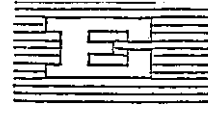


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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY  
FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:  
QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Working Group on Enforced or  
Involuntary Disappearances

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

109. In its three previous reports, the Working Group has informed the Commission about enforced or involuntary disappearances in South Africa and Namibia, the cases transmitted to the Government of South Africa and the South African legislation on the matter.<sup>1/</sup>

A. Cases transmitted to the Government of South Africa

South Africa

110. Since the extension of its mandate in 1983, the Working Group has transmitted, by a letter dated 16 December 1983, one case of an enforced or involuntary disappearance which reportedly occurred in South Africa to the Government, together with a request for any information the Government might wish to send. The case concerns a student and member of the Congress of South African Students (COSAS) who was detained for five months after he had been arrested during demonstrations in Port Elizabeth in 1981. Upon his release from detention, he was admitted to a hospital. According to the information received by the Group on this case, medical tests at the hospital showed that he had been poisoned. The student then filed charges against the Minister of Law and Order, together with a demand for compensation regarding the ill-treatment to which he had been subjected while in detention. After he returned to the hospital, accompanied by a friend, both men reportedly disappeared.

111. Prior to the present extension of its mandate, the Working Group transmitted to the Government of South Africa reports regarding three disappearances in that country. A non-government organization in consultative status with the Economic and Social Council provided details obtained from relatives on these three instances of enforced or involuntary disappearances in South Africa which occurred in 1976, 1977 and 1978. Three men were arrested by the South African authorities on the basis of the various national security provisions referred to below. Their families were told that they had been released by the authorities, but the three men were never seen again after their arrests. Despite repeated requests by the Group for information on these cases, no response from the Government has been received.

Namibia

112. Since the extension of its mandate the Working Group has transmitted one report of an enforced or involuntary disappearance which allegedly occurred in Namibia. A non-governmental organization in consultative status with the Economic and Social Council reported that the person was one of 25 arrested together in August 1980 by security forces because they were suspected of assisting SWAPO guerrillas. The report contained the further information that relatives had initiated legal action before the Windhoek Supreme Court in order

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<sup>1/</sup> E/CN.4/1435, paras. 175-183; E/CN.4/1492, paras. 158-163;  
E/CN.4/1983/14, paras. 96-100.

to clarify the person's fate. According to information they had received from the police, one person had been abducted or killed by the guerrillas. A witness, however, stated that the person had died under torture while in detention.

113. In its earlier reports, the Working Group reviewed the information received in connection with the adjournment of a hearing by the Windhoek Supreme Court with respect to the application by the wives of three men about the fate of their husbands whom they claimed had been detained by South African forces. That information was transmitted to the Government of South Africa in a letter dated 21 December 1980 with the Group's request for any information which the Government might wish to supply. Despite the renewal of that request in 1981 and 1982, no response has been received.

114. In its earlier reports, the Working Group also dealt with information to the effect 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 are being 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 it only allows detention without charge for 30 days. Again, no response has been received from the South African Government.

#### B. Legal Provisions

115. In chapter IV of the Working Group's first report,<sup>2/</sup> an attempt was made to set out those parts of relevant statutes which led to the conclusion that South Africa's law provided for "a person to be detained by the police against his will not only incommunicado, but without his relatives being entitled to any information at all." The Group's analysis of the legislation then in force was published and the South African Government has been persistently invited to comment on whether that analysis and those conclusions were accurate and comprehensive.

116. In the meantime, the Commission on Security Legislation, under the chairmanship of Chief Justice Rabie, has made its report. A new statute on internal security entitled the Internal Security Act (No. 74 of 1982), has since been introduced and repeats much of the earlier legislation referred to in the Group's first report; however, the definition of "terrorism" in section 2 of the Terrorism Act (No. 83 of 1967) quoted in paragraph 176 of the Group's report is not reproduced. The new Act contains new and extensive definitions of terms such as "communism" on the basis of which criminal offences are formulated and freedom of association circumscribed; these are, however, of no relevance to the Working Group's mandate. What concerns the Group is the extent to which it is still possible for persons to be secretly detained by virtue of laws adopted following strictly Parliamentary procedures.

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<sup>2/</sup> E/CN.4/1435, paras. 175-177.

117. The new Act has the effect of repeating much of the earlier provisions but with amendments which are significant in the present context. First, persons identified by the executive as being of a subversive character may be restricted so that they must remain in, or must not go to, certain specified places (section 19). Second, certain persons may be detained in prison on the authority of the executive if it is considered that such detention will prevent the commission of certain offences or the endangering of the security of the State or the maintenance of law and order (section 28).

118. Furthermore, access to the restricted or detained persons is prohibited and no one is entitled to receive official information relating to or obtained from such a person. There is a statutory board of review, independent of Government and at present composed of a retired Supreme Court Judge, a retired Regional Court Magistrate, and a practising attorney, which has substantial powers of intervention on behalf of persons subject to sections 19 or 28. The provisos to sections 19(1) and 28(8) also grant statutory assurance of access to the person concerned by his legal representative (provided that the legal representative is not also "on the list"). The Group understands this to mean that a person subject to these measures may at least use these provisos to inform his family of his detention, or restriction, and of his whereabouts.

119. Two subsequent sections, however, enable persons to be detained by order of the executive, apparently with greater possibility of being held incommunicado. Section 29 allows for the detention of persons for interrogation for a period of 30 days initially and subsequently for successive periods without limit. Section 31 deals similarly with potential witnesses to the commission of certain specified security offences, although there is a limit on such detention, which is determined by the conclusion of the criminal proceedings concerning the principal accused person, or the failure to charge that person within six months. During detention, however, the person under interrogation or the witness may only be visited by an Inspector of Detainees and must be seen once a fortnight in private by a magistrate and a district surgeon; the courts are expressly deprived of jurisdiction to order the release of either category of person.

120. The 1982 Act does not indicate the extent (if any) to which persons detained or restricted under the four sections mentioned above may be able to inform their relatives of their whereabouts. Whilst the legal representative may, under sections 19 and 28, be able to convey at least this minimum of essential information, sections 29 and 31 are silent on the point. It is valuable for the Working Group to have information about the 1982 Act; unfortunately the material has arrived too late for the full implications, relevant to the Group's mandate, to be properly explored. Nor has it been possible to investigate the extent to which the Police Amendment Act, 1980, as well as other legislation, effectively precludes relatives from knowing what has happened to persons arrested for subversive activities.

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

Angola

121. During its eleventh session the Working Group reviewed reports received from relatives and a non-governmental organization concerning five persons who allegedly disappeared in Angola in mid-1977. The occupations of the missing persons were that of administrator, electrical engineer and government official, political leader, physician and Protestant priest. Their nationalities were either Angolan or Portuguese. Family members reported that the arrests of their relatives were made by the Popular Defence Organization (PDO) and the Angolan Information and Security Services (DISA). One person was reportedly arrested at home and the family of another had contact with him in prison. Various sources reported to the relatives that some of them had been taken to specified police stations or detention centres, others were reported to have been transferred from prison to a labour camp or an unknown destination.

122. In accordance with established practice the Chairman wrote to the Government of Angola on 28 October 1983 informing it of the Group's mandate and humanitarian purpose. In a letter of 31 October 1983 the Chairman, pursuant to the Group's decision, transmitted the information on the cases described above to the Government, with a request for any information the Government might wish to submit. The Government of Angola was invited to send a representative to the twelfth session of the Working Group and to provide any information it wished at that session. To date no response has been received from the Government.

Brazil

123. In 1981, the Working Group transmitted to the Government of Brazil reports received from relatives concerning seven cases of disappearances which allegedly occurred in Brazil between 1970 and 1974.<sup>1/</sup> Three of the missing persons were students; the others were a teacher, a computer programmer, a public employee, and a member of the Navy. Some reports included information from former prisoners or unofficial confirmations indicating that the missing person was held by the authorities. The Government reported that three of the missing persons had been tried in their absence by military courts and that with regard to the others, no criminal records had been discovered. The Government also stated that in one case the State had been found responsible for the disappearance by the court of first instance, that the relatives' right to compensation had been recognized and that the judgement had been appealed.

124. Since the extension of its mandate the Working Group has renewed its request for any further information which might become available; in particular with regard to those reports which contained specific statements that a person

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<sup>1/</sup> E/CN.4/1983/14, paras. 102-104.

had been detained in certain localities, the Group requested information on any progress which might have been made in following up those statements. In a letter dated 3 June 1983, the Permanent Representative of Brazil to the United Nations at Geneva stated that it had not yet been possible to determine the whereabouts of the persons reported missing in Brazil. Nevertheless, the elements provided by the Working Group concerning those persons continued to be taken into account by the Brazilian Government and any information which might result from the ongoing research would be duly communicated to the Working Group.

125. In a letter dated 10 November 1983 the Permanent Representative of Brazil to the United Nations Office at Geneva reported that there had been no new developments in the situation and that the appeal made against the judgement mentioned above was still pending in court.

#### Chile

126. In 1981, the Working Group brought to the attention of the Government of Chile reports that two Chilean nationals who were preparing to enter Chile with false documentation had been arrested on 19 February 1981 on the Chilean-Argentine border.<sup>2/</sup> No response has been received from the Government on these cases.

127. The Working Group has been concerned since its first session with the protection of persons who submit information on enforced or involuntary disappearances to it. In that connection, the Chairman of the Working Group addressed a letter to the Permanent Representative of Chile to the United Nations Office at Geneva, on 12 August 1983, in which he referred to reports received by the Working Group that Ms. Cecilia Rodríguez, a member of the Executive Committee of the Latin American Federation of Associations for Relatives of Disappeared-Detainees (FEDEFAM), had been arrested on 2 February 1983 as she was boarding a flight to Europe. The Chairman pointed out that FEDEFAM had provided the Working Group with information about enforced or involuntary disappearances and that the Group had been informed that one of the purposes of Ms. Rodríguez' trip was to see that further information was received by the Group. The Chairman expressed the Working Group's concern about the matter and said that the Group would be grateful for any information the Government might wish to send.

128. In a letter dated 20 September 1983 the Permanent Representative of Chile to the United Nations Office at Geneva acknowledged receipt of the above-mentioned letter and stated that the competent national authorities had taken due note of its contents. The Permanent Representative informed the Group's Chairman that Ms. Rodríguez had been unconditionally released by the Court of Appeals and that she was at liberty.

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<sup>2/</sup> E/CN.4/1492, paras. 63-64.

Revolutionary People's Republic of Guinea

129. Since its establishment, the Working Group has transmitted to the Government of the Revolutionary People's Republic of Guinea information received from relatives concerning the disappearance of eight persons in Guinea.<sup>3/</sup> The missing persons were arrested at home, at military premises, at their work place or at a police border control station; in some cases the arrest was witnessed by one or more persons.

130. In 1982 the Working Group was informed that the relatives had received a statement from the European Parliament to the effect that the Government of Guinea had reported that seven of the missing persons had been executed and one had escaped. The relatives pointed out that this information was vague, no exact dates were given, and that three of the persons were reportedly executed prior to the date of their arrest. The relatives also reported that the Government of France had received different information on these cases from the Government of Guinea from that given to the European Parliament. The date of execution was different in four cases and in one case the Government of Guinea had reported that the person had escaped from prison in 1971; in fact, that person had been Head of the Private Office (Chef de Cabinet) of the Minister for Foreign Affairs throughout 1971 and up to August 1972.

131. The Working Group has repeatedly contacted the Government of the Revolutionary People's Republic of Guinea and requested confirmation and clarification of the information reportedly given to the European Parliament and the Government of France. The Working Group has also written to the relatives of the missing persons to determine whether they have received any further information.

Islamic Republic of Iran

132. The Working Group stated, in its report to the thirty-eighth session of the Commission on Human Rights,<sup>4/</sup> that it had transmitted 16 cases of reported disappearances to the Iranian Government in 1982, among them the cases of two girls who were allegedly taken away from school by governmental authorities in 1981. Eleven of the 16 persons were reportedly arrested at a private home in Teheran on 21 August 1980; one other person reportedly disappeared in 1980 and two in 1979. At its eighth session in 1982, the Working Group met the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran, who stated that the information transmitted to his Government was not sufficiently detailed and that more information should be obtained if his Government was to carry out an effective investigation. Such information has been sought from the source of the reports.

133. Since the extension of its mandate, the Working Group has received further reports regarding enforced or involuntary disappearances of persons, including children, in the Islamic Republic of Iran. In connection with certain of those

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<sup>3/</sup> E/CN.4/1983/14, paras. 112-115.

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

reports the Working Group decided to ask for more information from the source, while, with regard to others, the Group was of the view that they did not appear to fall within its mandate.

#### Morocco

134. In its report to the Commission at its thirty-ninth session, the Working Group stated that it had transmitted to the Government of Morocco information it had received from relatives about seven persons reported to have disappeared in the years 1972 to 1974; three of the persons (brothers) were reportedly arrested at their home on the same date in 1973, and the other four persons concerned were reported to have disappeared from prison.<sup>5/</sup>

135. In a letter dated 20 June 1983, the Government of Morocco informed the Working Group of the results of its investigations. With regard to the reported disappearance of three brothers who were said to have been arrested on the same day at their home, the Government stated that the records of the courts, the Ministry of Justice and the prisons had been searched, but that no record of criminal charges or of any other judicial procedures regarding the brothers had been found. In the Government's view, they should be sought outside the country. The Government stated that two other persons had been sentenced by the courts to 20 years' imprisonment for offences against the security of the State; another person had been sentenced to death in absentia and was still being sought. Finally, the seventh person had been acquitted by verdict in 1973. In accordance with established procedure this information was brought to the attention of the relatives of the missing persons.

136. Since the extension of its mandate, the Working Group has received reports of three disappearances in Morocco transmitted by relatives of the individuals concerned. One person was a student union leader who was allegedly arrested in the presence of witnesses upon his return to Morocco from a holiday in June 1981; two weeks after the incident, a Moroccan newspaper reportedly confirmed the details of the day and place of his arrest. The relatives report having received information on the places where he was subsequently detained. Two other students were reportedly arrested in 1983, one in January and the other in February; the first was allegedly arrested in front of witnesses, at a friend's home together with a person who was subsequently released; his family reported that prior to the arrest they had been questioned about his alleged participation in a student strike and demonstrations. The second student was reportedly arrested at home in the presence of witnesses by judicial police who showed credentials (the name of one was provided as well as the licence number of the car used); the relative reports having received information on the place of the person's detention from February to April 1983. Pursuant to established practice, these reports were transmitted to the Government of Morocco with the Working Group's request to receive any information it might wish to send.

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<sup>5/</sup> E/CN.4/1983/14, paras. 122-123.



Paraguay

137. In its report to the thirty-seventh session of the Commission on Human Rights, the Working Group stated that it had been informed of many cases of enforced or involuntary disappearances in which members of the security forces of more than one country were alleged to have been involved.<sup>6/</sup> Among those cases, the Working Group mentioned a report concerning a Uruguayan citizen allegedly abducted in Paraguay, taken to Argentina in an Argentine military aircraft and eventually transferred to Uruguay.

138. During 1983, the Working Group transmitted to the Government of Paraguay five reports of enforced or involuntary disappearances. Of the five disappearances, four reportedly occurred in Asunción, Paraguay and one in Argentina. In the latter case, the person was reported to have Paraguayan nationality and to have been transferred from Argentina to Paraguay; he was reportedly seen by a witness at an Army detention centre in Paraguay and then transferred to an unknown destination. Further, with regard to this case, relatives of the missing person report having been arrested in Paraguay a few days after the missing person's arrest in Argentina; they state that they were held in official and secret detention centres in Paraguay and were interrogated on the missing person's activities. Of the four cases alleged to have occurred in Paraguay, one of the disappeared persons is a Uruguayan national and the other three are Argentine nationals; all four were reportedly transferred to their respective countries after a period of detention in Paraguay.

139. In connection with the above-mentioned cases of four persons arrested in Paraguay, the Working Group also transmitted to the Government of that country a report from two persons who state that they were detained at the investigation police headquarters in Asunción, Paraguay, where they shared a cell with the four missing persons. According to the authors of this report, the four persons were transferred to their respective countries (one to Uruguay and three to Argentina) guarded by security personnel from those countries; and the Paraguayan police noted in their records that they had been released. The authors of the report are two Paraguayan nationals who state that they were arrested in Misiones, Argentina, and handed over to the Paraguayan police at the frontier between Argentina and Paraguay, while the Argentine police recorded their release in Argentina at the same time as the transfer was being carried out.

140. The Working Group has received information from relatives of missing persons of Paraguayan nationality, who state that it is difficult to obtain reports on disappearances in Paraguay from the relatives, because fear often prevents them from contacting international organizations. They also reported that in cases which occurred in Argentina, the missing persons were probably sent back to Paraguay, as is the case for some who have been seen in detention centres there.

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<sup>6/</sup> E/CN.4/1435, para. 173, and E/CN.4/1435/Add.1, para. 4.

141. In a note verbale dated 20 January 1981, addressed to the Chairman of the Working Group, the Government of Paraguay explicitly indicated that it had no objection to the Working Group having access to any relevant information which might have been submitted by the Government to the Commission on Human Rights under the procedure governed by Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970. It does not appear that any information of relevance to these cases has been received from the Government of Paraguay within the framework of that procedure.

#### Syrian Arab Republic

142. During 1982 the Working Group transmitted to the Government of the Syrian Arab Republic information on three disappearances which reportedly occurred in 1980.<sup>7/</sup> One of the reports concerns a medical doctor who was reportedly 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; since his arrest his whereabouts have been unknown. The third report concerns a student who was reportedly arrested by security agents, together with two fellow students, at his home in August 1980; he was said to have been taken to a specified prison.

143. Since the extension of its mandate, the Working Group has contacted the Government of the Syrian Arab Republic to request any information it might wish to send regarding these cases. To date, no information has been received from the Government on the above cases.

#### Zaire

144. During the years 1981 and 1982, the Working Group transmitted to the Government of Zaire reports on the enforced or involuntary disappearance of 15 men which allegedly occurred in 1975 (five persons), 1977 (one person), 1978 (two persons), 1979 (one person), and 1981 (six persons) in the region of Bas-Zaire, in the southern regions of Kivu or in Uvira; soldiers or military intelligence officers were reported to have made the arrests in some cases.<sup>8/</sup> In most cases, the arrested person was allegedly taken to a named detention centre and in one case a person arrested with the missing person reported sharing detention with him until his release. A non-governmental organization subsequently informed the Working Group that two persons (arrested in 1977 and 1981 respectively) had been released. In 1982, the Working Group met a representative of the Government who expressed the Government's interest in co-operating with the Working Group in order to clarify the case.

145. Since the extension of its mandate the Working Group has continued to request information from the Government of Zaire and at its eleventh session the Group met the Permanent Representative of the Republic of Zaire to the United Nations Office at Geneva, who expressed his Government's willingness to provide

<sup>7/</sup> E/CN.4/1983/14, para. 125.

