent of the Executive, and which is unwavering in conducting investigations, bringing charges, and monitoring the situation. The judiciary is also independent of the Executive, and fulfils its mission amidst enormous difficulties, some of which are inherent in underdevelopment itself. Others are due to the fact that we have failed to keep up with the three-fold criminality mentioned above, which has clandestine external financing and support, and even goes so far as to attack judges and magistrates directly, as we have seen, in an inhuman way which demonstrates what their goals are.

Regarding the cases you mention in your annex ('A number of persons were reportedly found dead after having been detained by the police, security agents and the military, sometimes with signs of torture or gunshot wounds on their corpses'), namely Luis Cardona, Alcides Santo, Augusto Suárez and Guillermo Quiroz, the judiciary and Office of the Government Attorney are conducting investigations and their findings will be transmitted to you. We may observe at the outset that these alleged cases all occurred this year, and I would ask you to send us proof that these men were detained by the authorities, as well as the alleged proof of torture, to allow more time for the investigations, which are not easy, for the reasons mentioned above.

Another annex states, 'a number of persons were allegedly killed by the army, police or paramilitary forces in particular in the areas where guerrilla groups were reported to be active' (the underlining is mine). It is obvious that those people were killed in armed uprisings when attacking barracks, taking villages, murdering innocent people, and kidnapping women, old people and children for ransom.

No constitutional State can be asked not to defend itself against armed attacks by gangs of criminals. The annex also states, that 'the number of persons killed between August 1982 and May 1984 was said to be in the region of 900' which specific region is being referred to? You go on to say: 'the victims reportedly included peasants, human rights

activitists, union leaders and a number of those who had been released as a result of an amnesty law in November 1982, and, in all cases, they were reportedly unarmed civilians'. We categorically reject this statement, since it cannot be proven that, in all cases, 'unarmed civilians' were involved. The 'unarmed civilians' who unfortunately died in Colombia during that period, were generally killed by guerrilla forces or subversives, and not by Government agents. We should like to know which cases involved victims that were 'human rights activists'. Who are these unarmed activists? We are not familiar with these cases.

Peasants have been killed and intimidated by guerrillas. Neither do we know of any trade-union leaders who have died, apart from those who have been murdered by the guerrillas themselves. It is true that some of those granted amnesty by the law have been killed, and these cases are being investigated. But in some cases this appears to be the work of their former comrades-in-arms, who sentenced them to death for not having continued the struggle.

With regard to the fact that 'the Attorney General had made a report on the participation and responsibility of security forces in extra-legal killings with recommendation for appropriate legal action in regard to a number of members of the forces concerned', this shows precisely that the Government Attorney is an independent official who has not hesitated to bring charges - and is currently bringing charges - in a few isolated cases of abuse which are being investigated by the justice authorities in the face of great difficulties in finding evidence.

As you mentioned, in Colombia an amnesty act (and another act of pardon) was passed during the period 1982-1985 which were so generous in scope that the Sub-Commission on Prevention of Discrimination and Protection of Minorities approved by consensus resolution 1984/16, which pointed out the positive nature of the peace process in Colombia and even stated: 'Considering that this valuable precedent should be encouraged, since it progressively transforms a process of conflict into a momentum for peace, creating conditions for national reconciliation, inasmuch as it takes into account not only the effects but also the economic and social causes of the situation'.

Precisely because this is a process in which the good faith of the Colombian Government is obvious, the Sub-Commission refrained from dealing with allegations similar to those previously mentioned in your letter of July 1985. Despite incidents such as those which occurred at the law courts, with the participation of criminals who had been recently released from prison under the amnesty act, the Government is continuing its peace and reconciliation efforts. I would ask you to see that this fact is taken into account and duly acknowledged when your report is drafted."

(E) 3 December 1985

[Original: Spanish]

"On instructions from my Government, I should like to supplement my note No. 721 with the following specific information on cases of alleged arbitrary or summary executions:

(a) César Augusto Suárez Victoria

Attached is a photocopy of the special search warrant issued by Military Court of Criminal Investigation No. 129, based at Larandia, Caquetá, in case No. 040 concerning the offence of homicide committed on 8 February 1985 against the person of César Augusto Suárez, in which the soldier José Antonio Perdomo Justinico is accused and indicted. The warrant is a document of three pages, the last of which contains seals and signatures of the head of the local branch of the Attorney-General's Office, the holder and the Clerk of the Court (annex 1).

Preliminary proceedings have been instituted against a soldier with a view to investigating and punishing the offence.

(b) Guillermo Enrique Quiroz Tietjen (annex 2, pp. 2 and 3)

Here too, pre-trial proceedings are being conducted against an official of the Administrative Security Department, the situation regarding the case is similar to (a).

(c) Luis Cardona and Alcides Santos (annex 2, pp. 3-6)

A case continues to be prepared against unknown persons - in other words, there is no evidence of culpability by a member of the armed forces, the police or the security forces.

As you will realize, very considerable efforts are being made to elucidate the facts and punish the culprits, in accordance with the Government's express will to uphold the rule of law and prevent any abuse of authority. I trust that you will duly appreciate this fact."

Attachment to letter of 3 December 1985

"To: Dr. Jaime Hernández Salazar
Deputy Attorney-General of the Nation

We hereby submit the report of the Committee set up by the Attorney-General's Office on 13 August, which supplements the report of 16 August on the same subject.

COMPLAINT

This investigation is based on the document signed by the Secretary for International Organizations and Conferences of the Ministry of Foreign Affairs of Colombia, stating the following: '... Mr. Wako also requests that, for the purpose of preparing his report to the Commission on Human Rights, the Government of Colombia should urgently supply information on four especially sensitive cases of citizens who were found dead after being arrested by the police, security officers or members of the armed forces, sometimes with signs of torture or bullet wounds on the bodies. The cases are the following: (a) Luis Cardona, arrested on 27 January 1985 and found dead in Antioquía one week later; (b) Alcides Santos, arrested on 3 February 1985 and found dead in Antioquía on 5 February; (c) Augusto Suárez, arrested on 3 February 1985 and found dead on 15 February 1985 in Caquetá; (d) Guillermo Quiroz, arrested on 12 April 1985 and found dead on 14 April 1985 on the Barranquilla-Cartagena road ...'.

INQUIRIES CONDUCTED

A. Investigation into the death and abduction of
Guillermo Enrique Quiroz Tietjen

The Second High Court of Cartagena had the case referred to it by the Sixth Court of Criminal Investigation. A written application was made on 21 August for collection of the evidence requested by the special representative of the Attorney-General's Office and the inquiries ordered by the court trying the case, including the questioning of police officer Alberto Grisales Henao.

The request was granted by the competent court and the investigation remitted to the Sixth Court of Criminal Investigation of Cartagena which, with the co-operation of the aforementioned Office, carried out the following inquiries:

On 23 August the body of Guillermo Enrique Quiroz Tietjen was exhumed in order to establish whether the wounds received bore a direct, predominant or merely circumstantial relation to death, whether there had been torture (an arm had been severed according to the statement by Adolfo Quiroz) and whether death had occurred slowly through subjection. Dr. Luis Pilonieta Rueda was commissioned to prepare a forensic medical report, and his findings will be submitted to the Office in due course.

Police officer Alberto Grisales Henao was questioned at San Andrés (Islas) in the presence of a representative of the Attorney-General. It should be noted that the investigating magistrate had ordered this action to be taken as long ago as 29 April, but it had not been possible to conduct the interrogation because the police officer concerned was constantly being transferred. The deposition was finally made on 24 August, at the request of the special agency.

A judicial inspection was carried out at the Cartagena office of DAS, where a vehicle corresponding to the description of the one reportedly used for the crime was found and it was established that the DAS official Edgar Trujillo Acosta had been in the San Jacinto region on the day preceding the crime. As a result, the investigating magistrate was asked to include the DAS official in the proceedings.

The following special requests of the Attorney-General's office emerged from the Committee's sitting: provision of copies for the purpose of the criminal investigation against Wilfrido Cervantes Beltran, Agustín Rafael Ariza González and Genaro Viloría for violations of article 176 of the Penal Code; copies to the regional branch of the Attorney-General's office at Cartagena for the purpose of investigating members of the police force of San Jacinto and Carmen de Bolívar, since horses from these police forces were kept at the Bajo de Oso ranch and staff of these units were on guard there. However, when the Bogotá criminal police, assisting the Attorney-General's office, conducted a search in connection with the investigation, they found weapons for the exclusive use of the armed forces and personnel lacking due legal authorization, a situation which led the Commander of the Atlantic Naval Force to hand down a decision to that effect; copies for an investigation by the regional branch of the Attorney-General's office at Cartagena of DAS agent Edgar Trujillo Acosta for receiving 2,000 pesos

when he was at the Bajo de Oso ranch owned by Rodolfo Donado, according to a receipt included in the evidence of the investigation, together with the confiscation of the weapons concerned; an application dated 29 August also called for the detention of police officer Alberto Grisales Henao on the grounds that the requirements of article 439 of the Code of Penal Procedure were met. The applications concerned are annexed to this report.

B. Investigation into the death of Luis Cardona and Alcides Santos

The present situation is as follows:

Bearing in mind the written application by Alonso Núñez, and subsequent recognition of the contents thereof, regarding the circumstances of the death of the persons concerned, two criminal investigations were found to be in progress against unknown persons in the Twelfth High Court of Medellín and the Second High Court of Manizales.

The Twelfth High Court of Medellín is dealing with this matter as case No. 5629, proceedings against unknown persons for the crime of homicide. The facts are the following: at 5 p.m. on 4 February 1985, the San Miguel-Sonson departmental police inspectorate lifted a corpse out of the Río la Miel. Description of the location: 'The body was submerged about 30 metres from the shore of the San Miguel Viejo ranch on the Río la Miel, 100 metres from the San Miguel-Totumo road, approximately 2.5 kilometres from the Corregimiento urban centre; there is a two-metre gully leading down to the shore'. Clothing: black, striped trousers, red underpants, dark blue vest, dark brown patterned socks, dark brown rubber footwear. Concerning the wounds, the record of the operation refers to an 'entry wound produced by a short-range firearm in the left thorax, exiting through the left armpit with damage to the rear side of the left arm and bruising to the hands, apparently caused by bindings. Ears bitten by fish Hands tied behind the body.' The autopsy - No. 3, carried out on 5 February 1985 by Dr. Rodrigo Gaviria Obregón, Medical Director of San Miguel, reads as follows: '... From an external examination of the body ... it is concluded that death occurred within 24 hours Conclusion: death occurred as a direct result of anoxia caused by submersion after the subject was shot by a firearm and sent flying into the water, still alive ...'. As regards age, the record gives it as 45.

An investigation is being conducted in the Second High Court of Manizales, as case No. 12-732, into the crime of homicide committed by unknown suspects. The inquiry was conducted by the Departmental Inspector of La Atarraya (La Dorada-Caldas) at 8 p.m. on 4 February 1985. Location: 'Los Achiles ranch'. Clothing: 'No shirt; striped blue dacron trousers; white underpants; red socks; black belt; yellow leather boots'. Age: 42 years.

We followed this up by talking to Mr. Alonso Núñez, author of the application which led to the request of the Ministry of Foreign Affairs for an investigation into the death of Alcides Santos and Luis Cardona. The witness lives at Armero (Tolima), and provided the following information:

Mr. Alcides Santos used to present himself as Ramón in the mine and an account is given of his conduct and other activities by Mr. Luis Charry, who resides in the jurisdiction of Lérica, near the Los Laureles ranch.

Alonso Núñez undertook that Mr. Luis Charry, who knew those who are now deceased and even worked with them in the mine, would co-operate in the investigation and participate in the inquiries to be conducted in the district of San Miguel and La Atarraya in order to locate the persons who were eyewitnesses of the events, as referred to in the written statement by Alonso Núñez.

We also visited the Departmental Inspectorate of San Miguel and talked with Juval Casteblanco, parish priest, who stated that he had seen the bodies with the hands tied behind the back, that according to the parishioners the persons concerned were not from the region and that they had apparently been killed on the same day at the localities already mentioned.

At the Departmental Inspectorate of La Atarraya, no further information was obtained, this being a place with a small population; it adjoins the Inspectorate of San Miguel, and the two are separated by the Río la Miel. In the village of Puerto Boyacá, the members of this Committee talked with Mrs. Eucaris Velásquez Yépez, bearer of identity card No. 24,893,840 from Puerto Boyacá, and Miss Aura Isabel Cardona Velasco, bearer of identity card No. 46,642,561 of the same municipality, residing at Carrera 2a, No. 5-15, Barrio Pueblo Nuevo, daughter of Luis Cardona, who stated that her father had been travelling from La Atarraya to La Dorada in a vehicle driven by a man known as 'el Ganso', resident of La Dorada, that he had been removed from the car by two occupants at a place called El Indio, and that nothing certain had been learned of his whereabouts up to the present time. Describing her father, Miss Cardona Velasco said that some of his teeth were missing and the remainder in bad condition, that he had stiff joints on the fingers of the left hand and some white patches on the skin. She also stated that more detailed information could be obtained from Mrs. Hohelia, his latest wife, who lived in La Dorada.

The manager of the Agrarian Credit Bank in Puerto Boyacá informed us that Pedro Luis Cardona Trejos, bearer of identity card No. 1,295,959 of La Dorada, 'El Porvenir' ranch, San Fernando Cimitarra, living with his companion Luceli Velásquez, had a debt of 90,000 pesos plus interest accumulated since March 1983 and that the 'El Porvenir' ranch was abandoned. He further stated that Aura Isabel Cardona, residing at Carrera 2a, No. 5-15, Puerto Boyacá, was inquiring into the action to be taken to claim the ranch as the daughter of Cardona Trejos.

COMMENTS

First, with due respect for your decision, we consider that it is necessary to pursue the inquiries into the deaths of Alcides Santos and Luis Cardona with the collaboration of Mr. Luis Charry. For this purpose, operatives and a lawyer are needed, since these investigations reveal inaccuracies regarding the identification of the bodies found and responsibility for the events.

Second, we shall convey the results of the Committee's inquiries to the courts named above. The relevant reports are attached.

Third, attached are photocopies of the three investigations conducted in connection with the present report.

(Signed) José Oswaldo Carreto Hernández (Signed) Ricardo Chávez Roa
Legal Consultant Criminalist"

109. On 8 November 1985, the Permanent Representative of Colombia at the United Nations Office at Geneva visited the Special Rapporteur concerning the above-mentioned allegation.

110. The Special Rapporteur transmitted a summary of the allegations received in regard to Ghana, which reads as follows:

"In June 1983, immediately after a coup attempt, some 70 persons were reportedly executed without a trial by the security forces for their suspected connection with the coup attempt. In March 1984, 11 persons, mostly soldiers, were reported to have been executed after having been sentenced to death in absentia by the public tribunals for their part in previous coup attempts in 1982 and 1983, or without any legal proceedings. Among those who were executed without any legal proceedings, the following names were given:

Private Kwame Tekpor, Warrant Officer Frimpong, Corporal Apatinga, Corporal Gyekye, Lance-Corporal Sarkadie, Lance-Corporal Bismarck and John Ofori Wilson, a civilian.

It was alleged that until August 1984 the Public Tribunal did not allow the right of appeal and also that procedural safeguards in order to ensure a fair trial were not guaranteed, such as independence and qualification of judges, standard of proof and evidence for adoption by the tribunal and distribution of burden of proof."

