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

Report of the Working Group on Enforced or  
Involuntary Disappearances

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## INTRODUCTION

1. The Working Group presents herewith to the Commission on Human Rights the fifth report on its work, together with its conclusions and recommendations, as requested by the Commission in resolution 1984/23. In doing so, the Group wishes to stress that it has attempted to give a factual, objective and complete picture of enforced or involuntary disappearances, on the basis of the reliably documented individual cases brought to its attention.

2. The information given to the Group by Governments, relatives of missing persons and non-governmental organizations acting on behalf of the families is again reflected in summarized form. However, as many details as possible have been retained in order to enable members of the Commission and the interested public better to understand the different points of view expressed. In recording as faithfully as possible the various statements made before the Working Group, the report does not reflect in any way the value judgements which the Group may have made. As in the past, the Group has continued to maintain its strictly non-accusatory approach based on purely humanitarian considerations.

3. The present report should again be read and understood in conjunction with the Group's previous reports. Readers will however notice that certain changes in its format have been introduced this year. These changes do not indicate a departure from the basic philosophy guiding the Group's activities nor do they reflect a fundamental change in its working methods. They are simply made to give the report a more logical structure and to convey more clearly the Group's conviction that the Commission should be informed of its activities over the past year in the most objective and factual fashion and to the fullest extent possible.

4. Chapter I, therefore, after recalling the constitutional and substantive parameters on which the Group's work must be based, seeks to report in a comprehensive manner on the various activities of the Group during the period under review. It records the Group's meetings as well as the subjects on which it deliberated, it describes the nature of the information and proposals it received, including views given on the implementation of General Assembly resolution 33/173, and gives an account of the Group's communications and meetings with representatives of Governments, organizations and relatives. The chapter also describes two missions undertaken by two members of the Group's on its behalf. With a view to enhancing understanding of the Group work, its limitations and the problems it encounters in carrying out its mandate, reference is also made in this chapter to its methods of work and to certain organizational questions.

5. Chapter II again records on a country by country basis the number and summarized contents of reports on enforced or involuntary disappearances which the Group transmitted to Governments. The presentation of this chapter is basically unchanged. However, the two categories of countries have been combined in a single chapter under two different sections, since it was felt that the purely numerical, and perhaps somewhat arbitrary, distinction between Governments to whom more than 20 or less than 20 cases had been transmitted did

not need stronger emphasis. Particular attention has been given to a careful reflection of views expressed to the Group by Governments, relatives or non-governmental organizations. Each country section ends with a statistical summary containing the total number of reports transmitted, the number of cases on which replies have been received, the number of clarified cases and of cases which, according to non-governmental information, might be considered clarified.

6. The report on disappearances in South Africa and Namibia has again been embodied in a separate chapter (chapter III) in view of the distinct features characterizing the situation there.

7. The conclusions and recommendations which the Commission requested the Working Group to make are to be found in chapter IV. Attached as annexes are some documents of a general nature which the Group felt should be recorded in full to facilitate a thorough evaluation of the issues which they address.

#### I. ACTIVITIES OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES IN 1984

##### A. Legal framework for the activities of the Working Group

8. Before giving a detailed account of its activities during 1984, the Working Group considers it useful to remind readers of the constitutional and substantive parameters for its work set by the General Assembly, the Economic and Social Council and the Commission on Human Rights. It is important that these parameters should be clearly understood. The following paragraphs therefore record once again in chronological order the basic provisions of the resolutions of the above-mentioned organs on which the Group's work has to be founded.

9. At its thirty-third session in 1978, the General Assembly adopted resolution 33/173 entitled "Disappeared persons", in which it expressed concern at reports from various parts of the world relating to enforced or involuntary disappearances of persons and requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations.

10. It also called upon Governments, in the event of reports of enforced or involuntary disappearances, to devote appropriate resources to searching for such persons and to undertake speedy and impartial investigations; to ensure that law enforcement and security authorities or organizations were fully accountable, especially in law, in the discharge of their duties, such accountability to include legal responsibility for unjustifiable excesses which might lead to enforced or involuntary disappearances and to other violations of human rights; to ensure that the human rights of all persons, including those subjected to any form of detention and imprisonment, were fully respected and to co-operate with other Governments, relevant United Nations organs, specialized agencies, intergovernmental organizations and humanitarian bodies in a common effort to search for, locate or account for such persons in the event of reports of enforced or involuntary disappearances.

11. In the same resolution, the Assembly also urged the Secretary-General to continue to use his good offices in cases of enforced or involuntary disappearances of persons, drawing, as appropriate, upon the relevant experience of the International Committee of the Red Cross and of other humanitarian organizations; and requested the Secretary-General to draw the concerns expressed in that resolution to the attention of all Governments, regional and interregional organizations and specialized agencies for the purpose of conveying on an urgent basis the need for disinterested humanitarian action to respond to the situation of persons who had disappeared.

12. At its first regular session of 1979, the Economic and Social Council dealt with the question of disappeared persons and adopted resolution 1979/38 in which it requested the Commission on Human Rights at its thirty-sixth session to consider as a matter of priority the question of disappeared persons, with a view to making appropriate recommendations.

13. At its thirty-sixth session, the Commission on Human Rights considered the question of missing and disappeared persons and adopted resolution 20 (XXXVI), without a vote, on 29 February 1980. In that resolution the Commission, stating that it was convinced of the need to take appropriate action, in consultation with the Governments concerned, to promote the implementation of the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing and disappeared persons, decided to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons.

14. In the same resolution the Commission also decided that the working group, in carrying out its mandate, should seek and receive information from Governments, intergovernmental organizations, humanitarian organizations and other reliable sources and it invited the working group, in establishing its working methods, to bear in mind the need to be able to respond effectively to information that came before it and to carry out its work with discretion. Also in resolution 20 (XXXVI), the Commission requested the Secretary-General to appeal to all Governments to co-operate with and assist the working group in the performance of its tasks and to furnish all information required. The Secretary-General was further requested to provide the group with all necessary assistance, in particular staff and resources they required in order to perform their functions in an effective and expeditious manner. The working group was requested to submit to the Commission a report on its activities together with its conclusions and recommendations.

15. The Economic and Social Council adopted decision 1980/128 during its first regular session of 1980, in which it approved the Commission's decision to establish such a working group. The General Assembly also welcomed the establishment of the Working Group in resolution 35/193 of 15 December 1980. In 1981, 1982, 1983 and 1984, by resolutions 10 (XXXVII), 1982/24, 1983/20 and 1984/23, the Commission on Human Rights extended for one year the Working Group's mandate, as laid down in its resolution 20 (XXXVI). It reminded the Working Group to discharge its mandate with discretion, so as, inter alia, to protect persons providing information, or to limit the dissemination of information provided by Governments and to observe, in its humanitarian task,

United Nations standards and practices concerning the receipt of communications, their consideration, their transmittal to Governments and their evaluation. In resolution 1984/23 it furthermore encouraged the Governments concerned to consider with special attention the wish of the Working Group to visit their countries, when such wish was expressed, thus enabling the Group to fulfill its mandate more effectively.

16. The General Assembly, in resolutions 36/163, 37/180, 38/94 and 39/111, welcomed the decisions taken by the Commission on Human Rights in the aforementioned resolutions to extend for one year the term of the mandate of the Working Group. In resolution 39/111 the Assembly also welcomed the arrangements adopted by the Commission on Human Rights in its resolution 1984/23 to enable the Working Group to fulfil its mandate with even greater efficiency and called upon the Commission to continue to study the question as a matter of priority and to take any step it might deem necessary to the pursuit of the task of the Working Group when it considered the Group's report at its forty-first session. (For the full text of General Assembly resolution 39/111, see annex I).

B. Meetings of the Working Group

17. In 1984, the Working Group held three sessions: its thirteenth session from 4 to 8 June 1984, at United Nations Headquarters, New York; its fourteenth session from 3 to 11 October 1984, at the premises of the Inter-American Court of Human Rights in San José, Costa Rica; and its fifteenth session from 5 to 14 December 1984 at the United Nations Office at Geneva. During the present year the Working Group considered that its sessions should be longer in view of the number of meetings requested by representatives of Governments and non-governmental organizations.

18. In 1982, the Government of Costa Rica extended an invitation to the Working Group to meet in that country in connection with an international human rights conference sponsored by the Government. To the Working Group's regret, it was not possible for it to accept the invitation at that time. However, at its thirteenth session, the Working Group decided to explore with the Government of Costa Rica the possibility of holding its fourteenth session at the premises of the Inter-American Court of Human Rights in San José. Both the Government of Costa Rica and the President of the Inter-American Court of Human Rights reacted favourably to this suggestion thus enabling the Group to meet in San José from 3 to 11 October. The Working Group wishes to express its deep appreciation to the Government of Costa Rica and to the Inter-American Court of Human Rights for the warm welcome and generous hospitality it received during its session in San José.

19. The session in Costa Rica enabled the Group to establish more direct contacts with Governments, relatives and relatives' organizations in the region. The Group's presence in the region made it possible for many organizations to bring their grievances directly before the Group for the first time and to provide testimonies and oral case descriptions. A record number of meetings with individual relatives and witnesses and with 14 relatives' organizations were held. This facilitated the Group's understanding of the specific elements of each country situation and enabled it better to appreciate

the reliability of the information placed before it and to learn in considerable detail about the efforts made and difficulties encountered by relatives in the search for their missing family members. The Group also had an opportunity to explain its methods of work in carrying out its mandate to various organizations which had come before it for the first time. Such mutual exchanges will undoubtedly contribute to more effective co-operation between relatives' organizations and the Group. The Group therefore hopes that the dialogue with all organizations concerned will be further enhanced in the future, with a view to improving the prospects for solving outstanding cases and preventing the occurrence of new ones, as far as possible.

20. At its thirteenth, fourteenth and fifteenth sessions, the Working Group continued to review information it had received on enforced or involuntary disappearances and transmitted reports on missing persons to the Governments of the countries concerned. In accordance with the established procedure, it requested those Governments to provide information on the fate of the persons alleged to have disappeared. With regard to cases not transmitted to Governments, the Group either decided to seek further information from the source of the report or found that the report did not fall within its mandate.

21. The Group held 12 meetings with representatives of Governments, five meetings with Members of Parliaments and 26 meetings with representatives of organizations, associations or witnesses directly concerned with reports of enforced or involuntary disappearances.

22. The Group also discussed the development of its methods of work in accordance with the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing or disappeared persons, as well as with its mandate as laid down by the Commission on Human Rights in resolution 20 (XXXVI). A description of the steps taken during the period under review to make its methods of work more effective is contained in paragraphs 73 to 84 below.

Invitation to the Working Group to hold its next session in Buenos Aires

23. By note verbale dated 30 August 1984, the Permanent Mission of Argentina to the United Nations Office at Geneva transmitted an invitation to the Working Group from the Ministry for External Relations and Worship and the National Commission on the Disappearance of Persons to hold its next session in Buenos Aires.

24. The Working Group considered this invitation at its fourteenth session and informed the Government by letter dated 22 October 1984 that it would not be in a position to come to Buenos Aires during its current mandate, since the fifteenth session, at which the Group would adopt its report had, for technical reasons, to be held in Geneva. The Group, however, decided to recommend to the Commission on Human Rights that one of the Working Group's sessions in 1985 be held in Buenos Aires, subject to the convenience of the Government of Argentina. It is the Working Group's firm belief that a meeting in Buenos Aires would enable it effectively to contribute to the Argentine Government's efforts to solve the complex problem of disappearances in that country. It would also enable the Group to intensify its contacts with other Governments of the region and, in particular, with relatives of missing persons and non-governmental organizations.

C. Communications and meetings with Governments

25. In accordance with its mandate, as described in section A above, and with its previous practice, the Working Group continued to address communications relating to enforced or involuntary disappearances to the Governments concerned. In these communications the Group transmitted summaries of reports of enforced or involuntary disappearance which had been brought to its attention during the period under review by relatives or their representatives, by relatives' associations and by non-governmental organizations. Such reports were transmitted only after careful scrutiny of each individual case, after the necessary cross-checking and completion of information (often received from several sources) and after having ascertained that each report provided sufficient detail for a meaningful investigation.

26. In transmitting these reports, the Working Group requested the Governments concerned to provide information on the fate of the persons alleged to have disappeared. In some cases, Governments were asked to elucidate certain circumstances connected with disappearances in their countries and to provide clarifications which would enable the Working Group better to understand a particular situation.