<sup>8/</sup> E/CN.4/1983/14, para. 126.

further information on the cases concerned. In a letter dated 19 August 1983, the Permanent Representative of the Republic of Zaire conveyed a written communication on behalf of the Secretary of State of the Department of External Affairs of the Republic of Zaire to the Working Group. The Government stated that there were no cases of disappearance in Zaire, that such a practice was not employed, but rather that measures of pardon and clemency were used for persons who endangered the security of the State. Reference was made to an amnesty law of 21 May 1983 by virtue of which there were currently no prisoners of conscience in Zaire. The Government stated that, if any other information of an objective character was available, it would be examined by the competent authorities.

#### Other matters

146. In its report to the thirty-ninth session of the Commission on Human Rights,<sup>9/</sup> the Working Group reported on its adoption of an auxiliary procedure used to handle a few cases of alleged disappearances, not otherwise referred to in the report, on an informal basis. This procedure was used at the Group's discretion in order to facilitate its solution of cases when news of recent cases was received and rapid intervention might help to save a life or at least regularize a detention. Since the extension of its mandate, the Working Group has again made use of this procedure. Reference can be made in this regard to approaches to three Governments concerning a total of some 40 reports of disappearances; it is hoped that the dialogues thus established with them will yield adequate results.

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<sup>9/</sup> E/CN.4/1983/14, para. 129.

V. IMPACT OF ENFORCED OR INVOLUNTARY DISAPPEARANCES ON THE  
VICTIM'S FAMILY

147. The Working Group has received further information on the impact of a disappearance on the victim's family and in particular on the children. The other chapters of this report provide information on the treatment of the disappeared person himself and a description of the rights of the victim violated by disappearances is given below (chapter VI), but the growing volume of information on the impact of a disappearance on children deserves special consideration. Several recent studies on the subject of children and disappearances, in particular those presented to the Fourth National Symposium of Social Pediatrics in Buenos Aires (March 1983), offer a number of observations regarding the family, based upon research. The Working Group attempts to summarize below some of the points expressed. The psychological state of a family after a relative's disappearance can be described as "sustained shock", that is, a latent and prolonged critical state characterized by an inconclusive search for the loved-one, anguish, sorrow and incertitude. Children participate directly or indirectly in every moment of the progressive deterioration of the family structure which is marked by fear, injustice, silence and permanent aggression from certain groups of society. Many changes occur in family life as a consequence of the disappearance, such as: lack of economic resources, particularly in modest families which depended upon the missing person's wages; permanent psychological stress, which sometimes causes other health problems among members of the family; changes in the use of time, since a good part of it is devoted to the search for the missing person; children are frequently left alone or without assistance (for example: a mother of eight, father disappeared; the mother forgets to take one of her sons to school when he should attend an examination, the child loses his school year); social and legal instability (lack of social and legal protection from governmental institutions).

148. From the point of view of the child, the situation has been described as follows: the child feels unprotected; he does not get a social response to his anguish ("nobody will do what the child's sense of justice indicates should be done"). He feels that his rights are being violated, even if he cannot describe those rights. This could lead to a rejection of the society, denial of its validity (indifference), denial of the effectiveness of justice and law, which in turn can lead the child to take justice into his own hands or seek evasion through drugs or alcohol. The child's psychological state can be described as: a feeling of having been abandoned; the syndrome of the marginalized child; permanent and prolonged stress; the syndrome of the ill-treated child. Many children of disappeared parents present the symptoms of the "syndrome of abandonment". Features of this syndrome are: repeated infections, alterations in development and psychic disturbances. The feeling of having been abandoned is accompanied by a general state of confusion, which hinders intellectual work such as analyses and syntheses. In the case of the children of missing persons, marginality can appear at three different levels: (a) marginality within his or her own family; contradictory interpretations of the disappearance and of the phenomenon itself can lead to detachment, a split within the family, and prolonged separation from persons affectively linked to the child increases the child's feeling of abandonment; (b) the child's family sometimes imposes a certain "marginality" or isolation, allegedly for the "protection of the child"; and (c) marginality is imposed by official actions and by public and social reaction to the original circumstances surrounding the disappearance, which increases the feeling of being different and rejected.

149. Prolonged and permanent stress is also noted. The child whose parents have been arrested at home or in his presence has suffered terrible stress (anguish, fear, impotence in the face of violence). All the family has frequently been subjected to the same kind of stress and so is not in a position to give assistance to the child. Such acute stress can produce a lasting inhibition. The depth and duration of the stress causes a number of reactions which often result in an attitude of despair. Further, many children whose parents have disappeared show symptoms of the syndrome of the ill-treated child, particularly if they were present when their parents were arrested. In these cases, children are reticent, they avoid contacts with adults; they feel in permanent danger and despair (this is easily seen when they are in a doctor's consulting room).

150. In general, fear is the predominant emotion in the life of these children. It affects all their personal relationships. They feel deep impotence, vulnerability and insecurity. The psychological process needed to accept the loss of a dear one is blocked and they are in a permanent state of "suspended sorrow". Such children also have learning problems and motor-physical difficulties, such as loss of previously acquired dexterity in ordinary activities.

VI. SPECIFIC HUMAN RIGHTS DENIED BY ENFORCED OR INVOLUNTARY  
DISAPPEARANCES: THE SPECIAL RIGHTS OF  
CHILDREN AND MOTHERS

151. The Working Group wishes to remind the Commission of the chapter in its second report,<sup>1/</sup> concerning the human rights violated by enforced or involuntary disappearances which is set out below. It was the result of a comprehensive study and is as valid today as it was then.

152. The information reflected in the present report shows that in instances of enforced or involuntary disappearances a wide range of human rights of the victim himself and of his family may be denied or infringed. These include civil and political rights as well as economic, social and cultural rights. With regard to the person who is subjected to enforced or involuntary disappearance, the following may be identified as the principal human rights which he is denied:

(a) The right to liberty and security of person.<sup>2/</sup> This is the principal human right denied by the very fact of enforced or involuntary disappearance. Connected rights, such as the right to freedom from arbitrary arrest,<sup>3/</sup> the right to a fair trial in criminal matters<sup>4/</sup> and the right to recognition as a person before the law, are all involved;<sup>5/</sup>

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<sup>1/</sup> E/CN.4/1492, chap. V.

<sup>2/</sup> See Universal Declaration of Human Rights, article 3; International Covenant on Civil and Political Rights, article 9; American Declaration of the Rights and Duties of Man, article I; American Convention on Human Rights, article 7; and European Convention on Human Rights, article 5.

<sup>3/</sup> See Universal Declaration of Human Rights, article 9; International Covenant on Civil and Political Rights, article 9; American Declaration of the Rights and Duties of Man, article XXV; American Convention on Human Rights, article 7; and European Convention on Human Rights, article 5.

<sup>4/</sup> See Universal Declaration of Human Rights, articles 10 and 11; International Covenant on Civil and Political Rights, article 14; American Declaration of the Rights and Duties of Man, articles XVIII and XXVI; American Convention on Human Rights, article 8; and European Convention on Human Rights, article 6.

<sup>5/</sup> See Universal Declaration of Human Rights, article 6; International Covenant on Civil and Political Rights, article 16; American Declaration on the Rights and Duties of Man, article XVII; American Convention on Human Rights, article 3.

(b) The right to humane conditions of detention and freedom from torture, cruel or degrading treatment or punishment.<sup>6/</sup> Some of the information before the Group deals with the conditions of detention, including ill-treatment, suffered by the missing or disappeared persons;

(c) The right to life.<sup>7/</sup> Some of the information received by the Group indicates that during detention the missing or disappeared person may be killed.

153. 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>8/</sup> The following rules of a general nature are relevant to enforced or involuntary disappearances because under rule 4, they 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 to inform at once 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.

154. If these may be said to be the principal human rights of the person who suffers enforced or involuntary disappearance, a reading of the Universal Declaration 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

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<sup>6/</sup> See Universal Declaration of Human Rights, article 5; International Covenant on Civil and Political Rights, articles 7 and 10; American Declaration of the Rights and Duties of Man, article XXV; American Convention on Human Rights, article 5; and European Convention on Human Rights, article 3.

<sup>7/</sup> See Universal Declaration of Human Rights, article 3; International Covenant on Civil and Political Rights, article 6; American Declaration of the Rights and Duties of Man, article I; American Convention on Human Rights, article 4; and European Convention on Human Rights, article 2.

<sup>8/</sup> See United Nations publication, Sales No. 56, IV.4.

right to a family life<sup>9/</sup> 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.<sup>10/</sup> A review of the economic, social and cultural rights guaranteed by the various international human rights instruments shows that most of them are denied, to a greater or lesser extent, by enforced or involuntary disappearances.

155. 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 elsewhere.<sup>11/</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.<sup>12/</sup>

156. The Working Group has been particularly concerned about reports of the disappearance of babies and children. There is no doubt that while practices resulting in enforced or involuntary disappearances can under no circumstances be justified or excused, those situations affecting or involving children are particularly grave and warrant every attention and concern from the international community. Instances of the enforced or involuntary disappearance

<sup>9/</sup> See Universal Declaration of Human Rights, articles 12 and 16; International Covenant on Civil and Political Rights, articles 17 and 23; American Declaration of the Rights and Duties of Man, articles V and VI; American Convention on Human Rights, articles 11 and 17; European Convention on Human Rights, articles 8 and 12.

<sup>10/</sup> See Universal Declaration of Human Rights, article 25; International Covenant on Civil and Political Rights, article 10; American Declaration of the Rights and Duties of Man, article 24; American Convention on Human Rights, article VII; and European Convention on Human Rights, article 19.

<sup>11/</sup> 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.

<sup>12/</sup> See, for example, General Assembly resolutions 34/179 and 35/188 on the situation of human rights in Chile.



of children may not only deny or infringe some or all of the rights referred to above but, in addition, they may entail breaches of specific principles on children's rights set forth in a number of international instruments, both of a universal and a regional character, and constitute a direct attack on the family as a social institution. The following paragraphs reflect some of the most significant among those principles.

157. The right of children, pregnant women and nursing mothers to benefit from special measures of protection, care and assistance has been affirmed in numerous international instruments, among them, the Universal Declaration of Human Rights,<sup>13/</sup> the International Covenant on Civil and Political Rights,<sup>14/</sup> the International Covenant on Economic, Social and Cultural Rights,<sup>15/</sup> the Declaration of the Rights of the Child, the American Declaration of the Rights and Duties of Man,<sup>16/</sup> the American Convention on Human Rights,<sup>17/</sup> the European Social Charter,<sup>18/</sup> the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,<sup>19/</sup> the two Protocols to the Geneva Conventions of 1949<sup>20/</sup> and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict adopted by the General Assembly on 14 December 1974. Since part of the information received by the Working Group relates to the disappearance of pregnant women, it should also be recalled that the American Convention on Human Rights states that the right to life shall be protected from the moment of conception,<sup>21/</sup> and that the application of capital punishment to pregnant women is prohibited by that Convention,<sup>22/</sup> as well as by the International

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<sup>13/</sup> Article 25, para. 2.

<sup>14/</sup> Article 24, para. 1.

<sup>15/</sup> Article 10, paras. 2 and 3.

<sup>16/</sup> Article VII.

<sup>17/</sup> Article 19.

<sup>18/</sup> Part I, Nos. 7 and 17.

<sup>19/</sup> Articles 14, 17, 24, 38, para. 5, 50, 76, 89, 91, 94.

<sup>20/</sup> Protocol I, article 8 (a) in conjunction with article 10 and articles 70, 76, paras. 1 and 2, and 77, para. 1; and Protocol II, article 4, para. 3.

<sup>21/</sup> Article 4, para. 1.

<sup>22/</sup> Article 4, para. 1.

Covenant on Civil and Political Rights<sup>23/</sup> and by the two Protocols to the Geneva Conventions of 1949.<sup>24/</sup> Some of the reports considered by the Working Group appear to reveal that violations of these principles have taken place.

158. A number of instruments referred to above contain provisions designed to protect the right of the child to his personal identity, which includes the recognition of, and respect for, the status derived from his blood relationships. Thus:

(a) The International Covenant on Civil and Political Rights provides that every child shall be registered immediately after birth and shall have a name,<sup>25/</sup> and the American Convention further states that every person has the right to the surnames of his parents, or to that of one of them.<sup>26/</sup> These provisions are particularly relevant to those reports which indicate that children have been born to mothers who were in captivity; and,

(b) The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, as well as the Protocols to the Geneva Conventions, contain detailed provisions aimed at ensuring the identification of children separated from their families as a result of a war. Such provisions include, inter alia: the obligation of occupying Powers to take all necessary steps to facilitate the identification of children and their registration of their parentage, as well as the prohibition against such Powers from changing the children's personal status;<sup>27/</sup> the obligation of the parties to a conflict to establish an official bureau to provide information on the protected persons who are in its power a section of which is responsible for taking the necessary steps to identify children whose identity is in doubt;<sup>28/</sup> the obligation of the parties to a conflict to keep detailed identity records in the case of

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<sup>23/</sup> Article 6, para. 5.

<sup>24/</sup> Article 76, para. 3 of Protocol I and article 6, para. 4 of Protocol II. The latter instrument further makes this provision applicable to mothers of young children.

<sup>25/</sup> Article 24, para. 2.

<sup>26/</sup> Article 18.

<sup>27/</sup> Fourth Geneva Convention, article 50.

<sup>28/</sup> Fourth Geneva Convention, article 50 in conjunction with article 136.

evacuation of children;<sup>29/</sup> and the obligation of the parties to a conflict to endeavour to arrange for all children under 12 to be identified by the wearing of identity discs or by some other means.<sup>30/</sup>

159. The Group is of the opinion that if the preceding provisions are binding upon States in time of war or armed conflict, the principles on which they are founded should, a fortiori, be respected in time of peace, even if there exists a situation of internal unrest. These principles are particularly relevant to certain reports received by the Group to the effect that small children reported missing may have had their identities concealed or changed and may have been given for adoption or foster care to persons who would not necessarily know their origin. This was found to be the case in several reports submitted to the Working Group; the real identity of the children was later discovered.

160. The above instruments also contain provisions designed to protect the right of the child to be physically under the protection and care of his relations. Thus:

(a) The Declaration of the Rights of the Child states that, wherever possible, the child shall grow up in the care and under the responsibility of his parents, and adds that a child of tender years shall not, save in exceptional circumstances, be separated from his mother;<sup>31/</sup>

(b) A number of provisions of the above-cited Geneva Convention and the Protocols deal with the question of family unity and set forth the right of children not to be separated from their families, even in cases of internment. These instruments further contain specific provisions concerning the reunification of families dispersed as a result of armed conflicts.<sup>32/</sup>

161. This is a formidable list of provisions, and the Working Group feels it necessary to draw attention to the principles thus internationally agreed, and their relevance to the reports on disappearances of children.

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<sup>29/</sup> Protocol I, article 78, para. 3.

<sup>30/</sup> Fourth Geneva Convention, article 24.

<sup>31/</sup> Principle 6.

<sup>32/</sup> Fourth Geneva Convention, articles 26 and 22; Protocol I, articles 74 and 75, para. 5, and Protocol II, article 4, para. 3(b).

VII. ESTABLISHMENT OF NATIONAL BODIES FOR THE INVESTIGATION OF  
REPORTS OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

162. Since its inception, the Working Group has given attention to the bodies established at the national level to investigate reports of enforced or involuntary disappearances.<sup>1/</sup> This was a matter already taken up by the Ad Hoc Working Group on the Situation of Human Rights in Chile and the Expert on the Question of the Fate of Missing and Disappeared Persons in Chile.<sup>2/</sup> Recently, the importance of such bodies was stressed to the Group by the Latin American Federation of Associations for Relatives of Disappeared-Detainees (FEDEFAM) in a document presented to the Working group in June 1983. That document referred to such bodies in El Salvador and Bolivia; the Working Group has itself referred to those and to one in Sri Lanka.

163. The Government of El Salvador, by Decree No. 9 of 6 November 1979, established a Special Commission to Investigate Political Prisoners and Disappearances for the purpose of carrying out on-the-spot investigations to determine the fate of the persons registered in the country as having disappeared since 1972. This Special Commission was set up in response to a recommendation of the Inter-American Commission on Human Rights after a visit to El Salvador in 1978. The Special Commission was composed of three members and adopted two reports, an interim report dated 23 November 1979 and the final report dated 3 January 1983. The Commission published a list of persons detained by the public forces who had disappeared, but said that they were not the only detainees to have disappeared; while none of the disappeared were found alive there was proof of the capture or detention of many of them by the security forces. The Commission had visited cemeteries or burial sites and discovered bodies, some of which were identified as missing persons. The Commission visited detention centres of the various public forces and found places which could have served as secret prisons. It recommended that those places be modified so that they could not be used as secret places of detention, that the persons identified as responsible for the disappearances be tried and that the families be given compensation. The Working Group sought information from the Government on the implementation of these recommendations, but has received none. Non-governmental organizations have reported to the Group that the recommendations have not been implemented.

164. In Bolivia, a National Commission for the Investigation of Disappeared Persons was established 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. Its objects are to analyse, investigate and determine the

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<sup>1/</sup> E/CN.4/1435, paras. 33 and 91-92; E/CN.4/1492, paras. 73-75, 138-139, 183 and annex X; E/CN.4/1492/Add.1, para. 6; E/CN.4/1983/14, paras. 40, 128 and 145.

<sup>2/</sup> A/33/331, paras. 421-422 and 779 (15); E/CN.4/1310, para. 335; A/34/583/Add.1, para. 197.

situation concerning disappeared persons, with full access to all relevant information and the right to seek the assistance of all public authorities; it can also set up District Committees. It is accessible to anyone with a complaint about the disappearance of a person in Bolivia.

165. During a meeting with the Working Group in June 1983, a representative of the Latin American Federation of Associations for Relatives of Disappeared-Detainees (FEDEFAM) referred to the Bolivian National Commission for the Investigation of Disappeared Persons and provided the Working Group with a copy of that Commission's work plan for the one year period beginning on 1 February 1983. The Working Group was informed that the relatives of the disappeared participated actively in the plan. On the one hand, the Commission was concentrating on the investigation of cases and the opening of criminal proceedings against those responsible. On the other hand, it was hoped that the Penal Code could be amended to include the definition of the crime of enforced disappearance, the type of penal sanction, the constituting elements of the crime and ways of participating in it, since enforced disappearances were to be considered a crime against humanity. The plan provides for action on many other aspects of the problem, such as establishing mechanisms for, and centres of, investigation, informing public opinion on the problem and holding a national conference in order to evaluate the progress made. The representative of FEDEFAM also stated to the Working Group that the results of the Bolivian Commission to date had been encouraging. Since the Commission was established there have been no new cases registered and people feel secure that they will not become a victim to the practice. Progress has been made towards solving many long-standing cases. Some bodies have been identified and recovered. There are, according to the families, many obstacles to be overcome, but they are hopeful and optimistic. It was suggested by FEDEFAM that the Commission could be used as a model for other situations.

