



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1988/22
19 January 1988 *Add 2*

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-fourth session
Item 12 of the provisional agenda

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

Summary of arbitrary executions

Report by the Special Rapporteur, Mr. S. Amos Wako, pursuant
to Economic and Social Council resolution 1987/60

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Introduction

1. The present report is submitted pursuant to Economic and Social Council resolution 1987/60 entitled "Summary or arbitrary executions". This is the sixth report of the Special Rapporteur since he was first appointed in 1982 under Economic and Social Council resolution 1982/35.

2. In his five previous reports (E/CN.4/1983/16 and Add.1, E/CN.4/1984/29, E/CN.4/1984/17, E/CN.4/1986/21 and E/CN.4/1987/20) the Special Rapporteur dealt with a wide range of issues concerning the phenomenon of summary or arbitrary executions, as well as reporting on allegations of incidents of summary or arbitrary executions and his activities, including his urgent appeals to Governments. As the mandate of the Special Rapporteur has been regularly renewed by the Economic and Social Council, he has examined the phenomenon from various aspects with a view to presenting a comprehensive picture of the phenomenon of summary or arbitrary executions in the contemporary world.

3. The Special Rapporteur has followed the general structure of his last report. The present report describes in chapters I, Section C and II allegations of imminent or actual executions, which have been duly communicated to the Governments concerned, and the summarized replies from those Governments. The Special Rapporteur then analyses, in chapter III, the phenomenon of summary or arbitrary executions, in which two issues are dealt with, namely, (a) non-respect for the right to life by groups opposing the Government or not under its control; and (b) remedial and/or preventive measures for the protection of the right to life. In dealing with the latter issue the Special Rapporteur describes, in particular the developments so far achieved with regard to international standards designed to ensure proper investigation of all cases of death in suspicious circumstances.

4. Furthermore, in chapter III the Special Rapporteur reviews the current situation in countries where summary or arbitrary executions had been widely reported and newly established Governments have publicly pledged their commitment to human rights (see also his last report E/CN.4/1987/20, chap. III, C).

5. Finally, the Special Rapporteur gives conclusions and recommendations, which are based on his analysis of the information and consideration of feasible steps to be taken in the context of his mandate.

6. In addition, an account of the the Special Rapporteur's visit to Suriname in August 1987 in the context of his mandate is contained in the annex to this report.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

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

A. Consultations

8. The Special Rapporteur visited the Centre for Human Rights in July and October/November 1987 for consultations and again in January 1988 to finalize his report.

B. Communications

1. Requests for information

9. On 30 September 1987, a note verbale was sent to Governments seeking information concerning the question of summary or arbitrary executions. A similar request was sent by a letter of the same date to United Nations bodies, specialized agencies, intergovernmental organizations, liberation movements and non-governmental organizations.

10. In the course of his present mandate the Special Rapporteur has received replies from the following Governments: Botswana, Burundi, Byelorussian Soviet Socialist Republic, Cyprus, Czechoslovakia, Dominica, Israel, Peru, Philippines, Union of Soviet Socialist Republics.

11. Replies were also received from the United Nations Centre for Social Development and Humanitarian Affairs and the Office of the United Nations High Commissioner for Refugees (UNHCR).

12. The International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) sent replies to the Special Rapporteur.

13. A reply was also received from the International Criminal Police Organization (INTERPOL).

14. The following non-governmental organizations in consultative status with the Economic and Social Council also submitted replies: Amnesty International, Baha'i International Community, Commission of the Churches on International Affairs of the World Council of Churches, International Association of Democratic Lawyers, International Confederation of Free Trade Unions, International Federation of Human Rights, International Union of Lawyers and Pax Romana.

2. Allegations of summary or arbitrary executions

15. The Special Rapporteur sent letters or cables to Governments concerning allegations of summary or arbitrary executions in their countries as follows: on 24 July 1987 to 13 Governments, on 27 October 1987 to 1 Government, on 6 November 1987 to 10 Governments and on 4 December 1987 to 9 Governments.

16. Furthermore, a letter was sent to the Government of Uganda on 17 July 1987, requesting information on the development of the work of the Commission of Inquiry into Violations of Human Rights in Uganda.

17. On 17 July 1987, letters were sent to three Governments which had not replied to the Special Rapporteur's letters sent in 1986 and earlier concerning allegations made with regard to their countries. In those letters the Special Rapporteur again requested information on alleged cases of summary or arbitrary executions, which had previously been transmitted to the Governments.

18. In 1987, the Special Rapporteur communicated to the following 27 Governments allegations of summary or arbitrary executions reported to have taken place in their countries: Burma, Chad, Chile, China, Colombia, El Salvador, Equatorial Guinea, Guatemala, Honduras, India, Iran (Islamic Republic of), Iraq, Israel, Lebanon, Libyan Arab Jamahiriya, Mexico, Nicaragua, Paraguay, Peru, Philippines, Poland, South Africa, Sri Lanka, Syrian Arab Republic, Turkey, Uganda, Zaire.

19. At the time of completion of the present report, replies had been received from seven Governments, namely Chile, China, Colombia, Iraq, Nicaragua, Poland and Turkey.

20. These letters and the replies thereto are summarized in chapter II below. The full texts are available for consultation with the secretariat.

C. Urgent appeals to Governments

21. In the course of his mandate, the Special Rapporteur received information containing allegations of imminent or threatened summary executions which appeared prima facie relevant to his mandate. In response, the Special Rapporteur addressed an urgent message by cable to the following Governments requesting information concerning those allegations: Colombia, El Salvador, Guinea, Haiti, Islamic Republic of Iran, Jamaica, Jordan, Kuwait, Nigeria, Somalia, Tunisia. Replies were received from the Governments of Colombia, Kuwait and Tunisia.

22. On 17 July 1987, a letter was sent to the Government of Guinea which had not replied to the Special Rapporteur's message sent in 1987, reiterating the request for information on the cases in question.

23. These appeals and the replies received are summarized below. The full texts are available for consultation in the secretariat files.

Colombia

24. A message was sent on 5 February 1987 concerning the case of a trade-unionist in Cali allegedly facing an imminent threat to his life and to his family. In view of a number of other allegations of death threats made against trade-unionists who were later killed in a summary or arbitrary manner, the Special Rapporteur expressed his concern and requested information, in particular on any investigation of the case by the appropriate authorities and on the steps taken by the Government to ensure the safety of the person concerned.

25. A reply dated 12 August 1987 was received from the Ministry of Foreign Affairs of Colombia, informing the Special Rapporteur that the Office of the Attorney-General had been conducting an investigation into the case and had

appointed the Regional Prosecutor at Cali, Department of Valle, to conduct the investigation on 14 May 1987. It was stated that the requisite period of time for the investigation had not yet elapsed.

26. A message was sent on 27 June 1987 concerning another trade-unionist in Cali allegedly facing an imminent threat to his life. The Special Rapporteur, as in the above-mentioned case, expressed his concern and requested information on the case, and in particular information on any investigation and the steps taken to ensure the safety of these persons.

27. At the time of preparation of this report, no reply had been received from the Government of Colombia to the message sent on 27 June 1987.

El Salvador

28. A message was sent on 24 June 1987 concerning 3 persons who were allegedly stabbed while in the custody of soldiers of the government forces and then left for dead on 13 June 1987 in Canton Plán Verde, La Laguna jurisdiction, Department of Chalatenango, and also concerning 14 university teachers and students allegedly under death threats from a so-called "death squad". The Special Rapporteur requested information on these cases and in particular information on any investigation carried out by the appropriate authorities and on the steps taken to ensure the safety of the persons concerned.

29. At the time of preparation of this report, no reply had been received from the Government of El Salvador.

Guinea

30. A message was sent on 8 May 1987 concerning 58 persons reported to have been sentenced to death by the State Security Court and the Military Court. The proceedings at these courts were alleged to have been secret and no right of appeal was said to have been granted. The Special Rapporteur appealed to the Government of Guinea to stay the execution of these sentences and to ensure application of articles 6 and 14 of the International Covenant on Civil and Political Rights to which Guinea is a party. He also requested information on any action taken on the cases by the Government.

31. On 17 July 1987, a letter was sent to the Permanent Mission of Guinea to the United Nations Office at Geneva, reiterating the Special Rapporteur's request for information on the above-mentioned cases. In the letter, the Special Rapporteur stated that he would hold himself available for any consultations which might be considered desirable and that consultations, should the Government be in agreement, could also taken place in the course of a visit in situ, at which time the allegations in question and any other matter related to his mandate could be discussed.

32. At the time of preparation of this report, no reply had been received from the Government of Guinea.

Haiti

33. A message was sent on 17 September 1987 concerning a number of persons who were allegedly shot at by members of the security forces or attacked by groups of armed civilians with the connivance of the security forces, in particular three journalists shot at during a demonstration on 25 July 1987 by soldiers in Port-au-Prince and six priests attacked by armed civilians on 23 August 1987 near Saint-Marc. The Special Rapporteur requested information on any investigation carried out concerning these cases and, in particular on the measures taken in order to guarantee the security of these persons.

34. A message was sent on 23 November 1987 concerning a number of persons, including the nine members of the Conseil électoral provisoire (CEP) and candidates for the presidential and parliamentary elections, scheduled to be held on 29 November 1987, whose lives were allegedly threatened by numerous attacks aimed at them, their offices or property. In view of a number of similar incidents during the previous months in which several persons had been killed or severely wounded by members of the security forces or groups of armed civilians, in particular the killing of two prospective presidential candidates on 2 August and 15 October 1987 and the killing of 23 persons during a series of general strikes and demonstration in June and July 1987, the Special Rapporteur expressed his concern and appealed to the Government to take every possible measure to protect the life of such persons, and requested information on the cases in question, and in particular on any investigation carried out and the steps taken by the Government to ensure the safety of these persons.

35. A message was sent on 10 December 1987 concerning 50 persons allegedly arrested on 30 November and 1 December 1987 in the Carrefour Feuille area. In view of the alleged execution of some 50 persons at Port Dimanche on 28/29 November 1987 by the security forces and also the reported killings of some 30 persons in Port-au-Prince alone, immediately before the scheduled election on 29 November 1987, by groups allegedly supported by the Government, the Special Rapporteur expressed his concern for the life and security of those arrested on 30 November and 1 December 1987, and appealed to the Government to take every possible measure to protect the life of such persons. He also requested information on these persons as well as on the alleged execution and the alleged killings of persons immediately before the scheduled election, and in particular information on any investigation on these cases and the steps taken by the Government to prevent further violation of the right to life.

36. At the time of preparation of this report, no reply had been received from the Government of Haiti to any of these messages.

Islamic Republic of Iran

37. A message was sent on 29 April 1987 concerning the alleged imminent execution of 14 persons without due regard to the safeguards envisaged in the International Covenant on Civil and Political Rights for the protection of the right to life. The Special Rapporteur also referred to an alleged execution of a person on 26 January and another in March 1987 in similar circumstances. It was reported that all these persons belonged to the Baha'i faith. The Special Rapporteur requested information on the present circumstances of these individuals.

38. It was subsequently reported that 2 of the 14 had been executed on 28 September 1987.

39. A message was sent on 23 September 1987 concerning the alleged imminent execution of two persons who had been sentenced to death in a trial allegedly of a summary nature. The right to appeal to a higher tribunal was allegedly not guaranteed. The Special Rapporteur appealed to the Government to make every effort to ensure that the right to life of the two persons be protected in the manner stipulated in the International Covenant on Civil and Political Rights and in the annex to Economic and Social Council resolution 1984/50 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty". He also requested information on these cases and on the proceedings of the trials in which they had been sentenced to death.

40. A message was sent on 19 October 1987 concerning the alleged imminent execution of the remaining 12 persons mentioned in the Special Rapporteur's message sent on 29 April 1987. The Special Rapporteur reiterated his appeal that the right to life of the 12 persons be protected and requested information on their present circumstances.

41. A message was sent on 3 November 1987 concerning five persons reportedly arrested on 21 October 1987. It was reported that the five persons belonged to the Baha'i faith. In view of the alleged execution without trial of persons in similar circumstances, the Special Rapporteur appealed to the Government to ensure that the right to life of the above-mentioned persons be protected and that every effort be made to guarantee the rights of those persons in detention as provided for in the International Covenant on Civil and Political Rights. He also requested information on their present circumstances.

42. At the time of preparation of this report, no reply had been received from the Government of the Islamic Republic of Iran to any of these messages.

Jamaica

43. A message was sent on 18 November 1987 concerning a person of unsound mind, who had been sentenced to death on 12 March 1981 and was said to be scheduled to be executed on 19 November 1987. The Special Rapporteur, referring to the annex to Economic and Social Council resolution 1984/50 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty", requested information on the case, in particular on the person's present state of mind as established by a psychiatrist, and appealed to the Government to stay the execution for the time being.

44. It was subsequently reported that a stay of execution had been granted.

45. At the time of preparation of this report, no reply had been received from the Government of Jamaica.

Jordan

46. A message was sent on 14 January 1988 concerning three persons who were sentenced to death on 10 January 1988 by the Military Court in Amman. The right to appeal to a higher tribunal was allegedly not guaranteed. The Special Rapporteur, referring to article 14, paragraph 5, of the International

Covenant on Civil and Political Rights, to which Jordan is a party, requested information on these cases, in particular concerning the procedure of the military court under which the three persons were sentenced to death.

47. At the time of preparation of this report, no reply had been received from the Government of Jordan.

Kuwait

48. A message was sent on 12 June 1987 concerning six persons who were sentenced to death on 16 June 1987 by the State Security Court. The Special Rapporteur took note of the note communicated to him on 3 February 1987 concerning the case mentioned in his last report (E/CN.4/1987/20, paras. 45-46) by the Government which stated that every person accused of an offence against State security was tried in accordance with the provisions of Act No. 26 of 1969 under which the State Security Court was established, that the rules and procedures set forth by that act ensured that the accused was able to defend himself and that judgements of the State Security Court were final and subject to no form of appeal. He nevertheless appealed to the Government to make every effort to ensure that the right to life of the accused be protected in the manner stipulated in the International Covenant on Civil and Political Rights and in the annex to Economic and Social Council resolution 1984/50 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty".

49. A reply dated 18 June 1987 was received from the Permanent Mission of Kuwait to the United Nations Office at Geneva, stating that the Permanent Mission believed that the contents of the above-mentioned note constituted an adequate reply to any questions concerning death sentences that had been passed, or might be passed in future, by the State Security Court. It was also stated that Kuwaiti law made full provision for the defence of the accused in order to safeguard the principles of justice before the courts.