27. Since the latest renewal of its mandate, the Working Group has transmitted some 2,000 newly reported cases to the Governments concerned. In accordance with decisions taken at its thirteenth and fourteenth sessions, as described in para. 79(a) below, the Group has also retransmitted summaries of all cases unclarified to date. In so doing, the Working Group emphasized that it was motivated by the purely humanitarian objective of helping to alleviate the deep anguish and sorrow of the relatives of those persons considered missing. In the case of Argentina, in response to a specific request addressed to it by the Government, the Working Group transmitted or retransmitted all the information on enforced or involuntary disappearances in that country which had been brought to its attention since its creation.

28. In order to present the Commission with an updated picture of clarified cases, the Working Group requested Governments either to confirm or to disprove any information received from non-governmental sources indicating that certain cases might be considered clarified.

29. The Working Group also requested Governments to provide detailed information on the steps taken by them to implement paragraph 1 of General Assembly resolution 33/173. It also approached the Governments of Argentina, Bolivia, El Salvador, Guatemala, Peru and the Philippines with regard to paragraph 7 of Commission on Human Rights resolution 1984/23, in which the Commission encouraged the Governments concerned to consider with special attention the wish of the Working Group to visit their countries, when such wish was expressed, thus enabling the Group to fulfill its mandate more effectively.

30. As in the past, the Working Group expressed its desire to meet the representatives of the Governments concerned in order to have a direct exchange of views on the phenomenon of disappearances reportedly occurring in their

countries. In this connection it invited Governments to send representatives to its thirteenth, fourteenth and fifteenth sessions, on the understanding that the Group would receive any Government representative at its sessions if so requested.

31. In response to these invitations, at its thirteenth session the Group received representatives of the Government of Colombia and Nicaragua. At its fourteenth session, the Group met representatives of the Government of Argentina, Bolivia, Haiti, Honduras and Peru. The Governments of Bolivia, Nicaragua, Peru and the Philippines sent representatives to the Group's fifteenth session.

32. Generally these meetings further clarified the positions of the respective Governments as well as the Working Group's concerns and enabled the Group better to understand the situation in the various countries and to learn about the concrete steps taken by the authorities to investigate reported cases or to combat the practice of disappearances in general. Nevertheless, the Working Group regrets that its request for a direct exchange of views did not receive a wider response.

D. Communications and meetings with relatives and non-governmental organizations

33. The Working Group receives information on enforced or involuntary disappearances from relatives of the missing persons, country-specific or regional organizations acting on their behalf, or non-governmental organizations in consultative status with the Economic and Social Council. A description of the characteristics of the cases received and transmitted to Governments can be found in chapters II and III of the present report.

34. In 1984, some 2,900 reports on enforced or involuntary disappearances were received by the Working Group. At the end of 1984, some 1,800 cases containing sufficient information for meaningful investigations had been transmitted to the various Governments concerned. The Working Group decided at its fifteenth session to transmit further cases to Governments, the numbers and descriptions of which would be given in an addendum to the present report.

35. During 1984, the Working Group received numerous reports of persons who were arrested or abducted and were missing for one, two or three weeks or even months, and then reappeared one day in a public place. According to the relatives reporting these cases, no explanation was given by the authorities of the reasons for the arrest or abduction or the reappearance of their family members. Such cases were normally submitted to the Working Group after the persons concerned had reappeared and, given the terms of its mandate, the Group took no action. The Group is, however, concerned that this type of disappearance seems to have increased during the period under review. Although subsequently such persons reappear, the practice as such and the total lack of legal guarantees for the victims can by no means be condoned. The Working Group has also taken note of a number of cases of persons who were reported to have disappeared and were found dead after some weeks or months. The cases of

persons reported to the Working Group after they had been found dead were not transmitted to Governments. The Working Group also received information on cases concerning assassinations, torture, arbitrary detentions, harassment, etc., which did not fall within the terms of its mandate.

36. Country-specific or regional organizations also submitted reports about the general framework within which enforced or involuntary disappearances take place in each country. The information provided describes the obstacles and problems faced by relatives in their efforts to try to determine the whereabouts of missing persons, problems with the actual application of legal procedures such as habeas corpus, amparo (enforcement of constitutional rights), and any other related legal procedures, and the general economic, social and political conditions in countries. These organizations also submitted lists of clandestine detention centres where missing persons were alleged to be held, as well as witness reports on various events or circumstances connected with disappearances. Such reports were sometimes documented with photographic material or were received in the form of tape recordings or films.

37. The Working Group maintained correspondence throughout the year with the various non-governmental organizations that submitted information to it. It informed organizations when cases they had submitted were transmitted to the respective Governments. The Working Group also informed relatives of missing persons who presented their cases directly when their case had been transmitted to the Government concerned. Whenever a Government provided information on cases transmitted to it by the Working Group, the Group forwarded such information to the non-governmental organizations or the relatives directly concerned. The following is a list of the organizations with which the Group has been dealing over the years:

Abuelas de la Plaza de Mayo (Grandmothers of the Plaza de Mayo), Buenos Aires; \*

Acuerdo Paraguayo en el Exilio (APE) (Paraguayan Accord in Exile), Bern;

Agrupación de Familiares de Detenidos Desaparecidos (Chile) (Group of Relatives of Disappeared Detainees (Chile), Santiago; \*

Agrupación de Familiares de Detenidos Desaparecidos Paraguayos en Argentina (Group of Relatives of Disappeared Paraguayan Detainees in Argentina), Buenos Aires;

Amnesty International (AI), London;

Asamblea Permanente por los Derechos Humanos (APDH) (Permanent Assembly for Human Rights), Buenos Aires;

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\* Organization affiliated to the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM).

Asociación Centroamericana de Familiares de Detenidos Desaparecidos (ACAFADE) (Central American Association of Relatives of Disappeared Detainees), San José; \*

Asociación de Familiares de Detenidos Desaparecidos en Colombia (ASFADDES) (Colombian Association of Relatives of Disappeared Detainees), Bogotá; \*

Asociación de Familiares de Uruguayos Desaparecidos (AFUDE) (Association of Relatives of Disappeared Uruguayans), Paris; \*

Asociación Pro Derechos Humanos (APRODEH) (Human Rights Association), Lima;

Association des familles françaises de prisonniers politiques en Guinée (Association of French Families of Political Prisoners in Guinea), Strasbourg;

Bahá'i International Community, New York;

Centre international d'information sur les prisonniers, déportés et disparus palestiniens et libanais (International Centre for Information on Palestinian and Lebanese Prisoners, Deportees and Missing Persons), Paris;

Centro de Estudios Legales y Sociales (CELS) (Centre for Legal and Social Studies), Buenos Aires;

Comisión Centroamericana de Derechos Humanos (Central American Commission on Human Rights), San José;

Comisión de Derechos Humanos de El Salvador (CDHES) (Salvadorian Commission on Human Rights), Mexico City;

Comisión de Derechos Humanos de Guatemala (CDHG) (Guatemalan Commission on Human Rights), Mexico City;

Comisión Episcopal de Acción Social (CEAS) (Episcopal Social Action Commission), Lima;

Comisión Nacional de Derechos Humanos (CONADEH) (National Commission on Human Rights), Lima;

Comisión Permanente de Derechos Humanos de Nicaragua (CPDHN) (Nicaraguan Permanent Commission on Human Rights), Managua;

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\* Organization affiliated to the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM).

Comit  de Defesa dos Direitos Humanos para os Pa es do Cone Sul org o vinculado   Comiss o Arquidiocesana de Pastoral dos Direitos Humanos e Marginalizados (CLAMOR) (Committee for the Defence of Human Rights in the Southern Cone of the Archdiocesan Pastoral Commission on Human Rights and the Underprivileged), S o Paulo;

Comit  de Familiares de Detenidos Desaparecidos en Honduras (COFADEH) (Committee of Relatives of Disappeared Detainees in Honduras), Tegucigalpa; \*

Comit  de Madres y Familiares de Presos, Desaparecidos y Asesinados Pol ticos de El Salvador, "Monse or Oscar Arnulfo Romero" (Monsignor Oscar Arnulfo Romero Committee of Mothers and Relatives of Salvadorian Political Prisoners, Disappeared and Assassinated Persons ), San Salvador; \*

Comit  de parents de detenus, enlev s et disparues au Liban (Committee of Relatives of Detainees, Disappeared and Abducted Persons in Lebanon), Beirut;

Comit  Nacional Pro-Defensa de Presos, Perseguidos Desaparecidos y Exiliados Pol ticos de M xico (Mexican National Committee for the Defence of Prisoners, Persecuted and Missing Persons and Political Exiles), Mexico City; \*

Comit  para la Defensa de Derechos Humanos en Honduras (CODEH) (Committee for the Defence of Human Rights in Honduras), Tegucigalpa;

Comit  Pro Derechos Humanos en Colombia (Committee for Human Rights in Colombia), Madrid;

Comit  Pro Justicia y Paz de Guatemala (Guatemalan Justice and Peace Committee), Mexico City;

Familiares de Desaparecidos y Detenidos por Razones Pol ticas (Relatives of Disappeared Persons and Persons Detained for Political Reasons), Buenos Aires; \*

Federaci n Latinoamericana de Asociaciones de Familiares de Detenidos Desaparecidos (FEDEFAM) (Latin American Federation of Associations of Relatives of Disappeared Detainees), Caracas;

F d ration internationale des droits de l'homme (FIDH) (International Federation of Human Rights), Paris;

Grupo de Apoyo Mutuo por el Aparecimiento con Vida de Nuestros Familiares (Mutual Support Group for the Return of Missing Relatives Alive), Guatemala City;

International Commission of Jurists (ICJ), Geneva;

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\* Organization affiliated to the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM).

International Defence and Aid Fund for southern Africa (IDAF), London;

Madres de la Plaza de Mayo (Mothers of the Plaza de Mayo), Buenos Aires; \*

Madres de Uruguayos Desaparecidos en Argentina (Mothers of Uruguayans who Disappeared in Argentina); \*

National Council of Resistance of Iran (NCR), Paris;

People's Mojahedin Organization of Iran, Paris;

Servicio Paz y Justicia (SERPAJ) (Peace and Justice Service),  
Buenos Aires;

Servicio Justicia y Paz (Justice and Peace Service), Montevideo;

Socorro Jurídico Cristiano, Monseñor Oscar Arnulfo Romero (Monsignor Oscar Arnulfo Romero Christian Legal Aid), San Salvador, San José;

Task Force Detainees of the Philippines (TFDP), Manila;

Vicaría de la Solidaridad (Chile), Santiago;

World Council of Churches (WCC), Geneva.

Proposals submitted to the Working Group by the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM)

38. In a statement to the Working Group during its fourteenth session in San José, Costa Rica, the representative of FEDEFAM gave the Federation's overall analysis of the phenomenon of disappearances in Latin America (For the full text of the statement, see annex II). In examining the situation, FEDEFAM distinguished between four categories of country: those with old style dictatorships, military dictatorships, constitutional Governments which had followed military dictatorships and constitutional Governments. FEDEFAM was also distressed that the phenomenon was not only found in countries which it described as military dictatorships, but also in countries with elected Governments. It further stated that under many constitutionally elected Governments the independence of the judiciary was not observed in practice, or the judiciary of a previous dictatorship remained in office. While continuing to concern itself with the solution of individual cases of disappearances FEDEFAM had also attempted to establish an overall view of situations occurring in different countries and recommended concrete measures to deal more effectively with the phenomenon as a whole.

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\* Organization affiliated to the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM).

39. FEDEFAM suggested that action should be taken at different levels to combat the practice of disappearances successfully. Among other measures, families and human rights organizations in all countries concerned should receive every encouragement; the necessary judicial and constitutional reforms should be made; the wrongful conduct which leads to enforced disappearance should be included as a crime in all penal codes and independent forensic institutes should be established to identify the bodies of victims.