166. The Working Group was informed in 1981 by a non-governmental organization in consultative status with the Economic and Social Council of the establishment in Sri Lanka, in the second half of 1979, of a Parliamentary Select Committee under the Chairmanship of the Sri Lankan Minister of Trade for the purpose of investigating certain events which had occurred in July 1979 in the northern part of that country. Among the events to be investigated was the reported disappearance of three persons. In a letter dated 9 August 1983 the Permanent Representative of Sri Lanka to the United Nations Office at Geneva transmitted a copy of the report of the Select Committee. That Committee had been established by Parliament on 8 August 1979 and its five members were appointed by the Speaker on 20 August 1979. The Committee's powers included that of summoning any person to appear before it, requiring any person to produce any document or record, procuring and receiving all such evidence, written or oral, as the Committee might think necessary or desirable and carrying out any action necessary for the fullest consideration of the matters referred to it. The Committee began its work on 10 September 1979 and held 34 meetings. It visited the north of Sri Lanka and, during its meetings, heard testimony from a large number of people, including members of Parliament, senior police officials, senior army officers, medical personnel, police officers, prisoners, and the relatives of disappeared persons. The Committee's report contained considerable information on the arrest of, among others, the three missing persons and their eventual fate. With regard to two of the missing persons, the Committee stated that there was a great deal of evidence suggesting that they had been taken to a particular police station and that the weight of the evidence would at least

demand a further investigation; it recommended that a separate team of special investigators be appointed for that purpose. With regard to the third person, the Committee made no specific finding or recommendations.

167. A representative of the Latin American Federation of Associations for Relatives of Disappeared-Detainees (FEDEFAM) in a meeting with the Working Group underlined the importance his organization attached to co-ordinated national action against disappearances; this included independent and exhaustive investigations of the individual cases; effective prosecution of those responsible; legislative reforms to deal adequately with the crime; the physical elimination of all places in military or police establishments which could serve as secret detention centres, and public opinion campaigns to create awareness. It was suggested that three tests be applied to national investigative bodies to determine whether they were impartial and whether exhaustive investigations were made: (a) the independence of the person or body charged with the investigation; was it dependent upon the Executive, the military or security forces? Was it a judicial body and had the judiciary investigated cases presented in the past? Was it a Parliamentary body? (b) The investigative powers of the body; could it freely visit possible centres of detention and investigate clandestine cemeteries, or did it simply register cases and transmit information from the Government? (c) The results achieved; were any concrete results obtained for the families giving necessary details? Were judicial proceedings initiated when illegal activities were uncovered? It was recommended that the United Nations promote the establishment of such bodies in countries where disappearances were reported.

168. The Working Group has also been informed of the existence of other domestic investigative commissions or bodies set up to inquire into issues including disappearances; it is proposed further to study the results of their work. Examples are to be found in Chapter II sections H and K on Lebanon and Uruguay.

## VIII. CONCLUSIONS AND RECOMMENDATIONS

169. This fourth report by the Working Group shows the extent to which enforced or involuntary disappearances continue. It also demonstrates that progress is slow in revealing solutions, since the phenomenon is closely related to internal political instability. Where this has been halted, new cases of disappearances are rare. Where such internal conflict continues, disappearances remain common features of the overall situation.

170. Success in clarifying cases which occurred in the past has so far been very slight; it is evident that any progress is dependent on the policies of the Government concerned. These policies are only incidental to the Group's activities, since solutions alone, and not politics, are the Group's objective. Where disappearances are continuing, the attitude of the Governments concerned varies. Some have established domestic institutions or procedures which have been more or less successful in resolving the fate of disappeared persons. The international community should applaud efficient initiatives of this kind. In other cases there seems to be a lamentable drift towards toleration of these cases, combined with a marked difficulty in solving them.

171. In countries where disappearances continue there is no set pattern which can be detected. It is far from certain that the Group possesses a comprehensive list of persons who have disappeared, with the attendant circumstances. The ability of families or organizations to give such details to the Group varies, and with it the extent of the allegations available to the Group. On the other hand, Governments have adopted widely differing procedures by way of response. Some have developed a technique which brings regular responses, as reflected in the statistics quoted earlier in the report. Others, unfortunately, make no response at all, or appear reluctant to give any explanations.

172. Readers of this report should have no doubt concerning the Group's evaluation of enforced or involuntary disappearances. Its view is that they constitute one of the most pernicious techniques for the violation of human rights; the evidence presented to the Group shows its devastating impact on the victim, the overwhelming consequences for the family and its paralyzing effect on society where fear prevents the action needed to bring disappearances to an end. Enforced or involuntary disappearances violate practically all the human rights of the victim and many of the rights of his family; the practice is contrary to the Geneva Conventions of 1949 and no special circumstances, armed conflict, states of emergency, situations of internal conflict or tension can justify enforced or involuntary disappearances. It is such a serious violation that many have suggested it should receive the highest level of international sanction. It has been clearly decided by the international community that the relatives of missing persons have a right to know their whereabouts or fate; this can only mean effective investigations into each case.

173. As the Group said in 1981 the only course of action is to persuade and motivate Governments to prevent, eradicate or investigate such incidents which may have occurred within their territory. Public opinion, both national and international, has a part to play (see the Group's report to the Commission at its thirty-eighth session<sup>1/</sup>). However, all sectors of society have a role in

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<sup>1/</sup> E/CN.4/1492, para. 176.

preventing disappearances or bringing them to a halt. The occurrence of government-connected disappearances is a sign of the breakdown not only of the security or police services directly responsible, but also of the judiciary and executive in their responsibility for ensuring respect for law and order. Each arm of government has a role to play in preventing or ending disappearances. Also, an important part can be played by the press and human rights and religious organizations; their silence can allow the practice to develop and take root or their opposition can help prevent or end disappearances. Their activities deserve the support and protection of the international community. The Working Group has received many reports of the harassment, death or disappearance of journalists, lawyers and relatives who actively opposed disappearances.

174. Effective international action against disappearances depends in large measure on the attitude of Governments towards this phenomenon and the degree to which they co-operate in eradicating it. However, the mobilization or strengthening of public opinion, and the support given to organizations campaigning for a solution, can also make their contribution. The report shows examples of a response by certain Governments which has led to resolution of some cases, and promises a similar result for others. Elsewhere, the Government's response, by comparison with the details of the allegations supplied, makes it difficult to believe that any real investigation has taken place. There is also a difference in the extent to which national organizations concerned with human rights are at liberty to operate and to provide information to the international community. It is necessary to add that the international community should attempt to check the allegations it receives, since, regrettably, the motivation of its informants is not always purely humanitarian.

175. It will be apparent from the previous chapters that the Working Group continues to be confronted with two sorts of case. There are those from the past, occurring in the 1970s or even earlier, often predating the Government now in office. Others are current, arising day by day during 1983 as in earlier years of the Group's activity. The distinction makes little difference to the families of those concerned. All the evidence suggests that the uncertainty, anxiety, anguish and frustration is as great whether the disappearance occurred 10 years or 10 days ago.

176. However, from the Working Group's viewpoint, different techniques and objectives must be recognized, according to national circumstances. Older cases suffer from the problem of the passage of time which makes investigation increasingly difficult. By contrast Governments may be less sensitive about enquiring into events which happened before their accession to power than into those which occurred during their own tenure of office. The essential basis of the Group's inquiries has been explained, not only in previous reports, but also in all approaches to Governments with which it has been in contact: no accusations are involved, no confessions or self-incriminations are sought. The critical fact is that only a Government has the resources which can help to solve the cases. So long as the exercise is recognized as being entirely humanitarian, neither responsibility for a disappearance nor the question of punishment enters in the Working Group's consideration. This point has been repeated again and again. The Group's reports show that the policy has been borne out in practice. Reactions in the Commission's debates and governmental responses show that this strict and consistent approach is being increasingly recognized and relied upon. It is at present the Working Group's main source of strength, backed as it is by successive consensus approval of its actions over nearly four years in all United Nations forums.



177. The Group, therefore, believes that the time may have arrived for the Commission to adopt a more active role than hitherto. Experience shows that the points made in General Assembly resolution 33/173 are still valid and provide a framework for the Group's activities and for an assessment of its achievements. What may now be desirable is a firmer appeal by the Commission to the Governments concerned to increase their co-operation with the Group, including the encouragement of a positive response to the Group's suggestions for on-the-spot visits. The Group is aware of the unique nature of each situation and takes that fully into account in its work.

178. In previous reports the Working Group has suggested that no fundamental or philosophical phenomenon underlies the appalling practice of enforced or involuntary disappearances. It is merely an effective, though short-term, method of eliminating political opponents and preventing family members or the courts from securing an immediate remedy. However, the disappeared have families, who increasingly unite in their common frustration and despair. The longer-term repercussions have not even now been fully assessed, and may well be much more serious than currently anticipated.

179. The inhumanity and specific violations of accepted human rights arising out of disappearances have been catalogued in previous reports. Nothing has emerged this year to reduce the seriousness of those affronts to human life and dignity. In addition to recommendations made in previous reports, the Working Group recommends that:

(a) The problem of enforced or involuntary disappearances should continue to be a major concern of the Commission, and should attract the attention of the entire international community, including that of non-governmental organizations;

(b) This concern should again be expressed as humanitarian in character, wholly devoid of political or accusatorial content;

(c) The Commission should reinforce the Working Group's approach, which calls for the goodwill and co-operation of Governments in seeking solutions to cases;

(d) The Commission should urge upon Governments the need to adopt measures, in dealing with internal tensions or disorders from any quarter, which will inform relatives of the detention and subsequent trial of any accused person.

IX. ADOPTION OF THE REPORT

180. At the last meeting of its twelfth session on 9 December 1983, 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.D. Foli (Ghana)

Agha Hilaly (Pakistan)

Ivan Tosevski (Yugoslavia)

Luis A. Varela Quiros (Costa Rica)

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



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GENERAL  
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COMMISSION ON HUMAN RIGHTS  
Fourtieth session  
Agenda item 10(b)

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

Report of the Working Group on Enforced or Involuntary Disappearances

Addendum

GE.84-10746



1. The Working Group on Enforced or Involuntary Disappearances was set up on 8 January 1981 at the United Nations Office at Geneva during the fortieth session of the Commission on Human Rights. It has since then held five sessions since the Group's fourth session (5 to 9 December 1983). The present document is an annex to the report to the Commission on Human Rights adopted by the Group at its fifth session and describes the most important subsequent developments. At its thirty-eighth session, the General Assembly adopted resolution 38/14 entitled "Question of enforced or involuntary disappearances" without a vote on 18 December 1983. The text of the resolution is reproduced in annex I to this addendum.

#### Information received from Governments

2. Since the adoption of its reports on 7 December 1983, the Working Group has received information from the Governments of Argentina, Bolivia, El Salvador, Guatemala, Honduras, the Philippines, South Africa, and Zaire. The information provided by these Governments is on file with the Secretariat and available for consultation by members of the Commission.

#### Argentina

3. In a note verbatim dated 25 January 1984, the Permanent Mission of Argentina to the United Nations Office at Geneva informed the Working Group of the establishment of the National Commission on the Disappearance of Persons by Decree no. 187 of 15 December 1983. The setting up of this Commission was one of many legal, administrative and humanitarian measures taken by the Government with a view to clarifying in depth the painful question of disappeared persons; the Permanent Mission cited the preamble to Decree no. 187 as an eloquent statement of the Government's purposes. The Commission is composed of politically independent persons of the highest reputation in their respective fields of activity; the following members have been appointed: Ricardo Colombres (jurist), René Favaloro (cardiologist), Pilaric Fernández Long (former vice-rector of the University of Buenos Aires and former dean of the Faculty of Engineering), Carlos J. Gattinoni (Bishop of the Evangelical Methodist Church), Gregorio Klimovsky (University Professor), Hans-Joachim Meyer (Rector of the Latin American Political Seminar), Jaime Francisco de Nevares (Bishop of Neuquén), Eduardo Rabossi (jurist), Magdalena Ruiz Guiñazú (journalist) and Ernesto Sabato (writer). In addition, both Chambers of the Legislature were asked to appoint three representatives each as members of the Commission. The Permanent Mission stated that the Government would keep the United Nations and the Working Group informed on the progress and results of the investigations carried out by the National Commission and other constitutional organs.

4. The mandate of the National Commission includes receiving complaints and evidence of disappearances and transmitting them to the courts if they relate to the commission of offences; checking the fate or whereabouts of missing persons and determining the whereabouts of children removed from the care of their parents as a result of measures allegedly taken to combat terrorism, and, where appropriate, submitting such cases to the agencies and courts responsible for protecting minors. The Commission is also to report to the courts any attempt to conceal, remove or destroy evidence concerning disappearances and to issue a final report with a detailed explanation of the cases investigated within 180 days of its constitution.

3. In carrying out its mandate, the National Commission is empowered to request reports, information and documents from all officials of the National Executive Power, its subordinate agencies and autonomous bodies, the armed forces and security forces; the Commission may also request access to whatever premises it decides to visit for its official purposes. The agencies and their officials are under an obligation to provide such information and facilitate such access when requested. Provision is also made for the necessary arrangements and staff needed for the Commission's work.

4. In a meeting on 9 January 1984 with the Assistant Secretary-General, Centre for Human Rights, and prior to the transmission of the above-mentioned note verbale, a representative of the Government of Argentina provided initial information on the establishment of the National Commission on the Disappearance of Persons. He requested that the Working Group should be informed and that the United Nations and the Working Group should provide assistance to the National Commission to the extent possible within the applicable regulations. Subsequently, in a letter dated 24 January 1984, the National Commission extended an invitation to visit Argentina with a view to providing the National Commission with information and assistance in its work on disappearances. It also requested that the information on disappearances - especially the most complete lists of missing persons - be sent to it as soon as possible to assist it in its investigations. The Working Group decided to thank the National Commission on the Disappearance of Persons for the invitation to visit Argentina and to consider such a visit at its next session, should its mandate be renewed by the Commission on Human Rights and the Economic and Social Council. The Group also decided to make available to the National Commission the information in its files in accordance with the established practice and subject to any requests for confidentiality from the sources; the Group requested the Secretariat to work out the practical details with the National Commission. Because of the importance the Working Group attaches to national bodies established to investigate reports of disappearances (see chapter VII of its report), the text of Decree No. 187 of 15 December 1983 is reproduced in annex II.

#### Bolivia

7. By letters dated 9 December 1983 and 4 January 1984, the Government of Bolivia transmitted information provided by the Bolivian National Commission for the Investigation of Disappeared Persons on six cases of enforced or involuntary disappearances, four of which had been brought to the attention of the Government by the Working Group. On two cases the Government reiterated information which it had already provided to the United Nations Special Envoy on the situation of human rights in Bolivia: 1/ the body of one person had been found and identified, however, the Government added that, since some relatives had doubts about the identity of the corpse, the investigation was continuing. The other person was at liberty. The Government reported that the investigation was continuing on two other cases. 2/ Finally, with regard to the two cases which had not been dealt with by the Working Group, the Government stated that one person was at liberty and that an investigation was continuing on the other case. To date, the Government has provided information on 10 of the 32 cases transmitted to it by the Working Group; in nine instances the Government's reply has clarified the case.

1/ E/CN.4/1983/22 and Add. 1.

2/ The Working Group has received information on one of these cases from a non-governmental source indicating that the person is at liberty.

South Africa

12. By a letter dated 7 February 1984, the Permanent Mission of South Africa to the United Nations Office at Geneva provided information and observations on the legal provisions and the specific cases dealt with in the Working Group's report (chapter III). With regard to the legal provision dealt with in the Group's report, the Government said that they did not provide practical evidence in support of allegations that involuntary disappearances took place in South Africa. The Government pointed out that it was not quite accurate to say that "no one is entitled to receive official information relating to or obtained from" a person restricted in terms of section 19 of the Internal Security Act, 1982, or detained in terms of section 28 of that Act (see para. 118 of the report). With regard to restricted persons, the Government said that in practice they were either restricted to a specified magisterial district or other area or prohibited from absencing themselves from their residential premises during the periods specified in the restriction notice; restricted persons were further only prohibited from communicating with persons in respect of whom prohibitions under the Internal Security Act were also in force and that restriction did not apply to other persons; next of kin who were restricted might communicate with each other. Thus restricted persons were not prohibited from being in contact with their next of kin. The Government further reported that the names of persons held under sections 19 or 28 of the above-mentioned Act were included in a report to the House of Assembly and the next of kin were informed of detentions under section 28.

13. With regard to detentions under sections 19 or 31 of the Internal Security Act, 1982, the Government stated that the relatives of a detainee must be notified unless the detainee requested otherwise or unless notification would hinder the investigation or endanger the security of the State; the latter provision was of a purely temporary effect. In the majority of cases the next of kin are informed immediately of an arrest. Provision is also made in the Internal Security Act for the well-being of detainees; they are to be visited not less than once a fortnight by a magistrate and a district surgeon, and they must also be visited by inspectors of Detainees on a regular basis (such visits must take place at least once every 14 days and are unannounced). The Act also provides that a person may have access to a detainee with the consent of, and subject to the conditions determined by, the Minister or the Commissioner of Police; in numerous cases in the past the next of kin have been allowed to visit detainees. The Government also pointed out that the reference in the Working Group's report to the detention of witnesses in terms of section 31 of the Internal Security Act, 1982, did not relate to "disappearances", since such detentions were of limited duration; in the majority of cases witnesses were detained for their own safety and, while access to them was not open to the public during their term of detention, the fact of their being detained was generally known.

14. The Government also referred to provisions of the Internal Security Act, 1982, which made it impossible for a detainee to "disappear": the Commissioner of Police is required to notify the Minister of Law and Order as soon as possible after an arrest and must provide the name of the detainee and the place of detention; no person may be detained in terms of the said section for a period exceeding thirty days except under a written authority granted by the Minister of Law and Order. The Commissioner of Police shall furnish the Minister once a month with reasons why a detainee shall not be released; if the person has not been released within six months, the reasons therefor have to be adduced before a Board of Review. The detainee can submit written

### El Salvador

8. Since the adoption of its report, the Working Group has received information from the Government of El Salvador on 29 reports transmitted to the Government by it. The breakdown of the information provided by the Government is as follows: 10 persons are at liberty, five are in prison, two are dead, and there are no records of retention on 12 others. The Working Group, to date, has received 284 responses from the Government relating to the 1,782 cases transmitted to it; in 225 instances the Government's answer has clarified the case.