111. No reply has been received from the Government of Ghana.

112. The Special Rapporteur transmitted a summary of the allegations received in regard to Guatemala, which reads as follows:

"A number of persons were found dead after having been abducted or disappeared. The corpses often showed signs of torture. The names of those persons were given as follows:

Mayra Janeth Meza Soberanis (27)
found dead on 28 January 1985 in Mazatenango

Neftalí Morales de la Cruz
his corpse thrown from a flying helicopter on 10 January 1985
in Mazatenango

Aurelio Cotto Melgar
found dead on 14 March 1985 in Guatemala City

Flavio José Quezada Saldaña (29)
shot to death on 23 March 1985

Carlos Enrique Cabrera García
shot dead on 27 March 1985 in Guatemala City

Manuel Sosa Avila
shot dead on 31 March 1985

Héctor Orlando Gómez Calito (32)
found dead on 31 March 1985, mutilated

María del Rosario Godoy Aldana de Cuevas (24)
Augusto Rafael Godoy, her son of 2 years old, and
Mynor Godoy Aldana, her brother
found dead on 4 April 1985 outside Guatemala City".

113. The following replies, dated 15 July 1985, 28 November 1985 and 15 January 1986, were received from the Permanent Mission of Guatemala to the United Nations Office at Geneva:

(a) 15 July 1985

[Original: Spanish]

"...

I wish in the most courteous manner to remind you that in my country three military organizations of a subversive nature, identifying themselves by the abbreviations EGP, ORPA and FAR, are operating with support originating from abroad. These organizations, with the aim of terrorizing the population and thus undermining its spirit of resistance, are systematically committing acts of violence, which include attacks, murders, abductions, thefts, etc.

The law enforcement authorities are endeavouring diligently to prevent these acts but this task, as is fully demonstrated by the chronicle of terrorism throughout the world, has proved impossible even in developed countries.

The resources and methods used by terrorism, which has now attained international dimensions and in many developing countries passes itself off as 'revolutionary struggle', present the authorities with difficulties and complications which cannot easily be controlled and overcome.

Furthermore, it will not have escaped your enlightened attention that it is very easy and convenient for these organizations to accuse the Governments they are trying to destabilize of the crimes which they themselves commit. Consequently, it is improper to accept them as 'summary or arbitrary executions'.

I shall in due course transmit to you the information I receive from my Government concerning the persons referred to in the annex to your note.

..."

(b) 28 November 1985

[Original: Spanish]

"... has the honour, with reference to notes G/SO 214 (33-2) and (33-3), concerning Economic and Social Council resolution 1985/40, to transmit below the comments of the Government of Guatemala in respect of note G/SO 214 (33-3), dated 12 July 1985, which alleges that our Government lacks safeguards protecting the right to life, and also adequate means of ensuring observance of this universal right.

In this regard, the Government of Guatemala wishes to state that both observations are erroneous, in that the laws of the State of Guatemala are based on absolute respect for human rights, while Guatemala's criminal law describes and classifies as offences all forms of behaviour which endanger the life and safety of individuals and their rights. This is a legal right which is safeguarded, and these laws concern both private persons and officials of all types.

The following offences may be cited by way of example: homicide, aggravated homicide, assault and discharge of a firearm, bodily injury, rape, abduction, kidnapping, illegal detention, illegal arrest, unlawful search of residence, coercion and threats, extortion, fraud, usurpation of office, usurpation of status, genocide, offences against basic human duties, violation of the Constitution, terrorism, illegal assembly of armed persons, possessing and carrying firearms, abuse of authority, refusal of assistance, illegal detention, abuses against individuals, false accusation and denunciation, delays in and denial of justice, and so forth. Both the Constitution of Guatemala and its criminal and criminal trial laws contain wide-ranging technical provisions concerning criminal procedure, which devolves on one of the three organs of the State, the Judiciary, while completely independent, it most certainly observes the universal principles of this branch of the law.

There are no cases in Guatemala of summary or arbitrary executions, and habeas corpus and amparo exist under Guatemalan law.

On the administrative side, Guatemala has a National Police Directorate-General and a Treasury Police Directorate-General. They are responsible for keeping public order, protecting the life and safety of persons and their possessions, preventing crimes and other offences against the law, co-operating in the investigation of offences and presenting offenders before the appropriate courts, in addition to carrying out all the preventive, repressive or merely executive tasks which devolve on the police service. Both Directorates-General, as part of their duties and in keeping with their technical, human and budgetary resources, carry out their duties conscientiously and responsibly; legally they are answerable to the courts of justice of the Republic.

However, it should be added that in Guatemala, as in other countries, some de facto situations may escape the immediate control of the authorities, and that these comments are applicable both to notes G/SO 214 (33-2) and (33-3) and to any notes issued in the future containing similar allegations.

In transmitting the foregoing, the Permanent Mission of Guatemala would be grateful if its comments could be transmitted to Mr. S. Amos Wako, Special Rapporteur of the Commission on Human Rights.

(c) 15 January 1986

[Original: Spanish/English]

"...

With reference to its note No.031/DH/86, dated 14 January 1986, takes the liberty of enclosing with this communication the following documents which unfortunately were not attached to the above-mentioned note:

1. Document No.E/CN.4/1985/60 1/
2. Detailed report: Santa Anita de las Canoas
3. Forensic medical report: Mr. Hector Orlando Gómez Calito (A/40/865, appendix IV). 1/

'Santa Anita las Canoas

On 20 April, on the eve of the visit to Guatemala of Amnesty International, a local newspaper, La Razón, reported the massacre of 125 campesinos at the village of Santa Anita las Canoas in the Department of Chimaltenango. According to the report, the victims were forced to dig a mass grave at the foot of a cliff, and after killing them, the perpetrators set off dynamite charges which covered the mass grave with rocks. Two days later, the newspaper El Imparcial printed a statement by the Commander of the Chimaltenango Military Zone denying the event ever took place and claiming the massacre report was part of an effort to embarrass Guatemala. A third story, which appeared in La Razón, on 23 April, did not refer to the story of 20 April, but instead quoted from a police report to the effect that a "series of robberies, assaults, and destruction of property" in the village of Santa Anita de las Canoas had taken place. In view of the serious nature of the massacre report, and the interest on the subject expressed by the Amnesty delegation, private investigators attempted to determine the actual events.

A review of detailed maps of Chimaltenango revealed that the correct name of the village was in fact Finca (Farm) Santa Anita de las Canoas, located in the northern, and highly mountainous, part of the Department. Santa Anita is part of the Municipality of San Martín Jilotepeque. The farm is not served by an all-weather road, although a dirt road connects it with San Martín. The road distance is probably 18 km or more. Due to the mountainous nature of the terrain, during the most active period of the insurgency, 1980-1982, Chimaltenango witnessed severe combat between EGP and the army. Although largely pacified, there are still reports of scattered EGP actions in the Department.

1/ Document available separately.

According to the original report, one of the survivors of the massacre had been hospitalized in the Departmental Hospital in Chimaltenango. In view of this, the private investigators contacted an American citizen who runs a health clinic in the area, and asked a source who had served her medical internship in that hospital in 1983 to attempt to ascertain if anyone from Santa Anita had received medical treatment in the recent past or if anyone had heard rumours of the alleged massacre. In both cases the information was negative. The American citizen had not heard anything about the event, and a two-week review of hospital records failed to show that anyone from Santa Anita had been served at the Departmental Hospital.

On 26 April, the private investigators accompanied by two other persons travelled to Santa Anita by helicopter. Due to the absence of identifiable landmarks - the whole mountain area consists of small villages with some isolated houses - they landed at the nearby farm of Santa Rosario, some 4 km away, and sought directions to Santa Anita. Local villagers were quite friendly, more so than in most other Indian villages visited, and after giving directions they engaged in some general talk about the weather and the forthcoming planting season. Towards the end of the conversation, they were asked about any incidents in Santa Anita. The villagers said that nothing had happened there except some robberies about a month before. They said that in another nearby village, four men had been arrested for theft by the army.

From Rosario, the private investigators travelled to Santa Anita and landed at its main housing concentration, some 40 houses scattered over some 50 or so acres. In the centre of the housing area there were several buildings, including a school. The farm was divided into four sections with some 1,200 or so inhabitants of which about 400 were adults and the rest children. Only about 100 children were enrolled in school and many did not attend classes regularly. The local civil defence forces (CDF) had 145 members, most but not all of the able-bodied males of the farm. Communication to the outside was limited to travel on the dirt road, and when it was usable, one or two buses or trucks made a run each week.

During the visit, the private investigators spoke to some 25 adults and about six schoolchildren, including the schoolteacher, the military commissioner, and the head of the CDF. Six conversations including the one with the schoolteacher were in private. The others included two or more persons. As was the case in Rosario, the inhabitants were significantly more open and communicative than is usual for residents of Indian villages. Although ethnic Indians, all men and most of the children, including the girls, spoke fluent Spanish.

According to the villagers, the only incident to take place in Santa Anita since 1982, when an undetermined number of guerrillas and guerrilla supporters were killed in clashes, was a robbery that took place on the night of 18 March. That night some 20 to 25 men armed with automatic weapons entered the town, robbed four houses, including one that had a small sundries store, and burned another when its owner attempted to resist. The robbers took food, clothes, and money. The perpetrators wore civilian dress and spoke Spanish among themselves and to the Indians (Santa Anita is a

Cachiquel-speaking area). Almost all the residents described them as "desconocidos" ("unknown"), although one of them said they were insurgents. No one was hurt during the robbery, although the family whose house was burned out had moved to San Martín to stay either with friends or relatives.

After take-off, the helicopter circled over much of the surrounding area and the private investigators attempted to find some area that showed signs of recent slides, explosions, or raw rock. None was found.

After ascertaining the above, the private investigators found that a similar event had been reported in the March violence report. This incident was reported in the local press in late March. Those reports stated that 26 guerrillas had burned nine houses in the village of Las Canoas and had escaped without encountering the army.

COMMENT. Whatever happened in Santa Anita, it appears quite certain that no massacre took place in recent weeks. The villagers were not at all reticent to discuss the 1982 events, but denied that any other incidents had taken place in the farm between 1982 and the March robbery. The children's version of the events basically matched that of the adults, and as they say in Guatemala "only drunks and children ever tell the whole truth". The children were also quite happy and did not act as if they had lost loved ones in the recent past. Neither the neighbours nor the hospitals gave any indication that anything out of the ordinary had happened in the area in recent weeks. Thus, although we do not know who robbed Santa Anita, the private investigator who visited the farm is quite certain that no massacre took place there as originally reported in the press. End of comment."

114. On 23 July 1985, the Permanent Representative of Guatemala to the United Nations Office at Geneva visited the Special Rapporteur concerning the above-mentioned allegations.

115. The Special Rapporteur transmitted a summary of the allegations received in regard to Indonesia, which reads as follows:

"In East Timor during the past years a number of persons, after having been arrested by the Indonesian authorities for their suspected sympathy or connection with the Frente Revolucionária de Timor Leste (FRETILIN) or in reprisal for alleged attacks by FRETILIN members, were allegedly killed in detention. Among those allegedly known to have been killed in detention in 1984, 44 names were given. The following are some of those identified cases:

1. Jaime Castelo
executed in February 1984 while being detained in the district military command (KODIM) in Los Palos
2. Moises Arango, Laurencio Arango, João Xavier and Oscar
executed on 29 May 1984
3. Vicente Freitas, Jacinto da Silva, Tomas da Silva
executed on 30 May 1984 in Baubau.

In addition, approximately 100 men were reported to have been executed in March 1984 while in the custody of Indonesian forces in the vicinity of the village of Hamba near Bobonaro.

Furthermore, numerous persons allegedly continued to be killed by security forces as in previous years in connection with an anti-crime campaign. Dead bodies of suspected criminals were found in particular in North Sumatra, East Java, West Java and in Jakarta."

116. The following letter, dated 22 October 1985, was received from the Permanent Representative of Indonesia to the United Nations Office at Geneva:

[Original: English]

"...

Referring to your letter of 12 July 1985, number G/SO 214 (33-3), in relation to your mandate as the Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions, I would like to convey my Government's comments which are as follows:

1. As in the past, the Government of Indonesia solemnly honours all the provisions of the Constitution and laws in respect of the protection of human rights, including the right to life. It is the determination of the Government of Indonesia strictly to ensure the implementation of laws and regulations to protect the rights of individuals with regard to arrests, detentions, trials, and execution of sentences.
2. The Government of Indonesia would like to restate that the information about the alleged killings of a number of persons held in detention in the Province of East Timor as well as the alleged executions in the vicinity of the village of Hamba during 1984 is simply untrue. The clarification for these allegations was already given by the Permanent Representative of Indonesia in his letter No.43/POL-10/85, dated 10 January 1985. There is no need to repeat the details of this explanation, since it is undoubtedly clear that those allegations are part of a politically motivated campaign against Indonesia conducted by ex-FRETILIN members in exile and their supporters abroad. In addition, those allegations are nothing more than distorted fact, rumours and hearsay, the truth of which will never stand the test of independent sources. The Indonesian Government's respect of the law and rights of individuals, no less in the Province of East Timor than any other province of the country is reflected, among other things, by the fact that persons suspected of criminal offences are tried in civil courts. In the case of East Timor almost 160 persons were sentenced on charges based on article 110, section 1, together with article 106 of the Indonesian Criminal Code, from December 1963 to March 1985. OF this number, 128 persons received sentences of less than seven years. Furthermore, 50 persons, previously held in Comarca prison, were released in April 1985, upon the Court's finding of insufficient evidence.
3. With regard to the reported 'mysterious killings', the Government of Indonesia would like to reiterate its opinion as

contained in the letter of the Permanent Representative of Indonesia to the United Nations in Geneva No.141//POL-040/84 dated 24 January 1984 that these killings are not in any way directed or condoned by the Indonesian Government, because illegal methods in combating crime as alleged are not only against the provisions of the Constitution, but are also in contravention of the due process of law for each and every Indonesian.

It is our sincere hope that the above comments will clarify the allegations referred to in your letter and therefore enable you to prepare an impartial and objective report for the forty-second session of the Commission on Human Rights."

117. On 5 November 1985 and 15 January 1986, the representative of the Government of Indonesia and the Permanent Representative of Indonesia to the United Nations Office at Geneva visited the Special Rapporteur concerning the above-mentioned allegations.

118. The Special Rapporteur transmitted a summary of the allegations received in regard to the Islamic Republic of Iran, which reads as follows:

"In 1985 a number of persons were reported to have been executed secretly or publicly without any trial or after trials which did not provide safeguards to protect the rights of the defendants. It was alleged that during 1984 580 persons were known to have been executed in this manner. In April and May 1985 more than 300 persons were allegedly executed in Evin Prison in Tehran."

119. No reply has been received from the Government of the Islamic Republic of Iran.

120. The Special Rapporteur transmitted a summary of the allegations received in regard to Iraq, which reads as follows:

"A number of persons were reported to have been executed without charge or a trial in February and March 1985. Those who were executed were said to be members of the Kurdish Democratic Party (KDP), members of the Al-Hakim family and members of the Assyrian community. The names of those executed were given as follows:

1. Members of KDP executed in February:

- (a) Muhammad 'Al Zahir
- (b) Hadji Ahmad Osman
- (c) Yhaya Yunis
- (d) Ali Aziz Muhammad
- (e) Hussain Salih Mustafa
- (f) Behir Sinjari
- (g) Abdallah Hemed 'Abdallah

2. Members of KDP executed in the second week of March:
 - (a) Kamal Rassoul
 - (b) Saleh Muhammad Amin Abd Al-Karim
 - (c) Gaffour Muhammad Saleh
3. Members of KDP executed on 31 March:
 - (a) Karim Isma'il
 - (b) Muhammad Ibrahim Salih
 - (c) Ahmad Yasin 'Abdallah
 - (d) Mahmud Hasan Yunis
 - (e) Hamad Hussain
4. Members of the Al-Hakim family executed on 5 March:
 - (a) Sayyid 'Abd Al-Hadi Al-Hakim
 - (b) Sayyid Hassan Al-Hakim
 - (c) Sayyid Hussain Al-Hakim
 - (d) Sayyid Muhammad Rida Al-Hakim
 - (e) Sayyid Muhammad Al-Hakim
 - (f) Sayyid Sahib Al-Hakim
 - (g) Sayyid Dhia Al-Hakim
 - (h) Sayyid Baha Al-Hakim
 - (i) Sayyid Muhammad Ali Al-Sayyid Jawad Al-Hakim
 - (j) Sayyid Majid Al-Sayyid Mahmud Al-Hakim
5. Members of the Assyrian community:
 - (a) Yussuf Toma Hurmuz
 - (b) Youbert Benyamin Shleiman
 - (c) Yuhanna Isho Jajo."