40. FEDEFAM also made the following proposals with a view to improving the Group's work on of the question of enforced disappearances:

- (a) The Working Group should visit the countries affected by the problem. As a matter of urgency Peru, Guatemala, El Salvador and Honduras should be visited. The objective of these visits should be to study the legal and constitutional situation through contacts with the supreme courts, legislative assemblies, etc., and to have direct contact with the families concerned as well as the various local human rights groups and other humanitarian organizations.
- (b) The Working Group should study the FEDEFAM draft international convention on enforced disappearances and recommend both its study and its approval by the United Nations.
- (c) The Working Group should make public those individual cases which it feels have not been resolved. This would encourage the authorities to make a greater effort to collaborate.
- (d) The Working Group should encourage a world-wide campaign against enforced disappearances and convene a special conference thereon or on any other measures that would effectively mobilize international public opinion on the matter.
- (e) The Working Group should insist very strongly on the creation of investigative commissions in all countries where the problem exists.

Draft international convention on enforced disappearances

41. The FEDEFAM draft international convention on enforced disappearances was first proposed by a team of jurists convened by FEDEFAM in 1982. The document was revised several times and was approved in the form in which it appears in annex III.

42. According to FEDEFAM the draft differs from earlier versions in its definition of the offence. Earlier drafts placed emphasis not on the circumstances of the missing person -the distinctive feature of this punishable act, but rather on the detention or arrest of victims- a factor which does not, however, necessarily come into play in all cases of enforced disappearance. The current draft describes the wrongful conduct in question as "any act or omission designed to conceal the whereabouts of a political opponent or dissident of whose fate his family, friends or supporters are unaware", thus highlighting the basic component of the offence, namely, the enforced disappearance of a person. The draft contains provisions relating to the location of missing persons alive

and the prevention and effective and appropriate punishment of the offence. It establishes two types of jurisdiction over this offence: one national and the other international. The drafters of the convention felt that this was essential, since the offence had been classified in the draft as an international crime against humanity and offenders usually enjoyed impunity in the countries where they had committed such acts.

E. Information provided in relation to the implementation of General Assembly resolution 33/173

43. The Commission on Human Rights, in resolution 1984/23, expressed its conviction that the action taken to promote the implementation of General Assembly resolution 33/173 and other United Nations resolutions concerning missing persons should be continued. It also requested the Working Group to present all appropriate information deemed necessary and all concrete suggestions and recommendations regarding the fulfilment of its task to the Commission at its forty-first session. In July 1984, the Working Group addressed letters to a number of Governments requesting information on the steps they had taken to respond to the call of the General Assembly in paragraph 1 of resolution 33/173. Furthermore, on 30 July 1984, it addressed a letter to non-governmental organizations asking them to submit their observations on the matter.

44. The Working Group intends to analyse the material available and to identify some of the main characteristics of the measures that have or could be taken in pursuance of resolution 33/173 in all countries where cases of disappearances have been reported and to submit general recommendations on the matter to the Commission at a later date.

45. Unfortunately, the Group has received very few replies to its request. Consequently, it is not yet in a position to carry out the analysis and make the recommendations envisaged. Nevertheless, it wishes to submit a summary of the information it has received to date on the subject.

Amnesty International

46. By letter dated 24 September 1984, Amnesty International forwarded its response to the Group's request concerning the implementation of General Assembly resolution 33/173. Its reply focused on the countries in which it considered that disappearances occurred most frequently. In each of them there was, according to Amnesty International, "ample evidence" of official involvement in abductions and unacknowledged detentions. In each country the provisions of paragraph 1 of resolution 33/173 had been violated: no speedy and impartial investigations had been undertaken; no measures had been taken to prevent law enforcement officials from causing disappearances; no measures had been taken to ensure that the human rights of the victims were respected; and co-operation with international organizations in a common effort to investigate disappearances had been inadequate.

47. Amnesty International made four recommendations to ameliorate the implementation of resolution 33/173 in a number of countries:

- (a) With respect to these countries, Amnesty International believes that visits by the Working Group would be particularly useful in promoting investigations and helping to prevent future "disappearances".
- (b) An additional possibility to consider would be for the Commission or the General Assembly to offer to send long-term observers to areas where disappearances most frequently occur. The role of the observers would be to monitor the problem and to assist the Government in attempts to bring it under control.
- (c) In well-documented cases the Working Group could request the Secretary-General to use his good offices pursuant to paragraph 3 of resolution 33/173.
- (d) Situations in which Governments have consistently failed to co-operate with the Working Group or have otherwise not complied with paragraph 1 of resolution 33/173 should be brought to the attention of the Commission on Human Rights for appropriate follow-up action.

Nicaraguan Permanent Commission on Human Rights (CPDHN)

48. By letter dated 13 September 1984, the Permanent Commission forwarded its observations concerning the implementation of resolution 33/173 in Nicaragua to the Working Group. Concerning paragraph 1(a), it reported *inter alia*, that the Government had shown no interest in the situation of disappeared persons on the pretext that there were no such cases in Nicaragua, and had disregarded the lists of disappeared persons presented to it by the Permanent Commission. Regarding paragraph 1 (b) of resolution 33/173, the Permanent Commission reported that article 50 of the Statute of Rights and Guarantees of Nicaraguans (*Estatuto de Derechos y Garantías de los Nicaragüenses*) established the remedy of amparo for all abuses of power by the authorities, but was suspended under the state of emergency from 15 March 1982 to 6 August 1984. The Permanent Commission made four proposals which it considered would enhance the implementation of resolution 33/173:

- (a) The national penitentiary system and the Department of State Security should publish, in the country's most widely read newspapers, a list of all persons who had been detained (including the date and place of arrest) since the present Government came to power, as well as a list of all persons currently in detention.
- (b) The national penitentiary system should establish a mechanism to register all transfers of prisoners within the same detention centre or to other detention centres. The register should indicate any changes in the legal status or physical location of prisoners and relatives should have access to the register.

- (c) All formal or practical limitations on the application of writs of habeas corpus should be eliminated and all citizens without exception should have access to an effective remedy of amparo to protect them against any possible arbitrary action by the authorities.
- (d) The Permanent Commission should be allowed to visit prisoners in the various detention centres and to work with the penal authorities on a continuing basis in order to avoid a resurgence of the problem.

Guatemalan Commission on Human Rights (CDHG)

49. By letter dated 17 September 1984, the Guatemalan Commission on Human Rights forwarded its observations concerning the implementation of resolution 33/173 in Guatemala. The Commission reported inter alia that the majority of cases concerning enforced or involuntary disappearances reported to have occurred in Guatemala, as well as testimonies provided by persons who had managed to escape, proved that there was either direct or indirect government involvement and responsibility.

50. For a better implementation of resolution 33/173 the Commission proposed that:

- (a) The Working Group should adopt a procedure similar to that used by the Inter-American Commission on Human Rights (IACHR), whereby if no information is received from a Government, within a given time-limit, on specific reports of violations of human rights transmitted to it, the Inter-American Commission adopts a resolution declaring the Government concerned responsible for certain violations of human rights.
- (b) Disappearances should be declared a crime against humanity at the international level.

F. Missions by members of the Working Group in 1984

1. Visit by Mr. Jonas K.D. Foli and Mr. Luis Varela Quirós to Bolivia : 12-16 November 1984.

51. At the express invitation of the Government of Bolivia, the Working Group on Enforced or Involuntary Disappearances sent two of its members, Mr. Luis Varela Quirós and Mr. Jonas K.D. Foli, on a mission to La Paz for the agreed purpose of :

- (a) Assessing the progress made by the National Commission of Investigation of Disappeared Citizens;
- (b) Seeing, at first hand, the difficulties encountered by the Commission in the performance of its duties;
- (c) Determining the kind of human rights assistance which the United Nations could grant the Government of Bolivia which is resolved to eradicate the phenomenon of enforced or involuntary disappearances.

52. The mission was, furthermore, in accordance with resolution 1984/23 in which the Commission on Human Rights encouraged the Governments concerned to consider with special attention the wish of the Working Group to visit their countries, when such wish was expressed, thus enabling the Group to fulfil its mandate more effectively.

53. The importance of such a mission is underscored not only by the Working Group's duty to contribute effectively to the eradication of this unacceptable phenomenon of enforced or involuntary disappearances, but also by the fact that the National Commission is the first such investigative body to be established by any of the countries where enforced disappearances of persons have occurred. Its success can serve as an example worth emulating by other countries which are also contemplating ways and means of grappling with the phenomenon.

54. The visit, however, took place within a rather uncertain political context, marked by a general strike called by the Bolivian Confederation of Workers, coupled with a simultaneous series of difficult negotiations among the many political parties, and by attendant fears, freely expressed by all and sundry, that some forcible change of régime might again take place. These situations had a far from positive effect on the mission since they conspired to impose limitations on the number of interviews which could have been held with various Governmental authorities.

#### Working sessions with the National Commission

55. The mission held several working sessions with members of the National Commission which played host to it in the most friendly and co-operative manner imaginable under the circumstances. It also visited the offices of the Association of Families of Disappeared Persons and of the Permanent Commission on Human Rights which are non-governmental organizations committed to eliminating from the Bolivian body politic the repeated occurrence of human rights abuses, in general, and of enforced disappearances of persons, in particular. All three organizations were agreed on the need for international assistance to Bolivia if the objectives for which they existed were to be achieved as soon as possible. The stated difficulties and requirements of Bolivia in the field of human rights therefore reflect a wider cross-section of opinion (including the complaints of victims of disappearances) than the views of the National Commission alone.

#### Visits

##### Ministry of Foreign Affairs

56. The mission was received by the newly appointed Director-General of the Ministry of Foreign Affairs in the absence of the Foreign Minister himself who had travelled to Brasilia to attend the General Assembly of the Organization of American States. There were no detailed discussions at that point except for assurances given to the Working Group members as to the readiness of the Government to co-operate fully with the United Nations in the quest for permanent solutions to the problem of disappearances. It was intended that, after detailed working sessions held at the offices of the National Commission, the mission would return to the Foreign Ministry on Thursday, 15 November 1984. Unfortunately, however, this rendezvous was foiled by the massive strike which kept all government offices closed.

Ministry of the Interior

57. The Minister of the Interior and Justice, however, received the delegation, not only in his own ministerial capacity, but also on behalf of the President who had planned to receive the mission personally. He also stood in for the Minister for Foreign Affairs. He was conversant with the activities of the Working Group and left the mission in no doubt that the constitutional Government of Bolivia was counting on the Working Group to help it resolve the problems of disappearances.

The Military High Command

58. An appointment had been made for the mission to be received at the Military High Command by the Chief of Defence Staff to discuss the subject of disappearances in Bolivia, all of which had taken place under military régimes. However, the General in question had to attend to other pressing matters when the Working Group delegation arrived. The members were consequently welcomed by assistants.

Cemeteries

59. The La Paz General Cemetery and a clandestine burial ground in another cemetery some 15 kilometers outside the city were also visited by the mission. Its members saw evidence of the work of investigators of the National Commission to retrieve the mortal remains of persons who had disappeared and had been discovered interred in these places. Most of these bodies were still awaiting identification.

60. The mission examined the appropriate registers during interviews with cemetery officials and concluded that, in a number of cases, bodies had been brought for burial at the Central Cemetery on orders "from above", with the required fees paid (in at least one case by the security forces), the medical certificates stating the cause of death (usually by shooting) duly supplied, and the burials themselves taking place outside normal hours. They also viewed the specific spot where eight bodies had been buried in a common grave and the vaults in which they were laid pending identification. They further examined photographs of the persons concerned and obtained a list for the purpose of comparing it with that held by the Working Group which was based on reports received at the Centre for Human Rights.

61. It is already certain that there are some notable disparities between these lists for a number of reasons: the National Commission was established after the Working Group; initially, families were unable to come forward and denounce the disappearance of their loved ones for fear of reprisals, and there were then no domestic organizations ready to assume this function on behalf of the bereaved families; the National Commission itself came into being only recently and is plagued with problems of greatly limited means.

Progress achieved and difficulties encountered by the National Commission

62. In the two years of its existence, the National Commission has achieved some positive results which may appear insubstantial to the uninformed. However, when these results are measured against the background of existing constraints, it will be readily appreciated that they represent a major effort which deserves special support and encouragement from the international community.

Firstly, the human material available to the Commission includes only three investigators. They are not trained and do not have the experience of previous investigations of this nature to draw upon.

Secondly, because of a chronic lack of financial resources, the Commission's mobility for purposes of investigations is practically nil. This means that the investigators' efforts are confined almost exclusively to the capital and its environs. The severely deteriorating state of the national economy accounts for this difficulty even though there is a large fund of political will to carry through the work of the Commission.

Thirdly, there is less than full participation in the activities of the Commission since the representative of the Armed Forces appeared to the mission not to take an active part in its work.

