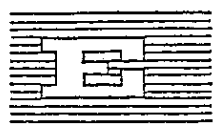


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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY  
FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:  
QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Working Group on Enforced or  
Involuntary Disappearances

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## INTRODUCTION

1. This is the Working Group's third report. It differs from its predecessors in two respects. It is the Group's opinion that the time has arrived to give the statistics of this endeavour: cases received, cases considered as admissible and transmitted, answers which solve the case and other responses. Furthermore, the report is more compact because an attempt has been made to summarise the situation and the representations received, rather than to set out at length the texts of speeches and other communications. References are, however, made throughout chapters II, III and IV to the two previous reports so that the background to the problem in each country may be recollected.<sup>1/</sup>

2. The object of transmitting cases to Governments is to obtain answers which families of disappeared persons may be given and which they have the right to know. Such answers are being received. This is a change from the Working Group's earlier experience. At first, a number of Governments were hesitant. Now, however, with some exceptions there seems to exist a greater readiness, around the world, to respond to the Group's invitations to assist.

3. The Working Group operates solely on the basis of reports received. It has no inherent investigatory powers nor resources. Thus the coverage varies from country to country. The variation concerns not only the extent of information provided about the details of a case, but also the extent to which the totality of a pattern of disappearances has been made known. Probably there remain countries where disappearances have occurred but from which no reports have been received.

4. The Commission has properly insisted that all cases received should be carefully examined. Only those suitable for transmission should be forwarded to Governments. A major effort has been made to select, from the vast number originally received, those which can be suitably transmitted. There remains a backlog of cases which have been partially cleared. The process of selection will continue since it is not in the interest of any of the parties involved that standards should be relaxed or abandoned. The Group in the course of examining these cases has determined that these principles must be maintained.

5. From certain countries, reports of disappearances still arrive. This is now a familiar phenomenon, and informed organizations lose no time in reporting single cases which appear to fall within the definition. Elsewhere an established pattern involving substantial numbers of people continues to be reported. However in 1982 Governments have taken new or improved steps to investigate and respond to these cases. It is encouraging to hear of national institutions or other arrangements which have been set up to deal with this problem.

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<sup>1/</sup> E/CN.4/1435 and Add.1; E/CN.4/1492 and Add.1.

6. The older cases continue to create difficulties. There is no lack of dialogue but there is a lack of results. The Working Group thinks it most helpful to maintain the dialogue. Although these older cases remain and tend to cause trouble, current cases tend to be solved or no new disappearances are reported, the Group considers that patience may still be a virtue, if it brings a fairly swift reward.

7. As has been said, this report contains summaries of the information given by Governments, non-governmental and family organizations, rather than the extensive texts previously printed. In changing to these summaries the Working Group hopes that there will be no misunderstanding. It thinks that its motivation and methods of work have been sufficiently revealed to and accepted by all those with whom it has been in communication. The absence of political interest, the paramountcy of purely humanitarian concern for the families of the disappeared and the disappeared themselves, has been stressed. The speeches in the Commission on Human Rights, the Economic and Social Council and the United Nations General Assembly have confirmed this; the resolutions have emphasized it; day-to-day work with all those concerned shows that this is the only acceptable formula.

8. If those whose representations have been summarised feel that justice has not entirely been done to what was said the Group wishes to allay their fears. The material presented to the Group reflects different points of view even if these relate to the same event or situation. The Working Group has made no judgment. It has not even tried so to do. The summaries do not in any way indicate a conclusion which has been reached. An effort has simply been made to enable members of the Commission and others interested more quickly to grasp the essence of what has been said.

9. The Working Group invites the Commission to study this report and to make its comments.

I. ACTIVITIES OF THE WORKING GROUP ON ENFORCED OR  
INVOLUNTARY DISAPPEARANCES IN 1982

10. The Commission on Human Rights in its resolution 20 (XXXVI) of 29 February 1980 decided to establish for a period of one year a Working Group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons and to present a report. In 1981 and 1982 the Commission extended the mandate of the Working Group. The first two reports of the Working Group are contained in documents E/CN.4/1435 and Add.1 and E/CN.4/1492 and Add.1. The present report is submitted in accordance with the Commission's most recent resolution, 1982/24, which was approved by the Economic and Social Council in its decision 1982/131 of 7 May 1982. The membership of the Working Group is as follows: Viscount Colville of Culross (United Kingdom) (Chairman, Rapporteur); Mr. Jonas K.D. Foli (Ghana); Mr. Agha Hilaly (Pakistan); Mr. Ivan Tosevski (Yugoslavia); and Mr. Luis A. Varela Quiros (Costa Rica).

11. This year the Working Group has held the following three sessions at the United Nations Office at Geneva: seventh session, 24 to 28 May 1982; eighth session, 27 September to 1 October 1982; and ninth session, 6 to 10 December 1982. The Working Group plans to hold, as in the past, a short meeting during the thirty-ninth session of the Commission on Human Rights to adopt an addendum updating the present report.

12. At the time of the extension of its mandate the Working Group had before it considerable information which it had not yet been able to analyse and since then a continuous flow of information on enforced or involuntary disappearances has been received by the Group. Since the extension of its mandate the Working Group has reviewed individual reports of some 2,340 disappearances. The Group has transmitted reports on 1,733 disappearances to the Governments of 11 countries along with its request to receive information. With regard to the other cases reviewed but not transmitted to the Government, the Group decided to seek further information from the source of the report, or found that the report did not appear to fall within the mandate of the Working Group. In addition, the Group continued to press for answers to certain cases transmitted in earlier years.

13. During 1982 the Working Group continued to use the procedure adopted at its first session in 1980 by which the Group authorized its Chairman to transmit urgent reports of enforced or involuntary disappearances, received between sessions of the Group and requiring immediate action, to the Government of the country concerned together with a request that the Government transmit to the Group such information as it might wish. Of the 1,733 reports transmitted to Governments mentioned above, 400 were transmitted in accordance with this procedure. As the present report indicates in a number of these cases the Group was informed by Governments and non-governmental sources that the person reported missing had been released or was being held in officially recognized detention. The Group also received statements from many sources, including one Government, non-governmental organizations and representatives of relatives and persons reported as missing which confirm that prompt international expression of concern can be effective in helping to clarify reports of recent disappearances.

14. The principal source of the reports of enforced or involuntary disappearances reviewed by the Working Group during 1982 were relatives, persons closely connected with the disappeared persons or non-governmental organizations acting on their behalf. Information was also received from inter-governmental organizations, non-governmental organizations in consultative status with the Economic and Social Council and humanitarian organizations. Certain Governments have transmitted reports to the Working Group or called the Group's attention to specific cases of enforced or involuntary disappearances. The Group has also received information from individuals who reported witnessing the arrest or abduction of a missing person, from some who stated that they were detained with missing persons in centres of detention and from others who were among the disappeared for a period and who recounted what happened to them.

15. The Working Group has attempted to deal with all the reports of disappearances on which specific information was available and it instructed the Secretariat to seek additional information when sufficient details were not received. As mentioned above, reports of an urgent nature which required immediate action were transmitted to the Government concerned, even though on occasion they did not necessarily contain all the factual elements desirable. This was done in the hope that rapid action would quickly clarify the cases. In many instances the details initially lacking were subsequently supplied in follow-up correspondence. With regard to those reports not falling within the immediate action category, the Group carefully reviewed the information provided. It had in mind its objective of helping to clarify reports of disappearances, and it selected for transmission to the Government concerned, only those cases that contained material of a factual nature on which an investigation could be based. This would facilitate the most efficient use of the investigating resources available in the country concerned. It was hoped that in those situations success with the better documented cases would open up avenues of investigation for those which were rather less well documented. It should be noted that the method of work adopted by the Working Group with regard to processing reports of disappearances may result in differences between the number of disappearances reported by the Working Group with regard to a given country and the number which might be reported elsewhere.

16. As indicated above information has been received from a number of Governments regarding reports transmitted by the Working Group. In accordance with the humanitarian nature of its mandate the Working Group has then taken steps to pass on that information to the relatives of the reported missing person. In so doing the Working Group drew attention to the Commission's request in its resolutions 10 (XXXVII) and 1982/24 for discretion as to the use of such information. As the Working Group did in connexion with its previous reports, summaries of the cases transmitted to Governments and copies of the information provided by them are on file with the Secretariat and available for consultation by members of the Commission.

17. During its seventh, eighth and ninth sessions the Working Group met with representatives of the following States: Argentina, Bolivia, Cyprus, El Salvador, Guatemala, Iran, Morocco, Nicaragua, the Philippines and Zaire.

18. During its eighth and ninth sessions the Working Group met with representatives of the following organizations or associations directly concerned by reports of enforced or involuntary disappearances: Latin American Federation of Associations of Relatives of Missing Detainees (FEDEFAM); Centre

for Legal and Social Studies (Argentina); Christian Legal Aid Office (El Salvador); Committee for Justice and Peace (Guatemala); El Salvador Commission on Human Rights (non-governmental); and Grandmothers of the Plaza de Mayo (Argentina). The Working Group also received written information from these and from other organizations or associations directly concerned by reports of enforced or involuntary disappearances. Those organizations spoke of the serious and widespread nature of enforced or involuntary disappearances which constituted a particularly odious and cruel form of violation of human rights. It not only affected the missing person himself but brought suffering and anguish to his family and relatives and even spread fear and terror through the general population. The Working Group was told of the importance attached by the relatives and their organizations to the role the Group could play in bringing an end to disappearances and in aiding the relatives to learn the whereabouts or fate of their family members. Many spoke of the large number of missing persons, and of the reports and testimonies presented to Governments by the Working Group but they pointed out that answers were either evasive or that no answers were received at all. The Group was urged to make its paramount objective that of informing families of the exact circumstances of their relative's disappearance. Specific suggestions were made regarding the Group's methods of work with that objective in mind and it was suggested that in those instances in which Governments refused effectively to co-operate with the Working Group and when information tended to establish Government responsibility, that the entire file should be made public and transferred to the Commission on Human Rights for appropriate action.

19. This year the Working Group has not received any invitation for visits to new countries. In January 1982 two members of the Group visited Mexico, as was reported to the Commission in the addendum to the Group's last report, and in July 1982 two members made a trip to Cyprus. Responding to an invitation from the Latin American Federation of Organizations of Relatives of Missing Detainees (FEDEFAM), one member of the Group attended, on the Group's behalf, the Third Congress of FEDEFAM at Lima, Peru (4 to 8 November 1982) and reported to the Working Group at its ninth session on that Congress at which a draft convention on enforced disappearances had been adopted. That draft convention was transmitted to the Working Group.

20. The Working Group has continued to receive information from specialized agencies, regional intergovernmental organizations, humanitarian organizations and it has maintained contact with the Special Rapporteur on the situation of human rights in Chile appointed pursuant to Commission on Human Rights resolution 11 (XXXV), the Special Envoy on the situation of human rights in Bolivia appointed pursuant to Commission on Human Rights resolution 34 (XXXVII) and the Special Representative on the situation of Human Rights in El Salvador appointed pursuant to Commission on Human Rights resolution 33 (XXXVII).

21. The backlog of cases noted in the last report has continued to receive the Working Group's concern. As is said in the introduction, standards of admissibility have not been relaxed. In response to the requests of the group for assistance the Secretariat has been able to make special efforts which have substantially reduced the unprocessed cases, and this work will continue.

II. INSTANCES IN WHICH MORE THAN TWENTY REPORTS OF ENFORCED OR INVOLUNTARY DISAPPEARANCES HAVE BEEN TRANSMITTED BY THE WORKING GROUP TO A GOVERNMENT

A. Argentina

Information reviewed and transmitted to the Government

22. The Working Group's previous activities in relation to Argentina appear in its two earlier reports.<sup>1/</sup> Since the extension of its mandate the Working Group has continued to receive and examine information concerning enforced or involuntary disappearances in Argentina. In particular the Group has reviewed some 850 cases of reported disappearances in Argentina and transmitted to the Government of that country reports and relevant documents on 637 of those disappearances along with the Group's request for information. With regard to the other cases reviewed the Group decided to request from the relatives further information which might increase the chances of a successful investigation or it found that the report did not appear to fall within the mandate of the Group.