121. The following reply, dated 23 October 1985, was received from the Permanent Mission of Iraq to the United Nations Office at Geneva:

[Original: Arabic]

"... With regard to the note dated 12 July 1985 received from the Centre for Human Rights concerning allegations of execution without trial or without charges being brought against the accused, the reply of the Iraqi authorities to those allegations is as follows:

We wish to state that we have no information concerning the said members of the so-called Kurdistan Democratic Party, with the exception of:

1. Yahya Yunis Qasim
2. Kamal Rassoul Ahmad
3. Ali Aziz Muhammad

who were sentenced to death and executed for engaging in acts of sabotage that are punishable under Iraqi law. At the time of their arrest, they were found to be in possession of weapons and explosives and in the act of carrying out a sabotage operation.

Hussain Salih Mustafa was sentenced in absentia for the commission of offences prejudicial to the security and integrity of the State after evading military service. He is still a fugitive from justice.

With regard to the other allegations concerning executions on 31 March 1985, we wish to inform the Centre that the following persons:

1. Abdul Karim Ismail
2. Mahmoud Salih Ibrahim
3. Mahmoud Hussain Yunis

were sentenced to death and executed for engaging in acts of sabotage carrying weapons and explosives and attacking the homes of citizens in peaceful villages. During the course of their armed assaults, they murdered the headman of one of the villages. They also took part in acts of sabotage aimed at prejudicing national security and sovereignty.

The following members of the Assyrian community:

1. Yusuf Toma Hurmuz
2. Yubert Benyamin Shleiman Al-Ashuti
3. Yuhanna Ishu Shimoun

were sentenced to death and executed for criminal conspiracy prejudicial to the independence, unity and territorial integrity of Iraq through their establishment of a hostile movement aimed at secession by force. They transported weapons and explosives and engaged in acts of sabotage against public and private establishments and institutions.

In this connection, we wish to point out that, in each of the above cases, sentence was passed by a competent court which observed all the prescribed legal procedures and safeguards for the defence of the accused as stipulated in the Iraqi Constitution and the laws in force. The court also appointed attorneys to defend them.

With regard to the execution of the following 10 members of the Al-Hakim family:

1. Abdul Hadi Muhsin Mahdi Salih Al-Hakim
2. Hasan Abdul Hadi Muhsin Mahdi Al-Hakim
3. Hussain Abdul Hadi Muhsin Mahdi Al-Hakim
4. Muhammad Ridha Muhammad Hussain Said Al-Hakim
5. Muhammad Muhammad Hussain Said Al-Hakim
6. Abdus-Sahib Muhammed Said Al-Hakim
7. Dhia ud-Din Kamal ud-Din Yusuf Muhsin Al-Hakim
8. Baha ud-Din Kamal ud-Din Yusuf Muhsin Al-Hakim
9. Muhammad Ali Said Jawad Mahmoud Al-Hakim
10. Majeed Mahmoud Mahdi Salih Al-Hakim

they were sentenced to death and executed for criminally conspiring to stir up sedition, to promote a spirit of odious sectarian separatism and to establish a hostile organization known as the 'Iraqi Mujahidin Movement', the principal aim of which is to bring about the overthrow by force of the present legitimate constitutional system of government in Iraq. They brought weapons and explosives into the country from abroad and distributed them among saboteurs with a view to provoking unrest and sedition and maliciously stirring up sectarian bigotry. They acted as spies for the Iranian régime, which is at war with Iraq, and thereby committed high treason against their country. They also arranged for some Iraqi military personnel on the battlefields to defect to the Iranian side in time of war."

122. The Special Rapporteur transmitted a summary of the allegations received in regard to Nigeria, which reads as follows:

"In 1984 at least 66 persons were allegedly executed after a trial by the special tribunals which reportedly do not permit the right to appeal to a higher tribunal. On 10 April 1985 three persons, sentenced to death by one of the special tribunals, described as the 'Miscellaneous Offences Tribunal', were allegedly executed in Lagos on 10 April 1985. The names of the three were given as: Bernard Ogedengbe, Bartholomew Azubike Owoh and Akanni Ojelope. The 'Miscellaneous Offences Tribunal', created by Supreme Military Council Decree No.20, promulgated in July 1984, does not allow the right to appeal to a higher tribunal."

123. The following letter, dated 25 September 1985, was received from the Permanent Mission of Nigeria to the United Nations Office at Geneva:

[Original: English]

"Further to your letter Ref.No.G/SO 214 (33-3) of 24 July 1985, and the attachment in respect of persons convicted under Miscellaneous Offences (Decree No.20), I wish to refer you to our letter Ref.No.GIO.11/CON/VOL.XIV dated 20 March 1985 and to reiterate once again that the Tribunal, presided over by a High Court Judge, is duly constituted under the laws of the Federation. Its rules of procedure also guarantee, to both the prosecution and the defence, equal

rights of audience, examination in chief and cross-examination. Also, in accordance with section 1 (2), appeal lies, as of right, to the Supreme Military Council (now known as the Armed Forces Ruling Council) which has the right to confirm, vary or totally disallow a sentence imposed by the tribunal.

With regard to the three persons, referred to in the Communication attached to your letter, who were executed on 10 April 1985, they were tried and found guilty by a duly constituted Tribunal presided over by a High Court Judge. Furthermore, their executions were only carried out after a confirmation of their sentences by the Supreme Military Council to which appeal lies as of right in accordance with the appropriate section referred to earlier. ~~It is to be noted, however, that in another similar case, the Supreme Military Council reduced the death sentence to life imprisonment.~~

In the light of the above, the allegations of the denial of the right of appeal under Decree No.20 are groundless.

..."

124. The Special Rapporteur transmitted a summary of the allegations received in regard to Paraguay, which reads as follows:

"In February 1985 a person whose name was given as Pablo Martínez Díaz, 26, allegedly died in custody as a result of continuous beatings by police personnel after having been arrested by police in Pirayú. A medical certificate reportedly gave the cause of death as traumatismo craneo-encefálico (trauma to the head). While it was officially stated that Pablo Martínez Díaz committed suicide in the police cell by hanging himself, his family was said to have taken legal action through the court to determine the cause and circumstances of his death."

125. The following letter dated 6 September 1985, was received from the Ministry of Foreign Affairs of Paraguay:

[Original: Spanish]

"I refer to your communication G/SO.214 (33-3) of 24 July 1985, requesting information from our country on the case of Pablo Martínez Díaz, who is reported to have died while in police custody in Pirayú, Cordillera Department.

I have the honour to inform you that Mr. Martínez Díaz was detained in the police station of Pirayú, when he was found to be in a state of intoxication. The police station report stated that the cause of death of the individual in question was suicide by hanging. The doctor from the Pirayú Health Centre concurred in that opinion but in his medical certificate did not exclude the possibility of some other cause of death. The body of the deceased was later transferred on the initiative of the Pirayú Chief of Police to the Hospital de Clínicas in Asunción, where an autopsy was performed which showed the cause of death to have been brain injury. In view of the apparent contradiction between the two certificates, which raised doubts about the cause of Mr. Martínez Díaz's death and in order to clarify responsibilities in the case, the State Prosecutor's Department instituted proceedings against the Pirayú Chief of Police.

The case is being heard in the Court of First Instance for Criminal Cases before the third judge, Mr. Edmundo Vittone (Clerk to the Court, Mr. Cáceres). I trust that this information meets your requirements.

..."

126. On 1 November 1985, the Permanent Representative of Paraguay to the United Nations Office at Geneva visited the Special Rapporteur concerning the above-mentioned allegation.

127. The Special Rapporteur transmitted a summary of the allegations received in regard to Peru, which reads as follows:

"As in the past several years, a number of persons, mostly civilians, were killed or found dead in an 'emergency zone' including provinces of Ayacucho, Apurímac and Huancavelica departments, where a guerrilla group was active. Several of these victims were allegedly killed by the guerrilla group, in addition security forces (military or police) are said to be responsible for a number of such deaths. Some of those persons were found dead in dumping grounds and mass graves, often with signs of torture, after having been detained by the security forces or having disappeared. The names of more than 400 people were given as having been detained and subsequently found dead in the emergency zone since January 1983."

128. The Special Rapporteur received, from the Permanent Mission of Peru at the United Nations Office at Geneva, a copy of the statement made by the President at his inauguration on 28 July 1985. The relevant part of the statement reads as follows:

[Original: Spanish]

"...

The use of death as a means to an end is unacceptable under a democratic system. The fact that we are here to fight for the people and for justice is proof that social justice can be achieved under a democracy. The severity of the law will be applied both to those who violate human rights by killings, extrajudicial executions and torture and through abuse of their functions, for it is not necessary to fall into barbarism in order to fight barbarism. We know, nevertheless, that there are many innocent people unjustly accused of terrorism who have been prevented from proving their innocence by delays in the law, and I hereby announce that a fully independent Peace Commission shall be appointed forthwith, made up of jurists, human rights institutions and political groups. It will have a twofold mission: first, to look into the position of persons who feel themselves to be innocent and to propose an immediate solution to the authorities with a view to making a clear distinction between what constitutes acts of terrorism or complicity in it and what should be classified as political offences, for which there are democratic party activists now in prison, unjustly charged with terrorism; and second, to build a bridge of entreaty and dialogue with a view to persuading those who have taken the wrong path to return to democracy. Subject to its proposals and conclusions, and as soon as the necessary conditions obtain, we shall be prepared to consider petitions for mercy, pardon and amnesty from those who have actually committed the offence of terrorism, with the State using tools calculated to promote understanding among Peruvians."

129. The following replies dated 18 July, 17 September [2], 20 September, 18 November, 26 November, 9 December and 10 December 1985, were received from the Permanent Mission of Peru to the United Nations Office at Geneva:

(a) 18 July 1985

[Original: Spanish]

"...

It is my duty to reaffirm ... Peru's position of principle in respect of human rights and the special importance which it attaches to the problem of summary or arbitrary executions in whatever country they may take place. My Government accordingly also wishes to reiterate its appreciation of the work you are doing.

Given the seriousness of the accusation referred to, I must make it clear that the Government of Peru requires any allegations forwarded to it to contain all the relevant details in your possession, so as to enable the allegations to be confirmed or denied. This is because the Peruvian Government, which has the greatest possible respect for the observance of human rights, cannot go on allowing them to be manipulated by interested persons or organizations in so important a forum as the Commission on Human Rights, which could be used as a sounding board on behalf of terrorist movements and their activities directed towards massive violations of the most basic human rights with a view to the destabilization of a legally elected democratic Government.

Under Peru's legal system, it rests with the Judicial Branch to decide the guilt or innocence of accused persons. Therefore, with a view to the investigation of these allegations, I must repeat the request contained in note NNUU/50 of 12 December 1984 and ask you once more to be good enough to provide specific information on the persons involved in and the circumstances of the alleged summary executions in the emergency zone.

I would remind you that the mere transmittal of the allegations referred to unnecessarily damages the image of régimes which, like Peru's, are an expression of their citizens' will and which are thus complying with one of the most important human rights, the right to freely elect a government, which forms the basis and the guarantee for the fulfilment of the other human rights.

..."

(b) 17 September 1985

[Original: Spanish]

"...

In this regard, I have the honour to inform you that, by supreme resolution No. 221/85/JUSTICIA of 14 September 1985, the Peace Commission has been set up as an advisory and consultative body of the Office of the President of the Republic and that it is composed of the following persons:

Mr. Mario Suárez Castaneyra, who will act as the Chairman,
Monseigneur Augusto Beuzeville Ferro,
Mr. Diego García Sayán,
Mr. César Rodríguez Rabanal,
Mr. Alberto Giesecke Matto, and
Mr. Fernando Cabieses Molina.

The Commission will have the following functions:

(a) To examine the legal status of persons who are arrested for terrorist acts and claim to be innocent, and to propose a solution to the authorities for drawing a distinction between acts of terrorism or complicity therein and acts that should be classified as political acts,

(b) To expedite with the judiciary and without prejudice to its independence, trials of citizens charged with the offence of terrorism,

(c) To open up avenues of dialogue with a view to persuading those who resort to violence and terrorism to return to democracy and the life of the social community in accordance with the Constitution and the laws of the Republic,

(d) To channel and bring before the authorities such complaints as are or may be submitted regarding human rights violations involving killings, extrajudicial executions, disappearances of persons, torture and abuse of power by the authorities,

(e) To review Legislative Decree No. 046 and propose such amendments as are deemed necessary,

(f) To report on the conditions and circumstances in places of detention,

(g) To report on the position of victims of acts of violence, and also of their relatives, and to propose measures for adoption,

(h) To advise the President of the Republic in any matters on which he is consulted in connection with the problem of subversion and enforcement of human rights.

The Peace Commission is also free to organize its own work and is empowered to set up sub-committees and appoint advisers to assist it in the performance of its functions.

..."

(c) 17 September 1985

[Original: Spanish]

"...

I have the honour to transmit, for your information, two communiqués issued by the Government of Peru on 12 and 15 September 1985 concerning the events that occurred recently in the district of Pacayacu,

'Press release issued by the Secretary to the Office of the President of the Republic:

1. The Government is resolute in its determination to guarantee that exclusively lawful and constitutional means are used in the fight against terrorism.
2. Following the discovery of seven bodies in a common grave in the Pacayacu area, the President has ordered a thorough investigation, the results of which must be announced within the next 72 hours.
3. As regards the reports of the alleged deaths of 69 persons in action by the security forces in the district of Ancosmarca, the Office of the President of the Republic has likewise ordered an investigation with detailed findings to be produced within the next seven days and, in addition, has directed:

That the Head of the Second Military Region, Major General Sinesio Jarama Dávila, the Military Political Head of the Region, Brigadier General Wilfredo Mori Orzo, and the chiefs of the operations carried out in the district of Ancosmarca and adjoining areas report on the matter to the legislature, for which purpose a joint meeting of the Defence and Human Rights Committees of the two Chambers has been requested. In this connection, the Office of the President of the Republic is making the necessary arrangements with the speakers of the House of Representatives and the Senate.

4. The Government reaffirms its determination to punish any arbitrary action or violation of human rights that may be or has been committed.

Lima, 12 September 1985'

'Official Peruvian Government communiqué:

1. The President of the Republic and the Council of Ministers of State have today received from the Joint Command of the Armed Forces the written report requested regarding the finding of seven bodies in Pacayacu.

This report points to the clear responsibility of three army officers and a driver, who have been brought before the courts.

2. In addition, the verbal report that was made reveals that, on the instructions of the previous Government, the facts about the struggle against subversion have been kept secret. The way in which the forces of subversion recruit their members has not been made public. There have been no reports about how they carry out their actions by using large numbers of poorly armed members of the population. The large number of casualties that have occurred in the past three years have not been reported, which means that they have not been identified or documented but have been declared missing, and consequently the armed forces have been portrayed as acting in a genocidal manner, thereby doing much harm to their image, which, in the opinion of the Government, must not be tarnished.

3. All of this indicates that the previous Government bears a heavy responsibility to the Nation for keeping it misinformed and

the present Government further considers that the adoption of this strategy means that the responsibility of the Chief of the Joint Command of the Armed Forces as a member of the National Defence Council is involved.

For this reason the Government has decided, with a view to substantial changes in the anti-subversive strategy, to replace the Chief of the Joint Command of the Armed Forces, for which reason the officer who filled the post has asked to be allowed to retire.

4. The Government reiterates its determination to continue its vigorous struggle against subversion without committing any excesses and also calls upon the judiciary to be more expeditious in trying persons who are indicted for the offence of terrorism and so far have not, save for a very small number, been sentenced.

Lima, 15 September 1985.'

..."