Fourthly, the Commission does not have the technical expertise on which it must rely for meaningful and expeditious realization of its objectives. There are no forensic pathologists available to it; neither has it any researchers; the administrative staff is also small and seems to be learning on the job; legal counsel is not at the Commission's disposal either.

63. Under these restrictive circumstances, the compilation of lists of Bolivians who had disappeared at home and also in Argentina during each military régime; the investigation and discovery of the eight bodies already mentioned; the definitive confirmation that 14 other disappeared persons were dead and awaiting identification, all imply an uncommon dedication by a tiny team whose principal motivation seems to be their own singleness of purpose. The Association of Families of the Disappeared Persons gave the mission to understand that the creation of the National Commission had been greeted with high hopes, but that frustration was now gaining ground among the relatives not for want of effort on the part of the National Commission but because it lacked the wherewithall to carry out assigned tasks successfully.

Human rights assistance urgently needed

64. It is clear from the foregoing paragraphs that the National Commission stands in urgent need of assistance in certain specific areas. These were repeatedly discussed at the various meetings held between the mission and

members of the Commission. They are set out very briefly as follows:

- (a) Technical assistance : The immediate need here is for a team of forensic doctors to identify the bodies which have been discovered. Training of Bolivians for this purpose is obviously imperative. Appropriate United Nations fellowships should be made available to qualified applicants from Bolivia so that the necessary infrastructure can be built up on the basis of the personnel thus trained.
- (b) The organization of seminars was also discussed, but it was considered that there was no urgent need for such action in Bolivia, since the funds required might well exceed the total finances urgently needed to keep the National Commission viable. Attention should be concentrated on the provision of these urgent necessities at the initial stage of United Nations assistance to Bolivia.
- (c) The question of mobility has already been mentioned. The furnishing of means of transport would considerably alleviate some of the Commission's investigating problems. Working material such as typewriters or office machinery, in general, would be greatly appreciated.

Human rights needs and the advisory services function of the Centre for Human Rights

65. The above-stated requirements, except in a few cases, exceed the capacity, means and practice of the Centre for Human Rights whose Advisory Services Unit would normally be expected to provide the assistance sought.

66. In the mission's view, the United Nations should try to accommodate the genuine needs of countries in the type of situation in which Bolivia finds itself, if United Nations human rights assistance is to benefit the victims of human rights abuse; such an attempt would be much more useful than making these generally deprived Member States respond, merely as a matter of form, to the offer of the kind of assistance it may have become an invariable tradition for the United Nations to provide and, which is not really what is required. In these crucial matters it seems very unfortunate that needy countries should be presented with a "take it or leave it" situation.

67. It means that the concept of advisory services should be expanded and developed and properly funded to meet those needs. It also implies the strongest possible appeal to member States who are in a position to do so (and there are many of them) to channel such assistance through the Centre for Human Rights or to elect to offer it bilaterally to the needy Governments. These requirements appear rather small, but their fulfilment will create a climate of reassurance for those who suffer the incalculable harm inflicted by the crime of enforced disappearances.

2. Mission by Mr. Luís Varela Quirós to the Fifth Congress of the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM) (Buenos Aires, 12-19 November 1984)

68. During its fourteenth session, the Working Group decided to accept the invitation from the Latin American Federation of Relatives of Disappeared Detainees (FEDEFAM) to attend its Fifth Congress which was held in Buenos Aires from 12 to 19 November 1984 and that Mr. Luis A. Varela Quirós would attend the last part of the Congress, after the Group's mission to Bolivia. The Congress was held for the first time in a country that had experienced the problem of disappearances in the past. It not only had the support of the Government, but also many members of the Argentine Congress participated.

69. During the Congress, different aspects of the phenomenon of disappearances were discussed and a number of resolutions adopted, some of which called on the Working Group to visit Latin American countries faced with the problem of disappearances.

70. Various aspects of the draft convention on disappearances adopted by FEDEFAM during its Third Congress, held in Lima in 1982, were also considered and it was decided that, in order for the convention to be discussed in the United Nations, the support of Governments and non-governmental organizations should be sought.

71. At the Congress the families of missing persons showed great interest in the organization and continuation of their struggle to determine the whereabouts of their missing relatives. There was some criticism of the work by international organizations, on the ground that the results achieved so far were limited. Nevertheless, the Congress decided to continue co-operating with international organizations, mainly through the transmission of reports of enforced disappearances and through the presentation of observations and suggestions about more effective methods of work.

72. During the Congress, demonstrations and others acts of solidarity with the families of disappeared persons in Latin America took place. Some of the participants requested the Argentine Government's authorization to visit prisons, and a special ceremony took place in a former clandestine detention centre in Quilmes.

G. Methods of work

73. In resolution 1984/23, which extends the Working Group's mandate, the Commission on Human Rights stated that it was "conscious of the need for the Working Group to develop further its methodology in the light of the discussions held during the present session". Certain points raised in the Commission's discussions on the subject were reflected in modifications or new elements in the 1984 resolution. In particular, the need for the Group to observe, in its humanitarian task, United Nations standards and practices concerning the receipt of communications, their consideration, their transmittal to Governments and their evaluation was moved from the preamble in prior resolutions to the

operative part of resolution 1984/23. As new elements, the Commission referred to the need to continue to promote the implementation of General Assembly resolution 33/173 and other United Nations resolutions on missing persons; it encouraged the Governments concerned to consider with special attention the wish of the Working Group to visit their countries, when such wish was expressed, thus enabling the Group to fulfil its mandate more effectively; and it requested the Working Group, in its efforts to help eliminate the practice of enforced or involuntary disappearances, to present to the Commission all appropriate information it deemed necessary and all concrete suggestions and recommendations regarding the fulfilment of its task.

74. Many of the new points in the Commission's resolution stemmed from suggestions or references made by the Working Group in paragraphs 169 to 179 (Conclusions and recommendations) of its last report (E/CN.4/1984/21). Those points in turn stemmed from discussions within the Working Group during 1983. Emphasis was placed on the need for the Working Group to obtain more concrete results, the lack of which had led to a tendency for relatives to shift their resentment against Governments to disappointment with the Working Group.

75. During the Commission's debate, both Governments and non-governmental organizations called for a more active role by the Working Group. The prevention of disappearances was stressed as an objective much more than in past discussions; reference continued to be made to the need to clarify past cases and inform the families. Almost all speakers reaffirmed the validity of the Working Group's humanitarian and non-accusatory approach and prime importance continued to be given to seeking co-operation from Governments. It was felt that, within that context, there was room for more effective methods of work to achieve the Working Group's objectives.

76. Specific suggestions were made during the Commission's debate on steps which could improve the Group's methods of work. Many speakers felt that Governments should accept visits by the Working Group and several speakers called for Governments to be encouraged to institute investigations into disappearances, to review administrative practices and to prosecute and punish any persons responsible for disappearances. It was felt that the establishment of national commissions should be considered as contributing towards the implementation of Assembly resolution 33/173. Governments and non-governmental organizations suggested that an objective evaluation be made of co-operation between Governments and the Working Group. It was stated that the impartial and humanitarian approach should not rule out analysis of specific points in appropriate cases. It was suggested by non-governmental organizations that the Working Group should draw on other United Nations procedures; the Group could insist that a Government show either that a disappearance had not in fact taken place or that a genuine investigation had been carried out; in those cases for which there was sufficient evidence but no real co-operation or investigation was forthcoming from the Government, the Group should transmit the entire file publicly to the Commission on Human Rights in order to enable it to take appropriate action. Both Governments and non-governmental organizations stated that awakening world public opinion through increased publicity would help to prevent disappearances.

77. Several Governments said that the Working Group should be aware of attempts by dishonest elements to use the Group for political purposes by submitting unfounded allegations; such action could lead to interference in the internal affairs of States. The failure to exhaust national legal remedies could be a sign that the cases submitted had political objectives.

78. At its thirteenth and fourteenth sessions the Working Group considered the development of its methods of work in the light of the discussions held and the suggestions made during the fortieth session of the Commission on Human Rights. In this regard, the Group kept in mind the Commission's expression of profound concern at the persistence of the practice of disappearances and its expression of emotion at the anguish and sorrow of the families of missing persons who should know the fate of their relatives. It also took into consideration the renewed expression of concern regarding the source and objectives of cases submitted to it. In this connection the Group examined its handling of communications in particular and found it to be in harmony with established United Nations practices. It also reiterated its determination not to deal with reports which were manifestly politically motivated or were based exclusively on the mass media. The Working Group also emphasized the need to exhaust local remedies, which was a prerequisite in related United Nations procedures, keeping in mind, however, that such remedies were sometimes non-existent or ineffective. In applying the above principles to information from a particular organization or source, the Group considered it important to ensure that it was able to remain in contact with the relatives of missing persons.

79. In the light of the above considerations, the Group decided to take the following steps to strengthen its substantive dialogue with Governments on specific situations, thus enhancing the effectiveness of its efforts to eliminate the practice of enforced or involuntary disappearances and to clarify outstanding cases:

- (a) To retransmit to the Governments concerned the summaries of all cases transmitted since the establishment of the Working Group which still remain unclarified;
- (b) To request, as appropriate, specific information on the results of investigations or on the investigations or legal proceedings under way;
- (c) To send written reminders to Governments regarding outstanding cases between sessions and again prior to a session of the Working Group;
- (d) To request Governments to confirm or disprove information provided by non-governmental sources indicating that certain cases might be considered clarified;
- (e) To seek detailed information from Governments and non-governmental organizations on the steps taken to implement paragraph 1 of General Assembly resolution 33/173 (see paras. 43 to 50);

- (f) To approach certain Governments with regard to paragraph 7 of Commission on Human Rights resolution 1984/23, in which the Commission encouraged the Governments concerned to consider with special attention the wish of the Working Group to visit their countries, when such wish was expressed, thus enabling the Group to fulfil its mandate more effectively;
- (g) The Working Group also decided to keep the Commission fully informed of its reasons for ceasing to deal with the situation in a particular country.

Urgent action procedure

80. At its first session, in 1980, the Working Group gave careful consideration to the manner in which it should approach its task and to the methods of work it should adopt. In accordance with the terms of Commission resolution 20 (XXXVI), the Group adopted methods of work designed to enable it to respond as effectively as possible to the information it received and to perform its functions in the most expeditious manner. The Group also considered it essential, in the pursuit of its humanitarian function, not to interrupt contacts with Governments in the periods between sessions. It, therefore, authorized its Chairman to transmit any urgent reports of enforced or involuntary disappearances received between sessions immediately by means of a cable to the Government of the country concerned.

81. This urgent action procedure has proved in many cases to be effective in clarifying cases of disappearances. It has enabled the Group to be continuously available to the families of missing persons and to act with the sense of urgency which is required to save human lives. Furthermore, the urgent action procedure has in many cases facilitated the investigations carried out by Governments and may have helped to prevent the occurrence of other cases.

82. The application of this procedure has been improved over the years and the Group has accepted the principle that all reports received between sessions and which provide reliable information on disappearances that occurred within the three months preceding receipt by the Group, should be transmitted to the Government by means of a cable from the Chairman of the Working Group. Under the discretionary power conferred upon him, the Chairman, in approving such urgent action cables, keeps in mind that the reports thus transmitted must contain sufficient elements for meaningful investigations.

83. At its fourteenth session, the Working Group reiterated its conviction that the urgent action procedure was an important instrument in its methods of work and, therefore, specifically reaffirmed its authorization to the Chairman to continue to use the procedure. At that session, the Working Group also authorized its Chairman to transmit by letter any cases received between sessions and which had occurred prior to the three-month limit but not more than one year before the date of receipt by the Group, provided that they had some connection with a case falling under the urgent action procedure.

84. Since its creation, the Working Group has transmitted to the Governments concerned 1,121 cases under the urgent action procedure (68 in 1981; 504 in 1982; 354 in 1983; 195 in 1984). It was possible to clarify 216 of those cases - a considerably higher percentage than the clarifications obtained on transmissions under the ordinary procedure. In many instances several cases were transmitted in a single cable.

