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

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Working Group on Enforced or
Involuntary Disappearances

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Annex

Graphs showing the development of disappearances for the period
1974-1988 in countries with more than 50 transmitted cases.

Introduction

1. The Working Group presents herewith to the Commission on Human Rights the ninth report on its work, together with its conclusions and recommendations as requested by the Commission on Human Rights in resolution 1988/34. In preparing its report, the Group has kept in mind the many valuable comments and suggestions made during the Commission's debate in March 1988.
2. The report follows the pattern adopted last year, which was described in the introduction of the Working Group's report to the Commission at its forty-fourth session (E/CN.4/1988/19, paras.1-5). The Group hopes that the improved structure of the report and the graphs included as an annex to it will facilitate understanding of the extent and, in certain cases, the preoccupying persistence of the abhorrent practice of disappearances.
3. During 1988, the Working Group dealt with with some 3,500 cases which occurred in 24 countries. Three hundred and ninety-two cases were reported to have occurred in 1988 in 15 countries. Cases reported or replies received after the last session of the Working Group (30 November-9 December 1988) have not been included in the statistics, with the exception of those situations to which, in accordance with the Group's methods of work, the urgent action procedure was applied.
4. At the request of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Group examined the draft declaration on the protection of all persons from enforced or involuntary disappearances prepared by its Working Group on Detention (see E/CN.4/Sub.2/1988/28, annex). The Working Group intends to pursue consideration of the subject at its first session in 1989 with a view to providing the Sub-Commission's Working Group on Detention with observations based on the most up-to-date information received on the matter.
5. At the invitation of the Government of Colombia, two members of the Working Group carried out a visit to that country. The report on the visit is contained in the addendum to the present report. As in the case of previous visits, the country section on Colombia in the main report has been maintained, but essentially provides information on decisions taken by the Group in regard to the country as well as the customary statistical summary. Statements by representatives of the Government and the views of non-governmental organizations are described in the report on the visit.

II. ACTIVITIES OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES IN 1988

A. Legal framework for the activities of the Working Group

6. The legal framework for the activities of the Working Group has been extensively described in its reports to the Commission on Human Rights at its forty-first and forty-second sessions.^{1/}

7. At its forty-fourth session, the Commission on Human Rights, in its resolution 1988/34, decided, in accordance with the recommendations of the Working Group, to extend the Group's mandate for a further two years, as laid down in Commission on Human Rights resolution 20 (XXXVI), so as to enable the Group to take into consideration all information communicated to it on the cases brought to its attention, while maintaining its annual reporting cycle. The Commission repeated several provisions of its previous resolutions on the subject and thanked the Working Group, in particular, for formulating its methods of work explicitly and in detailed fashion and for recalling the humanitarian spirit underlying its mandate. It again urged the Governments concerned to take steps to protect the families of disappeared persons against any intimidation or ill treatment to which they might be subject; requested the Secretary-General to consider ways and means of better publicizing the objectives, procedures and methods of the Working Group, more particularly within the framework of the information activities of the Centre for Human Rights; and encouraged the Governments concerned to give serious consideration to inviting the Working Group to visit their country, while expressing its profound thanks to those Governments which had already done so.

B. Meetings and mission of the Working Group

8. In 1988 the Working Group held three sessions. The twenty-fourth session in New York from 23 to 27 May, the twenty-fifth and the twenty-sixth sessions in Geneva from 12 to 16 September and from 30 November to 9 December respectively. During those sessions, the Working Group held 14 meetings with representatives of Governments and 28 meetings with representatives of human rights organizations, associations of relatives of missing persons, families or witnesses directly concerned with reports on enforced or involuntary disappearances. As in previous years, the Working Group examined information on enforced or involuntary disappearances received from both Governments and the above-mentioned organizations and individuals and decided, in accordance with its methods of work, on the transmission of the reports or observations received to the Government's concerned. On the basis of the information received, the Working Group also took decisions concerning clarification of the relevant cases.

9. In accordance with paragraph 10 of resolution 1988/34 and following an invitation by the Government, two members of the Working Group carried out a mission to Colombia from 24 October to 2 November 1988. The report on the visit was considered and approved by the Working Group at its twenty-sixth session and is contained in addendum 1 to the present report.

C. Communications with Governments, non-governmental organizations and relatives of missing persons

10. In 1988 the Working Group received some 4,200 reports on enforced or involuntary disappearances and transmitted 3,440 newly reported cases to the Governments concerned; 392 of these cases were reported to have occurred in 1988. Among the cases which occurred in 1988, 60 were clarified in the same year (50 under the urgent action procedure). The remaining cases were referred back to the sources because they lacked one or more elements required by the Working Group for their transmission. The Working Group also reminded Governments of the outstanding cases and, when requested, retransmitted the summaries of those cases to them. Governments were also informed about clarification of, or new information on, previously transmitted cases, as reported by the sources.

11. By a letter dated 30 September 1988, the Working Group drew the attention of the Governments of El Salvador, Iran (Islamic Republic of), Iraq, the Philippines and Sri Lanka to the fact that the Commission on Human Rights, in resolution 1988/34, encouraged Governments concerned with disappearances to give serious consideration to inviting the Working Group to visit their country, so as to enable the Group to fulfil its mandate even more effectively and that the General Assembly had expressed itself in similar terms in its resolution 42/142. The Working Group stated that it considered such visits extremely useful for achieving a more thorough understanding of the situation of disappearances in the countries concerned, and expressed the belief that a visit to the countries mentioned would make an important contribution to its understanding of outstanding matters which fell within its mandate.

12. At the request of the United Nations Educational, Social and Cultural Organization (UNESCO), the Working Group sent to it copies of its reports, which were considered by the Committee on Conventions and Recommendations of the Executive Board of UNESCO. Decisions taken by the Committee in relation to cases considered by the Working Group were communicated to it together with the comments on the Working Group's report by one of the Committee's members, who expressed satisfaction at the Working Group's decision to retain on its files all unsolved cases of disappearances, irrespective of political changes in the countries concerned. According to that member, the Working Group's position reflected a basic ethical principle.

13. The Group received several invitations from non-governmental organizations to attend meetings and other events organized by them with regard to the problem of disappearances. Due to time and financial constraints, the Group was unable to attend those events, but in all cases it expressed its wish to receive information on the results of the meetings. Among the invitations received, that of the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM) to its VIII Congress in Bogota and that of the Grupo de Iniciativa para una Convención Internacional contra la Desaparición Forzada de Personas (Initiative Group for an International Convention against Enforced Disappearances) to its colloquium in Buenos Aires had on their agenda the question of the adoption of an international instrument on enforced disappearances. As in previous years, the Group continued to receive petitions from private individuals and organizations expressing support for the adoption of such an instrument.

14. The Coalition of Non-Governmental Organizations Concerned with Impunity for Violators of Human Rights submitted a "Statement of concern on the practice of disappearances in Latin America, with a view to its definite halting, banning and elimination", which, while expressing alarm over the crime of disappearance (because of its cruelty, the massive number of victims and the fact that it constituted a means of covering up many other human rights violations), emphasized the responsibility of the States concerned as well as the need for exhaustive investigations and punishment of the perpetrators. The statement included the following suggestions:

(a) As far as the State is concerned, its responsibility should not end when there is a change in Government; it ends only if the victims are returned safely to their families. In accordance with the principle that the State is responsible for guaranteeing the safety of all citizens, when a disappearance occurs, the State should ensure that this obligation is carried out by: (i) fully investigating the whereabouts of the person who has disappeared and paying for the costs of such investigation; (ii) assuming responsibility for the economic obligations of the person who has disappeared, as long as he/she is missing or permanently if the person is found dead; (iii) providing for economic compensation after a certain period, to be established by law, in addition to the role described under (ii); (iv) fulfilling the obligations described above if a person is killed soon after having been abducted;

(b) Responsibility for action or lack of action regarding disappearances should always be shared by high-ranking officials of the State and high-ranking officers of the armed forces. This should force action at all levels and help to break the absolute silence imposed on the various people involved under the assumption that, if no one talks, no one can be blamed;

(c) With regard to persons responsible for disappearances or for their cover-up, it is suggested that: (i) they should not be entitled to receive amnesty, should not have the right to political asylum and should be subject to extradition; (ii) they should be suspended from political life within the country as long as their situation has not been sufficiently clarified; (iii) no governmental official should be able to claim that he/she was mandated to discontinue investigations of the whereabouts of missing persons or to identify those responsible for the disappearances.

15. Local and regional organizations also submitted reports about the general framework within which enforced or involuntary disappearances occur in each country. The information provided describes obstacles and problems faced by relatives in their efforts to locate the missing persons and, in particular, shortcomings in the application of legal provisions established for the protection of human rights, either because judges did not discharge properly their obligation to investigate the reported facts thoroughly or because the rules and legal systems entrust the investigation of offences committed by military police and security personnel to military tribunals which did not carry out impartial investigations. Furthermore, in certain countries where disappearances occurred on a large scale, investigation of the whereabouts and fate of missing persons had been discontinued following amnesty laws which grant impunity to those responsible for such abhorrent crimes.

16. During the period under review, the Working Group received an increasing number of reports of persons who disappeared and were found dead some days or weeks later. In certain countries the execution of detainees without due process of law after short periods of interrogation, often under torture, threatens to become a general practice. The Working Group received several requests for urgent action which were not transmitted to the Governments concerned because it was advised, shortly after receipt of the request, that the dead body of the missing person had been located. In such cases, the Working Group considers that the fate of the missing person has been clarified and transmits the information to the Special Rapporteur on summary or arbitrary executions. However, the Group is deeply concerned about this type of disappearance which seems to have increased during the period under review.

17. 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. The Working Group has noted with dismay allegations of harassment of and threats directed against individuals and members of those organizations and associations and wishes to stress once again the responsibility of Governments for protecting their personal safety and freedom and for making every effort to prevent such intimidation and persecution. With regard to these situations, the Working Group has expressed very serious concern in its letters to the Governments of the countries in which such persecution has been alleged.

18. The Working Group again considered reports and petitions received from the Grandmothers of the Plaza de Mayo concerning four children believed to have been born during the detention of their mothers (who are still missing) and allegedly found in the hands of former military and police personnel, who had absconded with the children to Paraguay when Argentine courts had ordered haematogenic tests in order to determine consanguinity with the father and/or the grandparents (see E/CN.4/1988/19, para. 13). The disappearance of these children was reported to the Working Group years ago and the cases remain unclarified in its files. On this basis, the Working Group decided to request the Government of Paraguay to take urgent steps to establish beyond doubt the identity of the four children.

19. The following organizations, with which the Working Group had contacts during the current year, should be added to the list contained in the last four reports:

Academia Mexicana de Derechos Humanos (Mexican Academy of Human Rights), Mexico D.F.;

Association pour la défense des libertés et des prisonniers politiques en Syrie (Association for the Defense of Freedoms and Political Prisoners in Syria), Geneva;

Colegio de Abogados del Uruguay (College of Lawyers of Uruguay), Montevideo;

Comisión de Madres y Familiares de los Detenidos-Desaparecidos Alemanes y con Ascendencia Alemana en la Argentina (Comission of Mothers and Relatives of Disappeared Detainees of German Origin or Ancestry in Argentina), Buenos Aires;

Comitato per la Difesa dei Diritti Umani in Siria (Committee for the Defence of Human Rights in Syria), Torino, Italy;

Comité de Solidaridad con los Presos Políticos (Committee of Solidarity with Political Prisoners), Bogotá;

Confederación de Nacionalidades Amazónicas del Perú (CONAP)
(Confederation of Amazonian Nationalities of Peru, Lima;

Federación de Comunidades Nativas Yaneshas de Perú (FECONAYA)
(Federation of Yanasha Indigenous Communities of Peru) Villa Rica, Perú;

Free Legal Assistance Group (FLAG), Quezon City, Philippines;

Grupo de Inicitativa para una Convención Internacional contra la Desaparición Forzada de Personas (Initiative Group for an International Convention against Enforced Disappearances), Buenos Aires;

Movimiento Ecuménico por los Derechos Humanos (MEDH), (Ecumenical Movement for Human Rights), Buenos Aires;

Sikh Human Rights Group, Ottawa.

D. Development of methods of work

20. In its report to the Commission at its forty-fourth session, the Working Group described in detail the methods of work it has developed with a view to ensuring that sufficiently documented and clearly identified individual cases which families have brought to the Group's attention, directly or indirectly, are investigated and the whereabouts of the missing persons clarified.

21. This year, the Working Group continued to consider specific matters relating to its methods of work, taking into account the comments made by several representatives of Member States in the debate during the forty-fourth session of the Commission on Human Rights. The Working Group noted, in particular, that several delegations had emphasized the need to act expeditiously and impartially in the consideration of cases.

22. As in the past, some Governments have requested the Working Group to provide further identity data and information on the sources of the reports. Some of the details requested were not within the basic information required by the Working Group for the transmission of cases to Governments. In relation to these requests, the Working Group decided to urge the sources of the reports to furnish as many details as possible on the identity of the missing persons, including those asked for by the Governments concerned. However, the Group also informed the Governments concerned and the sources that it would continue to transmit cases in which the minimum elements required were included.

23. In addition to the methods of work described in its report to the Commission at its forty-fourth session (see E/CN.4/1988/19, paras. 16-30), the Working Group decided on the following supplementary rules:

(a) Reports on a disappearance indicating that officials from more than one country were directly responsible for or involved in a disappearance would be communicated to both the Government of the country where the disappearance occurred and the Government of the country whose officials or agents were alleged to have participated in the arrest or the abduction of the missing person. However, the case would only be counted in the statistics of the country in which the person was reportedly held in detention or last seen;

(b) In the case of the disappearance of a pregnant woman, the child presumed to have been born during the mother's captivity would be mentioned in the description of the case of the mother. The child would be treated as a separate case when witnesses reported that the mother had actually given birth to a child during detention.

24. The Working Group has corrected its statistics in accordance with these two rules and informed the Governments concerned accordingly.

E. Draft declaration on the protection of all persons from enforced or involuntary disappearances prepared by the Working Group on Detention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

25. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, by its resolution 1988/17, requested the Secretary-General to transmit the annex to the report of its Working Group on Detention entitled "Draft declaration on the protection of all persons from enforced or involuntary disappearances" to Governments, the Centre for Social Development and Humanitarian Affairs, the Working Group on Enforced or Involuntary Disappearances, intergovernmental and non-governmental organizations for comments and suggestions. Having examined the text submitted to it and observations on that text transmitted to the Working Group by non-governmental organizations, the Group feels that some further elaboration on this matter is needed to contribute to the objective of several resolutions of the General Assembly and the Commission on Human Rights, namely the elimination of enforced or involuntary disappearances. The Group, therefore, decided to study the matter in depth at its twenty-seventh session, scheduled for April 1989, with a view to transmitting its observations on the draft declaration to the Sub-Commission at its forty-first session.

F. Judgement rendered by the Inter-American Court of Human Rights on a case of enforced or involuntary disappearance

26. On 29 July 1988, the Inter-American Court of Human Rights rendered judgement on a case submitted by the Inter-American Commission on Human Rights concerning the disappearance in Honduras of a person whose name also appears in the Working Group's lists relating to Honduras.

27. The Working Group wishes to emphasize the importance of the fact that the Inter-American Commission brought this case to the attention of the Court and asked it to pronounce thereon, since this establishes a precedent for the investigation and judgement of an enforced disappearance by a supranational

judicial organ. The Group further wishes to emphasize the co-operation extended by the Government of Honduras, which accepted the jurisdiction of the Inter-American Court. It should also be pointed out that this precedent is a vital link in the long chain of measures which the international community has taken and must continue to take with a view to eliminating disappearances.

28. As can be seen from a reading of the judgement, the Inter-American Court carried out a thorough investigation and complied scrupulously with all the procedural steps provided for in its Statutes, affording both parties to the legal dispute the possibility of presenting and defending a substantial amount of documentary evidence and testimony. The Court also adopted provisional measures to protect the witnesses in the case in the light of threats received by them. As a result of the murder of two of the witnesses, the Court called upon the Government of Honduras to adopt immediate measures to prevent further violations of the fundamental rights of persons who had appeared or had been summoned to appear before the Court in connection with this and other cases of disappearance still under investigation.

29. The Inter-American Court analysed various substantive legal matters. For instance, the Working Group noted that, in analysing the preliminary objection raised by the Government of Honduras concerning the exhaustion of domestic remedies as a requirement for declaring the cases admissible, the Court found that "while there existed in Honduras, at the time when the disappearances occurred, legal remedies which might have made it possible to trace a person detained by the authorities, such remedies were ineffective, both because the detention was clandestine and because, in practice, they ran up against red tape which rendered them inapplicable or because the authorities against whom they were exercised simply ignored them or because attorneys and sheriffs were threatened or intimidated by those authorities" (para. 80 of the judgement of the Inter-American Court on Human Rights of July 29, 1988). In this respect, the Court laid down the criterion that domestic remedies must be adequate to find the person allegedly detained by the authorities, ascertain whether the detention is lawful and, as appropriate, obtain his release. They must also be effective, namely, capable of producing the result for which they were conceived (paras. 62-73).

30. Another legal consideration put forward by the Court which is of special importance is that the criteria for assessing evidence in an international court are less formal than under domestic legal systems, since international protection of human rights must not be confused with criminal justice. According to the Court, in proceedings concerning violations of human rights, the State cannot base its defence on the inability of the applicant to adduce evidence which, in many cases, cannot be obtained without the co-operation of the State, since it is the State that controls the means of clarifying events that occur within its territory (paras.127-136).

31. The Court made a detailed analysis of the internationally recognized principle of the State's responsibility for human rights violations committed within its territory and its obligation to prevent such violations or to investigate them where they have occurred (paras. 172-177). It declared that such responsibility continued to exist, irrespective of changes of Government, even though the new Government showed greater respect for human rights than the Government in office at the time when the violations had occurred (para. 184).

32. The Court also reaffirmed the principle that, although the State had the right and duty to safeguard its own security, it was inadmissible for it to exercise authority without any restrictions and use any means to attain its objectives without complying with law or morality, since no activity of the State could be based on contempt for human dignity (para. 154).

33. These considerations were put forward by the Inter-American Court in analysing enforced disappearances as a practice condemned by the international community which, as stated in the judgement, has repeatedly held them to be a crime against humanity. The Court considered that the enforced disappearance of human beings constituted a multiple and continuing violation of numerous rights, particularly those relating to the liberty, physical, mental and moral integrity and life of the person (paras. 155-158). In its analysis, the Court stressed that disappearances violate a broad range of fundamental rights and that, since they constituted a continuing violation, legal sanctions could not be subject to the same statutory limitations as applied to other offences which were committed within a specified time-frame. Consequently, the obligation of the State to investigate disappearances continued to exist for as long as uncertainty remained concerning the ultimate fate of the disappeared person, even assuming that legitimate circumstances having to do with the internal legal order did not enable the relevant penalties to be applied to those who were individually responsible for offences of that kind (para. 181).

II. INFORMATION CONCERNING ENFORCED OR INVOLUNTARY
DISAPPEARANCES IN VARIOUS COUNTRIES
REVIEWED BY THE WORKING GROUP

Afghanistan

Information reviewed and transmitted to the Government

34. The Working Group's activities in relation to Afghanistan are recorded in its last two reports to the Commission.^{1/}

35. During 1988 the Working Group did not receive any new reports of disappearances in Afghanistan. However, by letters dated 20 June and 30 September 1988, the Government was reminded of the four outstanding cases of disappearance which date back to 1985 and were first transmitted in October 1986. In response to its request of 12 October 1988, the Government was provided with summaries of those cases; but at the time of the preparation of the present report it had not communicated to the Working Group any information on investigations carried out by the authorities.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	4
III. Total number of cases transmitted to the Government by the Working Group ^{a/}	4
IV. Government responses	0

^{a/} In a letter to the Under-Secretary-General for Human Rights dated 28 January 1988, the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan stated that the number of cases of disappearance reported by the Working Group did not seem to cover the reality, and expressed the view that the Group should look into that problem. He cited as many as 30,000 persons missing since the period 1978-1979. In his latest report to the General Assembly (A/43/742) the Special Rapporteur stated that he had been informed of cases of disappearance during the period under consideration but had not been able to verify the allegations, and in his recommendations he stated that the fate of missing persons should be investigated, in particular in respect of those reported missing prior to December 1979. It should be noted in this regard that, in accordance with its methods of work, the Working Group can only take action if such reports are substantiated by sufficiently documented and clearly identified individual cases which the families, directly or indirectly, have brought to the Group's attention.

AngolaInformation reviewed and transmitted to the Government

36. The Working Group's activities in relation to Angola are recorded in its last five reports to the Commission. 1/

37. The Group has received no reports of disappearances occurring in Angola after 1977. By a letter dated 29 July 1988, the summaries of the seven outstanding cases dating back to 1977 were retransmitted to the Government upon its request. By letters dated 20 June and 30 September 1988, the Working Group reminded the Government of the outstanding cases. Despite repeated efforts by the Working Group to obtain a reaction from the Government of Angola to the reported disappearances, which were first transmitted to it in 1983, no response whatsoever has been received to date.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	7
III. Total number of cases transmitted to the Government by the Working Group	7
IV. Government responses	0

ArgentinaInformation reviewed and transmitted to the Government

38. The activities of the Working Group in relation to disappearances in Argentina are recorded in its last eight reports to the Commission. 1/

39. It should be noted that the Group has received no reports of disappearances having occurred in Argentina after 1983.

40. By letters dated 20 June, 30 September and 9 December 1988, the Working Group transmitted to the Government 25 newly reported cases dating back to the period 1974-1978 and provided it with updated information on 14 cases transmitted previously. As regards the five cases transmitted by the Group on 9 December 1988 it must be understood that the Government could not respond prior to the adoption of the present report. In its letter of 9 December 1988, the Working Group advised the Government that, on the basis of information provided by the Government and the source, it had considered 21 cases clarified and that two of the children reported to have been born in captivity had been located by the Grandmothers of the Plaza de Mayo and reintegrated in their legitimate families by a court decision.

41. In its letter of 20 June 1988, the Working Group reminded the Government of all outstanding cases in the Working Group's files. By a letter dated 14 July 1988, the Government requested the summaries of all the cases mentioned in the Working Group's letter. In order to provide an accurate picture of all outstanding cases, the files were reviewed and it was found that 15 cases were duplicated and that eight clarifications corresponded to children born during their mother's detention who had later

been found. Those cases had been transmitted to the Government only in relation to the mother's case without being counted as independent cases and had erroneously been added to the statistics as reported clarifications. The statistics have been adjusted accordingly. In this connection, the Working Group also revised its lists of missing children born during their mother's detention and found that it or the Argentine authorities had received testimony regarding the actual birth of 33 such children. It thus decided to include the 33 cases in its list of missing persons in Argentina, according to the decision taken in relation to children born during their mothers' detention (see para. 23).

Information and views received from relatives of missing persons or from non-governmental organizations

42. Eighteen of the newly reported cases were submitted by the Group of Mothers and Relatives of Missing Uruguayan Detainees (GMFUDD). They were among more than 100 Uruguayan nationals who disappeared in Argentina; 80 of the cases had already been transmitted to the Government of Argentina. Two of the newly reported cases were transmitted by the Grandmothers of the Plaza de Mayo (a pregnant woman and her husband, whose child is also being sought by his grandfather) and five by the Commission of Mothers and Relatives of Disappeared-Detainees of German Origin or Ancestry, which also provided further information on another 11 cases previously transmitted to the Government.

43. Several statements concerning Act No. 23.521 (the so-called "due obedience law", see E/CN.4/1988/19, paras. 41 and 45) were submitted by the above-mentioned organizations and also by the Centre for Social and Legal Studies, Relatives of Disappeared Persons and Persons Detained for Political Reasons, Mothers of the Plaza de Mayo (Línea Fundadora), and the Oecumenical Movement for Human Rights. These organizations stated that Act No. 23.521 excluded from penal responsibility most accused or convicted military, police, security and prison personnel, and they also pointed out that the Act prevented relatives of the missing persons from clarifying the fate of their dear ones. They stressed the fact that although seven of the highest ranking officers had been tried and convicted, that had not been the case for the majority of military personnel implicated in disappearances.

44. The Working Group has also received reports and files concerning missing children from the Grandmothers of the Plaza de Mayo and Amnesty International. These organizations indicated that although legislation passed in Argentina had left most of those accused of past involvement in disappearances and torture unpunished, prosecutions were indeed continuing against those responsible for abducting children. The Government had taken a number of steps to help those children, including the creation of the Genetic Data Bank (BNDG) which would facilitate the genetic tests required to support consanguinity claims. However, due to lack of certain technical resources, the bank had lately been subject to delays in its operation in relation to cases in which the identity of the children found should have been urgently established.

45. One organization further stated that the Government had recently appointed four members of the judiciary to deal specifically with the problem of missing children and it was also considering the submission to Parliament of a draft law to establish the post of Protector of Missing Children.

46. Several organizations expressed their concern regarding children taken to Paraguay by Argentine couples who had been involved in disappearances or other human rights violations under the military régime and who had registered those children as their own.