Nigeria

50. A message was sent on 26 November 1987 concerning a 17-year-old boy who was sentenced to death in early November 1987 by the Robbery and Firearms Tribunal in Kwara State. The right to appeal to a higher tribunal was allegedly not possible. The Special Rapporteur, referring to Articles 6, paragraph 5, and 14, paragraph 5, of the International Covenant on Civil and Political Rights as well as to the annex to Economic and Social Council resolution 1984/50 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty", requested information on the case, in particular the procedure of the tribunal under which the above-mentioned person was sentenced to death.

51. At the time of preparation of this report, no reply had been received from the Government of Nigeria.

Somalia

52. A message was sent on 27 April 1987 concerning 10 persons who were allegedly sentenced to death on 8 April 1987 by the National Security Court in Mogadisho. It was alleged that the trials before the National Security Court had been of a summary nature and that the defendants did not have the right to

appeal to a higher tribunal. The Special Rapporteur, referring to article 14 of the International Covenant on Civil and Political Rights, requested information on these cases.

53. It was subsequently reported that the death sentences on 9 of the 10 persons mentioned above had been commuted to life imprisonment on 4 August 1987.

54. At the time of preparation of this report, no reply had been received from the Government of Somalia.

Tunisia

55. A message was sent on 25 September 1987 concerning some 90 persons who were being tried by the Special Security Court (allegedly set up for the purpose) and for whom the Government had requested the death penalty. It was alleged that no appeal to a higher tribunal was allowed against the verdict and sentence of the Security Court. The Special Rapporteur appealed to the Government to make every effort to ensure that the right to life of the accused be protected in the manner stipulated in the International Covenant on Civil and Political Rights, in particular in regard to the right to a fair trial, including the right to appeal.

56. It was reported subsequently that seven of those tried by the Security Court had been sentenced to death. Five of the seven were said to have been sentenced to death in absentia and the remaining two were executed on 8 October 1987. Furthermore, one of the five sentenced to death in absentia was arrested on 14 October 1987.

57. A message was sent on 19 October 1987 concerning the above-mentioned person who had been sentenced to death in absentia and later arrested. The Special Rapporteur reiterated his appeal that the right to life of the accused be protected in the manner stipulated in the above-mentioned Covenant and requested information on the trial proceedings in question.

58. On 21 December 1987, a letter was received from the Permanent Mission of Tunisia to the United Nations Office at Geneva transmitting a reply by the Ministry of Foreign Affairs of Tunisia to the messages of 25 September and 19 October 1987. According to that communication, the trials referred to in the messages of the Special Rapporteur were conducted in a fair manner. The defendants had full rights to defend themselves and their attorneys enjoyed all the safeguards provided by the law for pleading in favour of their clients. With regard to the execution of the two men who were sentenced to death, an official communiqué of the Ministry of Justice of Tunisia, which was attached to the reply, affirmed that one had been convicted of complicity in a murder attempt by explosives and the other of attempted premeditated murder, and that both had been convicted of perpetrating an attack aimed at changing the form of government and overthrowing the régime, and of membership of an unauthorized association. The two men had lodged an appeal against their sentences but the appeal had been rejected. They had then appealed to the President of the Republic for mercy, but the President had decided to reject their appeal.

D. Visit to Suriname

59. The Special Rapporteur, in the context of his mandate, visited Suriname from 16 to 24 August 1987 with the agreement of the Government.

60. It may be recalled that the Special Rapporteur had addressed a cable to the Government of Suriname on 18 December 1986 concerning allegations of summary or arbitrary executions. These allegations were reflected in the Special Rapporteur's report to the Commission on Human Rights at its forty-third session (E/CN.4/1987/20, paras. 58-60).

61. Later, on 9 January 1987, the Special Rapporteur addressed a letter to the Government of Suriname, stating that he would remain available for any contact or dialogue with the Government.

62. Subsequently, it was agreed between the Special Rapporteur and the Government of Suriname that his visit to Suriname would take place starting on 16 August 1987.

63. The Special Rapporteur visited Suriname from 16 to 28 August 1987. In connection with his visit to Suriname, he also visited the Netherlands from 13 to 16 August, and French Guiana from 14 to 18 August 1987, to meet several persons whose experience might be relevant to his mandate.

64. An account of the Special Rapporteur's visit to Suriname is contained in the annex to this report.

II. SITUATIONS

65. The information received by the Special Rapporteur in the course of his present mandate includes allegations of executions or deaths which may have taken place in the absence of the safeguards designed to protect the right to life embodied in various international instruments, such as the International Covenant on Civil and Political Rights (arts. 4, 6, 7, 9, 14 and 15), the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977), the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169 of 17 December 1979), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46 of 10 December 1984), and the Safeguards guaranteeing protection of the rights of those facing the death penalty adopted by the Economic and Social Council in resolution 1984/50.

66. This information generally related to allegations of the following nature:

(a) Actual or imminent executions:

- (i) Without a trial;
- (ii) With a trial but without safeguards designed to protect the rights of the defendant as provided for in article 14 of the above-mentioned Covenant;

(b) Deaths which took place:

- (i) As a result of torture or cruel, inhuman or degrading treatment during detention;
- (ii) As a result of abuse of force by police, military or any other governmental or quasi-governmental forces;
- (iii) As a result of assault by paramilitary groups under official control;
- (iv) As a result of assault by groups opposing the Government or not under its control.

Burma

67. On 4 December 1987, a letter was addressed to the Government of Burma transmitting information alleging that over the past two years several unarmed villagers had been killed by security forces in Karen and Kachin States in the context of an armed conflict between Government forces and rebels, and that in many cases victims had been tortured before being killed. Four of the incidents alleged to have occurred in Karen State in 1986 and 16 alleged to have occurred in Kachin State in 1987 were described by way of example.

68. The Special Rapporteur, referring to article 6, paragraph 1, of the International Covenant on Civil and Political Rights, requested information on the allegations.

69. At the time of preparation of this report, no reply had been received from the Government of Burma.

Chad

70. On 4 December 1987, a letter was addressed to the Government of Chad transmitting information alleging that during the past several years a number of persons had been executed without trial. Four cases alleged to have occurred in 1986 were described by way of example. In addition, another alleged case of death in detention as a result of torture on 25 April 1987 at the headquarters of the Direction de la documentation et de la sécurité in N'Djamena was also transmitted.

71. The Special Rapporteur, referring to articles 6, paragraph 1, 7 and 10, paragraph 1, of the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Standard Minimum Rules for the Treatment of Prisoners, requested information on the alleged cases of death, and in particular on the investigation carried out on these cases, including autopsy reports and the measures taken by the appropriate authorities to bring the persons responsible to justice.

72. At the time of preparation of this report, no reply had been received from the Government of Chad.

Chile

73. On 4 December 1987, a letter was addressed to the Government of Chile, referring to the reports prepared by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Chile, in particular, E/CN.4/1987/7 submitted to the Commission on Human Rights at its forty-third session and A/42/556 submitted to the General Assembly at its forty-second session. These two reports mentioned cases which allegedly concerned the right to life (E/CN.4/1987/7, chap. IV, A; A/42/556, chap. IV, A). These cases concerned deaths in custody, deaths as a result of the activities by law enforcement officials and killings by unidentified armed groups.

74. In the same letter, the Special Rapporteur took note of the letter dated 13 November 1986 from the Permanent Representative of Chile to the United Nations Office at Geneva, conveying the Government's view that it was inappropriate for more than one special rapporteur of the same Commission to deal with the same situation. In that regard, the Special Rapporteur stated that, under Economic and Social Council resolution 1987/60, as in previous resolutions on summary or arbitrary executions, he had been requested to continue to examine situations of summary or arbitrary executions and had accordingly dealt with situations in various countries which might be relevant to his mandate, including those currently dealt with under other mandates emanating from the Commission.

75. The Special Rapporteur requested information on the cases referred to above and in particular on any investigations made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

76. On 18 December 1987, a note was received from the Permanent Mission of Chile to the United Nations Office at Geneva, referring to a letter sent by the Special Rapporteur on 4 December 1987 and transmitting, by way of reply, another note, dated 1 December 1987, by the Permanent Mission of Chile to the United Nations Office at Geneva. That note reiterated the Government's view that any information regarding the situation of human rights in Chile would be provided to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Chile.

China

77. On 4 December 1987, a letter was addressed to the Government of China, transmitting information alleging that in Lhasa, Tibet Autonomous Region, in September 1987, three persons had been executed, two of them immediately after having been condemned to death at a public rally, and also that, on 1 October 1987, a number of persons had died in Lhasa during and after a riot as a result of the activities of the police.

78. The Special Rapporteur, referring to articles 6, paragraph 1, and 14 of the International Covenant on Civil and Political Rights and the United Nations Code of Conduct for Law Enforcement Officials, requested information on the alleged cases, in particular information on the legal proceedings which had led to the alleged executions and also on any investigations made and any measures taken by the authorities and/or the judiciary to establish the facts and to bring those responsible to justice.

79. On 13 January 1988 a reply was received from the Permanent Mission of China to the United Nations Office at Geneva, stating that summary or arbitrary executions were effectively prevented by the strict enforcement of the Constitution, the Criminal Law, the Criminal Procedure Law and other laws and statutes of China.

80. With regard to the execution of two persons, it was stated that all criminals in China were handled by Chinese judicial organs strictly in accordance with the procedures provided for by law from the filing of a case, through the investigation, arrest, prosecution and trial to the sentence. Execution of sentence prior to the conclusion of criminal procedures was stated to be strictly forbidden by law. Sometimes Chinese judicial organs were stated to hold public rallies to announce the death sentence of certain criminals who were immediately executed, but all this was stated to come after the conclusion of all criminal procedures, which guaranteed the full exercise of the right to appeal and other rights of the accused, and the review and approval of the death sentence by the Supreme People's Court or a High People's Court. The execution of the two persons in Lhasa on 24 September 1987 was stated to have been conducted in accordance with the above-mentioned procedures.

81. With regard to the death of a number of persons in Lhasa on 1 October 1987, it was stated that the investigation showed that during the riot six persons had died, 19 public security officers had been seriously injured and many more persons had received minor injuries. The cause of the casualties was stated to be that some rioters had snatched guns from public security officers and fired into the crowd besides hurling rocks. It was stated that the six people had been killed in that situation.

82. The public security officers, strictly observing orders from above, were stated to have neither fired nor counter-attacked. The allegation of indiscriminate shooting at the crowd by Chinese policemen was stated to be baseless.

Colombia

83. On 24 July 1987, a letter was addressed to the Government of Colombia transmitting the allegation that, during the period from January 1986 to April 1987, over 100 persons were killed by military or paramilitary forces. The alleged victims were, in many cases, reportedly connected with the Unión Patriótica opposition party, but they also included teachers, students, trade-unionists, farmers and members of Indian community councils. Other victims were reportedly killed as a result of conflicts over land ownership. The letter specifically referred to six members of a peasant community who were allegedly killed by an army patrol.

84. On 6 November 1987, the Special Rapporteur addressed a letter to the Government of Colombia transmitting the allegation that, during the period from April to October 1987, a considerable number of deaths occurred in the country, which were allegedly perpetrated by, or with the complicity of members of the security forces. The victims were reported to be members of Indian communities, lawyers or university lecturers involved in the activities of farmers' and peasants' associations, as well as other human rights activities, trade-unionists, politicians, former political prisoners and political prisoners killed upon their release from gaol. Names of 37 victims were given by way of illustration.

85. The Special Rapporteur, in the above-mentioned letters, requested the Government of Colombia to provide information on the cases submitted to it, and in particular on any investigations carried out and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

86. On 7 September 1987, a reply was received from the Permanent Mission of Colombia to the United Nations Office at Geneva transmitting 19 official communications containing information on cases of death submitted by the Special Rapporteur to the Government of Colombia in communications dated 9 June 1986 and 29 October 1986 (see E/CN.4/1987/20, paras. 86-93). Eighteen of those cases were reportedly still under investigation by the Office of the Attorney-General of the Nation or by regional prosecutors, in accordance with Colombia's legal system. The Government promised it would keep the Special Rapporteur informed of the progress and findings of the inquiries. One of these cases concerned a Supreme Court judge; the Government pointed out in its reply that he had received death threats from drug traffickers and had been conducting proceedings, as part of his judicial duties, relating to the drug traffic. Regarding another of the cases, the Government affirmed that everything possible had been done to establish the identity of the murderers, but that no serious evidence of guilt had yet been obtained. The Government none the less promised that it would keep the Special Rapporteur informed of the progress and findings of the inquiries. With regard to the case of one person who had died during the take-over and subsequent recovery of the Hall of Justice by the armed forces in November 1985, the Government noted in its reply that no investigation had

been ordered into his death, since the Court of Criminal Investigation which carried out the inquiry into the events had found no legal basis for determining that the death of that person was an homicide.

87. On 16 October 1987, a reply was received from the Ministry of Foreign Affairs of Colombia containing information on the death of six members of a peasant community, communicated to the Government of Colombia on 24 July 1987. According to that information, an investigation had been carried out by a counsel appointed by the prosecutor assigned to the armed forces. He had concluded that it was not possible to infer from the material collected any responsibility attributable to military personnel, but that, if in the future new proof was found which implicated them, a formal inquiry would be initiated into any reprehensible and punishable conduct which might come to light. Subsequently, it was decided to continue the preliminary investigation. The Government promised that it would keep the Special Rapporteur informed of progress in the investigations under way and their outcome.

88. On 2 December 1987, a letter was received from the Ministry of Foreign Affairs of Colombia containing information on 24 of the cases communicated to the Government of Colombia on 6 November 1987. According to that information, the cases were currently under investigation. In some of the cases special investigators had already been designated. With regard to nine other cases communicated to the Government on the same date, it was stated that no complaints had been filed and it was requested that further information be provided by the Special Rapporteur regarding the identity of the alleged victims and the circumstances of their death. The Government of Colombia promised to keep the Special Rapporteur informed of the progress and results of the investigations.

89. On 10 December 1987, a letter was received from the Ministry of Foreign Affairs of Colombia containing information on one case communicated to the Government of Colombia on 6 November 1987. That case concerned the death, on 11 October 1987, of Mr. Jaime Pardo Leal, leader of the Unión Patriótica party. According to that information, contained in a report published by the Ministry of Justice of Colombia, following the assassination of Mr. Pardo Leal, an investigation was carried out into the circumstances of the killing. It was concluded that it was not politically motivated, but was an act of reprisal on behalf of organized crime and drug trafficking gangs. The perpetrators and instigators of the killing were known to the authorities and one suspect had already been apprehended. The Attorney-General was closely following the progress of the investigation carried out by the competent authorities and the Government promised to keep the Special Rapporteur informed of the progress made and conclusions reached in the investigations.