(d) 20 September 1985

[Original: Spanish]

"I have the honour to transmit to you a communiqué from the Joint Command of the Peruvian Armed Forces concerning the events that occurred at Accomarca:

'1. According to a report from the Inspectorate of the Second Infantry Division (Ayacucho), it was established at 1700 hours today that Second Lieutenant Telmo Hurtado Hurtado, a junior officer commanding a patrol, was responsible for the death of approximately 40 civilians in the Accomarca area on 14 August last.

2. The inquiries establish that the officer responsible concealed this fact in his report on the operation, with the result that the reports submitted by Major General Sinesio Jarama Dávila and Brigadier General Wilfredo Mori Orzo to the congressional committees today did not refer to this incident as they were unaware of it.

3. The Joint Command of the Armed Forces has ordered that a thorough investigation be carried out in order to clarify all the circumstances of the case and bring those responsible to justice.

4. The Commanding Officer of the Central National Security Zone, Major General Sinesio Jarama Dávila, and the Military Political Head of National Security Sub-Zone No. 5, Brigadier General Wilfredo Mori Orzo, have today been relieved of their duties.

5. A request that he be permitted to retire, submitted by Brigadier General Wilfredo Mori Orzo, Military Political Head of Security Sub-Zone No 5 to the General Headquarters of the Army has today been accepted.'

..."

(e) 18 November 1985

[Original: Spanish]

"...

I have the honour to transmit for your information, the text of Official Communications Nos. 17 and 19 of the Joint Command of the Armed Forces of my country, dated 22 and 27 November respectively, concerning the surrender of a large group of terrorists, who have laid down their arms and given themselves up to the forces of order.

'OFFICIAL COMMUNICATION

No. 017-CCFFA/RRPP

1. On 19 October 1985, during an operation by the forces of order in the locality of Llochegua, a large subversive group laid down its arms and surrendered.
2. The terrorist group, which capitulated unconditionally, is made up of 51 male combatants accompanied by 64 women, both combatants and supporters, 14 children over 10 years of age and 45 children under 10 years of age. At present they have been distributed among the anti-guerrilla bases of Llochegua and the District of Corazón de Pampa where they are being given protection and means of subsistence until a decision is taken concerning their return to work in safety.
3. According to statements by members of this terrorist group, their defection is mainly due to a constant failure on the part of the Sendero leaders to keep their promises; this has tired and frustrated their members, who have realized the uselessness of their struggle and have expressed the desire to return as soon as possible to their agricultural occupations and contribute productively to the development of their people in peace and in law and order.

Lima, 22 October 1985

PUBLIC RELATIONS OFFICE OF THE CCFFAA.'

'OFFICIAL COMMUNICATION

No. 019-CCFFA/RRPP

1. On 25 October 1985, members of the Civil Defence of Corazón de Pampa rescued 21 men and 43 women from the subversive Sendero movement; they were taken to the Marines' anti-guerrilla base at Llochegua.
2. Three guerrilla chiefs subsequently gave themselves up to the personnel of the anti-guerrilla base of Llochegua. Large quantities of subversive propaganda, homemade grenades and three rifles were seized from the persons rescued and from the leaders who surrendered.
3. The forces of order will give the subversive group protection and means of subsistence until a decision is taken concerning their

return to work in safety, as well as the delivery to the appropriate authorities of the persons held responsible.

Lima, 27 October 1985
PUBLIC RELATIONS OFFICE OF THE CCFFAA'

..."

(f) 26 November 1985

[Original: Spanish]

"...

I have the honour to transmit for your information the text of Official Communication No. 11-CCOMIN, dated 8 November 1985:

'The Ministry of the Interior informs the public of the following:

Continuing the efforts for peace undertaken by the Government, at the meeting of the Council of Ministers of this date it has been decided not to renew the state of emergency in the Province of Pasco, Department of Cerro de Pasco.'

..."

(g) 9 December 1985

[Original: Spanish]

"...

I have the honour to inform you that the Ministry of Justice of Peru has issued Ministerial Resolution 280-85-JUS, dated 29 November 1985, published in the Official Gazette *El Peruano* of 7 December 1985, in which approval is given, as from 1986, for the publication of the official version of the political Constitution of Peru in the Peruvian telephone directory. This edition will also include the Universal Declaration of Human Rights.

This measure is part of a broad information and education campaign concerning the provisions of the Constitution and laws relating to human rights, which the Government of my country has undertaken ..."

(h) 10 December 1985

[Original: Spanish]

"...

I have the honour to inform you that on 6 December 1985 the General Assembly of the Organization of American States adopted a resolution on the situation of human rights in America, of which I would like to reproduce paragraph 9 below:

'Welcomes the measures adopted by the Constitutional Government of Peru since 28 July 1985 with a view to guaranteeing full respect for human rights and fundamental freedoms and strengthening the rule of law and democracy in its national territory'

..."

130. On 25 July 1985, 4 November 1985 and 15 January 1986 the representative of the Government of Peru visited the Special Rapporteur concerning the above-mentioned allegations.

131. The Permanent Representative of Peru to the United Nations Office at Geneva met the Special Rapporteur on 15 January 1986 and, among the steps being taken to establish conditions conducive to reducing the incidence of summary or arbitrary executions, as stated in the letter, he emphasized:

(a) The steps taken by the President to terminate the services of army officers who were in any way responsible for summary or arbitrary executions;

(b) The ordering of investigations into the incidences of summary or arbitrary executions;

(c) The prosecution of some of those involved in such incidences of summary or arbitrary executions:

(d) The setting up of the Peace Commission whose aims and objectives include channelling and bringing before the authorities such complaints as regard human rights violations involving killings, extrajudicial executions, etc., and

(e) To open a dialogue with those who resort to violence and terrorism.

132. In addition, the Special Rapporteur received information materials, newspaper and magazine articles, etc., from the Permanent Mission of Peru to the United Nations Office at Geneva concerning the situation in Peru.

133. The Special Rapporteur transmitted a summary of the allegations received in regard to the Philippines, which reads as follows:

"A considerable number of persons were reported to have been killed as in past years by military and paramilitary units under the military command. Most of those killed were farmers and other civilians including politicians. The victims were either shot to death on the spot or found dead after having been arrested or detained. In 1984 more than 400 persons were allegedly known to have been killed in such a manner. Several of the names of those killed in the past year were given as follows:

1. Elvie Degit (16) (Himamaylan, Negros Occidental) abducted and found dead in January 1985
2. Leonardo Tagapan (28) and Arcelos Babion (28), (Cagayan de Oro, Mindanao) arrested in February 1984 and their dead bodies with multiple gunshot wounds and skull fracture given to a funeral parlour in March 1984
3. Jojie Paduano and Janilyn Enriquez (Visayas) killed in May 1984 after having been raped allegedly

by members of the 47th Infantry Brigade of the Army and the Integrated Civilian Home Defence Force (ICHDF)

4. Danilo Deldoc and Jose and Perlita de la Cruz (Palayan City, Nueva Ecija)
arrested in Manila in May 1984 and their bodies hung on a bridge in Palayan City
5. Julian and Marcelina Bonane and their children, Henrieta (20), Daniel (17) and Carlito (15) (Lopez Jaena, Misamis Occidental)
killed on 17 March 1984 allegedly by a member of the Philippine constabulary and four members of ICHDF
6. Orlando Viernes and his two children, Ronaldo (8) and Marietta (6) (Carmen, Jimenez, Misamis Occidental)
killed in March 1984 allegedly by members of ICHDF
7. Ernesto Pijeda (25) (Isabela, Negros Occidental)
arrested in December 1984 by the 3rd Scout Rangers detachment and found dead on 23 December 1984. The body carried signs of torture as well as multiple stab wounds
8. Nine persons (Langoni, Negros Occidental)
shot dead allegedly by the Philippine Constabulary (PC)
9. Alexander Orcullo (38) (Mandug, Davao, Mindanao)
shot dead on 19 October 1984 allegedly by the People's Liberation Organization (PLO) which was under the control of the military
10. Five members of a group of squatter families taking shelter in a chapel in Davao (Mindanao)
shot dead on 27 November 1984 allegedly by ICHDF
11. Fr. Tullio Favali (38) (North Cotabato)
shot dead on 11 April 1985 by members of ICHDF."

134. The following replies, dated 10 December 1985, 12 December 1985 and 17 January 1986, were received from the Permanent Mission of the Philippines to the United Nations Office at Geneva:

(a) 10 December 1985

[Original: English]

"I would like to refer to your letter of 15 October 1985 and in connection with the request for intervention addressed to the Philippine Government by Mr. S.A. Amos Wako concerning alleged summary or arbitrary execution in the Philippines, have the honour to submit the enclosed information concerning the cases of Mr. Alexander Orcullo, Fr. Tullio Favali and nine persons in Langoni, Negros Occidental.

I am confident that this information will be taken into account by the Special Rapporteur in his report to the Commission on Human Rights.

'CASE TITLE: ORCULLO, Alexander

Details of Case:

The late barangay Captain Alexander Orcullo of barangay Mandug, Davao City, was killed on 19 October 1984 in Davao City by 9, or less than 10 unidentified persons with the use of high-powered firearms. Barangay Captain Orcullo was driving his car accompanied by his wife, and a three-year-old son en route to Davao Development Foundation Village in Mandug when he was flagged down by armed men along the road.

At the time of his death, barangay Captain Alexander Orcullo was the Chairman of Hukom Demokrasya, a Southern Mindanao Chapter of the Militant NASJFD, Secretary-General of the CORD Southern Mindanao Chapter, Member of the National Council of NAJFD and CORD, National-Secretary General of the Makabayang Alyiansa (MA) which is a national political party of the opposition group and Editor of the defunct Mindaweek, a local weekly tabloid based in Davao City. He was Mindanao's well-known anti-administration leader and practically engaged in all sorts of strikes and demonstrations in that area. He was elected in 1980 as barangay Captain of Mandug, Davao City, and resided in the Development Foundation (DDF), a housing foundation for which he served as consultant. Captain Alexander Orcullo was once very active against the armed group of Abubakar Karsolo, also known as "Kapitan Inggo", a former Bangsa Moro Army Commander and rebel returnee.

Kapitan Inggo and his armed followers were engaged in the collection of tong money particularly from Mandug residents. With the support of Colonel Andres Superable, the then Metrodiscom Commander, a 17-man ICHDF group was organized to counteract the activities of Kapitan Inggo. It was eventually disarmed one by one by unidentified armed men. During the early part of 1984 Kapitan Inggo and his armed followers returned to the area and started harassing the civilians. Panic among civilians ensued and evacuation in some areas took place. Threats against the life of barangay Captain Alex Orcullo became imminent and real to the extent that he (Orcullo) evacuated to Davao City proper.

An interview with the representative of the Board of Trustees of the Davao Development Foundation at Mandug disclosed that two days prior to the killing of Captain Orcullo, the latter confided that his life was in danger, so much so that Kapitan Inggo and a certain Usman Sali even announced to the residents of Mandug that they would skin him (Orcullo) alive. Investigations also disclosed that prior to the killing of barangay Captain Orcullo, a certain barangay Dante Panlilio of Mandug was also killed. Two security officers of Lapanday plantation were also killed in the persons of Cris Dacoycoy (former Captain of the Philippine Army) and a certain Noel Flores. Pfc. Herenia Balod and Patrolman Ireneo Rosette, both members of the Field Force Detachment of Mandug were also killed.

Based on the investigation, it is reported that the armed group that killed barangay Captain Alexander Orcullo were members of Bangsa Moro Army under Kapitan Inggo, to wit:

1. Feuds existing between Alexander Orcullo and the group of Kapitan Inggo.
2. Leadership/power supremacy in Mandug areas. It appears from the interview by the investigating team that the first barangay

Councillor of barangay Mandug who is next in line to barangay Alexander Orcullo is a Muslim and a first cousin of Usman Sali, one of the alleged killers of Alexander Orcullo. Hence, this revenge angle.

3. Revenge against barangay Captain Orcullo by Kapitan Inggo and his followers. There was an incident some time back when Muslim houses at barangay Tigatto were sprayed with bullets by alleged members of the New Peoples Army (NPA), and it was suspected that the mastermind was Alexander Orcullo. Hence, this revenge angle.

STATUS OF CASE/RESPONDENTS:

There was no case yet being filed. The latest progress report of the Commanding Officer, PC/INP CIS to ACSAFP, is as follows:

In his report, Col. Hermogenes B. Peralta Jr. reported that Estanislao Viuvicencio, allegedly a former NPA member and close associate of barangay Captain Alexander Orcullo, was subjected to a debriefing through the assistance of C2. During the debriefing, Estanislao Viuvicencio claimed that the political work conducted by the Communist Party of the Philippines (CPP)/NPA elements resulted in the conversion of several drivers and operators of VODTRANCO being managed by barangay Captain Alexander Orcullo as either "mass activists" or members of CPP.

Viuvicencio also averred that one Alex Fernandez, a member of the Sparrow Unit, Davao City, revealed to him that Orcullo was killed by Sali, accompanied by Sasid Darama and three others who dressed up in military uniform at the back of CRS headquarters in Davao City. It appears from the report that the latest information linking Sali to the killing, dovetails with the report submitted by the HPC investigation.

Col. Hermogenes B. Peralta, Commanding Officer of CIS, directed the 11th Criminal Investigation Service to follow up the investigation of the case.'

'Case: Killing of nine persons in Sitio Langoni, Barrio Inayawan, Cauayan, Negros Occidental

(a) on 23 May 1984, the Bulletin Today, carried a news item containing alleged accounts of local residents in Langoni, that nine persons were picked up by soldiers after they had voted in Barrio Lambong and while on their way to play basketball they were said to have been stripped of their shirts, and with their hands bound in front, paraded through the streets of Inayawan and led onto the beach and the detachment headquarters along the national highway. Three hours later, at about 7 p.m., volleys of gun-fire were heard. The next morning, nine bodies were found sprawled in the detachment grounds. The dead bodies were identified as those of Alejandro Guillermo, Armando Guillermo, Eulogio Macrinar, Mario Jamen, Rodolfo Jamen, Alfredo Nunez, Abundo Aldaya, Antonio Oyas, and Bibiano Fajardo.

(b) The Military Regional Command No. 6 (RECOM 6) conducted an investigation of the case and recommended that court martial proceedings be instituted against the military personnel involved. This recommendation was approved by the Chief Judge Advocate (CJA). The

pre-trial investigation was conducted on 17 August 1984. Meanwhile, the respondent soldiers were relieved of their duty assignment and subsequently placed under arrest status.

(c) The case was referred to a General Court Martial for trial. The Philippine Constabulary officers and enlisted men charged with violation of Articles of War 94 before the General Court Martial of RECOM 6 were: Captain Sahirom Salem, 2Lt. Aquilino Pastolero, SSgt. Eduardo Verano, C2C Edgardo Honteria, C2C Jose Mari Lasapin, C2C Ernesto Ferreris, C2C Toribio Catublas, C2C German Magbanua, C2C Geronimo Palomar, and Col. Felomino Padilla. Hearings of the case were conducted on the following dates: 8 and 9 November 1984; 6 and 7 December 1984; and 11 and 12 January 1985. During said hearings, three witnesses were presented, namely: (1) Barangay Captain Eddie Locsin of Inayawan, Cauayan who testified on the supposed killing of the nine victims. (2) Dr. Reymundo Guerero, who testified on the wounds sustained by the victims that caused their deaths; and (3) Maj. Perfecto Quiaoit, who testified to having administered the sworn statements of persons investigated. None of the prosecution witnesses appeared, notwithstanding the subpoenas which were duly served. During the 7 December 1984 hearing, the defence manifested before the court the following: (1) to order the Prosecution to rest its case and (2) a motion for the dismissal of the case. The court denied this motion.

(d) On 11 January 1985, the defence moved for the dismissal of the case. The court after deliberation granted the motion of the defence for the dismissal of the case for insufficiency of evidence. The court further ordered the lifting of the technical arrest order against the respondents.'