23. The reports transmitted to the Government contained for the most part clear statements as to the date, time and place of the missing person's arrest, the authorities responsible and statements or indications that the arrest was witnessed. If in some cases few or no details were provided on the actual arrest, other elements of investigation were made available such as information that official searches for the missing person had been carried out in close connection with the disappearance or that the person had been seen in custody. Most of the missing persons were reported to have been arrested at home, at their place of work or at specified public locations. It was variously reported that the persons making the arrest wore military uniforms, identified themselves as members of the security forces,<sup>2/</sup> used military or police vehicles and had occupied for a period the neighbourhood or place where the arrest took place; in some cases the regular police reportedly refused to intervene. Information was also provided in many cases that the missing person had been seen in a clandestine detention centre. In almost all cases habeas corpus petitions and appeals to government authorities were reportedly made; in some, criminal complaints for unlawful detention were reported.

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<sup>1/</sup> E/CN.4/1435, paras. 47-78, and annexes IX, X, XI, XII and E/CN.4/1492, paras. 33-52 and annexes IV, V, VII.

<sup>2/</sup> The forces most often reported as responsible for the arrest are the police, federal police, security forces, the army, the navy, "comando antissubversivo", military, combined forces (fuerzas conjuntas), State intelligence service, legal forces (fuerzas legales) military police, or the Federal Police Co-ordination Bureau (Coordinacion Federal).



24. Included in the 637 reports mentioned above were the disappearances of ten children; one of these children reportedly disappeared while the mother was in prison and the remaining children disappeared after they were arrested with their parents or other members of their family. The Working Group in its first two reports reflected the widespread international concern with reports of the disappearance of children and the Group provided details concerning five children who had been reported missing and then located, one of them had reportedly been born while the mother was in detention. In that regard the Group expressed its belief that the successful outcome of these searches gave hope for other cases and that it provided indications of paths of investigation which might be followed in outstanding cases.

25. During 1982 the Working Group transmitted to the Government of Argentina requests for information received from relatives regarding the children due to have been born to 23 women who were said to have been pregnant when they disappeared. The Working Group in that connexion sent to the Government reports from persons who state that they had been held in clandestine detention centres (see below) with some of the pregnant women; those reports gave details on the treatment of the women, on the medical assistance given to them and on the persons responsible for the children after the births.

26. Since the Working Group was established it has transmitted to the Government of Argentina 1377 reports of enforced or involuntary disappearances as is indicated in the table at the end of this section. The years in which those disappearances reportedly occurred were: 1975: 30 cases; 1976: 589 cases, 1977: 549 cases, 1978: 145 cases, 1979: 31 cases, 1980: 29 cases and 1981: 3 cases.

27. The Working Group in transmitting to the Government of Argentina the reports from relatives on disappearances also transmitted in 1982 copies of seven statements by persons who reported that they had been held in some of the same clandestine detention centres in Argentina previously referred to and in one new centre. These statements referred to certain of those missing persons whose cases had been sent to the Government, and the Group hoped that the details contained in those statements would assist the investigation. The information contained in these seven statements is substantially the same as that described in the Group's report to the Commission at its thirty-seventh session regarding the sources of the statements on clandestine detention centres, the characteristics and locations of the centres, the personnel responsible for their operation and the eventual fate of the detainees (E/CN.4/1435, paras. 56-62). The list of persons held in these centres, as reported by former detainees, now contains more than 1.800 entries.

Information and views from relatives of missing persons and their organizations

28. Since its mandate was extended the Working Group has received from relatives of missing persons and their organizations expressions of deep concern at the Government's failure to provide information on the whereabouts of the missing detainees in spite of the amply documented public knowledge of the circumstances of the disappearances and those responsible. They stated that relatives had received no satisfactory information from the Ministry of the Interior and underlined that the Group had also failed to receive specific responses. The relatives state that a strictly private solution to the problem

was precluded by the very seriousness of the system of disappearances and they insisted on their determination to continue the search for their missing family members until satisfactory responses were given. A recent widely supported public demonstration in Buenos Aires was referred to in this regard. These organizations have also expressed serious concern at the continuing existence of the structures which permit disappearances and they point in this regard to the seven persons who, in 1982, reportedly disappeared for short periods of time; five were set free and two were found dead. The organizations of relatives have also made specific requests for improvements in the international community's and the Group's actions regarding missing persons, including a call to seek information directly from persons allegedly responsible for disappearances and the identification and sanctioning of those found responsible.

29. The relatives have reported on a petition presented by a large number of persons to the President of the Supreme Court. That petition underlined the role the judiciary could play in determining the whereabouts or clarifying the fate of the missing detainees. It referred to the large quantity of information presented to the courts over the years in connexion with writs of habeas corpus; it was said that in the past habeas corpus writs had been only formally processed in a bureaucratic manner and the petitioners requested the Supreme Court to order the country's judges to make a real investigation of the facts contained in those files. The Group has been informed of Supreme Court decisions in two cases ordering further investigation. It has been reported to the Group by organizations that in a few cases relatives have been informed through the courts or by the Ministry of the Interior of the death of their missing family member. The Group was also informed that a few persons reported missing had been released. The Working Group has also received detailed information on judicial investigations concerning a number of graves of unidentified persons in several cemeteries in Argentina. Information on such graves was provided by the Government of Argentina in the Working Group's report to the thirty-eighth session of the Commission.

30. Representatives of the one group emphasized that another year had gone by with no results in their search for the missing children. They asserted that the information provided by the Government to the Group and reproduced in the Group's last report indicated that no serious attempt had been made by the Government to locate those children. Those representatives insisted on the truth of the reports and referred to the documents and the witnesses presented and they requested the Working Group to urgently take the steps necessary for the return of the children to their true families. In particular, they requested that the adoption records since 1976 be reviewed and that a study be made of those births in Argentina in that period which had been registered after the expiration of the statutory period for registration after birth.

#### Information and views provided by the Government of Argentina

31. Since the extension of the term of its mandate the Working Group has received written information from the Government (letters dated 8 September and 1, 2 and 8 December 1982) and the Group met with representatives of the Government at its eighth and ninth sessions. The Government referred to the co-operation established between the Working Group and the Government and the information which the Government had provided to the Group in the past. The Government had informed the Group on the origins of the phenomenon of alleged

enforced or involuntary disappearances in Argentina, its underlying causes, its true extent and the context in which it had occurred. The Government had also explained the difficulties encountered in attempting to investigate individual cases, the serious disruption in the country when they reportedly occurred, the concealment tactics used by particular groups and their own ground rules and the time which has elapsed since then. The investigation was further complicated by the fact that the so-called "testimony" proved to have come from persons who were interested in using the Working Group for political ends.

32. The representative of the Government informed the Working Group that with regard to information on individual cases, the Government had adhered to the principle that it belonged solely to the relatives of the persons in question, and therefore should be supplied only to them. The Government stated that it was determined to continue relevant investigations and to provide the relatives, and the relatives alone, with the results. At the Working Group's ninth session, the Government representative stated that the investigation had been completed and the relatives informed with regard to the cases (some 700) transmitted to the Government in 1981 and that those cases transmitted in 1982 were being similarly investigated and the relatives informed as the results became available. With regard to the alleged disappearance of children the representative of Argentina reiterated his Government's concern with such reports and its determination to investigate them. The representative informed the Group in some detail of the difficulties encountered in carrying out those investigations. In several cases the place and the name used in the registration of the birth of the child were unknown; the determination of the identity of the child was even more difficult when the parents were unmarried. Other elements which made the investigation difficult were that the disappearance of the child or that of the parents had not been officially reported to the courts (habeas corpus) in Argentina itself. In one case the report that the family had been transferred to Argentina had proved false. With regard to the children supposedly born to pregnant women, the Government pointed out that the pregnancy itself was usually only a presumption and that there was no clear proof of the birth of those children; the proper line of investigation was to try to discover the whereabouts of the supposed mothers.

33. The representative of Argentina informed the Group that Argentine law provided that criminal procedures for illegal deprivation of liberty could be initiated by anyone who thought a crime had been committed in connexion with a disappearance; the person making the criminal complaint had to assume the legal responsibilities connected with making the complaint. However, the filing of a habeas corpus petition or a request for information made to the Ministry of the Interior did not suffice to initiate a criminal investigation. The Working Group was also informed of the administrative machinery recently established in Argentina which enabled a rapid country-wide search to be undertaken regarding any reports of new disappearances.

34. The representative of Argentina stated that the phenomenon of so-called "enforced or involuntary disappearances" had ended with the restoration of internal order in the country and was a thing of the past, as was demonstrated by the fact that since 1980 there had been no recorded complaints of alleged disappearances in the country. He stated that the few complaints which existed were either rapidly clarified by the authorities or related to what were clearly police matters. In that regard, the Government had no responsibility other than

that of conducting an investigation through the ordinary system of justice assisted by the forces of law and order, which have performed this task in all cases. The Government further stated that responses provided to the Working Group by Argentine authorities, as well as the availability of national remedies for individual cases of reported disappearances - anyone who wished to enquire into the fate of an allegedly missing person had easy access to the machinery of the police and the judiciary - made it clear that, in the case of Argentina, the Working Group had been able to discharge its task fully and the humanitarian aims for which it was established had been fulfilled. Furthermore, the problem of disappeared persons was a public matter in Argentina, acknowledged by the authorities, the political parties and other representative groups, as well as the population. This constituted a guarantee that the measures adopted in future by the Government would reflect the views of the population.

35. In relation to the graves of unidentified persons referred to in last year's report, the Government informed the Working Group that it was now making available to families the information in its possession which might enable them to identify, as their relatives, bodies in the unidentified graves. The relatives were asked by the Government to use the normal procedures of law to formally identify the body.

36. The Government of Argentina reiterated to the Group its continued willingness to co-operate in the work of the Working Group for as long as its mandate continued, in respect of any new developments which might occur.

37. The following is a statistical summary of the reports of enforced or involuntary disappearances in Argentina dealt with by the Working Group since it was established.

I. Cases received by the Working Group <sup>3/</sup>	1,780
II. Cases transmitted to the Government by the Working Group	1,377
III. Answers received relating specifically to cases transmitted to the Government by the Group <sup>4/</sup>	7
A. Answers from the Government	0 <sup>5/</sup>
B. Answers from other sources	7

<sup>3/</sup> The Working Group has a backlog of files not yet prepared for its examination. The number of those files is not included here.

- <sup>4/</sup> (a) Persons released from detention: 4  
 (b) Persons at liberty: 2  
 (c) Persons whose deaths have been officially recorded: 1

<sup>5/</sup> See paragraph 32 above (first sentence).

B. Bolivia

38. The Working Group's previous activity in relation to Bolivia appears in its two earlier reports.<sup>6/</sup> The Working Group transmitted to the Government of Bolivia information on the reported disappearance of 32 persons along with the Group's request for any information. The missing persons, who had such occupations as student, worker, trade unionist or teacher, were reportedly arrested under previous Governments between July 1980 and August 1981. Most were reportedly detained in the city of La Paz, at their home, on the street or at unspecified places in named towns or cities. Security forces, the army or para-military groups were reportedly responsible.