### Guatemala

9. By a note verbal dated 13 January 1984, the Permanent Mission of Guatemala to the United Nations Office at Geneva transmitted to the Working Group the observations of the Government concerning 82 reports of enforced or involuntary disappearances that the Working Group had brought to the Government's attention on 31 October 1983. The Government stated that the majority of the events reported were the result of the climate of subversion and political upheaval that Guatemala had suffered in previous years and that had jeopardized the country's internal and international image. The Government also stated that it was making every effort to clarify the facts and that it wished to establish a régime of legality in which human rights would be strictly respected; the observance of human rights was one of the fundamental objectives of the Guatemalan legal system.

### Honduras

10. By letters dated 17, 24 and 27 January 1984, the Permanent Mission of Honduras to the United Nations Office at Geneva transmitted information on 18 reports of enforced or involuntary disappearances which had been brought to the Government's attention by the Working Group. On four cases the Government stated that the persons had been handed over to the authorities of a neighbouring country in May 1981. The Working Group has already received the same information from a non-governmental source. The Government reported that it had no information on the person's whereabouts in six cases; the Government had previously transmitted information regarding two of these cases in a letter dated 31 August 1983 stating that the persons had not been arrested. The Government reported that an investigation was continuing on eight cases. In 14 of the 18 cases, the Government stated that it had requested INTERPOL in 13 countries to assist in the investigation. Concerning the exhumation of a corpse believed by some to be that of a foreign national who reportedly disappeared in Honduras, the Permanent Mission, in letters dated 4 January and 24 January 1984, transmitted information provided by the Supreme Court of Honduras indicating that no formal petition of exhumation had been presented. The Government of Honduras has submitted information on all 69 of the cases transmitted to it; in 9 instances the information has clarified the case.

### Philippines

11. By a letter dated 8 February 1984 the Permanent Mission of the Philippines to the United Nations Office at Geneva informed the Working Group that on 24 January 1984 the President of the Philippines had released 84 detainees and granted executive clemency to 13 others. The Permanent Mission stated that the names of those persons as well as further information relating to the Philippines would be furnished to the Working Group as soon as they were received.



representatives of the Director of Security Legislation, the Director of Detention or release. The Government further stated that administrative measures had been taken whereby the Director of Security Legislation, the magistrate of the district where the person was detained, the district surgeon and the Inspector of Detention were notified of the detention. Consequently, it was incorrect to infer that a detainee could disappear when so many people had knowledge of an arrest and records thereof were kept by different instances.

15. The Government further stated that the authorities in South Africa were not indifferent to the question of alleged disappearances and, should a formal complaint be lodged in that regard, a proper investigation could be conducted by the competent authorities. The Government said that in many cases persons had taken false identities or had secretly left the country and were then reported missing.

16. With regard to the specific reports of disappearances in South Africa dealt with by the Working Group, the Government stated that three persons had been arrested and released and no information was available on their whereabouts; with regard to a fourth case, the South African authorities had no knowledge of the person's whereabouts. Concerning the cases reportedly occurring in Namibia, one was before the Windhoek Supreme Court and, since the case was sub judice, the Government could not at present supply further details. With regard to two other disappearances, the State denied the allegations of arrest and detention by the security forces; a high ranking police officer had been charged with investigating the allegations, however, no evidence could be found to implicate the security forces in the disappearances. Finally, the Government reported that the persons detained at Hardap Dam, Oriental, received regular visits from the International Committee of the Red Cross and that they were in contact with their next of kin.

### Zaire

17. By a letter dated 11 January 1984, the Permanent Mission of Zaire to the United Nations Office at Geneva transmitted information on the cases of enforced or involuntary disappearances which had been brought to the Government's attention by the Working Group. According to the information provided by the Government, the whereabouts of these persons have not been determined. The Government stated that 12 persons were arrested and accused of subversive activities; they were first detained in prison and are now confined to their respective villages where they receive material and financial aid from the local authorities. In two other cases, the Government stated that the persons were at liberty as a result of an Amnesty Law passed by the Government in 1978. In another case the Government reported that one person had been released; the Working Group has already received that information from a non-governmental source. The Government underlined in its response that, as a State where the rule of law prevailed and a full Member of the United Nations, the Republic of Zaire could not fail to apply the general principles of law and of the Charter of the United Nations to which it had freely adhered.

Adoption of this addendum

18. On 8 February 1984, the present addendum to the report of the Working Group was adopted by the following members: Viscount Colville of Culross (United Kingdom), Chairman/Rapporteur, Jonas K.D. Foli (Ghana), Agha Hilaly (Pakistan), and Ivan Tosevski (Yugoslavia). The text of this addendum was approved by Luis A. Varela Quiros (Costa Rica) in a telex dated 10 February 1984.

Annex I

General Assembly Resolution 38/94  
(adopted on 16 December 1983)

Question of enforced or involuntary disappearances \*

The General Assembly,

Recalling its resolution 33/173 of 20 December 1978, entitled "Disappeared persons", and its resolution 37/180 of 17 December 1982 on the question of enforced or involuntary disappearances,

Bearing in mind Commission on Human Rights resolution 1983/20 of 22 February 1983, by which the Commission decided to extend for one year the term of the mandate of the Working Group on Enforced or Involuntary Disappearances, and Economic and Social Council decision 1983/141 of 27 May 1983, by which the Council approved the Commission's decision,

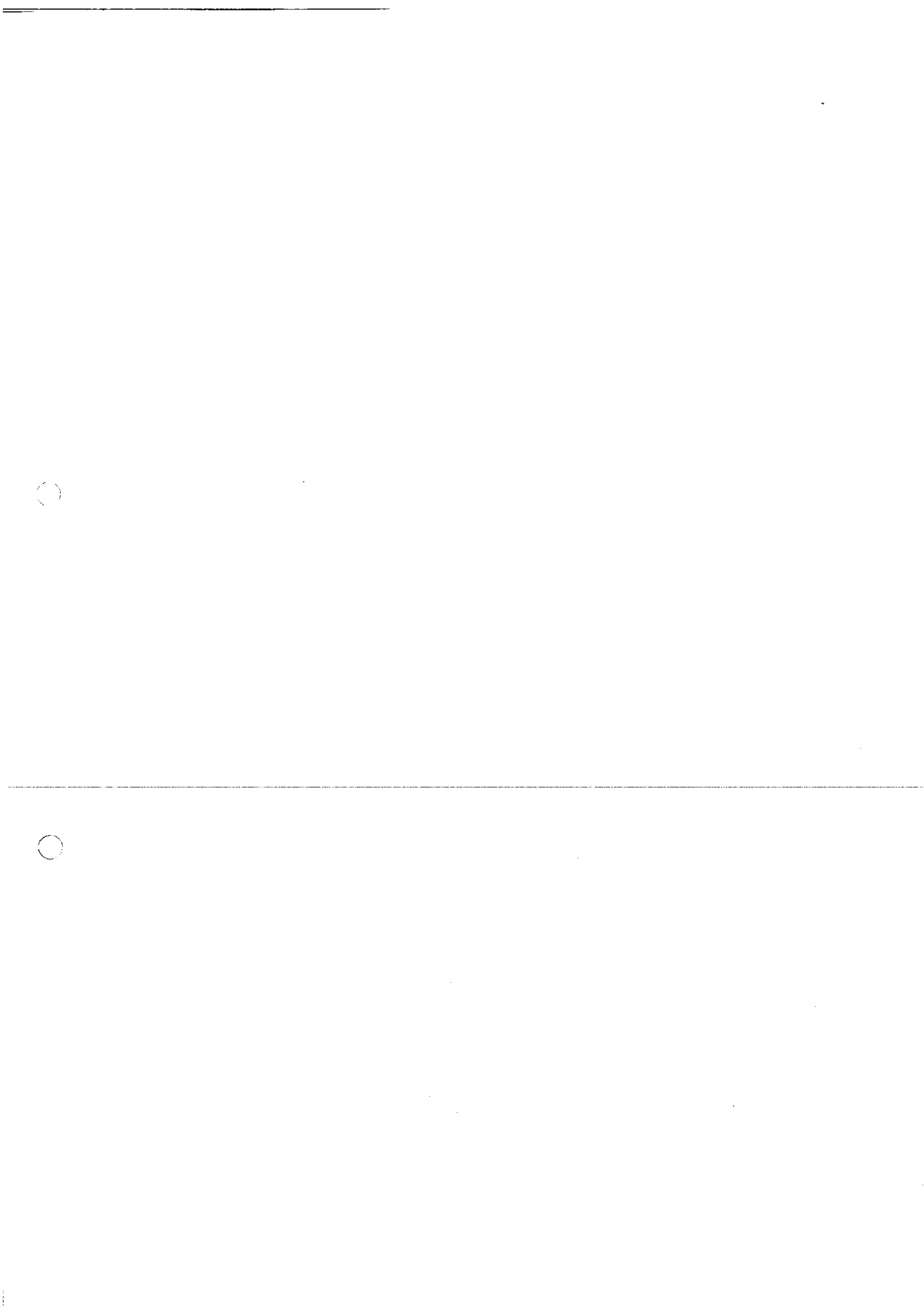
Convinced that the action taken, in consultation with the Governments concerned, to promote the implementation of the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing or disappeared persons should be continued,

Expressing its emotion at the anguish and sorrow of the families concerned, who should know the fate of their relatives,

1. Welcomes the decision taken by the Commission on Human Rights to extend for one year the term of the mandate of the Working Group on Enforced or Involuntary Disappearances, as laid down in Commission resolution 1983/20;
2. Expresses its appreciation to the Working Group for the work it has done and to those Governments that have co-operated with it;
3. Calls upon the Commission on Human Rights to continue to study this question as a matter of priority and to take any step it may deem necessary to the pursuit of the task of the Working Group when it considers the report to be submitted by the Group at its fortieth session;
4. Appeals to all Governments to provide the Working Group and the Commission on Human Rights with the full co-operation warranted by their strictly humanitarian objectives and their working methods based on discretion;
5. Renews its request to the Secretary-General to continue to provide the Working Group with all necessary assistance.

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\* The final edited text of this resolution will be published in Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 17 (A/38/47).



Annex II

Decree no. 187 of 15 December 1983 issued by the  
Argentine National Executive Power

IN VIEW OF the report of the Ministry of the Interior, and

WHEREAS

The National Executive Power has already given effect, through a number of draft laws and decrees, to its decision that the extremely serious violations of human rights committed in our recent past should be investigated and, if appropriate, punished by the law;

As has repeatedly been stated, however, the question of human rights transcends the governmental sphere and concerns civil society and the international community;

With regard to the latter, its legitimate interest is taken into account in the draft texts submitted to Congress for the approval of a number of international covenants on human rights, which include the compulsory jurisdiction of an international court having competence in that area;

With regard to civil society, it is necessary to satisfy its legitimate interest in playing an active part in shedding light on the tragic events in the course of which thousands of persons disappeared, provided that such participation should not interfere with the activities of the bodies constitutionally empowered to investigate or punish such acts, in other words, the courts;

It is therefore considered appropriate to set up a national commission, consisting of eminent persons known for their zeal in the defence of human rights and their good name in public affairs in the country, to determine what happened to the persons who have disappeared;

It is necessary to invite both Chambers of the Legislative Power, as direct representatives of the people and of the provinces of the nation, to appoint members of the Commission;

In order to ensure that the Commission is a complement to, rather than a substitute for, the work of the judiciary, its functions must be circumscribed to receiving complaints and evidence, which it shall subsequently transmit to the courts when they can be linked to the commission of offences, and to ascertaining the whereabouts of persons who have disappeared, a task which must be dissociated from the determination of responsibilities;

This investigative work must be regulated in such a way that it is not distorted for purposes which have nothing to do with the strict task described above;

To ensure that the Commission is as efficient as possible, all officials of the National Executive Power, and of its subordinate and autonomous agencies, shall be obliged to co-operate in every way, including by the provision of documents and information in their possession and access to certain premises;

The Commission's activities should have a definite time span, to ensure that the tragic need to investigate these events does not extend beyond the necessary period and undermine the efforts that must be made to strengthen in the future a democratic coexistence which respects human dignity;

The Commission must be given the necessary technical, financial and staffing resources to carry out its work effectively;

The Commission should be requested to conclude its work by submitting a report containing a detailed explanation of the events investigated, to enlighten national and international public opinion.

Therefore,

THE PRESIDENT OF THE ARGENTINIAN NATION

DECREES:

ARTICLE 1. A National Commission shall be set up for the purpose of shedding light on the events connected with the disappearance of persons which have occurred in the country.

ARTICLE 2. The Commission's functions shall be confined to the following specific activities:

(a) To receive complaints and evidence concerning those events and immediately to transmit them to the courts if they relate to the presumed commission of offences;

(b) To ascertain the whereabouts of the missing persons, as well as all other circumstances connected with their location;

(c) To determine the whereabouts of children removed from the care of their parents or guardians as a result of actions undertaken for the alleged purpose of the repression of terrorism, and where appropriate to call on the agencies and courts for the protection of juveniles to act.

(d) To report to the courts any attempt to conceal, remove or destroy evidence concerning the events which it is sought to elucidate.

(e) To issue a final report with a detailed explanation of the events investigated ONE HUNDRED AND EIGHTY (180) days after being constituted.

The Commission may not express any opinion on events or circumstances falling within the exclusive sphere of competence of the judiciary.

ARTICLE 3. The Commission shall have the power to require all officials of the National Executive Power, of its subordinate agencies, of autonomous bodies and of the armed forces and security forces to submit to it reports, information, and documents, and also to allow it access to whatever premises the Commission decides to visit for its official purposes. Officials and agencies are under the obligation to provide such reports, information and documents and to facilitate such access when requested.

ARTICLE 4. Government officials, including members of the armed forces and security forces, must provide in writing any statement they are called upon to make. Private individuals shall not be under the obligation to make statements.

ARTICLE 5. The Commission shall consist of SIXTEEN (16) members. The persons whose names appear in annex 1 to this Decree are designated for this purpose.

ARTICLE 6. The Chambers of the Honourable Congress of the Nation are invited to appoint THREE (3) representatives each as members of the Commission.

ARTICLE 7. The Commission shall establish its own rules of procedure, elect a chairman who will represent it, and appoint whatever secretaries it considers necessary. It may also appoint whatever technical staff it considers appropriate.

The Commission shall take decisions by simple majority.

The Commission shall be dissolved at the moment of submitting the report referred to in article 2.

ARTICLE 8. The official title of the Commission shall be "National Commission on the Disappearance of Persons" and its headquarters shall be the San Martín Cultural Centre of the City of Buenos Aires.

ARTICLE 9. The budgetary arrangements necessary to carry this Decree into effect shall be made and the equipment and temporary staff needed by the Commission shall be provided.

ARTICLE 10. This Decree shall be issued, published, transmitted to the National Official Records Directorate and filed.

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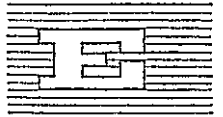
DECREE No. 187.

(Signed) Dr. Antonio A. TROCCOLI  
Minister of the Interior

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



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COMMISSION ON HUMAN RIGHTS  
Fourtieth session  
Agenda item 10(b)

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

Addendum



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1. The Working Group on Enforced or Involuntary Disappearances presents to the Commission on Human Rights in this second addendum to its report information from the Governments of Indonesia and Nicaragua received after the adoption on 8 February 1984 of the first addendum. The full text of the information provided by the Governments is on file with the Secretariat and available for consultation by members of the Commission.

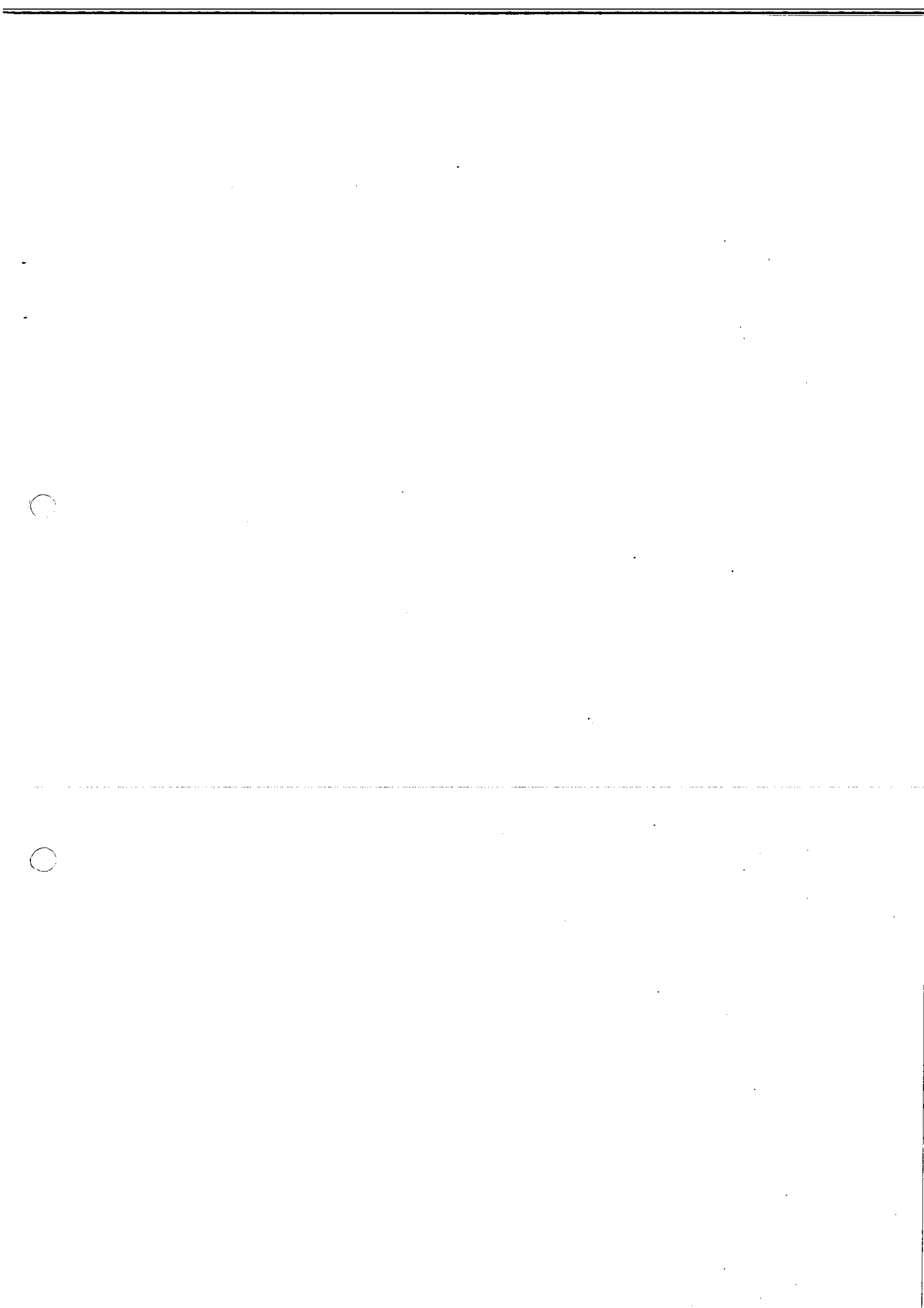
#### Indonesia

2. In a letter dated 21 February 1984 the Permanent Mission of the Republic of Indonesia to the United Nations Office at Geneva provided information on matters referred to in paragraph 76 of the Working Group's report to the Commission (E/CN.4/1984/21). The Government stated that the suspension of the activities of the International Committee of the Red Cross (ICRC) on the main island of East Timor was temporary and had been necessary in order to ensure the safety of ICRC personnel. The suspension of ICRC's activities was in fact confined solely to relief operations on the main island and in no way affected any other ICRC activities on the mainland or in Atauro island, such as programmes concerning family reunion and repatriation, tracing and mailing. The Government further stated that with the improved security conditions in East Timor a series of understandings had been reached between the Government and ICRC. With regard to protection activities on the main island, the Government reported that the terms of the understanding included visits by ICRC representatives to detention facilities on the main island of East Timor; initially, starting in February 1984, the visits would be to places of detention and detainees in Dili, and subsequently they would cover detention facilities and detainees outside Dili as well in agreed stages between February and October 1984. With regard to ICRC relief and aid activities on the main island of East Timor, the Government stated that it had been agreed that such aid would henceforth be provided by the Indonesian Red Cross and the Provincial Government of East Timor; ICRC had been duly informed regarding the programmes which would be implemented by the local authorities in East Timor and had expressed its appreciation of the envisaged programmes. The Government further informed the Working Group that the ICRC programmes on protection, food and medical aid in co-operation with the Indonesian Red Cross on Atauro Island had continued uninterrupted and included regular visits by ICRC representatives. With regard to tracing and mailing, the Government reported that tracing would be kept under the responsibility of ICRC, but its implementation would be channelled through the Indonesian Red Cross; mailing was being processed directly between the National Societies concerned (Portuguese Red Cross, Australian Red Cross and Indonesian Red Cross). The Government said that while mailing procedures would be kept under the responsibility of the Indonesian Red Cross, ICRC would assist and have access to all aspects of the programme whenever required.