Information and views received from the Government

47. By a note verbale dated 15 September 1988, the Government of Argentina transmitted to the Working Group observations related to the problem of disappearances in Argentina in which it was stated, inter alia, that the cases transmitted by the Working Group dated back to the period prior to 1983 and that the Government had on numerous occasions proved its unshakeable determination to move the democratic process forward in respect of the provisions of the Constitution and full implementation of the international instruments relating to human rights.

48. As for Act No. 23.521, it had been adopted by a legislature which was the outcome of a democratic process and, when those who considered that their rights had been infringed as a result of its adoption had brought claims of unconstitutionality, these had been overturned by the Supreme Court of Justice. The judgement of the Court, with varying reasons given by four of its members, and a dissenting opinion by the fifth, was clear proof of the independence of the Argentine judiciary. The objective of the Act was to limit punishment for violation of human rights to those officials who had been involved in drawing up the plan of repression that incorporated serious violations of human rights.

49. Act No. 23.521 did not erase the truth about what had happened or deny what was common knowledge, neither did it equate the perpetrators of the acts with the mentors of an ideological plan with dire implications for the life of the nation. It had been preceded by four years of investigation and extensive research into the repression unleashed by the military régime and did not exclude the prosecution of senior officers who could be convicted for their responsibility for human rights violations. The Act did not preclude the possibility of instituting proceedings in civil courts or of bringing criminal actions for offences, such as the unlawful appropriation of children, rape and transfer of property by extortion. Nor did it create obstacles to the clarification of the fate of missing persons, since commanders-in-chief, chiefs of zones and sub-zones and chiefs of police or penitentiary forces who had decision-making power or had taken part in the elaboration of orders were not covered by its provisions. After four years of investigation, it had been established that it was precisely at that level of the military hierarchy that criminal plans had been conceived and the fate of the missing persons decided. There were at present 17 high ranking officers on trial for crimes committed under the military government.

50. In the same note verbale, the Government provided information on 18 cases of Uruguayan nationals and two cases of missing children, indicating that they had been submitted for investigation to various courts. On 10 of those cases, the same information had been received in 1987. Attached to the note verbale were Act No. 23.466 entitled "Non-contributory pension for relatives of missing detainees" and Act No. 23.511 relating to the establishment of the Genetic Data Bank.

51. By a note verbale dated 27 October 1988, the Government provided replies on 80 cases, regarding which similar information had been received in previous years from the Government and/or the sources. In 76 of those cases the reply indicated that an investigation was being carried out by various courts. As for the other two cases, the reply concerned one child who had been located and reintegrated in her family and a second child taken to Paraguay by persons whose extradition had been requested.

52. Representatives of the Government of Argentina met with the Working Group at its twenty-sixth session and stated that, since the democratic Government had come to power, several measures had been adopted with a view to clarifying in depth disappearances which had occurred under the military government. These measures included the setting up of the National Commission on the Disappearance of Persons (CONADEP), which had produced the report "Nunca Más", informing public opinion of the methodology used by government forces in thousands of disappearances (See E/CN.4/1985/15, paras. 97-108). After the publication of this report, the task initiated by CONADEP had been entrusted to the Subsecretariat on Human Rights of the Ministry of the Interior, which continued to file complaints related to disappearances before the courts.

53. The representatives further stated that the Government had also established, under the Subsecretariat on Human Rights, an advisory technical commission for the exhumation and identification of bodies and that legislation granting pensions to relatives of disappeared persons had been enacted by the parliament. Applications to obtain this benefit had been submitted by 4,300 persons; benefits had been granted to 1,818 of the applicants and were already being paid to 1,681 of them.

54. In relation to missing children, the Government had appointed an advisory commission to analyse the existing information that could eventually lead to the location of missing children and had set up the National Genetic Data Bank to obtain and store the genetic information needed to establish scientifically the identity of children thought to be those being sought by their relatives. The President of the Republic had appealed to the population to co-operate in the search for missing children. Recently, at the request of the Grandmothers of the Plaza de Mayo, the Government was considering a draft law to appoint a Protector of Missing Children. During this meeting, the representatives of the Government also provided information on 664 cases. A similar reply had been provided on 19 of those cases in 1987 and 1988. On the basis of such information, 20 cases were considered clarified.

55. In relation to children taken to Paraguay by persons involved in disappearances in Argentina, Argentine judges had requested extradition from the Paraguayan authorities. In view of the delay in processing that request, the Argentine Government had taken several steps through diplomatic channels and had even recalled its Ambassador from Paraguay to protest against the delay. The Government had also promoted a study of the Inter-American Commission on Human Rights concerning the problem of the children of the disappeared.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	3,387
III. Total number of cases transmitted to the Government by the Working Group	3,452
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	2,932
(b) Cases clarified by the Government's responses <u>a/</u>	40
V. Cases clarified by non-governmental sources <u>b/</u>	25

-
- a/ Persons released from detention: 19
Children located by non-governmental organizations: 6
Persons whose bodies have been located and identified: 8
Persons whose cases were not disappearances: 7.
- b/ Persons released from detention: 7
Children found: 4
Persons whose bodies have been located and identified: 14.

BoliviaInformation reviewed and transmitted to the Government

56. The activities of the Working Group in relation to Bolivia are recorded in its last eight reports to the Commission.^{1/}

57. By a letter dated 20 June 1988, the Working Group transmitted to the Government one case reported to have occurred in 1980 and retransmitted four outstanding cases on which new information had been received. At the same time, the Working Group requested comments and further information from the Government concerning one case already clarified, on which the Association of Relatives of Disappeared Detainees and National Liberation Martyrs (ASOPAMD) had, however, inter alia raised doubts about a death certificate issued by the authorities as it did not contain a name. A reply from the Government is still outstanding.

Information and views received from the Government

58. By a letter dated 9 May 1988, the Permanent Representative of Bolivia to the United Nations Office in Geneva assured the Working Group of his country's continuing investigations into outstanding cases. Any new elements found in those investigations would be communicated to the Group.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	29
III. Total number of cases transmitted to the Government by the Working Group	49
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	33
(b) Cases clarified by the Government's responses ^{a/}	20

^{a/} Persons released from detention: 18
Persons officially reported dead: 2.

Brazil

Information reviewed and transmitted to the Government

59. The Working Group's activities in relation to Brazil are recorded in its last eight reports to the Commission.^{1/}

60. No cases of disappearances were reported to have occurred in 1988. However, by a letter dated 20 June 1988, the Working Group reminded the Government of the 47 outstanding cases transmitted in the past. During the period under review, the Government has provided no new information on any of those cases and the Group, therefore, is still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	47
III. Total number of cases transmitted to the Government by the Working Group	49
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	49
(b) Cases clarified by the Government's responses ^{a/}	2

^{a/} Persons in prison: 2.

Chad

Information reviewed and transmitted to the Government

61. At its twenty-sixth session, the Working Group decided to transmit to the Government a new case of disappearance.

62. It concerned a person who was reportedly taken prisoner in 1983 in the context of clashes between government troops and opposition forces which took place at Faya-Largeau. Since, in accordance with the Group's methods of work, this case was transmitted on 9 December 1988, it must be understood that the Government could not respond prior to the adoption of the present report.

63. It may be recalled that in 1984 the Working Group transmitted to the Government one case of reported disappearance which was clarified in 1985.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	1
III. Total number of cases transmitted to the Government by the Working Group	2
IV. Cases clarified by the Government's responses <u>a/</u>	1

a/ Person dead; 1.

ChileInformation reviewed and transmitted to the Government

64. The activities of the Working Group in relation to Chile are recorded in its last eight reports to the Commission.^{1/}

65. No cases of disappearance were reported to have occurred in 1988. By a letter dated 9 December 1988 the Working Group transmitted to the Government two newly reported cases of disappearance dating back to 1975 that concerned two members of parliament. As regards these cases, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

66. During the period under review the Working Group retransmitted, on 20 June and 30 September 1988, five cases reported to have occurred in 1987 on which additional information was received. The Working Group also reminded the Government of the outstanding cases transmitted to it previously. No reply has been received to date on any of these cases and the Group is therefore still unable to report on the fate or whereabouts of the missing persons.

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

67. By a communication dated 13 October 1988, the Inter-Parliamentary Union submitted two cases of disappearance reported to have occurred in Chile in 1975 and 1976. They concern two members of parliament who were detained, in the presence of witnesses, by officials in plain clothes. Their whereabouts have remained unknown ever since. All actions, including writs of amparo (enforcement of constitutional rights), have given negative results.

68. By a communication dated 17 November 1987, the Agrupación de Familiares de Detenidos Desaparecidos (Group of Relatives of Disappeared Detainees) submitted additional information on the five persons that disappeared in September 1987. In August 1988, supplementary data on three of those cases were provided by the Vicaría de la Solidaridad of the Archbishopric of Santiago.

69. During the period under review, information of a general nature on cases of disappearance has been received by the Working Group from Amnesty International and Americas Watch. Amnesty International published a special issue on the problem of disappearances in Chile in which it states that, from 1973 to 1977, the Government carried out a systematic policy of disappearances aimed at eliminating political opponents while preventing the relatives from obtaining news of the fate or whereabouts of the missing person. In a special report to examine the human rights context of the plebiscite, Americas Watch includes a chapter on disappearances in which it notes that the phenomenon accompanied other forms of repression, such as political homicide, death under torture and mass arrests, during the early years and fell from use after 1978.

70. The United Nations Educational, Scientific and Cultural Organization (UNESCO) informed the Working Group, by a letter dated 2 December 1988, that the Committee on Conventions and Recommendations of the Executive Council of UNESCO had once again examined the communications received on cases of disappearance in Chile during its session held in Paris from 5 to 11 October 1988. It further advised that, with regard to two cases of missing Chilean students, the representative of the Government had not been able to provide new information, but had promised to keep the Committee informed about the evolution of the inquiries. The representative had further stated that witnesses had seen two of the missing persons and that it could be deducted from those statements that they were currently living in hiding on Chilean territory.

Information and views received from the Government

71. By a note verbale dated 25 April 1988, the Permanent Mission of Chile to the United Nations Office at Geneva reiterated the Government's position concerning the situation of human rights in Chile, namely that all the information relating to it had been made available to the Special Rapporteur who had a special mandate to study that information.

72. In reply to the above-mentioned note verbale of 25 April 1988, the Working Group reminded the Government of its methods of work (E/CN.4/1988/19, paras. 16-30) which required direct contact with the Government concerned, irrespective of co-operation between the Government and a special rapporteur which the Commission might have appointed.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	26
III. Total number of cases transmitted to the Government by the Working Group <u>a/</u>	28
IV. Government responses	0
V. Cases clarified by non-governmental sources <u>b/</u>	2

a/ As in the past the Working Group has only dealt with cases of enforced or involuntary disappearances that were reported to it since its creation. The Special Rapporteur on the situation of human rights in Chile has continued to deal with cases of disappearance as part of his mandate. In his preliminary report to the General Assembly at its forty-second session (A/42/556, para. 108), the Special Rapporteur continued to note a lack of progress in the judicial investigations pending on 663 cases of alleged disappearances which had taken place in previous years. In his preliminary report to the General Assembly at its forty-third session (A/43/624, paras. 55 and 56), he renewed his deep concern with regard to this grave problem.

b/ Person released: 1
Person dead (body found and identified): 1.

China

Information reviewed and transmitted to the Government

73. By a letter dated 30 September 1988, the Working Group transmitted to the Government of China one case of disappearance reported to have occurred in Lhasa.

Information and views received from relatives of missing persons or from non-governmental organizations

74. The report on the one case of disappearance in China was submitted by the Minority Rights Group during a visit to the Centre for Human Rights on 7 September 1988. The missing person is a young Tibetan monk who reportedly disappeared during a demonstration at a prayer festival in Lhasa in March 1988. Witnesses alleged that several hundred monks were led into the Jokhang Temple during the demonstration and thereafter were attacked by the Chinese police. Inquiries addressed to the Chinese authorities had not yielded any result.

75. In its communication, the Minority Rights Group stated that since September 1987 there had been many arrests during demonstrations. The detainees represented a broad spectrum of professions and most were born after 1959. According to the source, a person can be detained for months in the Tibetan region without being technically arrested under Chinese law.

Information and views received from the Government

76. By a letter dated 1 December 1988, the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva reported that, despite thorough investigations undertaken by the legal authorities of the Tibetan Autonomous Region, no such person as described in the Working Group's communication of 30 September 1988 had been identified. Furthermore, there were no grounds for allegations that several hundred lamas had disappeared.

77. The Permanent Representative informed the Working Group that it was stipulated in the relevant articles of the National Criminal Procedure and the Regulations on Arrest and Detention of his country that, when a public security organ arrested or detained any person, it should notify that person's family within 24 hours of the reasons for the arrest or detention, as well as the place of custody. It was the consistent principle of the law enforcement authorities of China to guarantee the legal rights and interests of citizens and to perform their duties in strict accordance with the law. During the riots in Lhasa in autumn 1987 and on 5 March 1988, the police had arrested about 200 people, but the majority had been released soon afterwards and only 22 were still being held.

Statistical summary

I.	Cases reported to have occurred in 1988	1
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by the Government's response	0

Colombia

Information reviewed and transmitted to the Government

78. The previous activities of the Working Group in relation to Colombia are recorded in its last four reports to the Commission.^{1/}

79. During the period under review, the Working Group transmitted to the Government of Colombia 123 newly reported cases of disappearances, of which 70 were reported to have occurred in 1988. Forty-four were transmitted by various cables under the urgent action procedure. One case was transmitted by a letter dated 20 June 1988, 12 by a letter dated 30 September 1988 and 66 by a letter dated 9 December 1988. As regards the cases transmitted by the Working Group on 9 December 1988, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

80. The Working Group also transmitted anew to the Government six cases which had erroneously been considered clarified in previous years, because the Government's reply did not correspond to the situation reported by the sources who stated that the persons whereabouts had remained unknown since their arrest. In addition, 30 cases to which the six-months rule was applied were considered clarified and the Government was informed accordingly.

Information received from relatives of missing persons or from non-governmental organizations

81. Most of the newly reported disappearances were submitted by Amnesty International, the Colombian Association of Relatives of Disappeared Detainees (ASFADDES) and the Centre for Research and Popular Education (CINEP). These organizations also provided information on the basis of which seven cases have been considered clarified.

Information and views received from the Government

82. By a letter of 25 March 1988, the Government of Colombia extended an invitation to the Working Group to visit the country. At its twenty-fifth session, the Working Group decided that Mr. Toine van Dongen and Mr. Diego García-Sayán should visit Colombia on its behalf and the visit took place from 24 October to 2 November 1988. The report on the visit is contained in document E/CN.4/1989/18/Add. 1.

83. By a note verbale dated 25 March 1988, as well as by letters dated 11 July, 9 August and 18 August 1988, the Government provided replies concerning eight outstanding cases. Moreover, during their visit to Colombia, the two members of the Working Group were given replies on 228 cases. On the basis of all those replies, 11 cases were considered clarified. The Group was of the view that a further five cases could be considered clarified if no objections were received from the reporting sources during the statutory six-month period (see E/CN.4/1988/19 para. 27). On the remaining 193 cases, the Government replied that the cases were being investigated by either the Office of the Attorney General, a judge or the Criminal Police, or that the case had been shelved because those responsible for the arrest had not been identified.

Statistical summary

I. Cases reported to have occurred in 1988	70
II. Outstanding cases	561
III. Total number of cases transmitted to the Government by the Working Group	672
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	297
(b) Cases clarified by the Government's responses ^{a/}	85
V. Cases clarified by non-governmental sources ^{b/}	26

^{a/} Persons at liberty: 14
Persons released: 42
Persons in prison: 8
Persons dead: 19
Persons abducted by rebels: 1
Persons escaped from prison: 1

^{b/} Persons at liberty: 3
Persons released: 14
Persons in prison: 3
Persons dead: 6.

Cuba

Information reviewed and transmitted to the Government

84. By a letter dated 30 September 1988, the Working Group transmitted to the Government of Cuba one case of disappearance reported to have occurred in 1980.

Information and views received from relatives of missing persons or from non-governmental organizations

85. The report on the one case of disappearance in Cuba was submitted by a relative of the missing person on 16 August 1988. It concerns a person who left the United States of America for Puerto Mariel, Cuba, on 3 September 1980 in search of his daughters. On 26 September 1980, when boats with Cuban refugees left Puerto Mariel for the United States, the person concerned reportedly remained in Cuba and was seen in a Cuban detention centre from mid-October to end November 1980. Relatives searched for him in different prisons throughout the country with negative results.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	1
III. Total number of cases transmitted to the Government by the Working Group	1
IV. Government responses	1 <u>a/</u>

a/ Subsequent to the adoption of the present report a note verbale was received from the Permanent Mission of Cuba to the United Nations Office at Geneva containing a response on the case transmitted by the Working Group. This response will be considered by the Working Group at its twenty-seventh session.

Cyprus

86. The Working Group's activities in relation to Cyprus are recorded in its eight earlier reports to the Commission. ^{1/} As in the past, the Working Group continued to remain available to assist the Committee on Missing Persons in Cyprus, as appropriate and when requested. The Working Group noted that in 1988 the Committee, whose activities were mainly based on the testimony of witnesses and investigations in the field, had held seven sessions involving 32 meetings during which it continued to examine the reports presented to it by the investigative teams under the responsibility of each side.

Dominican Republic

Information reviewed and transmitted to the Government

87. The Working Group's activities in relation to the Dominican Republic are recorded in its last four reports to the Commission. ^{1/}

88. During the period under review, the Group transmitted one newly reported case of disappearance to the Government under the urgent action procedure, which concerned a popular leader who was arrested on 2 March 1988 with two other persons who were later released by agents of the National Secret Police.

89. By a letter dated 20 June 1988, the Government was reminded of the three outstanding cases, two of which dated back to 1984. No information was provided by the Government on those cases and the Working Group is, therefore, unable to report on the fate or whereabouts of those persons.

90. By a note verbale dated 18 July 1988, the Government requested the summaries of the outstanding cases which were retransmitted to it by a note verbale on 22 July 1988.

Statistical summary

I. Cases reported to have occurred in 1988	1
II. Outstanding cases	3
III. Total number of cases transmitted to the Government by the Working Group	3
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	1
(b) Cases clarified by the Government's responses	0

Ecuador

Information reviewed and transmitted to the Government

91. The Working Group's activities in relation to Ecuador are recorded in its last two reports to the Commission on Human Rights.^{1/}

92. During the period under review one case reported to have occurred in 1988 was transmitted to the Government under the urgent action procedure. By letters dated 20 June 1988 and 30 September 1988, the Working Group transmitted to the Government two other newly reported cases that occurred in 1985 and 1986 and retransmitted three cases on which additional information from the source had been received.

Information and views received from relatives of missing persons or from intergovernmental or non-governmental organizations

93. Amnesty International reported one new case which concerned a car-park attendant who was allegedly detained on 9 April 1988 by members of the Navy and by agents of the Servicio de Investigación Criminal (SIC). The Ecuadorian Oecumenical Human Rights Commission (CEDHU) submitted information on two newly reported cases that occurred in 1985 and 1986. The 1985 case concerns a person involved in a common-law crime whose mother stated that he had been detained by police forces. However, his detention had never been acknowledged and his whereabouts remain unknown. The 1986 case concerns a person who was last seen in prison in May 1986. According to witnesses' reports, this person died as a consequence of torture, however the police never informed his family of his detention or death. CEDHU also provided further information on two cases transmitted to the Government by the Working Group in 1986.

94. The Working Group also received information from Americas Watch and the Andean Commission of Jurists which described cases of disappearance already reported by other sources. These two organizations furthermore stated that forced disappearances were not a practice or a policy of the Government of Ecuador. However, in three cases which occurred in 1985 (and which were transmitted to the Government by the Working Group) the responsibility of agents of the State was well documented.

Information received from the Government

95. By a note verbale dated 13 September 1988, the Permanent Mission of Ecuador to the United Nations Office at Geneva provided a reply concerning one case transmitted by the Group in 1988, informing it that the person whose disappearance had been reported was not missing but was, in fact, a fugitive from justice. The Government further reported that the place in which the person was allegedly being held was not a detention centre but a training school of the National Police. The person concerned, together with two other people, had committed a robbery and was being sought for that reason.

Statistical summary

I. Cases reported to have occurred in 1988	1
II. Outstanding cases	4
III. Total number of cases transmitted to the Government by the Working Group	11
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	10
(b) Cases clarified by the Government's responses ^{a/}	7

a/ Persons detained and duly processed: 2
 Persons arrested and extradited to Peru: 2
 Persons dead: 2
 Person living abroad: 1.

El SalvadorInformation received and transmitted to the Government

96. The activities of the Working Group in relation to El Salvador are recorded in its last eight reports to the Commission. ^{1/}

97. During the period under review, the Group transmitted a total of 85 newly reported cases of disappearances to the Government, 45 of which were reported to have occurred in 1987 and 40 in 1988; 51 cases were transmitted by a letter dated 30 October, four by a letter dated 9 December 1988 and 30 by various cables under the urgent action procedure. As regards the cases transmitted on 9 December 1988 it must be understood that the Government could not respond prior to the adoption of the present report.

98. By a letter dated 20 June 1988, the Government was reminded of the outstanding cases and was informed that the Group had considered 10 cases clarified on the basis of information provided by the sources.

99. By a communication dated 20 October 1988 the Working Group also drew the Government's attention to the fact that the Commission on Human Rights, in resolution 1988/34, had encouraged the Governments concerned with disappearances to give serious consideration to inviting the Working Group to visit their country, so as to enable the Group to fulfil its mandate even more effectively; the Group also pointed out that the General Assembly had expressed itself in similar terms in its resolution 42/142. The Working Group stated that it considered such visits extremely useful for achieving a more thorough understanding of the situation of disappearances in the countries concerned, and believed that a visit to El Salvador would make an important contribution to its understanding of outstanding matters which fell within its mandate. So far the Government has not responded to this communication.

Information and views received from relatives of missing persons or from non-governmental organizations

100. Most of the newly reported disappearances were submitted by the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM), the Central American Association of Relatives of Disappeared Detainees (ACAFADE) and Archbishop Oscar Romero Christian Legal Aid (SJC). Others were submitted by Amnesty International, the World Council of Churches and the Commission for the Defence of Human Rights in Central America (CODEHUCA).

101. Most of the cases occurred in the Departments of San Salvador and San Miguel. The professions most frequently mentioned were farmer and worker. The forces which allegedly carried out the arrests were described as members of the army, (1st and 3rd Infantry Brigades), combined forces, security forces, members of the air force, or simply armed men in plain clothes. In most cases, habeas corpus petitions were filed, however, such petitions as well as inquiries addressed to the security forces had yielded negative responses or no result at all. The sources also reported that 10 cases had been clarified (two persons had been released, two had reappeared, two had been murdered, three were in prison and one had been executed).

102. During the period under review, several organizations, in particular SJC (a member of which met with the Working Group during its twenty-fourth session), ACAFADE and the Monsignor Oscar Arnulfo Romero Committee of Mothers and Relatives of Salvadorian Political Prisoners, Disappeared and Assassinated Persons, drew attention to the worsening of the situation of human rights during the current year. Amnesty International, in its 1988 report entitled "El Salvador: Death squads - a government strategy" stated that it had been concerned over the past year at the escalation of torture, disappearances and extrajudicial executions in El Salvador, carried out by uniformed and plain clothes death squads. It also pointed out that there had been a further alarming rise in killings in 1988. In the reports of disappearances it had submitted to the Working Group, Amnesty International expressed its concern about the recent escalation of human rights violations and asked for prompt and impartial investigations into every allegation of human rights violations, stating that the methods and findings of such investigations should be made public.

103. The Salvadorian Commission on Human Rights (CDHES), in its 1988 report on the situation of human rights and fundamental freedoms in El Salvador, expressed its concern at the continuing phenomenon of disappearances in El Salvador.

104. In its statement before the Working Group, SJC noted that disappearances continued to occur in El Salvador, albeit in a more selective manner. Victims of disappearances were trade-union leaders, students and members of co-operatives. People feared reprisals if they denounced cases of disappearances. The victims' relatives often testified and subsequently left the country.

Information and views received from the Government

105. The Working Group has received written information from the Government and from the (governmental) Commission on Human Rights of El Salvador regarding 26 cases. In respect of 17 cases, the Government replied that the investigations to determine the persons' whereabouts were still under way. In two cases it was reported that the persons had been released from detention and handed over to the (governmental) Commission on Human Rights, in five cases it was reported that the persons had been placed at the disposal of the judiciary. Regarding one case, the Government replied that the person had not been arrested by the security forces. By a cable dated 8 November 1988, the (governmental) Commission on Human Rights of El Salvador replied that the person had been released five days after his detention.

106. The Executive Secretary of the (governmental) Commission on Human Rights in El Salvador met the Working Group during its twenty-fourth session. In his statement he explained the efforts made by the (governmental) Commission to locate people who had disappeared: in this regard the Commission received and processed complaints, undertook investigations and had access to detention centres which had a duty to communicate detentions to the Commission and the national Red Cross. He emphasized that a large number of Salvadorians had left the country between 1979 and 1983, when the number of guerrillas had amounted to nearly 100,000. The Executive Secretary pointed out that, in order to carry out its duties, the Commission needed the full names of the missing persons. In some cases people who were detained identified themselves with a false name in order to protect their families.