39. Since the extension of its mandate the Working Group has maintained contact with the Government of Bolivia and during the Group's seventh and ninth sessions it met with representatives of the Government. The representative of Bolivia during the Group's seventh session asked the Working Group for an updated list of all reported disappearances with which the Group had dealt including those which had been clarified in order to enable the Government to update its own files. The Working Group was assured of the Government's commitment to respect human rights and fundamental freedoms and the Group was informed of the present economic and political situation of the country. The Group was informed that the new Government which took power in September 1981 had adopted a positive attitude towards co-operation with the Working Group. A general amnesty had been decreed and all Bolivians were free to enter or leave the country, refugees included. However, despite the Government's good will the situation had not permitted a full investigation into cases of enforced or involuntary disappearances. Nevertheless, the Government provided information on five of the cases dealt with by the Group. That information coincided with what had earlier been reported by non-governmental organizations. The representative of Bolivia also emphasized the possibility that persons, who for many reasons did not want their whereabouts known and who had been reported as disappeared would take advantage of the amnesty and reappear.

40. By letter dated 3 November 1982 the Government informed the Working Group that it was the policy of Dr. Hernan Siles Zuazo's Government to solve all reported cases of disappearances, to apply the Constitution with all rigour to those responsible for violations of human rights, and, perhaps, to enable the Group to close the case of Bolivia during the Commission's next session. During its ninth session the Working Group met with the Chargé d'affaires of Bolivia to the United Nations Office at Geneva who had been appointed by the Government to maintain liaison with the Group. The representative of Bolivia informed the Working Group of the serious efforts being carried out within that country in order to solve all the reported disappearances which took place under previous governments. In particular the Working Group was informed of the establishment in Bolivia of a National Commission for the Investigation of Disappeared Persons by Supreme Decree No. 19.241 of 28 October 1982. The Commission is composed of representatives of the Executive Power, the Human Rights Commissions of both Houses of the Legislative Assembly, the Church, the Armed Forces, the Trade Unions, the Permanent Assembly of Human Rights, the Red Cross and the Press.

<sup>6/</sup> E/CN.4/1435, para. 164, and E/CN.4/1492, paras. 53-57.

Its objects are to analyse, investigate and determine the situation concerning disappeared persons, with full access to all relevant information and the right to seek the assistance of all public authorities. It is to report within a period of 90 days beginning 28 October 1982. It can set up District Committees. It is accessible to anyone with a complaint about the disappearance in Bolivia of a relative. The full text of Supreme Decree 19.241 appears in the chapter on disappearances of the report of the Special Envoy on the situation of human rights in Bolivia to the Commission on Human Rights at its thirty-ninth session (E/CN.4/1983/22, Chapter VI).

41. The Working Group during its ninth session received from the Special Envoy of the Commission on Human Rights information concerning reported enforced or involuntary disappearances in Bolivia, and investigations relating to past disappearances are now being carried out by the Bolivian authorities.

42. The following is a statistical summary of the reports of enforced or involuntary disappearances in Bolivia dealt with by the Working Group since it was established.

- I. Cases received by the Working Group 42
- II. Cases transmitted to the Government by the Working Group 32
- III. Answers received relating specifically to cases transmitted to the Government by the Group 12
  - A. Answers from the Government 7
  - B. Answers from other sources 10

- 
- 7/ (a) Persons released from detention: 3.
  - (b) Persons at liberty: 7.
  - (c) Persons whose deaths have been officially recorded: 2.

### C. Cyprus

43. The Working Group's previous activity in relation to Cyprus appears in its two earlier reports.<sup>8/</sup> The Group received information on enforced or involuntary disappearances in Cyprus from the Government of Cyprus, the Pancyprian Committee of Parents and Relatives of Undeclared Prisoners and Missing Persons and other organizations. The information was transmitted to the Government of Turkey and the authorities of the Turkish Cypriot community together with the Group's request for information. The Group also received information on enforced or involuntary disappearances in Cyprus from the authorities of the Turkish Cypriot community. This information was transmitted to the Government of Cyprus for any information it might wish to submit. The Group is aware that the number of reported missing persons from both sides amount to about 2,400. The Group notes that the reports of the disappearance of the Turkish Cypriots relate to a period of internal tension which began in 1963 and again in 1974, and to Greek Cypriots and certain Greek citizens reportedly disappeared in mid-1974.

44. The Working Group in its report to the Commission's thirty-seventh session expressed its hope for the success of talks aimed at establishing specific machinery to deal with the reports of missing persons in Cyprus (E/CN.4/1435, para. 83). In its report to the thirty-eighth session of the Commission (E/CN.4/1492 para. 66) the Working Group reported on the agreement establishing the Committee on Missing Persons in Cyprus and the Group associated itself with the hope expressed by the Secretary-General that the Committee on Missing Persons in Cyprus would convene and devote itself to the solution of this issue in a spirit of good faith and mutual confidence.

45. During the Working Group's seventh session it met with representatives of the Government of Cyprus who reiterated the invitation made to the Working Group to visit that country. After exchanges with the authorities of the Turkish Cypriot Community, and having been informed by the Secretary-General that efforts to reactivate the Committee on Missing Persons had not been successful, the Working Group decided that two of its members would go to Cyprus for a preparatory trip.

46. At the Working Group's eighth session the members who had gone to Cyprus informed the other members of the Group on the trip which lasted from 28 to 30 July 1982. The two members had met with representatives of the Government of Cyprus, the authorities of the Turkish Cypriot Community and with representatives of the relatives of the missing Greek Cypriots, and the relatives of missing Turkish Cypriots. At its eighth session the Working Group decided to request its Chairman to address a letter to the Chairman of the Committee on Missing Persons in Cyprus. In that letter the Group stated that it had formed the view that the Committee on Missing Persons provided not only adequate but also appropriate machinery for resolving the outstanding cases of disappearances from both communities.

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<sup>8/</sup> E/CN.4/1435, paras. 79-83; E/CN.4/1492, paras. 65-66.

Moreover, the Group said the Committee's purely humanitarian aims exactly coincide with the Group's mandate. The Group was therefore convinced that its role should not be to supplant the committee on Missing Persons, but rather to give it all the assistance within its power. Thus, the Group said, as a practical suggestion, it would be very willing to send one or more members to join the Chairman of the Committee and its two other members either in Geneva or Nicosia, in order to discuss possible methods of making further progress on this problem. The Group expressed the hope that if the Chairman of the CMP thought the idea contained any merit he would communicate it to the two other members.



D. El SalvadorInformation reviewed and transmitted to the Government

47. The Working Group's previous activities in relation to El Salvador appear in its two earlier reports.<sup>9/</sup> Since the extension of its mandate the Working Group has continued to receive and examine information relating to enforced or involuntary disappearances in El Salvador. During that period it reviewed reports on some 970 disappearances in El Salvador and it transmitted to the Government reports on 870 disappearances along with its request for information. Of the 870 reports, 385 were transmitted to the Government pursuant to the Group's urgent action procedure. With regard to those cases reviewed by the Working Group but not transmitted to the Government, the Group decided to request from the source of the reports further information which might increase the chances of a successful investigation or it found that the report did not appear to fall within the mandate of the Group.

48. The reports of disappearances transmitted to the Government were submitted by the relatives of the reportedly missing persons, by human rights organizations of El Salvador acting on behalf of the relatives and by a non-governmental organization in consultative status with the Economic and Social Council. During 1982, the Group received detailed information on a disappearance in El Salvador from the Government of Norway. Of the 870 cases transmitted to the Government of El Salvador since the extension of the Group's mandate 62 reportedly occurred in 1979, 150 in 1980, 220 in 1981, and 438 in 1982. For the 1982 cases the monthly breakdown is as follows: January: 35, February: 45, March: 49, April: 34, May: 48, June: 49, July: 40, August: 50, September: 35, October: 32, and November: 21.

49. In the cases transmitted to the Government information was provided on the identity of the persons reported missing (first names and family names), the date and the exact location of the arrest (most reports also indicated the time). In many instances the age and the occupation of the missing person were given; the most frequently reported occupations were student, worker (skilled and unskilled), and farmers (campesinos). Most of the arrests reportedly took place at the missing persons home or at a specified public place, market, bus station, etc. Other persons were reportedly arrested at their place of work.

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<sup>9/</sup> E/CN.4/1435, paras. 84-101, annex XIII; E/CN.4/1435/Add.1, para. 6; E/CN.4/1492, paras. 67-87, annex IX, X and XI; E/CN.4/1492/Add.1, paras. 11, 12 and 19.

In each report statements were made concerning those responsible for the arrest; among the forces cited were the Army, National Guard, National Police, Treasury Police (Policia de Hacienda), combined forces or security forces and some reports identified the particular unit of the service involved. Official military or police vehicles were said to have been used in some cases. In a number of cases armed persons dressed in civilian clothes were reported as responsible for the arrest and in some cases the place of detention to which the person had been taken was indicated. In a few instances the files transmitted to the Government contained detailed statements by witnesses; in one case a former Government official submitted a report on his participation in negotiations with the military authorities for the release of a detainee who remains missing. The Group was informed with regard to almost all the cases that habeas corpus petitions and visits to the offices of the security services had been fruitless.

50. Of the reports transmitted to the Government in 1982, five concerned children to 12 years of age and 46 minors from 13 to 17 years of age. In its meetings with representatives of the Government of El Salvador (see below) the Working Group drew attention to the expressions of concern received about the reports of the disappearances of minors. The Working Group also drew the Government's attention to the reports of the disappearance of persons working with human rights organizations and those assisting relatives of missing persons. Four such reports were transmitted to the Government in 1981 and three in 1982. In three of the 1981 cases witnesses to the arrest were reported and information was received that the persons were detained in the cavalry barracks of San Salvador. Of the 1982 cases, two explicitly state that the arrests were witnessed and in those cases information was received that the persons were being held at the Central Headquarters of the Treasury Police in San Salvador. With regard to these cases, the Working Group identifies itself with the request of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (resolution 1982/5) that the Commission on Human Rights should give special attention to the protection of persons, including relatives who actively seek the whereabouts of missing persons and who provide information on missing persons.

Information and views received from organizations representing relatives of missing persons

51. Since the extension of its mandate the Working Group has received orally and in writing information and views concerning enforced or involuntary disappearances in El Salvador from organizations acting on behalf of relatives of missing persons. The Working Group's attention was drawn to the significant increase in the number of reports of disappearances in particular since the elections of March 1982; it was however stated that a drop in the number of disappearances was noted in the periods prior to the issuance by the President of the United States of America of a certificate to the Congress of that country on the state of human rights in El Salvador; an increase was noted after that event. The Group was informed that the disappearances in El Salvador occurred after the person had been arrested by the security forces who were wearing uniform in almost half the cases. It was told that the victims were never seen

again or that their bodies were subsequently found, almost always with marks of torture. The systematic nature and the large number of disappearances led some to suggest that the Government had adopted "enforced disappearances" as an official method for dealing with political opponents. Special attention was drawn to the fact that most of the minors who reportedly disappeared were between 12 and 17 years of age. Concern was also expressed over the human rights workers and representatives of relatives of missing persons who had been arrested and then disappeared. A number of reports were presented to the Group in which former detainees described prison conditions and the treatment of prisoners; one stated he had been detained in secret and had been missing for some time. The Group also received from one organization information that specific persons who had been reported missing had been released, or were being held in official custody in prisons.

52. Human rights organizations also provided the Working Group with information on the operation of the judicial system in El Salvador. At present the system reportedly functioned adequately when dealing with matters which were purely civil and non-political but, in relation to the Government or the Armed or Security Forces, the courts and judges were not able to function so as to prevent disappearance, free those held in detention, even when the exact location of the missing person was known or punish those guilty of abuses. The Working Group in the past has informed the Commission on Human Rights of the Special Committee to Investigate Political Prisoners and the Disappeared set up by the Government of El Salvador in November 1979. That Committee identified the places where missing persons had been held, discovered clandestine cemeteries where missing persons who had been killed were buried and identified officials responsible. The Special Committee also made recommendations for the prosecution of officials allegedly responsible and for the prohibition of secret places of detention. The Working Group's last report contained information that these recommendations had not been carried out and no information has since been received concerning their implementation. The Working Group during the present term of its mandate received appeals to visit El Salvador in order to inform itself directly of the problem and to assist in bringing an end to the enforced or involuntary disappearance of persons.