90. On 4 December 1987, a note was received from the Permanent Mission of Colombia to the United Nations Office at Geneva transmitting the following texts concerning the efforts made by the Government of Colombia to protect human rights:

(a) Decrees Nos. 2110 and 2111 of 8 November 1987 appointing an Adviser to the President of the Republic for the safeguarding, protection and promotion of human rights, stipulating his functions and setting forth other provisions;

(b) Decree No. 2112 of the same date, establishing a standing consultative council for the policy of reconciliation, normalization and rehabilitation;

(c) Communiqué by the Government on the investigation of the assassination of Mr. Jaime Pardo Leal, leader of the Unión Patriótica and former presidential candidate, stating that drug traffickers were unquestionably involved in this despicable crime;

(d) Two messages, dated 22 and 30 November 1987, from the President of the Republic to the nation concerning the problems of public order and the significance of the above-mentioned decrees;

(e) A press release by the Office of the President of the Republic, dated 21 October 1987, on positive results in action to combat gangs of hired killers.

91. It may be noted that on 19 May 1987 the Permanent Representative of Colombia to the United Nations Office at Geneva submitted to the Special Rapporteur a document issued by the Colombian Ministry of Justice, listing measures adopted by the Government to protect the lives of persons residing in that country.

El Salvador

92. On 27 October 1987, a cable was addressed to the Government of El Salvador concerning the killing of the President of the Human Rights Commission of El Salvador on 26 October 1987 by unidentified armed men.

93. The Special Rapporteur requested information on the investigation carried out by the Government, its outcome, the action and the measures taken to protect the right to life.

94. At the time of preparation of this report, no reply had been received from the Government of El Salvador.

Equatorial Guinea

95. On 6 November 1987, a letter was addressed to the Government of Equatorial Guinea transmitting information alleging that on 19 August 1986 a person was executed after having been sentenced to death on the previous day by the Military Court in Malabo under the "most summary procedures" as stipulated in the law, and that the accused and his counsel were not given adequate time to prepare the defence and the right to appeal to a higher tribunal was not guaranteed.

96. The Special Rapporteur, referring to articles 6, paragraph 1, and 14 of the International Covenant on Civil and Political Rights, requested information on the alleged case of execution and in particular on the legal proceedings involved.

97. At the time of preparation of this report, no reply had been received from the Government of Equatorial Guinea.

Guatemala

98. On 24 July 1987, a letter was addressed to the Government of Guatemala, transmitting information alleging that, during the period from November 1986 to March 1987 over 100 persons were allegedly killed in various areas of the country. The victims allegedly included students, teachers, trade-union activists and farmers, and in most cases the perpetrators were said to be members of paramilitary groups or unidentified armed men. In several reported cases members of the security forces or police were allegedly involved. Eight alleged incidents of killings were described by way of example.

99. The Special Rapporteur requested information on these cases and in particular on any investigations made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

100. On 4 December 1987, a letter was addressed to the Government of Guatemala, transmitting information alleging that cases of killings continued to be reported during the period from January to September 1987. All of the victims including trade-unionists, students and farmers, had allegedly been made to disappear before their bodies were discovered.

101. The Special Rapporteur, stating that a list of more than 100 alleged cases was in his possession, requested information on those cases and in particular on any investigations made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

102. At the time of preparation of this report, no reply had been received from the Government of Guatemala.

Honduras

103. On 24 July 1987, a letter was addressed to the Government of Honduras, transmitting information alleging that during the past year several persons were killed in various parts of the country by members of the security forces, police or unidentified armed men. In all these cases no proper investigation or any other action against those responsible was allegedly taken. Four of such incidents of killing were described by way of example.

104. The Special Rapporteur, referring to articles 6, paragraph 1, and 7 of the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the United Nations Code of Conduct for Law Enforcement Officials, requested information on these alleged cases of killing, and in particular on the investigation of these deaths, including autopsy reports and the measures taken by the appropriate authorities in order to bring those responsible to justice.

105. At the time of preparation of this report, no reply had been received from the Government of Honduras.

India

106. On 4 December 1987, a letter was addressed to the Government of India, transmitting information alleging that, at the end of May 1987, during communal violence in Meerut, Uttar Pradesh, a number of persons were found dead. These persons were allegedly shot dead by the Provincial Armed Constabulary (PAC) after having been arrested. In addition, several other persons allegedly died in detention as a result of ill-treatment by the police and PAC. It was reported that the State and Central Governments had taken steps to investigate those deaths, but that the result of the investigations had not been made public.

107. The Special Rapporteur requested information on the above-mentioned cases and in particular on investigations carried out and any measures taken by the authorities and/or the judiciary in order to establish the facts and bring those responsible to justice.

108. At the time of preparation of this report, no reply had been received from the Government of India.

Iran (Islamic Republic of)

109. On 24 July 1987, a letter was addressed to the Government of the Islamic Republic of Iran transmitting information alleging that during the past year a number of prisoners were executed without trial. Those allegedly executed were said to have been supporters of the Mujahedin organization and members of the Baha'i faith. Eleven alleged cases were described by way of example.

110. The Special Rapporteur, referring to articles 6, paragraph 1, and 14 of the International Covenant on Civil and Political Rights requested information on these alleged cases of execution, and in particular information on any legal proceedings in that connection.

111. At the time of preparation of this report, no reply had been received from the Government of the Islamic Republic of Iran.

Iraq

112. On 24 July 1987, a letter was addressed to the Government of Iraq, transmitting information alleging that during the past year a number of persons were executed without trial, namely five persons in Abu Araib prison near Baghdad in August 1986, 22 persons in An-Najaf on 9 January 1987, at least 29 children and young men in As-Sulaimaniyah in January 1987 and eight persons in As-Sulaimaniyah on 12 May 1987.

113. The Special Rapporteur requested information on these cases and in particular on the legal proceedings, following which the alleged executions might have been carried out.

114. On 26 August 1987, a reply was received from the Permanent Mission of Iraq to the United Nations Office at Geneva, stating that with regard to the alleged execution of at least 29 children and young men in As-Sulaimaniyah in January 1987, seven of the persons participated in, and were found guilty of crimes and acts of sabotage, the transport of weapons and explosives and their use against public and private institutions and citizens. It was further

stated that they had been sentenced to death by hanging in accordance with the Iraqi Penal Code, by a competent court which had respected all the legal safeguards and appointed a lawyer to defend them. Those who were sentenced to death were stated to have attained full legal age, as defined in Iraqi law. Another person mentioned in the allegation as having been executed was stated to have been sentenced to life imprisonment. The other alleged cases of execution mentioned above were denied.

115. On 6 November 1987, a letter was addressed to the Government of Iraq, transmitting information alleging that in September 1986 seven persons were executed after having been sentenced to death on charges of economic corruption by an ad hoc court set up for the purpose and the sentences were ratified by a presidential decree. The trial in which the seven were sentenced to death was said to have been held in camera. In addition, it was alleged that in the past several years a number of Iraqi nationals outside the country had been killed or attacked in attempted assassinations by persons acting under the orders of the Iraqi authorities. Four alleged cases were described.

116. The Special Rapporteur requested information on these cases, and in particular on the trial proceedings by which the death sentences were given, any investigations carried out or other measures taken by the authorities and/or judiciary in order to establish the facts and to bring those responsible to justice.

117. On 30 December 1987, a reply was received from the Permanent Mission of Iraq to the United Nations Office at Geneva, stating that the seven persons executed had been referred to the competent court, where they were provided with the requisite defence in accordance with the provisions and rules applicable in the Iraqi courts; lawyers were designated to defend them; the accused confessed to the charges made against them; it was proved in court that their acts had damaged Iraq's economic position because they had spied on behalf of foreign companies in return for the commissions they received. On the basis of article 164/1, LA/1 of the Criminal Code as modified by Act No. 77 of 1984, and under articles 49 and 50 thereof, they were convicted and sentenced to execution by hanging; these sentences were officially announced and published in the local newspapers.

118. With regard to the alleged killings or attempted assassination of a number of Iraqi nationals outside the country, it was stated that the establishment of responsibility for such crimes lay within the sovereign jurisdiction of those States on whose territories the crimes were committed, since Iraq had nothing to do with the matter.

Israel

119. On 4 December 1987, a letter was addressed to the Government of Israel, transmitting information alleging that, in the territories occupied as a result of the hostilities of June 1967, a number of persons had been killed in recent years during demonstrations, at road-blocks or while escaping from arrest by the military, as a result of arbitrary or excessive use of force by members of the Israeli Defence Forces. Eighteen such killings alleged to have occurred since 1986 were described. In addition, it was alleged that on 24 July 1987 a person died as a result of torture at Jenin Prison where he had been detained and interrogated by the Security Service. In November 1987, the

Attorney-General reportedly ordered an investigation into his death and set up a special police team to carry out the investigation. Furthermore, several persons were allegedly killed by unidentified perpetrators. Four such killings were described.

120. The Special Rapporteur, referring to articles 6, paragraph 1, 7 and 10, paragraph 1, of the International Covenant on Civil and Political Rights, as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the United Nations Code of Conduct for Law Enforcement Officials, requested information on the alleged cases of deaths, and in particular on the investigation carried out into these cases, including autopsy reports and the measures taken by the appropriate authorities to bring those responsible to justice.

121. At the time of preparation of this report, no reply had been received from the Government of Israel.

Lebanon

122. On 4 July 1987, a letter was addressed to the Government of Lebanon, transmitting information alleging that between September 1986 and the end of February 1987 an estimated 500 to 600 persons died in armed conflicts involving Palestinians, Shiite Amal militias and civilian local population in Beirut, Tyr and Saida. The victims reportedly included a large number of Palestinian civilians in the camps of Bourj el Brajneh, Shatila and Rashidiyeh. In addition, it was alleged that unarmed civilian Palestinians living outside these camps had been summarily killed by Amal militiamen.

123. The Special Rapporteur, stating that, while the situation might have been beyond the Government's control, it would be relevant to his mandate to take note of the incidents in Lebanon where the right to life of individuals, in particular that of non-combatants, might not have been respected by the conflicting groups, requested information on these and similar incidents, and in particular the measures taken to determine responsibility for them and to prevent their occurrence and/or reoccurrence.

124. At the time of preparation of this report, no reply had been received from the Government of Lebanon.

Libyan Arab Jamahiriya

125. On 6 November 1987, a letter was addressed to the Government of the Libyan Arab Jamahiriya, transmitting information alleging that during 1987 three Libyan nationals living outside the country, known to be opponents of the Libyan authorities, were killed or attacked in assassination attempts by persons acting under the orders of the Libyan authorities.

126. The Special Rapporteur, referring to article 6, paragraph 1, of the International Covenant on Civil and Political Rights requested information on the above-mentioned allegations.

127. At the time of preparation of this report, no reply had been received from the Government of the Libyan Arab Jamahiriya.

Mexico

128. On 6 November 1987, a letter was addressed to the Government of Mexico, transmitting information alleging that, on 27 April 1987, 10 peasants of the locality of Ilamatlán, Veracruz, were killed by members of a group set up by local authorities and headed by landowners. Following the incidents, soldiers were said to have sealed off the village preventing anyone from entering or leaving it.

129. The Special Rapporteur, referring to article 6, paragraph 1, of the International Covenant on Civil and Political Rights, requested information on the alleged killings.

130. At the time of preparation of this report, no reply had been received from the Government of Mexico.

Nicaragua

131. On 24 July 1987, a letter was addressed to the Government of Nicaragua, transmitting information alleging that several persons detained for political reasons died in custody as a result of ill-treatment. One case of death was described by way of example. In addition, agents of the State Security were allegedly responsible for the death of some other persons under various circumstances. Three such cases were mentioned by way of example.

132. The Special Rapporteur, referring to articles 6, paragraph 1, and 7 of the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Code of Conduct for Law Enforcement Officials, requested information on the alleged cases of deaths, and in particular on the investigation carried out into those deaths, including autopsy reports and the measures taken by the appropriate authorities to bring those responsible to justice.

133. On 14 October 1987, a reply was received from the Permanent Mission of Nicaragua to the United Nations Office at Geneva, stating that all the cases referred to in the Special Rapporteur's letter except one had been dealt with by the Inter-American Commission on Human Rights. It was further stated that the Government would like to draw the Special Rapporteur's attention to the principle governing the admissibility of complaints concerning violations of human rights in the regional system, namely that a body should refrain from hearing cases which were being or had been considered by another international organ. In this connection, reference was made to article 2 of the Optional Protocol to the International Covenant on Civil and Political Rights, article 27 of the Convention for the Protection of Human Rights and Fundamental Freedoms, article 46 (c) of the American Convention on Human Rights, and Economic and Social Council resolution 1503 (XLVIII).

134. With regard to the one remaining case referred to by the Special Rapporteur, it was stated that the Government had not been informed of the case and that, once the investigation being made by the competent authorities had been completed, the Special Rapporteur would be informed of the result.

135. On 6 November 1987, a letter was addressed to the Government of Nicaragua, transmitting information alleging that several persons died in custody in recent months. Three of such cases were described by way of example. In addition, in March 1987, a person was allegedly shot and stabbed to death at his house in Santo Domingo, Department of Chontales, by soldiers of the government forces. This case was said to have been presented to the Complaints Department of the Ministry of the Interior and to the Advocate-General of the Sandinista Armed Forces, but no action was said to have been taken thereon.

136. The Special Rapporteur requested information on the alleged cases of death, and in particular on any investigations made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

137. On 9 December 1987, a reply was received from the Permanent Mission of Nicaragua to the United Nations Office at Geneva, stating that two of the four cases transmitted to the Government were under investigation by the Inter-American Commission on Human Rights and the remaining two cases were being investigated by the competent national authorities and the results of these investigations would be communicated to the Special Rapporteur.

Paraguay

138. On 6 November 1987, a letter was addressed to the Government of Paraguay, transmitting information alleging that, during a land occupation operation in the Department of Alto Paraná in 1986, two farmers were shot dead by government troops and that in April 1987 a person died after having been shot in Colonia Repatriación, Department of Caaguazú, by a group of armed civilians acting on behalf of a member of the ruling party.