'Case: Killing of Fr. Julio Favali on 11 April 1985

A. The intensive investigation conducted by the Military reveal the following background of the case:

Fr. Julio Favali was an Italian and parish priest of Tulunan, North Cotabato.

At about 17.00 hours on 11 April 1985, Fr. Favali was allegedly summoned to go to Barangay La Esperanza, Tulunan, North Cotabato to settle an altercation between Edilberto Manero, a former member of the Integrated Civilian Home Defence Force in Tulunan, and a certain Rufino Robles, a tailor of the same place. Reportedly, Manero confronted Robles for being implicated as a member of the New People's Army (NPA) known as alias "Bantel" which appeared in a placard found hanging along the national highway with markings "Mabuhay ang NPA" ("Long Live the NPA") and "Bantel vs. Edel". During the argument, Manero drew a firearm and fired at Robles hitting a finger and right ear when Robles attempted to grapple with said firearm. Robles however managed to escape and take refuge in a nearby house. Fr. Favali arrived and entered the house to verify the cause of the trouble. In the meantime, his service motorcycle was burned by the armed companions of Manero who were reportedly under the influence of liquor at that time. After a few minutes, Fr. Favali emerging from the house was shot in the head and different parts of the body causing his instant death.

B. The Ministry of National Defence undertook an immediate man hunt for the suspects and by July 1985 all eight suspects,

Norberto Manero, Jr., Edilberto Manero, Elpidio Manero, Rudy Legues, Severino Legues, Efren Pleñago, Amay Bedaño, and Rudy Espia had been arrested and detained in the provincial gaol of North Cotabato.

C. On 30 September 1985, criminal charges of murder and frustrated homicide were filed against these persons before Branch 17, Regional Trial Court, North Cotabato. The arraignment of the accused was conducted on 3 October 1985. All of the accused pleaded not guilty of the offence they were charged with. The hearing on the motion for bail was scheduled for 2, 6, 7 and 8 November 1985. The arraignment of the accused was attended by more or less 200 people including 20 PIME fathers with a certain Mr. Giacomo Pelasare from the Italian Embassy as well as 20 other priests."

(b) 12 December 1985

[Original: English]

"In response to your letter of 15 December 1985, and further to our letter of 10 December 1985 wherein we submitted information concerning cases of alleged summary execution in the Philippines, I have the honour to submit the enclosed additional information concerning the following persons:

1. Danilo Deldoc
2. Jose de la Cruz
3. Perlita de la Cruz
4. Elvie Degit
5. Leonardo Tagapan
6. Arcelos Babion
7. Julian Boname
8. Marcelina Boname
9. Henrieta Boname
10. Daniel Boname
11. Carlito Boname
12. Jojie Paduano
13. Jamilyn Enriquez
14. Orlando Viernes
15. Rolando Viernes
16. Marieta Viernes
17. Ernesto Pijeda
18. Group of squatter families in Davao.

It would be appreciated if the information herewith submitted could be reflected in the report of Mr. S.A. Amos Wako, Special Rapporteur.

Information provided by the Philippine Government in reply to a request from Mr. S.A. Amos Wako, Special Rapporteur.

A. Danilo Deldoc, Jose de la Cruz, Perlita de la Cruz.

According to the report from the Neuva Ecija PC Provincial Commander, Jose de la Cruz and Perlita de la Cruz were killed during an ambush conducted by subversive terrorists at Barangay Atate, Palayan City on 7 June 1984 while coming from re-enactment of ST/NPA (New Peoples Army) conducted by Jose de la Cruz and his men on CHDF detachment by Barangay Antipolo, Bongabon, Nueva Ecija. The report also stated that a

certain Danilo Deldoc, an ST messenger captured with the de la Cruz couple escaped during the ambush which resulted in damage to a military vehicle and injuries to military personnel.

B. Elvie Degit, Leonardo Tagapan, Arcelos Babion, Julian and Marcelina Boname, Henrieta, Daniel and Carlito Boname, Orlando Viernes, Rolando and Marieta Viernes, Ernesto Pijeda, Janylyn Enriques, Jojie Paduano and a group of squatter families in a church in Davao.

Regional unified commands 6, 8, 10 and 11 had been directed to investigate and submit reports on the alleged killing of the above-named persons. An inquiry of this nature would take some time due to the insufficient data presented with which to start a meaningful investigation. Nevertheless, the Philippine Government will make efforts to look into these cases.

In this connection, it is recommended that, for future inquiries on alleged human rights violations, the Philippine Government should be provided with the following minimum data: (1) full name and residence of victim, (2) date and specific place of incident and (3) circumstances behind the incident."

In addition, the Special Rapporteur met the representative from the Embassy of the Philippines who further elaborated on the foregoing answers.

(c) 17 January 1986

[Original: English]

"...

In response to your request made in the course of our discussion yesterday, I am pleased to furnish you with a copy of a document entitled 'General information on the insurgency situation in the Philippines and its impact on human rights'. ^{2/} I trust that this information will provide you with an accurate understanding of the situation in the Philippines in connection with your consideration of reports of alleged summary or arbitrary executions.

^{2/} Available for consultation in the secretariat files.

135. The Special Rapporteur transmitted a summary of the allegations received in regard to South Africa, which reads as follows:

"During the past several months, hundreds of persons were reportedly killed in the course of various demonstrations, largely as a result of mob violence and police intervention, in some cases, in indiscriminatory shootings. Although figures for deaths vary according to sources, it would appear that several hundred persons were killed. Between 1 January and 20 April 1985 some 123 persons were said by the Minister of Law and Order to have been killed in the East Cape alone.

The following data are illustrative of these killings:

1. On 21 March 1985 19 or possibly as many as 43 persons were shot dead by police in Langa township near Uitenhage;
2. On 14 April 1985, seven persons were killed by police in Zwide township near Port Elizabeth.

In addition, community leaders died in unclear circumstances in which the police were directly or indirectly concerned. For example:

1. On 22 January 1985, William Kratshi was shot dead by police in Beaufort-West,
2. In May 1985, Andries Raditsela, a black union leader died shortly after he was released from police detention allegedly as a result of head injuries caused while in detention.

Also in May 1985 a person, whose name was given as Siphso Mutshi, allegedly died in police custody in Odendaalsrug in the Orange Free State as a result of ill-treatment by the police.

As this summary is prepared, reports of indiscriminate loss of life due to police intervention and mob violence continued to be received."

136. On 5 November 1985, the Permanent Representative of South Africa to the United Nations Office at Geneva visited the Special Rapporteur concerning the above-mentioned allegations.

137. The following letters, dated 8 and 30 January 1986, addressed to the Assistant Secretary-General for Human Rights, was received from the Permanent Mission of South Africa to the United Nations Office at Geneva:

(a) 8 January 1986

[Original: English]

"You will recall that during our meeting on 23 December 1985, I left with you an aide-mémoire, relating to the placing of land-mines near the northern borders of the Transvaal by members of the African National Congress which resulted in the deaths of five people, including two children.

Subsequent to this meeting two further incidents occurred. On Monday, 23 December, a bomb exploded at the holiday resort of Amanzimtoti, Natal, resulting in the deaths of two adults and three children, and injuring another 54, while a land-mine exploded near

Ellisras on the border between South Africa and Botswana on 4 January 1986, killing two persons and seriously injuring two others.

Both these incidents have been attributed to the African National Congress, which, although not admitting responsibility for either, has nevertheless not categorically denied it. Consequently, while not making specific allegations against ANC in respect to these two outrages' at this stage, it must be pointed out that the terrorist acts, to which reference was made during our discussions, create precedents; their authors cannot evade a moral responsibility for those who follow their example.

In the light of the foregoing I have been asked to advise you that the contents of the aide-mémoire represent the official views of the South African authorities and should be treated accordingly.

AIDE-MEMOIRE

During the early evening of Sunday, 15 December 1985 at approximately 7.p.m. a small delivery truck carrying two families detonated a land-mine in the vicinity of Messina. Six persons, of whom four were children, were injured. This serious incident follows a series of similar land-mine explosions in the same region on 27 and 28 November and 15 December 1985 in the course of which there were several other fatalities. It has not yet been established whether the latest land-mine explosion constitutes an incident arising from the original placing of land-mines on South African territory or whether it has resulted from a device placed more recently. This aspect is being investigated but, whatever the position, the South African Government is gravely concerned at the continuing violence and terror which it is believed is being or was planned in and executed from Zimbabwean territory.

The South African Government has been in contact with the Zimbabwean authorities and is encouraged to note that they, too, have indicated their own concern for the gravity of the issue. Discussions have accordingly been initiated at service level to find a practical formula to ensure that Zimbabwean territory is not used as a springboard for violent action against any neighbouring country.

The South African Government has exercised great restraint in the midst of these tragic events. It has, however, a responsibility to defend its territory and secure the safety of its citizens at all times and has accordingly not only the right but the duty to take appropriate action to prevent any further acts of terrorism emanating from Zimbabwean territory and to protect its borders against incursion.

The incidents are presumably of concern both to the Centre and the Commission on Human Rights. Both emphasize the principle of the right to life. The Special Rapporteur on summary or arbitrary executions pointed out in his report to the forty-first session of the Commission on Human Rights (E/CN.4/1985/17) that while Governments bear the primary responsibility, this does not exonerate groups other than Governments from respecting the right to life.

Moreover, the General Assembly on 18 December 1985 unequivocally and unanimously condemned all acts of terrorism irrespective of the motives.

The African National Congress has confirmed that its members planted the land-mines. This organization enjoys official observer status in, and attends meetings of, the Commission on Human Rights, where it has so far been exempt from criticism, despite similar acts in the past. It is assumed that the Commission will take cognizance of these facts when it meets in February and exercise its consequential responsibilities."

On 15 January 1986, the Permanent Representative of South Africa to the United Nations Office at Geneva met the Special Rapporteur concerning the above-mentioned allegations.

(b) 30 January 1986

"In his letter G/50 214 (33-3) of 12 July 1985, Mr. S. Amos Wako, Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions, drew the attention of Member States to the indications he had received that in some cases the safeguards usually envisaged to protect the right to life did not seem to function adequately. In this regard he referred in particular to article 6, paragraph 1, of the International Covenant on Civil and Political Rights.

With specific reference to South Africa, the Special Rapporteur submitted certain allegations, which he felt related to the above paragraph of the Covenant, to the United Nations Code of Conduct for Law Enforcement Officials as well as to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In so far as the latter instrument is concerned, a communication was addressed to you on 2 January 1986 in answer to an inquiry from the Special Rapporteur on torture.

The Centre for Human Rights has also been provided with the report of Mr. Justice Kannemeyer into the incident which occurred on 21 March 1985 at Uitenhage, to which the Special Rapporteur makes special reference. This Commission of Inquiry, set up by the South African Government, investigated the events which took place at Langa Township on that date. The report was tabled in the House of Assembly on 13 June 1985 and was the subject of an extensive debate during which the Minister of Law and Order made the following statement:

'Mr. Justice Kannemeyer's report relating to the events in Langa, Uitenhage, on 21 March is of very great importance to the Government. I should again like to thank Mr. Justice Kannemeyer for the thorough, expeditious and irreproachable manner in which he carried out his terms of reference. His report is clear and descriptive.

The memorandum tabled in conjunction with the report was drawn up as factually and correctly as possible and contains a summary of the foremost matters dealt with in the report, including the findings based on those matters. What is more, the Government standpoint in regard to a few important aspects are also clearly set out, these being: firstly, that the procedure in connection with the application prohibiting funerals would be reviewed; secondly, that, in addition to what has already been done, the South Africa Police manpower, equipment and training needs - to enable them to carry out riot control more efficiently, but with the least possible danger to themselves and the public - would continually be

reviewed: and thirdly, that a board of inquiry has been appointed in terms of the Police Act to consider matters in connection with certain of the commission's findings relating to the Police.

The report is therefore receiving the necessary attention that it deserves, and in essence it is acceptable to the Government.'

The report may therefore be treated by the Commission as having official sanction.

At the conclusion of his speech the Minister stated:

'The Government wishes to reaffirm its acceptance of the responsibility for safeguarding with all the means at its disposal all the peoples of South African in their right to live, work and partake in cultural and political activity without fear for the safety of their persons, their families and their properties. Leaders and organizations engaged in attempts at the destabilization of South Africa, have by word and deed embarked on a path of lawlessness through mob action and individual attacks on persons and property. People, especially Black civic leaders, have been mutilated and killed and property worth millions destroyed. It is mainly the South African Police Force that has to bear the brunt. In the performance of their duties, sometimes in small numbers, they are exposed to great dangers. The Government and South Africa owe them gratitude and appreciation. To bring unrest to an end and to maintain the peace needed for political, social and economic development is our common aim and task.'

The Special Rapporteur will appreciate the relevance of these remarks in the light of the comments in his report to the Commission on Human Rights at its forty-first session (E/CN.4/1985/17, paras.75 and 76). This particular issue was also raised in my letter to you of 2 January 1986 concerning inter alia the laying of land-mines by followers of the African National Congress. The South African Government is determined to carry out its obligations to protect its citizens from attacks of this nature, a duty clearly recognized by the Special Rapporteur, and assumes that its acceptance of that obligation will be accompanied by the unqualified support of the Commission on Human Rights in terms of Economic and Social Council resolution 1985/40, paragraph 2.

The Special Rapporteur also referred to the death of Mr. Andries Raditsela. In this regard I am instructed to advise you that Mr. Raditsela was arrested on 4 May 1985 in terms of article 50 of the Criminal Procedure Act of 1977, not in terms of security legislation. He jumped out of a moving vehicle in which he was being transported to the Police station and suffered head injuries in his fall. He died in hospital two days later. The police docket investigating the incident has been referred to the Attorney-General, Johannesburg, to the competent judicial authorities and a hearing is currently in progress.

In the final paragraph of the annex to his letter the Special Rapporteur writes: 'As this summary is prepared, reports of indiscriminate loss of life due to police intervention and mob violence continue to be received.' There is little doubt that the Special Rapporteur will receive further allegations particularly in regard to the former. Bearing in mind, therefore, some of the points

raised earlier in this letter regarding the obligations of a State to counter activity by non-governmental groups which fail to respect the right to life, I would inform you that the whole question of security legislation was submitted to a Commission of Inquiry in 1981/82 under the chairmanship of Mr. Justice Rabie. After examining a vast amount of evidence, the Commission came, inter alia, to the conclusion that, considering the factual situation which had been outlined to it and in particular the terrorist acts and sabotage committed in South Africa during the previous couple of years, the likelihood that these activities would increase in the foreseeable future, the fact that they were planned and executed by supporters of organizations which aimed at the violent overthrow of the existing order in South Africa, that they were supported and aided by communist countries towards achieving their objective and that their activities could be carried out from areas bordering on South Africa, there was no doubt about the necessity for security legislation, including detention for the purposes of interrogation currently enshrined in article 29 of the Internal Security Act of 1982.

The Commission pointed out that such detention is a drastic measure which should only be retained for compelling reasons. It found that information obtained from persons in detention was the major and, to a great extent, the only weapon available to the police to anticipate and counter terrorism and other undermining activities.

The views of the Commission were accepted by the Government and incorporated into the Internal Security Act of 1982 together with its recommendations for the protection of detainees. For convenience sake the effect of this legislation and consequential regulations is summarized below:

Arrests and detentions in terms of security legislation are related to the crimes of terrorism or sabotage. Each arrest must be notified as soon as possible to the Commissioner of Police, who in turn advises the Minister of Law and Order. No detention may exceed 30 days without the written authority of the Minister who must be furnished with reasons once a month why a person held should not be released. In addition, all detentions are subject to a Board of Review should they exceed six months, and every quarter thereafter.

There are various provisions contained in the Internal Security Act which relate to the welfare of detainees and the prevention of torture. In terms of the Act an Inspector of Detainees is appointed who must visit persons detained under section 29 regularly in order to safeguard their physical and mental well-being, while Magistrates and District Surgeons in whose area of jurisdiction a detainee is held must visit him(her) at least every two weeks. All interviews conducted with the detainee during such visits are in private; should a detainee allege torture or ill-treatment during the interview, special channels have been created for the Minister of Law and Order and the local Attorney-General to be informed immediately.