Information and views provided by the Government of El Salvador

53. During the period since the extension of its mandate the Working Group has received information in writing from the Government of El Salvador and at its eighth session the Working Group met with the Permanent Representative of El Salvador to the United Nations Office at Geneva. The representative of El Salvador set out the problem of reported enforced or involuntary disappearances in the overall context of the difficult situation in the country. He called attention to the process of democratization through reforms, in particular economic and agrarian, which was being carried out. The Government informed the

Group that since the elections of March 1982, a decrease in the violence in El Salvador had been noted and that it was a continuing tendency. The representative of El Salvador informed the Group of the programme of institutional reform embarked upon by the new Government which included the establishment of a Human Rights Commission to deal with human rights matters and in particular the promotion and protection of human rights. The seven members of this Commission, representing the different sectors of the country, took their oath of office on 1 December 1982.

54. The Working Group was also informed by the Government that the International Committee of the Red Cross continued its tracing activities in El Salvador and that the Government had undertaken to inform that organization systematically of all arrests. Further, a control commission had been set up by the armed forces to deal with any abuses and courses and conferences were organized to instruct the military on humanitarian law and the protection of prisoners. The representative of El Salvador categorically denied that his Government practised or tolerated enforced or involuntary disappearances and reaffirmed the Government's commitment to the full respect for human rights. The Group received a detailed description of the methods used to investigate reports of disappearances and it was informed of the steps being taken to strengthen the judiciary. The question of the reports of disappearance of minors was of particular importance to the Government and efforts were made to clarify them. Generally, an arrested minor was handed over to his parents.

55. Since the extension of its mandate the Working Group has received information from the Government of El Salvador regarding 83 persons whose cases had been transmitted by the Group to the Government. In 16 cases the Government stated that after investigations no record had been found that the person had been arrested or detained. In 52 cases the Government stated the person was being held for trial or at the disposition of the authorities. In some 40 of the 52 cases the Government provided detailed information on the state of the judicial procedure regarding the person including the court charged with the case. In 14 cases the Group was informed of the person's release and in one case the Government reported that the person had committed suicide. The representative of El Salvador also informed the Group of his desire to check a list of prisoners held in El Salvador with the persons reported to the Group as disappeared. At the Group's request the Secretariat provided the Permanent Mission of El Salvador to the United Nations Office at Geneva with an alphabetical list of cases registered and the Permanent Mission was informed of the availability of the Secretariat to assist the Permanent Mission in the matter.

56. The following is a statistical summary of the reports of enforced or involuntary disappearances in El Salvador dealt with by the Working Group since it was established.

I.	Cases received by the Working Group	1,485
II.	Cases transmitted to the Government by the Working Group	1,232
III.	Answers received relating specifically to cases transmitted to the Government by the Group <sup>10/</sup>	89
	A. Answers from the Government	72
	B. Answers from other sources	17

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- <sup>10/</sup> (a) Persons arrested and in prison: 65.  
(b) Persons released from detention: 21.  
(c) Persons at liberty: 1.  
(d) Persons whose deaths have been officially recorded: 2.

In addition to the figures in III above the Group has received responses from the Government relating to other cases as referred to in the text.

E. Guatemala

Information reviewed and transmitted to the Government

57. The Working Group's previous activities in relation to Guatemala appear in its two earlier reports.<sup>11/</sup> This year the Working Group has continued to receive reports of enforced or involuntary disappearances in Guatemala; it has reviewed 423 reports of enforced or involuntary disappearances and transmitted to the Government information on 139 cases together with its request for any information. Of the 139 reports nine were sent in accordance with the urgent action procedure. Concerning those cases reviewed by the Working Group but not transmitted to the Government the Group decided to request from the source of the reports further information which might increase the chances of a successful investigation or it found that the report did not appear to fall within the mandate of the Group.

58. The reports of disappearances transmitted to the Government were submitted by relatives of the reported missing person, by organizations acting on behalf of the relatives and by a non-governmental organization in consultative status with the Economic and Social Council. Of the 139 reports transmitted to the Government of Guatemala this year four reportedly occurred in 1981, and 135 in 1982. For the 1982 cases the monthly breakdown is as follows: January: 28, February: 11, March: 3, April: 6, May: 18, June: 19, July: 16, August: 3 and September: 31. In the reports transmitted information was provided on the identity of the persons reported missing (first names and family names), the date and location of the arrest (some reports also indicated the time). Seventeen of the reported missing persons were women and 12 were reported to be 17 years old or less. The most frequently reported place of arrest was the home of the missing person or that of his family, although in many cases only the town where the arrest took place was mentioned. In other cases the arrest took place at the person's place of work. The age and the occupation of the missing persons were given in some cases; the most frequently reported occupations were student, farmer (campesino), teacher or professor, and worker. All of the reports transmitted to the Government contained statements from the source describing those responsible for the arrest of the missing person. Most arrests were reportedly carried out by armed men in civilian clothes, other arrests were made by the Judicial Police, the Army, the Department of Technical Investigations (Departamento de Investigaciones Técnicas), the National Police and Security Forces. The information received concerning disappearances in Guatemala is not as detailed or precise as that made available with regard to some other countries because it is claimed that there are difficulties in getting information out of the country.

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<sup>11/</sup> E/CN.4/1435, paras. 107-116, annex XIV, E/CN.4/1492, paras 91-102, annex XII, XIII; E/CN.4/1492/Add.1, para. 19.

Information and views received from organizations representing relatives of missing persons

59. During the present period of its mandate the Working Group received both oral and written information and views concerning enforced or involuntary disappearance in Guatemala from, inter alia, organizations acting on behalf of relatives of missing persons. Emphasis has been placed on setting out disappearances within the overall human rights context of Guatemala. In particular, a widespread climate of violence was described and it was stated that during 1982 an increase in disappearances had been noted. Attention was also drawn to the special difficulties which the organizations said they encountered in gathering detailed information on the disappearances and transmitting that information to the Group. The result was that the reports recorded by the Working Group were less than the total number which actually took place and that in many of the cases not all the desirable details were available. The Working Group was told that in a large number of cases when the body of a person had been discovered some time after his arrest, the organization did not send the case to the Group since they counted it as an assassination.

60. The Working Group also received information on a few cases in which the arrested person had been detained secretly for a period and then released, often as a result of international pressure. The organizations contacting the Group expressed concern that journalists, priests and nuns were the particular targets of enforced or involuntary disappearances. Reference was made to the recent arrest of five clergymen; one reappeared thanks to pressure from outside the country but four remain missing. Whilst international concern could be helpful for well-known persons, it was stated that this did not help the many persons who were not well-known and were arrested and never reappeared. The Group was also informed of Government decrees which, according to the organizations, rendered the remedy of habeas corpus or amparo inoperative either to determine the whereabouts of a missing person or to obtain the release of those illegally held.

Information and views received from the Government of Guatemala

61. Since the extension of its mandate the Working Group has received information in writing from the Government of Guatemala and at its seventh and eighth sessions the Group met with representatives of the Government. The Working Group was informed that the Government which took power in Guatemala on 23 March 1982 had set for itself as a national objective the absolute respect for human rights and that this was reflected in articles 5 and 23 of the basic government Statute; article 5 provides, inter alia, for the establishment of all necessary machinery for the effective and unqualified observance and maintenance of human rights and article 23 further provides in part that within their spheres of competence the authorities of the State at all levels, must act scrupulously and assiduously by all lawful means available to them to ensure that the guarantees and rights of individuals are strictly observed and are safeguarded as effectively as possible. The representative of Guatemala reiterated the Government's interest in collaborating with international organs in matters dealing with human rights and in particular with the Working Group.

The Government appointed a special representative to maintain contact with the Group and it informed the Group that instructions had been given to the appropriate authorities for investigations to be carried out, inter alia, with regard to the reports received by the Working Group. In particular, a special office had been established within the General Directorate of the National Police where reports of disappearances could be filed. That office had the responsibility of carrying out the necessary investigation. The Government pointed out that it could not answer for the events which took place under prior régimes, but that investigations would be carried out to determine the whereabouts of disappeared persons and trials for the punishment of any offences would be initiated as appropriate. The Government also informed the Group of the establishment and membership of the Council of State whose function is to advise the Government on matters relating to the political, economic and social development of the country.

62. This year the Government of Guatemala has provided information on two cases transmitted to it by the Working Group in accordance with its urgent action procedure. In both cases the Government reported that the persons had been freed after an investigation had shown them not guilty of the offences with which they had been charged. With regard to seven other cases the Government informed the Working Group that an investigation was underway and that the Group would be informed of the results.

63. The following is a statistical summary of the reports of enforced or involuntary disappearances in Guatemala dealt with by the Working Group since it was established.

I. Cases received by the Working Group	1,334
II. Cases transmitted to the Government by the Working Group	1,050
III. Answers received relating specifically to cases transmitted to the Government by the Group <sup>12/</sup>	11
A. Answers from the Government	4
B. Answers from other sources	7

<sup>12/</sup> Persons at liberty: 11.

In addition to the figures in III above the Group has received responses from the Government relating to other cases as referred to in the text.



F. HondurasInformation reviewed and transmitted to the Government

64. The Working Group's previous activities in relation to Honduras appear in its two earlier reports.<sup>13/</sup> The Group, since the extension of its mandate, has received information on reported enforced or involuntary disappearances in Honduras from relatives of the reportedly missing persons, from human rights organizations acting on behalf of relatives and from a non-governmental organization in consultative status with the Economic and Social Council.

65. Reports on 32 disappearances in Honduras were reviewed by the Working Group during this year and information on 27 cases was transmitted to the Government together with the Group's request for information. Five of the 27 cases were transmitted in accordance with the urgent action procedure. With regard to those cases reviewed by the Working Group but not transmitted to the Government the Group decided to request from the source of the reports further information which might increase the chances of a successful investigation or it found that the report did not appear to fall within the mandate of the Group. The Working Group also requested from the Government further particulars concerning points contained in a response provided by the Government regarding the reported disappearance of two foreign nationals in Honduras in December 1981.

66. All the reports of enforced or involuntary disappearances transmitted to the Government during 1982 contain details about the identity of the missing persons (first names and family names), the date and location of the arrest (most reports also indicate the time) and some details about the persons responsible for the arrest. In some cases the age and profession or activity of the missing person was indicated and the presence of witnesses was reported. Rarely was there information on any legal or administrative steps which might have been taken on the missing person's behalf. In some instances the location of the arrest was reported as the place of work, military barracks or places in the street but in most only the town or city in which the arrest took place was indicated. The reports stated that the missing person had been arrested by the Directorate of National Investigations (D.I.T. Directorio Nacional de Investigaciones), the Treasury Police or by Security Forces. Eleven of the cases transmitted to the Government reportedly occurred in 1981 and the remaining 16 reportedly occurred in 1982. Whereas the cases dealt with by the Working Group in its report to the Commission on Human Rights at its thirty-eighth session dealt mostly with refugees in Honduras, those dealt with this year primarily concerned Honduran nationals.

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<sup>13/</sup> E/CN.4/1492, para. 106-109 and E/CN.4/1492/Add.1, paras 13 and 19.

Information and views received from the Government of Honduras

67. Since the extension of its mandate the Working Group has received written information from the Government of Honduras. The Government of Honduras informed the Group of its keen interest in maintaining a climate of tranquility and respect for human rights and the sovereign enjoyment to all of public liberties. It also assured the Group of its readiness to work closely with it and to offer the best co-operation possible. The Director of the Centre for Human Rights informed the Working Group at its eighth session that in a meeting with the Minister for Foreign Affairs of Honduras the Minister had requested that the Working Group be should be informed of the commitment of the Government of Honduras to respect human rights and to co-operate with the Working Group in the clarification of the cases before the Group.