139. The Special Rapporteur requested information on the above-mentioned cases and in particular on any investigations made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

140. At the time of preparation of this report, no reply had been received from the Government of Paraguay.

Peru

141. On 6 November 1987, a letter was addressed to the Government of Peru, transmitting information alleging that, on 8 and 10 February 1987, four farmers of the community of Tanquihua, district of San Antonio Cachí, Province of Andahuaylas, Department of Apurímac were killed. The troops reportedly killed the four farmers after other residents of the community had made accusations against them to the military authorities, alleging that they were members of an armed opposition group. On 27 May 1987, the Peruvian Human Rights Association, together with members of parliament and residents of the community reportedly filed a formal complaint with the Attorney-General and the latter instructed the Ad Hoc Attorney to carry out an inquiry into the affair, together with the Attorney for the Apurímac district. The results of this inquiry have not been reported.

142. The Special Rapporteur requested information on the alleged killings and in particular on any investigation made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

143. At the time of preparation of this report, no reply had been received from the Government of Peru.

144. In this connection, a letter was received on 21 August 1987 from the Permanent Mission of Peru to the United Nations Office at Geneva, transmitting the text of Act No. 24.700 promulgated by the President of the Republic on 22 June 1987, concerning procedural rules for police inquiries, pre-trial proceedings and the trial of offences committed with terrorist aims.

Philippines

145. On 4 December 1987, a letter was addressed to the Government of the Philippines, transmitting information alleging that during the past year unarmed civilians were killed by either members of the security forces, the Civilian Home Defence Force, so-called "vigilante" groups said to have been acting with official sanction, or groups of unidentified armed men. Thirty-two of such alleged killings were described by way of illustration of the situation.

146. The Special Rapporteur requested information on the above-mentioned cases of alleged killings and in particular any investigations made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

147. At the time of preparation of this report, no reply had been received from the Government of the Philippines.

148. In this connection, a letter was received on 22 June 1987 from the Permanent Mission of the Philippines to the United Nations Office at Geneva, transmitting the Annual Report for 1986 of the Philippine Presidential Committee on Human Rights (PCHR) and Executive Order No. 163 of 5 May 1987. The Annual Report of PCHR contained information on cases filed with PCHR and seven fact-finding missions sent by the Committee. Among the 708 complaints filed with PCHR, 203 cases were stated to have occurred after February 1986, of which 60 were "salvage" cases, 27 torture cases and 17 disappearances.

149. The Annual Report referred to the recommendations made by PCHR to the President, among which the following were said still to require urgent action: to repeal certain Presidential Decrees which limited the investigation and judicial proceedings of human rights cases; to abolish the Integrated Civilian Home Defence Force and other paramilitary units which have been responsible for many of the worst violations of human rights, such as the massacre of unarmed communities; to prohibit secret arrests, searches and secret detention places (safe houses) and incommunicado detention; to discipline the immediate superiors of those found guilty of violating human rights unless they prove that they took every reasonable precaution to prevent such violations; to punish public officers who delay, obstruct, prohibit or otherwise prevent visits to detained persons by an attorney, his immediate family, doctor, religious or psychological adviser.

150. It is also noted that, by Executive Order No. 163 of 5 May 1987, the national Commission on Human Rights was established as provided in article XIII, section 17, of the 1987 Constitution and PCHR was accordingly abolished.

151. Furthermore, on 13 November 1987, a letter was received from the Permanent Mission of the Philippines, describing provisions of the 1987 Constitution concerning human rights, in particular the right to life and the right to physical integrity and security of person, and also transmitting Executive Orders repealing, modifying or amending a number of Presidential Decrees which had affected safeguards for the protection of the human rights provided for in the Penal Code and other legal instruments.

Poland

152. On 24 July 1987, a letter was addressed to the Government of Poland, transmitting information alleging that two persons died as a result of ill-treatment, while in detention, by members of the People's Militia, one in December 1986 and the other in April 1987.

153. The Special Rapporteur, referring to articles 6, paragraph 1, 7 and 10, paragraph 1, of the International Covenant on Civil and Political Rights as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Code of Conduct for Law Enforcement Officials, requested information on the above-mentioned deaths, and in particular on the investigation carried out into these cases, including autopsy reports and the measures taken by the appropriate authorities to bring those responsible to justice.

154. On 19 November 1987, a reply was received from the Permanent Mission of Poland to the United Nations Office at Geneva, transmitting two notes from the Office of the General Prosecutor of Poland dated 5 October and 29 October 1987 concerning the two cases referred to above.

155. The note of 5 October 1987 stated that on 11 May 1987 the District Prosecutor in Piotrkow Trybunalski had discontinued legal proceedings on one of the cases because the investigation showed that no crime had been committed. It was further stated that in the course of the proceedings it had been ascertained that on 4 April 1987 a policeman found the person concerned lying on the road near a bus-stop in the village of Leki Szlacheckie and, with the assistance of a passer-by, helped him to get to a nearby park where they placed him under a tree in the belief that he would sober up eventually. Later he was found motionless and declared dead. The inspection and post-mortem examination of the body performed at the Forensic Medicine Institute of the Military Academy in Lodz proved that the cause of his death was acute circulatory and respiratory failure in the course of alcohol intoxication. It was stated that a bulletin of the Workers' Committee of "Solidarnosc" of 23 April 1987 reported that the person had died as a result of being beaten by a civil police functionary, but later a bulletin of 25 May 1987 rectified the report, stating that the person had died as a result of alcohol intoxication.

156. The note of 29 October 1987 stated that the District Prosecutor in Gostynin was still continuing the investigation on the death of the other

person concerned which had occurred on 29 December 1986 in the municipal hospital in Kutno. According to the note, the investigation had so far established the following: on 20 October 1986 the person concerned consumed a large quantity of alcohol and was seen in Kutno next morning walking unsteadily with his face bleeding and upper lip swollen; suddenly he fell over backwards, hitting his head on the concrete pavement; due to his strange and unnatural behaviour following the fall, he was detained by two militiamen and sent to the municipal hospital in Kutno for a medical examination; after having been examined by a doctor who considered him fit to remain in custody without carrying out radiological examinations, he was placed in the custody of the District Office of Internal Affairs in Kutno on 21 December 1986; during detention, coercive measures were applied to him in the form of truncheons in order to make him change his clothes into detention uniform; in detention his behaviour continued to be strange and in the early morning of 22 December 1986 he was found in a stupor and transferred to the municipal hospital in Kutno, where a skull trepanation was performed; it was found that he had an intracerebral haematoma as a result of a skull trauma in the occipital region of his head; he died on 27 December 1986. The post-mortem examination performed by the Forensic Medicine Department of the Medical Academy in Lodz found that the immediate cause of his death was cerebral haematoma, caused by a skull trauma in the occipital region, combined with a fracture of the skull; according to the autopsy report, the injury was inflicted with considerable force by a flat instrument or by a fall against such an instrument, and he had probably received the injury before being detained, although the possibility that the injury had been sustained during detention was not ruled out; his strange and uncontrolled behaviour was said to be the consequence of an injury of the frontal lobes of the brain. Investigation of some unexplained elements in the case was stated to be continuing.

South Africa

157. On 24 July 1987, a letter was addressed to the Government of South Africa, transmitting information alleging that in the course of 1986 and early in 1987, several persons had died in disturbances which took place in various parts of the country and that a number of other persons had died in police custody. According to a statement made by the Minister of Law and Order in Parliament on 2 March 1987, 83 persons were said to have died in South African police custody during 1986, among whom 27 were said to have died of "natural causes", 12 had committed suicide, three had been shot while trying to escape and one had been stabbed by other prisoners. No details of these deaths were reported to have been disclosed, not the names of the persons who died, the dates of their death or the results of the subsequent inquiry. One case of death in detention in March 1987 was also described. Furthermore, it was alleged that a number of persons had been killed as a result of incursions by South African Defence Forces into Zambia on 25 April 1987, into Zimbabwe on 11 May 1987, into Mozambique on 29 May 1987, into Angola on several occasions, most recently on 13 June 1987, and into Swaziland on 9 July 1987.

158. The Special Rapporteur, stating that in the state of emergency in force since June 1986 details of deaths in disturbances and in police custody had not been made available by the authorities, requested detailed information on the alleged deaths, including the names of the victims and the results of the relevant inquiries. He also requested information on the incursions into

foreign territory referred to above, in particular on those responsible for such incursions and the steps taken by the Government to ensure that such actions did not recur.

159. On 6 November 1987, a letter was addressed to the Government of South Africa, transmitting information alleging that a number of other persons had died in police custody in 1986. Ten alleged cases of death in detention were described by way of example. It was also alleged that deaths in township disturbances were continuing. The total number of deaths from September 1984 to June 1987 was reported to be 2,356 and in January 1987 alone 39 persons were said to have died. Furthermore, it was alleged that "kitskonstables" (special police constables assigned to work in the black townships) had committed a number of arbitrary killings since they were officially constituted in 1986. Two of such cases were described. In addition, during the nation-wide mining strike which lasted from 9 to 30 August 1987, nine persons were alleged to have died as a result of violence. One of the victims was said to be a non-striking worker, and the remaining victims were striking workers who were allegedly killed during assaults by security personnel, non-striking workers, so-called "vigilante" groups accompanied by security personnel or armed mobs. Also in August 1987, another person was allegedly killed by "vigilantes" and non-striking workers during the strikes organized by the Chemical Industrial Workers' Union.

160. The Special Rapporteur requested information on the above-mentioned cases and in particular, on any investigation carried out and measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

161. At the time of preparation of this report, no reply had been received from the Government of South Africa to either of the letters sent by the Special Rapporteur.

Sri Lanka

162. On 24 July 1987, a letter was addressed to the Government of Sri Lanka, transmitting information alleging that during the past year unarmed civilians were killed either by security forces or armed opposition groups in the context of internal armed conflicts. Fifteen alleged incidents of killings by the security forces and four alleged incidents of killings by armed opposition groups were described by way of example.

163. The Special Rapporteur requested information on these alleged killings, and in particular, on any investigation made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

164. At the time of preparation of this report, no reply had been received from the Government of Sri Lanka.

Syrian Arab Republic

165. On 24 July 1987, a letter was addressed to the Government of the Syrian Arab Republic, transmitting information alleging that on 1 May 1986 a person had died in the custody of al-Mukhabarat al-Askariyya (Military Intelligence) as a result of torture. It was further alleged that, on 20 December 1986 in

Tripoli, Lebanon, a number of unarmed civilians, including women and children, had been among over 200 persons killed in a military operation carried out by Syrian regular troops following attacks by armed militia groups on Syrian troops on 19 December 1986, in which 15 Syrian soldiers had been killed.

166. The Special Rapporteur, referring to articles 6, paragraph 1, 7 and 10, paragraph 1, of the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the United Nations Code of Conduct for Law Enforcement Officials, requested information on the alleged death in detention, and in particular on the investigation of the case and the measures taken by the appropriate authorities to bring those responsible to justice. He also requested information on the alleged deaths of civilians and in particular on the measures taken to establish responsibility for the death of innocent civilians and measures taken to prevent their recurrence.

167. At the time of preparation of this report, no reply had been received from the Government of the Syrian Arab Republic.

Turkey

168. On 6 November 1987, a letter was addressed to the Government of Turkey, transmitting information alleging that, during the first half of 1987, a number of persons had died in the custody of the police, six alleged deaths in custody were described by way of example.

169. The Special Rapporteur, referring to articles 6, paragraph 1, 7 and 10, paragraph 1, of the International Covenant on Civil and Political Rights as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Code of Conduct for Law Enforcement Officials, requested information on the above-mentioned cases, and in particular on the investigations of these cases, including autopsy reports and the measures taken by the appropriate authorities to bring those responsible to justice.

170. On 18 December 1987, a note was received from the Permanent Mission of Turkey to the United Nations Office at Geneva, giving information on the six cases transmitted to the Government. According to the note, one of the persons had committed suicide on 14 February 1987 by jumping from the third floor into the stairwell; in the second case, the person, who was taken to the border area in Ceylanpinar (Şanlıurfa) district for investigation purposes on 17 February 1987, ran away towards the other side of the border and was shot by security agents after having been warned. Preliminary investigations of the Commander and four soldiers involved by the authorities was continuing. In connection with the third case, the Pirinçlik Gendarmerie Station Commander and four soldiers were indicted in February 1987 and the Diyarbakir Aggravated Felony Court I acquitted the Commander and convicted the four soldiers of charges of beating and unintentionally killing the person in question; in the fourth case, an autopsy was conducted and the report determined the cause of death as stomach and intestinal disease, without detecting any marks of violence on the body; in the fifth case, in April 1987 the person jumped out of a second floor window while trying to escape and died in hospital as a result of his injuries; and in the sixth case, in June 1987 the person was found hanged in his cell while in custody for interrogation at

the military detention house of Diyarbakir Martial Law Command. Subsequent investigation by the authorities ascertained that the person had committed suicide and that there were no grounds for further legal action.

Uganda

171. On 4 December 1987, a letter was addressed to the Government of Uganda, transmitting information alleging that during the past year non-combatant civilians and prisoners had been killed by members of the National Resistance Army during "counter-insurgency" operations. Six such alleged killings which occurred at the end of 1986 and the beginning of 1987 were described by way of example.

172. The Special Rapporteur, referring to article 6, paragraph 1, of the International Covenant on Civil and Political Rights, requested information on the alleged incidents.

173. At the time of preparation of this report, no reply had been received from the Government of Uganda.

Zaire

174. On 24 July 1987, a letter was addressed to the Government of Zaire, transmitting information alleging that during the past year several persons had been killed in the Kivu region by local officials, soldiers and members of the National Security Service.

175. The Special Rapporteur requested information on the above-mentioned alleged cases and in particular on any investigations made and any measures taken by the authorities and/or the judiciary in order to establish the facts and to bring those responsible to justice.

176. At the time of preparation of this report, no reply had been received from the Government of Zaire.

III. ANALYSIS OF THE PHENOMENON

177. In his last two reports (E/CN.4/1986/21, chap. III and E/CN.4/1987/20, chap. III), the Special Rapporteur analysed the ongoing phenomenon of summary or arbitrary executions in the world. In E/CN.4/1986/21, three types of summary or arbitrary executions were described as "acute phenomena", namely (a) killings in situations of internal conflicts; (b) killings by excessive or illegal use of force by law enforcement agents; and (c) deaths in custody.

178. The information received by the Special Rapporteur during the period covered by his current mandate indicates that all types of situation continue to exist in various parts of the world as a universal phenomenon.