Apart from the provisions of the Internal Security Act itself, special orders also exist within the South African Police Force making it obligatory to open a file on any complaint involving mistreatment made by a detainee against any member of the Force. The file is registered and referred for investigation to another section of the Force not involved in the detention. After the completion of the investigation the file

must be forwarded to the local Attorney-General, who must decide on whether it contains sufficient prima facie evidence to justify prosecution.

Neither the Inspector of Detainees nor any Magistrate or Surgeon-General account to the Police for the actions they may take. The Special Rapporteur is doubtless aware that prosecutions have been instituted in the past as a result of such investigations. Some as stated earlier in this letter, are currently before the competent division of the Supreme Court.

In addition to the standing instruction strictly forbidding maltreatment of detainees the Commissioner of Police has issued special orders to ensure their well-being, while the Minister of Law and Order has published a series of regulations in the Government Gazette which are therefore open to public inspection and which are regularly brought to the attention of investigating officials.

The Prisons Department too takes pride in the professional behaviour of its officers and in their adherence to strict regulations which assure the well-being of all prisoners and detainees:

All detainees are medically examined upon arrival,

Upon arrival and on a daily basis thereafter detainees and prisoners are given the opportunity to raise any complaint or request, these are noted in a register;

Judges of the Supreme Court, specially released for the purpose, visit detainees on a regular basis during which the detainee has the opportunity to raise any complaint of torture or ill-treatment. Judges who perform this duty do not only report the complaints and needs of the detainees but also evaluate the conditions of their detention;

Members of Parliament also visit detainees from time to time.

Any detainee also has the right while still in detention and after release, to initiate civil or criminal proceedings against anyone they claim has assaulted or maltreated them.

It is not possible to supply final comments on all the specific instances raised by the Special Rapporteur, since in respect of some of them legal proceedings are under way, thus bringing the sub judice rule into operation."

138. The Special Rapporteur transmitted a summary of the allegations received in regard to Sri Lanka, which reads as follows:

"As in recent years in the context of civil strife, several civilians belonging to a particular minority ethnic group were killed by security forces, it was alleged that these killings were often carried out in retaliation for the killings of members of the armed forces, police and civilians by armed groups. According to one account, between August 1984 to February 1985 the number of persons reported to have been killed by security forces personnel amounted to 225. Such killings took place, mainly in the northern part of Sri Lanka, in particular, Mannar

(August and December 1984, January 1985), Point Pedro (September 1984), Vavuniya (September 1984), Othiyamalai (December 1984), Vankalai (January 1985), Velvettiturai (May 1985), as a result of an attack on a ferry from the island of Delft (May 1985) and Anuradhapura (May 1985).

It was also alleged that on 3 December 1984, 32 persons, after having been arrested on suspicion of involvement in armed opposition, were shot dead at the Vavuniya army camp.

According to other sources, several persons were reported to have been killed by guerrilla groups on different occasions in the same context. For example 86 persons were reported to have been killed on 14 May 1985 in Anuradhapura by one guerrilla group."

139. The following replies, dated 5 November and 27 December 1985, were received from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva.

(a) 5 November 1985

[Original: English]

"I have the honour to refer to your letter of 12 July 1985 and to convey to you the following information from the Government of Sri Lanka concerning the matters referred to in your letter.

1. The Government of Sri Lanka denies the allegation made that, in the context of civil strife, civilians belonging to a particular minority group were killed by members of the security forces. Some civilians have died as a result of terrorists deliberately carrying out armed attacks on security forces in crowded areas thereby exposing civilians to the risk of death in the cross-fire. However, the loss of civilian lives in these incidents has not been confined to one particular ethnic group.
2. Regarding allegations against the Army concerning incidents supposed to have taken place in August 1984 in Mannar, it has been reported that on 11 August 1984, six soldiers in an armed convoy were killed due to an explosion caused by terrorists. Consequent to this incident there has been tension in the area, which is at present subject to an investigation by the competent authorities in Sri Lanka.
3. As regards the incident that took place in September at Point Pedro, on 1 September a convoy belonging to the Special Task Force proceeding towards Point Pedro hit a land-mine killing four police officers. The terrorists who had laid the ambush then fired at the police party, which returned the fire. As a result some civilians in the vicinity were killed by the cross-fire.
4. As regards the incident referred to at Vavuniya in September 1984, investigations conducted reveal that a private bus bearing No.30 Sri 257 belonging to 'VIP Express' left Colombo on 11 June 1984 around 8 p.m. with 44 passengers and two drivers bound for Jaffna. At Rambawewa, an armed gang hijacked the bus and ordered the driver to drive off the main road where the gang then gunned down 14 passengers and robbed them of their belongings. Several injured passengers were admitted to the Vavuniya hospital and later transferred to the Anuradhapura and Kurunegala hospitals. Subsequently, two persons died of their wounds.

Statements were made by several persons who received gunshot injuries and several others, who had escaped the assailants at the time of the tragedy, were questioned. According to the investigations, it was established that service or police personnel were not involved in the incident, but a gang had committed this crime with robbery as the motive.

5. Regarding the incident alleged to have taken place at Othiyamalai in December 1984, the following narrates the sequence of events as they transpired. On 30 November 1984, Tamil terrorists launched an attack on the Dollar and Kent Farm killing around 60 civilians, including women and children, in a very gruesome manner. Due to this incident there had been tension in the area which resulted in some Sinhalese retaliating by way of attacking Tamil settlers on 2 November 1984. Around 27 villagers were reported killed as a result of this incident.

6. At Vankalai in January 1985, Rev. Fr. Mary Bastian was found dead and investigations conducted by the competent authorities revealed that he was not killed by the security forces.

7. On 14 May 1985, a group of Tamil terrorists travelled in a bus disguised as military personnel to Anuradhapura. They fired at the public at the Anuradhapura bus-stand, killing and injuring many there; later they proceeded to the 'Sri Maha Bodiya' - a sacred shrine, hallowed by Buddhists throughout the world and fired at worshipping devotees. They then proceeded towards Puttalam, opening fire at Nochchiyagama police station and then proceeded to Wilpatu Game Sanctuary and opened fire killing 23 Wild Life Department employees. In these incidents 144 were killed including 25 women and 6 children and over 60 were injured.

The murder of innocent people in Anuradhapura resulted in tension in the area causing the Government to give priority to the safety of Tamils residing in Anuradhapura by shifting them to a safer location. While they were being shifted an emotionally distressed corporal grabbed the gun of a fellow soldier and began firing at evacuees, he was ordered to stop firing by the Commanding Officer who ultimately shot him dead when he failed to do so. Six Tamils died in this incident.

8. As regards the allegations made of 32 persons being shot in a Vavuniya Army Camp in December 1985, the following explains the position.

On 2 December, 39 suspects, who were detained at Vavuniya Army Camp were killed when the camp was attacked by terrorists. In this context, a judicial inquest has been held in the High Court and the High Court Judge has held that the persons concerned came by their deaths as a result of being caught in the cross-fire when the camp was attacked by terrorists on the night of 2 December 1985. This refers to High Court Inquest No. 31/85. 2/

9. I would like to take this opportunity to draw your kind attention to a few examples of indiscriminate killings by terrorist groups of innocent civilians belonging to Sinhala, Muslim and Tamil communities within the last 12 months.

(a) Between 6 November and 6 December 1984, 156 were killed including those attacked at Kokila and Nayaru fishing villages and Kent and Dollar Farms;

(b) At Anuradhapura in May 1985, 144 were killed;

(c) During the first three months of cessation of hostilities between 18 June and 18 September 1985, 168 civilians were killed by the terrorists.

10. The Government of Sri Lanka in the meantime has taken several measures to promote the observance of human rights in the context of the special situation created within the country as a result of the terrorist activities launched with the ultimate goal of establishing a separate State.

In June 1985, an Organization for Human Rights Promotion through Law Enforcement Agencies was formally inaugurated under the patronage of H.E. the President of Sri Lanka. The Vice Patrons are Hon. Prime Minister, Hon. Chief Justice and Hon. Leader of the Opposition.

The objects of the Organization are:-

(a) To take steps to promote and co-ordinate the work of law enforcement officials and agencies in their recognition of and respect for human rights as accepted and formulated by the community of nations;

(b) To study and formulate the principles, practices, procedures and prerequisites for the observance of human rights in the performance of law enforcement functions in Sri Lanka;

(c) To assist in formulating policies and codes of conduct, which through co-ordination and integration would advance the administration of justice in general and the observance of human rights in particular;

(d) To encourage every law enforcement official and agency to observe the duty of disciplining themselves in conformity with the principles and standards as formulated in the Universal Declaration of Human Rights, fundamental rights as embodied in the Constitution and laws of Sri Lanka and such other human rights instruments as may be ratified by the Government of Sri Lanka;

(e) To take all necessary steps, including the holding of seminars, conferences and exhibitions, the preparation and dissemination of literature and information, for the furtherance of the above objects.

A Committee to monitor the cessation of hostilities was also appointed in October 1985.

The Committee consists of three retired Supreme Court Judges and several other renowned public servants of all three major communities. This also includes the Principal of Hindu College, Trincomalee and a professor of Jaffna University.

The Committee will investigate and report on violations of the cease-fire, assist authorities in the resettlement of displaced persons,

facilitate meetings between detainees under Provisional Terrorism Act (PTA) and their relatives, visit detention camps when the Committee deems necessary and initiate investigations on any material which may come to its attention."

(b) 27 December 1985

[Original: English]

"High Court Inquest No.31/85 held in Sri Lanka"

Further to paragraph 8 of my letter dated 5 November 1985 and the subsequent discussion with the First Secretary of this Mission on the proceedings of High Court Inquest, I have the honour to forward herewith the High Court Inquest No.31/85 3/ which you have requested.

I trust that the details contained therein will be helpful to you in arriving at an objective evaluation with regard to the situation in Sri Lanka."

140. The Permanent Representative of Sri Lanka to the United Nations Office at Geneva met the Special Rapporteur on 16 January 1986 and briefed the Special Rapporteur on the general situation in Sri Lanka. He stated that the Government of Sri Lanka was interested in a peaceful solution to the "Tamil problem". The Government had made proposals in June 1985 and had also received proposals made by the Tamil United Liberation Front. However, the militants had not made any proposals and continued with their violence. The total number of civilians murdered as a result was given as 885 and the total number of security forces killed was given as 194. The Committee for the Monitoring of the Cessation of Hostilities had continued to operate although he alleged that the cease-fire had been violated repeatedly by the extremist militants.

141. In addition, the Special Rapporteur received information materials, press releases, newspaper articles etc., from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva concerning the situation in Sri Lanka.

142. The Special Rapporteur transmitted a summary of the allegations received in regard to Uganda, which reads as follows:

"A large number of civilians were allegedly killed by the army in the West Nile and Buganda regions. The victims were alleged to be supporters of the opposition party or members of certain ethnic groups. According to sources, at least 100,000 people were estimated to have been killed since 1981. The following are some examples illustrative of these allegations:

West Nile

In June 1984 civilians were killed by soldiers in a market-place in Rigbo in retaliation for a guerrilla attack on Rhino Army Camp;

In October 1984 more than 40 civilians were killed by soldiers near Kulikulinya, Udravu, Aringa County, in retaliation for a guerrilla attack.

3/ Available for consultation in the secretariat file.

Buganda

In May 1984 up to 100 civilians were killed by soldiers in Namugongo during a military operation to search for guerrillas. It was also alleged that some of those killed were dumped into mass graves in the vicinity of army barracks. It was said that numerous mass graves were found in the Luwero triangle and the outskirts of Kampala, for example, Bombo, at Kaaya's farm in Buruli County and in Namanve Forest. In June 1985 in an incident in Kasangati, four persons whose names were given as Bazirio Mukasa, Francis Kiwe, Lazaro Ntabyera and Henry Nnunda were allegedly shot by soldiers from Makindye Military Barracks near Kampala and buried in a mass grave. Lazaro Ntabyera, one of the four, was alleged to be still alive when he was buried.

In addition to these, a number of deaths in prison were alleged to have occurred as a result of torture, deprivation of prisoners of adequate food and water, extremely inferior prison conditions and absence of medical attention.

With regard to alleged killing of members and supporters of the opposition party, one such victim was given as Sebastian Ssebuggwawo, an opposition member of the Parliament, who was allegedly abducted in May 1985 and found dead outside Kampala."

143. No reply has been received from the Government of Uganda.

144. The Special Rapporteur transmitted a summary of the allegations received in regard to Zaire which reads as follows:

"Killing of detainees by the security forces was alleged to have continued in 1984. In Kinshasa killing of prisoners allegedly took place in October 1984 at the Deuxième Cité de l'OUA. In February 1984 in Bukavu, Kivu region, a number of persons, unemployed young men, were allegedly executed at the Agence Nationale de Documentation (AND) headquarters after having been arrested for suspected possession of firearms.

Killing of villagers by soldiers was also alleged to have occurred during the course of military operations in late 1984 near the eastern border of Zaire, in particular in two villages north of Urina in Kivu region - Luberizi and Sange - and in Moba, Bendera and Kalemie in North-eastern Shaba."

145. No reply has been received from the Government of Zaire.

III. ACUTE PHENOMENA REQUIRING PARTICULAR ATTENTION

146. In the preceding chapter the information received by the Special Rapporteur is set out, including the various replies relating to it. The Special Rapporteur thus attempts to give an impression of the overall picture put before him. From the foregoing, it is evident that summary or arbitrary executions took place in various situations in various countries with different political, social and cultural backgrounds. It is always risky to generalize and characterize those situations according to categories.

147. However distinct similarities in the basic factors of certain situations are noticeable. In his previous reports the Special Rapporteur tried to categorize those situations where summary or arbitrary executions were reported to have taken place, in order to elucidate the common features in different situations (see E/CN.4/1984/29, chap. II and E/CN.4/1985/17, chap. III).

148. The typical situations in which arbitrary and summary executions occur continue to correspond to those which have been mentioned by the Special Rapporteur in previous reports. In the present report three particular types of situation emerge of which it may be stated that the non-respect of the right to life is a major consequence. They are:

- (a) Killings in situations of internal armed conflict;
- (b) Killings by excessive or illegal use of force by law enforcement agents;
- (c) Deaths in custody.

149. These situations reflect acute phenomena which are further explained below.

A. Killings in situations of internal armed conflict

150. As the Special Rapporteur has stated in all his previous reports, a very high proportion of summary or arbitrary executions occur in situations of armed conflicts. Human life is often increasingly threatened during times of such internal conflict when law enforcement or security agencies are wont to utilize lethal force in an indiscriminate manner. During the year under review, a large number of lives were lost in internal armed conflicts in various part of the world. In such conflicts both the members of government forces and armed opposition groups were killed during armed encounters or combats. However, killings usually did not stop there. As the situation of conflict deteriorated, incidents of indiscriminate killing of civilian non-combatants, including women and children, by both government forces and opposition groups increased, in particular, in the areas where guerrillas were active.

151. Indiscriminate killings were also attributed to opposition groups in a number of cases. Killing of government troops induced retaliation by government forces. Victims were often civilians who were members of certain ethnic, religious or social groups suspected of supporting opposition groups.

152. Killings by the opposition groups also reflected similar patterns. People were killed for being suspected of co-operating with the Government, or for being members of a dominant ethnic, religious or social group which controlled the Government. In this case again victims were often innocent

civilians. Retaliation from one side called for retaliation from the other side and so the situation escalated. In some instances entire village populations were victimized, the evidence being mass graves at roadsides or dumping sites, often with signs of the bodies having been tortured. In a number of cases it was officially announced that those victims had actually been guerrillas, that they had been victims of guerrilla operations, or that deaths had occurred in armed clashes between government and guerrilla forces. Opposition groups on the other hand claimed that such persons were summarily executed by government troops, often after they had been taken into custody and tortured.