68. Since the extension of its mandate the Government of Honduras has provided the Working Group with information concerning three cases of disappearances which the Group had transmitted to the Government. With regard to two foreign nationals who reportedly disappeared in December 1981, the Government reported that they had left the country. Nevertheless, as of the date of this report, these persons have not yet reappeared. With regard to one case, the Government informed the Group that the person had not been arrested by the authorities but that newspapers had reported that he had been released by his captors. In addition, in a number of cases the Government of Honduras informed the Chairman of the Working Group that it was carrying out an exhaustive investigation into the reports of disappearances which the Group had brought to the Government's attention.

69. The following is a statistical summary of the reports of enforced or involuntary disappearances in Honduras dealt with by the Working Group since it was established.

I. Cases received by the Working Group	71
II. Case transmitted to the Government by the Working Group	66
III. Answers received relating specifically to cases transmitted to the Government by the Group <sup>14/</sup>	9
A. Answers from the Government	2
B. Answers from other sources	7

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<sup>14/</sup> Persons at liberty: 9.

In addition to the figures in III above the Group has received responses from the Government in relation to other cases as referred to in the text.

### G. Indonesia

#### Information reviewed and transmitted to the Government

70. The Working Group's previous activities in relation to Indonesia appear in its two earlier reports.<sup>15/</sup> In 1980 and 1981 the Working Group transmitted to the Government of Indonesia information on 23 reported disappearances together with the Group's request for information. Most of the disappearances reportedly took place between February and June 1979, one reportedly occurred in 1977, two in 1978, and one in 1980. With regard to this latter report the Group learned from a non-governmental source, subsequent to the transmission of the report to the Government, that the person in question was being held in a prison in Dili. No official confirmation of this has been received. With regard to the remaining 22 disappearances, 12 reportedly resulted directly or indirectly from the surrender of the persons concerned to military authorities, two had reportedly been captured and four arrested. One person reportedly disappeared from prison and one person was reportedly seen on television as a prisoner prior to his disappearance. Most were reportedly connected with the Frente Revolucionario de Timor Leste Independiente (FRETILIN).

71. During 1982 the Working Group again contacted the Government with requests for information and by a letter dated 5 October 1982 the Permanent Representative of Indonesia to the United Nations Office at Geneva reported that no further information was available to be conveyed to the Working Group. That letter stated that for the purpose of finding the facts relating to the alleged missing person as well as tracing those persons, however, the Indonesian Government and the International Committee of the Red Cross (ICRC) have concluded an agreement and it suggested that the Working Group should contact the ICRC to obtain the appropriate information on this matter. The Permanent Representative also emphasized that the Indonesian Government could not be expected to be in a position to find the alleged missing persons since circumstances relating to those persons were beyond the control of the Indonesian Government. This contact with the ICRC has been made. The Group is aware of the ICRC's involvement in East Timor, which has included, for some years, medical and nutritional aid to the inhabitants. The ICRC's annual reports for 1979, 1980 and 1981 are available to the Group and demonstrate that they have access to all parts of this territory, despite the difficulty in communications. They have many local contacts. They have now informed the Working Group that an agreement with the Government was indeed made in spring 1981 which included the undertaking by the ICRC of tracing activities.

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<sup>15/</sup> E/CN.4/1435, paras. 117-121; E/CN.4/1492, paras. 110-113.

72. The Working Group takes note that by the time most of the alleged disappearances occurred, in 1979/1980, the Indonesian Government had been in control of East Timor for several years, and had promulgated the amnesty under which a number of the persons concerned are said to have surrendered. In these circumstances the Working Group could only recommend to the Commission that the suggested approach, by means of the ICRC's investigations, be accepted if the ICRC is afforded by the Government all necessary facilities for tracing disappeared persons. The Group accordingly is reserving its position until further news is received from the ICRC.

73. The following is a statistical summary of the reports of enforced or involuntary disappearances in Indonesia dealt with by the Working Group since it was established.

I. Cases received by the Working Group	23
II. Cases transmitted to the Government by the Working Group	23
III. Answers received relating specifically to cases transmitted to the Government by the Group <sup>16/</sup>	1
A. Answers from the Government	0
B. Answers from other sources	1

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<sup>16/</sup> Persons arrested and in prison: 1.

H. Mexico

74. The Working Group's previous activity in relation to Mexico appears in its two earlier reports.<sup>17/</sup> The Group reported that it had received a list of allegedly missing persons from an organization, and also that it had been sent by the Government extensive information (seven files) on investigations into reported disappearances carried out by the authorities together with an invitation to the Group to visit the country.

75. In 1981 the Group transmitted to the Government of Mexico copies of reports received from relatives regarding 43 enforced or involuntary disappearances; these reports were transmitted after they had been studied by the Group together with the information on the investigations into disappearances which had been previously transmitted by the Government. The Group felt that the additional information provided by the relatives might help the Government in further investigating the cases. These disappearances allegedly took place in the period April 1974 to October 1980 and the reports contained details of the identity of the person who was missing and in almost all cases the date, time and place of arrest. In several cases information was provided which stated that the missing person had been seen in official custody. The forces allegedly responsible for the arrest or detention were the federal judicial and security police, state or municipal police forces and various other groups.

76. The Working Group also informed the Commission at its thirty-eighth session on the visit made by two of its members to Mexico in January 1982 upon the invitation of the Government. During that visit the members of the Group met with senior officials of several Ministries and Government services and with representatives of associations directly concerned with reports of enforced or involuntary disappearances. During the visit the Government assured the Group that it was prepared to investigate the relatives' reports transmitted by the Group to the Government and that dossiers would be opened and all the points raised by the Group would be dealt with especially in light of the new evidence provided by the relatives. The Working Group was requested by the Government to inform the relatives of the disappeared that the Government was prepared to co-operate fully with them and to investigate thoroughly all reports until the families were satisfied. The members of the Group informed the representatives of the domestic organizations of the Government's assurances about investigations of reports of disappearances and the representatives indicated a willingness to provide the authorities with the information they had on

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17/ E/CN.4/1435, paras. 122-130; E/CN.4/1492, paras. 120-121;  
E/CN.4/1492/Add.1, paras. 2-9.

disappearances as part of the effort to resolve the matter. The Working Group expressed its appreciation for the welcome and assistance which it had received from the Government of Mexico and representatives of domestic organizations and it stated that the visit had assisted the Group in its understanding of reported enforced or involuntary disappearances in Mexico. The Group also informed the Commission of the information which it received from the Government in January 1982 relating to five reportedly missing persons.

77. Since the thirty-eighth session of the Commission on Human Rights the Working Group has received from relatives information on cases of disappearances not previously reported and additional information on cases previously studied. After examining these reports and the information previously provided by the Government, the Group, pursuant to the understanding reached during the visit to Mexico, transmitted to the Government on 24 August 1982 information on 30 reportedly missing persons not previously transmitted to the Government and additional information on nine cases of disappearance which had been previously transmitted. These reports referred to the period June 1971 to July 1980 and the information contained in these reports was similar to that described in paragraph 75 above.

78. By letters dated 30 November and 1 December 1982, the Government of Mexico provided the Working Group with information in addition to that mentioned in paragraph 74 above. With regard to the above-mentioned 73 cases transmitted to the Government, the Working Group has, since its establishment, received information on 62 cases from the Government; that information is as follows: The person was killed in a clash with the armed forces or injured in a clash and was later buried by his companions (28 cases); no record of the person who may have been abducted or killed by his own or another group (23 cases); the person escaped (usually after a clash with the authorities) and is hiding in a clandestine place (seven cases); the person left the country and is living abroad (two cases); the person is a fugitive from justice (one case); or the person was abducted by unidentified individuals and his burned body was later found (one case).

79. Since the last session of the Commission the Working Group received communications from an organization representing relatives of missing persons in Mexico informing the Group that the hoped for information on the whereabouts or fate of the missing persons had not been received from the Government and of the difficulties encountered by the relatives in their search.

80. The Working Group has been told that any further information which might be forthcoming will be communicated to the families and the Group. In these circumstances the Group does not propose to take any further action on these cases.

81. The following is a statistical summary of the reports of enforced or involuntary disappearances in Mexico dealt with by the Working Group since it was established.

I. Cases received by the Working Group	100
II. Cases transmitted to the Government by the Working Group	73
III. Answers received relating specifically to cases transmitted to the Government by the Group <sup>18/</sup>	1
A. Answers from the Government	1
B. Answers from other sources	0

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<sup>18/</sup> Persons whose deaths have been officially recorded: 1.

In addition to the figures in III above the Group has received replies from the Government relating to other cases as referred to in the text.

### I. Nicaragua

82. The Working Group's previous activities in relation to Nicaragua appear in its two earlier reports.<sup>19/</sup> During 1980 and 1981 the Working Group transmitted 70 reports of enforced or involuntary disappearances to the Government of Nicaragua 60 relating to 1979 and 10 relating to 1980. The Government of Nicaragua informed the Working Group of the difficult circumstances surrounding the change in government in July 1979 in Nicaragua, and the period thereafter during which the new Government's control was only slowly extended over the whole territory of Nicaragua. The Government stated that it was legally and materially impossible to investigate those cases which had occurred prior to the end of 1979. The Working Group expressed its concern at that statement and hoped that investigations would be carried out. The Government provided the Group with specific information with regard to 5 of the 10 cases which reportedly occurred in 1980; two persons had been arrested and released, one was being held for trial and the investigation of two cases had produced no results.

83. Since the extension of its mandate the Working Group has received a report submitted by relatives concerning the disappearance of eleven Salvadorian fishermen after their boat was reportedly arrested for illegal fishing by Nicaraguan authorities in December 1981. The relatives reported having received information from friends who according to them, had seen the boat in a Nicaraguan port. They indicated further that the radio Voice of Nicaragua (Voz de Nicaragua) announced the seizure of the boat. The relatives report visiting Nicaragua and learning that the names of some of the missing persons were listed in a prison register and that a prisoner confirmed that the missing Salvadorians had been held there. The relatives also reported that the Salvadorian Ministry of Foreign Affairs had made representations to the Government of Nicaragua but had not received any information. The Working Group at its eighth session decided to transmit the information received on these cases to the Government of Nicaragua together with its request for information.

84. By a letter dated 29 November 1982 the Permanent Mission of Nicaragua to the United Nations Office at Geneva replied that the arrest of foreign fishing vessels for illegal fishing was a common occurrence and that the arrested boat was taken to the nearest port and released after having paid a fine. With regard to the case submitted by the Working Group the Government of Nicaragua had informed the Foreign Ministry of El Salvador, in response to a request for information from the latter, that after investigations no information had been obtained on the whereabouts of that fishing boat. The Government informed the Group of its desire to continue its co-operation with the Group and said it shared the concerns of the relatives and hoped that the situation would be clarified.

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<sup>19/</sup> E/CN.4/1435, paras. 131-144, annex XV; E/CN.4/1435, Add.1, para. 3; E/CN.4/1492, paras. 122-130, annex XIV; E/CN.4/1492, Add.1, para. 14.



85. At its ninth session the Working Group met with a representative of Nicaragua who reiterated the Government's desire to co-operate with the Group. He said that since the Government of Nicaragua had received no response from the Government of El Salvador they had treated the case as closed. However, during the meeting with the Group it was agreed that the Government of Nicaragua in conjunction with the Working Group and the Government of El Salvador would make a further effort to clarify the case relating to the fishermen.

86. The following is a statistical summary of the reports of enforced or involuntary disappearances in Nicaragua dealt with by the Working Group since it was established.

I. Cases received by the Working Group	90
II. Cases transmitted to the Government by the Working Group	81
III. Answers received relating specifically to cases transmitted to the Government by the Group <sup>20/</sup>	3
A. Answers from the Government	3
B. Answers from other sources	0

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<sup>20/</sup> (a) Persons arrested and in prison: 1.

(b) Persons released from detention: 2.

In addition to the figures in III above the Group has received replies from the Government relating to other cases as referred to in the text.