179. Along with the above-mentioned phenomena, in E/CN.4/1987/20, the Special Rapporteur analysed two closely related issues: (a) the absence of investigation, prosecution and/or punishment in cases of death in suspicious circumstances and (b) death sentences passed after a trial without adequate safeguards to protect the right to life.

180. In the present report, the Special Rapporteur, based on his previous analysis, has further dealt with the following two specific aspects of the phenomenon: (a) non-respect for the right to life by groups opposing the Government or not under its control; and (b) remedial and/or preventive measures for the protection of the right to life.

181. Furthermore, the Special Rapporteur reviews the situation in a number of countries where newly established Governments have been facing certain difficulties and problems with regard to the protection of human rights, notably the right to life.

A. Non-respect for the right to life by groups opposing the Government or not under its control

182. The Special Rapporteur has been aware from the early stages of his mandate of the alarming phenomenon of non-respect for the right to life by groups opposing the Government or not under its control.

183. Along with the widespread phenomenon of the violation of the right to life by government or quasi-government forces, law enforcement agencies, or any other government officials, the Special Rapporteur mentioned in his previous reports the phenomenon of non-respect for the right to life by groups opposing the Government or not under its control. In E/CN.4/1984/29, he stated as follows:

"The Special Rapporteur has noted that the violation of the right to life through summary or arbitrary executions is the responsibility of State authorities or agencies in several instances. However, the information before the Special Rapporteur also indicates that non-respect of the right to life can be attributed to groups other than Governments or quasi-governmental agencies." (para. 145)

In the following report, E/CN.4/1985/17, he stated that:

"during the past year under his current mandate, the Special Rapporteur has noted, in a number of situations, that summary or arbitrary executions have occurred as countermeasures taken by Governments responding to killings of either government officials or civilians by non-governmental groups." (para. 75)

"The Special Rapporteur wishes to emphasize that the primary responsibility for ensuring respect for the right to life rests with the State under national and international law. However, this does not exonerate groups other than Governments from observing the right to life; indeed the Special Rapporteur has noted an increase in non-respect for the right to life by such groups. The Commission on Human Rights should give urgent attention to the responsibility of such groups in ensuring that the right to life is universally respected, as required by the international community." (para. 76)

Furthermore in E/CN.4/1986/21, having emphasized the primary responsibility of the State for ensuring respect for the right to life, he stated that "non-governmental groups must also respect the right to life and inasmuch as they engage in any killings, they must be condemned". It was also stated that "all acts of terrorism must be resolutely condemned" (para. 167). Finally, in his last report, E/CN.4/1987/20, in his reference to the indiscriminate violence which very often caused the death of innocent civilians, he noted that "the phenomenon known as 'terrorism' has led in some cases to instances of reprisals or repression by organs of the State which are responsible for order and security" and that "an act of terrorism is one which has the effect of sowing terror in the victim whoever the perpetrator may be" (para. 239).

184. During the past year under his current mandate, the Special Rapporteur continued to receive information concerning deaths which allegedly occurred as a result of assault by groups opposing the Government or not under its control. The information concerned more than 10 countries.

185. Among the alleged incidents of killing by non-governmental groups, the Special Rapporteur wishes to mention in particular three such incidents in Mozambique during 1987 allegedly carried out by a group called the Mozambique National Resistance (MNR), also known as RENAMO. On 18 July 1987, in Homoine, 490 kilometres north of Maputo, 408 persons were allegedly killed indiscriminately during an MNR attack. It was alleged that among the victims were patients in the Homoine hospital, including new-born babies and pregnant women. On 10 August 1987, in Manjacaze, 240 kilometres north of Maputo, at least 72 persons were allegedly killed indiscriminately by MNR. On 29 October 1987, in Taninga, 80 kilometres north of Maputo, 278 persons, including women and children, were allegedly killed indiscriminately by MNR.

186. Another example is the number of persons, estimated at about 270, who have arbitrarily lost their lives in the Natal Province of South Africa as a result of alleged clashes between the followers of Inkatha and the followers of the United Democratic Front and also between some clans of the Zulu tribe.

187. The Special Rapporteur wishes to emphasize again that non-respect for the right to life, and in particular the act of indiscriminate killing, must be unconditionally condemned under any circumstances, whoever the perpetrator may

be. Such acts cannot and must not be justified morally, legally or politically. The Special Rapporteur would expect the international community to strengthen its efforts in this respect in the coming years.

B. Remedial and/or preventive measures for the protection of the right to life; international standards

188. In his last report (E/CN.4/1987/20), the Special Rapporteur elaborated two essential issues concerning the phenomenon of summary or arbitrary executions, namely the absence of investigation, prosecution and/or punishment of cases of death in suspicious circumstances and death sentences passed after a trial without adequate safeguards to protect the right to life (chap. III, sects. A and B). Adequate investigation, prosecution and/or punishment in cases of death in suspicious circumstances are considered essential not only for bringing those responsible for such deaths to justice, but also for preventing further occurrence of summary or arbitrary executions, whether indiscriminate killings in internal armed conflict, killings by excessive or illegal use of force by law enforcement officials or deaths in custody. Strict observance in the judicial proceedings of the safeguards for the rights of the accused, as provided for in articles 6 and 14 of the International Covenant on Civil and Political Rights and in the annex to Economic and Social Council resolution 1984/50 on the safeguards guaranteeing protection of the rights of those facing the death penalty, is designed to ensure that the right to life of the accused person is protected in every possible manner.

189. With regard to adequate investigations, the Special Rapporteur, in his past reports, has mentioned the urgent need to establish standards designed to ensure proper investigations into all cases of death in suspicious circumstances (E/CN.4/1983/16, para. 230, E/CN.4/1986/21, para. 209 and E/CN.4/1987/20, para. 246). Economic and Social Council resolution 1987/60 on summary or arbitrary executions endorsed "the recommendation of the Special Rapporteur on the need to develop international standards designed to ensure effective legislation on other domestic measures so that proper investigations, including provisions for an adequate autopsy, are conducted by appropriate authorities into all cases of suspicious death" (para. 7), and invited "the Special Rapporteur to receive information from appropriate United Nations agencies and other international organizations and to examine the elements to be included in such standards" (para. 8).

190. In his last report (E/CN.4/1987/20) the Special Rapporteur pointed out (para. 181) several elements which should be included in the standards mentioned in the resolution.

191. Meanwhile, the Special Rapporteur has taken note of Economic and Social Council resolution 1986/10, section VI, in which the Council requested the Committee on Crime Prevention and Control at its tenth session in 1988 to consider the question of extra-legal, arbitrary and summary executions with a view to elaborating principles on the effective prevention and investigation of such practices, and also has been informed of the study being carried out concerning such principles. He is pleased with the close co-operation now established in this regard between the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs.

192. Proposals concerning the elements to be included in such standards continued to be received from a number of organizations. An invitation was extended to him by the Minnesota Lawyers International Human Rights Committee to the Conference on Promoting Human Rights through Adequate Inquiry Procedures, held in Minnesota, United States of America, in October 1987, in which international experts on law, forensic medicine, anthropology and human rights participated, including staff members of both Centres of the United Nations Secretariat.

193. In the view of the Special Rapporteur, the standards for proper investigations into all cases of suspicious death, mentioned in Economic and Social Council resolution 1987/60 and the principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions have the same purpose and could be integrated into one international instrument to be adopted by the United Nations. He therefore, considers it of utmost importance to make efforts to co-ordinate the work being carried out by the various organs of the United Nations and other international organizations.

194. Further to the elements already referred to in his last report, the Special Rapporteur, after having examined the various proposals made so far, now considers that the following elements should be included as a minimum in such standards:

(a) Promptness: the investigation should be carried out immediately following the discovery of such a death;

(b) Impartiality: the investigation should be carried out by a person or persons or an authority whose impartiality is guaranteed and protected;

(c) Thoroughness: the investigation should include an adequate autopsy, collection and analysis of evidence, and statements from witnesses, hence the person(s) or authority investigating should be given the necessary powers, assistance and logistic support;

(d) Protection: complainants, witnesses and persons investigating and their families should be given effective protection from violence or any form of threats;

(e) Representation of the family of the victim: the family of the victim and its legal counsel should be able to participate in the investigatory proceedings and have access to substantive information at various stages of the investigation;

(f) Publication of the findings: the methods and findings of the investigation should be made public;

(g) Independent commission of inquiry: in cases in which the normal investigatory procedure is inadequate, an independent commission of inquiry or similar procedure should be secured. Such a commission should have the necessary authority and powers to carry out impartial and effective investigations.

195. These elements to be included in the standards for investigations are considered minimal, but not exhaustive, and, in order to make such standards meaningful and useful, they should be explained in sufficient detail, with a

clear definition of the purpose of the investigation, the adequacy of the autopsy, the content of the reports of the investigation, the powers of the investigator(s) or commission, etc.

C. Review of situations in restored or new democracies

196. In his last report (E/CN.4/1987/20), the Special Rapporteur referred to the situation in several countries where newly established Governments had publicly acknowledged the existence of serious human rights problems under the previous Governments and pledged their commitment to human rights (chap. III, sect. C). The new arrangements made by these Governments in order to implement their pledge of commitment to human rights were described therein.

197. During the past year, the Special Rapporteur received information from some of the Governments on new legislation relevant to the protection of the human rights and on the work of commissions established to investigate violations of human rights and/or to improve the protection of human rights. However, information continued to be received concerning further allegations of summary or arbitrary executions in those countries. This seems to indicate that some Governments continue to face difficulties in their efforts to restore or raise the level of respect for human rights, in particular the right to life. These difficulties appear to be the same as those mentioned in his last report (para. 234). Especially, in the countries where the situation of armed conflict continues to exist, the difficulties often cannot be overcome in spite of the Government's efforts.

198. In this connection, the Special Rapporteur draws attention to Commission on Human Rights resolution 1987/37 entitled "Advisory services in the field of human rights", by which the Commission appealed to Governments to consider making use of the possibilities offered by the programme of advisory services and encouraged Governments in need of technical assistance in the field of human rights to avail themselves of the advisory services of experts in that field. The Commission also requested its special rapporteurs and representatives as well as the Working Group on Enforced or Involuntary Disappearances to include in their recommendations, whenever appropriate, proposals for specific projects which should be realized under the programme of advisory services.

199. The Special Rapporteur considers that Governments facing difficulties, especially in establishing legal and administrative structures, or in finding trained personnel, may in the future benefit from the advisory services mentioned in the resolution.

IV. CONCLUSIONS AND RECOMMENDATIONS

200. As in past years, the Special Rapporteur received information concerning a considerable number of alleged summary or arbitrary executions. He is, however, aware that the information which reached him represented only a part of the entire phenomenon of this violation of the right to life. By careful analysis of the information received, he concludes that a considerable number of summary or arbitrary executions remain undetected or unknown, not only by the international community but also by the population in the countries concerned. He would welcome suggestions on how this phenomenon can be more accurately monitored.

201. In this report, the Special Rapporteur describes summary or arbitrary executions both as a phenomenon and as specific cases with specific elements. As in the past, he finds that the phenomenon persists in all parts of the world; summary or arbitrary executions have most frequently taken place in one of three types of situation, namely internal armed conflict, excessive or illegal use of force by law enforcement agents or in custody. Furthermore, several persons were executed in a number of countries without a trial or with a trial but without the safeguards designed to protect the rights of the defendant as provided in article 14 of the International Covenant on Civil and Political Rights.

202. In the present report, the Special Rapporteur has taken note of the alarming phenomenon of non-respect for the the right to life and in particular the act of indiscriminate killing of unarmed civilians, by groups opposing the Government or not under its control. He hopes that the international community will strengthen its concerted efforts to eliminate the root causes of such violence, to achieve peaceful solutions through dialogue and to take effective measures to prevent further loss of innocent lives.

203. In his search for possible remedial and/or preventive measures for the protection of the right to life, the Special Rapporteur has repeatedly stated in his past reports (for example, E/CN.4/1987/20, chap. III, B) that the safeguards for the rights of the accused, as stipulated in certain international instruments, such as the International Covenant on Civil and Political Rights, must be strictly observed in the judicial proceedings, especially in cases involving the death penalty.

204. In addition, the Special Rapporteur, taking note of the frequent absence of adequate investigations by the appropriate authorities into alleged summary or arbitrary executions, has emphasized in his past reports the need to develop international standards for proper investigation into all cases of suspicious death (for example E/CN.4/1986/21, para. 209). He believes that adequate investigation into cases of death in suspicious circumstances is essential, not only to bring those responsible to justice, but also to prevent further occurrence of summary or arbitrary executions.

205. During the course of his mandate, the Special Rapporteur has received several proposals concerning the elements to be included in such standards. He notes with satisfaction that the close co-operation now established in this regard among the United Nations organs and the contribution made by non-governmental groups of experts have led to remarkable progress in the formulation of such standards. The Special Rapporteur hopes that this co-ordinated effort will bear fruit in the near future in the form of an

international instrument to be adopted by the United Nations. In this connection, he wishes to refer to the preparations now in progress for the tenth session of the Committee on Crime Prevention and Control.

206. Also in the present report, the Special Rapporteur has reviewed the situation of several countries which have emerged from periods of non-democratic or authoritarian government and has noted the difficulties the newly-established Governments faced with respect to the protection of the right to life. The possibility of international assistance should be seriously explored both by the Governments concerned and by the Commission on Human Rights within the framework of the advisory services as urged by the Commission in resolution 1987/37.

207. In view of these conclusions, the Special Rapporteur would like to make a number of recommendations in addition to those already made in his last report (E/CN.4/1987/20, paras. 246-248):

(a) As a matter of urgency, training programmes should be organized with a view to training or educating law enforcement officers in human rights issues connected with their work. Over the years it has been noticed that arbitrary deprivation of life most frequently takes place in connection with the activities of law enforcement officers. It is therefore imperative that attention be drawn urgently to the training of such officers. The United Nations Centre for Human Rights and the United Nations Institute for Training and Research have over the years organized regional seminars and workshops in which government officers have been trained to draft reports under the various international human rights Covenants. It is urged that similar seminars or workshops be started for law enforcement officers to train them to carry out their work with due respect for the human rights of the individual and to familiarize them with various international human rights instruments;

(b) Governments should ratify international human rights instruments and the Optional Protocol to the International Covenant on Civil and Political Rights and review national laws and regulations with a view to embodying in their laws and regulations the minimum requirements stipulated in the international human rights instruments with regard to law enforcement activities, inquiry procedures, judicial procedures, etc;

(c) Governments should maintain the machinery for checking and controlling the practice of law enforcement organs, including military forces, with a view to ensuring that their activities conform to the relevant laws and regulations;

(d) Governments and international organizations should support the efforts made in United Nations forums towards the adoption of an international instrument which would incorporate international standards for proper investigation of all cases of death in suspicious circumstances;

(e) Governments and international organizations should strengthen their efforts to find ways and means to bring about peaceful and lasting solutions to the situations of conflict in which indiscriminate killings often take place;

(f) Governments and international organizations should strengthen their efforts to assist, either bilaterally or multilaterally, in an efficient and effective manner, those Governments which, in their struggle to restore or raise the level of respect for human rights, are in need of technical and other assistance.