153. In the following paragraphs a number of situations are described to illustrate this phenomenon.

154. A large number of civilians were the victims of indiscriminate killing in the armed conflict in Afghanistan between government troops and foreign forces on the one side and opposition movements on the other. In this connection reference may be made to the reports by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan (E/CN.4/1985/21 and E/CN.4/1986/24).

155. Indiscriminate killing of civilians and captured combatants occurred in Chad in the armed conflict between the armed forces of the new Government and those loyal to the former President. Killings by government forces allegedly took place in reprisal for armed attacks upon government forces or officials.

156. A large number of deaths were reported among civilians, mostly peasants, in the internal armed conflict in El Salvador between government forces and armed opposition groups. Apart from the deaths and disappearances attributed to government forces, both paramilitary organizations and guerrilla forces were alleged to have committed political killings of non-combatant civilians. In this connection reference may be made to the reports of the Special Representative of the Commission on Human Rights on the situation of human rights in El Salvador (E/CN.4/1502, E/CN.4/1983/20, E/CN.4/1984/25, E/CN.4/1985/18 and E/CN.4/1986/22).

157. Indiscriminate killing of villagers by the armed forces was alleged in Guatemala in the areas where guerrillas were said to be active. In a number of cases, the Government explained that many victims had died in confrontations between the security forces and guerrilla groups or had been killed or had disappeared as a result of actions carried out by armed opposition groups. Apart from counter-insurgency campaigns, persons regarded as opponents of the Government were assassinated by so-called "death squads". In 1982 a state of siege was declared and a Special Military Tribunal was established. The Special Military Tribunal was empowered to impose the death penalty for a wide range of security offences after proceedings which did not fully guarantee the rights of the accused. The Special Military Tribunals were abolished in August 1983. Reference may be made to the reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Guatemala (E/CN.4/1984/30, E/CN.4/1985/19 and E/CN.4/1986/23).

158. By way of further example, it may be noted that the non-combatant civilians have been killed by armed forces personnel, civilian militias and irregular paramilitary groups in the Philippines, often in the areas where armed opposition groups were active. A number of those killings allegedly

took place after the victims were taken into custody by the security forces or abducted by unidentified groups. Killing of unarmed civilians by the opposition groups was also reported.

159. A number of persons belonging to an ethnic minority group were killed in Sri Lanka during incidents of communal violence. Killings of members of security forces by the armed opposition group allegedly resulted in the deaths of unarmed civilians belonging to the ethnic minority in retaliation and in several cases entire villages were reportedly victimized. According to the figures given by the Government of Sri Lanka, in 1985, a total of 885 civilians were murdered by the militant terrorists and 194 members of the security forces were killed.

160. In his report the Special Rapporteur pointed out that, under article 4, paragraph 2 of the International Covenant on Civil and Political Rights, derogation from article 6, which provides for the right to life, is not permitted in times of public emergency. The Protocols additional to the Geneva Conventions have provisions which protect the right to life of civilians in situations of internal armed conflict, internal disturbances and tensions. However, in these situations, neither international standards nor national laws and regulations, that are in conformity with international standards designed to restrain the acts of members of the security forces, are adhered to.

161. The existence of internal armed conflict invariably presupposes the suspension or non-applicability of certain legal safeguards by the formal declaration of a state of siege, a state of emergency or an equivalent "exceptional" legal régime. A number of constitutional safeguards to protect certain human rights, in particular the right to liberty and security of person, are suspended or severely curtailed, sometimes to the extent that in effect any guarantee is precluded.

162. In a number of such situations a de facto emergency existed, although in the absence of a formal declaration of a state of emergency or other form of suspension. The extensive powers exercised by the executive and/or the military authorities rendered inoperative the substantive part of the constitutional guarantees, and laws concerning security matters were promulgated by decree.

163. The most common features of emergency situations are the wide powers given to the security forces to arrest persons without a warrant and to detain persons for prolonged periods without charge, and the absence of judicial control over the legality of such arrests and detention.

164. In such situations a large number of people disappeared. The authorities often refused to acknowledge the arrests and detention. In a number of cases such persons were later found dead. In some cases members of security forces and government officials were abducted and killed by opposition groups.

165. It is extremely difficult even for an insider to establish responsibility for killings in situations of internal conflicts. Governments put the blame on the terrorists or guerrilla groups which in turn put the blame on government forces. The issues can also be clouded when for propaganda purposes either side engages in a process of disinformation with a view to painting a black and negative picture of the other side. As many killings are done by non-governmental groups as by government agencies. In fact some of

those groups are committed to violence even in countries which are on the whole democratic in nature and therefore offer an avenue for such groups to be heard and an opportunity to effect change peacefully.

166. It must however be emphasized that under national and international law, the primary responsibility for ensuring respect for the right to life rests with the State. However, these non-governmental groups must also respect the right to life and inasmuch as they engage in any killings, they must be condemned. As the Security Council stated in the historic resolution it adopted on 18 December 1985, all acts of terrorism must be resolutely condemned.

167. It is the Government's responsibility to remove the causes which make such groups take up arms. In the Special Rapporteur's previous reports such causes have been identified as inequitable distribution of wealth, ethnic conflicts, religious intolerance and racial discrimination. The Special Rapporteur is pleased to note that, according to the information in his possession, some Governments are at least trying to remove these underlying causes.

168. For example, the Government of Brazil stated in its reply to the Special Rapporteur that it had decided to tackle the problems of landownership and use with a view to eliminating situations in which tensions arise leading to acts of violence. The Governments of Colombia and Peru are taking into account in their policies the economic and social causes of the situation in their countries.

169. In internal conflicts the polarization of the various groups in society takes place and therefore one of the ways of removing the polarization is for the Government to embark on a genuine and deliberate policy of national reconciliation. Colombia and Peru have embarked on such a process. Peru for example has established a Peace Commission which is an advisory and consultative body of the Office of the President and which has amongst its functions the opening up of dialogue with a view of persuading those who resort to violence and terrorism to return to democracy and the life of the social community in accordance with the Constitution and the laws of the Republic.

170. As the Special Rapporteur has stated in the past, where summary or arbitrary execution has occurred in these situations, Governments have not normally investigated the matter or charged the offenders before the courts. This is now beginning to happen. For example, the Peace Commission established in Peru has among its functions to channel and bring before the authorities such complaints as may be submitted regarding human rights violations involving killings and extra-judicial executions. The Government of Peru has replaced the Chief of Joint Command of the Armed Forces and relieved a major-general and a brigadier-general of their duties as their junior officers were responsible for killings. It can be seen from the reply of the Government of Colombia that investigations have been launched into a number of allegations which have been brought to its attention. This is the type of co-operation that the Special Rapporteur appreciates.

171. At the international level, there are developments which are worth noting. It is therefore to be welcomed that, following the study prepared by Mrs. N. Questiaux on the question of human rights during states of siege or emergency, the Sub-Commission at its thirty-eighth session examined an explanatory paper from its Special Rapporteur, Mr. L. Despouy, on the best way of drawing up and updating an annual list of countries which have proclaimed

or terminated a state of emergency. The Sub-Commission has requested its Special Rapporteur to present his first annual report and to draw up an initial list for submission to the Sub-Commission at its thirty-ninth session.

172. The application of international standards on human rights during emergency situations will thus be taken a step further in the exercise now taking shape in the Sub-Commission and will bolster the safeguards set out in article 4 of the International Covenant on Civil and Political Rights. In this regard the general comments of the Human Rights Committee on article 4 of the Covenant deserve special mention.

B. Excessive or illegal use of force

173. ~~The extensive use of force by law enforcement officials is one of the root causes of summary or arbitrary executions.~~

174. Many deaths were reported in connection with the use of force by law enforcement officials, security forces and armed groups acting under the control of the authorities. In some cases force was used in the context of public disturbance, riots or demonstrations. In other cases force, particularly firearms, were used at the time of pursuit or arrest of criminal suspects. In some other cases it was part of an anti-crime or anti-subversive campaign in which criminal suspects were killed by the security forces without any legal proceedings. In still other cases unidentified armed groups, so-called "death squads", were responsible for killing persons suspected of opposition to the Government. In all those cases the force used was disproportionate to the ends sought, and was illegal.

175. In a number of countries the security forces used excessive measures to maintain public order, to contain disturbances or to quell demonstrations. The ways in which force was used included shooting at unarmed crowds without warning, shooting plastic or rubber bullets or tear-gas canisters at close range, using highly hazardous and dangerous gas to quell demonstrations, hitting brutally with clubs and other hard heavy objects, kicking various parts of the body, in particular the head and stomach. In several cases such excessive violence went without investigation.

176. In some countries deaths were reported at the time of pursuit or arrest. According to official reports criminal suspects were shot while trying to escape or when resisting arrest, or in armed clashes. However, in a number of cases it was alleged that such persons were first apprehended by the security forces and then shot or killed under torture. There was frequently no post-mortem, inquest or autopsy and police reports were accepted without further investigation.

177. In several countries killing of criminal suspects or suspected opponents of the Government took place. In many cases persons were found dead after having disappeared or been abducted by armed groups. In a number of cases evidence showed that security forces personnel were involved in those killings, but in others the identity of the perpetrators was not known. The Government in most cases denied its responsibility for such killings, accusing guerrilla groups or organized criminal groups of those deaths. The common features of this type of killing are: (a) the victims are of similar background, either suspected criminals, or specific ethnic, religious or social groups actively opposed to the Government; (b) the armed men responsible for such killings operate with impunity; and (c) even if official investigations are carried out in some cases, criminal charges are filed only in exceptional cases, when perpetrators are identified.

178. A number of situations will be described in the following paragraphs in order to illustrate this phenomenon.

179. In Argentina between 6,000 and 9,000 people were estimated to have disappeared or died during the anti-subversive operations under military rule between 1976 and 1983. Those who were killed by members of the armed forces, were taken first to secret camps, then killed and their bodies were dumped in remote areas. In many cases detention of the victims was never acknowledged by the authorities.

180. By way of further example, reference may be made to the numerous persons reported to have been killed in Chile as a result of disproportionate measures taken by the security forces, notably indiscriminate use of firearms, in suppressing public demonstrations. Such excessive measures used by the agencies responsible for public order also caused victims among passers-by or spectators.

181. A number of opposition leaders and activists were killed by unidentified armed men. In some cases the deaths were imputed to police or security forces either directly or indirectly.

182. A number of cases were the subject of investigation proceedings, including one recent case in which three human rights activists were found dead, mutilated, with their throats cut, after having been abducted by a group of unidentified civilians who were heavily armed and "highly organized". In this case personnel of the Carabineros were implicated and the proceedings are still pending.

183. The situation in South Africa deserves special mention. Over the past year the world has witnessed the indiscriminate shooting down of persons seeking to assert their birthright as human beings. During 1985, at least 1,000 deaths were reported. Since the declaration of the state of emergency on 20 July 1985, the average number of people killed every day by excessive or illegal use of force by the law enforcement agencies has trebled. Deaths occurring in South Africa have to be counted among the most numerous instances of arbitrary or summary executions which have taken place in the last year.

184. It was alleged that the South African Police and the South African Defence Forces resorted to excessive or illegal use of force, out of proportion to the alleged purpose of quelling riots. According to a report, the majority of the persons who died as a result of the intervention of the police and the defence forces were non-whites. Such acts of disproportionate violence by the police and defence forces included indiscriminate shooting and assaulting of unarmed crowds who gathered, demonstrated, protested against various apartheid measures imposed by the Government, or took part in the funerals of victims of earlier demonstrations. Innocent bystanders, including children, were also victims. A number of victims were allegedly dragged out of their houses and killed. A number of persons fleeing from assault by the police were reported to have been killed on the spot, in some instances shot at point-blank range. Some of the wounded persons died later in hospital.

185. In such circumstances, the Special Rapporteur noted that the perpetrators of such alleged acts enjoyed the protection of the law. For example, under the state of emergency, immunity is granted in regard to acts committed throughout the entire territory (and not only the 36 original Magisterial Districts) to:

"(a) The State;

(b) The State President;

(c) Any member of the Cabinet of the Republic;

(d) Any member of a force;

(e) Any person acting by direction or with the approval of any member or person referred to in the preceding paragraphs of this subregulation; by reason of any act in good faith advised, commanded, ordered directed or performed by any person in the carrying out of his duties, or the exercise of his powers or the performance of his functions in terms of these regulations, with intent to ensure the safety of the public, the maintenance of public order or the termination of the state of emergency in any area where the existence of a state of emergency has been declared in pursuance of section 2 (1) of the Act, or in order to deal with circumstances which have arisen or are likely to arise as a result of the aforementioned state of emergency."

186. The members of a force include members of the army, police and prison forces. The effect of this has been twofold: first the members of the armed forces are now being involved in duties which are normally within the province of the police in patrolling mainly black townships and do not have the restraint which the police may or are expected to have in dealing with members of the public; secondly, the immunity provided by the emergency legislation has caused the members of the forces to behave as if they have been licensed to kill.

187. It was further alleged that a number of persons, including active opponents of apartheid, were killed by members of other tribal or ethnic groups with the connivance or active support of the authorities. At least 238 deaths were reported to have occurred in such circumstances.

188. Other active opponents of apartheid were killed by persons whose identity was alleged to have remained unknown. According to numerous witnesses, there was a definite, systematic pattern to these killings.

189. The Special Rapporteur is pleased to note that some Governments have repealed the immunity which given to military leaders who had, among other acts, been involved in summary or arbitrary executions. For example, in December 1983, upon taking office, the newly elected Government of Argentina repealed the immunity law that the military leaders had adopted in the last days of military rule, and ordered the trial by the Supreme Council of the Armed Forces of the nine members of the three military juntas that had ruled the country between 1976 and 1982; other members of the military were charged with offences resulting from their involvement in the anti-subversive operations.

190. The Government also established a National Commission on the Disappearance of Persons, which was charged with the investigation of the fate or whereabouts of the disappeared persons. It received information and evidence on the cases of disappearance and forwarded them to the judicial authorities for criminal investigation. In September 1984 the Commission submitted its report to the President. In October 1984 the National Court of Appeals for Federal Criminal and Correctional Cases decided to take over the proceedings from the Supreme Council of the Armed Forces which had been unable

to hand down sentences within the set period of time. The Appeals Court acted as a court of sole instance, its decision being final, unless the parties appealed to the Supreme Court of Justice on the grounds of violation of constitutional rights.

191. In December 1985, after listening to 833 witnesses, the Court delivered its verdict on the nine military leaders. Two of the nine were found guilty of homicide, illegal detention and other human rights violations and sentenced to life imprisonment. Three were found guilty of the same crimes and were sentenced to imprisonment ranging from 4 1/2 to 17 years. The remaining four were acquitted. Governments have often lacked the will to prosecute law enforcement officers who have committed summary or arbitrary executions. The example given by the Government of Argentina is one to be commended or emulated by other Governments.

192. There is a definite need for law enforcement officials to be given serious and extensive training in the provisions of such documents as the Code of Conduct for Law Enforcement Officials and other rules which can guide them on how to react to tense or unpredictable situations. The Special Rapporteur notes that for example, in Sri Lanka, an organization for human rights promotion through law enforcement agencies has been set up under the patronage of the President, with the Prime Minister, Chief Justice and the Leader of the Opposition as Vice-Patrons, with the following objects:

(a) To take steps to promote and co-ordinate the work of law enforcement officials and agencies in their recognition of and respect for human rights as accepted and formulated by the community of nations;

(b) To study and formulate the principles, practices, procedures and prerequisites for the observance of human rights in the performance of law enforcement functions in Sri Lanka;

(c) To assist in formulating policies and codes of conduct, which through co-ordination and integration would advance the administration of justice in general and the observance of human rights in particular;

(d) To encourage every law enforcement official and agency to observe the duty of disciplining themselves in conformity with the principles and standards as formulated and the rights as embodied in the Constitution and laws of Sri Lanka and such other human rights instruments as may be ratified by the Government of Sri Lanka;

(e) To take all necessary steps including the holding of seminars, conferences and exhibitions, the preparation and dissemination of literature and information for the furtherance of the above objects.