107. With the help of police records and photographs, it had been possible to locate some of the disappeared persons, but many of them had joined the guerrilla forces. The relatives often refused to give information to the Commission. Until 1984 the police had denied having detained people because they could keep people under arrest for 15 days without informing a judge. However, the situation had changed and the police currently received training courses on human rights matters relating to their duties. The Executive Secretary extended on behalf of his Government an oral invitation to the Working Group to visit El Salvador.

108. The Permanent Representative of El Salvador to the United Nations attended the twenty-fifth session of the Working Group and assured the Group of his Government's co-operation. He referred to the Constitution of 1983, article 1 of which hallowed respect for human beings. Such respect for the human being was the foundation of President Duarte's programme and he had given the armed forces and the security forces instructions in that respect; for the last three years, the security services (National Police, National Guard and Treasury Police) had been attending courses on human rights. The Permanent Representative also mentioned his Government's co-operation with the Special Representative of the Commission on Human Rights on the situation of human rights in El Salvador and the work carried out by the (governmental) Commission on Human Rights.

Statistical summary

I.	Cases reported to have occurred in 1988	40
II.	Outstanding cases	2,141
III.	Total number of cases transmitted to the Government by the Working Group	2,477
IV.	Government responses:	
(a)	Number of cases on which the Government has provided one or more specific responses	446
(b)	Cases clarified by the Government's responses <u>a/</u>	306
V.	Cases clarified by non-governmental sources <u>b/</u>	30

a/ Persons in prison: 169
Persons released from detention: 133
Persons officially reported dead: 4.

b/ persons in prison: 8
Persons released from detention: 14
Persons reported dead: 3
Person at liberty: 4
Person executed: 1.

Ethiopia

Information reviewed and transmitted to the Government

109. The activities of the Working Group in relation to Ethiopia are recorded in its last seven reports to the Commission. 1/

110. During 1988 the Working Group received no new reports of disappearances in Ethiopia, but, by letters dated 20 June and 30 September 1988, the Government was reminded of all the cases transmitted to it in the past which remain unclarified. There has been no reaction, however, and the Working Group regrets to report that, despite all its efforts, no reply has been received from the Government of Ethiopia since early 1985.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	27
III. Total number of cases transmitted to the Government by the Working Group	27
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	2
(b) Cases clarified by the Government's responses	0

Guatemala

Information reviewed and transmitted to the Government

111. The Working Group's activities in relation to Guatemala are recorded in its last eight reports to the Commission and in addendum 1 to the report submitted to the Commission at its forty-fourth session.^{1/}

112. During the year under review, the Working Group transmitted to the Government of Guatemala 68 newly reported cases, 53 of which were reported to have occurred in 1988. Twenty-five cases were transmitted by a letter dated 20 June 1988, five cases by a letter dated 20 September 1988, and 38 by several cables under the urgent action procedure. All the cases transmitted occurred between October 1987 and December 1988. The Working Group also decided to retransmit to the Government three cases updated with new information recently received from the sources.

113. The Government was also informed of nine cases considered clarified by the Working Group on the basis of information received from the Government and/or the sources. By a letter dated 20 June 1988, the Government was reminded of all outstanding cases. By a letter dated 30 October 1988, the Working Group transmitted to the Government of Guatemala information on the very serious issue of persecution and death threats against relatives of missing persons, members of human rights organizations and other persons engaged in humanitarian activities. The Working Group expressed concern over the reported situations, stressing that the Government was responsible for protecting the security and freedom of such persons.

Information and views received from relatives of missing persons and from non-governmental organizations

114. The reports on disappearances transmitted during 1988 to the Government of Guatemala mainly concern peasants, religious activists, both laymen and members of the clergy, students, leaders of indigenous organizations and trade-union leaders who were reportedly arrested or abducted by armed men in civilian clothes, or in unidentified uniforms, who were believed to belong to paramilitary groups or to security services, or by uniformed military personnel. The reports were submitted by Amnesty International, the Central American Association of Relatives of Disappeared Detainees (ACAFUDE), the Guatemalan Commission on Human Rights (CDHRG), the Mutual Support Group (GAM) and other sources which wished to remain anonymous. These organizations, as well as the Minnesota Lawyers International Human Rights Committee, the Central American Commission on Human Rights (CODEHUCA), the Office of Peace and Justice and the United Representation of the Guatemalan Opposition (RUOG) have submitted a number of reports on the general situation concerning disappearances in Guatemala.

115. All the sources stated that although after the democratically elected Government came to power, the situation of human rights had improved, observance of human rights had again deteriorated a few months later: in particular there had been no efforts to investigate cases of enforced disappearance. Furthermore, disappearances continued to occur and the investigation of recent cases had given only meagre results. Little progress had been apparent in the investigations undertaken by Judge Olegario Labbé Morales (see E/CN.4/1988/19/Add.1, paras. 47-51), who reportedly declined to pursue available information concerning those cited as responsible for specific disappearances. The number of reports of disappearances had decreased since the civilian Government took power, but several cases had been clarified only because the missing persons had been found dead. In fact, many disappearances had not been reported as such because, within days, they had become summary executions. In addition, several disappearances had taken place during military operations against the civilian population prior to attacks against guerrilla groups. In these operations, civilians had disappeared or died in the context of a "dirty war" in which there were innocent unprotected victims.

116. Some of the above-mentioned organizations underlined that, in a report by the International Verification and Follow-Up Commission established under the agreement on "Procedures for the establishment of a firm and lasting peace in Central America" (Esquipulas II), it was stated that the agreement had had only a limited impact on the human rights situation in Guatemala which continued to be characterized by very serious abuses by the armed forces and paramilitary groups. Some organizations sent the Group copies of the Annual Report of the Inter-American Commission on Human Rights, according to which, during the period from January to June 1988, 848 persons had disappeared in Guatemala, 158 of whom had subsequently reappeared, leaving a total of 690 persons who actually continued to be missing. The report, however, acknowledges that the situation, though still disquieting, could not be compared with that existing prior to the inauguration of the democratic Government, when thousands of persons had been missing.

117. In all the statements, concern was expressed about the general amnesty (Decree 08-86 of January 1986) adopted by the military government on the eve of the current Government's accession to office in January 1986, which promulgated amnesty for political crimes and related common crimes for the period from 23 March 1982 to 14 January 1986. The amnesty provisions of the 1987 Esquipulas II agreement had reportedly been used to reinforce the army's January 1986 self-amnesty and to prevent any investigation of the whereabouts or fate of disappeared persons or the prosecution of those allegedly responsible. The recently enacted Decree No. 32-88 of 23 June 1988 was complementary to that provision and granted amnesty to "all persons who had committed an offence against the internal political order and public peace"; it was allegedly being applied to civilians and military personnel involved in the killing of persons located in clandestine cemeteries at Chijtinamit, near Chichicastenango, and Pacoj, near Zocualpa, Department of El Quiché.

118. The Working Group also received copy of a testimony from a witness (a former member of the army) who stated that he had personally seen clandestine detention places in which detainees were tortured. Furthermore, the Working Group received information about a clandestine repressive apparatus which was allegedly operating side by side with the security forces seeking to generate terror among the population. The clandestine apparatus was said to consist of members of the security forces themselves. Its members operated with total impunity, abducting persons who were then taken to clandestine detention centres, thus becoming "disappeared persons". Although the existence of such clandestine detention centres in security forces premises, in private houses or military barracks had been repeatedly denounced, no government administration had officially opened an investigation of the facts; this was considered to be a further indication of the links between the clandestine apparatus of repression and the government security forces.

119. In relation to habeas corpus procedures, it was stated that, although the existing legislation provided for speedy and comprehensive protection, this remedy was ineffective in cases of disappearance in which persons were held in clandestine detention centres, in particular because habeas corpus proceedings came to a stop at the barracks gate. In relation to the judiciary, it was stated that its members, as well as those of the police, did not lack knowledge or training but only the will to act, because they were restricted by the intimidation and terror prevailing in the country.

120. During the period under review, the Working Group received several cables reporting that intimidation, threats and attacks against relatives of disappeared persons, human rights militants and a Catholic priest had occurred in El Quiché and that the Commander-General and other members of the civil defence patrols as well as members of paramilitary groups were responsible for such acts.

Information and views received from the Government

121. By a cable dated 29 March 1988, the Director-General of Bilateral International Relations of the Ministry of Foreign Affairs of Guatemala requested the Working Group to provide further details concerning cases previously transmitted and new cases, in order to enable the competent authorities to obtain more effective results in their investigations. The Working Group replied to this request stating that, in the context of its methods of work, it would endeavour to obtain as much information as possible, including the details requested by the Government.

122. By notes verbales dated 6 and 11 May, 3 and 22 August 1988, the Government of Guatemala provided information on the results of investigations of cases of disappearance in Guatemala carried out through the national police by the Advisory Commission to the Presidency of the Republic on Human Rights Matters. In some cases the investigations could not proceed because they lacked details on the address of the persons concerned or on their identity. Steps described in the reports on the inquiries carried out by the police included visits to the missing person's domicile and to relatives or neighbours. In some cases, the place of work of the missing person was visited. This had resulted in the clarification of six cases. (However, inquiries with military, police or security services allegedly involved in the disappearances were not included in the police reports.)

123. Representatives of the Government of Guatemala met the Working Group at its twenty-fourth session in New York and assured it of the continued support and co-operation of their Government. Pursuant to the suggestions and recommendations made by the Working Group in its latest report to the Commission, courses and seminars had been held to instruct officials in human rights matters. Courses on human relations had been given to members of the police. In the army, a set of rules to be observed to ensure respect for the rights of the civilian population had been established. Habeas corpus writs filed in the different Guatemalan courts were actively investigated by the relevant judges and some of the missing persons had been located. Furthermore, new courts had been established in the most distant areas of the country to deal with the complaints filed by the populations in those areas.

124. The Attorney for Human Rights had taken action in connection with disappearances and detainees in different prisons. The situation regarding disappearances had improved considerably, since the phenomenon no longer occurred on such a massive scale as in the past. Several governmental bodies were dealing with the problem of disappearances and efforts had been made to clarify cases. However, the information provided was not complete and some inquiries had been discontinued for that reason.

125. Finally, the Representatives of the Government invited the Working Group for a second visit to Guatemala to assess the progress made since the Group's last visit in October 1987.

Statistical summary

I. Cases reported to have occurred in 1988	53
II. Outstanding cases	2,851
III. Total number of cases transmitted to the Government by the Working Group	2,947
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	112
(b) Cases clarified by the Government's responses ^{a/}	36
V. Cases clarified by non-governmental sources ^{b/}	60

^{a/} Persons detained: 3
Persons arrested and released: 17
Persons at liberty: 15
Person found dead: 1.

^{b/} Persons released from detention: 17
Person in prison: 1
Persons at liberty: 5
Persons whose bodies were found and identified: 35
Persons drafted into the army: 2.

Guinea

Information reviewed and transmitted to the Government

126. The Working Group's previous activities in relation to Guinea are recorded in its last six reports to the Commission.^{1/}

127. The Working Group has received no reports of disappearances occurring in Guinea after 1985. By letters dated 20 June and 30 September 1988, the Working Group once again reminded the Government of the outstanding cases transmitted previously. However, no information whatsoever has been provided by the Government on any of those cases.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	21
III. Total number of cases transmitted to the Government by the Working Group	28
IV. Government responses	0
V. Cases clarified by non-governmental sources ^{a/}	7

^{a/} Persons dead: 7.

Haiti

Information reviewed and transmitted to the Government

128. The activities of the Working Group in relation to Haiti are recorded in its last four reports to the Commission.^{1/}

129. By a cable dated 8 February 1988, one new case reported to have occurred in January was transmitted to the Government under the urgent action procedure. The Working Group also transmitted, by a letter dated 20 June 1988, another new case reported to have occurred in 1986. At the same time, as well as by a letter dated 30 September 1988, the Government was reminded of all outstanding cases. The Working Group regrets to state that there has been no response from the Government.

Information and views received from relatives of missing persons or from non-governmental organizations

130. The Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM) and the International Association of Democratic Lawyers expressed concern about the situation of human rights in Haiti and referred, in particular, to disappearances which had occurred after the coup d'état of 21 June 1988, when several members of the Democratic Group of Progressive Nationalists had been arrested and had subsequently disappeared. However no detailed information was provided.

Statistical summary

I. Cases reported to have occurred in 1988	1
II. Outstanding cases	16
III. Total number of cases transmitted to the Government by the Working Group	25
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	13
(b) Cases clarified by the Government's responses ^{a/}	9

^{a/} Persons at liberty: 4
Persons in prison: 5.

Honduras

Information reviewed and transmitted to the Government

131. The Working Group's activities in relation to Honduras are recorded in its last seven reports to the Commission.^{1/}

132. During the period under review, the Working Group transmitted to the Government, under the urgent action procedure, nine cases which occurred in 1988. It also retransmitted, by a letter dated 30 September 1988, one case updated with new information from the source and the observations submitted by the sources on 26 replies received from the Government.

133. At the request of the Government all outstanding cases were retransmitted to it on 12 August 1988, following a review of all cases so as to provide the Government with an accurate list of enforced or involuntary disappearances. It was found that two cases were duplicated in the Working Group's list, because the name of the missing person had been incomplete in the first submission by one of the sources, and that another case had been erroneously included in the list of clarified cases. The statistics were adjusted accordingly.

134. In addition, the Working Group informed the Government that 14 cases had been considered clarified on the basis of information provided by the Government and the sources. The Working Group also transmitted to the Government observations received from the sources on the Government's replies concerning 31 cases.

135. In relation to several allegations of persecution and killing of human rights activists and witnesses to disappearances, the Working Group expressed serious concern over the reported situations and requested the Government to protect the life, safety and freedom of those persons.

Information and views received from relatives of missing persons or from non-governmental organizations

136. The nine newly reported cases transmitted to the Government were submitted by Amnesty International, the Central American Association of Relatives of Disappeared Detainees (ACAFADE), the Committee for the Defence of Human Rights in Honduras (CODEH), the Commission for the Defence of Human Rights in Central America (CODEHUCA), SOS-Torture and the World Association against Torture. In all the cases, the persons were reportedly arrested by members of the security services in plain clothes. In one of the cases the detention was later acknowledged and the case was considered clarified. In another case, responsibility for the detention was reportedly imputed to a security service by a member of the army, in a press conference. However, no official acknowledgement followed this statement and the persons is still missing. The chief of the relevant security service rejected the accusation of the representative of the army, although he indicated that his service was seeking the missing person as he was suspected of involvement in an attack on the American Embassy in Tegucigalpa.

137. CODEH and the Committee of Relatives of Disappeared Detainees in Honduras (COFADEH) submitted detailed observations on the replies provided by the Government on individual cases.

138. The above-mentioned organizations reported that the Inter-American Court of Human Rights had arranged hearings with witnesses in a case against the Government of Honduras involving four disappearances. Two of the witnesses had been shot and killed. One of them was the President of the Pedro Sila chapter of CODEH and a Deputy Congressman. The other was a Honduran army sergeant alleged to have belonged to an army death squad, who was also shot dead by unidentified men in civilian clothes. As a result of these assassinations, the Court adopted resolutions urging the Government of Honduras to take the necessary measures without delay to prevent new assassination attempts against those who had testified before the Court or had been summoned to do so, and to investigate the crimes committed against them and punish those responsible.

139. In that connection, all the reporting organizations expressed concern over an increase in the activities of "groups of unidentified persons" which were allegedly responsible for harassment of human rights workers, including death threats and bombing attacks; an intelligence unit of the armed forces was also alleged to have been implicated in those acts. In relation to disappearances which occurred under the current Government, the few cases reported up to the end 1987 were subsequently clarified. However, a number of cases reported this year continued to remain outstanding.

140. With regard to disappearances which had occurred in the past, the reporting organizations expressed the view that no positive steps had been taken to bring to justice military personnel implicated in the disappearance of over 100 people between 1980 and 1984, whose fate the Government had not

clarified, although consistent evidence of the involvement of military personnel, including the names of those responsible for the disappearances, was available. According to the same sources, former members of Honduran military intelligence described in their testimonies a number of clandestine detention centres, including one which was located in a military complex in Tegucigalpa and others in former private houses in various parts of the country. Battalion 3-16, a specialized military intelligence unit, which had reportedly been trained in "anti-subversive" activities during the period 1980-1984, had been identified as responsible for most of the disappearances. Battalion 3-16 had again been denounced in 1988 as being responsible for several abductions or illegal detentions which had occurred during the year in Honduras.

141. One of the above-mentioned organizations sent the Working Group copies of the ruling by the Inter-American Court of Human Rights on the disappearance in 1981 of a person whose case was on the Working Group's lists. The Court stated, inter alia that, from 1981 to 1984, the disappearances in Honduras had been the result of a systematic practice, in relation to which some common patterns could be identified, such as: (a) the victims were generally persons considered by the Honduran authorities to be dangerous to the security of the State; (b) the weapons and vehicles used were reserved for the military and police authorities; (c) the persons abducted were blind-folded, taken to secret and illegal places of detention and transferred from one place to another; they were interrogated and subjected to harassment, cruelty and torture; (d) the authorities systematically denied that the detention had taken place and disclaimed any knowledge of the whereabouts and fate of the victims; (e) the military and police authorities, the Government and the judiciary refused or were unable to prevent or investigate the acts, punish the culprits or help those interested in establishing the whereabouts and fate of the victims or of their remains (see paras. 26-33).

Information and views received from the Government

142. By notes verbales dated 19 April and 19 May 1988, from the Permanent Mission of Honduras to the United Nations Office at Geneva and a statement handed to the Working Group by members of the Inter-Agency Commission on Human Rights (CIDH) during the forty-fourth session of the Commission on Human Rights, the Government of Honduras provided replies on 50 individual cases (for 14 of those cases a reply had been received previously) and general information on the problem of disappearances in Honduras. The Government stated, inter alia, that Honduras was a civilized country under the rule of a constitutional and democratic régime and that it had signed and ratified the human rights conventions and accepted the jurisdiction and competence of the Inter-American Court of Human Rights. It had scrupulously observed the obligations it had undertaken despite the fact that the people of the country had to live surrounded by the violence emanating from the conflicts affecting the neighbouring countries; that was why the territory of Honduras harboured thousands of refugees and persons seeking political asylum from Guatemala, El Salvador and Nicaragua who had been ejected from their countries as a result of political strife and the ideological confrontations arising therefrom.

143. The Government added that the conflicts in question also had an impact on the national problems of Honduras, whose peace and tranquillity was sometimes disturbed by events deriving from those occurrences, with which the Government of Honduras was in no way involved, except for the fact that it had

extended hospitality to Central Americans who, for political reasons, were deprived of the freedom to live in their own countries. A number of persons who were claimed to have disappeared had not entered the country at all; some others had left for their countries of origin or had reappeared on Honduran territory. Although a State undoubtedly had a responsibility for the physical and moral integrity of the persons living on its territory, it was a fact that some left clandestinely with the purpose of joining guerrilla groups in El Salvador or Guatemala where, because of the dubious nature of their activities, they used false names.

144. At its twenty-fourth session, the Working Group met representatives of the Government of Honduras, who again stated that Honduras was currently experiencing a situation which was aggravated by the internal wars being waged in neighbouring countries. Accordingly, it believed that the international organizations should have taken into account and analysed the whole picture before charging Honduras with responsibility for alleged disappearances which had never been proved to be the work of a public authority in Honduras. The State could not objectively be held responsible for criminal acts perpetrated by aliens who had entered the country illegally. In such cases, Honduras could not be the transgressor, but was rather the victim.

145. The State of Honduras, aware of its obligation to secure respect for human rights, had set up, on 27 October 1987, the Inter-Agency Commission on Human Rights (CIDH) with the mandate of supervising and investigating complaints submitted to it concerning violations of human rights. As CIDH had only recently been created, it had not been possible to complete the investigation of a number of cases.

146. With regard to the case of the abduction of 21 Nicaraguans who had been brought to Honduras (see E/CN.4/1987/15 para. 49), the Government stated that the reports indicated that they had been kidnapped by Nicaraguan counter-revolutionary groups. The situation was very serious for Honduras, precisely because, as irregular forces were involved, the State had no control over them. In such a situation, the Government, through the President of the Republic, had addressed a letter to the President of Nicaragua urging him to agree to the establishment of an international commission which would, inter alia, supervise the frontier between Honduras and Nicaragua to prevent members of irregular forces from crossing it. At the same meeting, the representatives of Honduras also provided information on individual cases and reiterated to the Working Group their Government's concern that those cases should be cleared up.

147. The Government further explained that the cases of the two witnesses to the Inter-American Court on Human Rights who had been murdered were being thoroughly investigated. The fact that they, like many other common crimes, had been reported to international organizations as "summary executions" revealed an obvious political aim of slandering Honduras.

148. By a letter dated 25 October 1988, CIDH informed the Working Group that a leader of human rights organizations had been publicly accused, by a former member of one of those associations, of being involved in the assassination of two witnesses before the Inter-American Court. That statement was also being investigated.

Statistical summary

I. Cases reported to have occurred in 1988	9
II. Outstanding cases	131
III. Total number of cases transmitted to the Government by the Working Group	184
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	109
(b) Cases clarified by the Government's responses <u>a/</u>	21
V. Cases clarified by non-governmental sources <u>b/</u>	32

a/ Persons at liberty: 14
Persons in prison: 4
Persons dead: 2
Person deported: 1.

b/ Persons at liberty: 11
Persons detained and later released: 11
Refugee forcibly returned to his country of origin: 1
Persons found dead: 8
Persons escaped from a camp: 1.

India

Information reviewed and transmitted to the Government

149 . The Working Group's activities in relation to India are recorded in its latest report to the Commission. ^{1/}

150 . On 9 December 1988, the Working Group transmitted to the Government of India three new cases of disappearance, two of which were reported to have occurred in mid 1987 and the most recent in May 1988.

151 .By communications dated 20 June and 30 September 1988, the Government was reminded of the other 30 cases transmitted in the past which remain unclarified.

152 . By communications dated 20 June, 30 September and 9 December 1988, the Working Group also forwarded a total of 23 cases of disappearance which had occurred in Sri Lanka and for which the Indian Peace-keeping Force was allegedly responsible. By deciding to bring them to the attention of the Indian Government, the Working Group, motivated by the purely humanitarian objective of its mandate, hoped that investigations would be facilitated in order to clarify the fate and whereabouts of the persons reported missing. Those cases, however, are not included in the statistics for India (see para. 23).

153 . It must be understood that the Government could not respond on any of the newly reported cases transmitted on 9 December 1988 prior to the adoption of the present report.

Information and views received from relatives of missing persons or non-governmental organizations

154 . In its letter dated 12 January 1988, Amnesty International reported that it had learned that government officials continued to deny knowledge of the whereabouts of the men reported missing from Meerut since the evening of 22 May 1987 (see E/CN.4/1988/19, para.119).

155 . Information on the three newly reported cases of disappearance in India was submitted by the Sikh Human Rights Group in Canada. Two of the missing persons were last seen in police custody in Amritsar; the third person, the Governor of the All India Sikh Students' Federation, went missing from Jaang Pur village in the Punjab on 14 May 1988. The reports on the disappearances in Sri Lanka, which occurred following signature of the Indo-Sri Lankan agreement in July 1987, were submitted by Amnesty International and/or relatives of the missing persons.

156 . During its twenty-sixth session, the Working Group met the Chairman of the Sikh Human Rights Group (North America), who asserted that the Indian Government had enacted laws curtailing several rights and in particular the right to habeas corpus. Two years must elapse before a writ of habeas corpus could be filed.

157. There was no right to appeal to the High Court following arrest under the Act of Terrorism and, as anybody could be arrested under that Act, the only recourse was to appeal to the Supreme or Federal Court, which was extremely expensive and practically impossible for people from the villages. It was thus very difficult to investigate alleged violations of human rights and the number of people who had disappeared could be considerably higher than that actually reported.

158. The Chairman of the Sikh Human Rights Group expressed concern that other persons who had disappeared, and whose cases they had so far been unable to investigate fully and report to the Working Group with all the required elements, might be detained incommunicado and subjected to other forms of human rights violations. Complete case descriptions would be submitted to the Working Group in due course.

Information and views received from the Government

159. In its note verbale dated 13 September 1988, the Permanent Mission of India to the United Nations Office at Geneva advised the Group that the Federal Government and the State Government of Uttar Pradesh had already initiated inquiries regarding the reported disappearances by the time it had received the Working Group's communication of 25 November 1987. Government machinery had been set in motion to apprehend those who were suspected of having been involved in incidents such as that which occurred around Meerut in 1987, but the investigations had not yet been completed. The Indian Constitution, as well as the judicial system, provided full fundamental rights to the people of India and ensured that any grievances are suitably dealt with under due process of law.

160. The Permanent Mission also mentioned that the State Government had activated a scheme for providing financial relief to the dependents of those who were missing and could reasonably be presumed to have lost their lives in the course of riots and related violent incidents.