#### Nicaragua

3. By a note verbale dated 13 February 1984, the Permanent Mission of Nicaragua to the United Nations Office at Geneva transmitted information on 22 reports of enforced or involuntary disappearances in Nicaragua; in five cases the Government states that the persons are at liberty; in 11 cases it has no records of arrest; one person is in detention; in three cases an investigation is continuing; in one case the Government reports that the person was killed by a border guard who is now being prosecuted; one person was arrested but escaped from the prison and is now being sought.

4. In a note verbale dated 21 February 1984, the Permanent Mission of Nicaragua to the United Nations Office at Geneva stated that many of the reported cases of disappearances presented to the Government by the Working Group supposedly took place in parts of the country currently subjected to terrorist incursions originating beyond the northern border of Nicaragua. The displacement of the civilian population in those areas make investigation and verification of the information received difficult. The Government stated that the sovereign legal measures taken by the Government to defend the Nicaraguan people against foreign aggression resulting from the well-known policy of covert warfare did not violate the human rights recognized in international human rights instruments or Nicaraguan law. The Government of Nicaragua asked the Working Group to take into account the Government's deep concern regarding the disappearances in that region of hundreds of Nicaraguan peasants, including women and children, kidnapped by counter-revolutionary forces and carried into Honduran territory. The Government formally requested the Working Group to use its good offices in order that appropriate investigations might be carried out. The Government further stated, with regard to the information concerning Nicaragua in the Working Group's report, that it was counter-productive and unnecessary to repeat mechanically the allegations and cases referred to in previous years.



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## INTRODUCTION

1. In 1983 the Working Group continued its activities and now presents its fourth report to the Commission. It has again taken full account of the points made by representatives during the Commission's debate on this subject in February 1983. Since its inception, following the adoption of resolution 20 (XXXVI) by the Commission on Human Rights in February 1980, the Working Group has been attempting to deal with this sensitive subject in a practical way. The families of disappeared persons have had their hopes raised by the creation and continuation of the Group. Governments to which allegations of disappearances have been transmitted may, at least initially, have feared that they were being blamed for or accused of the disappearances. To the extent that cases have been clarified (see chapters II and IV), the relatives have been informed. For other families the Group's work may have contributed towards informing them of what happened to their relative. Yet many unsolved cases remain. The number of new cases in 1983 is about the same as in 1982. As for Governments, it is some years since readers were reminded that the mere transmission of a case does not imply that any judgement whatsoever has been formed about it. All that has occurred is that the Group has examined the allegation, checked that it falls within the mandate and applied the United Nations rules of admissibility; certain cases are dropped at this stage, but all those which are admissible are transmitted to the Government concerned, as the only authority able to carry out the necessary investigation. Further details of the Group's activities and its methods of work appear in chapter I.

2. There are two common factors which remain. In some countries disappearances continue to occur, whilst elsewhere older cases have come to light. The Group's approach to all the cases has continued to be based scrupulously on the humanitarian approach, and this seems to have met with wide and increasing recognition. The co-operation of Governments has accordingly, in most cases, been maintained or increased. Equally organizations representing the families of the disappeared have continued their co-operation and have made various suggestions aimed at enhancing the Group's efficacy, which have been taken into account.

3. The format of the report resembles that presented last year. Representations from all sides have been summarized as carefully as possible, in order to make the report more readable. These summaries contain no judgements or conclusions by the Group. At the thirty-ninth session of the Commission the statistical presentation in the Group's previous report was criticised, not without justification. So a new formulation has now been adopted which, it is hoped, will be clearer. In relation to each country mentioned in chapter II, it is possible to see how many cases have been transmitted, on how many the Government has given a response, and how many have been resolved (that is to say, solved to the satisfaction of the Group's judgement) from either Governmental or other sources. For some recent cases there has not yet been time for the Government to respond.

4. Disappointment has been expressed in certain quarters about the paucity of results achieved. However, expectations of the Group's chances of success have to be viewed in the context of the problem itself and the limitations inherent in the relations of the United Nations with Member States. The Working Group has had to adapt itself to these realities, and to seek to make progress within them.

5. The effect on the families of disappeared persons, both in terms of violation of their human rights and the acute psychological problems involved, have been discussed in each preceding report, and more information is given in chapters V and VI below. The human factor has been extensively explained in previous reports. Even so, misunderstanding persists about the Group's methods of work. It is a prerequisite of all case-work in United Nations organs that standards of admissibility must be observed; this includes a requirement that sufficient information should be available to enable a Government to make appropriate inquiries. That is why, in certain passages in this report, as before, there are references to cases in which the source of the allegation is being requested to provide further information. Constructive criticism is always welcome and the Group is aware of the concern which arises where fully detailed cases are transmitted without any result. This concern is shared by the Group and the problem will continue to be addressed.

5. The conclusions and recommendations at the end of the report express the Group's current preoccupations and suggestions, and should be read in the light of what is said in this introduction. Similarly, the report should not be read in isolation from the three earlier reports; on the contrary it is a supplement to them, and full account should be taken of the four documents together.



I. ACTIVITIES OF THE WORKING GROUP ON ENFORCED OR  
INVOLUNTARY DISAPPEARANCES IN 1983

7. The Commission on Human Rights in its resolution 20 (XXXVI) of 29 February 1980 decided to establish 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, 1982 and 1983 the Commission extended the mandate of the Working Group. The first three reports of the Working Group are contained in documents E/CN.4/1435 and Add.1, E/CN.4/1492 and Add.1 and E/CN.4/1983/14. The present report is submitted in accordance with Commission resolution 1983/20 of 22 February 1983 which was approved by the Economic and Social Council in its decision 1983/141 of 27 May 1983. 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).

8. This year the Working Group has held three sessions; the tenth session, from 13 to 17 June 1983, held at United Nations Headquarters, and the eleventh and twelfth sessions, both held at the United Nations Office at Geneva, from 26 to 30 September and from 5 to 9 December 1983 respectively.

9. At the time of the adoption of the Working Group's last report it had before it a considerable volume of information which had not yet been analysed and since then a continuous flow of information on enforced or involuntary disappearances has been received. The Working Group continued to review cases submitted to it and decided to transmit reports on some 2,390 disappearances to the Governments of 15 countries together with its requests for information. With regard to those cases not transmitted to Governments, the Group either decided to seek further information from the source of the report, or found that the report did not appear to fall within its mandate. In addition, the Group continued to press for answers to outstanding cases transmitted earlier.

10. During 1983 the Chairman continued, in accordance with the established procedure, 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 provide such information as it might wish. Of the 2,390 reports transmitted to Governments mentioned above, some 555 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.

11. The reports received by the Group were submitted by relatives, persons closely connected with the disappeared person or organizations acting on their behalf. The Group has also received information from individuals who reported witnessing the arrest or abduction of a missing person, or stated that they were detained with missing persons in centres of detention, as well as from one person who claimed knowledge of disappearances from his official position in the past.

12. The Working Group attempted to deal with all the reports of disappearances on which specific information was available and instructed the Secretariat to seek additional information when sufficient details were not received. Bearing in mind the objective of clarifying cases through investigations and making efficient use of national investigation resources, the Group selected for transmission to Governments only those cases for which there was factual material on which an investigation could be based. This method of work can result in a discrepancy between the number of disappearances reported by the Working Group with regard to a given country and the number reported elsewhere. Consideration has been given to an attempt to isolate the figures relevant to 1983 in the statistics; this has proved impossible, since, for example, certain cases resolved in 1983 were transmitted in 1982 or earlier. The figures therefore represent the totality of the Group's work.

13. As in the past, the information received from Governments regarding cases of disappearances was sent on to the relatives concerned; and their attention was called to the Commission's request for discretion as to the use of such information. Summaries of the reports sent to Governments and copies of the information provided by them are available with the Secretariat for consultation by members of the Commission.

14. During its tenth, eleventh and twelfth sessions, the Working Group met representatives of the following States: Argentina, Bolivia, El Salvador, Nicaragua, the Philippines, Uruguay and Zaire.

15. During its tenth and eleventh sessions the Working Group met representatives of the following organizations or associations directly concerned by reports of enforced or involuntary disappearances: Latin American Federation of Associations for Relatives of Disappeared-Detainees (FEDEFAM); Grandmothers of the Plaza de Mayo (Argentina); Committee for Justice and Peace (Guatemala); Guatemalan Commission on Human Rights; Committee of Relatives of Detained, Disappeared, and Abducted Persons in Lebanon; Association of Relatives of Missing Uruguayans. The Working Group also received written information from these and from other organizations or associations directly concerned by reports of enforced or involuntary disappearances. In response to an invitation from the Latin American Federation of Associations for Relatives of Disappeared-Detainees (FEDEFAM), one member of the Group attended the Fourth Congress of FEDEFAM at Mexico City (13 to 19 November 1983) on the Group's behalf and reported on the Congress to the Group at its twelfth session.

16. During the Commission's discussion of the Working Group's last report and in subsequent written statements and meetings with the Working Group, organizations of relatives of disappeared persons, non-governmental organizations in consultative status and some Governments expressed criticism of certain aspects of the Group's work. Disappointment was expressed that so few cases had been clarified and it was felt that the optimistic tone of the Group's last report was unrealistic. The relatives of the disappeared were increasingly frustrated; prior to coming to the Working Group they had already carried out exhaustive and fruitless searches and even in the face of all the evidence that it was humanly possible to produce, they had received a standardized answer from Governments that there was no record of their loved-one's detention. The Working Group received no better answers from the Governments but nevertheless gave positive value in its report to these unsatisfactory responses. On the

other hand, the Working Group appeared to doubt the information provided by the relatives and, in asking them for more information, placed the burden of investigation on the families rather than on the Government where it belonged. The report lacked a human dimension; the annexes of relatives' statements had helped to balance the first two reports but were missing from the third report. The use of statistics also tended to dehumanize the approach to disappearances. It was feared that the present trend would lead to the institutionalization of the practice of disappearances. The Working Group's proposal in its last report not to take further action on the cases from Mexico was especially criticized. It was pointed out that the 73 cases were well documented, that at most only one case had been clarified, that the relatives had not received the promised information from the Government and that evidence existed that the disappeared persons were still alive. It was suggested that the investigations should be intensified; confidence in the Group's fairness and methods was at stake.

17. It was stressed that the need for the international community to deal effectively with the phenomenon of "disappearances" was as urgent now as when the Group had been established. The Working Group could help by taking action to discover where the missing persons were and to prevent future disappearances; such action would help restore confidence. It was suggested that the Working Group evaluate objectively the information received from Governments and inform the Commission accordingly. In those cases where substantive co-operation was not forthcoming from the Government, it was suggested that the Group's files be publicly transmitted to the Commission for appropriate follow-up, in accordance with other United Nations procedures. It was considered important for the Working Group to make specific recommendations to the Commission; three were suggested by one organization: (a) Enforced or involuntary disappearances should be declared a crime against humanity; (b) Impartial and exhaustive investigations should be carried out on the national level and those responsible punished; and (c) a major international campaign against disappearances should be launched by the United Nations. More detailed suggestions for action on the national level were received as well as for criteria to determine whether an investigation on the national level was adequate (see chapter VII below).

18. The Working Group studied with care the opinions regarding its work and the suggestions for improvement, and some of the results of this consideration are reflected in the introduction and in the conclusions and recommendations.

19. The Working Group's previous reports contained expressions of concern by non-governmental organizations, associations of relatives of missing persons and family members about the safety of persons actively engaged in the search for missing persons and in providing information on disappearances. This is a very real issue. The Working Group was greatly distressed to learn of the death of the President of the El Salvador Commission on Human Rights, Marianella Garcia Villas, who had met the Working Group on several occasions to provide information and transmit the concerns of relatives.

#### Persons missing as a result of international armed conflict

20. In the Group's 1983 report, reference was made to a request that investigations should be made into the fate of persons missing as a result of an international armed conflict.<sup>1/</sup> The matter arose out of the conflict between

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<sup>1/</sup> E/CN.4/1983/14, paras. 118-120.

the Islamic Republic of Iran and Iraq. The Working Group's report provided information describing the role of the International Committee of the Red Cross in such circumstances, relating as it does both to combatants and to the civilian populations involved, under the Third and Fourth Geneva Conventions of 1949. Since then further requests for assistance have been received from an organization of families of those missing in the South Atlantic war in 1982 and some of the cases arising from recent events in Southern Lebanon are similar. In both the latter situations the International Committee of the Red Cross has again been conducting its normal activities; certain governmental information has also been made available to relatives in Argentina.

21. In its last report the Group sought guidance from the Commission on the extent of its mandate in such situations. In June 1983, the Group received a renewed request and at its tenth session (June 1983) it analysed the debate on its work which had occurred at the thirty-ninth session of the Commission on Human Rights. In particular it discussed the question of its involvement with victims of international armed conflicts in view of the existing jurisdiction of the International Committee of the Red Cross (ICRC) in such cases. Since there was no express guidance from the Commission, the Working Group took the view that it was not within its competence under its present mandate to inquire into disappearances arising in such circumstances unless it was expressly directed to do so by the Commission. It noted the requests made for its assistance in three such situations and the material presented to it will remain in the files.

II. INSTANCES IN WHICH MORE THAN 20 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 provided the Commission with information on enforced or involuntary disappearances in Argentina in its reports to the thirty-seventh, thirty-eighth and thirty-ninth sessions of the Commission on Human Rights.<sup>1/</sup> At the time of the extension of its mandate, the Group had a large number of unanalysed reports in its files and since then a few reports have been received which refer to events in prior years. The Working Group's files still contain a small backlog of unexamined cases. During 1983 the Working Group reviewed and transmitted to the Government the files on 1,131 cases of reported disappearances. With regard to a number of other cases the Group decided either to request further information from the sources, or that they did not appear to fall within the limits of its mandate.

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. In some cases, although 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, used military or police vehicles and had occupied the neighbourhood or place where the arrest took place for a period of time; in some cases the regular police reportedly refused to intervene.<sup>2/</sup> In many cases it was also reported 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.

<sup>1/</sup> E/CN.4/1435, paras. 47-78 and annexes IX-XII; E/CN.4/1492, paras. 33-52 and annexes IV-VII; E/CN.4/1983/14, paras. 22-37.

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

24. Included in the 1,131 reports mentioned above were the disappearances of 4 children after their arrest with their parents or other family members. Also among the 1,131 reports were requests for information received from relatives regarding the children due to have been born to 25 women who were said to have been pregnant when they disappeared. In that connection the Working Group sent reports to the Government from persons who stated that they had been held in clandestine detention centres (see below, para. 26) with some of the pregnant women; those reports gave details on the treatment of the women, the medical assistance they received and the persons responsible for the children after their birth.

25. Since its establishment the Working Group has transmitted to the Government of Argentina 2,508 reports of enforced or involuntary disappearances; the characteristics of those reports are substantially the same as the description given above. The years in which those disappearances reportedly occurred were: 1971: 2 cases; 1974: 5 cases; 1975: 76 cases; 1976: 1,144 cases; 1977: 946 cases; 1978: 254 cases; 1979: 36 cases; 1980: 29 cases and 1981: 3 cases.

26. In addition to the reports from relatives on disappearances transmitted to the Government of Argentina in 1983, the Working Group sent copies of eight statements by persons who reported that they had been secretly held in some of the clandestine detention centres in Argentina referred to in previous reports and in six centres not previously reported, as well as in police stations and official prisons. These statements referred to some of the 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 eight 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.<sup>3/</sup> To date a total of 54 such reports relating to some 51 detention centres have been transmitted to the Government of Argentina and the list of persons held in these centres, as reported by former detainees, now contains more than 2,185 entries.

27. During 1983 the Working Group received a written statement from a former Argentine Federal Police Inspector who reported working in the office of the Minister of the Interior from April 1976 to January 1977. At its eleventh session the Working Group was able to question him on his statement in which he provided information on the arrest of persons by the security authorities, clandestine detention centres, disappearances, missing children and co-operation with the security services of other countries; there is general, but not complete, agreement between his report and those presented by former detainees.

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<sup>3/</sup> E/CN.4/1435, paras. 56-62.

Information and views received from relatives of missing persons and their organizations

Reappearance of missing children

28. The Working Group has always given particular attention to the search for disappeared children, both those who disappeared when their parents were arrested and those reportedly born in clandestine detention centres. In its first two reports the Working Group provided information on five missing children whose whereabouts had been discovered, principally as a result of searches by their grandparents: (a) Two children arrested with their parents in Buenos Aires in September 1976, were ultimately found in 1979 in Chile - they had been abandoned in Chile in late 1976 and placed for adoption with a foster family; the grandparents are now in touch with the children; (b) two other children (a boy of five months and a girl four years old) disappeared upon the arrest of their parents in Buenos Aires in October 1977; they were located by the grandparents in March 1980 when proceedings were under way for their adoption; (c) the fifth child, according to reports in the Working Group's files, was born in a clandestine detention centre to a mother who was three months pregnant when she was arrested; the mother, accompanied by security agents, handed the child to its maternal grandmother - the mother is still missing.