J. Philippines

87. The Working Group's previous activities in relation to the Philippines appear in its two earlier reports.<sup>21/</sup> The Group informed the Commission that it had transmitted some 200 reports of disappearances to the Government. The persons reportedly disappeared over the period 1975 to 1981. Although the reports did not contain the details found in other cases information was given in most cases on the circumstances of the arrest of the missing person, the places of detention, the public forces involved and in some cases the existence of witnesses was reported. The Working Group also informed the Commission of the information received from the Government of the Philippines giving details on the legal protection of detainees in the Philippines and providing general information on the persons reported missing. The Government also provided information with regard to three specific cases.

88. This year the Working Group has received no further reports of disappearances in the Philippines and during its ninth session the Working Group met with the Permanent Representative of the Philippines to the United Nations Office at Geneva and with a representative of the Philippines Ministry of Defence who was particularly charged with the clarification of alleged disappearances. The Working Group was informed of the commitment of the Government of the Philippines to co-operate fully with the Working Group to solve the cases which the Group had transmitted. The Government representative underlined the fact that his Government was not involved in alleged disappearances and had the firm policy of prosecuting any persons involved in illegal activities; this was shown by the information given to the Group. The specific information the Government had to provide was contained in two notes verbales, one dated 2 March 1982 and the second 8 December 1982. In those two documents the Government provided the following information: 38 persons had been released, 6 were free and their occupations given, 2 had escaped from prison. In 7 other cases the missing person was reported dead and those responsible were being prosecuted. With regard to 36 cases, investigations had been carried out and it had been established that the Government was not responsible. The Government reported that investigations into 88 cases were being continued (in 29 of the 88 cases the Government was searching for the persons for purposes of its own inquiries), and that the Group would be informed of the results. Finally, the Government requested more details on the identities of 24 persons reported missing where the details which had been given were insufficient to permit an investigation.

89. The Government representative pointed out the difficulty in such a large and populous country as the Philippines of searching for persons whose personal identity had not been sufficiently established. The Government representatives also explained the investigatory steps taken in relation to the reports submitted by the Working Group. These included personal visits as investigating teams by members of the Ministry of Defence to selected localities and clear

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<sup>21/</sup> E/CN.4/1435, paras. 145-147 and E/CN.4/1492, paras. 131-137 and E/CN.4/1492/Add.1, paras. 15-16.

instructions to the officials responsible in each region. In addition, a normal procedure of investigation existed which dealt with complaints from citizens within the country. In about all the cases where results had been obtained the Government was able to notify the relatives.

90. The following is a statistical summary of the reports of enforced or involuntary disappearances in the Philippines dealt with by the Working Group since it was established.

I. Cases received by the Working Group	240
II. Cases transmitted to the Government by the Working Group	201
III. Answers received relating specifically to cases transmitted to the Government by the Group <sup>22/</sup>	52
A. Answers from the Government	51
B. Answers from other sources	1

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- <sup>22/</sup> (a) Persons arrested and in prison: 1.  
 (b) Persons released from detention: 38.  
 (c) Persons at liberty: 6.  
 (d) Persons whose deaths have been officially recorded: 7.

In addition to the figures in III above the Group has received responses from the Government with regard to other cases as referred to in the text.

K. Uruguay

91. The Working Group's previous activity in relation to Uruguay appears in its two earlier reports.<sup>23/</sup> The Working Group transmitted to the Government of Uruguay information on the reported disappearance of 19 persons which occurred in the period 1974 to 1980. Of the 20 disappearances 14 reportedly occurred in Uruguay and six reportedly occurred outside that country (five in Argentina and one in Paraguay); in these latter cases the missing person was reported to have Uruguayan nationality and to have been arrested or held in detention by Uruguayan security forces. The reports transmitted contained information on the identity of the missing person, including his profession, the date and place of disappearance and generally the circumstances of the arrest. Among the forces reported to be responsible for the arrest were the Organization for the Co-ordination of Anti-Subversive Operations and various military units. The Group also transmitted reports from former detainees stating they were held with the missing person in clandestine detention centres in Uruguay or other countries (under the partial control of Uruguayan security forces); and the former detainees gave details of the centres and the persons responsible for them.<sup>24/</sup>

92. This year the Working Group transmitted to the Government of Uruguay reports concerning 13 disappearances; one occurring in Uruguay, 11 in Argentina and one in Paraguay. In these latter cases which reportedly occurred outside Uruguay the missing person was said to have Uruguayan nationality and to have been arrested by Uruguayan security forces. These disappearances occurred between 1976 and 1978 and the information concerning the individual's identity and the circumstances of his arrest is similar to those reported above in paragraph 1. In 11 of the 13 cases the missing person was reportedly seen in Uruguayan detention centres by former detainees. Also in 1982 the Working Group wrote to the Government of Uruguay with reference to five cases transmitted in the past and requested to learn if any progress had been made in following up the statements that the missing person had been held in specific locations.

93. In 1980 and 1981 the Working Group received written information and met on a number of occasions with representatives of the Government of Uruguay. That Government provided general information on disappearances and specific information on 20 cases. That general information is relevant to the cases transmitted this year; they were sent only recently and the Government has not had sufficient time to reply. The Government of Uruguay has placed disappearances in the general situation and conditions prevailing in Uruguay during the period and it states that in fighting subversion government forces had acted in accordance with the law and all criminals had been brought before

<sup>23/</sup> E/CN.4/1435, paras. 150-163, annex XVI; E/CN.4/1435/Add.1, para. 5; E/CN.4/1492, paras 142-147, annex XVI; E/CN.4/1492/Add.1, para. 18.

<sup>24/</sup> See also above, para. 27.

the courts and judged. The death penalty had not been reintroduced during the period of instability. The Government asked that the problem of missing persons be given its real dimension. Of the 100 or so cases reported only eight or 10 reportedly took place in Uruguay. With regard to those cases the Government was making every effort to determine the persons' whereabouts but denied any complicity or responsibility. For those outside the country, the Government had made many efforts to obtain information and a special office had been established to help relatives of missing persons.

94. In providing information on specific cases the Government informed the Group that with regard to the two cases which reportedly occurred in 1980 the persons were in prison. Concerning other cases, one person had left the country, three others had been registered in a hotel some distance from the place of their alleged disappearance on that day and one person had escaped from prison. Arrest warrants had been issued for 10 others for subversive activities and with regard to one person no information was available.

95. The following is a statistical summary of the reports of enforced or involuntary disappearances relating to Uruguay dealt with by the Working Group since it was established.

I.	Cases received by the Working Group	136
II.	Cases transmitted to the Government by the Working Group	33
III.	Answers received relating specifically to cases transmitted to the Government by the Group <sup>25/</sup>	2
	A. Answers from the Government	2
	B. Answers from other sources	0

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<sup>25/</sup> Persons arrested and in prison: 2.

In addition to the figures in III above the Group has received responses from the Government in relation to other cases, as referred to in the text.

III. INFORMATION CONCERNING ENFORCED OR INVOLUNTARY DISAPPEARANCES  
IN SOUTH AFRICA AND NAMIBIASouth Africa

96. The Working Group's Activities relating to South Africa are set out in its two earlier reports.<sup>1/</sup> One particular point raised has been the way in which current legislation enables a disappearance, of the sort with which the Group is concerned, to occur completely in accordance with law. The Group has also referred to three cases in South Africa in 1976, 1977 and 1978; the three men involved were said to have been arrested and detained under the legislation referred to. Their families were later informed of their release but have, so far as is known, had no further contact with them. Provisions of the various interconnected legal measures which are relevant include the Internal Security Act 1950, the Criminal Procedure Act 1955, the Terrorism Act 1967 and the Police Amendment Act 1980. The Working Group has provisionally concluded that the South African State "has equipped itself with a body of legislation which can ensure that quite lawfully, a person may disappear without the relatives being able to obtain any information about him."

97. By a letter dated 19 December 1980 the details on the above-mentioned specific cases were transmitted to the Government of South Africa along with the Group's request to receive any information the Government might wish to send. Also by that letter of 19 December 1980 the legislative provisions described above and the interpretation placed upon them by the Working Group were transmitted to the Government of South Africa together with the Group's request to receive that Government's views or other information. During 1981 and 1982 repeated requests were made to the Government of South Africa for information regarding the specific cases and on the legislative provisions governing arrest and detention which could lead to enforced or involuntary disappearances.

98. There has still been no reply to these requests; nor has the Working Group succeeded in obtaining any information from other South African sources whether its understanding of the law is accurate. The Group can, therefore, only advise the Commission to look again at its analysis of the legislation referred to above and contained in E/CN.4/1435, paras. 175-177. It is necessary to draw attention once more to the extremely wide range of activity which could be caught by the definition of "terrorism". In the absence of any explanation it must be assumed that the extent of potential criminality is very broad indeed; and that the burden of proof to establish innocence beyond any reasonable doubt is extensively laid on the defendant, contrary to almost all, if not all other criminal codes. The Working Group cannot thus refrain from commenting that this criminal legislation is wholly exceptional in international experience; and that it seems to institutionalize the State's ability to create an enforced or involuntary disappearance. Whether other human rights may also be infringed is not for the Working Group to discuss.

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<sup>1/</sup> E/CN.4/1435, paras. 175-178; E/CN.4/1492, paras. 158-160.

Namibia

99. The Working Group in its earlier reports reviewed information then available on allegations of enforced or involuntary disappearances in Namibia.<sup>2/</sup> Reference was made to the adjournment of a hearing in the Windhoek Supreme Court with respect to an application by the wives of three men who, they claimed, had been detained by South African forces, and could not be traced thereafter. This information was transmitted to the Government of South Africa by letter dated 21 December 1980 with the Group's request to receive any information which the Government might wish to supply. Despite the renewal of this request in 1981 and 1982 no response or news has been received about any progress in the legal proceedings.

100. In its earlier reports the Working Group also dealt with information that the South African authorities had detained persons in neighbouring countries, transported them to Namibia and, by refusing to acknowledge the detentions, effectively caused those persons to disappear. The particular case mentioned concerned about 120 people detained at Kassinga in Southern Angola during a raid in May 1973 by South African forces; it is thought that they were then held at a camp near Hardap Dam in Namibia. According to information available to the Group these persons were held under the South West Africa Administrator General's Proclamation Act AG9 although this only allows detention without charge for 30 days. Again no response has been received from the South African Government.

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<sup>2/</sup> E/CN.4/1435, paras. 179-183; E/CN.4/1492, paras. 161-163.

IV. OTHER REPORTS OF ENFORCED OR INVOLUNTARY DISAPPEARANCES  
DEALT WITH IN VARIOUS WAYS BY THE WORKING GROUP

101. In this chapter, the Working Group deals with certain countries whence smaller numbers of allegations of disappearances have been received. Some of these countries have been referred to in previous reports. In certain instances the Commission may consider that there is no object in further pursuing the cases. Some others are new this year and with the remainder, are still under investigation.

Brazil

102. The Working Group since it was established has transmitted to the Government of Brazil copies of the reports received from relatives regarding seven cases of enforced or involuntary disappearances which reportedly occurred in the years 1970 to 1974.<sup>1/</sup> Three of the missing persons were students, one a teacher, one a computer programmer, a public employee, and one a member of the Navy. In some of the cases the families reported having received information that the missing person was held by the authorities from former prisoners or through unofficial confirmations.

103. The Government of Brazil informed the Working Group that the Government had undertaken an investigation in order to locate the missing persons but that the investigation had not yet yielded the expected results. From the information which had been collected the Government reported that three of the missing persons had been tried in their absence by military courts for various infringements of laws relating to national security and that with regard to four others, no criminal records had been discovered. The Government also informed the Group that with regard to one case before the judiciary in Brazil, the State had been found responsible for the disappearance at the court of first instance and that the right to compensation of the relatives has been recognized. The Government further stated that the judgment had been appealed and it was therefore not yet possible to establish the Government's responsibility in a conclusive manner,

104. Since the extension of its mandate by the Commission on Human Rights at its thirty-eighth session the Working Group has reviewed these cases and information provided by the Government and the Group decided to renew its request for any further information which might become available. In particular, with regard to those reports which contained specific statements that a person had been detained in certain localities, the Group requested information of any progress which might have been made in following up those statements.