161. By a letter dated 21 November 1988, the Permanent Mission of India informed the Working Group that, as a result of investigations carried out by the Government, 13 bodies had been identified as belonging to persons reported missing in Meerut in May 1987. The Group decided to apply the six-month rule to those cases (see E/CN.4/1988/19, para. 27).

Statistical summary

I. Cases reported to have occurred in 1988	1
II. Outstanding cases	33
III. Total number of cases transmitted to the Government by the Working Group	33
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	13
(b) Cases clarified by the Government's responses	0 <u>a/</u>

a/ The 13 cases will be considered clarified provided the source does not make any observations within six months which could require further consideration by the Working Group.

Indonesia

Information reviewed and transmitted to the Government

162. The Working Group's activities in relation to Indonesia are recorded in its last eight reports to the Commission. 1/

163. On 9 December 1988, the Working Group transmitted to the Government of Indonesia one new case of disappearance reported to have occurred in East Timor in December 1987. It must be understood, however, that the Government could not respond on this case prior to the adoption of the present report. By the same communication, the Government was informed that a further six cases had been recorded as clarified as a result of the information provided in its reply dated 18 May 1988.

164. On 20 June 1988, the Working Group informed the Government that, on the basis of its reply dated 12 August 1987, nine cases were now considered clarified. At the same time, the Government was reminded of the cases which remained outstanding, and, on 19 July 1988, the Group complied with the Government's subsequent request to provide summaries of all the outstanding cases.

165. By a letter dated 30 September 1988, the Working Group expressed its appreciation to the Government for information on another six cases of reported disappearance communicated on 9 September 1988, and informed it that those cases would also be considered clarified provided that within six months the respective families did not make any observations which required the Group's further consideration see E/CN.4/1989/19, para. 27).

Information and views received from relatives of missing persons or non-governmental organizations

166. By communications dated 7 April, 20 July and 12 September 1988 respectively, Pax Romana, an organization called "A paz é possível em Timor-Leste" ("peace is possible in East Timor") and Amnesty International reported cases of disappearance which allegedly occurred in East Timor during the period 1975-1987. The individual case reports, however, all lacked one or more of the elements necessary for processing in accordance with the Group's methods of work.

167. By a letter dated 23 November 1988, Amnesty International reported one case of disappearance which concerned a person who was last seen in a meeting with intelligence officers in Aileu in December 1987. It was reported that, in the latter part of November 1987, the missing person had repeatedly been approached by an officer in the intelligence division of the special forces and questioned about his activities in support of the Frente Revolucionária de Timor Leste Independente (FRETILIN) and in his own testimony before he "disappeared" had freely admitted supporting a proposal of the FRETILIN chief for a negotiated end to the armed conflict in East Timor.

Information and views received from the Government

168. In his letter dated 18 May 1988, the Permanent Representative of Indonesia to the United Nations Office at Geneva provided information on the whereabouts of six persons whose cases had been transmitted to the Government in 1985. At the same time, he reiterated his Government's position that it was bound by, and remained committed to, observing the understanding with the International Committee of the Red Cross (ICRC), and that information was sent to the Group rather as an expression of the Government's high regard for the Commission on Human Rights and as a gesture of good faith.

169. By a communication dated 9 September 1988, the Permanent Representative of Indonesia advised the Group that another six persons who had been reported missing were currently residing in various named villages.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	55
III. Total number of cases transmitted to the Government by the Working Group	70
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	22
(b) Cases clarified by the Government's responses <u>a/</u>	16
V. Cases clarified by non-governmental sources <u>b/</u>	9 <u>c/</u>

-
- a/ Persons detained in prison: 6
Persons currently residing in named villages: 10.
- b/ Persons found to be alive: 8
Person in prison: 1.
- c/ Three cases clarified by both the Government and the source are included in IV (b) only.

Iran (Islamic Republic of)

Information reviewed and transmitted to the Government

170. The Working Group's activities in relation to the Islamic Republic of Iran are recorded in its last seven reports to the Commission.^{1/}

171. On 24 February 1988, in response to his request, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva was provided with summaries of all outstanding cases.

172. On 30 June 1988, the Working Group transmitted to the Government of the Islamic Republic of Iran 86 newly reported cases of disappearance, the earliest disappearance having occurred in February 1981, the most recent in August 1987; by the same communication, the Group reminded the Government of the other cases transmitted in the past which remained unclarified. By a letter dated 30 September 1988, the Government was again reminded of all outstanding cases.

173. The Working Group feels obliged to report that, despite all its efforts, the Government of the Islamic Republic of Iran has provided no information whatsoever on the results of any investigations conducted by the authorities to determine the fate or whereabouts of the missing persons.

174. By its communication dated 30 September 1988, the Working Group also drew the Government's attention to the fact that the Commission on Human Rights, in resolution 1988/34, had encouraged the Governments concerned with disappearances to give serious consideration to inviting the Working Group to visit their country, so as to enable the Group to fulfil its mandate even more effectively; the Group also pointed out that the General Assembly had expressed itself in similar terms in its resolution 42/142. The Working Group stated that it considered such visits extremely useful for achieving a more thorough understanding of the situation of disappearances in the countries concerned, and believed that a visit to the Islamic Republic of Iran would make an important contribution to its understanding of outstanding matters which fell within its mandate. So far the Government has not responded to this communication.

Information and views received from relatives of missing persons or from non-governmental organizations

175. The reports received in 1988 were submitted by the People's Mojahedin Organization of Iran and concerned cases of disappearances reported to have occurred between 1981 and August 1987. The organization again stressed the difficulties facing families when approaching the various government authorities, and reported that relatives had recently been subjected to threats for continuing to pursue the case of a missing person.

176. In his meeting with the Working Group during its twenty-fifth session, a representative of the People's Mojahedin Organization of Iran claimed that enforced or involuntary disappearances continued to occur in the Islamic Republic of Iran, and some of those who had only recently disappeared were reported to be among the 1,300 prisoners executed in August 1988. He further stated that, on the other hand, many long-term political prisoners had recently been released.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	184
III. Total number of cases transmitted to the Government by the Working Group	184
IV. Government responses	0

Iraq

Information reviewed and transmitted to the Government

177. The activities of the Working Group in relation to Iraq are recorded in its last four reports to the Commission. 1/

178. In 1988, the Working Group transmitted a total of 2,577 newly reported cases of disappearances to the Government. Three of those cases occurred in 1988 and were processed under the urgent action procedure; 108 cases were transmitted by a letter dated 8 July 1988 and concerned cases of persons who disappeared between 1979 and 1986; 2,280 cases were transmitted by a letter dated 29 July 1988 concerning Barzani Kurds disappeared in 1983; 39 by a letter dated 30 September 1988 concerning persons who disappeared between 1980 and 1985; and 147 by a letter dated 9 December 1988 concerning persons who disappeared between 1979 and 1983. As regards the cases transmitted by the Group on 9 December 1988, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

179. The Working Group also retransmitted to the Government seven cases with regard to which the sources had contested the Government's reply and, at the Government's request, it retransmitted two cases with additional information by a communication dated 24 February 1988. The Government was further reminded, by a letter dated 8 July 1988, of all outstanding cases transmitted in the past. By a letter dated 9 December 1988, the Working Group informed the Iraqi Government that it had considered 13 cases clarified under the six-month rule (see E/CN.4/1988/19, para. 27), the sources not having contested the Government's reply on reasonable grounds.

180. By its communication dated 30 September 1988, the Working Group also drew the Government's attention to the fact that the Commission on Human Rights, in resolution 1988/34, had encouraged the Governments concerned with disappearances to give serious consideration to inviting the Working Group to visit their country, so as to enable the Group to fulfil its mandate even more effectively; the Group also pointed out that the General Assembly had expressed itself in similar terms in its resolution 42/142. The Working Group stated that it considered such visits extremely useful for achieving a more thorough understanding of the situation of disappearances in the countries concerned, and believed that a visit to Iraq would make an important contribution to its understanding of outstanding matters which fell within its mandate. So far the Government has not responded to this communication.

Information and views received from relatives of missing persons or from non-governmental organizations

181. During its sessions, the Group met witnesses and relatives of missing persons and representatives of non-governmental organizations which had submitted cases of disappearance, such as the Preparatory Committee on Disappearances in Kurdistan, the Kurdistan Democratic Party, the Association islamique irakienne en France, the International Committee for the Release of Detained and "Disappeared" Women in Iraq, and the Organization of Human Rights in Iraq, as well as relatives of missing Kurds.

182. The Preparatory Committee on Disappearances in Kurdistan submitted 2,280 cases concerning male Barzani Kurds who reportedly disappeared after having been taken by the Iraqi army on 30 July 1983 from the Qustapa and Diyana camps near the city of Arbil, on the pretext that they were Iranian soldiers captured in Haji. Since their disappearance, no information on their fate or whereabouts had reached their families despite numerous appeals, including to international humanitarian organizations such as the Red Cross and Red Crescent Societies, ICRC, the United Nations High Commissioner for Refugees (UNHCR), the International Commission of Jurists and Amnesty International. Kurdish organizations were reported to have continuously endeavoured to seek information on the issue. However, the families of the missing persons did not obtain any concrete information on the fate and whereabouts of any of their missing relatives.

183. One of the Kurdish organizations stated that many more Barzanis had disappeared, but that the organization was gathering further details of those cases in order to submit them to the Working Group. A relative who appeared before the Working Group expressed fear that the missing persons could have been killed by government forces.

184. Three cases transmitted under the urgent action procedure concerned Iraqi students living in Egypt who have been missing since 9 August 1986 when they were allegedly taken to Cairo airport by the Iraqi Ambassador and put on a flight to Iraq with six Iraqi security officers. According to the source, their repatriation had been confirmed by UNHCR and ICRC in Cairo. In the remaining cases, the persons disappeared between 1979 and 1986. The highest number of reported cases occurred in 1980 and concerned persons from different social strata (civil servants, housewives, engineers, college students, members of the military and workers), who had allegedly been arrested by security agents at their residence, place of work or military units in different places (e.g. Baghdad, Kufa, Bagoub, Kirkuk, Al-Diwaina, Najaf, Al-Barrak, Al-Mosul). In many cases, the persons who disappeared belonged to families whose other members had also been arrested and subsequently expelled to the Islamic Republic of Iran. Most relatives of the missing persons stated that, for fear of reprisals, they had not availed themselves of internal remedies.

185. The International Committee for the Release of Detained and "Disappeared" Women in Iraq stated that women and children could hardly be included among those who, according to the Iraqi Government's reply to the Working Group, "had been sentenced to death in view of their criminal conspiracy to stir up sedition and a spirit of sectarian discrimination". If any of those women and children had been convicted of political crimes, the Iraqi authorities should be able to supply the Working Group with documentation on the charges against them, their trials, sentences, places of detention or dates of execution. The International Committee as well as other organizations stressed the usefulness of a visit by the Working Group to Iraq.

186. By a letter dated 7 October 1988, the Working Group received from the Organization of Human Rights in Iraq observations on information received from the Government confirming, *inter alia*, that one of the missing persons was living at home and another had been executed.

Information and views received from the Government

187. By a note verbale dated 14 January 1988, the Permanent Mission of Iraq to the United Nations Office at Geneva provided replies on 13 cases. By a further note verbale dated 8 February 1988, the Permanent Mission of Iraq stated that some of the cases received were fictitious and could not be identified; others were ambiguous and imprecise; however, they were still being investigated. It provided a further 25 replies, of which only seven corresponded to the names transmitted by the Working Group. The representative of Iraq at the forty-fourth session of the Commission on Human Rights was requested to clarify the question of the remaining 18 replies. In response to that request, the Permanent Mission, by a note verbale dated 11 May 1988, provided the reference numbers of the names specified in the communications received from the Centre for Human Rights. However, some of the names could not be identified as cases transmitted by the Working Group to the Iraqi Government; several related to communications processed under the procedure established in Economic and Social Council resolution 1503 (XLVIII).

188. By a note verbale dated 10 October 1988, the Permanent Mission of Iraq replied to a letter sent by the Working Group on 29 July 1988, by which it had transmitted 2,280 cases concerning Barzani Kurds who had disappeared in Iraq, stating that, since the beginning of the war, many Barzanis had joined Idris al-Barzani and had collaborated with the Islamic Republic of Iran during the hostilities. Others had collaborated with the Iranian enemy during occupation of parts of the northern region of Iraq and, when those parts of Iraqi territory had been recovered, they had fled to the Islamic Republic of Iran, where they had sought refuge. Furthermore, it was noteworthy that the lists in question did not specify dates of disappearance or arrest. By a letter dated 9 December 1988, the Working Group drew the attention of the Government to its letter of 8 July 1988, annex III of which contained a full description of the cases indicating that all those disappearances had occurred on 30 July 1983.

189. By a communication dated 21 November 1988, the Iraqi Government replied concerning 38 cases on which it had already provided replies by letters dated 14 January and 8 February 1988, repeating its previous responses on 34 of the cases and giving a different version on four of them. In the said communication, the Government also provided replies concerning a further four cases on which the Working Group decided to apply the six-month rule (see E/CN.4/1988/19, para. 27).

Statistical summary

I.	Cases reported to have occurred in 1988	3
II.	Outstanding cases	2,728
III.	Total number of cases transmitted to the Government by the Working Group	2,770
IV.	Government responses:	
(a)	Number of cases on which the the Government has provided one or more specific responses	86
(b)	Cases clarified by the Government's responses <u>a/</u>	23
V.	Cases clarified by non-governmental sources <u>b/</u>	19

a/ Persons executed: 11
Persons at liberty: 9
Persons killed in the war: 3.

b/ Persons executed: 6
Persons at liberty: 7
Persons released from detention: 5
Person who died during detention: 1

LebanonInformation reviewed and transmitted to the Government

190. The activities of the Working Group in relation to Lebanon are recorded in its last six reports to the Commission. 1/

191. By a letter dated 20 June 1988, the Working Group retransmitted to the Government one case reported to have occurred in 1985, on which further information was received from the family. At the same time, as well as by a letter dated 30 September 1988, the Government was reminded of the outstanding cases. Despite repeated efforts by the Working Group to obtain a reaction from the Government to the reported disappearances, no response has been received during the period under review.

Statistical summary

I.	Cases reported to have occurred in 1988	0
II.	Outstanding cases	240
III.	Total number of cases transmitted to the Government by the Working Group	245
IV.	Government responses	0
V.	Cases clarified by non-governmental sources <u>a/</u>	5

a/ Persons released: 5

MexicoInformation reviewed and transmitted to the Government

192. A detailed account of its activities in relation to Mexico has been provided by the Working Group in its second and fourth to eighth reports to the Commission. ^{1/}

193. During 1988, the Working Group transmitted 49 newly reported cases, one of which was reported to have occurred in 1988 and was transmitted under the urgent action procedure. The other 48 cases were transmitted by a letter dated 30 September 1988. By letters dated 20 June and 9 December 1988, the Group retransmitted to the Government 24 cases, 10 of which had been updated with further information recently received from the sources; 14 of those cases contained observations by the sources on the government replies. In accordance with a decision taken at its eighteenth session (see E/CN.4/1986/19, para. 248), the Working Group also forwarded to the Government observations by the sources on government replies concerning cases transmitted in 1981 and 1982. Finally, the Group decided to consider clarified the case transmitted under the urgent action procedure, on the basis of information provided by the Government.

Information and views received from relatives of missing persons or from non-governmental organizations

194. The newly reported cases were submitted by the Mexican National Committee for the Defence of Prisoners, Persecuted and Missing Persons and Political Exiles (CDPPDEP), which also provided further information on previously transmitted cases. The new reports refer to persons who allegedly disappeared between 1972 and 1987 (1 in 1972; 4 in 1974; 1 in 1975; 1 in 1976; 8 in 1977; 5 in 1978; 2 in 1979; 3 in 1980; 12 in 1981; 2 in 1982; 5 in 1983; 1 in 1984; 1 in 1985; 1 in 1986; 1 in 1987). The case transmitted under the urgent action procedure was submitted by the Academia Mexicana de Derechos Humanos A.C. of Copilco University, Coyoacán, Mexico, and it concerns the disappearance of a law student in Xalope, Veracruz. This case was clarified shortly after its transmission, as the Government informed the Working Group that the missing person had been located. The source confirmed the information and reiterated that the person had been abducted by members of the Policía Judicial (criminal police) of the State of Veracruz because she had filed a complaint against members of the police who had, on a previous occasion, abducted and tortured her.

195. Amnesty International provided the Working Group with the reasons, on a case by case basis, why the relatives and the organization considered the responses of the Mexican Government unsatisfactory. It pointed to the lack of any response from the Mexican Government to testimonies which appeared to cast doubt on its original reply. According to Amnesty International, the Government had given no clear indication that it had made further investigations on the basis of information contained in testimonies to the effect that the persons concerned had been taken into custody or seen in detention, or that it had examined the records of the various detention centres in which the missing persons had allegedly been seen by witnesses. Furthermore it appeared that police or military personnel allegedly involved in the missing person's arrest and/or detention had not been questioned. In cases in which the Government had indicated that the missing person was dead,

no evidence of the death (e.g. a coroner's report or death certificate) had been provided and the relatives had not been informed where the body was buried.

196. CDPFFEP sent the Working Group a report with the replies the relatives had received from the Government, which they had generally rejected. This organization asserted that the testimonies of persons who had been detained in clandestine places and later released conclusively disproved the government replies. The witnesses had stated that they had seen many of the missing persons alive in secret prisons. The relatives rejected the Government's requests for further information, since they had already provided all the information available to them. If the Government wanted to obtain additional information, it should request the co-operation of official government forces involved in the disappearances. In this connection, the Working Group decided with regard to 59 cases on which the Government had informed the Group that the persons had died, to consider these cases clarified provided that within six months the respective families did not substantiate, on a case by case basis, their general rejection of the government replies.

Information and views received from the Government

197. By notes verbales dated 13 September, 17 October and 22 November 1988, the Permanent Mission of Mexico to the United Nations Office at Geneva transmitted information on 28 cases to the Working Group; for 9 of those cases a reply had been received previously; and, in one of the latter, the Government indicated that a new investigation of the case had been initiated taking into account the suggestions made by the source.

198. The Permanent Mission also transmitted a letter from the Government of Mexico expressing its disagreement with the procedure followed by the Group in certain cases on which the Government had provided a reply, because, despite the fact that neither the relatives nor other sources had provided further information which might help to advance the investigations, the cases had not been considered clarified. The Government of Mexico also considered it essential that the Group should establish how far back in time it should go with regard to cases submitted to it for consideration.

199. In the same letter, the attention of the Group was drawn to the political motivation which might prompt relatives and other sources of reports not to accept the replies given by the Government following thorough investigations. It was also stated that the increase in the number of alleged disappearances in Mexico reported to the Group did not reflect a deterioration in the situation of fundamental freedoms in the country, but rather the decision taken by reporting organizations to present a distorted picture of the human rights situation in Mexico. The fact that, of the 194 cases which the Working Group considered not to have been fully clarified, six had allegedly occurred between 1983 and 1987 and the remaining 188 between 1972 and 1982 demonstrated clearly the intention of the reporting organizations.

200. After having examined the points raised by the Government of Mexico, in its note verbale dated 20 May 1988, the Group, by a letter dated 6 June 1988, replied that, as it had repeatedly stated, it could only consider cases clarified if the information given clearly indicated where the missing person was (whether alive or dead) and if that information was sufficiently definite for the family to be reasonably expected to accept it.

201. With regard to the question of a time-limit, the Working Group had considered that question at great length, but had been unable to reach agreement on a common position. It had therefore brought the matter before the Commission for consideration at its forty-fourth session. The Commission had not decided that the Group should change its practice of not imposing any limit of that nature. The Group had also attempted to show very clearly in its reports when alleged cases of disappearances had actually occurred. The graphs it had drawn up demonstrated that, in the case of Mexico, the reported situations went back to the period mentioned in the Government's letter.

202. With regard to its working relationship with non-governmental organizations, the Group had consistently held the view, in relation to any country, that its only criterion for accepting them as a source, was whether or not such organizations were acting on behalf of the families concerned. The Group could not pass judgement on the political or ideological persuasion of those organizations.

203. At its twenty-fifth session, the Working Group met a representative of the Government of Mexico who reiterated his Government's assurances that it would continue to co-operate fully with the Working Group, and explained its objections to the Group's methods of work formulated in the above-mentioned letter. He further stated that it was not possible, on the basis of the results of investigations carried out in some cases, to assert that government forces were responsible for the disappearance; rather it appeared that the persons had voluntarily absconded or left their families or that private individuals were likely to be responsible for the disappearance. He further informed the Working Group that in one case inquiries had been resumed on the basis of the objections raised by one non-governmental organization.

204. The representative of Mexico also expressed his Government's concern regarding the time-limit for the admission of cases and suggested that, in its presentation of statistics, the Working Group should establish a clear distinction between different government administrations in every country. With regard to the clarification of cases, he suggested that the Working Group should accept pronouncements by national courts, in accordance with national legislation, on the presumption of death of a person reported missing.

205. By a note verbale dated 17 October 1988, the Permanent Mission of Mexico provided a reply in relation to a case transmitted under the urgent action procedure stating that the person concerned had been located in a monastery situated in Mérida, Yucatán, where she had been living under a false name. She had left the State of Veracruz and entered the monastery for personal reasons. Consequently, her case did not constitute a disappearance within the mandate of the Working Group.

Statistical summary

I.	Cases reported to have occurred in 1988	1 <u>a/</u>
II.	Outstanding cases	242
III.	Total number of cases transmitted to the Government by the Working Group	244
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	208
	(b) Cases clarified by the Government's responses <u>b/</u>	2

a/ The case which occurred in 1988 was transmitted under the urgent action procedure and was subsequently clarified on the basis of information provided by the Government (see paras. 194 and 205 above).

b/ Person whose body was identified: 1
Person abducted and later released: 1.

Morocco

Information reviewed and transmitted to the Government

206. The activities of the Working Group in relation to Morocco are referred to in its last six reports to the Commission. ^{1/}

207. In 1988 the Working Group has received no newly reported cases of disappearance. By letters dated 20 June and 30 September 1988, the Working Group again reminded the Government of the outstanding cases.

Information and views received from non-governmental organizations

208. By a letter dated 12 January 1988, the International Association of Democratic Lawyers (IADL) provided the Working Group with information about the cases of four persons who had been brought to trial after having been held in secret detention for one and a half months in 1987. The Working Group did not take any action on those cases because it received complete information only after the persons' whereabouts had been established.

Information and views received from the Government

209. By a note verbale dated 29 November 1988, the Permanent Mission of Morocco to the United Nations in Geneva reiterated the information already provided by the Government on 20 June 1983, 14 and 24 November 1986 concerning 10 cases. The Working Group regrets that the information provided sheds no light on the whereabouts of any of the missing persons concerned.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	16
III. Total number of cases transmitted to the Government by the Working Group	20
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	13
(b) Cases clarified by the Government's responses	0
V. Cases clarified by non-governmental sources ^{a/}	4

^{a/} Persons released: 4.

Mozambique

Information reviewed and transmitted to the Government

210. The one case of disappearance transmitted to the Government of Mozambique, by a letter dated 20 June 1988, concerned a person who went missing in the United Republic of Tanzania in 1975, but who was allegedly seen in detention in Mozambique in early 1988. On 30 September 1988, the Government was reminded that the Working Group still awaited the results of the requested investigations.

Information and views received from relatives of missing persons or from non-governmental organizations

211. The report on the case of disappearance in Mozambique was submitted by the wife of the missing person. She reported that her husband, the President of the Mozambique Revolutionary Committee, had been arrested in November 1974 in Malawi, taken first to Mozambique then to the southern part of the United Republic of Tanzania where he was last seen in April 1975 with other detainees. Recently she had received reliable information that he was detained in Niassa Province (Mozambique).

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	1
III. Total number of cases transmitted to the Government by the Working Group	1
IV. Government responses relating to the case transmitted	0

Nepal

Information reviewed and transmitted to the Government

212. The Working Group's activities in relation to Nepal are recorded in its last two reports to the Commission.^{1/}

213. In 1988, the Working Group did not receive any new reports of disappearances in Nepal. However, by a letter dated 20 June 1988 the Government was reminded of the four outstanding cases, and, in response to its request of 4 July 1988, it was provided with the relevant summaries. On 30 September 1988 the Government was again reminded of the outstanding cases but the Working Group still awaits the results of the requested investigations.

Statistical summary

I.	Cases reported to have occurred in 1988	0
II.	Outstanding cases	4
III.	Total number of cases transmitted to the Government by the Working Group	5
IV.	Government responses	0
V.	Cases clarified by non-governmental sources ^{a/}	1

^{a/} Person released: 1.