#### H. Organizational questions

85. As the present report shows, there has been a considerable increase not only in the amount of information received on enforced or involuntary disappearances but also in the need for close scrutiny by the Secretariat when examining and preparing cases for submission to the Working Group. The reports received need careful analysis, to establish whether all the elements required by the Working Group's criteria are included. The Group occasionally also receives testimonies on tape and videotape which call for a particularly time-consuming analysis in order to select the pertinent elements of each individual case. Sometimes, when the source is not familiar with providing evidence in writing, the reports need careful interpretation. In many cases relatives request that their identity be kept confidential and special care then has to be taken to summarize the information in such a manner that the source is not recognizable to the Government concerned.

86. The Secretariat frequently has to request additional information from the source. There are a number of countries, including some not mentioned in this report, from which it seems almost impossible to obtain replies to such requests. Very often, non-governmental organizations submit lists of hundreds of cases to the Secretariat which overlap with reports previously received. A careful cross-checking of names and first names as well as dates and places of birth, which are not always given in full, is then needed. In many cases these lists provide more up-to-date information on earlier reports which also has to be taken into account. The Secretariat finally has to combine details on certain reports from different sources.

87. According to the criteria under which the Working Group operates, the information on a case is summarized by the Secretariat. The summary includes, as appropriate, the date and place of arrest or abduction, those thought to be responsible, the place of imprisonment or detention, if known, date and place on which the missing person was last seen and some details on the missing person and the circumstances surrounding his or her disappearance. The summaries are drafted in English and have to be formulated for electronic data processing. The date of transmittal of the report to the Government, the Government's reply, additional information received on the case from the source, date of retransmittal to the Government on the basis of further, or contradictory, information received, and dates of correspondence with the source are all added to the summary description and fed into the computer as they become available. For most of the Latin American countries, it has been found necessary to translate the computerized summaries of cases into Spanish before their transmittal or retransmittal to the respective Governments.

88. The Working Group wishes to draw the attention of the Commission on Human Rights to the fact that the overall work-load during the last year has again increased. This has led to a considerable backlog of cases which will have to be analysed and prepared by the Secretariat during the first months of 1985. In addition, and in line with the Working Group's humanitarian objectives, a more individualized approach would seem necessary and more time should be spent on maintaining contact with the relatives of the missing persons. Furthermore, the Secretariat of course has to make the necessary preparations for the three sessions the Working Group holds during the year and for any missions carried out between sessions; this includes the preparation of the draft report.

89. The Secretariat staff currently servicing the Working Group consists of five Professional officers and three General Service staff. However, three Professional officers and one General Service staff member are recruited against temporary assistance funds and could only be given contracts of limited duration. The length of contracts has to be adjusted to the yearly extension of the mandate of the Working Group by the Commission on Human Rights and its subsequent approval by the Economic and Social Council. In some cases contracts have had to be interrupted, in view of the rules applicable to short-term assignments, and the need for continuity in the preparation of unclarified reports has therefore suffered.

90. With a view to improving the Secretariat services it requires, the Working Group wishes to recommend to the Commission on Human Rights that, if it decides to extend the Working Group's mandate, it consider doing so for a period of two years, it being understood that the Group's annual reporting cycle be maintained. The Working Group would also like to recommend to the Commission that adequate resources be allocated each year for two sessions to be held outside Geneva and for a maximum of three missions to be undertaken by two members of the Group to countries which have invited such missions. Given the current restraints on travel of Secretariat staff, specific provisions should be made for the necessary staff to accompany members on such missions.

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

A. Instances in which more than 20 reports of  
enforced or involuntary disappearances have been transmitted  
by the Working Group to a Government

1. Argentina

Information reviewed and transmitted to the Government and to the National  
Commission on the Disappearance of Persons (CONADEP)

91. The activities of the Working Group in relation to Argentina are recorded in its four previous reports to the Commission on Human Rights.<sup>1/</sup> From 1980 to 1983 the Working Group transmitted a total of 2,508 cases to the Government of Argentina on which no replies have been received to date.

92. Since the latest extension of its mandate, the Working Group has transmitted to the Government of Argentina, by letters dated 19 July and 6 November 1984, summaries of 500 cases of enforced or involuntary disappearances which had been brought to the Group's attention in previous years but which could not be transmitted earlier since the necessary review and analysis had not been completed. Sixty-nine of these cases contained relatively little information but were nevertheless transmitted in view of the express request by the Government that it be provided it with all available information which might increase the chances of a successful investigation. The breakdown by date of occurrence of the aforementioned 500 cases is as follows: 2 in 1974; 19 in 1975; 209 in 1976; 196 in 1977; 57 in 1978; 13 in 1979; and 4 in 1980. Sixteen of these cases concern the disappearance of pregnant women; 10 concern children and five concern Bolivian nationals arrested in Argentina.

93. Furthermore, in accordance with the above-mentioned request by the Government, the Group transmitted, by letter dated 27 December 1984, a list of 344 names with incomplete information. On some of these cases the Working Group had unsuccessfully asked the relatives for additional details. It also forwarded, by letter of 6 November 1984, a list containing the names of and incomplete information on 15 Bolivian nationals reportedly arrested in Argentina, which was submitted to it by the Government of Bolivia. The Permanent Representative of Argentina to the United Nations Office at Geneva informed the Working Group by letter of 12 December 1984 that one of the Bolivian nationals on the above-mentioned list had been released from detention.

94. By letter of 21 February 1984, the National Commission on the Disappearance of Persons (CONADEP) asked the Working Group to provide it with all the documentation the Group might have currently and in the future on reported cases of disappearances. During March 1984, the Working Group therefore sent the National Commission the summaries of 2,508 reports which had been transmitted to the former Government during the years 1980 to 1983 together with some 70 witness reports of persons who had been held in detention centres. It also forwarded an alphabetical list, based on these witness reports, of

persons allegedly seen in clandestine detention centres. By letter dated 27 March 1984, the Working Group also transmitted to the National Commission three letters it received from families of missing persons relating to procedures for the identification of bodies found in recently opened unmarked graves. By letter of 25 April 1984, it forwarded additional information it had received through the Permanent Mission of Finland to the United Nations Office at Geneva from the relatives of a Finnish citizen, who had disappeared together with three other persons in Argentina, indicating in particular the names of the agents held responsible for the arrest.

95. By letter of 10 August 1984, the Working Group also retransmitted to the Government 44 reports containing extensive summaries of transnational cases. These summaries describe in detail the reported circumstances surrounding the arrests or detention of missing persons, the alleged involvement of officials from neighbouring countries and in some cases the subsequent transfer of detainees from Argentina to another country or vice-versa. According to the information received, these cases concern: 22 Uruguayans arrested in Argentina and held in Argentine detention centres allegedly under Uruguayan control; 5 Paraguayans arrested in Argentina with the supposed participation of Paraguayan agents; 5 Chileans arrested in Argentina and handed over to Chilean authorities; 2 Argentines arrested in Paraguay and handed over to Argentine authorities; 2 Uruguayans arrested in Paraguay and transferred to Uruguay via Argentina; a mother and her child arrested in Bolivia and handed over to Argentina; 5 Argentines arrested in Peru by members of the Argentine security forces; and 3 Argentines arrested in Uruguay by members of the Argentine police and security forces.

96. Pursuant to the decision taken at its fourteenth session (see para. 79 (d)), the Working Group requested the Government, by letter dated 6 November 1984, to confirm or disprove the information it had received from non-governmental sources which indicated that 23 cases might be considered clarified. By letter of 12 December 1984 the Permanent Representative of Argentina to the United Nations Office at Geneva confirmed the clarification of five of these cases.

Information received from the Government and from members of the National Commission on the Disappearance of Persons (CONADEP)

97. In a note verbale dated 25 January 1984, the Permanent Mission of Argentina to the United Nations Office at Geneva informed the Working Group of the establishment of the National Commission on the Disappearance of Persons by Decree No. 187/83 of 15 December 1983. The setting up of this Commission, which began its work on 27 December 1983, was one of the many measures adopted by the Government with a view to clarifying in depth the phenomenon of disappearances which had reached alarming proportions in the late 1970s.

98. The mandate of the National Commission was to receive complaints and evidence of disappearances and transmit them to the courts if they related to the commission of an offence; the National Commission was empowered to investigate the fate or whereabouts of missing persons and to determine in

particular the whereabouts of children who had been removed from the care of their parents as a result of measures allegedly taken to combat terrorism. Where appropriate, the National Commission was to submit such cases to the agencies and courts responsible for protecting minors. The National Commission was also to report to the courts any attempt to conceal, remove or destroy evidence concerning disappearances.

99. Eleven prominent personalities from all walks of life were appointed members of the National Commission (a priest, a cardiologist, a bishop, a journalist, a writer, three university professors, three Deputies). The National Commission was composed of five secretariats based in Buenos Aires, and had four delegations in Córdoba, Santa Fé, Mar del Plata and Bahía Blanca.

100. At its fourteenth session, a representative of the Government of Argentina informed the Working Group that the National Commission had issued a final report with detailed findings which it had presented to the President of the Argentine Republic on 20 September 1984. According to the representative, during its mandate, the Commission had collected 8,961 cases of missing persons arrested or abducted in the presence of witnesses. Of these, 62 per cent were captured at their homes, 14.7 per cent in public places, 7 per cent in their place of work, 6 per cent in their place of study, 9.9 per cent in unknown circumstances and 0.4 per cent in military barracks, or police or penal institutions. Among the persons who remained missing and those who had been released from detention centres all the social categories were represented: 30.2 per cent were workers, 21 per cent students, 17.9 per cent employees, 10.7 per cent professionals, 5.7 per cent teachers, 5 per cent from the liberal professions, 3.8 per cent housewives, 2.5 per cent conscripts or low-grade members of the Armed Forces, 1.6 per cent journalists, 1.3 per cent artists and 0.3 per cent members of the clergy.

101. With regard to reported disappearances of children, the representative informed the Working Group that the National Commission, jointly with the Grandmothers of the Plaza de Mayo and the Special Commission on Minors of the Secretariat for Human Development and the Family, had established a procedure for the exchange of information and investigation into abuses such as irregularly authorized guardianships or illegal practices of adoption. One hundred and twenty-eight children were reported to have disappeared with their parents; 28 of them had been located, 11 under the previous Government.

102. At its fourteenth session, the Working Group also met the three deputies of the Argentine Congress who had been appointed members of the National Commission. One of them explained that 600 of the 8,961 disappearances listed by the National Commission related to persons reportedly missing before 24 March 1976; 1,600 cases had never been placed before other human rights organizations. Another member of the National Commission, who was received by the Working Group at its thirteenth session, assured the Group that all necessary measures had been taken to verify the allegations concerning secret detention centres and to inspect them, to carry out investigations in military barracks, police stations and penitentiary institutions and to collect evidence from prisoners. Considering the possibility that missing persons might be found alive in various institutions, the National Commission had made inquiries in hospitals for nervous and psychiatric disorders, gaols, the National Atomic

Energy Commission and a number of military establishments; however, none of them had yielded positive results. The same member of the Commission stated that one of the most important operations was the identification of approximately 340 secret detention centres and the *in situ* investigation of some of them with the participation of many released detainees. He mentioned in particular that visits to such centres had been carried out at: the Naval Engineering College, another naval establishment in Buenos Aires, establishments of the Third Army Corps in Córdoba, such as La Perla and La Ribera school. In the province of Buenos Aires the following former prisons of the Provincial Police were visited: Vesubio, Pozo de Quilmes, Pozo de Bánfield, Centro de Operaciones Tácticas I, Martínez, Puesto Arana, El Banco, Puesto Vasco. The Posadas Hospital in Ramos Mejía and the Superintendency of the Interior Federal Police in Buenos Aires (previously known as Federal Co-ordination) and the Olimpo camp were also investigated.

103. The same member of the National Commission stated that, in general, all cases of disappearances fell within the jurisdiction of civil courts, unless the court investigations disclosed facts which implicated officials under military jurisdiction. In submitting cases to the courts, it had been decided to give priority to complaints made by released detainees and complaints concerning missing persons who had been seen at a specific clandestine centre.

104. During the fourteenth session, a representative of the Government of Argentina stated that the creation of the National Commission was one of the first steps taken by the Government to clarify the problem of disappearances. Other measures were being taken at the national and international levels to prevent the reccurrence of the phenomenon. On the national level, the representative mentioned a law adopted by Parliament which assimilated the practice of torture to homicide in civil law. He also mentioned the proceedings initiated before a civilian court against members of the three previous military governments; these had been made possible by an amendment to the Code of Military Justice. Among other measures, the present Government had declared unconstitutional the law promulgated by the military government on 23 September 1983 to abolish penal measures for all criminal acts committed to combat terrorism or subversion during the period from 25 May 1973 to 14 June 1982. It had also cancelled all the sentences pronounced against civilians by military courts. Furthermore, the provisions of the Code of Criminal Procedure concerning imprisonment had been amended in order to expedite the release of prisoners who had been condemned under the National Security Act.