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<sup>1/</sup> E/CN.4/1435, para. 165; E/CN.4/1492, paras. 58-60.



Chile

105. In both of its previous reports<sup>2/</sup> the Working Group has recorded the position of the Chilean Government that it would be in no position to co-operate with general United Nations procedures so long as the situation of discriminatory and ad casum treatment continued. The reference is to the continued mandate for the Special Rapporteur. There is, in December 1982, no change in this position. The Working Group has, however, continued its existing practice of transmitting to the Government of Chile the details of any new reported case of a disappearance, of which there has been one reported this year. This relates to a person whose prison sentence, imposed in the 1970s, had been commuted to voluntary exile, but who had without authority returned to Chile and who was subsequently alleged to have been arrested and to have disappeared.

106. In his report of 6 November 1981 (A/36/594) the Special Rapporteur informed the Commission at its thirty-eighth session of the latest developments in the solution to the problem of missing persons in Chile which dated from the 1970s; these problems are well-known to the Commission, and are not again outlined here. His 1982 report (A/37/564) fulfils the same function for the past year, and the Working Group has kept in touch with the Special Rapporteur.

107. Chile is not a federal State; central records exist. There are indications that judicial procedures are functioning in an increasingly effective way. The Working Group would not wish to comment upon progress made under the criminal or military codes concerning cases of disappearances in the 1970s. However the two cases of illegal entry into Chile, referred to in last year's report and the 1982 case referred to above, have been the subject of normal habeas corpus proceedings in the civil courts. Such applications are required under Chilean law to be supported by a sworn statement containing all relevant facts known to the applicant, which would enable the Court to conduct the necessary investigation. In relation to the three recent cases of alleged disappearances, the Working Group has requested from the sources of the reports copies of the respective sworn statements (which are public documents) to assist it in its consideration of these alleged disappearances.

108. In respect of all other matters relating to disappearances, the Working Group relies on the Special Rapporteur's report.

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<sup>2/</sup> E/CN.4/1435, paras. 40-42; E/CN.4/1435/Add.1, para.6; E/CN.4/1492, paras. 62-64.

Ethiopia

109. The Working Group since it was established has transmitted to the Government of Ethiopia information on 16 people, who reportedly disappeared in Ethiopia in July 1979, which was provided by a non-governmental organization in consultative status with the Economic and Social Council and copies of reports received from relatives regarding the disappearances in Ethiopia of two persons.<sup>3/</sup> The first of the two latter reports dealt with the arrest of a church leader and his wife in July 1979 in the streets of Addis Ababa; his wife was later reported to have been released. The second report stated that a former Government official had been held from 1974 in a prison in the provisional military headquarters (formerly the Menelik Palace) but that in July 1979 the family was told it was no longer necessary to bring him food and clothes.

110. The Government of Ethiopia informed the Working Group with regard to the two reports of disappearances, that the first person was believed to have joined the so-called Oromo Liberation Movement and that the second person fell into the category of those individuals under detention because of crimes committed, whose cases were being considered by the recently established Central Investigation Organ as expeditiously as possible; their human rights would be fully respected

111. The Working Group recommends that no further consideration be given to these cases.

Revolutionary People's Republic of Guinea

112. The Working Group since it was established has transmitted to the Government of the Revolutionary People's Republic of Guinea information received from relatives concerning eight persons who they state had been arrested and subsequently disappeared in Guinea.<sup>4/</sup> The authors said that the missing person had been arrested at home, at military premises, at the missing person's work place or at a police control border. The authors further stated that in some cases the arrest had been witnessed by one or more persons. The Working Group made repeated requests to the Government for information but no response was received. The Working Group is concerned at the total lack of response from the Government.

113. In September and October 1982, the Working Group received several letters from most of the authors of the reports providing information on the results of efforts made by them through the European Parliament and the French Government to determine the whereabouts or fate of their family members. They reported having received from the European Parliament a statement that the Government of

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<sup>3/</sup> E/CN.4/1435, paras. 102-106; E/CN.4/1492, paras. 38-90.

<sup>4/</sup> E/CN.4/1492, paras. 103-105.

Guinea had reported that seven of the missing persons had been executed and that one had escaped. It was pointed out that this information, was vague, that the executions took place in the first half or second half of the particular year, and that three of the persons were reportedly executed prior to the date of their arrest.

114. The group was further informed that the Government of Guinea provided the French Foreign Minister with information on the eight cases, which indicated that seven of these persons have been executed following a death sentence and that one had escaped from prison and was missing since. The information provided to the French Government was different from that provided to the European Parliament. The date of execution was different in four cases. Further, the relatives report that in one case the Government of Guinea reported that the person had escaped from prison in 1971 or in January 1971 but that the missing person was in fact the Chief of Cabinet for the Minister of Foreign Affairs during 1971 and up to August 1972.

115. The Working Group has contacted the Government its request for confirmation and clarification of the information it reportedly gave to the European Parliament and the French Government.

#### Islamic Republic of Iran

116. The Working Group in its report to the Commission at its thirty-eighth session stated that it had transmitted to the Iranian Government in 1982 information concerning the reported disappearance of 16 persons.<sup>5/</sup> According to the reports transmitted to the Government, 11 of the 16 persons were arrested at a private home in Teheran between 4 p.m. and 6 p.m. on 21 August 1980 by a group of armed men who reportedly showed a written arrest order for those persons, and it was stated that government officials had confirmed the arrest of those persons. Of the five remaining persons, one, a retired professor, was reportedly arrested on 11 November 1979 in Teheran, the second reportedly disappeared on 23 May 1979; it was stated that an arrest warrant had been issued for him on 12 May 1979. As regards the third person, he was reportedly arrested on 13 January 1980 on his way to work. The remaining two reports were received from relatives of two school girls who reportedly disappeared on 30 May 1981 and 17 June 1981 after having been taken from school by government authorities. The Working Group requested information on these cases from the Government.

117. During the Working Group's eighth session it met with the Chargé d'affaires a.i., of the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva. At that meeting the representative of the Islamic Republic of Iran stated that his Government acted in an open way and did not resort to such practices as enforced or involuntary disappearances. He stated that the information transmitted to his Government was not sufficiently detailed to permit an effective investigation but that should further details be made available to the Government an investigation would be carried out. The Working Group has contacted the source of the reports of disappearances with a view to obtaining the additional information requested.

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<sup>5/</sup> E/CN.4/1492. paras. 114-117.

118. At a meeting during the eighth session the representative of the Islamic Republic of Iran referred to a letter dated 15 September 1982 which he had addressed to the Chairman of the Working Group concerning Iranian military personnel and civilians who reportedly disappeared during the conflict with Iraq beginning in September 1980. The representative of the Islamic Republic of Iran requested the Working Group to undertake a study of those missing persons. By a letter dated 3 December 1982 the representative of the Islamic Republic submitted the names, with some accompanying details, of 9,405 persons missing in Western Iran.

119. The Working Group has ascertained from the International Committee of the Red Cross that persons, civilian or military, who are reported missing during any international armed conflict fall within the mandate of the ICRC pursuant to the Third and Fourth Geneva Conventions of 1949. The Working Group was informed that the ICRC was in contact with the Governments of the Islamic Republic of Iran and of Iraq with a view to carrying out its mandate and that facilities had been accorded to the ICRC to make visits to the various detention camps in both countries.

120. The representative of the Islamic Republic, during the Working Group's eighth session and in a letter dated 29 September 1982, pointed out that the Working Group's activities in relation to missing persons in Cyprus provided a partial precedent for the Iranian Government's request. The Working Group, however, has explained that in its view there appear to exist substantial differences between the two situations. The Commission's opinion is requested.

#### Lebanon

121. The Permanent Mission of Iran to the United Nations Office at Geneva by a note verbale dated 20 August 1982 brought to the attention of the Working Group a report that in July 1982 a journalist of the IRNA Agency had disappeared in Lebanon. The Working Group, by a letter dated 27 August 1982, requested further details from the Permanent Mission, such as the exact date, place and circumstances of the disappearance. By a letter dated 29 September 1982 the Permanent Mission provided further information which was transmitted to the Government of Lebanon by a letter dated 4 October 1982. In that letter the Group stated it recognized the difficulties of an investigation posed by the events then in Lebanon, but said that it would appreciate receiving any information the Government might be able to provide. The Government of Iran was informed of the transmission of the report to the Government of Lebanon and it was assured that any information received on the disappearance would be brought to its attention.

#### Morocco

122. The Working Group at its seventh session had before it information submitted to it by relatives concerning the reported enforced or involuntary disappearance of seven persons in Morocco. Four of these persons reportedly disappeared from prison in the years 1972-1974 and three were reportedly arrested together at their home in 1973. In accordance with established practice the Chairman wrote to the Government of Morocco on 25 June 1982 informing the Government of the Group's mandate and humanitarian purpose. By a letter of 28 June 1982 the Chairman, pursuant to the Group's decision, transmitted the information received from the relatives to the Government along with the Group's request for information.

123. At its eighth session the Working Group met with the Deputy Permanent Representative of Morocco to the United Nations Office at Geneva. The representative of Morocco informed the Working Group that the information the Government had received was being considered by the authorities of his country and that while he did not have available at present precise information for the Group on the reports received he believed that such information would be forthcoming in the near future. He emphasized the importance his Government attached to the human rights of each individual but also drew the Group's attention to the small number of cases transmitted. The Working Group thanked the representative of Morocco for having met with it and welcomed the Government's expression of willingness to co-operate with the Working Group in its humanitarian tasks.

#### Peru

124. The Working Group has only been concerned with 5 cases, which are reported to have occurred in 1980.<sup>6/</sup> These were discussed with a representative of the Government, and for three cases an official reply from the Ministry of the Interior was received. All five persons were Argentinian citizens, and the Government confirmed the arrest of three of them on security grounds and their expulsion from the country. There is some indication that the other two were also removed from Peru. One of these persons was soon thereafter found dead in a flat in Madrid, and the Spanish authorities have been investigating the death. No information has been received about the other four.

#### Syrian Arab Republic

125. Since the renewal of its mandate the Working Group has received information on cases of enforced or involuntary disappearances in the Syrian Arab Republic provided by a non-governmental organization in consultative status with the Economic and Social Council and a relative of a missing person. The Working Group, in June 1982, informed the Government of the Syrian Arab Republic that the Group had received a number of communications on enforced or involuntary disappearances in that country, emphasized the group's purely humanitarian task, and expressed its desire for co-operation so as to reach a speedy solution to these human rights matters. In June 1982 the Working Group transmitted two reports of enforced or involuntary disappearances to the Syrian Government. One of the reports concerns a medical doctor who reportedly was summoned to the Office of Heads of Prisons in Homs and detained there; a week after his arrest he was transferred to an unknown destination. The second case also concerns a doctor who was arrested and accused of membership and activities on behalf of the Muslim Brotherhood and his whereabouts are unknown since his arrest. At its ninth session the Working Group decided to transmit a further case which it had received from a relative to the Government and to request information. It concerned a student who reportedly was arrested, together with two fellow students, at his home in August 1980 by security agents; he was said to have been taken to a specified prison. To date, no information has been received from the Government on the above cases.

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<sup>6/</sup> E/CN.4/1435, paras.166-169 and Annex XVII.