Nicaragua

Information reviewed and transmitted to the Government

214. The activities of the Working Group in relation to Nicaragua are recorded in its last eight reports to the Commission. 1/

215. By letters dated 20 June and 30 September 1988, the Working Group transmitted to the Government of Nicaragua three cases of disappearance reported to have occurred in 1985 and retransmitted three cases containing observations submitted by relatives regarding the replies received from the Government. In that connection, the Working Group had previously advised relatives of government replies on 28 cases, indicating that, if no response had been received within six months of the date of transmittal of the government replies, the cases would be considered clarified. At its twenty-sixth session, the Working Group considered 25 previously transmitted cases clarified under the six-month rule (see E/CN.4/1988/19, para. 27).

216. At the request of the Permanent Mission of Nicaragua to the United Nations Office at Geneva, the summaries of all unclarified cases were retransmitted by a letter dated 29 June 1988.

Information and views received from relatives of missing persons or from non-governmental organizations

217. The cases transmitted in 1988 were reported by the Nicaraguan Permanent Commission on Human Rights (Managua), which asserted that the three persons had been taken away by an army officer who had requested their assistance for a military operation. The three men had never returned and contradictory information was provided to relatives about their fate (some authorities allegedly informed relatives that the missing persons had been released, while an official press release stated that one of them had been killed).

218. In three cases the relatives contested the Government's replies according to which the missing persons had been killed in 1979 by persons who had taken justice into their own hands. They stated that their dear ones had been detained by official forces and, according to witnesses, handed over to military authorities.

219. In a report submitted to the Working Group, Amnesty International stated that it had investigated and documented cases of disappearance and extrajudicial executions carried out by military personnel, the great majority of which had occurred in combat zones. According to this report, in some cases those responsible for the abuses had been arrested, tried and sentenced, but in other cases only partial and incomplete investigations had been carried out.

Information and views received from the Government

220. By a letter dated 14 March 1988, the Government of Nicaragua stated that, in 28 cases of disappearance in the Working Group's files, the persons had in fact been executed by individuals who were outside the Government's control and who had had taken justice into their own hands, during the liberation war and subsequent months, when the Government did not exercise full authority over the entire territory of the country. That fact had been recognized by the Inter-American Commission on Human Rights when it visited Nicaragua in 1981.

221. By a letter dated 4 November 1988, the Government, in response to the Working Group's transmission of three cases during the year, stated that those cases were already before the Inter-American Commission on Human Rights, which was thus the competent body to consider them. The Working Group's position in this regard is reflected in paragraph 169 of its previous report.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	87
III. Total number of cases transmitted to the Government by the Working Group	217
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	172
(b) Cases clarified by Government's responses ^{a/}	111
V. Cases clarified by non-governmental sources ^{b/}	19

a/ Persons at liberty: 16
Persons in prison: 7
Person escaped from prison: 1
Persons dead: 62
Salvadorian fishermen not detained in the country: 11
Persons who joined counter-revolutionary forces: 12
Persons abducted by counter-revolutionary forces: 2.

b/ Persons executed or killed in armed confrontation: 11
Persons at liberty: 4
Persons in prison: 2
Person living abroad: 1
Person who joined a rebel group: 1.

Paraguay

Information reviewed and transmitted to the Government

222. The activities of the Working Group in relation to Paraguay are recorded in its last seven reports to the Commission. ^{1/}

223. It should be noted that the Group has received no reports of disappearances occurring in Paraguay since 1977. However, on 30 September 1988 the Working Group addressed a letter to the Government of Paraguay concerning reports it had received about four children believed to have been born during their mother's detention in Argentina, who had been taken to Paraguay before Argentine courts could obtain incontestable evidence of their filiation through haematogenic tests. The children are listed as missing together with their mothers in the Working Group's files concerning Argentina; the Group requested the Government of Paraguay to take urgent measures to establish the identity of the children with absolute certainty.

Information and views received from the Government

224. By a note verbale dated 10 March 1988, the Permanent Mission of Paraguay to the United Nations Office at Geneva transmitted copies of parts of the proceedings initiated by the Attorney-General to request a judge to declare the presumed deaths of two of the missing persons referred to in the Working Group's files.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	3
III. Total number of cases transmitted to the Government by the Working Group	23
VI. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	23
(b) Cases clarified by the Government's responses ^{a/}	20

^{a/} Persons arrested or abducted in Argentina: 5
Persons arrested and expelled to Brazil: 4
Persons detained and released: 4
Persons whose transfer to Argentina was witnessed: 2
Persons whose transfer to Uruguay was witnessed: 2
Person dead: 1
Persons living abroad: 2.

Peru*

Information reviewed and transmitted to the Government

225. The Working Group has recorded its activities in relation to disappearances in Peru in its last four reports to the Commission.^{1/}

226. During 1988, the Working Group transmitted to the Government of Peru 226 newly reported cases of disappearance, 170 of them alleged to have occurred in 1988. Forty-four cases were transmitted by a letter dated 20 June 1988, seven by a letter of 30 September 1988, 55 by a letter dated 9 December 1988 and 120 by various cables under the urgent action procedure. By the same letters, the Group retransmitted to the Government a total of 72 cases containing additional information received from the sources. As regards the 61 cases transmitted by the Working Group in December 1988, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

227. By a letter of 20 June 1988, the Government was reminded of the outstanding cases and, by letters of 14 April, 7 July, 30 August, 30 September and 9 December 1988, the Working Group advised the Government that 66 cases had been considered clarified on the basis of replies received from the sources.

228. By its letter of 30 September 1988, the Working Group also expressed concern regarding the protection and security of members of relatives' organizations who had allegedly been subjected to harassment and death threats.

229. The files of the Working Group were revised and it was found that four cases had been duplicated. The statistics were adjusted and the Government was informed accordingly.

Information and views received from relatives of missing persons or non-governmental organizations

230. The cases transmitted during 1988 were submitted by Amnesty International, the Andean Commission of Jurists (CAJ), the Episcopal Social Action Commission (CEAS), the Human Rights Association (APRODEH), the Human Rights Commission (COMISEDH) and the Federation of Yanasha Indigenous Communities of Peru (FECONAYA). The reported disappearances occurred between June 1987 and October 1988 in the departments of Ayacucho (104), Apurímac (42), Huancavelica (17), Lima (3), Loreto (4), San Martín (51) and Huanuco (5). For the great majority of the cases, army personnel in uniform were reportedly responsible for the disappearance; in a few cases, members of the Peruvian Investigatory Police (PIP) or the navy were allegedly identified. In many cases, the relatives indicated the barracks where the missing person had been taken after the arrest, but officials in those barracks had denied the detention. In fact, detentions leading to disappearances were generally carried out openly by uniformed members of the armed forces, sometimes acting with the Civil Defence Groups, in the presence of witnesses; sometimes several persons had been detained and later disappeared, despite the fact that entire peasant communities had been present during such military operations.

*/ Mr. Diego García-Sayan did not participate in the decisions relating to this sub-section of the report.

231. The above-mentioned organizations also provided a number of general reports on human rights in Peru, including their evaluation of the situation in relation to disappearances. In those reports it was recalled, *inter alia*, that for more than eight years Peru had been ravaged by a conflict between the Government and the terrorist movement Sendero Luminoso (Shining Path), which had claimed more than 11,000 lives. The task of ending that violence had been made even more difficult by the emergence of another guerrilla movement - Movimiento Revolucionario Tupac Amaru (MRTA). The Sendero Luminoso strategy was to wage a protracted guerrilla war against the cities from Peru's mountainous rural areas. It seemed to be strongest in the southern Andean Departments of Ayacucho, Apurímac and Huancavelica. MRTA had grown chiefly in the urban centres as an alternative to Sendero Luminoso. However, in November 1987, MRTA had significantly broadened the scope of its operations when it had successfully occupied a town in the rural Department of San Martín. The Government's main response to the guerrilla challenges had been to declare a state of emergency in approximately 30 of Peru's 180 provinces to be administered by the armed forces. Disappearances and extrajudicial executions continued to be reported on an almost daily basis in those areas. It was a matter of great concern that the number of disappearances had again sharply increased during 1988.

232. Non-governmental organizations stated that, although many detainees who had been missing for weeks or months were subsequently released without charges, former victims of prolonged secret detention had described being tortured and threatened with death; other missing persons had been found dead.

233. The reports received by the Working Group stated that the testimonies of the persons who had reappeared highlighted and confirmed the ways in which enforced disappearances were carried out by members of the security, military and police forces; they concealed their identity, used false names, covered their faces, wore field uniforms and drove army vehicles. According to the sources, clandestine detention centres existed in military barracks and posts such as "Los Cabitos" BIM-51 Barracks, the Political-Military Command Headquarters in the city of Ayacucho, the Castropampa Barracks in Huanta and "La Oroya" BIM-34 Barracks in Pampa Cangallo, where torture was a common practice and it had been reported that doctors took part in torture sessions. If any questions were asked by relatives, the presence of detainees at those places was denied. The same testimonies had helped to ascertain the whereabouts of other missing detainees and indicated their appalling physical condition.

234. According to non-governmental organizations, a special commission of public prosecutors (*fiscales*), sent by the Office of the Attorney-General (*Ministerio Público*) to rural areas of Ayacucho to investigate reports of grave violations of human rights committed by the armed forces, had actively investigated cases of disappearance and succeeded in locating a number of missing persons. Public prosecutors reported that many of those released from military custody had visible signs of having been tortured; several police doctors who had failed to register the physical condition of such prisoners when they were received into police custody from the military had been charged with obstructing justice. Furthermore, the public prosecutors had complained of the obstruction and lack of co-operation and respect that they had experienced when dealing with the military authorities during their investigations in the Ayacucho emergency zone.

235. Despite the fact that a large number of persons had reappeared and made lengthy statements to the special commission of public prosecutors in Ayacucho, it had only been possible to institute criminal proceedings in one case of disappearance. That was because, for the purpose of a criminal trial, Peruvian law required full identification of the person presumed to be guilty, something that was extremely difficult to prove because such acts were generally carried out by persons who remained completely anonymous. As far as legal protection against disappearances is concerned, writs of habeas corpus on behalf of persons detained or missing had little effect; although the formalities were observed, the results were by and large negative and the cases were not effectively investigated.

236. The information received by the Working Group included a number of demands made by relatives of missing persons and human rights organizations to the President of the Republic and other authorities, such as the establishment of a special commission of inquiry into disappearances, which would include among its members representatives of the Catholic Church, the relatives, parliament, human rights organizations and eminent figures known for their work in protecting human rights and human life; explicit arrangements for trials for human rights violations committed by the military and the police in the course of their duties to be held in the ordinary courts so as to ensure impartiality; the repeal of Act No. 24.150, which grants unlawful and anti-constitutional powers to the political-military commands in the zones under a state of emergency, favouring conditions that are propitious for disappearances and other attacks against the lives of individuals; the adoption and ratification by parliament of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the creation of a central register containing information on detainees to be reported within a maximum of 24 hours of arrest; an immediate end to the enforced disappearance of detainees, which should be condemned as a crime against humanity.

237. The above-mentioned organizations also reported that the National Association of Relatives of Abducted Persons and Disappeared Detainees in the Zones under a State of Emergency in Peru (ANFASEP) was subjected to constant harassment and intimidation and that death threats against its Executive Committee had been conveyed personally to the President and one of the members of the Committee by an officer of the intelligence service at the headquarters in Ayacucho.

238. Finally, human rights organizations informed the Working Group promptly of their own findings in relation to cases of disappearance, thereby clarifying 67 cases.

Information and views received from the Government

239. By letters dated 6 and 17 October and 1 November 1988, the Government provided replies on 12 cases of disappearance. Regarding 11 of those cases the Government indicated that, according to the information provided by the Ministry of Defence, it had not been possible to establish where the persons concerned were or that they had not been arrested or detained by forces answerable to the Ministry of Defence. In the remaining case, the Government indicated that the person had been arrested, held in PIP custody and later released in accordance with a judge's decision.

240. The Permanent Mission of Peru to the United Nations Office at Geneva also sent the Working Group a request from the Ministry of Defence that cases transmitted to the Government should contain, in addition to the information required by the Working Group, further identity data, the precise domicile of the missing person and a clear identification of the source, including identity data and domicile of the latter. In that connection, the Working Group replied that efforts would be made to obtain as much information as possible, but that cases containing the basic elements required would continue to be transmitted to the Government, as indicated in the Working Group's methods of work (see E/CN.4/1988/19, paras. 16-30) and as endorsed by the Commission on Human Rights.

Statistical summary

I. Cases reported to have occurred in 1988	170
II. Outstanding cases	1,361
III. Total number of cases transmitted to the Government by the Working Group	1,621
IV. Government responses:	
(a) Number of cases on which the the Government has provided one or more specific responses	179
(b) Cases clarified by the Government's responses ^{a/}	78
V. Cases clarified by non-governmental sources ^{b/}	182

a/ Persons detained: 7
Persons arrested and released: 41
Persons who obtained a voter's card after the date of their alleged disappearance: 29
Person found dead: 1.

b/ Persons whose bodies were found and identified: 35
Persons released from detention: 117
Persons in prison: 25
Person wounded in a summary execution and subsequently able to return home: 1
Person taken to a hospital after detention: 2
Person at liberty: 1
Person in military service: 1.

Philippines

Information reviewed and transmitted to the Government

241. The Working Group's activities in relation to the Philippines are recorded in its previous reports to the Commission.^{1/}

242. During the period under review, the Working Group transmitted 39 cases reported to have occurred in 1988 to the Government of the Philippines. Of those 39 cases, 36 were processed under the urgent action procedure. On 20 June 1988, the Working Group reminded the Government of the outstanding cases transmitted to it previously. At the request of the Permanent Mission of the Philippines to the United Nations Office at Geneva, on 12 September 1988, the Working Group retransmitted the summaries of all outstanding cases of disappearance. By a letter dated 9 December 1988, the Working Group retransmitted a further case updated with additional information. The Government was also informed that one case had been clarified by the source and that another case had been subjected to the six-month rule (see E/CN.4/1987/19, para. 27).

243. By a communication dated 30 September 1988, the Working Group also drew the Government's attention to the fact that the Commission on Human Rights, in resolution 1988/34, had encouraged the Governments concerned with disappearances to give serious consideration to inviting the Working Group to visit their country, so as to enable the Group to fulfil its mandate even more effectively, the Group also pointed out that the General Assembly had expressed itself in similar terms in its resolution 42/142. The Working Group stated that it considered such visits extremely useful for achieving a more thorough understanding of the situation of disappearances in the countries concerned, and believed that a visit to the Philippines would make an important contribution to its understanding of outstanding matters which fell within its mandate. At its twenty-sixth session, the Chargé d'affaires of the Permanent Mission of the Philippines to the United Nations Office at Geneva stated that his Government was seriously considering inviting a member of the Working Group to visit the Philippines.

Information and views received from relatives of missing persons or non-governmental organizations

244. The majority of the newly reported cases were submitted to the Working Group by Amnesty International. A few cases were received from Task Force Detainees of the Philippines. Most of the missing persons are young men living in rural areas whose arrests were made in connection with the activities of the New People's Army (NPA) in the areas where they live. Others were abducted because they belonged to professional associations, like the Small Farmers Association, and because they were suspected of being NPA sympathizers. Other young men were arrested because they were active in left-wing organizations like KADENA (Youth for Democracy and Nationalism). Trade-unionists and community leaders are also among the persons reportedly missing. In 11 cases, the persons concerned were reported to have been arrested by members of a Philippine constabulary company and by members of Alsa Masa, a paramilitary force. The forces allegedly responsible for the abduction in the other cases were various infantry battalions, the armed forces and the police.

245. During the period under review, Amnesty International submitted two reports entitled "Philippines - Extrajudicial Executions and Disappearances in Manila" and "Philippines: Recent Disappearances", in which it expressed its concern that members of the security forces or "vigilante" groups under their supervision might be engaged in a systematic effort to arrest or execute suspected members of NPA outside the judicial process.

Information and views received from the Government

246. The Deputy Permanent Representative of the Philippines to the United Nations attended the twenty-fourth session of the Working Group and assured the Group, once more, of his Government's commitment to human rights and to continuing the investigations being carried out by the Philippine Commission on Human Rights (PCHR) on the cases brought to its attention. He pointed out the difficulties encountered in the investigations, for example, lack of eye-witnesses to the abductions or disappearances. The Deputy Permanent Representative informed the Working Group of preventive measures taken by the Commission, among them the preparation of the "Guidelines on Visitation and the Conduct of Investigation, Arrest, Detention and Related Operations affecting the rights of every person", which were issued on 6 May 1988.

247. He also mentioned a Senate Bill which, if passed, would amend the functions of PCHR as an investigating body. The Bill provides for the appointment of special prosecutors to the Commission by the Secretary of Justice, who will form part of the investigating body of the Commission and will be responsible for the prosecution in civil courts of violations of human rights, provided that Congress may conduct its own investigation of said cases.

248. By letters dated 8 January, 3 and 4 March, 21 April, 25 November and 1 December 1988, the Permanent Mission of the Philippines to the United Nations Office at Geneva provided replies on 32 cases transmitted previously, indicating that, in all instances, investigations were continuing. By a letter dated 9 May 1988, the Government also replied on three cases transmitted during the current year under the urgent action procedure, and forwarded a PCHR request that the source contact it directly with any new information. By letters dated 12 July, 26 August and 7 November 1988, the Permanent Mission of the Philippines provided further replies on 12 cases. By a letter dated 15 September 1988, the Permanent Mission provided replies on another 11 cases concerning which investigations had not yet led to establishment of the identities of the abductors, despite the efforts made by PCHR. By letters dated 21 and 29 September, 10 October, 26 November and 1 December 1988, the Permanent Mission informed the Group that PCHR had referred seven cases to the appropriate authorities for investigation. By letter dated 1 December 1988, the Permanent Mission forwarded a PCHR reply stating that it had referred three cases to its regional offices for investigation and that one person had been released from detention by the Air Force Intelligence Unit; the Working Group decided to apply the six-month rule to the latter case (see E/CN.4/1988/19, para. 27).

249. By a letter dated 13 September 1988, the Permanent Mission of the Philippines sent the Working Group six documents reflecting steps taken by the Philippine Government in compliance with General Assembly resolution 42/142 and Commission on Human Rights resolution 1988/34. These documents concern the "Guidelines on Visitation and the Conduct of Investigation, Arrest and Detention and Related Operations", a PCHR statement on human rights, a primer on PCHR, a manual of services and programmes and a progress report of PCHR and consolidated monthly accomplishment reports.

250. The Chargé d'affaires of the Permanent Mission of the Philippines to the United Nations Office at Geneva attended the twenty-fifth and twenty-sixth sessions of the Working Group and informed it of the status of investigations concerning reported cases of disappearance. He promised that his Government would continue to take appropriate action on the cases referred to it by the Working Group. He also provided information on the institutions and mechanisms established by PCHR to deal with the problem, namely:

- (a) A witness protection programme to encourage witnesses to come forward and testify;
- (b) Establishment of 12 regional and subregional offices throughout the country to provide, in particular, easier access for victims of human rights violations to PCHR services;
- (c) Financial assistance and access to various forms of rehabilitation services which are made available to victims and their families;
- (d) Public information and education services, directed especially to the police and the military;
- (e) A set of guidelines for immediate implementation by all law enforcement agencies and institutions on the conduct of investigations, arrests and detention. In particular, the guidelines make the law enforcement agencies responsible for the safety and security of complainants and witnesses;
- (f) Dismantling of so-called "vigilantes", and their replacement by civilian volunteer organizations and citizens armed forces in the different regions. The Philippine Department of National Defence had organized a Citizens Armed Forces Geographical Unit (CAFGU) composed of reservists who would undergo military training and would be systematically organized as a unit in their respective areas;
- (g) A Bill, still pending before the House of Representatives, which would create the Philippine National Police (a civilian agency under the Office of the President) which would incorporate the Philippines Constabulary, currently under the armed forces. Local officials would have a considerable degree of supervision, direction and control over the National Police.

Statistical summary

I. Cases reported to have occurred in 1988	39
II. Outstanding cases	413
III. Total number of cases transmitted to the Government by the Working Group	488
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	363
(b) Cases clarified by the Government's responses ^{a/}	70
V. Cases clarified by non-governmental sources ^{b/}	<u>50/</u>

^{a/} Persons at liberty: 7
Persons arrested and detained: 4
Persons released: 43
Persons dead: 16.

^{b/} Persons assassinated: 2
Persons released: 2
Person returned home: 1.

^{c/} Two additional clarifications received from non-governmental sources were simultaneously provided by the Government and are included under IV (b).

Seychelles

Information reviewed and transmitted to the Government

251. The Working Group's activities in relation to Seychelles are recorded in its previous reports to the Commission. ^{1/}

252. During the period under review the Working Group has received no reports on disappearances in Seychelles. However, by letters dated 20 June and 30 September 1988, the Working Group reminded the Government of the three outstanding cases dating back to 1977 and 1984. No further information was received on those cases which, according to a reply provided by the Government in 1986, were under investigation. The Group is therefore unable to report on the result of the inquiries.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	3
III. Total number of cases transmitted to the Government by the Working Group	3
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	3
(b) Cases clarified by the Government's responses	0

Sri Lanka

Information reviewed and transmitted to the Government

253. The Working Group's activities in relation to Sri Lanka are recorded in its last seven reports to the Commission.^{1/}

254. During the period under review, the Working Group transmitted to the Government of Sri Lanka 152 newly reported cases of disappearance, of which two were reported to have occurred in 1988; 56 cases were transmitted by a letter dated 20 June 1988, 74 by a letter dated 30 September 1988, 20 by a letter dated 9 December 1988, and two were transmitted by cables dated 5 and 14 April 1988 under the urgent action procedure. By communications dated 20 June, 30 September and 9 December 1988, the Working Group also retransmitted 73 cases updated with new information received from the sources, and on 9 December 1988 the Government was also advised that the new cases transmitted on 30 September 1988 contained a duplication of one case transmitted earlier. As regards the cases transmitted by the Group on 9 December 1988, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

255. By letters dated 30 September and 9 December 1988, the Government was also informed that three cases were now considered clarified following advice from the respective sources that two persons had died and another had returned home from a detention camp.

256. In its communication dated 30 September 1988, the Working Group also drew the Government's attention to the fact that the Commission on Human Rights, in resolution 1988/34, had encouraged the Governments concerned with disappearances to give serious consideration to inviting the Working Group to visit their country, so as to enable the Group to fulfil its mandate even more effectively; the Group also pointed out that the General Assembly had expressed itself in similar terms in its resolution 42/142. The Working Group stated that it considered such visits extremely useful for achieving a more thorough understanding of the situation of disappearances in the

countries concerned, and believed that a visit to Sri Lanka would make an important contribution to its understanding of outstanding matters which fell within its mandate. At the time of the adoption of the report, no definitive reply from the Government had been received to that communication.

Information and views received from relatives of missing persons or non-governmental organizations

257. The reports received during 1988 emanated from Amnesty International and/or relatives of the missing persons. Responsibility for the disappearances was attributed mainly to the Special Task Force and armed forces, but 23 persons were alleged to have been arrested by members of the Indian Peace-keeping Force. Among those 23 were a mother and her three young daughters.

258. By letters dated 2 July and 8 August 1988 from the respective parents, the Working Group learned that one missing person had returned home from Boosa Camp and that the death of two others had been officially certified.

259. With its submission of newly reported cases of disappearance on 18 May 1988, Amnesty International also forwarded a copy of its report entitled "Sri Lanka - What has happened to the 'disappeared'?". In that report, Amnesty International stated that, although there had been fewer allegations of disappearances since the signing of the peace accord, it was concerned that the scope of disappearances had widened. Whereas prior to July 1987 Tamils had been the alleged victims of the security forces in the north and east of Sri Lanka, recent victims included not only members of the minority Tamil community but also members of Sri Lanka's Sinhalese majority, some of whom were known to be members of - or sympathizers with - groups opposed to the peace accord. Those Sinhalese had been taken to unknown destinations by members of the Sri Lankan security forces in the south and their whereabouts remained unknown because the forces subsequently denied knowing about their arrest. Some Tamils had also been taken away by members of the Indian Peace-keeping Force in the north who, although initially acknowledging an arrest, had later either denied knowledge of the disappeared person or claimed that he had been released.

260. Amnesty International further reported that following the signing of the Indo-Sri Lankan agreement, thousands of prisoners had been released but only one of the ex-detainees had previously been reported as having disappeared.

261. When communicating further cases of disappearance on 7 September 1988, Amnesty International reported separately on the results of 21 habeas corpus petitions which had been brought before the Court of Appeal. From those results it was noted that in many cases the authorities had informed the court that the person had not been arrested; in respect of others no reply had yet been given on the allegations implied in the applications. While the arrest of two brothers had been acknowledged, it was added that both had been released, but confirmation of their release had not yet been received from the family. Amnesty International declared that it did not know of any individual cases in which such legal action had resulted in establishing the fate or whereabouts of a disappeared person.

Information and views received from the Government

262. As a follow-up to the request of the Sri Lankan delegation to the forty-fourth Commission that the Working Group "consider whether it ought to use the internationally accepted rule that persons missing for over a period of time are presumed to be untraceable", the Permanent Representative of Sri Lanka to the United Nations Office at Geneva, by a letter dated 29 March 1988, provided the Working Group with documentation concerning the "rule regarding presumption of death". According to this documentation, "section 108 of the Sri Lanka Evidence Ordinance provides that, when a person has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to those who affirm that he is alive". The Permanent Representative cited similar rulings obtaining under the laws of the United Kingdom of Great Britain and Northern Ireland and India.