105. In placing the phenomenon of disappearances in the context of the late 1970s in Argentina, the representative explained to the Working Group that the doctrine of national security had provided an ideological justification for the practice of State terrorism in Argentina. The armed forces had thus become an occupying army on their own country. The repression, and in particular the practice of disappearances, had been the consequence of a political decision. The work of the present Government was aimed at eradicating abuse of the doctrine of national security and Argentina had proposed to the Economic and Social Council in May 1984 that it should be condemned at the international level.

106. The representative of the Government stated that the National Commission had not been established to pass judgement on the events which it investigated but rather to compile the relevant facts in order to submit a maximum of information to the judiciary. During its mandate, the National Commission had submitted 30 to 40 per cent of cases to the courts. The rest would be transmitted by the Subsecretariat for Human Rights, which had been created after the completion of the mandate of the National Commission as part of the executive power. At the present stage, the Government could not provide answers on the fate of the missing persons, but it would do so in the future as the work of the Subsecretariat progressed. It could only state that none of them was currently detained alive in a clandestine detention centre. The Government's main problem was that the entire apparatus of the State had been involved passively or actively. It was, however, determined to bring the people responsible to justice. To that end, it had established three levels of responsibility which would be judged accordingly: those who had taken the political decisions, those who had carried out the orders and those who had abused their powers when carrying out the orders.

107. By letter dated 12 December 1984, the Permanent Mission of Argentina to the United Nations Office at Geneva transmitted a copy of the report of the National Commission on the Disappearance of Persons, entitled Nunca Más, and subsequently provided the Working Group with the annexes thereto.

108. The Working Group pointed out that, in accordance with established practice, it would have to consider pending cases unresolved until such time as the Subsecretariat on Human Rights forwarded clarifications on them. The Group reiterates its opinion that the setting up of national commissions of investigation, as demonstrated in the case of Argentina and a few earlier cases, is a commendable step that could be recommended to the Governments of countries where the phenomenon of disappearances occurs. As stated in the past by the Working Group, the work of international bodies must be supplemented by serious efforts at the national level if it is to produce results and shed light on disappearances.

Information and views received from relatives or from non-governmental organizations

109. Since the extension of its mandate, the Working Group has continued to receive information from non-governmental organizations. These organizations are: Grandmothers of the Plaza de Mayo, Mothers of the Plaza de Mayo, Relatives of Disappeared Persons and Persons Detained for Political Reasons, Justice and Peace Service, FEDEFAM and Amnesty International. Some of these organizations have expressed discontent and scepticism regarding the steps taken by the Government to clarify disappearances in Argentina and to punish the persons responsible for such actions. There is a general feeling among these organizations that, although the Government has taken some action, it has gone neither far enough in its attempts to find those responsible for the disappearances which occurred between 1976 and 1983, nor fast enough in its efforts to charge and punish them.

110. One of the main demands of the majority of non-governmental organizations is that no effort be spared to find those missing persons who are still alive and that a clear answer be given by the Government on the fate of each of the missing detainees. They also demand that each person responsible be punished for his or her acts. The question of judicial investigation into disappearances in Argentina was considered crucial by most organizations. Some of them criticized the fact that the competence to investigate disappearances was conferred on military tribunals in Act No. 23049. They also criticized the creation of the National Commission on the Disappearance of Persons and the Subsecretariat for Human Rights which, according to them, had enabled the Government to avoid setting up a parliamentary commission, as requested by several human rights organizations and political parties, to investigate and establish political responsibility for what they called "State terrorism".

111. These organizations further stated that, although four generals had been suspended from their functions and were now detained, there had not yet been any accusation against any military officers or any of the 1,200 persons identified by the National Commission on the Disappearance of Persons as having been responsible for disappearances. Some high-ranking officers had been allowed to leave the country and 21 of them had been promoted to a higher rank. These organizations reported that 90 per cent of the judges under the previous Government and most of the high-ranking civil servants had also remained in their posts, despite their close collaboration with that Government.

112. Another organization complained that the Government was trying to encourage the belief that all those who had disappeared were dead. More specifically, it criticized the fact that the bodies had been exhumed from mass graves without the minimal technical requirements for identifying them. It further claimed that the population was being encouraged by the media to believe that the crimes could not be clarified, while concrete measures for the identification of bodies and of those responsible for such crimes were not being taken.

113. Some non-governmental organizations expressed their belief to the Working Group that there were still disappeared detainees alive in the country. One organization brought to the Working Group's attention the case of a pregnant woman who was arrested in 1977 together with her husband. The relatives of the woman reported having received several telephone calls from their daughter between 21 December 1983 and March 1984. From these conversations they understood that their daughter was detained with several other persons in a secret place and was going to be transferred to Mar del Plata. The organization which reported the case to the Working Group expressed its discontent at the reluctance of the authorities to determine the origin of the telephone calls.

114. The same organization expressed great concern over the fate of 177 reported disappearances of children. It informed the Working Group that several measures had been taken to find them and that 22 of them had been located living with families of members of the police or of the armed forces. The bodies of four children had been identified in mass graves. The genetic test appears to have been one of the most reliable proofs of filiation. It made it possible to prove the identity of a girl who had disappeared in Uruguay in 1978. The

grandmother of the child had located her granddaughter living with the family of a policeman and brought the case to court in December 1983. The genetic test was used to determine the relationship and the court pronounced judgement in favour of the grandmother.

115. The non-governmental organization informed the Working Group that it had submitted a draft law to Parliament on the creation of a genetic data bank containing genetic information from the families of missing children. The test could be used when a missing child was located even if the grandparents had died. The organization informed the Working Group that in June 1984, in response to a request from Argentina's National Commission on the Disappearance of Persons, the American Association for the Advancement of Science (AAAS) sent a five-member scientific delegation to Argentina to observe and assist in the medical and scientific investigation of the human remains of the disappeared and the identification of disappeared children.

116. On 10 September 1984, a group of non-governmental organizations sent the Working Group a draft law it had presented to the Senate, which declares the practice of disappearances a crime against humanity. According to the draft, the crime should be imprescriptible and subject to extradition and should not be subject to the right of asylum or amnesty.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	3,367
<b>II. Government responses</b>		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	26
(b)	Cases clarified by the Government's responses <sup>a/</sup>	6
III.	Cases considered by non-governmental sources to be clarified	18

<sup>a/</sup> Persons released from detention: 3  
Persons officially located: 3.

2. Bolivia

Information reviewed and transmitted to the Government

117. The activities of the Working Group in relation to Bolivia are recorded in its four earlier reports to the Commission on Human Rights.<sup>2/</sup> During the period 1980/1981, the Working Group transmitted to the Government a total of 32 reports on enforced or involuntary disappearances. Eight of these cases were clarified by information provided by the Government.\*

118. Since the latest extension of its mandate, the Working Group transmitted, by letter dated 10 August 1984, the cases of two persons reportedly arrested in Bolivia and transferred to Argentina, and the cases of five Argentine nationals arrested in Peru and transferred to Argentina via Bolivia (transnational cases). Pursuant to the decision at its thirteenth session (see paras. 79 (a)), by letter dated 30 July 1984 the Working Group retransmitted to the Government of Bolivia 24 reports that still remained unclarified.

Information and views received from the Government

119. Since the extension of its mandate the Working Group has continued to receive information from the Government of Bolivia. The Working Group noted with appreciation the high degree of co-operation that the Government was extending to it as well as the efforts made to clarify all outstanding cases of disappearances in the country despite serious difficulties in the investigations. By letter dated 6 August 1984, the Permanent Mission of Bolivia to the United Nations Office at Geneva provided information on the 24 cases which had been retransmitted to the Government.

120. The information provided by the Government clarified four cases. In two of these cases it was stated that the persons were dead and that the body of one of them had been handed over to relatives; in the other two cases it was reported that the whereabouts of the persons had been determined. In relation to the other cases the Government reported that investigations were under way on 10 of them and that it had no information on the other 10. The Government also sent the Working Group a list, received from the National Commission, of 113 persons who disappeared in Bolivia under previous military governments, as well as a list of 28 Bolivians reported to have disappeared in Argentina. By letter dated 6 November 1984, the Working Group transmitted to the Government of Argentina 19 reports of such cases. The Working Group had previously transmitted to the Government of Argentina the other nine reports of Bolivian nationals who had disappeared in that country.

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\* In its report to the Commission on Human Rights at its fortieth session (E/CN.4/1984/21, para. 48), the Working Group reported that nine cases had been clarified by information provided by the Government. However, it was later established that the whereabouts of one person had not been determined.

121. The Permanent Mission of Bolivia, by letter dated 24 August 1984, reported that an investigation was being carried out on two transnational cases of persons arrested in Bolivia and transferred to Argentina. Concerning the five transnational cases of Argentine nationals arrested in Peru and allegedly transferred to Argentina via Bolivia, the Permanent Mission reported that it had no information and that the Ministry of Foreign Affairs would provide a reply subsequently.

122. By letter dated 17 September 1984, the National Commission of Investigation of Disappeared Citizens transmitted further information on the 24 cases retransmitted to the Government by the Working Group. It reconfirmed the information on the four cases previously clarified by the Government of Bolivia (letter from the Permanent Mission of Bolivia of 6 August 1984), and clarified another nine cases. In connection with those cases the National Commission reported that one person was living in Sweden; that it had received signed testimony from one person stating that he was living in Norway; that it had received a communiqué from the Caracoles Miners' Union informing it that three persons were working there; that one person was living in La Paz; that one person wrote to it asking that his name be removed from the lists of disappeared persons; that one person was dead; and that it had signed testimony from one person informing it that he was free. The information provided by the National Commission confirmed information previously received from non-governmental sources on four cases indicating that they could be considered clarified (E/CN.4/1984/21, para. 48).

123. In relation to the other cases, the National Commission reported that four of the persons concerned had been held at the Department of Political Order (DOP) and that their whereabouts had been unknown since their transfer to an unkown destination in late 1980. On five other cases it reported that it had no information about the persons concerned; on one case, that the person's whereabouts remained unknown and that it was demanding the prosecution of those responsible; and on another case, that according to the testimony of a former detainee, the person concerned had been held at the National Intelligence Headquarters (Dirección Nacional de Investigación (DNI)) in 1980 and that his whereabouts had been unknown since then.

124. By letter dated 25 September 1984 the Government of Bolivia officially invited one or more members of the Working Group to visit the country in order to evaluate in situ the progress made, as well as the difficulties encountered in clarifying enforced or involuntary disappearances in Bolivia. In the letter it was also stated that the Government wished to discuss and to draw up with the members of the Group a programme of technical assistance that was urgently required by Bolivia in this regard. The Government also said that it hoped that such a visit would take place before the fifteenth session of the Working Group so that the results could be reflected in the report.

125. During its fourteenth session, the Working Group met a representative of the Government of Bolivia, who reiterated her Government's invitation for one or more members of the Group to visit her country and discuss a programme of technical assistance. Pursuant to the Government's invitation, two members of the Working Group, Mr. Jonas K. D. Foli and Mr. Luis Varela Quirós, visited Bolivia from 12 to 16 November 1984. The report of this mission appears in chapter I, section F,1.

126. During its fifteenth session the Working Group met a representative of the Government of Bolivia who thanked the members of the Group who had visited his country and reiterated that his Government was committed to continuing its efforts to clarify the outstanding cases of disappearances. He stated that his country required technical assistance in the investigation of disappearances in four main fields: investigatory techniques, forensic medicine, infrastructure of the National Commission, and specialists in the administration of justice.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	32
<b>II. Government responses</b>		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	32
(b)	Cases clarified by the Government's responses <sup>a/</sup>	21

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<sup>a/</sup> Persons at liberty: 18  
Persons officially reported dead: 3.

3. Cyprus

127. The Working Group has covered developments relating to enforced or involuntary disappearances in Cyprus in its four previous reports.<sup>3/</sup> In October 1980, the Group transmitted information on cases of enforced or involuntary disappearances received from the Government of Cyprus, the Pancyprian Committee of Parents and Relatives of Undeclared Prisoners and Missing Persons and other organizations to the Government of Turkey and to the authorities of the Turkish Cypriot community. Also in October 1980, the Group transmitted information received from the Turkish Cypriot community on enforced or involuntary disappearances to the Government of Cyprus. Reported disappearances from both sides amount to about 2,400.