193. At the international level the consideration currently being given by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to this question is indeed very relevant to the campaign against arbitrary and summary executions. At its thirty-eighth session the Sub-Commission suggested that the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders study ways and means to promote international technical co-operation in the area of restraints on the use of force by law enforcement officials and military personnel. The Sub-Commission has decided to inscribe on the agenda of its next session a subitem entitled: "Restraints on the use of force by law enforcement and military personnel."

C. Deaths in custody

194. With regard to the treatment of persons in the custody of law enforcement or prison authorities, a number of international instruments set out criteria which are accepted by international consensus. Article 7 of the International Covenant on Civil and Political Rights provides that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 5 of the Code of Conduct for Law Enforcement Officials states that "no law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment." Rule 31 of the Standard Minimum Rules for the Treatment of Prisoners states that "corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences."

195. It has been repeatedly shown that risks of death or serious injury increase markedly in situations where persons are held in unacknowledged and/or incommunicado detention. Death while in the custody of law enforcement agencies or security forces constituted a widespread phenomenon. The victims fell into different categories such as criminal suspects, opponents of the Government and suspected guerrillas. The majority of the victims, however would appear to have been those detained for political or security reasons. The purpose of their custody might have been initial detention for interrogation, detention without charge, detention awaiting trial, or imprisonment after sentencing. Death occurred most frequently during the first stage of detention, namely immediately after arrest or apprehension when persons were held incommunicado for interrogation. It was often alleged that victims died under torture. In some cases persons were shot to death. In instances of prolonged detention or imprisonment there were cases of death due to starvation or lack of medical attention, which were part of the punishment in detention centres, prisons, labour camps or re-education camps. It was explained in a number of cases that the victims died of illness, committed suicide or were shot while trying to escape. In many cases of death in custody a post-mortem, inquest or autopsy was not carried out. In a few cases, officials responsible for such deaths were punished.

196. In the following paragraphs some cases will be described as illustrative of this phenomenon.

197. A number of deaths of persons in the custody of the security forces were reported in Chile. It was alleged that the persons died as a result of torture during interrogation. According to the Government, cases of deaths in custody have been the subject of court proceedings in order to determine the "precise circumstances of the deaths and those responsible for them".

198. It was alleged that in the Islamic Republic of Iran a number of persons who were detained for their suspected opposition to the Government or for their membership of ethnic or religious groups were tortured to death or secretly executed without trial. The exact number of deaths or executions was not known.

199. It was alleged that in Iraq a number of persons, suspected of opposition to the Government, were detained incommunicado, died as a result of torture during interrogation, or were executed without trial. According to the Government's communication those persons were executed "after proper investigation and trial during which they enjoyed all of the legally prescribed safeguards." In spite of the Government's contention, no legal proceedings were known or made available concerning those cases.

200. Several deaths in police custody were reported in Paraguay. In one case a person died as a result of maltreatment by the police after having been arrested. Although the police stated that the person committed suicide, the post-mortem reportedly indicated that the cause of death was head injuries. ~~According to the Government the case is the subject of court proceedings.~~

201. A number of persons were alleged to have died in prison in Sierra Leone, due to malnutrition.

202. The Special Rapporteur received information on numerous instances of deaths alleged to have occurred in South Africa as a result of ill-treatment by police during the initial period of police custody as well as during detention. The Special Rapporteur received considerable information, both orally and in writing, which indicated that there was overwhelming evidence of assault of detainees in police custody, especially of those opposed to apartheid, and this in a systematic pattern.

203. Under section 29 of the Internal Security Act any police officer of the rank of lieutenant-colonel and up, is permitted to order the detention of a person for up to 30 days without the written authority of the Minister of Law and Order. This initial detention can be extended by periodical review by the Minister of Law and Order and by a Board of Review to an indefinite period for the "purposes of interrogation".

204. It was reported that a large number of detainees under the state of emergency were assaulted in police custody before they were transferred to detention facilities. In September 1985, Dr. Wendy Orr, a district surgeon in the Port Elizabeth area, submitted evidence to the Supreme Court of widespread and regular torture and ill-treatment of detainees held under the state of emergency. The Supreme Court reportedly granted her application for a court order restraining the police from assaulting the emergency detainees held at St. Alban's and North End prisons in Port Elizabeth, as well as any people detained in future under the Emergency Regulations in the Port Elizabeth and Uitenhage Magisterial District.

205. In a number of cases of detention, application was filed to the court on behalf of the detained persons to grant interim orders to restrain police from assaulting persons who were in police custody for investigation.

206. The foregoing paragraphs have been included because, as the Special Rapporteur has noted in his previous reports, there is a very close nexus between torture in detention and death in detention. Where there is a high incidence of torture or assault on persons in the custody of law enforcement officers there are bound to be deaths arising out of these acts.

IV. Conclusions and Recommendations

207. Since the Special Rapporteur's last report submitted a year ago, the question of arbitrary and summary executions has remained one of the most urgent problems on the international human rights agenda which is deserving of the utmost priority attention. There really has been no respite in the number of such executions. If the number has gone down in one situation, it has been offset by an increase in others and, overall, the problem has remained acute. The Special Rapporteur is therefore strongly of the view that the international community should continue to monitor the phenomenon of summary or arbitrary executions and in particular to devise ways and means of intervening effectively in situations of imminent or threatened summary or arbitrary execution.

208. As can be seen in this report, there are a number of organs or bodies of the United Nations and other international organizations which touch on some aspects of this problem, such as the Human Rights Committee, the Sub-Commission, the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the International Criminal Police Organization, the Special Rapporteurs on country situations and the Working Groups on various topics or countries. There is need for co-ordination between these institutions and with the Special Rapporteur so that more concerted efforts in both the short- and long-term can be brought to bear in dealing with the immediate problems and the underlying causes of summary or arbitrary execution. For example, the Special Rapporteur found the joint hearings in Lusaka with the Chairman of the Ad Hoc Working Group of Experts on southern Africa very valuable for his work.

209. One of the ways in which Governments can show that they want this abhorrent phenomenon of arbitrary or summary executions eliminated is by investigating, holding inquests, prosecuting and punishing those found guilty. There is therefore a need to develop international standards designed to ensure that investigations are conducted into all cases of suspicious death and in particular those at the hands of the law enforcement agencies in all situations. Such standards should include adequate autopsy. A death in any type of custody should be regarded as prima facie a summary or arbitrary execution and appropriate investigations should immediately be made to confirm or rebut the presumption. The results of investigations should be made public.

210. It has come to the notice of the Special Rapporteur that some national legislations and regulations do not conform to the requirements that the right to life shall be protected by law and that no one shall be arbitrarily deprived of his life as stated in article 6, paragraph 1, of the International Covenant on Civil and Political Rights. It is important to stress that the Human Rights Committee has interpreted this to mean that the law must strictly control and limit the circumstances in which a person may be deprived of his life by the authorities of the State. The safeguard provided in article 4, paragraph 2 which does not permit derogation of this fundamental right to life even in times of public emergency is not reflected in many national legislations and regulations. A study should therefore be made in this area and States should ensure that their national legislations conform to the internationally accepted standards.

211. The number of deaths in custody are increasing alarmingly. It is therefore imperative that Governments should in all such cases:

(a) Disclose the identity, location and condition of all persons arrested or detained by members of their police, military or security authorities or others acting with their knowledge;

(b) Disclose the reason for the detention;

(c) Allow or permit access to the detained person by an advocate and/or relative.

212. The Special Rapporteur would like to reiterate his appeal to Governments to ratify international covenants such as the International Covenant on Civil and Political Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Four Geneva Conventions.

213. In conclusion, the Special Rapporteur would like to refer to one issue which he feels deserving of further consideration by the Commission. The International Covenant on Civil and Political Rights proscribes the application of the death penalty to any one below the age of 18 at the time when the offence was committed. While some reservations have been formally entered to this provision, the Covenant nevertheless has a special status, having been proclaimed and adopted by the General Assembly and having received for the most part widespread acknowledgement throughout the international community. In some recent instances the attention of the Special Rapporteur has been drawn to persons executed or about to be executed, having been duly convicted and sentenced in accordance with the law although it has been established beyond doubt that they were under 18 years of age when the crimes in question were committed. These executions have posed a difficult principle for the Special Rapporteur because, while it is clear that the persons in question were duly tried and sentenced and had every opportunity to appeal, the point nevertheless remains that a United Nations standard of global validity was not adhered to. The Special Rapporteur feels that this issue deserves further examination and he would be grateful for such guidance as the Commission may be able to offer on this question.

Annex I

ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1985/40

Summary or arbitrary execution

The Economic and Social Council,

Recalling the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person,

Having regard to the provisions of the International Covenant on Civil and Political Rights, in which it is stated that every human being has the inherent right to life, that this right shall be protected by law and that no one shall be arbitrarily deprived of his life,

Recalling General Assembly resolution 34/175 of 17 December 1979, in which the Assembly reaffirmed that mass and flagrant violations of human rights were of special concern to the United Nations and urged the Commission on Human Rights to take timely and effective action in existing and future cases of mass and flagrant violations of human rights,

Mindful of General Assembly resolutions 36/22 of 9 November 1981, 37/182 of 17 December 1982, 38/96 of 16 December 1983 and 39/110 of 14 December 1984,

Taking note of resolution 1982/13 of 7 September 1982 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in which the Sub-Commission recommended that effective measures should be adopted to prevent the occurrence of summary or arbitrary executions,

Taking note also of the work done by the Committee on Crime Prevention and Control in the area of summary and arbitrary executions, a/ including the elaboration of minimum legal guarantees and safeguards to prevent recourse to such extra-legal executions, to be considered by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1985,

Deeply alarmed at the occurrence on a large scale of summary or arbitrary executions, including extra-legal executions,

1. Strongly deplores, once again, the large number of summary or arbitrary executions, including extra-legal executions, which continue to take place in various parts of the world,

2. Appeals urgently to Governments, United Nations bodies, the specialized agencies, regional intergovernmental organizations and non-governmental organizations to take effective action to combat and eliminate summary or arbitrary executions, including extra-legal executions;

a/ See Official Records of the Economic and Social Council, 1984, Supplement No.6 (E/1984/16), chap. VII.

3. Takes note with appreciation of the report of Mr. S. Amos Wako, Special Rapporteur; b/
4. Decides to continue the mandate of the Special Rapporteur, Mr. S. Amos Wako, for another year, in order to enable him to submit further conclusions and recommendations to the Commission;
5. Requests the Special Rapporteur in carrying out his mandate to continue to examine situations of summary or arbitrary executions;
6. Requests the Special Rapporteur in carrying out his mandate to respond effectively to information that comes before him, in particular when a summary or arbitrary execution is imminent or threatened;
7. Considers that the Special Rapporteur in carrying out his mandate should continue to seek and receive information from Governments, United Nations bodies, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council and to take due account of official declarations and government information which come to his attention;
8. Requests the Secretary-General to continue to provide all necessary assistance to the Special Rapporteur so that he may carry out his mandate effectively;
9. Urges all Governments and all others concerned to co-operate with and assist the Special Rapporteur;
10. Requests the Commission on Human Rights to consider the question of summary or arbitrary executions as a matter of high priority at its forty-second session under the item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

25th plenary meeting
30 May 1985

Annex II

GENERAL ASSEMBLY RESOLUTION 40/143

Summary or arbitrary executions

The General Assembly,

Recalling the provisions of the Universal Declaration of Human Rights, which states that every human being has the right to life, liberty and security of person,

Having regard to the provisions of the International Covenant on Civil and Political Rights, which states that every human being has the inherent right to life, that this right shall be protected by law and that no one shall be arbitrarily deprived of his life,

Recalling its resolution 34/175 of 17 December 1979, in which it reaffirmed that mass and flagrant violations of human rights are of special concern to the United Nations and urged the Commission on Human Rights to take timely and effective action in existing and future cases of mass and flagrant violations of human rights,

Recalling further its resolution 36/22 of 9 November 1981, in which it condemned the practice of summary or arbitrary executions, and its resolutions 37/182 of 17 December 1982, 38/96 of 16 December 1983 and 39/110 of 14 December 1984,

Deeply alarmed at the continued occurrence on a large scale of summary or arbitrary executions, including extra-legal executions,

Recalling resolution 1982/13 of 7 September 1982 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in which the Sub-Commission recommended that effective measures should be adopted to prevent the occurrence of summary or arbitrary executions,

Welcoming Economic and Social Council resolution 1984/50 of 24 May 1984 containing safeguards guaranteeing protection of the rights of those facing the death penalty, which resolution was endorsed by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as the ongoing work on summary or arbitrary executions within the Committee on Crime Prevention and Control,

Convinced of the need for appropriate action to combat and eventually eliminate the practice of summary or arbitrary executions, which represents a flagrant violation of the most fundamental human right, the right to life,

1. Strongly condemns the large number of summary or arbitrary executions, including extra-legal executions, which continue to take place in various parts of the world,

2. Demands that the practice of summary or arbitrary executions be brought to an end;

3. Welcomes Economic and Social Council resolution 1982/35 of 7 May 1982, in which the Council decided to appoint for one year a Special Rapporteur to examine the questions related to summary or arbitrary executions;

4. Also welcomes Economic and Social Council resolution 1985/40 of 30 May 1985, in which the Council decided to continue the mandate of the Special Rapporteur, Mr. S. A. Wako, for a further year and requested the Commission on Human Rights to consider the question of summary or arbitrary executions as a matter of high priority at its forty-second session;

5. Urges all Governments and all others concerned to co-operate with and assist the Special Rapporteur in the implementation of his mandate;

6. Requests the Special Rapporteur, in carrying out his mandate, to respond effectively to information that comes before him, in particular when a summary or arbitrary execution is imminent or threatened, or when such an execution has recently occurred;

7. Requests further the Special Rapporteur to consider in his next report possible measures to be taken by the appropriate authorities when a death occurs in custody, including adequate autopsy;

8. Considers that the Special Rapporteur, in carrying out his mandate, should continue to seek and receive information from Governments, United Nations bodies, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council;

9. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur so that he may effectively carry out his mandate;

10. Again requests the Secretary-General to continue to use his best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights appear not to be respected;

11. Requests the Commission on Human Rights at its forty-second session, on the basis of the report of the Special Rapporteur to be prepared in conformity with Economic and Social Council resolutions 1982/35, 1983/36, 1984/35 and 1985/40, to make recommendations concerning appropriate action to combat and eventually eliminate the abhorrent practice of summary or arbitrary executions.

Annex III

NOTE VERBALE DATED 16 AUGUST 1985 FROM THE SECRETARY-GENERAL
TO GOVERNMENTS

The Secretary-General of the United Nations presents his compliments to the Minister for Foreign Affairs of ... and has the honour to refer to Economic and Social Council resolution 1985/40 of 30 May 1985, entitled "Summary or arbitrary executions". A copy of the resolution is attached to this note. By this resolution the Council decided to continue the mandate of the Special Rapporteur, Mr. S. Amos Wako, for another year, in order to enable him to submit further conclusions and recommendations to the Commission on Human Rights.

The Special Rapporteur wishes to make reference to last year's note addressed to His Excellency's Government with a view to requesting certain information relevant to the Special Rapporteur's mandate. The Special Rapporteur would like to reiterate the request for information as contained in the note verbale dated 21 September 1984 (copy attached) and to emphasize that he would appreciate, in particular, information on legislation and/or measures taken or envisaged, concerning safeguards designed to protect the individual against the violation of the right to life. The Special Rapporteur would also welcome any other observations that His Excellency's Government may wish to make in this connection.

The Secretary-General would be grateful if any information which His Excellency's Government might wish to forward, as requested, could be transmitted to the Assistant Secretary-General for Human Rights, United Nations Office at Geneva, if possible before 1 October 1985.

16 August 1985