Annex

VISIT BY THE SPECIAL RAPPORTEUR TO SURINAME
(16 to 28 August 1987)

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I. INTRODUCTION

A. Background

1. In December 1986, the Special Rapporteur received information on the death of a considerable number of persons allegedly killed in Paramaribo and the eastern part of Suriname by members of the military police and/or the People's Militia. The majority of the victims were said to be "Bush Negroes".
2. On 18 December 1986, the Special Rapporteur addressed a cable to the Minister for Foreign Affairs of Suriname, referring to the reported deaths, in particular eight alleged incidents of killings, and asked the Government for information, especially on any investigations of those cases carried out by the appropriate authorities. Later, on 9 January 1987, in a letter addressed to the Minister for Foreign Affairs, the Special Rapporteur stated that he would remain available for any contact or dialogue with the Government of Suriname.
3. The report of the Special Rapporteur submitted to the Commission on Human Rights at its forty-third session, refers to the above-mentioned messages by the Special Rapporteur to the Government of Suriname (E/CN.4/1987/20, paras. 58-60).
4. On 26 February 1987, the Government of Suriname replied that it had "already granted permission to said Mr. Wako on his own request as the Special Rapporteur on summary or arbitrary executions to visit Suriname".
5. On 18 March 1987, the Special Rapporteur addressed a cable to the Government of Suriname confirming his readiness to visit Suriname. To this the Government of Suriname replied on 20 March 1987, confirming the Government's willingness to co-operate with him during his planned visit to Suriname.
6. On 1 April 1987, the Secretary-General addressed a letter to the Government of Suriname, stating that the Special Rapporteur would report to him on the results of his visit.
7. Subsequently, in May 1987, it was agreed between the Special Rapporteur and the Government of Suriname that his visit to Suriname take place from 16 August 1987.

B. Visit to Suriname

8. The Special Rapporteur visited Suriname from 16 to 24 August 1987. In connection with his visit to Suriname, he also visited the Netherlands, from 13 to 16 August, and French Guiana, from 24 to 28 August 1987, to meet several persons whose experience might be relevant to his mandate.
9. The aims of the Special Rapporteur's visit to Suriname were:
 - (a) To examine allegations of the occurrence of summary or arbitrary executions;

(b) To learn of the measures taken by the Government to prevent any recurrence of events such as those which occurred in December 1982, and of the democratization process;

(c) To be informed, as requested by the Secretary-General, of the situation in east Suriname and other areas placed under a state of emergency.

10. Prior to his visit, the attention of the Government of Suriname was drawn to the following principles governing such missions as that being undertaken by the Special Rapporteur in respect of Suriname:

(a) The Special Rapporteur and the staff assigned to him shall be able to interview freely and in private, persons, groups, entities or institutions. The Government shall grant the pertinent guarantees to all those who may provide the Special Rapporteur and his staff with information, testimony or evidence of any kind;

(b) The Special Rapporteur and his staff shall be able to travel freely to any part of the country;

(c) The Special Rapporteur and his staff shall have access to gaols and other places where persons may be held in custody and shall be able to interview in private any person, including those sentenced or detained;

(d) The Government shall be responsible for the security of the Special Rapporteur and his staff within the territory in connection with the fulfilment of the mission of the Special Rapporteur.

11. During the course of his visit to Suriname, the Special Rapporteur met a wide range of individuals. He met senior officials and authorities, in particular the President of the Republic, Commander D.D. Bouterse, the Prime Minister, the Minister for Foreign Affairs, the Minister of Justice, the Minister of the Army and Police, the Attorney-General, the Chief Justice, the Chief of Staff of the National Army together with senior officers of the Army, the Military Police Commander, the Deputy Military Police Commander, the President of the National Assembly, members of the National Institute of Human Rights and the Rector of the University. He also met persons responsible for various aspects of the transition to democratic government and in particular the Chairman of the Drafting Committee of the Constitution and officials of the Ministry of Internal Affairs in charge of the electoral registry and administration of voting.

12. He also met the leaders of political parties, New Democratic Party (NDP), Surinamese Workers' Party (SPA) and the Front for Democracy and Development, composed of the three former political parties (NPS, VHP, and KTPI), representatives of employers' organizations and of trade unions, the Committee of Christian Churches, the Organization for Justice and Peace and the Surinamese Red Cross.

13. Furthermore, the Special Rapporteur met a considerable number of individuals who provided him with information relevant to his mandate. Among these were members of "Bush Negro" communities.

14. In Suriname the Special Rapporteur made two visits to the areas where incidents of killing had allegedly taken place; one to the eastern part of

Suriname, along the main road from Paramaribo to Albina on the Marowijne river, with stops at Moengo, Moengotapoe, Mooi Wana, Negerkreek and other locations; and another to Brokopondo, the southern interior district, stopping at Klaaskreek, Marshallkreek, Berg en Dal and Victoria. The Special Rapporteur's visits to these areas were limited by military considerations and in fact he was not able to visit a number of places he had asked to visit, such as Petondro, Patamacca and Brownsweg.

15. In the Netherlands, the Special Rapporteur met several Surinamese who claimed to have direct knowledge or information relevant to his mandate.

16. In French Guiana, the Special Rapporteur visited four camps where Surinamese displaced persons from east Suriname had been accommodated by the French authorities. He also met the Prefect of Guiana, his deputy and the Sub-Prefect of Saint-Laurent-du-Maroni.

17. As an integral part of his trip the Special Rapporteur met Mr. Ronny Brunswijk and members of the armed opposition group.

18. In all, the Special Rapporteur met more than 150 persons in the course of his mission. In addition he met about 200 members of the "Bush Negro" communities as a group. The Special Rapporteur would like to thank each and every person whom he met for they all gave him valuable information relevant to the purposes of his mission. He would particularly like to express his special gratitude to the Government of Suriname for its support during his visit to the country. He also wishes to express his appreciation to the Government of France which facilitated the Special Rapporteur's visit to French Guiana.

II. ALLEGATIONS

19. Since July 1986, when the rebel forces led by Mr. Ronny Brunswijk began to be active in the eastern part of Suriname, a considerable number of civilians, including women, children and the aged, have allegedly been killed by the Government forces in villages and towns in the eastern part of the country. During the military operations carried out in November and December 1986, hundreds of civilians allegedly died. All the victims were said to be members of the "Bush Negro" group.

20. It was also alleged that a number of persons, most of whom were said to be "Bush Negroes" were killed in Paramaribo and Moengo by members of the armed forces and/or the People's Militia.

21. In addition to eight alleged incidents of killing which were communicated to the Government of Suriname in a cable dated 17 December 1986 by the Special Rapporteur as mentioned in the Special Rapporteur's previous report (E/CN.4/1987/20, paras. 58-60), information concerning more than 25 alleged incidents of killing was received prior to the Special Rapporteur's visit to Suriname.

22. The allegations relate to the following provisions of international human rights and humanitarian instruments:

(a) Article 6, paragraph 1, of the International Covenant on Civil and Political Rights, on arbitrary deprivation of life, which states:

"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.";

(b) Article 3 of the United Nations Code of Conduct for Law Enforcement Officials adopted by the General Assembly on 17 December 1979 (resolution 34/169) on the use of force by law enforcement officials, reading as follows:

"Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

"Commentary:

"(a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

"(b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.

"(c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.";

(c) Article 3, paragraph 1, common to the four Geneva Conventions of 12 August 1949 on protection of non-combatants in conflicts not of an international character, reading as follows:

"In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

"1. Persons taking active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

"To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

"(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

"(b) taking of hostages;

"(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

"(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

"2. The wounded and sick shall be collected and cared for.

"An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

"The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

"The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

III. OBSERVATIONS

23. During his visit to Suriname, the Netherlands and French Guiana, the Special Rapporteur tried to gather as much information as possible concerning the alleged occurrence of summary or arbitrary executions and the situation in east Suriname and other affected areas, and the measures taken by the Government to prevent the recurrence of events, such as those which occurred in December 1982, and in particular the ongoing democratization process. The following paragraphs describe as comprehensively as possible the outcome of the Special Rapporteur's visit.

A. Armed conflict

24. In the view of the Special Rapporteur, the alleged incidents of killing as described in section II must be seen in the light of the circumstances prevailing in Suriname since July 1986, namely an armed rebellion and armed conflict which has been continuing up to the present.

25. According to the information gathered by the Special Rapporteur, the ongoing armed conflict in Suriname started on 22 July 1986, when armed rebels led by Mr. Ronny Brunswijk, former member of the armed forces, attacked two military barracks in Albina and Stolkertsijver in the eastern part of Suriname and seized 12 military men. Most of the rebels are said to come from the "Bush Negro" group.

26. In November 1986, the rebels seized Moengo - a major mining town in east Suriname and cut the access to Albina. Several bridges on the highway from Paramaribo to Albina were destroyed in the Marowijne district by the rebel forces.

27. On 1 December 1986, by General Decree A-22, the Government proclaimed a state of emergency for the districts of Marowijne, Commewijne, Para, Brokopondo and a part of the district of Sipaliwini.

28. The Government forces mounted military operations in late November and early December 1986 in the Marowijne district. In January 1987, the government forces retook control of Moengo. Albina, a town on the Marowijne river was, over a period of time, totally destroyed by shelling from Surinamese Navy gunboats on the river. Eventually, military operations were carried out not only in the eastern part of Suriname, but also expanded into the district of Brokopondo.

29. The situation of armed conflict has continued up to the present, although military engagements by both the government forces and the rebel forces are said to have become less frequent.

B. Casualties and material losses

30. Since June 1986, a considerable number of civilians have been killed in military operations. According to the military authorities, only three civilians were killed in the cross-fire between government forces and rebel forces, namely, a three-year-old boy in Morakondre, a woman in Moengo and a woman in the Mooi Wana area. An analysis of the information the Special Rapporteur has received from various sources as of August 1987 indicates that between 150 and 200 civilians have been killed during the military operations.

In any case precise figures and the identities of the victims are difficult to establish, mainly due to the unknown number of victims in the jungle where many civilians fled, the confusion of the affected population and the consequent absence of identification of those who fled west to Paramaribo, east to French Guiana and south into the interior.

31. In addition to civilian casualties, the government forces reported that, as of August 1987, 32 of their men had been killed in combat, 16 were either dead or in the hands of the rebel forces and 115 either injured or mentally disturbed due to the horrors they had witnessed, and that the rebels had lost an estimated 200. According to the rebel forces, they had lost 27 (two drowned, three died as a result of an accident and 22 were killed in action) and the government forces had lost over 270.

32. Most of the civilian victims were "Bush Negro" villagers who were killed during the "clean-up" operations undertaken by the government forces and after their retaking of east Suriname.

33. The Special Rapporteur was informed by the Government that, prior to a military operation, evacuation orders were issued, allowing the inhabitants of the affected areas 24 to 48 hours to leave. There is considerable evidence that these evacuation orders were given and this, coupled with the fact that the opposition forces also alerted the civilians to vacate the area when they knew that a military operation was imminent, could explain why relatively few persons died when villages were completely destroyed by the military. However in some places, the evacuation orders may not have been given or, if given, were not, for a variety of reasons, heard by the affected population and consequently they were caught unawares when raided by government forces and lives were lost.

34. Since the fighting began until August 1987, an estimate of 15,000 persons were said to have moved to the Paramaribo area from the eastern part of the country and an additional 8,500 to have fled to French Guiana. The majority of these displaced persons were "Bush Negroes" but some 1,000 Amerindians were also said to have fled the combat zone. This represents more than one third of the estimated "Bush Negro" population which by any standards is a very high percentage of the population displaced.

35. During his trip to the eastern part of Suriname along the main road from Paramaribo to Albina, the Special Rapporteur noticed that all the bridges had been damaged and tractors and other equipment destroyed. The area from Moengo to Albina was closed. All the "Bush Negro" villages and hamlets along the road had been destroyed and razed to the ground by the government forces. All the buildings and property, with the exception of the church in Moengotapoe, a town which was variously estimated to have had a population of between 800 and 1,600 people, was completely destroyed by the government forces. All the buildings and property in what was once the bustling town of Albina with an estimated population of about 3,000 to 4,000 people were destroyed, with the exception of the military barracks which also bore the marks of fighting. Apart from the military personnel in Albina, in this whole area from Moengo to Albina, no human being or living creature was seen apart from starving dogs in Albina. The jungle vegetation had taken over the destroyed buildings and the cultivated lands and was encroaching on the road.

36. Since the beginning of 1987, the government forces have extended their military operations into the district of Brokopondo. Movement of people on the road between Paramaribo and the Brokopondo area was strictly controlled and transport of food and medical supplies was almost completely stopped. In this context several civilians were reported to have been killed in this area since the beginning of the year.

37. The bauxite mining facilities, a major industry in Suriname, the palm oil plantation and factory at Victoria, electric pylons and bridges had been destroyed or damaged in the attacks by the rebel forces. It appeared that the strategy of the rebel or opposition forces was to aim at destroying economic installations and military objects and also confronting military personnel.

C. Information on alleged incidents of killing

38. During his visit to Suriname, the Netherlands and French Guiana, the Special Rapporteur made every effort to inform himself of incidents in which persons were allegedly killed in a summary or arbitrary manner.

39. In the following paragraphs the Special Rapporteur summarizes information obtained from multiple sources concerning a number of such incidents.

40. In July 1986, Davil Spalburg, a military police corporal died. His body was said to have borne marks of torture, and the neck was broken. According to the Commander of the Military Police, he committed suicide by shooting himself in the investigator's office after having been taken into military police custody for being absent without leave. It was further stated that a note written by him was found later stating that he wished to commit suicide.

41. On 1 August 1986, in the village of Morakondre, a three-year-old boy named Cakwa Castiel was shot by government troops. The military authorities and the Commander of the Military Police stated that he was killed in the cross-fire between government forces and the rebels. It was confirmed that the boy's body was received on 6 August at the morgue of the University Hospital.