128. During its seventh session the Working Group, after having been informed by the Secretary General that efforts to reactivate the Committee on Missing Persons in Cyprus had not been successful, decided, in response to an invitation made to the Group, to send two of its members to Cyprus for a preparatory visit. At the Working Group's eighth session in September 1982, the members reported on the meetings they had had from 28 to 30 July 1982 with representatives of the Government of Cyprus, the authorities of the Turkish Cypriot community and representatives of the relatives of missing Greek and Turkish Cypriots. At that same session the Group requested its Chairman to address a letter to the Chairman of the Committee on Missing Persons in Cyprus stating that the Group had formed the view that the Committee provided not only adequate but also appropriate machinery for resolving the outstanding cases from both communities. Moreover, the Group noted that the Committee's purely humanitarian aims exactly coincided with its own mandate. The Group was therefore convinced that its role should not be to supplant the Committee, but rather to give it all the assistance within its power.

129. At its tenth session in June 1983, the Working Group on Enforced or Involuntary Disappearances had before it General Assembly resolution 37/181 on Missing Persons in Cyprus, adopted by the Assembly on 17 December 1982. In that resolution the Assembly invited the Working Group to follow developments and to recommend to the parties concerned ways and means of overcoming the pending procedural difficulties of the Committee on Missing Persons in Cyprus and, in co-operation with the Committee, to facilitate the effective implementation of its investigative work on the basis of the existing relevant agreements. The Working Group's position has therefore been to remain available to assist the Committee, as appropriate, if so requested.

130. At its twelfth and thirteenth sessions, the Working Group on Enforced or Involuntary Disappearances noted with satisfaction that the Committee on Missing Persons in Cyprus had been reactivated and resumed its activities in spring 1984. Since then, the Committee has held four working sessions, the latest from 11 to 26 October 1984. The Working Group welcomes these developments and hopes that the Committee on Missing Persons in Cyprus will be successful in carrying out its important humanitarian task.

4. El Salvador

Information reviewed and transmitted to the Government

131. The Working Group's previous activities in relation to El Salvador are recorded in its four earlier reports.<sup>4/</sup> Since its establishment, the Working Group has transmitted to the Government a total of 2,000 cases of enforced or involuntary disappearances. The Government provided the Group with replies on 336 of these cases clarifying 279 of them.

132. Since the latest extension of its mandate, the Group has transmitted a total of 218 reports to the Government. Of these cases, 138 were transmitted under the urgent action procedure. Furthermore, pursuant to its decision at the thirteenth session (see para. 79 (a)), on 19 July 1984, the Working Group retransmitted 1,598 unclarified cases to the Government. With regard to other reports which were not transmitted to the Government, the Group decided to request further information from the source which might increase the chances of a successful investigation or found that the report did not fall within its mandate.

133. In the cases transmitted to the Government, information was provided on the identity of the persons reported missing and on the date and place of the arrest or abduction, the time of which was indicated in most cases. In many instances the age and the profession of the missing person were also given; the most frequent reported professions were worker, farmer and student. Most of the arrests reportedly took place at the missing person's home or at a specific public place, such as a market or a bus station. Other persons were reportedly arrested at their place of work. Most of the disappearances during the year have allegedly taken place in cities and particularly in the capital, San Salvador. Each of the reports transmitted to the Government contained information about the persons who allegedly carried out the arrest or abduction. These included members of the armed forces, civil defence, the national guard, the national police, the treasury police (Policía de Hacienda), the combined security forces or simply armed men in plain clothes. In some cases, official vehicles were reportedly used in the arrest, in others the license plate number was provided and in still others the vehicle had no license plates. In most cases, it was reported that habeas corpus petitions and visits to the offices of the Security Services had been fruitless. In this connection, the Working Group once again requested the Government to provide it with information on the functioning of the legal system in El Salvador in relation to disappearances and in particular to the procedure of habeas corpus.

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

134. Since the extension of its mandate, the Working Group has continued to receive reports of enforced or involuntary disappearances in El Salvador which were submitted by the relatives of the persons reported missing or by non-governmental organizations acting on their behalf. These organizations are Christian Legal Aid, the (non-governmental) Salvadorean Commission on Human Rights, the Monseñor Oscar Arnulfo Romero Committee of Mothers and Relatives of Salvadorean Political Prisoners, Disappeared and Assassinated Persons, the World Council of Churches and Amnesty International.

135. During its fourteenth session, the Working Group met relatives of missing persons, who presented their individual cases, and the representatives of Christian Legal Aid and the above-mentioned Committee of Mothers and Relatives. The representative of Christian Legal Aid stated that the cases reported by his organization did not reflect the actual magnitude of the problem. Many relatives faced difficulties in presenting their cases to organizations based in the capital because of the military situation and frequent threats by civil defence organizations. Relatives of detainees were kept under close scrutiny by the authorities and, out of fear, many reported disappearances only months after they occurred. In some other cases, relatives of missing persons had taken refuge in other countries. Christian Legal Aid also informed the Working Group that 50 persons had reportedly been abducted or had been recruited by force by guerrilla organizations and had been missing since. In some cases, it was reported that the persons had subsequently been executed as army informants.

136. The representative of the Committee of Mothers and Relatives stated that the members of her organization were constantly threatened by death squads and that all their efforts to determine the whereabouts of their relatives had been in vain. In particular the testimonies of relatives of missing persons and the writs of habeas corpus which had been sent to the Supreme Court had produced no results to date.

137. The Working Group also received information from Amnesty International which reported that many disappearances had been caused by so called "death squads" consisting, in many cases, of security agents or members of the armed forces operating in plain clothes but acting under orders from above. It also reported that with a few notable exceptions - especially in cases of foreign victims - the Government had failed to initiate systematic inquiries to identify those responsible for the abuses and to bring them to justice. Members of independent human rights monitoring groups who had tried to collect data had themselves become victims of disappearances. Since the new Government had assumed office in mid-1984, officials had publicly stated on a number of occasions that they intended to investigate past abuses and prevent their future occurrence.

138. Amnesty International also informed the Working Group that one person had been released and that the Government had acknowledged detention of another person. The Working Group, in accordance with its decision at the fourteenth session (see para. 79 (d)), requested the Government by letter dated 4 December 1984 to confirm or disprove this information.

Information and views received from the Government of El Salvador

139. During the period under review, the Working Group received information in writing from the Government and from the (governmental) Commission on Human Rights of El Salvador regarding 52 cases previously transmitted to the Government.

140. By notes verbales dated 27 March, 9 May, 25 July, 22 August, 14 November, by letter dated 8 November, and by cables dated 22 May, 28 May, and 13 June 1984, the Government stated that in 37 cases the persons were held by

the authorities awaiting trial and provided detailed information on the stage of the judicial procedure reached and the charges. In two cases the Government stated that after investigation no record had been found that the person had been arrested or detained; in nine cases the Group was informed of the person's release; in four cases, the persons were presumed to have been arrested by members of a guerrilla organization.

141. Since its creation, the Working Group has received replies from the Government relating to 336 cases of enforced or involuntary disappearances transmitted to it. The replies contained the following information:  
161 persons arrested and in prison; 110 persons released from detention;  
4 persons officially reported dead; 4 persons presumed to have been arrested by guerrilla organizations and 57 cases in which there is no record of the person's fate.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	2,000
<b>II. Government responses</b>		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	336
(b)	Cases clarified by the Government's responses <sup>a/</sup>	275
<b>III. Cases considered by non-governmental sources to be clarified</b>		
		2

<sup>a/</sup> Persons in prison: 161  
Persons released from detention: 110  
Persons officially reported dead: 4.

## 5. Guatemala

### Information reviewed and transmitted to the Government

142. The Working Group's previous activities in relation to Guatemala are recorded in its four earlier reports.<sup>5/</sup> From 1980 to 1983 the Working Group transmitted 1,382 reports to the Government of Guatemala. Nine of those reports were clarified by information provided by the Government. Pursuant to the decision taken at its thirteenth session (see para. 79 (a)), the Working Group retransmitted to the Government 597 outstanding reports of disappearances. It also requested the Government to provide information about the investigations into the other 785 reports that had been transmitted in the past and remained unclarified.

143. In 1984 the Working Group continued to receive information about enforced or involuntary disappearances in Guatemala, and transmitted 289 reports to the Government, 40 of them through the urgent action procedure. The years in which those disappearances reportedly occurred were: 1980, 1 case; 1981, 14 cases; 1982, 36 cases; 1983, 93 cases and 1984, 145 cases. With regard to other cases which were not transmitted to the Government, the Working Group sought further details from the sources or decided that the cases did not fall within the terms of its mandate.

144. The reports transmitted to the Government contained information about the identity of the missing persons, the place and date of arrest or abduction, and the type of persons who carried it out. Some reports also contained information about the profession of the missing persons and the most often cited were farmers, workers, teachers and students. Two of the reports concerned persons who were prisoners, 14 reports concerned minors whose ages ranged from 6 to 17 years, and 27 reports concerned women. The most frequently reported place of arrest or abduction was a town, the home of the missing person, or a specific public place. Some reports also concerned townspeople who were arrested together when Government security forces carried out operations in their towns. Most of the arrests or abductions were reportedly carried out by armed men, soldiers, sometimes in plain clothes, or by security forces.

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

145. The reports that the Working Group transmitted to the Government of Guatemala were submitted by relatives of the missing persons, by Guatemalan organizations acting on behalf of relatives, namely, the Guatemalan Commission on Human Rights, the Mutual Support Group for the Return of Missing Relatives Alive and the Guatemalan Justice and Peace Committee, and by Amnesty International.

146. Regarding eight reports transmitted to the Government during the period 1980-1983 and one report transmitted in 1984, these sources indicated that the cases might be considered clarified. In accordance with the decision taken at its fourteenth session (see para. 79 (d)), the Working Group requested the Government to confirm or disprove this information.

147. During its thirteenth session, the Working Group met representatives of the Guatemalan Justice and Peace Committee and the Guatemalan Commission on Human Rights. The Justice and Peace Committee presented the oral testimony of a relative of a missing person. The witness stated that all internal steps taken, both legal and administrative, to try to determine the missing person's whereabouts had given negative results, but that she had received information from a witness indicating that her missing relative was being held in a clandestine detention centre. The witness also stated that civilian authorities had said that, when the army was involved in a case, they could not intervene.

148. The representative of the Guatemalan Commission on Human Rights reported that disappearances on a large scale had continued in Guatemala in 1984 and that they affected all sectors of society. He also reported that his organization had received some 300 written testimonies denouncing disappearances and recalled that all members of the Board of the University Students Organization had disappeared in 1984. The representative further reported that Guatemala was experiencing a state of insurgency in which the local military were autonomous.

149. In a written communication the Guatemalan Commission on Human Rights pointed out that the Government of Guatemala had failed to conform to the demands contained in paragraph 1(a) to (c) of resolution 33/173. Despite the calls made to the Government by the General Assembly and the Commission on Human Rights (Commission resolution 1984/53 of 14 March 1984) to allow international humanitarian organizations to assist the civilian population in areas of conflict, to visit detainees and to help investigate the fate of missing persons, the Government of Guatemala had not allowed the International Committee of the Red Cross (ICRC) to establish an office in that country.

150. During its fourteenth session, the Working Group met representatives of the Mutual Support Group and the Guatemalan Commission on Human Rights. The Mutual Support Group presented witnesses who were relatives of missing persons. The witnesses described the cases of their family members and informed the Working Group of the obstacles they had encountered in trying to determine their whereabouts. The representatives of the Commission on Human Rights of Guatemala stated that disappearances in Guatemala occurred within the framework of an internal armed conflict, and that, since 5 April 1982, the armed forces had been implementing a National Security and Development Plan whose objective was to win popular support for the army in its fight against armed guerrillas. In reality, however, the implementation of this plan had led to many cases of enforced or involuntary disappearances. The representatives further stated that between February and August 1984 their organization had presented some 500 writs of habeas corpus concerning missing persons and that all of them had had negative results.