263. At its twenty-fourth session held in New York, the Working Group met the Permanent Representative of Sri Lanka to the United Nations Office at Geneva, who at the outset stated that he wished to convey his Government's respect for the Group's humanitarian mandate which was aimed at assisting families in determining the fate of missing relatives or friends.

264. Following the signing of the Indo-Sri Lankan Agreement in July 1987, the Sri Lankan Parliament had passed the thirteenth amendment to the Constitution making provision for the holding of elections in the different provinces or regional units in Sri Lanka, including the two provinces of conflict - the Northern Province, where the Tamil community was in the majority, and the Eastern Province, where the Sinhalese, Tamil and Muslim communities were roughly equal in number. Elections to some of the Provincial Councils had already been held and dates for elections in the Northern and Eastern Provinces would be fixed taking into account the relevant security situation.

265. One of the central pillars of the Indo-Sri Lankan Agreement was that India would disarm militant groups, but unfortunately progress had been slower than the Government would have liked in that field. Since the last Sri Lankan communication to the Working Group, some militant groups had gone back on the Indo-Sri Lankan Agreement, thereby causing fresh eruptions of death and violence, and the very large number of Indian troops had not been able to disarm groups of terrorists holding out against the peacefully negotiated settlement of the ethnic issues in the country. None the less, it was of major political significance that some of the militant groups previously resorting to violence and bloodshed had taken advantage of the political amnesty offered them and entered the mainstream of political life.

266. The Permanent Representative reiterated the difficulties experienced by the Sri Lankan authorities in investigating reported disappearances at a time of precipitate and unregulated mass movements of people. In the Northern and Eastern Provinces, in particular, serious investigation of reported disappearances was virtually impossible, and he regretted very much that he was not yet in a position to report in detail on individual cases which had been brought to the Government's attention by the Working Group. He mentioned, however, that both his Government and the Indian Government were in communication on the two cases which were the subject of the recent urgent action procedure and for which the Indian Peace-keeping Force was allegedly responsible.

267. Since July 1987, 3,634 detainees from the north and east of the country had been released, leaving a balance in custody of 534, and it was hoped that, with the return of many people from India and abroad, and the eventual return to normalcy, those on the lists of "disappeared" could be accounted for; but until conditions returned to normal in the Northern and Eastern Provinces it might not be possible to proceed much further.

268. The Permanent Representative concluded by referring to habeas corpus proceedings, stating that, as a result of 321 applications filed in courts, 61 persons had been released by the Secretary of Defence and submissions had been filed in the other cases. He hoped to be able to provide details in due course.

269. At its twenty-sixth session, the Working Group again met the Permanent Representative of Sri Lanka to the United Nations Office at Geneva, who expressed regret that his Government was not yet in a position to provide any new information on specific cases. The prospects of a systematic and effective investigation into the reported cases of disappearance revolved around the successful return to normal conditions. None the less, he could provide some preliminary information relating to 18 cases on which the Working Group had transmitted either new or updated information.

270. The major development in Sri Lanka since his last meeting with the Working Group had been the holding of the Provincial Council elections in the temporarily-merged Northern and Eastern Provinces. There was, of course, no illusion that the holding of those elections in itself would lead to a return to normalcy in those areas, and in that regard he cited the intransigence of one Tamil party, the Liberation Tigers of Tamil Eelam (LTTE), which had refused to accept a negotiated settlement on the ethnic issues and had rejected participation in the elected Provincial Councils. The Indian Peace-keeping Force which had been deployed in the north and east since 1987 had been seeking to disarm the terrorist groups, but violence and instability still continued to plague that area.

271. The Presidential Election scheduled to take place on 19 December 1988 would have an important bearing not only on the investigations into alleged disappearances but also on the suggestion made by the Working Group that it visit Sri Lanka. At a time when State services were preoccupied with the necessary administrative and other arrangements for the holding of the elections, and also had to contend with certain security problems, a visit by the Working Group might be neither opportune nor productive. However, he had been authorized to inform the Group that his Government was by no means rejecting the suggestion and it was expected that after the elections the matter would be examined more closely with a view to providing a response to the Working Group.

Statistical summary

I. Cases reported to have occurred in 1988	2
II. Outstanding cases	815
III. Total number of cases transmitted to the Government by the Working Group	837
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	231
(b) Cases clarified by the Government's responses ^{a/}	14
V. Cases clarified by non-governmental sources ^{b/}	8

a/ Persons released: 11
Persons detained: 3.

b/ Persons released: 4
Person detained: 1
Persons who died in custody: 3.

Syrian Arab Republic

Information reviewed and transmitted to the Government

272. The Working Group's activities in relation to the Syrian Arab Republic are recorded in its last six reports to the Commission.^{1/}

273. In 1988 the Working Group received no new reports of disappearances in the Syrian Arab Republic.

Information and views received from relatives of missing persons or non-governmental organizations

274. Concerning the one outstanding case on which the Working Group had been unable to correspond with the source since 1986, the latter, by a letter dated 25 February 1988 from a new address, reported that he still had no news of his brother but believed that he was being held in prison.

275. During its twenty-sixth session, the Working Group met a delegation from the Italian-based Committee for the Defence of Human Rights in Syria (Comitato per la Difesa dei Diritti Umani in Siria). The delegation stated that many persons had disappeared in the Syrian Arab Republic over the past 10 years, the most recent in 1987-1988, and that in due course the Committee would submit cases containing all the elements necessary for processing in

accordance with the Working Group's methods of work. It was difficult for families to take steps to trace their missing relatives, as they themselves were threatened when making inquiries with the authorities, and they had no recourse to legal assistance, since both lawyers and medical practitioners now formed part of an official department of the Government and were consequently under Government control.

Information and views received from the Government

276 . By a letter dated 3 November 1988, the Permanent Representative of the Syrian Arab Republic stated that, in view of the replies and various clarifications provided in the past and as there were now no cases of enforced or involuntary disappearance in the Syrian Arab Republic, he trusted that his country's name would not be included in future reports of the Working Group to the Commission on Human Rights.

277. On 9 December 1988, the Working Group replied to the Permanent Representative that it had decided to continue to include the Syrian Arab Republic in its annual report to the Commission on Human Rights as, in accordance with its methods of work, the one case of disappearance which had not yet been clarified must continue to be listed as outstanding until the fate or whereabouts of the missing person had been established.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	1
III. Total number of cases transmitted to the Government by the Working Group	3
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	3
(b) Cases clarified by the Government's responses ^{a/}	1
V. Cases clarified by non-governmental sources ^{b/}	1

^{a/} Person detained: 1.

^{b/} Person released: 1.

Uganda

Information reviewed and transmitted to the Government

278. The Working Group's previous activities in relation to Uganda are recorded in its first and fifth to eighth reports to the Commission.^{1/}

279. In 1988 the Working Group received no new reports of disappearances in Uganda. However, by letters dated 20 June and 30 September 1988 it reminded the Government of the 13 outstanding cases dating back to the period from 1981 to 1985 and, in response to its request of 5 October 1988, the Government was provided with summaries of those outstanding cases. No further communication has been received from the Government and the Working Group regrets that it is therefore unable to report on the results of the requested investigations.

Statistical summary

I.	Cases reported to have occurred in 1988	0
II.	Outstanding cases	13
III.	Total number of cases transmitted to the Government by the Working Group	19
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by the Government's responses ^{a/}	1
V.	Cases clarified by non-governmental sources ^{b/}	5

a/ Person released: 1.

b/ Persons released: 3
Person who died in detention: 1
Person detained: 1.

Uruguay

Information reviewed and transmitted to the Government

280. The activities of the Working Group in relation to Uruguay are recorded in its last seven reports to the Commission.^{1/}

281. It should be noted that the Group has received no reports of disappearances occurring in Uruguay after 1982. By a letter dated 20 June 1988, the Working Group communicated to the Government of Uruguay information concerning 13 cases of Uruguayan nationals who disappeared in Argentina during the period 1976-1977 on the ground that, according to the reports, Uruguayan military police were involved in the arrest and/or the detention of the missing persons. However, the Working Group decided that those cases should not be included in the statistics for Uruguay (see para. 23 of the present report). By the same letter, the Group retransmitted two cases updated with new information received from the sources and reminded the Government of the outstanding cases of disappearances dating back to the period 1973-1982.

282. The Group also decided to review its files for Uruguay in order to bring them into line with the criteria it had established for cases in which officials from more than one country are involved. It was found that 37 of the 65 cases transmitted to the Government in previous years had occurred in Uruguay or contained allegations by the sources that the missing persons had been transferred to Uruguay. The statistics were adjusted accordingly.

Information and views received from relatives of missing persons and non-governmental organizations

283. The Group of Mothers and Relatives of Missing Uruguayan Detainees (GMFUDD) submitted 131 individual reports on the disappearance of Uruguayan nationals in Argentina and Uruguay, dating back to the period 1973-1982. Most of the cases reported to have occurred in Uruguay had already been transmitted to the Government, some of them lacked the necessary elements.

284. GMFUDD, Amnesty International, the Legal and Social Studies Institute and the Peace and Justice Service submitted reports on the question of the official investigations of disappearances in Uruguay. All these reports referred to the latest developments in relation to Act No. 15.848 of 22 December 1986, under which criminal proceedings could no longer be instituted in respect of crimes committed up to 1 March 1985 by military or police officers and related personnel, either for political reasons or while carrying out their functions or actions ordered by the leaders in power during the period in question (see E/CN.4/1988/19, paras. 222-226). In that connection, it was stated that, under article 3 of the Act, the Executive was required to notify the court as to the applicability of the Act in every case for which a complaint had been filed. The Executive's report determined whether the judicial investigations were to proceed or be brought to an end. According to those non-governmental organizations, in May 1987, the Government had made decisions on six cases and considered that the law applied to all of them, ordering court proceedings to be closed.

285. In relation to article 4 of the law, which required that, in cases of disappearance, the Government should carry out an investigation to clarify the facts and inform the relatives of its findings, the Executive had appointed a military prosecutor to carry out the investigations. Non-governmental organizations had refused to appear in response to the Military Prosecutor's summons as they held that the person appointed for that function lacked the necessary qualifications to carry out the investigations properly. In all cases in which the Military Prosecutor had reported to the relatives in connection with investigations carried out under article 4, he had stated that he had found no evidence of involvement of military or police forces in the disappearances. The Government had, however, declared earlier that some of those cases were covered by article 1 of the afore mentioned Act, which implied that the offences had been found to have been committed by military or police officers. There appeared to be a contradiction between the statements made by the Military Prosecutor and the Government regarding evidence of involvement in disappearances of military and police forces. It was later reported that, in several cases, the victims, their relatives or the judges dealing with the case, had entered a writ of unconstitutionality against the law on the grounds that there was no constitutional provision for the Government to desist from the punishment of certain crimes beyond the existing mechanisms for amnesty or pardon. The Supreme Court considered the law constitutional because it constituted regular exercise of the right of the State to grant an amnesty.

286. The investigations concerning some specific cases that were not covered by Act No. 15.848 (those committed for economic gain, before the period of de facto military rule or by the military high command) did not seem, according to the report, to be making any progress.

Information and views received from the Government

287. At its twenty-six session, the Working Group met representatives of the Government of Uruguay who stated that their country was under the rule of law and that all human rights were strictly observed within its territory. The advent of a democratic government had been possible thanks to negotiations among different forces in the country.

288. In relation to Act No. 15.848 of 22 December 1986, the representative of Uruguay stated that the Act had been enacted by the parliament, with the vote of members of the governing party as well as members of several opposition parties, in order to ensure effective functioning of the rule of law. Article 1 of the Act reflected a political agreement to find a way of guaranteeing peace in Uruguayan society. The Act was in conformity with the Constitution and it aimed at establishing a balance, because a previous Act had granted amnesty for crimes committed by subversive forces, not during the military government, but prior to it, when Uruguay had been under the rule of law. Article 3 of the Act limited the amnesty in that it established that the judge hearing a complaint should request the Executive to inform him, within 30 days of receiving his communication, whether it considered that the act under investigation was covered by article 1 of the Act, if so, the judge would then order the case to be closed and filed. Article 4 of the Act provided that the judge would transmit to the Executive evidence related to cases of disappearance and that the Executive would immediately order inquiries to clarify such cases and inform relatives of the results within 120 days.

The Executive had appointed an attorney for such inquiries who was a colonel in the army and who had had no links with previous military governments. The relatives of the missing persons had only co-operated with the Attorney in six cases which had been investigated but not clarified, because the Attorney had been unable to find evidence to continue his investigation on the whereabouts of the missing persons. The inquiries had therefore been closed and the task of the Attorney had come to an end. However, new inquiries could be initiated if relatives provided new evidence that would allow the reopening of the cases. Crimes committed for economic gain, which were excluded from the Act, were investigated by ordinary courts which had summoned members of the former Government.

289. The representative of Uruguay also stated that, neither the Parliamentary Commission of Inquiry into the Situation of Missing Persons (see E/CN.4/1988/19, para. 225), nor the Attorney appointed by the President of the Republic in conformity with Act No. 15.848, had found any evidence of the existence during the military Government of an organized plan to carry out disappearances or other violations of human rights. Disappearances had, in fact, occurred, but not as a result of a deliberate plan established by the authorities in force at the time or by the armed forces.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	31
III. Total number of cases transmitted to the Government by the Working Group	39
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	17
(b) Cases clarified by the Government's responses ^{a/}	7
V. Cases clarified by non-governmental sources ^{b/}	1

^{a/} Persons released from detention: 2
Persons in prison: 4
Child found: 1.

^{b/} Child found: 1.

Viet Nam

Information reviewed and transmitted to the Government

290. The activities of the Working Group in relation to Viet Nam are recorded in its last three reports to the Commission.^{1/}

291. On two outstanding cases, the Government had informed the Group in 1987 that the persons reported missing had been arrested and would be tried. This information was submitted to the sources which did not contest it within the six-months period (see E/CN.4/1988/19, paras. 27 and 229). In accordance with the Group's methods of work, the cases were considered clarified and the Government was informed accordingly.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	1
III. Total number of cases transmitted to the Government by the Working Group	7
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	3
(b) Cases clarified by the Government's responses ^{a/}	2
V. Cases clarified by non-governmental sources ^{b/}	4

^{a/} Persons in prison: 2.

^{b/} Persons released: 4.

Zaire

Information reviewed and transmitted to the Government

292. The activities of the Working Group in relation to Zaire are recorded in its second to fourth and sixth to eighth reports to the Commission. ^{1/}

293. In 1988 the Working Group did not transmit any newly reported cases to the Government. However, by letters dated 20 June and 30 September 1988, the Working Group reminded it of the outstanding cases and referred at the same time to the criteria applied by the Group for the clarification of cases in accordance with its methods of work.

Information and views received from relatives of missing persons or from non-governmental organizations

296. In March 1988, the brother of one missing person informed the Working Group that he had no news of the whereabouts of his relative and commented on the difficulties faced by families in reporting the cases of disappearance to the Department of Citizen's Rights and Freedoms, an institution which was part of the same Government considered responsible for the disappearances.

297. By a letter dated 12 September 1988, Amnesty International informed the Working Group that, at least in one case, the person's whereabouts had remained unknown since 1979 and the relatives were still trying to establish what had happened to him, despite the claims of the Department of Citizen's Rights and Freedoms that all the persons reported to have disappeared had been released. Amnesty International also reported that several opponents of the Government of Zaire resident in the United Republic of Tanzania had allegedly been abducted in late 1987 or early 1988 by members of the Zairian security forces and taken back to Zaire secretly; their whereabouts had remained unknown since. In accordance with its methods of work, the Working Group requested additional information concerning, in particular, names and dates of arrests.

Information and views received from the Government

294. By a letter dated 21 January 1988, the State Commissioner in charge of the Department of Citizen's Rights and Freedoms stated that all the persons referred to by the Working Group were free and that the difficulties in locating them lay in a number of factors, particularly the vast size of the country, frequent changes of address that were not reported to the authorities and the shortcomings in keeping administrative records. In its reply to that letter, the Working Group stressed the fact that a case was considered clarified only if the reply clearly indicated where the missing person was (whether alive or dead) and if that information was sufficiently definite for the family to be reasonably expected to accept it. The Group then requested the Government to continue its inquiries.

295. In a statement at the Working Group's twenty-sixth session and a subsequent communication dated 7 December 1988, the Deputy Permanent Representative of Zaire to the United Nations in Geneva, pointed out that the outstanding cases were rather old and that there were not enough elements to determine the identity of the persons concerned. Those circumstances, together with the already mentioned shortcomings in keeping administrative records, made it impossible for the Government to establish the domicile or whereabouts of the persons reported missing. The Government also stressed that, if the reporting sources had not had recourse to the Department of Citizen's Rights and Freedoms, that meant that the persons reportedly missing were free. In addition, the Government expressed the view that the Working Group should apply the rules set out in the international Covenant on Civil and Political Rights and the Optional Protocol thereto when examining communications alleging disappearances, in particular, the one concerning the exhaustion of domestic remedies.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	11
III. Total number of cases transmitted to the Government by the Working Group	17
IV. Government responses:	
(a) Number of cases on which the the Government has provided one or more specific responses	17
(b) Cases clarified by the Government's responses <u>a/</u>	6

a/ Persons at liberty: 6.

Zimbabwe

Information reviewed and transmitted to the Government

298. The Working Group's activities in relation to Zimbabwe are recorded in its latest report to the Commission. 1/

299. In 1988 the Working Group received no new reports of disappearances in Zimbabwe. However, by a letter dated 20 June 1988, the Government was reminded of the one outstanding case, and in response to its request of 25 July 1988 it was provided with the relevant summary. On 30 September 1988, the Government was again reminded that the Working Group was still awaiting the results of its investigations.

Statistical summary

I. Cases reported to have occurred in 1988	0
II. Outstanding cases	1
III. Total number of cases transmitted to the Government by the Working Group	1
IV. Government responses	0

III. INFORMATION CONCERNING ENFORCED OR INVOLUNTARY DISAPPEARANCES
IN SOUTH AFRICA AND NAMIBIA REVIEWED BY THE WORKING GROUP

Information reviewed and transmitted to the Government

300. The Working Group's activities in relation to enforced or involuntary disappearances in South Africa and Namibia are recorded in its last eight reports to the Commission. 1/

301. By a letter dated 30 September 1988, the Working Group transmitted to the Government of South Africa one newly reported case of disappearance in South Africa alleged to have occurred in 1988.

Information and views received from relatives of missing persons or from non-governmental organizations

302. The report on the new case of disappearance was prepared by the lawyer of the missing person and a friend presented it orally to the Working Group at its twenty-fifth session. The case concerns a student in his twenties, who was arrested in Johannesburg in June 1988 by the police and, according to the latter, escaped from detention while being taken for interrogation.

Information and views received from the Government

303. In a letter dated 15 December 1987, the Permanent Representative of South Africa to the United Nations Office at Geneva informed the Working Group that, since the efforts of the competent South African authorities to trace the subjects of the outstanding cases over the past seven years had proved unavailing, they would not in future see their way clear to responding to further inquiries in that regard. By its communication dated 30 September 1988, the Working Group informed the Government that, in accordance with its methods of work, it had decided to continue to list as outstanding the seven cases mentioned in chapter III of its latest report to the Commission, so long as the fate or whereabouts of those missing persons remained unknown.

Statistical summary

I. Cases reported to have occurred in 1988	1
II. Outstanding cases	8
III. Total number of cases transmitted to the Government by the Working Group	10
IV. Government responses:	
(a) Number of cases on which the Government has provided one or more specific responses	9
(b) Cases clarified by the Government's responses	2

IV. COUNTRIES IN WHICH ALL REPORTED CASES OF DISAPPEARANCE
HAVE BEEN CLARIFIED

Egypt

304. The Working Group's activities in relation to Egypt are recorded in its last two reports to the Commission. 1/

305. By a letter dated 18 February 1988, the Permanent Mission of the Arab Republic of Egypt to the United Nations Office at Geneva informed the Working Group that a detainee in Tora Prison could be the person referred to in the one outstanding case of disappearance. The information was communicated to the source of the report immediately thereafter, and, as no observations were received within the required six-month period (see E/CN.4/1988/19, para. 27), the case has been recorded as clarified by the Government's response.

306. On 9 December 1988, the Working Group communicated to the Government of Egypt information concerning three Iraqi nationals who, after having been handed over by an Egyptian military officer to the Iraqi Ambassador in Cairo, were last seen being taken aboard an Iraqi Airlines plane at Cairo airport. In deciding to bring this information to the attention of the Egyptian Government, the Working Group, motivated by the purely humanitarian objective of its mandate, expressed the hope that investigations to clarify the fate and whereabouts of the persons reported missing would be facilitated. However, in accordance with the Group's methods of work, those cases are not included in the statistics for Egypt (see para. 23).

Statistical summary

I.	Cases reported to have occurred in 1988	0
II.	Outstanding cases	0
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by the Government's responses <u>a/</u>	1

a/ Person in prison: 1.

Kenya

307. The Working Group's activities in relation to Kenya are recorded in its latest report to the Commission.^{1/}

308. In the absence of any observations from the source within the required six-month period (see E/CN.4/1988/19, para. 27), the one case listed as outstanding has now been considered clarified by the Government's response that the missing person had been suspected of murder but was released after investigations.

Statistical summary

I.	Cases reported to have occurred in 1988	0
II.	Outstanding cases	0
III.	Total number of cases transmitted to the Government by the Working Group	3
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	3
	(b) Cases clarified by the Government's responses ^{a/}	2
V.	Cases clarified by non-governmental sources ^{b/}	1

^{a/} Person released: 1
Person detained in prison: 1.

^{b/} Person released: 1.

V. CONCLUSIONS AND RECOMMENDATIONS

309. In 1988, the Working Group has transmitted approximately 400 cases reported to have occurred during the current year in some 15 countries. In comparison with 1987 not only has the number of affected countries increased but, more importantly, the number of individual cases has practically doubled. The majority of those cases remain unclarified. Both the overall increase in the number of recent cases and the deterioration of the situation in certain countries are a matter of serious concern for the Group; the more so since disappearances affect fundamental human rights such as the right to life and physical integrity, to personal freedom and security as well as to adequate conditions during detention. Special mention must be made of the gravity of cases of disappeared women and children. As repeatedly emphasized, disappearances, in addition to violating a number of specific rights, generally engender separation and even disintegration of the family.

310. During the past year the Group has continued analyzing carefully the development of the phenomenon in 44 countries. It is a matter of satisfaction that in two of them all outstanding cases could be considered clarified. It is equally gratifying to note that the Working Group has continued to receive the co-operation of a great number of Governments with which it has remained in constant communication. Nevertheless, the Group feels obliged to express its concern over the total lack of co-operation from some other Governments which have never provided substantive replies to the allegations transmitted to them, such as Afghanistan, Angola, Chile, Guinea, the Islamic Republic of Iran, Nepal and Seychelles. This total lack of response is particularly serious when it comes to cases processed under the urgent action procedure. The Group regrets that these Governments have not heeded the repeated calls for co-operation expressed by the General Assembly and the Commission on Human Rights and have thus made the Working Group's already delicate work even more difficult.

311. The Working Group has duly taken cognizance of various initiatives of non-governmental organizations aimed at the preparation of an international instrument on the subject. The Group considers the draft declaration prepared by the Sub-Commission an important step towards meeting the need for an international legal definition of enforced or involuntary disappearance of persons. In the belief that the draft can be further improved, the Group intends to submit some observations thereon to the Sub-Commission at its forty-first session. On the other hand the Group feels that the study of the question of an international convention should continue and in this regard notes as a major contribution the draft prepared by the Inter-American Commission on Human Rights.

312. The Working Group has also examined draft laws which are being discussed in several Latin American countries - some of them in legislative assemblies, others promoted by non-governmental organizations - which aim to make the disappearance of persons a criminal offence. The Group is particularly interested in these efforts given their positive influence both from a preventive and punitive point of view. Indeed, impunity in these continued perpetrations of the crime of disappearance not only excludes the guilty from punishment but also creates conditions conducive to the persistence of such practices.

313. The Group has again noted the inadequacy of the institutional and legal framework in most of the affected countries, in particular as regards effective action in determining the whereabouts of a missing person with the

necessary speed. The Group has been particularly perturbed by the fact that the habeas corpus procedure, while being the most important instrument of protection in many countries, is increasingly subjected to limitations derived from factual shortcomings or legal restrictions.

314. The Group has also noted with concern that, in situations of internal strife and non-international armed conflict, the State security apparatus tends to assume an increasingly predominant role. The Group recognizes of course the right and duty of States to take exceptional measures in certain circumstances of grave public disorder. Such measures must, however, remain proportionate to the problem, be limited in time and must not reduce the power of civil authorities unduly.

315. Numerous reports have again been received about the harassment, intimidation or detention of relatives, friends or lawyers of missing persons as well as human rights activists. This is a matter of serious concern for the Group which feels that the Commission on Human Rights should continue to devote particular attention to this problem.