29. In 1983 the Working Group received written information and met representatives of the Grandmothers of the Plaza de Mayo who reported the discovery of a further nine children:

Case A. A six-month-old girl disappeared with her mother in October 1976 in Buenos Aires. Relatives requested information from the authorities and the case was transmitted to the Government by the Inter-American Commission on Human Rights. In late 1982 the Grandmothers discovered the child who had been placed with adoptive parents and the child's grandmother is now in contact with her.

Case B. Two children (a boy three years old and his sister aged eight months) disappeared with their mother after her home in the province of Buenos Aires Province was raided in May 1977. The case was transmitted to the Government by the Working Group in 1982. The Grandmothers found the children in 1983 in the care of a large family with limited resources who had given shelter to both children. The mother is still missing.

Case C. A male child was born during his mother's detention. The mother, four months pregnant, disappeared in October 1977 after her home in Mar del Plata had been raided. The case was transmitted to the Government in 1981 by the Working Group. The Grandmothers found the child in 1982; he had been given to a relative shortly after his birth together with a letter from his mother, who is still missing.

Case D. A four-year-old boy disappeared with his mother in June 1978 in Buenos Aires. In 1983 a juvenile court judge informed the paternal grandmother that in 1978 he had given custody of the child - who had been left by an unknown person with the maternal grandmother - to the maternal grandmother's family. The judge had been informed since 1978 of the search for the child by the paternal grandmother. The Court, however, gave no information to either side of the family. The mother is still missing.

Case E. A one-and-a-half-year-old girl disappeared when the woman who was taking care of her was arrested (the girl's mother was in prison). The child was left with a poor family who had witnessed the arrest; the police refused to accept custody of the child and threatened the family with being made to disappear if they insisted. The family fled and in 1983 - after a publicity campaign by the Grandmothers - a person informed them of the whereabouts of the missing girl; that person was subsequently attacked and spent a considerable time in the hospital. The district juvenile court judge had known of the child's correct identity, the whereabouts of the mother and the search by the Grandmothers, but had taken no action. The girl has now been reunited with her mother.

Case F. A one-year-old boy disappeared with his mother in August 1977 in Buenos Aires. The persons who arrested the mother had given the child to a neighbour. The juvenile court judge gave custody of the boy to a family which was not materially or morally suitable; the neighbours subsequently reported the ill-treatment of the child to the police. In 1982 the case was transmitted to the Government by the Working Group. In 1983 a photograph of the child, published by the Grandmothers, was recognized and they were informed of the child's whereabouts. The juvenile court judge, when requested by the Grandmothers to return the child to the family, ordered a psychological examination of the child's grandmother. The child has been returned to his family; the mother is still missing.

30. The Grandmothers of the Plaza de Mayo explained to the Working Group the methods of work they had used in searching for the missing children; they have repeatedly visited government ministries, courts, hospitals, authorities in charge of adoption and the registration of births, and orphanages. A publicity campaign with pictures of the missing children was carried out and as a result increasing support from the general population has been gained. They have not had the help of the authorities, executive or judicial, in their searches and they have been the subject of repeated threats and acts of intimidation. The Grandmothers emphasized that when a child was found, his or her best interests determined the steps to be taken subsequently. The Grandmothers still had some 130 missing children not yet accounted for; they requested the Working Group to assist them in finding the remaining children by:



- (a) Obtaining from the Government a list of all births which were registered after the lapse of the normal registration period during the years 1976-1983; this would help find children born in clandestine detention centres;
- (b) Obtaining from the Government a list of adoptions for the period 1976-1983.
- (c) Requesting that those children whose births in clandestine detention centres were attested to by written statements be returned to their families; and
- (d) Providing the Grandmothers with the information in the Working Group's files regarding births in clandestine detention centres.

31. The Grandmothers report that in 1983 they presented several petitions of habeas corpus to the courts on behalf of children born in detention. These petitions contained signed statements by witnesses to the arrest of the pregnant mother, as well as statements by persons detained with her which provide information on the birth of the child, the medical doctors involved and on the officers responsible for the detention centre. The Grandmothers asked the courts to take a number of specific investigatory steps to find the mothers and children, including taking testimony from the medical doctors involved and from those responsible for the detention centres.

#### Reappearance of disappeared detainees

32. An organization of relatives of missing detainees provided the Working Group with a report on the release of persons who had been missing for a number of years; two of these persons reported that some prisoners were still being held at the clandestine detention centre from which they had been released late in 1982. The organization asked that the details be kept confidential to respect the requests of those concerned who were fearful of reprisals. Some of the names given were not on the list of missing persons, but in one instance the Working Group had transmitted the case to the Government.

#### Identification of bodies

33. The Working Group also received detailed information from an organization of relatives of missing persons on the identification of previously unidentified bodies in a cemetery in Argentina. As a result of the judicial investigation, 76 bodies were identified, 20 of which had appeared on lists of disappeared detainees published by human rights organizations. The Working Group transmitted one of the cases to the Government in 1981 and the Group's files indicate that three of the 76 had been seen alive in a clandestine detention centre and that four others had arrived dead at that centre. In addition, some relatives of missing persons have written to the Working Group to inform it of the identification of bodies as those of their missing relatives.

#### "Final document on the struggle against subversion and terrorism"

34. Since the extension of the Group's mandate, relatives and their organizations have repeatedly expressed deep concern at the failure of the authorities to undertake effective investigations; they expressed fear that recent decisions of the military Government indicated that it did not intend to

carry out investigations or would make them impossible. Reference was made to a paper entitled "Final document on the struggle against subversion and terrorism", published by the military Government in April 1983, which, according to the relatives, asserted that the disappeared persons should be considered dead. The relatives drew attention to four points which indicated that the missing persons had been arrested by government agents and not killed in clashes: first, thousands of persons had seen the missing persons arrested at home, at work or in public places; second, released detainees who had been held in clandestine detention centres with missing persons had made statements to that effect; third, the recognition in the final document that the armed forces might on occasion have exceeded the limits of respect for human rights; and, fourth, the numerous bodies of missing persons found in the cemeteries could only have been buried there by officials.

#### Amnesty Law of September 1983

35. Relatives' organizations also referred to an amnesty law promulgated on 23 September 1983 by the military Government which the relatives stated would effectively prevent investigations into the whereabouts of missing persons. The act abolishes penal measures for all criminal acts committed in order to combat terrorism or subversion in the period 25 May 1973 to 14 June 1982. It would also prevent persons from being questioned, investigated, or summoned to appear in court or before any other body in regard to such acts, and further provides that no civil action can be brought in such cases. This law would prevent answers being obtained to such questions as: Who was arrested? By whom? Where were they taken? What happened to them? The relatives' organizations point out that the amnesty law is incompatible with General Assembly resolution 33/173 which called for Governments "to ensure that law enforcement and security authorities or organizations are fully accountable, especially in law, in the discharge of their duties, such accountability to include legal responsibility for unjustifiable excesses which might lead to enforced or involuntary disappearances and to other violations of human rights". Reference was also made to resolution 15 (XXXIV) adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of 10 September 1981, which urged that States in which persons had been reported to have disappeared should "repeal or refrain from adopting laws which could impede inquiries concerning such disappearances". The Group has been informed that in several cases of abduction, judges, in two instances from courts of appeal, have refused to apply the law on the grounds that it is "irremediably null and void" or "invalid".

36. The organizations of relatives have also made specific requests for improvements in the international community's and the Group's action regarding missing persons. They requested in particular that the United Nations and the Working Group adopt a resolution similar to that of the Inter-American Commission on Human Rights of the Organization of American States, which declares that it is the responsibility of the Argentine Government to adopt the necessary measures to clarify and resolve the problem of missing persons. They also requested more resolute and effective action with a view to finding alive the missing detainees who have spent years of inhuman suffering in illegal and secret prisons.

Information and views received from the Government of Argentina

37. Since its mandate was extended, the Working Group has received written information from the Government (note verbale dated 14 June 1983, and letters dated 27 September 1983 and 18 November 1983) and met representatives of the Government at its tenth and eleventh sessions. The Government stated that it was aware of the effort made by the Working Group to analyse and deal with the communications transmitted and stated it would study those cases thoroughly. It also pointed out that the lack of fresh allegations of enforced or involuntary disappearances, save for isolated recent cases that had been rapidly cleared up, indicated that the phenomenon had ended and that the situation had returned to normal.

38. The Government provided the Working Group with a copy of the document entitled "Final document on the struggle against subversion and terrorism" and commented on its nature; it pointed out that the document was intended to shed light on a situation which had affected the country for a number of years. It was not, however, intended to deal with individual cases; it was for public distribution and the Government continued to believe firmly that, both internally and externally, the information available on individual cases should be given only to the relatives requesting it. The Government's document was not, as it had been claimed, an attempt by the armed forces to evade responsibility for actions undertaken in combating terrorism; on the contrary, it was evident from many passages in the text, that the armed forces accepted their share of the responsibility for any mistakes they might have made in the actions that had led to the defeat of the subversive guerilla movement. The document should not be interpreted as an official declaration of the presumed death of all the persons reported to have disappeared. Such an interpretation had been given to a sentence of the document which read that "those who appear in lists of disappeared persons and who are not in exile or underground are considered dead for legal and administrative purposes". The representative of the Government explained that that sentence was simply informative, and was not a juridical decision applicable to individual cases; the Military Junta had not sought, by means of the document, to derogate from the legal provisions in force under which a judicial decision was required before a person could be declared missing and presumed dead.

39. The Government also estimated the alleged disappearances at 6,000 and stated that the figures of 15,000, 30,000 and even more had been exaggerated by various politically motivated organizations. The figures given in the "Final document on the struggle against subversion and terrorism" of 21,642 terrorist incidents between 1965 and 1979 and 742 clashes between 1973 and 1979, in which members of the security forces were also killed, suggested that the unsolved cases involved persons who had died in armed clashes, or whose bodies had been found on the streets, and could not be identified; they were therefore buried as NN (unidentified bodies). The representative of the Government stated that the question of unidentified bodies or NN graves had been under careful examination by the judicial authorities, which had so far been unable to establish the truth of allegations that persons whose identity was known had been secretly buried in the country. That proved how easy it was to launch campaigns concerning events which played upon the emotions of the general public.

40. Concerning missing children, the representative of the Government reported that the hypothesis advanced by the Government to the Working Group that the cause of disappearance of minors might be that the children were with relatives who, for various reasons were keeping the fact a secret, would appear to be confirmed by reports concerning the reappearance of various children who had remained in the keeping of relatives or friends of their families. In the case of children due to have been born to women who were reportedly pregnant at the time of their disappearance, the representative of the Government informed the Group of the difficulties encountered in carrying out investigations, pointing out that the pregnancy itself was an unproven assumption. He added that the location of the mother, who had reportedly disappeared, was ultimately the basic prerequisite for shedding light on the allegation. With regard to the statements made by persons who claimed to have first-hand knowledge of situations, places and persons and alleged that official agencies had committed offences, the representative of the Government said that the authorities had repeatedly pointed out the political motives underlying such claims and the lack of credibility of their authors; the statements made in relation to reported births in captivity followed the classic pattern of alleged coincidence of persons and places and interwoven accounts attempting to show that one story was corroborated by another.

41. The representative of the Government stated that, since terrorism had been defeated, the problem of disappeared persons had ceased to exist in his country and that also facilitated investigations by magistrates, who had previously been hampered by pressure and threats from subversive groups. He also stated that 1983 was a year of vital importance for his country, as it represented the closing of a political era which had begun when violence was at its height and would end with the return to institutional normality, which would take place when the national authorities elected on 30 October 1983 assumed office. He stated that the new Government, which would take office as a result of those elections, might wish to provide the Working Group or the Commission with information or views on that matter.

42. In a letter dated 18 November 1983 the Government of Argentina informed the Working Group that Act No. 22.068/79, which had reduced the period required for the presumption of death from three years to 90 days, had been abrogated. The Government further reported that a new law had been enacted, which established that the Executive would provide compensation for all damages suffered as a consequence of offences covered by the Amnesty Law of September 1983.

43. 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 transmitted to the Government by the Working Group (see para. 25 above) 2,508
- II. Responses received from the Government relating to cases transmitted by the Working Group 0
- III. Cases clarified by information from non-governmental sources 4 17

44. The Working Group noted that the installation of the new President of Argentina, following the October 1983 elections, was scheduled to take place on the day following the end of its twelfth session and the adoption of its report. It seemed inappropriate to speculate on the action to be taken by the new Government in relation to the cases of disappearances; instead, the Working Group hoped to issue an addendum to its report with any new information. In this context, the Working Group's files contain a large volume of information on which investigations by the Argentine authorities could be based and the Group stands ready to transmit any of that information to the Government of Argentina if it so wishes. The requests of the Grandmothers contained in paragraph 30 above, appear to be worth pursuing, and at the present stage it is suggested that they should be directly explored by the family members with the new Government.

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4/ Persons released from detention: 7  
Persons at liberty: 2  
Children found: 3  
Persons whose death has been officially recorded: 5.

## B. Bolivia

### Information reviewed and transmitted to the Government

45. The Working Group provided information on enforced or involuntary disappearances in Bolivia in its reports to the Commission at its thirty-seventh, thirty-eighth and thirty-ninth sessions.<sup>5/</sup> The Working Group has transmitted reports on the alleged disappearance of 32 persons to the Government of Bolivia and has requested information thereon. The missing persons, who are mainly students, workers, trade unionists or teachers, were reportedly arrested under previous Governments between July 1980 and August 1981. Most were reportedly arrested 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 allegedly responsible. The Working Group received information from the Government and non-governmental sources clarifying 13 of the cases: 5 persons had been released, 6 were at liberty and the death of 2 had been officially recorded. The Working Group was also informed of the establishment in October 1982 of a National Commission for the Investigation of Disappeared Persons.

46. At a meeting with a representative of a non-governmental organization of relatives of missing persons, the Working Group received information on the progress made by the National Commission for the Investigation of Disappeared Persons including its work plan for the one year period beginning on 1 February, 1983. The details are contained below in chapter VII.

### Information and views received from the Government of Bolivia

47. Since the extension of its mandate, the Working Group has maintained contact with the Government of Bolivia and met a representative of the Government during its eleventh session. He assured the Group of his Government's commitment to respect human rights and its respect for and appreciation of the work done by the Group. He stated that, despite the problems facing the Government, there was a genuine and sincere desire to clarify all cases of enforced or involuntary disappearances. The representative emphasized the fact that his Government was not responsible for the disappearances that had occurred during previous governments but that none the less it wanted to clarify all cases. That was why the Government had established the National Commission for the Investigation of Disappeared Persons in 1982.<sup>6/</sup> The Commission has carried out its work with some success, but its main problem has been the identification of the corpses of victims. He stated that 14 corpses had been found in a cemetery in La Paz, but since there were no papers, identification was difficult; the persons responsible for those violations had taken steps to erase traces. Finally, the representative told the Group that his Government would send it all the information as it became available.

<sup>5/</sup> E/CN.4/1435, para. 164; E/CN.4/1492, paras. 53-57; and E/CN.4/1983/14, paras. 38-42.

<sup>6/</sup> E/CN.4/1983/14, para. 40.

48. 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 transmitted to the Government by the Working Group (see para. 45 above)	32
II.	Government responses	
	(a) Total responses received from the Government relating to cases transmitted by the Working Group (see para. 45 above)	10
	(b) Cases clarified by the Government's responses <sup>7/</sup>	9
III.	Cases clarified by information from non-governmental sources <sup>8/</sup>	4

<sup>7/</sup> Persons released from detention: 2  
 Persons at liberty: 5  
 Persons whose deaths have been officially recorded: 2.

In one report the Government stated that the person had not been arrested.

<sup>8/</sup> Persons released from detention: 3  
 Persons at liberty: 1.

C. Cyprus

49. The Working Group dealt with enforced or involuntary disappearances in Cyprus in its first three reports.<sup>9/</sup> The Group transmitted information on cases of enforced or involuntary disappearances received from the Government of Cyprus, the Pancyprian Committee of Parents and Relatives of Undeclared Prisoners and Missing Persons and other organizations to the Government of Turkey and the authorities of the Turkish Cypriot Community. The Group also transmitted information received from the Turkish Cypriot Community on enforced or involuntary disappearances to the Government of Cyprus. The number of reported disappearances from both sides amounts to about 2,400.

50. At the Working Group's eighth session, in September 1982, it requested 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. Moreover, the Group said that the Committee's purely humanitarian aims exactly coincided with its own 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, that it would be 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 the problem. The Group expressed the hope that, if the Chairman of the Committee thought the suggestion helpful he would communicate it to the two other members.

51. At its tenth session in June 1983, the Working Group on Enforced or Involuntary Disappearances had before it General Assembly resolution 37/181 adopted on 17 December 1982. In that resolution the Assembly invited the Working Group to follow developments and to recommend to the parties concerned ways and means of overcoming the pending procedural difficulties of the Committee on Missing Persons in Cyprus and, in co-operation with the Committee, to facilitate the effective implementation of its investigative work on the basis of the existing relevant agreements. The Working Group notes with satisfaction both that the members of the Committee have been making renewed efforts to overcome the remaining procedural differences and that the Secretary-General and his representatives are assisting in that endeavour. The Working Group's position, therefore, is to remain available to assist the Committee as appropriate.

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<sup>9/</sup> E/CN.4/1435, paras. 79-83; E/CN.4/1492, paras. 65-66; E/CN.4/1983/14, paras. 43-46.



D. El Salvador

Information reviewed and transmitted to the Government

52. The Working Group's previous activities in relation to El Salvador appear in its three earlier reports.<sup>10/</sup> Since the adoption of its latest report, the Working Group has continued to receive and examine information relating to enforced or involuntary disappearances in El Salvador. During that period the Group transmitted to the Government 540 reports of enforced or involuntary disappearances in El Salvador (38 reportedly occurred in 1981, 119 in 1982 and 383 in 1983), together with its request for information. All these cases were transmitted in accordance with the urgent action procedure. The Group also contacted the Government regarding cases transmitted in the past, in particular when new information on the missing person's whereabouts became available. With regard to other cases, which were not transmitted to the Government, the Working Group sought further details from the source or decided that the case did not appear to fall within the terms of its mandate.

53. The reports of disappearances transmitted to the Government were submitted by the relatives of the persons alleged to be missing by Salvadorian human rights organizations acting on behalf of the relatives and by a non-governmental organization in consultative status with the Economic and Social Council.