Zaire

126. Since it was established the Working Group has transmitted to the Government of Zaire reports on the enforced or involuntary disappearance of 13 men which had been received from a non-governmental organization in consultative status with the Economic and Social Council.<sup>7/</sup> These disappearances reportedly occurred in 1975 (five persons), 1977 (one person), 1978 (two persons), 1979 (one person), 1981 (six persons). The arrests reportedly took place in the region of Bas-Zaire or in the southern regions of Kivu and in Uviva and soldiers or military intelligence officers were reported as having made the arrest in some cases. In most cases the arrested person was reportedly taken to a named detention centre such as Kikwit prison, the military headquarters of Kalemie (in the north of Shaba), the military prison of N'Dolo in Kinshasa. In one case, a person arrested with the missing person reported sharing detention with him until his release. The Working Group has written to the Government of Zaire requesting information. During its eighth session the Group met with the Permanent Representative of Zaire to the United Nations Office at Geneva who stated his Government's interest in co-operating with the Working Group in order to clarify the reports transmitted.

Other matters

127. The Working Group in 1981 transmitted to the Government of Lesotho reports on two disappearances which allegedly took place in September 1981.<sup>8/</sup> One person, a church leader reportedly disappeared when his house was attacked and another also connected with the same church allegedly disappeared after he had gone to a police station. In this latter case the Group subsequently learned that the body of the person had been found. In 1982, responding to a request for information from the Working Group, the Government of Lesotho reported that the one remaining missing person had been killed as the result of conflict between two warring factions and that a police investigation had been opened and the Government was seeking to resolve the crime.

128. In its second report<sup>9/</sup>, the Working Group referred to a Parliamentary Select Committee set up in Sri Lanka for the purpose of investigating certain matters, including the reported disappearance of three persons. The Government of Sri Lanka told the Group that this Committee had concluded its work, that the Report was being printed, and that a copy would be sent as soon as it was available. The Government was thanked for its assistance.

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<sup>7/</sup> E/CN.4/1492, paras. 148-151.

<sup>8/</sup> E/CN.4/1492, paras. 118-119.

<sup>9/</sup> E/CN.4/1492, paras. 138-139.

129. One auxiliary procedure adopted by the Group should be reported to the Commission. A few cases of alleged disappearances have been handled on an informal basis, and are not referred to elsewhere in this report. This has been done, in the exercise of the Group's discretion and in order to facilitate the solution of cases by the Group where news has been received of a recent case and where rapid intervention might help to save a life or at least regularise a detention. Either the Government concerned was not previously contacted by the Group or the details available did not measure up to the standards required for a formal transmission; or in some cases both. No Government refused to co-operate and in some cases clarification was achieved.

V. SPECIFIC HUMAN RIGHTS DENIED BY ENFORCED OR INVOLUNTARY  
DISAPPEARANCES AND THE IMPACT OF DISAPPEARANCE ON  
HEALTH AND FAMILY LIFE

130. The information in this and prior reports shows that a wide range of the human rights of the victim himself and his family which are recognized in various international human rights instruments are violated or infringed by enforced or involuntary disappearances.<sup>1/</sup> These include civil and political rights and economic, social and cultural rights.

131. The right to liberty and security of person is the principal human right denied by the practice of enforced or involuntary disappearance. Related rights, such as the right to freedom from arbitrary arrest, the right to a fair trial in criminal matters and the right to recognition as a person before the law, are all involved. In addition, the right to humane conditions of detention and freedom from torture, cruel or degrading treatment or punishment are involved. The very fact of being detained as a disappeared person, isolated from one's family for a long period is certainly a violation of the right to humane conditions of detention and has been represented to the Group as torture. Further, some of the information before the Group deals with the conditions of detention, including ill-treatment, suffered by the missing or disappeared persons. The right to life is also involved; some of the information received by the Group indicates that during detention the missing person risks being killed.

132. Disappearances of the sort under consideration by the Group also involve infringements of certain of the "Standard Minimum Rules for the Treatment of Prisoners" approved by the Economic and Social Council in its resolution 663 C (XXIV) of 31 July 1957.<sup>2/</sup> Relevant to enforced or involuntary disappearances are the following rules of a general nature which, under rule 4, are applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to "security measures": rule 7, which requires that detailed records shall be kept for each prisoner; rule 37, which ensures that prisoners shall be able to communicate with their family; and rule 44, which requires the authorities to inform a prisoner's spouse or nearest relative in the case of his death, or serious illness, and affords the prisoner the right without delay to inform his family of his imprisonment or his transfer to another institution. Rule 92, which applies to untried prisoners also recognizes the prisoner's right to communicate with his family and to inform his family immediately of his detention.

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<sup>1/</sup> The principal international instruments are: Universal Declaration of Human Rights; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; African Charter on Human and People's Rights; American Declaration of the Rights and Duties of Man; American Convention on Human Rights; European Convention on Human Rights. Reference may also be made to the Geneva Conventions of 1949.

<sup>2/</sup> See document ESA/SDHA/1.



133. If these may be said to be the principal human rights of the missing person who suffers enforced or involuntary disappearance, a reading of the Universal Declaration of Human Rights and the International Covenants on Human Rights shows that to a greater or lesser degree practically all basic human rights of such a person are infringed. Particular concern has been expressed to the Group about the right to a family life of the persons who suffer enforced or involuntary disappearance and of their relatives. In the case of pregnant women, children and refugees who suffer enforced or involuntary disappearance, their specific rights, as contained in the international human rights instruments are infringed; for example the right of every child to measures of protection. A review of the economic, social and cultural rights guaranteed by the various international human rights instruments shows that many of them are denied to a greater or lesser extent by enforced or involuntary disappearances.

134. The information before the Group shows that various human rights of the members of the family of a missing or disappeared person may also be infringed by that person's enforced absence. Their right to a family life may be seen as the principal right involved, but other rights of an economic, social and cultural nature can also be directly affected; for example, the family's standard of living, health care and education may all be adversely affected by the absence of a parent. The adverse impact of the disappearance of a parent on the mental health of children has been pointed out in other United Nations reports elsewhere.<sup>3/</sup> Finally, Additional Protocol I to the Geneva Conventions of 12 August 1949 has recognized "the rights of families to know the fate of their relatives" and this right of relatives to be informed of the whereabouts and fate of missing or disappeared family members has been reflected in resolutions of United Nations bodies.

135. Recently, considerable efforts have been made by associations of relatives of missing persons to describe the impact of disappearances on the person concerned, his family and in particular children. The Working Group recently received a copy of a report drawn up at the Second Latin American Congress of Relatives of Missing Persons (Caracas, 24-28 November 1981) which provides such an analysis. According to that report the impact or psychological damage on the missing person depends upon the length of detention and the exact type of treatment and upon that person's capacity for recovery; this depends upon his critical faculty, his degree of awareness, the strength of his individual convictions and the ability to feel he is not alone. After reappearance the former missing person may find himself the subject of distrust and suspicion and may have to depend on charitable organizations for his subsistence.

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3/ See for example, the report of the Ad Hoc Working Group on the Situation of Human Rights in Chile to the General Assembly at its thirty-third session (A/33/331/para.376).

136. At the family level, the report described the result of a disappearance as a drawn-out shock, a state of latent and prolonged crisis, in which the anguish and sorrow caused by the absence of the loved one continues indefinitely. The process of mourning and emotional affliction is essential to enable a person to come to terms with a loss and in the cases of missing persons this process is unsatisfactory, because the person is not known to be dead, and so the same adjustments are very difficult. According to the report the reaction of relatives to a disappearance passes through several stages; the first being one of inaction due to fear or reprisals and to the uncertainty as to whether their actions in search of their missing relative might lead to his death. The next stage is that of trying individually to search for the missing person and the third stage is that of collective action. Feelings of despair are noted and often relatives have deep feelings of guilt either because they come to believe they were responsible for the disappearance or that they have not done enough in searching for the victim. The result may be the paralysis and social block of the relative and may lead to the rupture of the remaining family unit.

137. The effects of the disappearance of a parent or close relative on children, as described by the report, include feelings of abandonment, fear and insecurity to the sudden interruption of psychological development. The predominant emotion is fear and there are deep feelings of impotence, vulnerability and paralysis of the will which invade their lives when the children have witnessed or become aware of the collapse of the protection and security provided by their families. Mothers, the report states, afflicted by the disappearance of their husbands, have difficulty in adequately carrying out their maternal roles, let alone compensating for the loss of the children's fathers. These are additional aspects of the phenomenon of disappearances which must bolster the international community's resolve to combat it.

## VI. CONCLUSIONS

138. The Working Group wishes to offer its gratitude for the support which it has continued to receive. Further consensus resolutions in different United Nations fora have been noted and provide a robust infrastructure for the Group's activities. The continuing and comprehensive support by the Centre for Human Rights must again be gratefully acknowledged, and it needs to be said that the whole international community has given its unstinted assistance whenever and wherever this has been requested. Families and friends of disappeared persons should be aware of this co-operation. Without it there would be no results at all to display.

139. Discussions on disappearances have now taken place in many fora. This is appropriate since the phenomenon involves plain and fundamental breaches of the most elementary human rights. After two and a half years' exposure to these cases the Working Group ventures to advance certain opinions.

140. The Group was established in 1980. Disappearances, however, reach back into the depths of history. It has always been convenient for a powerful Government to silence its opponents by removing them. Seldom is there any difficulty in finding someone who will execute the deed. Since the identification of this phenomenon, suggestions have been advanced that some systematic analysis should be made of these cases to trace their origin and give advice about preventive action. The Working Group has not neglected consideration of these aspects.

141. No very profound observations can be proffered in the political, psychological or sociological fields. If political opponents can be erased, without statements, trial or martyrdom, the repercussions are minimised. Over the years, the human race has built up a resistance to such practices. Respect for life and freedom has created the remedies of habeas corpus, amparo and other similar procedures. These are basic guarantees to the citizen, and obtain an eminent place in any Constitution. The evil lies in the inability to enforce these remedies. In most countries an elaborate balance of powers has been carefully created. The executive's actions can be questioned by the judiciary; the legislature sets the limits for both. If however, the balance is disturbed, the remedies vanish together with the institutions which established them. A state of siege or of emergency does not, however, in the light of the International Covenants, abrogate all the rights which protect individuals' freedom and life.

142. This extra dimension is created by the international community, which continues to scrutinise national activities in this, as in other spheres. In certain regions an international supervisory court has been established with the power to hand down decisions on human rights issues that are binding and to give individual remedies enforceable against a Government. Elsewhere, public opinion is all that can sustain the protest. By either means, the scrutiny is becoming increasingly intense, and, it is thought, effective.

143. It is correct that this should happen. The Working Group has first-hand experience of the devastating effect of a disappearance on the family concerned. This effect is the subject of an expert report prepared by a "medico-psycho-social workshop" set up by the Second Latin American Congress of

Relatives of Missing Persons, meeting in Caracas in November 1982 and referred to in Chapter V above. The paper analyses what can happen psychologically to the victim himself, and describes the deleterious effect, both short and long-term, on a spouse and particularly on the victim's children. There seems to be no doubt that the concern so widely expressed about enforced or involuntary disappearances is justified on medical grounds as well as for all the other reasons which are familiar.

144. Thus the Working Group looks back at its previous final chapters. It wishes neither to revise nor to supplement what was previously set out. An insistence on the rule of law would make enforced or involuntary disappearances extremely difficult. If the rule of law were universally effective, the Working Group's mandate would not require renewal.

145. However, it is not so. In these circumstances the Working Group wishes to reiterate the point that observance of the rule of law precludes disappearances. Where, for one reason or another, something has gone wrong with this principle, the Commission should:

(a) Encourage such inquiries as have been set up by some Governments to solve specific cases which have occurred; and

(b) commend and support any reorganization of domestic procedures, such as has been devised by other Governments which enable rapid response to be provided to any citizen's allegation that a disappearance has taken place.

VII. ADOPTION OF THE REPORT

146. At the afternoon meeting of 10 December 1982 the present report was adopted and signed by the members of the Working Group on Enforced or Involuntary disappearances:

Viscount Colville of Culross (United Kingdom)  
Chairman/Rapporteur

Jonas K.O. Foli (Ghana)

Agha Hilaly (Pakistan)

Ivan Tosevski (Yugoslavia)

Luis A. Varela Quiros (Costa Rica)