42. In September 1986, a mentally handicapped boy was killed by government soldiers at the airstrip in Albina. Several sources confirmed the incident. It was reported that according to the military authorities he was shot when he did not stop after a warning.

43. On 18 October 1986, Henkie Maisa, aged 16, was shot dead by the military police at his house in Paramaribo. According to the Commander of the Military Police, Maisa was being investigated as he was a suspected terrorist. He was shot while resisting arrest and later died in hospital.

44. On 19 October 1986, in Liverno, in the outskirts of Paramaribo, four persons named Geldorp, Ravenberg, Hengelbron and Kromopawiro were found dead with bullet wounds in the back and the head. The Commander of the Military Police stated that he heard about the case from the police but denied any involvement of the military police in the case. However, according to the officials in the Ministry of Justice, initially the civilian police were involved in the investigations, but as soon as they knew that the military police were involved, they withdrew. Some sources attributed the deaths to excessive knowledge of the involvement of certain persons in the cocaine trade.

45. At the end of October 1986, a person named Henri Isaak Nahar was found dead in the Cottica River. One source alleged that Nahar was arrested and taken to Fort Zeelandia apparently because he refused to carry out an assignment in connection with the cocaine trade. He was allegedly injected with poison and his body thrown into the river. However, according to the pathologist who performed the autopsy, the direct cause of his death was determined as asphyxia caused by drowning and no bullet wounds were seen. It was also said that the body had decomposed to the extent that it was impossible to check for poisoning. According to the Commander of the Military Police, before the body was found, the military police spotted two "terrorists" swimming across the river and shot at them. When the dead body was identified as Nahar, the military police assumed that he was on his way to French Guiana. The case was said to be under investigation in connection with a suspected robbery, because Nahar had a lot of money and gold chains on him.

46. On 3 November 1986, a 17-year-old boy named Kensly Pamari was shot in a car near the Menre Boekoe Kaserne by members of the military. He later died in hospital on 5 November 1987. According to the Commander of the Military Police, Kensly Pamari was shot when he ignored an order not to move.

47. On 5 November 1986, in Stolkertsijver, Jabeni Cornelis was shot dead by government forces. According to the Commander of the Military Police, Jabeni Cornelis tried to escape custody and was shot dead when he did not stop after a warning shot.

48. On 12 November 1986, in Moengo a woman named Geofferie Gisela was killed by members of the military. According to the Commander of the Military Police she was caught in the cross-fire between government forces and the rebels.

49. On 19 November 1986, in Mooi Wana at least seven persons, including a pregnant woman, were allegedly killed at the camp of Divion by soldiers of the government forces. The military authorities and the Commander of the Military Police denied the allegation stating that no military operation had been carried out in the area between November 1986 and June 1987.

50. On 29 November 1986, in Mooi Wana, Alfonsdorp and Negerkreek more than 40 civilians, including women, children and old persons, were killed by government troops. The Special Rapporteur heard detailed accounts from a considerable number of persons who claimed to have witnessed the killings or who had seen the bodies of the victims. By all accounts, they were defenceless, some were lined up and shot, some were shot in their houses and thereafter their belongings were destroyed. The Special Rapporteur saw evidence that they were caught completely unawares. A number of the victims' bodies were later brought to the mortuary in Moengo which was subsequently destroyed after being set on fire by the military. The remains of other victims were also said to have been found in the jungle. The military authorities and the Commander of the Military Police confirmed that six or nine bodies of persons brought from Alfonsdorp to the mortuary of the hospital in Moengo were burned together with the mortuary itself because of the advanced decomposition of the bodies. However, they denied any military operation in the area at the end of November 1986. It was stated that, due to the destruction of the bridges, the government forces could not go there by land until June 1987. However, one source in talking about the panic of the villagers caused by the unexpected raid by government forces, stated that the troops came by river using small boats.

51. In December 1986, Eward Deel, a military police corporal, was found dead near Neursweg, after having been taken from his house by military police. The Commander of the Military Police stated that Deel was found shot at Biliton. The Deputy Commander of the Military Police thought that Deel had been killed by "criminals" or "jungle commandos".

52. On 12 January 1987, in Wanhatti, two persons named Satra Ansoe and Benjamin Pinas, her son, were shot dead by government forces. The incident was confirmed by several sources, including some who claimed to have witnessed it.

53. On 20 March 1987, three policemen in Tamanredjo, E. Olieberg, J. Blagrove and R. Panday, were killed by a group of armed men in uniform. The Chairman of the National Institute of Human Rights thought that the killing of three policemen was an act by an international criminal group. According to the Attorney-General, investigation by the police achieved little. There are some who believe that they were killed by the military.

54. In April 1987, a person named Kliwon was arrested in Commewijne and was killed at Fort Zeelandia. The Commander of the Military Police stated that Kliwon was shot dead when he started shooting uncontrollably.

55. On 25 and 26 April 1987, three bodies were found floating in the Cottica River near Moengo. Two of the three bodies were identified as those of Petrus Boele from Morakondre and Leo Berika from Petondro. The third body was presumed to be that of Mangani from Morakondre. A source alleged that they were tortured and killed on the night of 23/24 April by government forces and thrown into the river. According to the Commander of the Military Police there was a confrontation between government forces and "terrorists" and on the following day the first body was found in the river.

56. On 26 May 1987, a person named Mankole Pinas was shot dead by government troops. The Commander of the Military Police stated that there was no report on such an incident.

57. On 3 June 1987, a person named Humphrey Lienga was shot dead by members of the government forces after having been arrested near Paranam. According to the military authorities and the Commander of the Military Police, the Military Prosecutor was court-martialling an officer and a soldier, asking for nine years' imprisonment for the officer and three years imprisonment for the soldier. Subsequently the Special Rapporteur learned that the court martial had sentenced the officer to 10 years' and the soldier to one year's imprisonment.

58. On 14 July 1987, a worker's house at the Victoria Palm Oil Factory which had been inhabited by Adeline Poeketi was found burned and a burned body was found inside it. In front of the house was a burned pick-up truck belonging to Philip Geodewacht with at least 18 bullet holes in it. In the pick-up, there were the burnt remains of a refrigerator and kitchen ware. One week later the remains of three bodies were found in the palm plantation. One of the four bodies was identified as that of Philip Goedewacht. The other three bodies were presumed to be those of Wilson Goedewacht, Adeline Poeketi and Arnold Poeketi. The Special Rapporteur visited the two sites where the bodies had been found, where several human bones, pieces of clothing and numerous automatic rifle and machine-gun cartridges were still to be found. According

to the Commander of the Military Police, on 19 June 1987, rebel forces had attacked the Victoria Palm Oil Factory and later on the same day patrolling soldiers had been shot at in the area. One of the houses had caught fire as the soldiers withdrew. When the soldiers went back with reinforcements, a blue pick-up truck in front of the burned houses had caught fire. Afterwards all human bones found at the burned house and in the palm plantation were collected for examination. The bones at the burned house were identified as those of Philip Goedewacht, but regarding these found in the palm plantation the military police had no clue as to their identity.

59. On 19 June 1987, seven persons were detained and then shot dead in Berg en Dal by government troops. On 21 June 1987, two more detained persons were taken to the Marshall bridge and killed. Among those killed were Alfredo Josefzoon, John Adjako, McLean Antomoi, Edgar Tooy, Ronald Gregor and Egwald Damburg. During his visit to the Brokopondo district, the Special Rapporteur stopped at the graveyard in Berg en Dal and observed two graves that showed signs of having been recently prepared. The Commander of the Military Police stated that he had not received any report on such new graves.

60. In addition to the foregoing, the Special Rapporteur received information on several other incidents of alleged killing of villagers by government troops in the eastern part of the country and the Brokopondo district, but he could not check that information through multiple sources.

61. A number of incidents of alleged summary or arbitrary executions were reported to the Special Rapporteur but with no substantiation at all. For example, it was alleged that, between 18 and 20 October 1986, in the neighbourhood of Paramaribo at least 16 persons, mostly "Bush Negroes" had been arrested and killed by members of the military police and the People's Militia. The Special Rapporteur did not find anyone who could support the allegation.

62. A number of incidents reported to the Special Rapporteur were found to be untrue. For example, it was reported that in mid-December 1986 in Klaaskreek, Brokopondo, 10 to 13 youngsters, aged between 16 and 20 who were playing in the football field were shot dead by soldiers. The Special Rapporteur visited the area and met the community and its leaders and they all denied that such an incident had ever taken place. The leaders of the community struck the Special Rapporteur as being truthful, honest and objective.

63. Furthermore, the Special Rapporteur was informed by the military authorities of alleged killing of soldiers of the government forces by the rebel forces in a summary or arbitrary manner. The following cases were given as examples:

(a) On 21 August 1986, Martowidjojo was killed together with three other soldiers in Marowijne. He was shot in the back of the neck after being forced to lie down;

(b) On 6 March 1987, E. Leefland was found dead with his head severed;

(c) On 19 April 1987, K.I. Blanca was shot in the mouth and killed after having been captured.

D. Rule of law

64. In the context of his mandate the Special Rapporteur tried to inform himself of the situation regarding the rule of law in Suriname, in particular of the powers and practices of the law enforcement authorities, the Attorney-General and the Military Prosecutor. His meetings with the Attorney-General and the Commander of the Military Police were most informative in this respect. However, he regrets that he did not have an opportunity to meet the Military Prosecutor.

65. The Special Rapporteur received, prior and during his visit to Suriname, a number of allegations of and information on deaths as a result of abuse of authority by members of the armed forces, in particular the military police, and absence of an adequate investigation and legal proceedings to bring those responsible for such deaths to justice. The Special Rapporteur also received information on the alleged ill-treatment of detainees by the military police at several places of interrogation and detention.

66. The Special Rapporteur was informed that, since 1980, the military police had been given powers for law enforcement normally attributed to the civil police force.

67. In August 1980, by Decree B-5, the military police was "entrusted with the investigation of indictable offences" until the end of 1982; that power was extended until the end of 1984 by Decree B-5A. By Decree B-5B of 16 February 1985, it was extended indefinitely in consideration of "the fact that it is necessary within the framework of the campaign against criminality to grant general criminal investigation powers to the military police". According to the Commander of the Military Police, the military police was given the same powers as the civilian police.

68. Since the proclamation of a state of emergency in the eastern and southern parts of Suriname on 1 December 1986, the military police has been given the power to search civilians without a warrant. However, it was further stated that the military police dealt with cases involving military personnel and civilians threatening the security of the State. Cases involving only civilians were said to have been dealt with by the civilian police.

69. The Special Rapporteur was informed by the Attorney-General that there were problems of jurisdiction between the two law enforcement organs. The military police originally in charge of dealing with matters involving military personnel now even handles cases involving civilians, which are eventually brought before the Military Prosecutor. For investigation and prosecution the Military Prosecutor depends exclusively on the military police. In cases in which the civilian police initiates investigation, as soon as a military involvement is implied, the civilian police withdraws from the case.

70. The Special Rapporteur was also informed that the Public Prosecutor had never received any information on the occurrence of summary or arbitrary executions. With regard to a number of alleged cases of killing mentioned by the Special Rapporteur, he was advised to refer to the military.

71. With regard to detentions by the military police, the Commander of the Military Police stated that preventive arrests for military reasons were necessary in a context of serious terrorist activities. It was further said that in the state of "war", normal procedures of detention could not possibly be followed; investigation could not be expedited and detention was prolonged, as permitted under the state of emergency proclaimed by Decree A-22 of 1 December 1986. As of August 1987 about 70 persons were said to have remained in detention, after 80 per cent of the detainees had been freed. Among the remaining detainees, 19 persons had been detained for prolonged periods for their suspected involvement in "terrorism" pending prosecution.

72. The Special Rapporteur met with a number of persons who claimed to have been detained by the military police and later released. He was told of the condition of their detention and was shown scars on their bodies, as proof of serious ill-treatment during their detention.

73. The Special Rapporteur was also told by the families of a number of long-term detainees that their requests for a visit were often rejected by the military police.

74. Contrary to alleged cases of ill-treatment of detainees, the Special Rapporteur was assured by the Commander of the Military Police that detainees were humanely treated. Every detainee was said to have the right to a visit from his/her family once a week.

75. The Special Rapporteur's request to visit the two places of interrogation and detention, allegedly under the control of the military police, was not accepted because they were "military restricted areas".

76. Subsequently, the Special Rapporteur learned that, on 1 December 1987, 20 persons who had been detained for prolonged periods without charge or trial had been released.

E. Democratization process

77. Democratization of government in Suriname has been one of the major concerns of the Special Rapporteur since his first visit to Suriname in July 1984. In his report submitted to the Commission on Human Rights at its forty-first session (E/CN.4/1985/17, annex IV, paras. 41-49) the Special Rapporteur described the political developments in Suriname from 1980 to July 1984. In the concluding remarks (para. 66) he stated that "it was universally acknowledged to the Special Rapporteur that, in looking to the future, summary or arbitrary executions can be prevented if democracy is restored".

78. In December 1984, the "think-tank", created by Decree A-16 of 13 July 1984, completed its work and submitted its report on the "Establishment of lasting democratic structures" to the Government, proposing another phase of transition lasting 27 months. It also proposed that the Government create a new body, the National Assembly, for the implementation of the last phase of democratization, especially the drafting of a constitution and the creation of the new government organs established thereby.

79. On 13 December 1984, the National Assembly was created by Decree A-17. It was composed of 31 members - 14 appointed by the military authorities, 11 by the trade unions and six by the private sector.

80. The three major political bodies - the Supreme Council (Topberaad), the Government (Regering) and the National Assembly (Nationale Assemblée) - were now formed by seven groups representing various sectors of Surinamese society, namely the 25 February Movement, four trade-union organizations (C-47, Confederation of Civil Servant's Organizations (CLO), Progressive Workers' Unions (PWO) and De Moederbond), the Manufacturers' Association (ASFA) and the Association of Surinamese Trade and Industry (VSB). C-47, one of the four trade-union organizations, withdrew from these political bodies in April 1985, but returned later in March 1987.

81. In 1985, old political parties such as NPS, KTPI and VHP resumed their activities and, in February 1986, they participated in the Government, with their members serving as Cabinet Ministers.

82. On 31 March 1987, a draft constitution was unanimously adopted by the National Assembly and presented to the people for review and comments. Subsequently, the Government announced that the referendum on the draft constitution was to be held on 30 September and the general elections on 25 November 1987.