54. 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 farmer (campesino). Most of the arrests reportedly took place at the missing person's home or at a specified public place, such as a market or bus station. Other persons were reportedly arrested at their place of work. Most of the disappearances during the year have allegedly taken place in the cities and particularly in the capital San Salvador. Each of the reports transmitted to the Government contained information about the persons 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. Many cases indicate that the persons responsible for the arrest were armed and dressed in civilian clothes. Information was also provided about the vehicles used in the arrests. In some cases official vehicles were used, in others the licence plate number of the vehicle was provided, and in still others the vehicles had no licence plates. In most of the cases it was reported that habeas corpus petitions and visits to the offices of the security services had been fruitless.

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<sup>10/</sup> E/CN.4/1435, paras. 84-101 and annex XIII; E/CN.4/1435/Add.1, para. 11, 6; E/CN.4/1492, paras. 67-87 and annexes IX-XI; E/CN.4/1492/Add.1, paras. 11, 12 and 19; E/CN.4/1983/14, paras. 47-56.

55. Since the Working Group was established it has transmitted 1,782 reports of enforced or involuntary disappearances to the Government of El Salvador as is indicated in the table at the end of this section. The years in which those disappearances reportedly occurred were: 1971, one case; 1977, one case; 1979, 65 cases; 1980, 431 cases; 1981, 320 cases; 1982, 581 cases; and 1983, 383 cases.

Information and views received from organizations representing relatives of missing persons.

56. The Working Group in a meeting with a representative of a non-governmental organization of relatives of missing persons was informed of that organization's concern regarding disappearances in El Salvador. The representative stated that the practice of enforced or involuntary disappearances continued unchanged in that country, that serious investigations have not been undertaken and that past cases continued unresolved. It was stated that the most important initiative to deal with the problem of enforced or involuntary disappearances in El Salvador had been the creation of the Special Commission for the Investigation of Political Prisoners and Disappearances, but that that Commission had dissolved itself on 3 January 1980 due to lack of co-operation from the authorities. The representative also noted that the Salvadorian Government was supposedly co-operating with the Working Group on many cases, but that in reality it was merely submitting information which was already available. Finally, the representative stated that the Commission on Human Rights created by the Government of El Salvador had not made any progress to date in working for the disappeared.

Information and views received from the Government of El Salvador.

57. Since the adoption of the Working Group's latest report, it has received information in writing from the Government of El Salvador. Some of that information was presented to the Commission on Human Rights at its thirty-ninth session by the Working Group's Chairman in his statement introducing the Working Group's report. At its tenth session the Working Group met a representative of the Government of El Salvador in New York and at its eleventh session it met the Permanent Representative of El Salvador to the United Nations Office at Geneva.

58. The representatives of El Salvador categorically denied that their Government practised or tolerated enforced or involuntary disappearances and reaffirmed their Government's commitment to full respect for human rights. The Working Group was informed that the International Committee of the Red Cross was continuing 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 teaching courses and conferences were organized to instruct the military on humanitarian law and the protection of prisoners.

59. The representatives of the Government of El Salvador placed the problem of enforced or involuntary disappearances within the context of the difficult situation in their country. They informed the Group of the Government's

efforts to establish democracy through reforms, and pointed out that a new constitution was being prepared, and that elections would be held in the near future. There had been a decrease in the violations of human rights in their country and the Government's concern for the protection of human rights was demonstrated by the establishment of a governmental Human Rights Commission, which was totally independent from the judicial and executive branches of the Government, and had prepared the Amnesty Law which was promulgated in 1983. The Commission had broad powers with access to all detention centres in the country, and could take up specific cases and even those in which a habeas corpus petition had produced a negative result. The government representatives also explained the habeas corpus procedure in El Salvador.

60. In letters dated 3 December 1982, 11 January 1983, 4 February 1983, 11 February 1983, 7 June 1983, 6 July 1983, 11 July 1983, 1 August 1983, 28 September 1983, 10 October 1983, 21 October 1983, 7 November 1983 and a cable dated 1 August 1983 the Government of El Salvador transmitted information on cases of enforced or involuntary disappearances to the Working Group. Further, by a note verbale dated 7 June 1983, the Government transmitted a list containing the names of persons who had been released as a result of the Amnesty Law, because some of those names might have been in the Working Group's files as missing persons. In fact, 54 were in the Working Group's files as missing persons and had been brought to the attention of the Government. Since the Working Group was established it has received replies from the Government of El Salvador relating to 264 cases of enforced or involuntary disappearances it has transmitted to the Government; the replies received contain the following information: persons arrested and in prison: 119; persons released from detention: 91; persons whose deaths have been officially recorded: 2; and 52 cases on which there are no records of detention.

61. 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 transmitted to the Government by the Working Group (see para. 55 above)	1,782
II.	Government responses	
	(a) Total responses received from the Government relating to cases transmitted by the Working Group (see para. 60 above)	264
	(b) Cases clarified by the Government's responses <sup>11/</sup>	212

<sup>11/</sup> Persons arrested and in prison: 119  
 Persons released from detention: 91  
 Persons whose deaths have been officially recorded: 2.

E. Guatemala

Information reviewed and transmitted to the Government

62. The Working Group's previous activities in relation to Guatemala appear in its three earlier reports.<sup>12/</sup> Since the extension of the Working Group's mandate it has reviewed and transmitted to the Government information on 332 enforced or involuntary disappearances reported to have occurred in Guatemala together with its request for information; 13 of these reports were transmitted in accordance with the urgent action procedure. With regard to other reports not transmitted to the Government, the Group decided to request further information from the source or found that the report did not appear to fall within its mandate.

63. Since the extension of its mandate, the Working Group has continued to receive reports of enforced or involuntary disappearances in Guatemala. The reports were submitted by relatives of missing persons, by organizations acting on behalf of the relatives and by a non-governmental organization in consultative status with the Economic and Social Council. The reports transmitted to the Government contained information about the identity of the missing person (first names and family names), the date and location of the arrest (some reports also indicated the time). Eighty-nine of the disappearances reportedly occurred in 1982 and 243 in 1983; the 1983 monthly breakdown is: January, 33, cases; February, 12; March, 8; April, 7; May, 12; June, 47; July, 29; August, 16; September, 50; October, 27; November, 2. The most frequently reported place of arrest was a town, the home of the missing person, or a specific public place. Some reports also concern townspeople who were arrested together when Government security forces occupied their towns. Most arrests were carried out by armed men in civilian clothes, by solidiers in civilian clothes, or by security forces. The age and occupation of the reported missing persons were given in some cases; the most frequently reported occupations were farmer (campesino), teacher, professor, student and social worker. Seventy-six of the reports transmitted to the Government concerned women and a number of the reports concerned minors. The information concerning 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 the information out of the country.

64. Since the Working Group was established it has transmitted 1,382 reports of enforced or involuntary disappearances to the Government of Guatemala as is indicated in the table at the end of this section.

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<sup>12/</sup> E/CN.4/1435, paras. 107-116 and annex XIV; E/CN.4/1492, paras. 91-102 and annexes XII-XIII; E/CN.4/1492/Add.1, para. 19; E/CN.4/1983/14, paras. 57-63.

Information and views received from organizations representing relatives of missing persons.

65. During the current period of its mandate the Working Group received both oral and written information and views concerning enforced or involuntary disappearances in Guatemala from organizations working on behalf of relatives of missing persons. During its tenth and eleventh sessions representatives of Guatemalan human rights organizations met the Working Group. They stated that the problem of disappearances in Guatemala was closely connected with the counter-insurgency operations carried out by the Government. In the past, disappearances in the countryside had occurred mostly in the departments of Quiché and Huehuetenango, whereas the Department of San Marcos was currently the most affected; disappearances also continued in the cities. All sectors of Guatemalan society, without exception, were touched by disappearances, particularly farmers, workers, labour lawyers, trade unionists, university professors and students. Disappearances in Guatemala could not be attributed to persons fleeing their villages for the mountains; people abandoned their villages collectively while most disappearances occurred individually. Furthermore, disappearances also took place in cities and reports of the arrest and disappearance of groups of persons were relatively few. The persons, dressed in civilian clothes, who arrested people who then disappeared, could be identified as members of the security forces by their weapons, the vehicles they used and the way in which they carried out their operations. Information, obtained from former detainees, was also provided on places where missing persons were held, mainly the military base in Petén and the military base in Huehuetenango.

Information received from the Government of Guatemala

66. Since the extension of its mandate the Working Group has received information from the Government of Guatemala concerning eight cases transmitted to it by the Group. According to this information, five of the persons were sentenced to prison terms (in one case the sentence was suspended) and the other three had not been arrested.

67. The question of enforced or involuntary disappearances in Guatemala is a concern of the Special Rapporteur on human rights in that country and reference should be made to the relevant passage in his report to the Commission on Human Rights.<sup>13/</sup>

68. 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 transmitted to the Government by the Working Group (see paras. 63-64 above)	1,382
II.	Government responses	
	(a) Total responses received from the Government relating to cases transmitted by the Working Group (see para. 66 above)	12
	(b) Cases clarified by the Government's responses <sup>14/</sup>	9
III.	Cases clarified by information from non-governmental sources <sup>15/</sup>	8

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<sup>14/</sup> Persons in prison: 4  
Persons at liberty: 4  
Persons with suspended sentence: 1.

With regard to three cases the Government reported that there were no records of arrest.

<sup>15/</sup> Persons released: 7  
Persons whose death was officially recorded: 1.

F. Honduras

Information reviewed and transmitted to the Government

69. The Working Group provided information on enforced or involuntary disappearances in Honduras in its reports to the Commission at its thirty-eighth and thirty-ninth sessions.<sup>16/</sup> Since the extension of its mandate the Working Group has transmitted reports on three disappearances as urgent actions; two reportedly occurred in March 1983 and one in May 1983. These reports contained details on the identity of the missing person, the date, place and, in one case, the time of the arrest, and some information on those reportedly responsible. Also during 1983 the Working Group transmitted to the Government a complete file on all the unclarified cases sent to the Government since 1980, with the request that it be informed of any results of investigations; these cases included the reports of the disappearance of four foreign nationals in Honduras in 1981.

70. Prior to the latest extension of its mandate the Working Group had transmitted reports on 66 disappearances to the Government; nine of those cases have been clarified, two by information provided by the Government and seven by information provided by other sources. Fifty of the reported disappearances occurred in 1981 and 16 in 1982. The reports contained details about the identity of the missing persons (first names and family names), the date and location of the arrest (most reports also indicated 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. Sometimes the location of the arrest was given as the place of work, a 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 National Directorate of Investigations (D.N.I. - Directorio Nacional de Investigaciones), the Treasury Police or by security forces. The Government informed the Working Group that two of the persons had been released and the release of seven others was reported by non-governmental organizations.

Information and views received from organizations representing relatives of missing persons

71. During the Working Group's tenth session a representative of a non-governmental organization of relatives of missing detainees expressed his organization's concern over the disappearances in Honduras. He said that a Committee of Relatives of Disappeared Detainees had been established in Honduras and had prepared lists of persons who disappeared in Honduras. It was requested that the Government, in addition to the general assurances of good will it had given, be asked to carry out a thorough investigation of all cases of disappearances.

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<sup>16/</sup> E/CN.4/1492, para. 106-109, E/CN.4/1492/Add. 1, paras. 13 and 19; E/CN.4/1983/14, paras. 64-69.

Information and views received from the Government of Honduras

72. In letters dated 31 August and 20 October 1983 the Government of Honduras provided information on the three reports of cases which allegedly occurred in 1983 transmitted to it by the Working Group in the same year. The Government reported that in two cases the persons were before the courts, and in the other case the person had left the country and had given a press conference at the Honduran Embassy in Guatemala. That information had previously been transmitted to the Working Group by a non-governmental organization.

73. The Government of Honduras, in a letter dated 31 August 1983, provided information on cases transmitted by the Working Group during 1981 and 1982. Since the Working Group was established, the Government of Honduras has provided the following replies concerning the cases transmitted to it: in 23 cases there was no record of the person's arrest; in 21 cases the reports were being investigated; two persons were before the courts; one person had been deported; one person had reappeared in a neighbouring country and one had been released. With regard to the four cases of foreign nationals who had disappeared in Honduras the Government said that no entry into Honduras had been recorded for one, that the records showed that another two had left the country and that there was no record of arrest for the fourth person. The Government further stated that, if petitioned by relatives in accordance with the procedures established by the law of Honduras, it would agree to the exhumation of a body believed by some to be that of one of the foreign nationals.

74. 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 transmitted to the Government by the Working Group (see paras. 69-70 above)	69
II.	Government responses	
	(a) Total responses received from the Government relating to cases transmitted by the Working Group (see para. 73 above)	53
	(b) Cases clarified by the Government's responses <sup>17/</sup>	5
III.	Cases clarified by information from non-governmental sources <sup>18/</sup>	13

<sup>17/</sup> Persons who have left the country: 2 (1 deported to Panama, 1 reappeared in Guatemala).  
Persons before the courts: 2.  
Persons released by their captors: 1.

<sup>18/</sup> Persons at liberty: 13.



G. IndonesiaInformation reviewed and transmitted to the Government

75. The Working Group's previous activities in relation to Indonesia appear in its three prior reports.<sup>19/</sup> In 1980 and 1981 the Working Group transmitted to the Government of Indonesia information on 23 reported disappearances which took place in the period 1977-1980. Eighteen persons reportedly disappeared after they surrendered to military forces or were arrested or captured; one person disappeared from prison and one was allegedly shown on television by the authorities prior to his disappearance. Most were reportedly connected with the Frente Revolucionária de Timor Leste Independente (FRETILIN).

76. During 1982 the Government of Indonesia reported that it had no further information to convey to the Working Group and that it had concluded an agreement with the International Committee of the Red Cross (ICRC) with a view to finding the facts relating to the alleged missing persons as well as tracing them. The Government suggested that the Working Group should contact ICRC to obtain the appropriate information on the matter. In a letter dated 13 July 1983, ICRC stated that, following a discussion with those concerned, an informal understanding had been reached on the procedure for investigating cases of disappearances. In accordance with this understanding, as well as with ICRC principles, ICRC only proceeds with a tracing request from the family, keeping the Working Group informed about the progress of its investigations. The results will be communicated directly to the family only. Given the above, ICRC suggested that, in future, a copy of any inquiry received from a relative with a request for tracing in East Timor, should be forwarded to ICRC and the inquirer should be advised to contact ICRC directly. Should any progress be made after the receipt of requests from the respective families, ICRC would inform accordingly. Later in the year the ICRC announced that it had suspended its activities on the main island of East Timor.

77. 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 transmitted to the Government by the Working Group (see para. 75 above)	23
II.	Responses received from the Government relating to cases transmitted by the Working Group	0
III.	Cases clarified by information from non-governmental sources <sup>20/</sup>	1

<sup>19/</sup> E/CN.4/1435, paras. 117-121; E/CN.4/1492, paras. 110-113; E/CN.4/1983/14, paras. 70-73.

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

H. LebanonInformation reviewed and transmitted to the Government

78. The Working Group informed the Commission on Human Rights at its thirty-ninth session that in September 1982 it had transmitted one report of an enforced or involuntary disappearance to the Government of Lebanon; it concerned the disappearance of a journalist of the IRNA Agency who reportedly disappeared in July 1982.<sup>21/</sup> The Working Group has received no further information on the case. Since the extension of its mandate the Working Group has received and examined information relating to enforced or involuntary disappearances in Lebanon brought to its attention by relatives of the persons concerned either directly or through an organization acting on behalf of the relatives of missing persons in Lebanon. The Working Group transmitted reports on 205 disappearances to the Government with its request for information. With regard to other cases the Group either decided to request further information from the source of the report or found that the report did not appear to fall within its mandate.

In the cases transmitted to the Government since the extension of the Group's mandate, information was provided on the identity of the persons reported missing (first name and family name), date and location of the arrest or disappearance and, generally, information about the persons responsible for the arrest. In a few cases, the occupation of the person was also provided. One case reportedly occurred in 1975, three cases in 1976, one in 1979, one in 1981, 162 in 1982, and 37 in 1983. A few of the reported missing persons were women. The reports also alleged that the persons responsible for the arrest belonged to the Phalangist Militia or Lebanese Army or its security forces; in some cases the Israeli Army was also reportedly involved in the arrest together with one of the other forces mentioned above. Certain reports indicated that the arrests were made by armed men in civilian clothes operating from vehicles. Most of the arrests were witnessed by relatives, friends or neighbours and occurred in Beirut and its suburbs, in public places, at the home, or place of work of the victim or at military checkpoints which are sometimes permanent, and at other times mobile. In a number of cases the relatives reported that the missing person was arrested and taken away from the Sabra and Shatila camps in September 1982. In accordance with the Working Group's mandate, it has been ensured that none of the cases transmitted are alleged to have arisen in the course of the international armed conflict in Lebanon (see paras. 20-21 above).

80. Most of the reports stated that the disappearances had been brought to the attention of the Prime Minister, the Mufti of the Lebanese Republic, the Ministerial Commission established on 13 July 1983 to investigate the whereabouts of missing persons and the International Committee of the Red Cross.

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<sup>21/</sup> E/CN.4/1983/14, para. 121.

Information and views received from organizations representing relatives of missing persons

81. During its eleventh session, the Working Group met representatives of the Committee of Relatives of Detained, Disappeared and Abducted Persons in Lebanon. The representatives stated that their organization was established on 24 October 1982 as the result of a demonstration by women petitioning the Prime Minister for the liberation of detained prisoners and news about detainees who were missing. Since then the Committee has established an office and its work includes calling upon all relatives of detainees or disappeared persons to provide the information they have in person at the office of the Committee; on this basis the Committee draws up lists of cases for presentation to the authorities. The Committee also contacts political and religious leaders, and social organizations on behalf of the prisoners and the missing, as well as the Parliament, the Government Office and the Presidential Office. The Committee also maintains contacts with the International Committee of the Red Cross, embassies and organizations, holds press conferences and organizes demonstrations. The Committee is assisted by a group of Lebanese lawyers who have established a lawyers' organization for the defence of civil liberties. Unfortunately, many difficulties have been encountered in these activities and the results have been very few. For that reason, and despite the very limited resources of its members, the Committee decided to send a representative to Geneva to appeal to the Working Group.

82. The representatives of the Committee emphasized that their action was not based on a hostile attitude towards the authorities nor on a desire to protect criminals. Their only point was that the constitutional and legal rules governing arrest and detention were not being observed (requirement of arrest warrants, for example) and that often the places of detention were illegal. Arrests for political motives were often carried out like kidnappings. The missing persons were usually arrested in the presence of witnesses and often at home; the Phalangist Militia or the Lebanese Army or its security forces were allegedly responsible. The representatives of the Committee provided numerous examples including that of a relative of one representative who was still missing.