316. The Group has carefully examined the sentence of the Inter-American Court of Human Rights pronounced on 29 July 1988 in the case of a missing person in Honduras. This sentence, resulting from a complaint by the Inter-American Commission on Human Rights against the Government of that country, constitutes not only the first judicial decision taken by the Inter-American Court since its creation, but also the first decision taken by any organ of supranational jurisdiction on a case of an enforced or involuntary disappearance. The analysis of the case as well as the reasons given in the sentence constitute a development of particular importance which the Group values as a major step forward in the international quest for the elimination of the phenomenon of disappearances.

317. It should be mentioned also that many Governments on whose territories disappearances occur, and which are making efforts to deal with their consequences, appreciate the need to make use of advisory assistance from the United Nations. The Group is convinced that such advisory assistance as well as human rights training of members of the security forces in those countries can contribute to an improvement of the situation. In the context of disappearances, particular emphasis should be placed on efforts aimed at a more effective functioning of the habeas corpus procedure. At the same time the Group must point out that advisory assistance and training can only have medium-and-long term effects and cannot be considered as a substitute for concrete action in the short term to clarify pending cases of disappearance.

318. Finally, the Working Group wishes to draw the Commission's attention to the fact that the ever increasing number of disappearances it has to process - at present over 17,000 cases on file - and the growing complexity of certain situations, especially in countries with thousands of cases, places a very heavy burden on the Group's secretariat. Urgent consideration should therefore be given to finding ways and means of increasing the staff assigned to the Group and providing it with additional electronic data processing equipment in order to cope even more efficiently with the urgent and delicate humanitarian task entrusted to it.

319. In addition to the recommendations contained in previous reports the Working Group wishes to request the Commission on Human Rights to:

(a) Reiterate its urging of Governments to "take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they might be subject";

(b) Call on Governments to co-operate with the Working Group and to reply fully and satisfactorily to the Group's communications;

(c) Call on Governments to ensure that in states of emergency the necessary human rights guarantees are maintained, having in mind the prevention of cases of disappearance;

(d) Request the Governments concerned to invite the Working Group to visit their countries;

(e) Request the Governments concerned to make use of the advisory services of the United Nations, in particular regarding the human rights training of security forces and the judiciary by qualified experts.

VI. ADOPTION OF THE REPORT

320. At the last meeting of its twenty-sixth session, on 9 December 1988, the present report was adopted and signed by the members of the Working Group on Enforced or Involuntary Disappearances.

Ivan Tosevski Chairman/Rapporteur	(Yugoslavia)
Toine van Dongen	(Netherlands)
Jonas K. D. Foli	(Ghana)
Agha Hilaly	(Pakistan)
Diego García-Sayán	(Peru)

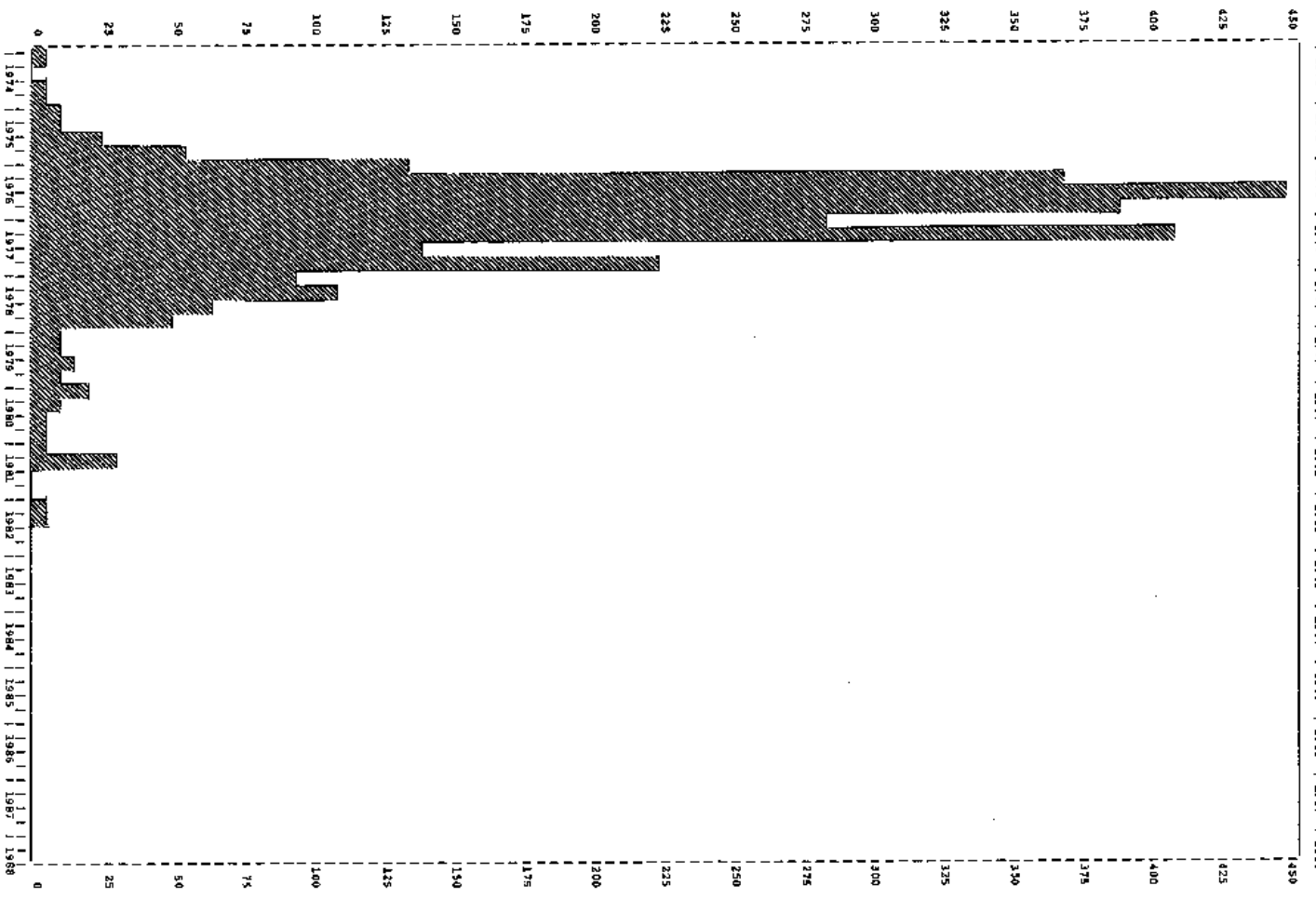
Notes

1/ Since its creation in 1980, the Working Group has submitted a report to the Commission annually, starting at the Commission's thirty-seventh session. The document symbols of the last seven reports are as follows:

E/CN.4/1435 and Add. 1
E/CN.4/1492 and Add. 1
E/CN.4/1983/14
E/CN.4/1984/21 and Add. 1 and 2
E/CN.4/1985/15 and Add. 1
E/CN.4/1986/18 and Add. 1
E/CN.4/1987/15 Corr.1 and Add. 1.
E/CN.4/1988/19 and Add. 1

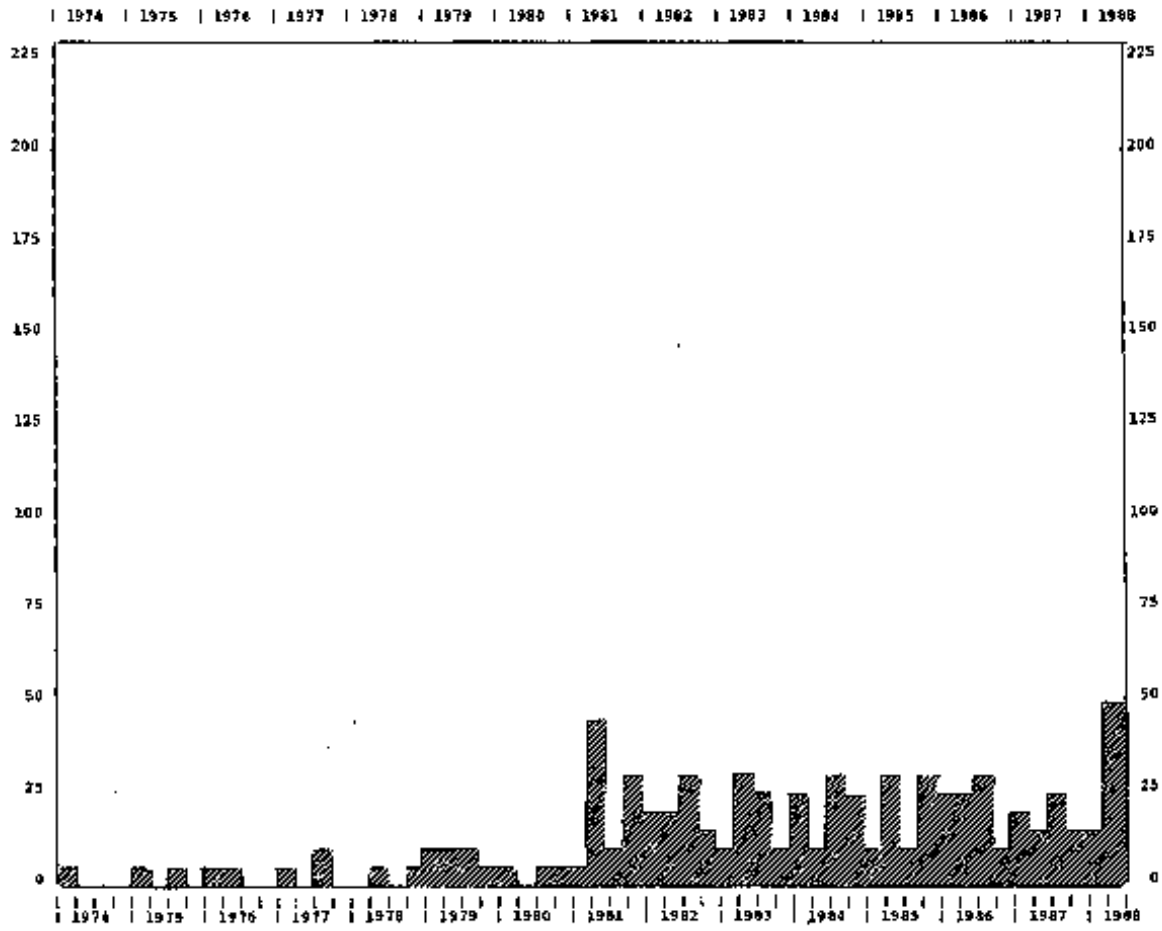
A n n e x

GRAPHS SHOWING THE DEVELOPMENT OF DISAPPEARANCES
FOR THE PERIOD 1974-1988
IN COUNTRIES WITH MORE THAN 50 TRANSMITTED CASES

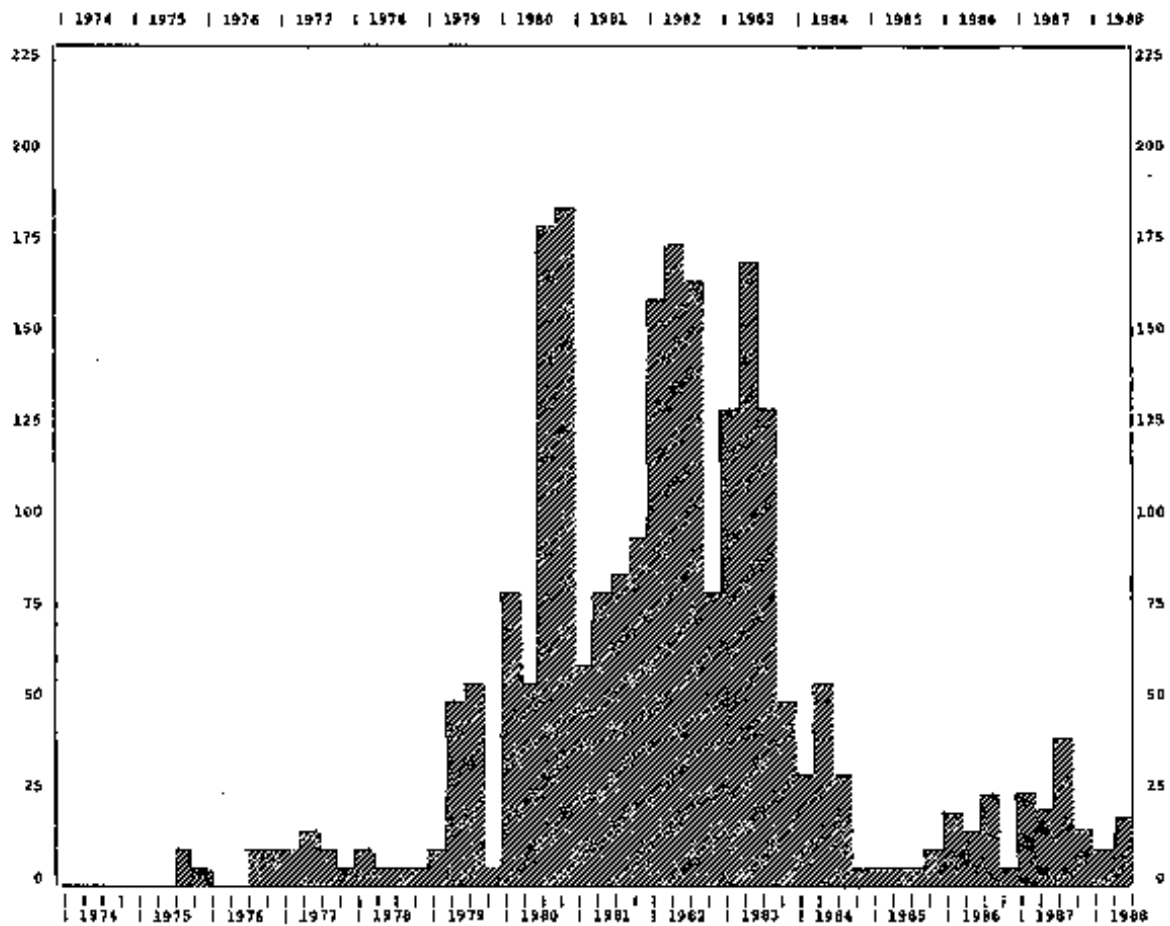


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OVER THE PERIOD 1974 - 1988

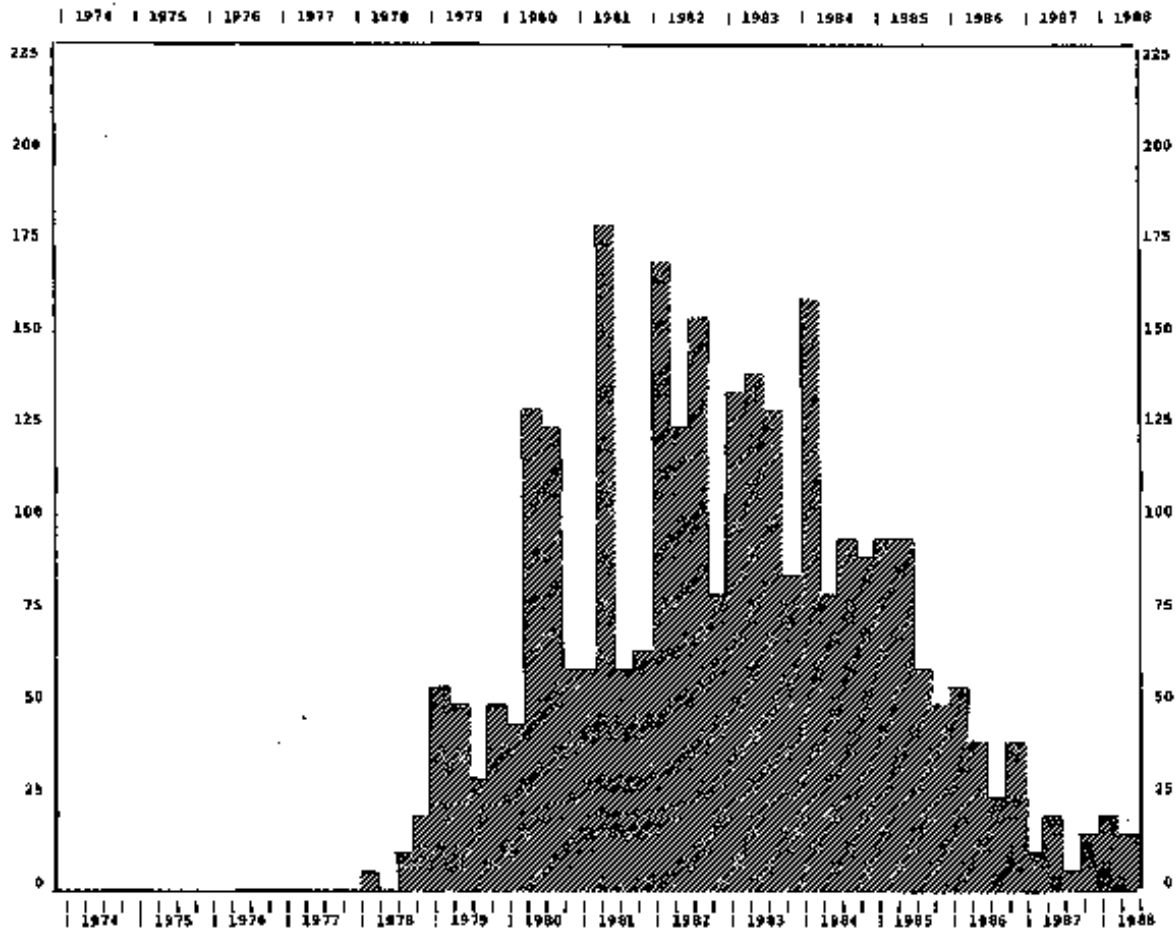
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 page 91



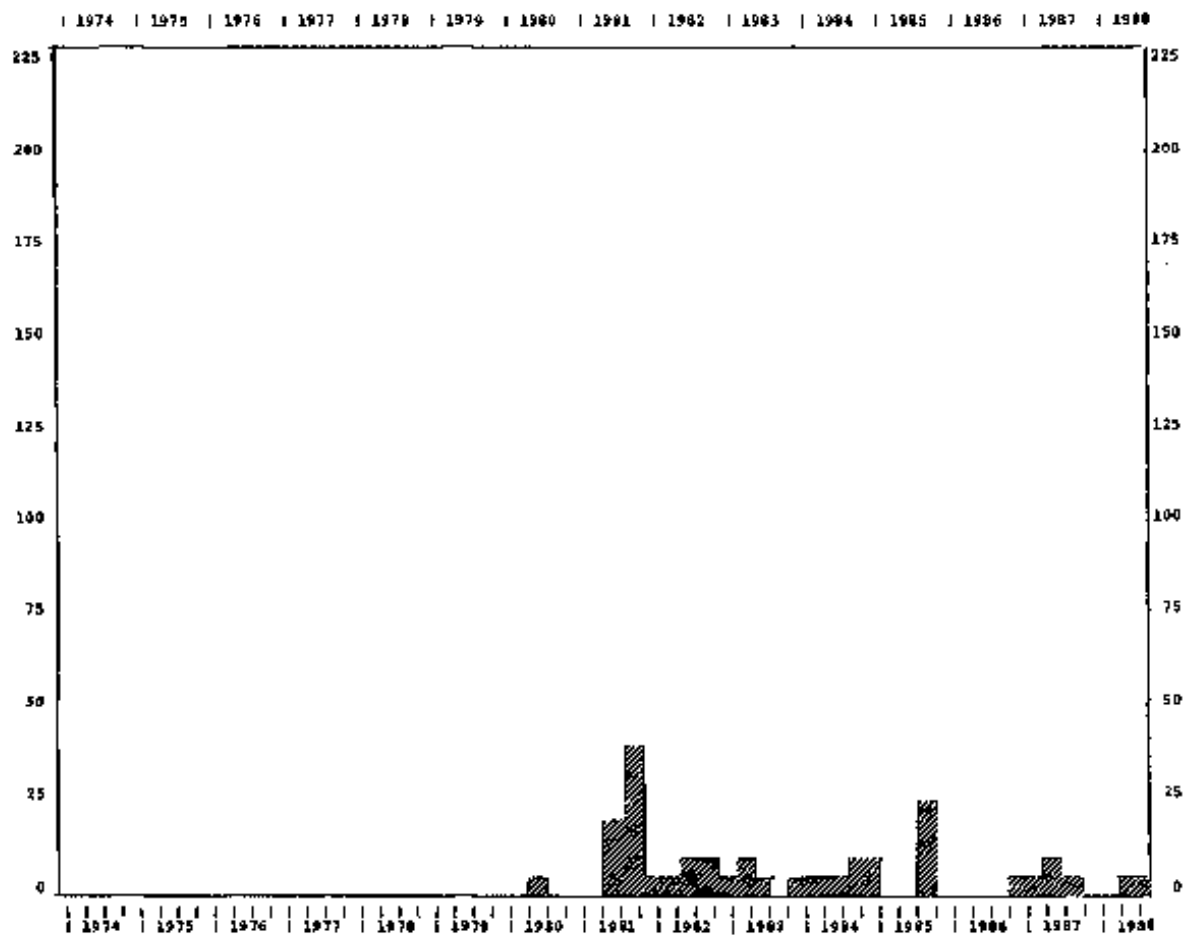
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OVER THE PERIOD 1974 - 1988