83. Several social groups subsequently submitted opinions, recommendations and proposals with regard to the draft constitution. However, the Special Rapporteur was told by the Prime Minister that, as the draft constitution had been approved unanimously by the National Assembly after extensive deliberations by experts, it would be difficult to repeat this process on any proposed revision. In a meeting with the President of the National Assembly, it was stated that consultations on the draft constitution had been held and the people had been given an opportunity to express their opinions. The reactions from the people were said to have indicated general consensus on the draft constitution.

84. In meetings with other groups or individuals, the Special Rapporteur heard several different opinions about the draft constitution. Some positively approved it, others accepted it with the hope that it could be amended in the future, and others considered that some revisions were essential.

85. Subsequently, the Special Rapporteur learned that the original text of the draft constitution had been put to a referendum on 30 September 1987, and approved by 96.9 per cent of the total valid votes.

86. In addition to the extensive provisions of basic rights, social, cultural and economic rights and obligations, the approved constitution has a number of outstanding characteristics, three of which may be worth mentioning. The first is the extensive powers vested in the President (arts. 99-112). The President is Head of State of the Republic, Head of Government, Chairman of the Council of State and of the Security Council (art. 90, para. 1), and is appointed by the National Assembly for five years (art. 91). He is responsible to the National Assembly (art. 90, para. 2). The executive power is vested in the President (art. 99) and he has supreme authority over the

armed forces (art. 100). As Chairman of the Council of State and of the Security Council, the President may exercise his powers to initiate State policies and to supervise their implementation.

87. The second is the unique role of the armed forces defined in the Constitution (arts. 177-178). The National Army is defined therein as the military vanguard of the people of Suriname (art. 177, para. 1). In addition to the traditional role of the defence of the country and its independence, the Military Command of the National Army is to be "charged with guaranteeing the conditions under which the Surinamese people can bring about and consolidate a peaceful transition to a democratic and socially just society" (art. 178, para. 2). This unique role is outstanding especially when it is compared with the role of the police defined in the Constitution (art. 179). In accordance with article 179, paragraph 5, "the police executes its tasks in submission to the competent authority and in conformity with existing legal rules."

88. The third point worth mentioning is the provisions for the Council of State, whose powers by virtue of article 115 of the Constitution include:

- (a) Giving guidance to the State administration and supervising the correct execution of the decisions of the National Assembly by the Government;
- (b) Suspending the decrees of the Council of Ministers ... if ... in the opinion of the Council of State [they] are in violation of the Constitution, the law or the government programme;
- (c) Advising the President on the execution of his duties;
- (d) Arranging for the mobilization of the people when the national interest so demands.

The composition of the Council of State is yet to be determined. It will be interesting to see how the functioning of the Council of State evolves in practice.

89. In anticipation of the scheduled general elections in November 1987, two new political parties were formed in the first months of 1987. One was the New Democratic Party (NDP) headed by Mr. J.A. Wijdenbosch, the Prime Minister of the Cabinet installed on 7 April 1987, and the other was the Surinamese Workers' Party (SPA) headed by Mr. F. Derby, the head of the C-47 trade-union confederation. Eventually, three political parties, namely NPS, VHP and KTPI, formed the Front for Democracy and Development. The Special Rapporteur was told that the creation and reorganization of political parties was carried out in conformity with the new law setting criteria for political organizations in Suriname. According to these criteria political parties must be (a) Surinamese, (b) not based on ethnical groups, and (c) democratic in structure.

90. On 10 August 1987, Commander D.D. Bouterse met the three leaders of NPS, VHP and KTPI in Leonsberg and assured them that the National Army would respect the results of the elections to be held on 25 November 1987.

91. The Special Rapporteur was briefed extensively by the government officials in charge of the logistical arrangements for the scheduled

referendum and the general elections. He was told as of August 1987 that draft laws governing the referendum and the elections were almost completed and that already 84 per cent of the population eligible to vote have registered under the new registration measures (Decrees C-84 and C-85 of 30 January 1987). By a decree issued in February 1987 a special arrangement was made to facilitate the registration of people residing in the districts of Marowijne, Brokopondo and Sipaliwini. It was further said that, due to the armed conflict and the ensuing displacement of the population in the affected areas, it might not be possible for these people to cast their votes, in particular for those who had sought refuge outside Suriname.

92. Although reservations and doubts were expressed by some about the newly approved Constitution and the conduct of the general elections, the majority of the people whom the Special Rapporteur talked to were of the view that elections were the only way in which the people could participate in the decision-making process of the State and they should therefore be given a chance.

93. The Special Rapporteur was satisfied that arrangements for both the referendum and the general elections were proceeding satisfactorily.

94. Subsequently he learned that the general elections had been held on 25 November 1987 as scheduled. It was reported, however, that the displaced people, in general, could not participate in the voting, and there were serious procedural problems regarding voting in the areas affected by the conflict.

95. The final results of the elections of members of the National Assembly, as confirmed by the Electoral Committee, were reported as follows: 40 seats were allocated to the Front for Democracy and Development, four seats to a political party named PALU, four seats to Pendawa Lima (another party) and three seats to NDP. The new National Assembly reportedly met in the middle of December 1987 and on 12 January 1988 unanimously elected Mr. Ramsewak Shankhar as President under the new Constitution. His inauguration is scheduled for 25 January 1988.

IV. ALLEGATIONS MADE AFTER THE SPECIAL RAPPORTEUR'S VISIT

96. Shortly after the Special Rapporteur's visit to Suriname, his attention was drawn to information reported to have been released by SNA (the Surinamese News Agency) to the effect that, on 12 September 1987, the army destroyed a major rebel camp near Pokigron, 140 kilometres south of Paramaribo, killing about 40 rebels. The Special Rapporteur also received information alleging that in the incident on 12 September 1987 in Pokigron several unarmed civilians had been killed by government troops and that, on 1 October 1987, in Klaaskreek three persons were shot by Government troops resulting in the death of one of them.

97. On 8 October 1987, the Special Rapporteur addressed a cable to the Minister for Foreign Affairs of Suriname, requesting information from the Government of Suriname on the above-mentioned incidents, as follows:

... "My attention has been drawn to reports of two recent incidents in which a number of persons were alleged to have died; one on 12 September 1987 in Pokigron where up to 40 persons were said to have died and the other on 1 October 1987 in Klaaskreek where three persons were said to have been shot by government forces resulting in the death of one of them.

"It would be appreciated if I were to receive any information from Your Excellency's Government on the above-mentioned incidents."

98. On 30 October 1987, a cable was received from the Minister for Foreign Affairs in reply to the Special Rapporteur's cable of 8 October, as follows:

"Apparently judging from press and radio reports from the Dutch media, the Foreign Minister of the Netherlands has drawn your attention to alleged violations of human rights in Pokigron and Klaaskreek by the National Army of Suriname.

"As you may recall, I have consistently voiced my objections against allegations from the Dutch Government in this matter as it is without any doubt that the terrorist activities which have taken place in Suriname, are being planned and supported by persons and groups residing in the Netherlands without any inquiry by the Dutch Government into these criminal activities.

"Nonetheless, the Government of Suriname is as always fully prepared to provide the information requested in said telex as the Surinamese Government remains wholly convinced of your impartial judgement.

"The facts surrounding the recent actions of the National Army of Suriname are the following:

- "1. On 12 September our Army has undertaken actions against terrorists who were active in the Pokigron region, as a result of which a number of terrorists were killed.

- "2. A few days later the Head of Government, Commander Desire Bouterse, visited Pokigron, it then became crystal clear that the people of Pokigron were extremely pleased that the terrorist activities in their neighbourhood has been brought to an end.
- "3. About a week thereafter, press reports began to circulate in the Dutch press alleging that a massacre had been committed by our Army.
- "4. In the second half of September 1987, the Dutch Chargé d'affaires a.i. paid me a visit and informed me about a report from a French organization named 'Aide médicale internationale'. I told the Chargé d'affaires that this organization was unknown to me. After an inquiry into this matter, it was established that such an organization did not operate in Suriname, nor had it operated here in the past. In the mean time reports in the Dutch media about the alleged massacre took on major dimensions.
- "5. On Wednesday, 7 October 1987, a trip to Pokigron was organized by the Army in which the Chief of Staff, the Battalion Commander and, among others, four Dutch journalists participated.

During this visit to Pokigron, the journalists had the opportunity to interview the people of that village, who again expressed their utter satisfaction with the actions undertaken by our Army against the terrorists. Their findings were subsequently reported in the Dutch press.

"Given the practice of the Dutch Government to submit complaints or alleged violations of human rights in Suriname without any evidence, I have dwelled at length upon these events.

"With regard to an incident which would have taken place at Klaaskreek in which three people would have been shot at by the National Army, as a result of which one would have died, reported to you on 1 October 1987, I have the honour to inform that such an incident is neither known to us, nor has it ever been reported to the official authorities."

99. Subsequently, information was received from another source on the above incident to the effect that, between 10 and 20 September 1987, in the area known as Tjongalangapassie, between Brownsveg and Pokigron, at least 19 persons were allegedly killed by government forces. The names of 13 of the 19 persons were given, including three probable members of the rebel forces. It was alleged that, between 10 and 20 September 1987, there had been no engagement between the government forces and the rebel forces in the area.

100. Furthermore, the Special Rapporteur, after having received information on another alleged incident of killings by government forces on 31 December 1987, addressed the following cable to the Minister for Foreign Affairs of Suriname on 7 January 1988:

... "My attention has been drawn to reports of an incident on 31 December 1987 in which six persons were alleged to have been killed in a summary or arbitrary manner by members of the National Army. According to the information received on 31 December 1987, seven persons were

allegedly apprehended in Atjonni, landing stage of Pokigron in the Sipaliwini district by the government forces. Two of the seven were allegedly shot and bayoneted to death on the spot and the remaining five were allegedly taken by the government forces. On 4 January 1988, four of them were said to have been found dead some 30 kilometres away from Brownsveg together with the remaining person who was reportedly still alive. It was further alleged that those persons were shot dead after having been severely beaten. The names of the six victims were given as follows: Daison Aloeboetoe, De Demanu Aloeboetoe, Mikuwendje Aloeboetoe, John Amoida, Martin-Indisie Banai and Beri Tiqpo.

"Since I am now finalizing my report to the Commission on Human Rights at its forty-fourth session it would be appreciated if I were to receive on an urgent basis any information from Your Excellency's Government on the above-mentioned incident and in particular on any investigation carried out by the appropriate authorities."

101. At the time of the preparation of this report, no reply had been received from the Government of Suriname.

V. CONCLUSIONS AND RECOMMENDATIONS

102. At the conclusion of his mission, the Special Rapporteur made a report to the Secretary-General of the United Nations in which he made suggestions, recommendations and proposals that the Secretary-General, at his discretion, might wish to take into consideration with regard to the situation in east Suriname.

103. Regrettably summary or arbitrary executions have occurred and continue to occur in Suriname. This is mainly attributed to the internal armed conflict in the eastern and southern parts of the country. As already stated (see para. 30), the number of innocent civilians killed, including women, children and the aged, is in the hundreds rather than the thousands as some allegations affirmed. The section of the Surinamese society most affected is the "Bush Negroes".

104. As already noted (see paras. 34-35) the "Bush Negroes" as a community have not only suffered the most as far as the arbitrary deprivation of life is concerned but a high proportion of them have lost their houses and property, have been displaced from their land, their communal and family life has been disrupted and they are being deprived of their cultural roots. Rightly or wrongly, the "Bush Negroes" think that they are not being treated as human beings, that they are in fact regarded as less than human beings, that they are not wanted in Suriname, that their right to life is not recognized and respected and consequently they think that the Government wants to alienate them from the rest of society.

105. The effect of the armed conflict has reached beyond the "Bush Negroes" and includes the Amerindians and in fact the entire Surinamese population. There is no area of economic and social life which has not been adversely affected by it.

106. Regarding killings of individuals outside the context of military operations, the Special Rapporteur took note of the significant gap between the information he received and that provided by the military police. The Special Rapporteur is concerned that the civilian police, the Public Prosecutor and the Attorney-General were almost entirely excluded from handling such cases and that the military police dealt exclusively with them. He was also concerned at the way in which investigations were said to be carried out or at the total absence of any kind of investigation. As a consequence, with one exception (the case of Humphrey Lienga) nobody had been held responsible for killings and brought to justice. In addition, the Special Rapporteur noted that several civilians had been in the custody of the military police for several months without being brought before the courts of law.

107. As was stated in the Special Rapporteur's previous report on Suriname, all the sectors of Surinamese society acknowledged that summary or arbitrary executions could be prevented if democracy was fully restored. In this context, therefore, the recent developments of successfully holding a referendum on the Constitution and the general elections is to be welcomed. It remains to be seen how the relationship between the various organs of the State, such as the National Assembly, the Presidency, the Council of State, the Security Council, the judiciary and the National Army, will work out in

practice. It is to be hoped that the collective will of the people as reflected in the recent elections and the interests of Suriname will always be paramount.

108. In order further to create conditions under which the phenomenon of summary or arbitrary executions can be reduced if not eliminated altogether, the new Government, in the opinion of the Special Rapporteur, will have to address itself to the following issues:

(a) It will have to find a peaceful way of ending the internal armed conflict and, in this regard, it is recommended that a cease-fire should be negotiated forthwith;

(b) It will have to think of policies and take measures which will create conditions under which the refugees in French Guyana will feel that they can return to Suriname and that their lives and properties will be secure and protected;

(c) A compensatory and rehabilitation programme for all those who have been displaced or have lost their property as a result of the internal conflict will have to be devised. Humanitarian aid for the dependants of those who have died should also be considered. Special development programmes for those areas affected and in particular the eastern and southern parts of Suriname should be considered and implemented. The international community should assist as a priority in the whole programme envisaged under this paragraph;

(d) There should be deliberated and planned efforts aimed at national reconciliation involving the reintegration of the "Bush Negroes" and other marginalized communities in every aspect of national life and the decision-making processes;

(e) The Government should spare no effort to restore the faith, confidence and trust in institutions such as those concerned with law enforcement, investigation and prosecution, which should be restored to the civil authorities within the context of a constitutional separation of powers, with the corresponding checks and balances. The civil police and judicial authorities appear to lack adequate facilities; such facilities, including preparation and training of personnel, will have to be provided to ensure that these authorities assume their lawful responsibilities. All alleged killings should be investigated in an effort to establish responsibility and those responsible should be prosecuted in accordance with the applicable law;

(f) Finally, in the spirit of the separation of the powers of the State, appropriate measures should be taken to ensure that the armed forces resume their constitutional responsibilities, in defence of the people and the territorial integrity of Suriname and under the control of the executive power.