83. The Committee had compiled a list of some 1,500 cases of disappeared persons which was only partial, since the situation in the country prevented parents from presenting their cases. The representatives gave details of the numerous steps taken by the Committee with the persons responsible for the forces which arrested the missing persons; its appeals had not brought any results. The Working Group was informed of the establishment of the Ministerial Commission charged with investigating the disappeared (see para. 80 above). The representatives of relatives stated that so far that Commission's only function had been to have the disappearances registered in the local police stations and that no prisoner had been released or found as a result of its work. The Committee of Relatives had asked to be associated with the work of the Ministerial Commission, but its request had been rejected. The Committee of Relatives asked the Working Group to intervene with the Ministerial Commission which, its representatives said, had all the information needed for an investigation in its files.

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

I. Cases transmitted to the Government by the Working Group (see para. 78 above)	206
II. Responses received from the Government relating to cases transmitted by the Working Group	0

Annex I: Nicaragua

Information reviewed and transmitted to the Government

85. The Working Group's previous activities in relation to Nicaragua appear in its three earlier reports.<sup>22/</sup> Since the renewal of its mandate in 1983 the Working Group has transmitted to the Government of Nicaragua reports on 55 disappearances submitted to the Working Group by a Nicaraguan human rights organization on behalf of the relatives of the missing persons. Of the 55 cases, 8 reportedly occurred in 1981, 33 in 1982 and 14 in 1983. Information was provided on the identity of the persons reported missing (first names, family names), the date and location of the arrest and in many instances the age and occupation were given; the most frequently reported occupations were farmer, miner, bricklayer, carpenter, and army reservist. The reports also contain some details about the persons responsible for the arrest: among those cited are the State security forces, militias or persons in civilian clothes and many reports also state that the persons were arrested for counter-revolutionary activities. Some of the reports transmitted to the Government contain details about the places where the persons were held after the arrest; among the most frequently cited are the prisons of Puerto Cabezas and Quinta Ye. Many reports also indicate that after the person had been detained in one of the above-mentioned places he was transferred to Managua.

86. 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 and stated that it was legally and materially impossible to investigate the cases which had occurred prior to the end of 1979. The Government did provide information with regard to five of the cases which occurred in 1980; two persons had been released, one was being held for trial and in two cases the investigation had produced no results. In 1982 the Group transmitted to the Government a report about the disappearance of a Salvadoran fishing boat and its eleven-man crew in Nicaragua in December 1981; the relatives reported receiving information that the boat had been seen in a Nicaraguan port, that the radio had announced its seizure and the missing persons had been seen in a specified prison. The Government of El Salvador submitted similar information. In 1982, the Government of Nicaragua informed the Working Group that following investigations, no information had been obtained on the whereabouts of the fishing boat.

87. Since the Working Group was established it has transmitted 136 reports of enforced or involuntary disappearances to the Government of Nicaragua as is indicated in the table at the end of this section. The years in which those disappearances reportedly occurred were: 1979, 60 cases; 1980, 10 cases; 1981, 19 cases; 1982, 33 cases; and 1983, 14 cases.

<sup>22/</sup> E/CN.4/1435, paras. 131-144 and annex XV; E/CN.4/1435/Add.1, para. 3; E/CN.4/1492, paras. 122-130 and annex XIV; E/CN.4/1492, Add.1, para. 14; E/CN.4/1983/14, paras. 82-86.

Information and views received from organizations representing relatives of missing persons

88. The Working Group received a letter from a human rights organization in Nicaragua which states that disappearances in Nicaragua have increased since the state of emergency was proclaimed on 15 March 1982, and that most disappearances result from mass arrests carried out by the security forces in the Atlantic and northern regions of the country. A substantial number of cases concern persons of Miskito origin who were arrested on the Atlantic coast between December 1981 and July 1982. The letter also states that these persons are kept in detention for an undetermined period of time under the pretext that an investigation is being carried out, and that relatives are not informed of their whereabouts. Furthermore, the letter reports that the state of emergency has rendered ineffective habeas corpus proceedings and other legal mechanisms used to locate missing persons.

Information and views received from the Government of Nicaragua

89. Since the renewal of its mandate, the Working Group has received information in writing from the Government of Nicaragua, and a representative of the Government met the Group during its tenth session. The government representative assured the Group of his Government's support for its work and commitment to reinforce respect for fundamental human rights. He also made some observations about the Group's report to the Commission on Human Rights at its thirty-ninth session, particularly relating to the 70 reports of enforced or involuntary disappearances that the Group had brought to his Government's attention in 1980 and 1981. He stated that his Government had already transmitted ample information that had also been made available to the Inter-American Commission on Human Rights which no longer considered those reports to concern disappeared persons. The representative also pointed out that his Government had already provided ample information in writing (letter dated 29 November 1982) concerning the reported disappearance in Nicaragua of a Salvadoran fishing boat and its eleven-man crew and that a Government representative had met the Group during its ninth session (December 1982). With regard to a relative's statement that the Salvadorans were being held at the Coyotepe Fortress he stated that it was no longer used as a detention centre and was currently a museum of the revolution. He gave the Group a photocopy of a letter from the International Committee of the Red Cross in Nicaragua in which it was stated that Red Cross delegates no longer visited the Coyotepe Fortress as it had been closed down in March 1981. The Government transmitted the same information in letters dated 6 and 30 June 1983.

90. In a letter dated 13 September 1983 the Government transmitted information on the two 1980 cases that the Group had first brought to its attention on 29 May 1981 and, at the Government's request, again on 19 May 1983. The Government reiterated the information it had transmitted on 31 August 1981 and commented on the nature of the two reports. Concerning the first report, the Government noted that, according to the relatives, the missing person had left his home and never returned, he was reported to have been held in Coyotepe Fortress, a member of the militia reported seeing him in the "Zona Franca" (free zone) and other information placed him in another country. In regard to those allegations, the Government stated that Coyotepe Fortress was no longer used to hold detainees; that members of the militia were neither members of the police nor of the army

and that they therefore had no access to detention centres, and that if the person was in another country, that country's authorities should be asked to provide information. With regard to the second case the Government pointed out that two different dates of arrest were given (June 1979 and 2 January 1980), that no mention was made of witnesses to the arrest nor was a description of the persons supposedly responsible for the arrest given. The Government stated that in June 1979 the Somoza regime was still in power and that the part of the report which alleged that the arrest took place on 2 January 1980 in Estelí also indicated that the person was seen on the same day in the "Zona Franca" (free zone) in Managua; however, Managua was 140 kilometres from the rural area of Estelí and transport in a single day was very difficult.

91. 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 transmitted to the Government by the Working Group (see paras. 85-87 above)	136
II.	Government responses	
	(a) Total responses received from the Government relating to cases transmitted by the Working Group	81
	(b) Cases clarified by the Government's responses <sup>23/</sup>	3

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23/ At liberty: 2  
In prison: 1.

The Government stated that 65 of the cases had been before the Inter-American Commission on Human Rights and that that Organization no longer considered them to be disappeared persons; in 13 cases the Government had no records of the person having been arrested.

J. Philippines

Information reviewed and transmitted to the Government

92. The Working Group's previous activities in relation to the Philippines are described in its earlier reports to the Commission.<sup>24/</sup> Since the extension of the Working Group's mandate, it has transmitted reports of 59 disappearances to the Government of the Philippines; 16 cases reportedly occurred in 1983 and the others in previous years (1 in 1979, 11 in 1980, 15 in 1981 and 16 in 1982). With regard to a number of other cases, the Group decided either to request further information from the sources or that they did not appear to fall within the limits of its mandate.

93. The majority of the cases transmitted dealt with disappearances in the rural areas. Not all reports contained such ample descriptions as those relating to other countries but they did include the name and family name of the person reported missing, the date and place of disappearance and generally information on nationality and sex. A quarter of the reports gave an indication of the profession of the missing person, such as farmer, construction contractor, fisherman, worker or businessman; two trade unionists and a lay church worker were also among those who had allegedly disappeared. As regards the circumstances of the disappearances, in most cases the person was arrested at home, at his place of work, or during a raid in the area. In some instances, details were given about the police or military forces responsible for the arrest, such as the Philippine Constabulary (PC), the Combined Security Unit (CSU) or the Military Intelligence Group (MIG); in certain cases the names of the persons in command were also provided. In other instances, the persons responsible for the arrest were described as wearing civilian clothes, using military vehicles or they were simply reported by the sources as belonging to the armed forces. Inquiries addressed by the relatives to the authorities about the missing person's whereabouts had yielded no results.

94. With regard to two of the 1983 disappearances (a trade unionist and a lay church worker), a non-governmental organization informed the Working Group that after their reported disappearance the persons had been presented to a court and charged with criminal offences; the Government of the Philippines confirmed this information with regard to one of the cases.

95. Prior to the latest extension of its mandate, the Working Group had transmitted 201 cases of disappearances to the Government; in most of those cases information on the circumstances of the arrest of the missing person, the place of detention, and the public forces involved was given and in some cases the existence of witnesses was reported. In 1982, the Government provided the following information on the cases transmitted: 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

<sup>24/</sup> E/CN.4/1435, paras. 145-149; E/CN.4/1492, paras. 131-137; E/CN.4/1492/Add.1, paras. 15-16; E/CN.4/1983/14, paras. 87-90.



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 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. The Government provided information on the legal protection of detainees, on the remedies available for complaints from citizens and on the difficulties of carrying out investigations in a large and populous country like the Philippines.

96. Since the Working Group was established it has transmitted 260 reports of enforced or involuntary disappearances to the Government of the Philippines as is indicated in the table at the end of this section. The years in which those disappearances reportedly occurred were: 1975, 7 cases; 1976, 46 cases; 1977, 28 cases; 1978, 32 cases; 1979, 50 cases; 1980, 44 cases; 1981, 21 cases; 1982, 16 cases; and 1983, 16 cases.

#### Information and views received from the Government of the Philippines

97. During the Working group's eleventh session it met the Permanent Representative of the Philippines to the United Nations Office at Geneva who renewed his Government's commitment to active co-operation with the Group and stated that, as soon as information was available from the investigations on outstanding cases, the Working Group would be informed. In a letter dated 11 August 1983, the Permanent Mission of the Philippines to the United Nations Office at Geneva referred to four reports of disappearances brought to the Government's attention by the Working Group in 1983; one person was in prison and no information was available on three others, the three cases were being investigated. Prior to its twelfth session, the Working Group, in a letter dated 28 October 1983, informed the Government of the Philippines that it would like to consider at that session any information the Government might wish to send in relation to the cases which had not been clarified.

98. 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 transmitted to the Government by the Working Group (see paras. 92-96, above)	260
II.	Government responses	
	(a) Total responses received from the Government relating to cases transmitted to it by the Working Group (see paras. 94, 95 and 97 above)	205
	(b) Cases clarified by the Government's responses <sup>25/</sup>	52
III.	Cases clarified by information from non-governmental sources <sup>26/</sup>	2

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<sup>25/</sup> Persons released from detention: 38  
Persons at liberty: 6  
Persons being detained: 1  
Persons whose death has been officially recorded: 7.

<sup>26/</sup> Persons arrested and in prison: 2.

K. Uruguay

Information reviewed and transmitted to the Government

99. In its first three reports,<sup>27/</sup> the Working Group informed the Commission about enforced or involuntary disappearances in Uruguay. Since the extension of its mandate in 1983, the Working Group has transmitted reports concerning nine disappearances to the Government of Uruguay; three occurring in Uruguay and six in Argentina. In the three cases which reportedly occurred in Uruguay, the arrests took place in 1983; two of these persons were later released and the third was located in a Uruguayan prison. Concerning the six disappearances which reportedly occurred in Argentina, five of the persons were arrested in 1977 and one in 1978. In four of the six cases, the missing person was reportedly seen by former detainees in detention centres under the authority of Uruguayan military personnel and in two cases information was provided on the transfer of the missing person to Uruguay.

100. Since it was established, the Working Group has transmitted reports on the disappearance of 43 persons to the Government of Uruguay; 19 of those allegedly occurred in Uruguay and 24 outside that country (22 in Argentina and 2 in Paraguay). The years in which these disappearances took place are: in 1974, 1; in 1975, 2; in 1976, 11; in 1977, 16; in 1978, 7; in 1980, 2; in 1981, 1; and 3 in 1983. In those cases occurring outside Uruguay the missing person was reported to have Uruguayan nationality and to have been arrested or held in detention by Uruguayan security forces. The Government informed the Working Group that the two persons who were reported to have disappeared in Uruguay in 1980 were being held in prison.

101. In 1983, the Working Group wrote to the Government of Uruguay and reviewed the information on enforced or involuntary disappearances which had been transmitted to that Government, requesting clarification of those cases which had not yet been resolved. The unresolved cases concerned reports of the disappearance of 13 persons in Uruguay, 22 Uruguayan nationals in Argentina and 2 Uruguayan nationals in Paraguay. Copies of the reports of the disappearances were also transmitted and 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; the Organization for the Co-ordination of Anti-Subversive Operations (COCA) and various military units were reportedly responsible for the arrests. In connection with those cases occurring in Argentina, a list was provided of reports by 10 persons who stated they were held in detention centres in Argentina, that Uruguayan officials were involved in the arrest of Uruguayan nationals in Argentina and in the running of the detention centres, and that Uruguayan nationals were transferred from Argentina to Uruguay. With regard to the two Uruguayans who disappeared in Paraguay, the Group provided copies of reports by three persons who stated that they were held in the same cell in Paraguay with the missing persons who were subsequently transferred to Uruguay. In its letter, the Working Group noted that some of the above-mentioned reports of former detainees had been

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<sup>27/</sup> E/CN.4/1435, paras. 150-163 and annex XVI; E/CN.4/1435/Add.1, para. 5; E/CN.4/1492, paras. 142-147 and annex XVI; E/CN.4/1492/Add.1, para. 18; E/CN.4/1983/14, paras. 91-95.

taken into consideration by the Human Rights Committee when it found that Uruguayan officers had been involved in the detention of a Uruguayan national in Argentina and in the transfer of that person to Uruguay.

Information and views received from relatives of missing persons and their organizations.

102. Relatives' organizations sent the Working Group expressions of their deep concern at the Government's indifference in the face of concrete and duly documented facts about disappearances. The relatives referred to the Government's announcement in October 1976 that 62 "subversives" had been arrested, but pointed out that subsequently the identities of only 20 of them had ever been determined; they expressed the fear that the remaining 42 corresponded to the 42 Uruguayan nationals arrested in Argentina up to October 1976 whose whereabouts remained unknown. The relatives stated that, in fact, up to October 1976 a total of 62 Uruguayans had been arrested in Argentina; the detention of 20 was subsequently officially acknowledged, as they were transferred to Uruguay where some were placed in prison and others were released. The United Nations High Commissioner for Refugees, on 20 July 1976, had appealed to the Government of Argentina on behalf of 19 Uruguayan refugees including 14 who had been arrested in Argentina and were eventually placed in prison in Uruguay. The relatives hope the identities and fate of the 42 unidentified "subversives" will be investigated. Their concerns were brought to the attention of the Government in 1983.

103. Relatives of two persons who disappeared in 1975 and 1976 in Uruguay transmitted to the Working Group two documents of the Human Rights Committee containing the Committee's view that the authorities of Uruguay were responsible for the detention of the missing persons; the Committee requested the Government to take effective steps to establish what had happened to them. The relatives stated that no steps had been taken and asked the Working Group to continue its consideration of the cases in order to obtain the needed information. The Working Group transmitted these requests to the Government in 1983 and requested any views the Government might wish to present.

Information and views received from the Government of Uruguay

104. The Working Group informed the Commission on Human Rights at its thirty-ninth session about the general and specific information received from the Government of Uruguay in 1980, 1981 and 1982.<sup>28/</sup> The Working Group reported, *inter alia*, that the Government had asked that disappearances be considered within the context of the general situation and conditions prevailing in Uruguay during the period of internal turmoil and had stated that, in fighting subversion, government forces had acted in accordance with the law and that all criminals had been brought before the courts and judged. The Government asked that the problem of missing persons be given its real dimension. Of the 100 or so cases reported only 8 or 10 had allegedly taken 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 occurring 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. In addition to general information, the Government provided the following information regarding specific cases which reportedly occurred in Uruguay: arrest warrants had been issued with regard to 11 persons who were still being sought; three persons had been registered in an hotel far away from the reported place of disappearance on the day they allegedly disappeared; one person had left the country; one had escaped from prison; no information was available on another two persons and three people who reportedly disappeared in 1980 and 1981 were in prison.

105. Since the extension of its mandate in 1983, the Working Group has received information from the Government of Uruguay concerning three cases of disappearances which occurred in 1983 and were transmitted to the Government. The Government informed the Working Group that two of those persons had been released while the third was in prison. In relation to a decision of the Human Rights Committee referred to in a letter from a relative which was transmitted by the Working Group to the Government of Uruguay, the Government stated that it had informed the Human Rights Committee that the person was being sought on subversion charges. The Committee had subsequently adopted a decision which contained terms the Government considered offensive and the Government had criticized the Committee because its procedures disregarded legal rules relating to presumption of guilt and because of the haste of its decision. The Government continued to co-operate with the Committee, but objected to the specific action taken because no review machinery was provided for decisions which in some cases were taken without the usual guarantees as to evidence.

106. During its twelfth session the Working Group met the representative of Uruguay to the Commission on Human Rights who reviewed the full co-operation his Government had given the Working Group since its establishment and reiterated his Government's commitment to continue that co-operation. The Working Group had achieved important results and Uruguay had supported it in the Commission on Human Rights. In the past, Uruguay had provided as much information as was possible on the individual cases presented; the Group's renewed request had been transmitted to the competent authorities in Uruguay and the response of the Government would be given as soon as possible.

107. Each individual case was a matter of deep concern for the Government. On the few cases which were reported to have occurred in Uruguay and remained unclarified the investigation remained open. The Government had given special attention to those Uruguayan nationals who had disappeared outside the country. There were 122 such cases unclarified to date and a special office had been established in the Foreign Ministry to receive the relatives' reports and assist in the search for the missing person. The work of the office included approaches on the diplomatic level and assistance to relatives in court proceedings in the country of disappearance; in some cases the results were positive and the missing person had been found. A full file had been submitted to the Inter-American Commission on Human Rights showing the steps taken by the Government of Uruguay to protect its nationals who disappeared in other countries. With regard to the statements of persons who claimed that they had been transferred to Uruguay from a neighbouring country, some of those statements had been made after the persons concerned had been released from detention and had come to Europe. The persons concerned had been arrested in

Uruguay, some had been released and others had been charged and tried in court; today the majority were free. It was to be emphasized that Uruguayan security services, in the difficult period of terrorism, had acted to arrest the persons concerned and not to make them disappear. Those services were not responsible for disappearances.

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

I. Cases transmitted to the Government by the Working Group (see paras. 99-100 above) 43

II. Government responses

(a) Total responses received from the Government relating to cases transmitted by the Working Group (see para. 104-105 above) 24

(b) Cases clarified by the Government's responses<sup>29/</sup> 6

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<sup>29/</sup> Persons released from detention: 2  
Persons arrested and in prison: 4.