QUARTERLY NUMBER OF DISAPPEARANCES IN GUATEMALA
OVER THE PERIOD 1974 - 1988

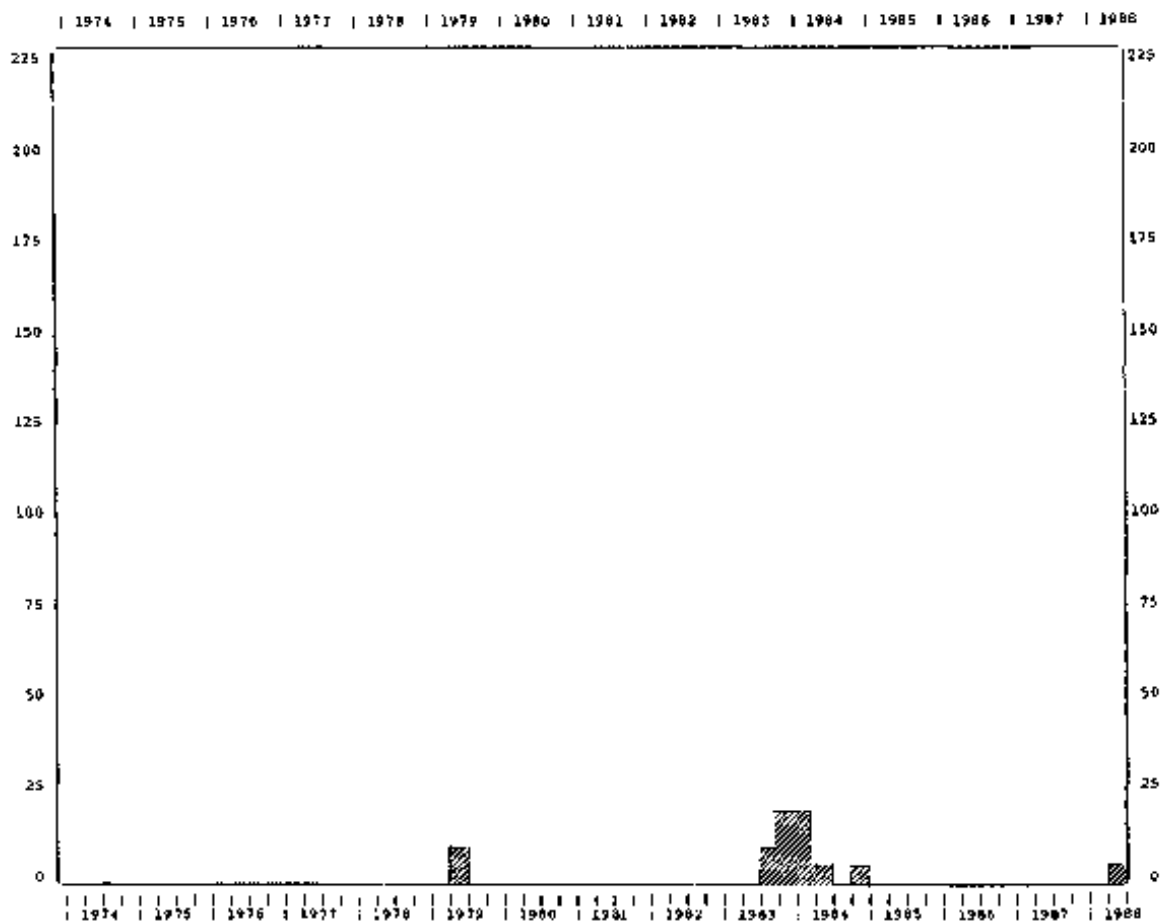


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OVER THE PERIOD 1974 - 1988

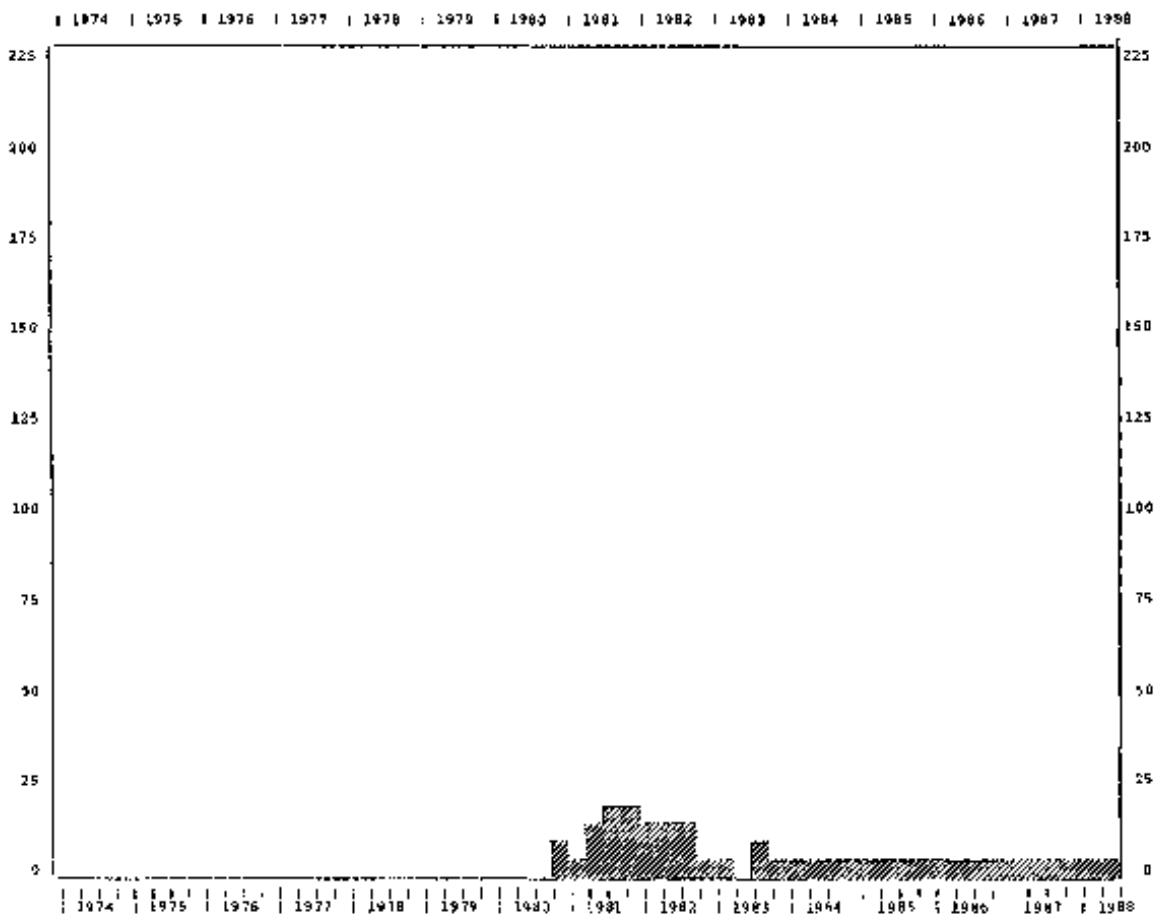


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OVER THE PERIOD 1974 - 1988

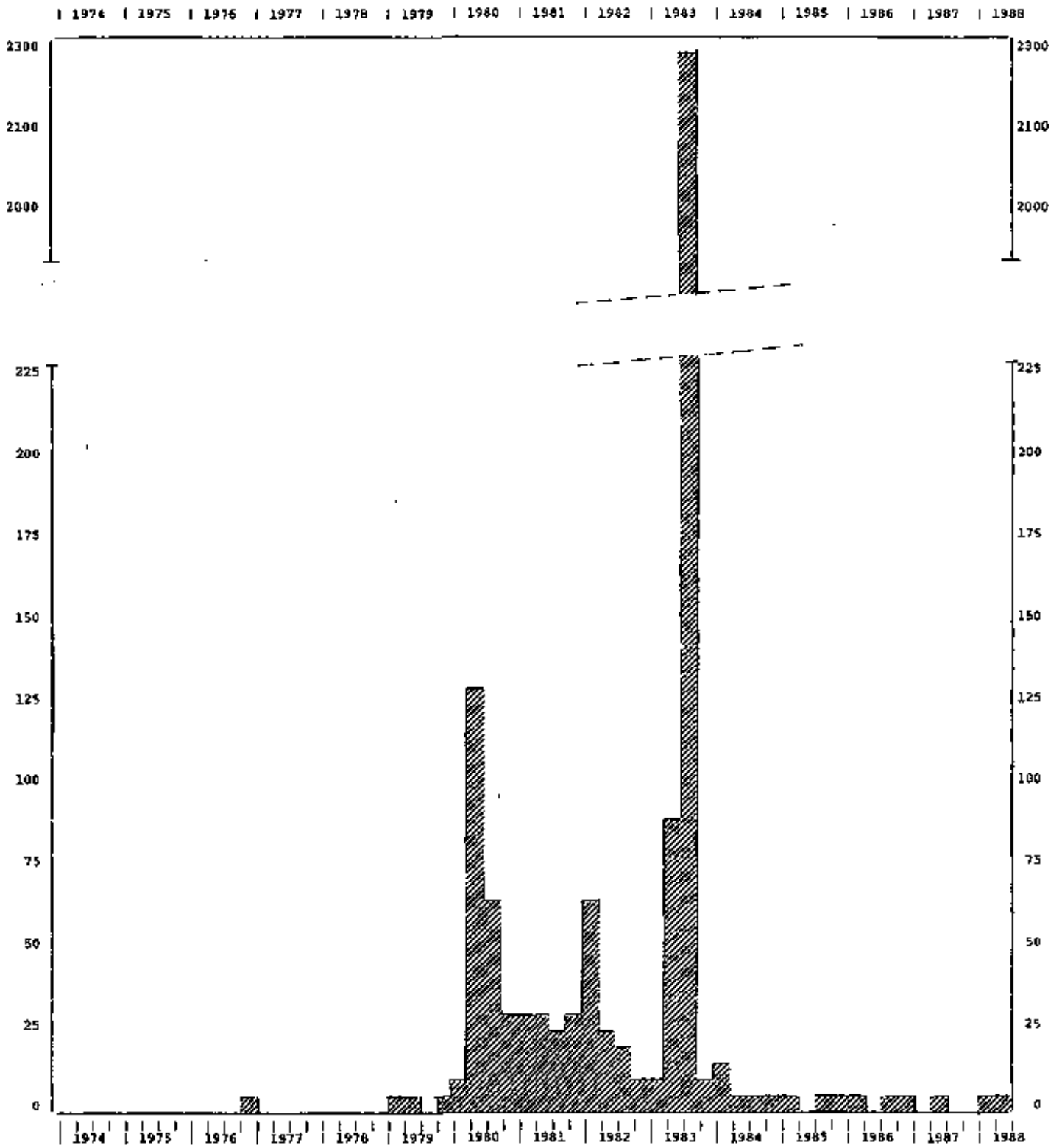
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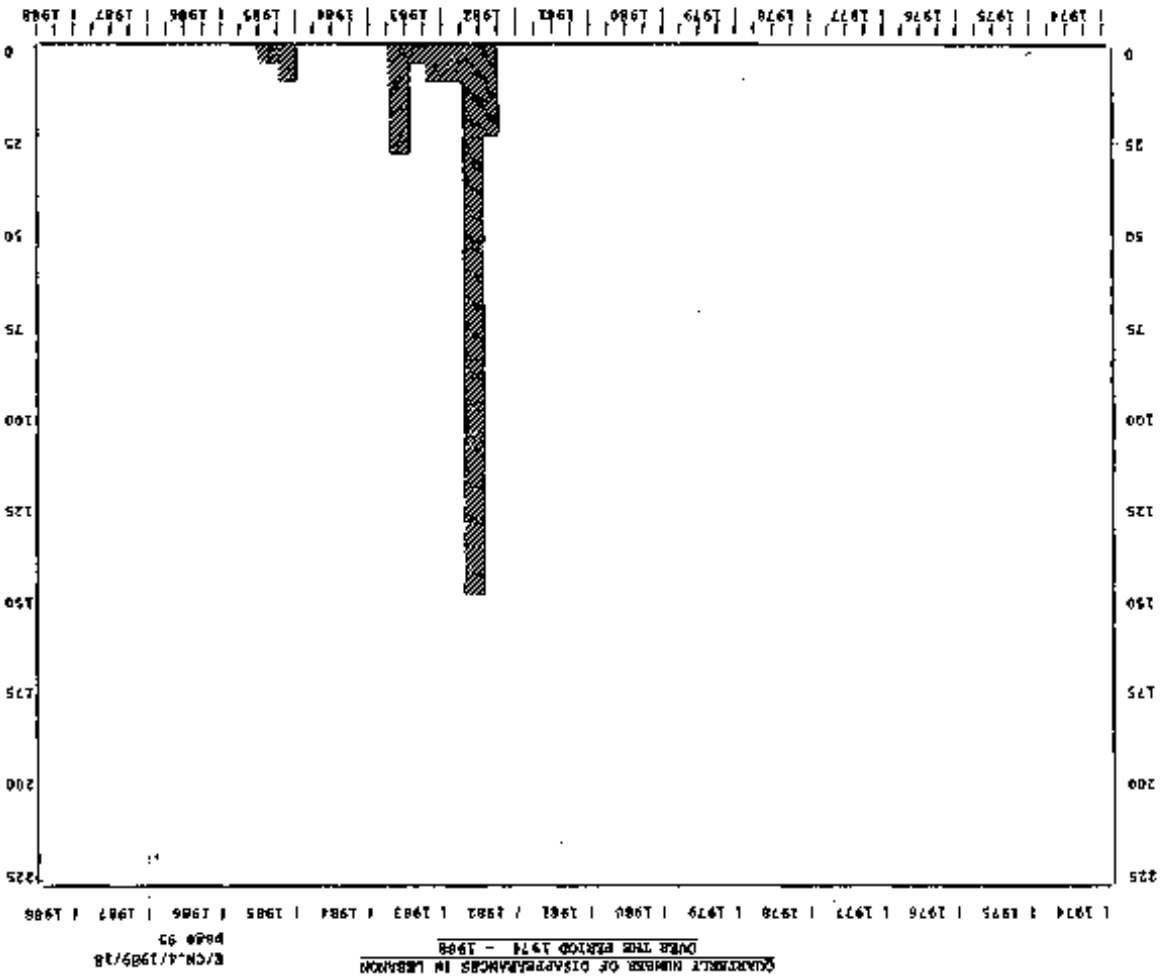
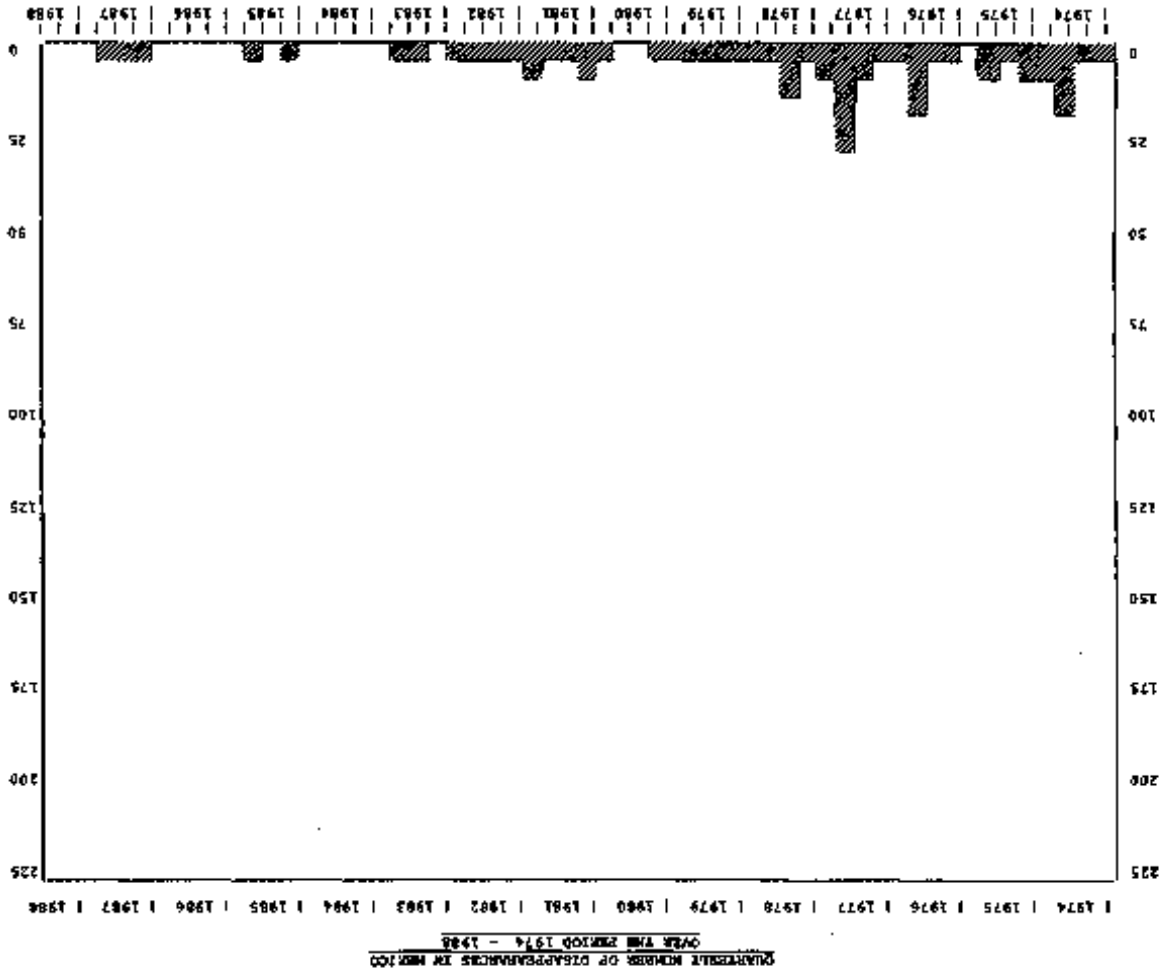


QUARTELY NUMBER OF DISAPPEARANCES IN THE ISLAMIC REPUBLIC OF IRAN
OVER THE PERIOD 1974 - 1988

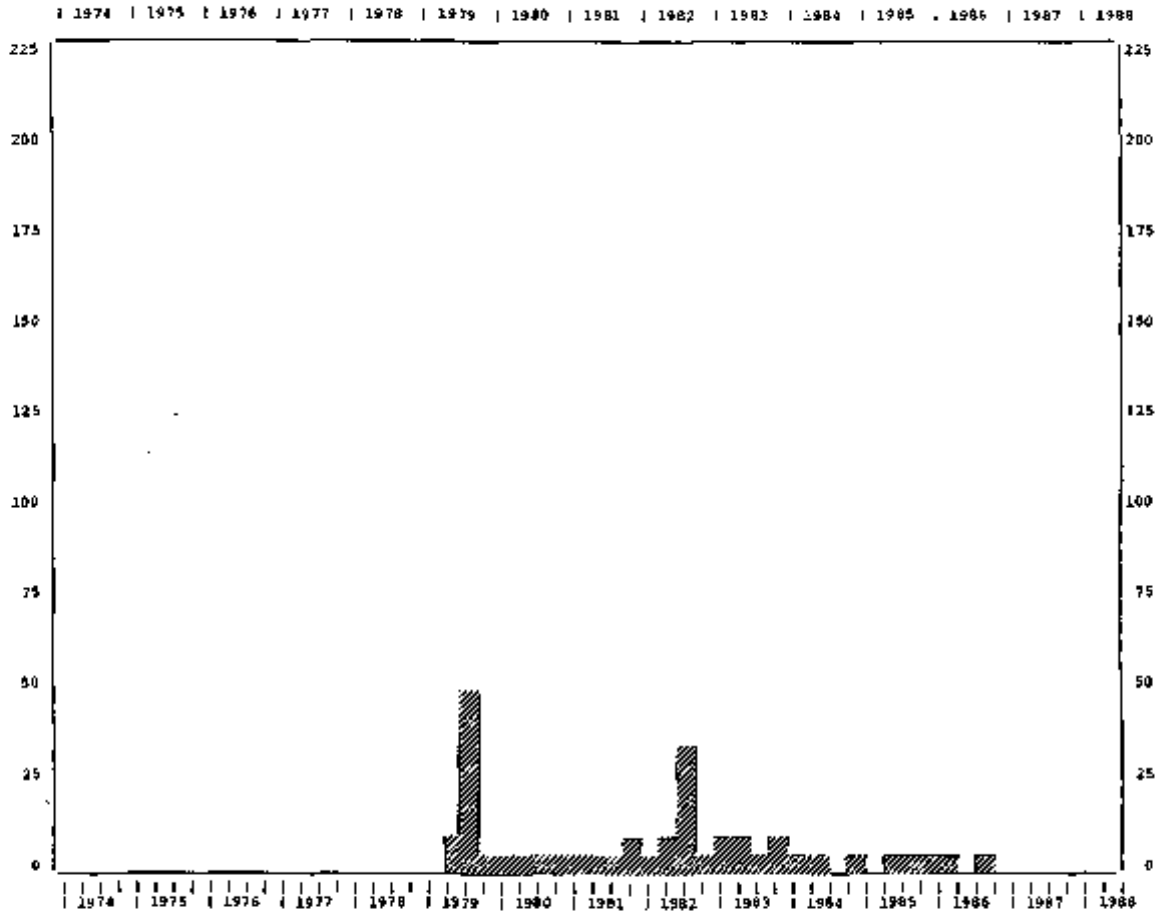


QUARTERLY NUMBER OF DISAPPEARANCES IN IRAQ
OVER THE PERIOD 1974 - 1988

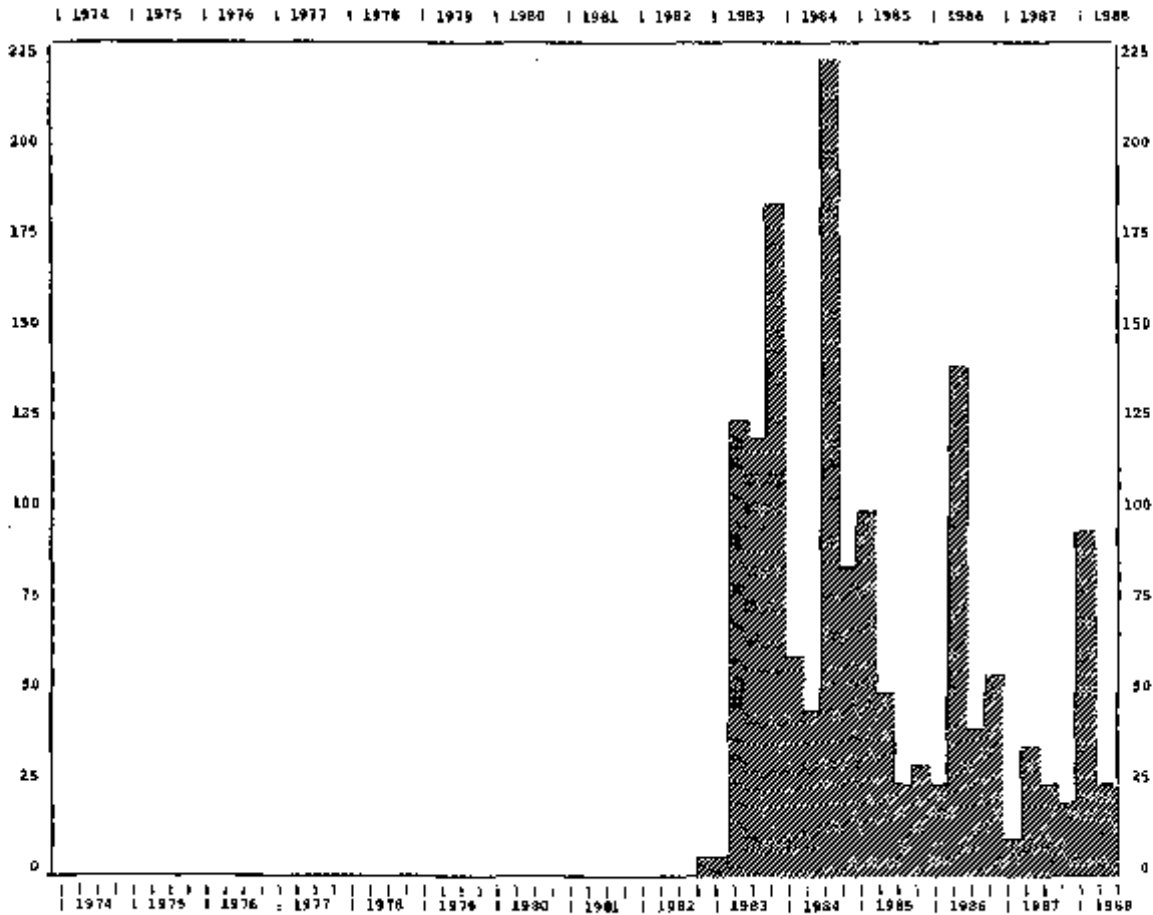




QUARTERLY NUMBER OF DISAPPEARANCES IN NICARAGUA
OVER THE PERIOD 1974 - 1987

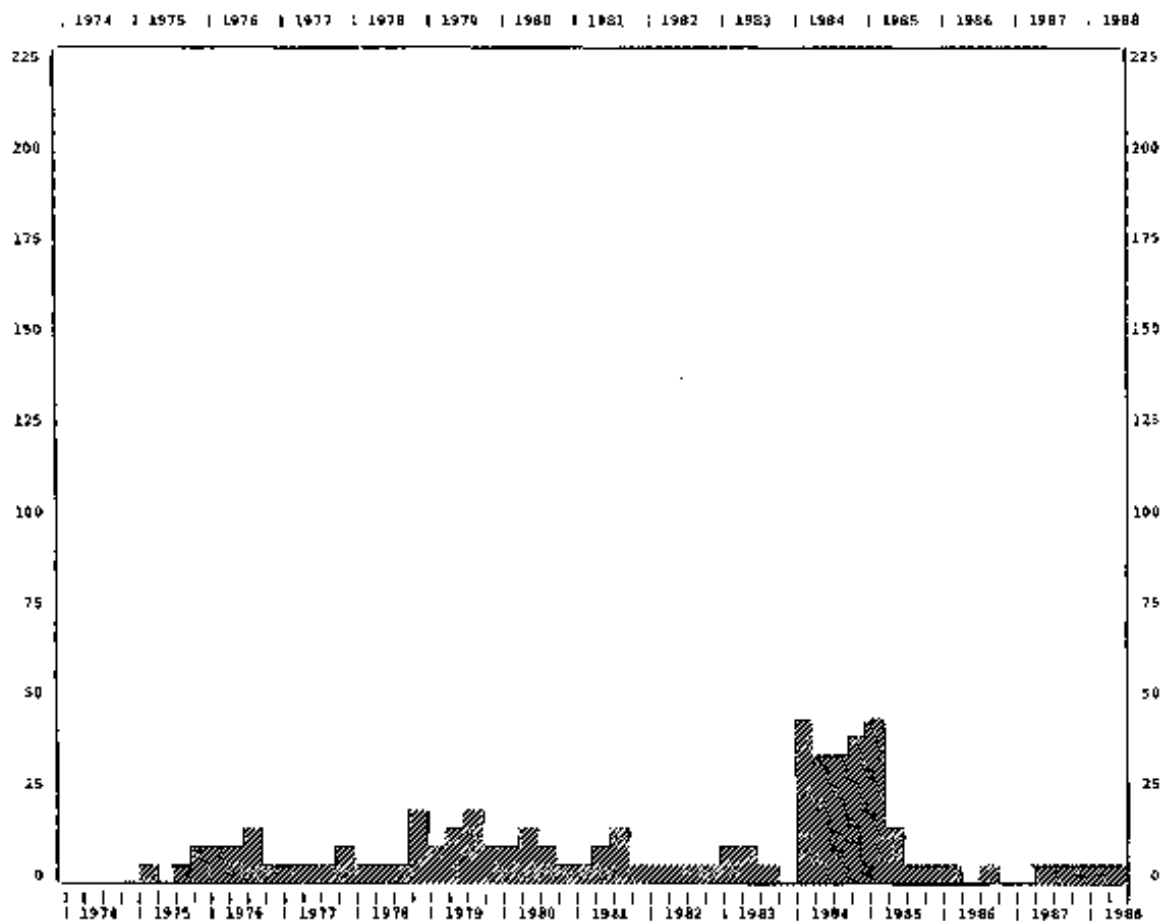


QUARTERLY NUMBER OF DISAPPEARANCES IN ECUADOR
OVER THE PERIOD 1974 - 1988



QUARTERLY NUMBER OF DISAPPEARANCES IN THE PHILIPPINES
OVER THE PERIOD 1974 - 1988

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QUARTERLY NUMBER OF DISAPPEARANCES IN SRI LANKA
OVER THE PERIOD 1974 - 1988