151. The Working Group also received information from Amnesty International which reported that disappearances, usually carried out by heavily armed men in plain clothes, had continued since the present Government came to power in August 1983. It also reported that recent victims included in particular trade-union leaders, university staff and students as well as doctors. The testimony of witnesses, choice of victims and circumstances of the abductions

indicated that many of the incidents were perpetrated by currently serving and reserve members of the Guatemalan security and military forces, acting under the orders of their supervisors in the guise of so-called "death squads". According to Amnesty International no branch of the current Government had attempted to investigate a case of disappearance. Finally, Amnesty International stated that it knew of only one case in recent years in which a member of the armed forces had been detained in connection with abuses against civilians; he had later been released without having been brought to justice.

152. During its fifteenth session, the Working Group met a representative of the Justice and Peace Committee. The representative attributed the continuation of disappearances to the Government's Security and Development Plan and analysed the problems with respect to legal guarantees, the autonomy of the judiciary and the economic problems faced by Guatemala.

Information and views received from the Government

153. Since the adoption of its last report, the Working Group has received information in writing from the Government of Guatemala. In notes dated 29 February, 14 March, 2 April, and 30 April 1984, the Government of Guatemala clarified seven cases of enforced or involuntary disappearances. In two cases, the persons concerned were now members of the Civil Self-Defence Patrol (Patrulla de Auto Defensa Civil) and, as former collaborators of a guerrilla organization they had benefited from the amnesty decreed by the Government in January 1983; in two cases the persons were not missing but had been arrested by the national police in June 1983 and released eight days later; in one case, the person was free and going about his business normally; in another case, the person concerned had been captured by a guerrilla organization and released several hundred days later; and in yet another case, the person had been released by his captors who wanted to steal his car.

154. The Government of Guatemala, by note verbale dated 18 April 1984, provided information on two cases, which had, however, not been transmitted to it by the Working Group; on both cases it reported that the persons were at liberty.

155. By a note verbale dated 2 April 1984, the Government of Guatemala pointed out that the Departments of Guatemala, San Marcos, Quetzaltenango and Escuintla, in which most cases had occurred, were the areas where a situation of political and military conflict between the Government and subversive groups prevailed.

156. By note verbale dated 30 April 1984, the Government reported that a total of 109 tribunals were handling writs of habeas corpus concerning 157 persons who had supposedly disappeared. The army and other security forces were under an obligation to inform the tribunals whether or not they were detaining the persons for whom habeas corpus petitions had been submitted.

157. By another note verbale, dated 2 May 1984, the Government informed the Working Group that the national police, together with the Supreme Court of Justice would investigate the cases of 157 persons for whom writs of habeas corpus had been presented. To date the Group has not received any information on the result of these investigations.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	1,671
II. Government responses		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	26
(b)	Cases clarified by the Government's responses <sup>a/</sup>	15
III. Cases considered by non-governmental sources to be clarified <sup>b/</sup>		
		9

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a/ Persons at liberty: 10  
Persons in prison : 4  
Persons with a suspended sentence : 1.

b/ Persons released: 8  
Persons dead: 1.

6. Honduras

Information reviewed and transmitted to the Government

158. The Working Group's previous activities in relation to Honduras are recorded in its reports to the Commission on Human Rights at its thirty-eighth, thirty-ninth and fortieth sessions.<sup>6/</sup> From 1980 to 1983 the Working Group transmitted 69 reports of disappearances to the Government.

159. In 1984 the Working Group has continued to receive and examine information relating to enforced or involuntary disappearances in Honduras. During that period the Working Group transmitted 18 cases to the Government, seven of which were transmitted under the urgent action procedure. Pursuant to the Working Group's decision at its thirteenth session, (see para. 79 (a)), 60 unclarified reports previously transmitted to the Government were retransmitted. Five of the original 69 cases had been clarified by the Government and on 13 cases non-governmental organizations had reported that they considered them clarified. This information was subsequently confirmed by the Government with regard to four cases. Concerning the remaining nine cases, the Working Group, in accordance with the decision taken at its fourteenth session (see para. 79 (d)), requested the Government to confirm or disprove this information.

160. The reports transmitted to the Government contained information about the identity of the missing persons, the place and date of abduction or arrest, and the persons held responsible for it. With the exception of a case that concerned a Nicaraguan national and another that concerned a Salvadorian national, all the persons who reportedly disappeared in 1984 were Honduran nationals. The reports also indicated that the National Intelligence Headquarters (DNI), the Public Security Force (FUSEP), the G-2 Intelligence Unit, or simply armed men in plain clothes were considered responsible for the arrests or abductions. In one case of a Honduran national, it was reported that the captors identified themselves as members of the Nicaraguan Democratic Force (FDN). In some cases information about vehicles used for the arrest or abduction was also reported: in two cases it was reported that the vehicle used belonged to the National Intelligence Headquarters and, in regard to one of them, a detailed description of the vehicle, including the license plate number was provided. In other cases, vehicles without license plates were reported to have been used. The Working Group sought further details from the sources on some cases which were not transmitted to the Government.

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

161. The reports of disappearances transmitted to the Government in 1984 were submitted by relatives of the persons alleged to be missing, by two non-governmental organizations in Honduras acting on behalf of the relatives, namely the Committee for the Defence of Human Rights in Honduras (CODEH) and the Committee of Relatives of Disappeared Detainees in Honduras (COFADEH), as well as by Amnesty International.

162. During its thirteenth session, the Working Group met a representative of the Committee for the Defence of Human Rights in Honduras. The representative stated that disappearances had continued to take place in Honduras and that, in 216 cases examined by his organization, the persons were arrested and were missing for one, three or five weeks and in some cases, even months, and were then released (153 cases) or appeared as political prisoners (63 cases).\* In all those cases the legal steps taken had had a negative result and all internal remedies had been exhausted. He said that many cases of enforced or involuntary disappearances were not reported, as relatives were afraid of reprisals, and an organization known as "Obra", which he alleged was controlled by the army, was responsible for many disappearances.

163. During its fourteenth session, the Working Group met two representatives of the Committee of Relatives of Disappeared Detainees in Honduras. The representatives stated that enforced or involuntary disappearances in Honduras could be described as an institutionalized practice. Their organization had compiled a list of 109 cases. They also remarked that their statistics were incomplete because relatives were afraid of reprisals.

164. During its fourteenth session, the Working Group also met representatives of the Central American Association of Relatives of Disappeared Detainees (ACAFADE). This organization presented the oral testimonies of relatives of Guatemalan and Costa Rican citizens missing in Honduras. The witnesses reported the obstacles that they had encountered in dealing with the Honduran authorities when trying to determine the whereabouts of their missing relatives.

Information and views received from the Government

165. In 1984 the Working Group has continued to receive information in writing from the Government of Honduras. Some of that information has already been mentioned in an addendum to the Working Group's report to the Commission on Human Rights at its fortieth session (E/CN.4/1984/21/Add.1, para. 10). As indicated therein, the Government of Honduras, by letters dated 17, 24 and 27 January 1984, transmitted information on 18 reports of enforced or involuntary disappearances, clarifying four of them. On these four cases the Government reported that the persons concerned had been handed over to the authorities of a neighbouring country in May 1981. The Working Group had already received the same information from a non-governmental source (see para. 159). On the other cases the Government reported that an investigation was being carried out or that the persons had not been arrested.

166. By letter dated 14 March 1984, the Government informed the Working Group that a person, whose disappearance had been brought to its attention through the urgent action procedure in 1984, had been released. The Government also

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\* Only a few of these 216 cases had been brought to the attention of the Working Group.

provided further information in a letter dated 30 July 1984 on a case that it had earlier clarified, indicating that the person was now residing in the Federal Republic of Germany.

167. The Government of Honduras, by letter dated 25 April 1984 and two letters dated 30 April 1984 transmitted information on two cases. On both cases the Government reported that the persons concerned had not been arrested and transmitted copies of a Supreme Court report, an armed forces report and the writs of habeas corpus. By a letter dated 24 October 1984, the Government provided information on two further cases. On one case it reported that, according to the Statistical Department (Dirección General de Computo) of the Costa Rican Ministry of Public Security, the person concerned had entered Costa Rica in October 1981 and that there was no record of his having left that country. On the other case, the Government of Honduras reported that, according to the same office of the Costa Rican Ministry of Public Security, the person had entered and left Costa Rica on two occasions, namely in March and April 1983, i.e., after he had supposedly disappeared.

168. During its fourteenth session, the Working Group met a representative of the Government of Honduras, who reiterated his Government's commitment to democratic principles and its willingness to continue co-operating with the Working Group. He recalled that, on 27 April 1984, the army had been restructured, and a new Chief of the Armed Forces and new zone commanders had been named. He stated that the new Chief of the Armed Forces had requested the General Assessor of the Armed Forces to look into the question of reported disappearances in Honduras. The General Assessor had met relatives of missing persons and representatives of human rights organizations working in Honduras and had drawn up a report, on the basis of which the armed forces had decided to establish a Commission of Investigation. The Commission was composed of the General Assessor acting as Chairman, the Commander General of the Army, the Commander of the Navy, the Commander of the Air Force, the Commander of the Public Security Force, and a lieutenant who served as Secretary. The Government representative further reported that the Commission co-operated closely with the Ministry of Foreign Affairs, the immigration authorities, the police forces and other authorities. He also reported that the Commission had encountered some difficulties in its investigations, as frequently relatives had not witnessed the arrests or abductions personally.

169. By letter dated 9 October 1984, the Government reiterated the above-mentioned information about the composition, powers and purposes of the Commission of Investigation. While appreciating the steps taken by the Government to investigate possible abuses by members of the armed forces, the Working Group regrets that personalities other than members of the armed forces have not been included in the Commission of Investigation.

170. By letter dated 14 November 1984, the Government transmitted information about the detention of seven persons who were before the Criminal Court of First Instance in Tegucigalpa. These persons, however, had not been reported to the Working Group as having disappeared.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	87
II.	Government responses	
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	72
(b)	Cases clarified by the Government's responses <sup>a/</sup>	12
III.	Cases considered by non-governmental sources to be clarified <sup>b/</sup>	9

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a/ Persons at liberty : 11  
Persons before the courts : 1.

b/ Persons at liberty : 9.

## 7. Indonesia

### Information reviewed and transmitted to the Government

171. The Working Group's activities relating to Indonesia are recorded in its four previous reports to the Commission on Human Rights.<sup>7/</sup> In 1980 and 1981 the Working Group transmitted to the Government a total of 23 reports of enforced or involuntary disappearances which took place in East Timor during the period 1977 to 1979.

172. Since the latest renewal of the Working Group's mandate, further contacts with ICRC have taken place, in accordance with the informal understanding reached in 1983 as described in the Working Group's report to the fortieth session of the Commission on Human Rights (E/CN.4/1984/21, para. 76). ICRC was not in a position to undertake any investigation regarding the 23 persons considered missing as it had received no request from their families. The Working Group therefore decided at its fourteenth session to retransmit the 23 reports of enforced or involuntary disappearances alleged to have occurred in East Timor to the Government of Indonesia.

173. In December 1984, ICRC informed the Working Group that one of the persons had been seen by ICRC delegates in the course of their visits to detention centres in East Timor in 1984. In view of its established criteria of confidentiality, ICRC could, however, not provide the name and place of detention of the person.

174. By letter dated 4 December 1984, the Chargé d'Affairs of the Permanent Mission of Indonesia to the United Nations Office at Geneva informed the Working Group that the Government continued to honour the informal understanding of 1983. However, as yet the Government had not received a request from ICRC to trace any of the 23 persons alleged to be missing in East Timor.

### Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	23
II.	Government responses	0

8. Islamic Republic of Iran

Information reviewed and transmitted to the Government

175. The Working Group has dealt with reports of enforced or involuntary disappearances alleged to have occurred in the Islamic Republic of Iran in its last three reports to the Commission on Human Rights.<sup>8/</sup> In 1982 the Working Group transmitted 16 cases of enforced or involuntary disappearances to the Government. In accordance with the decision taken at its thirteenth session (see para. 79 (a)), the Working Group retransmitted to the Government of the Islamic Republic of Iran the 16 cases on which no information had been received.

176. At its thirteenth session, in June 1984, the Working Group decided to transmit to the Government of the Islamic Republic of Iran nine newly reported cases of enforced or involuntary disappearances, which related to the period 1981-1983. According to the reports received, the majority of arrests took place in Tehran and among the arrested persons were two women and two youths. Most of those reported missing were, at least for an initial period, detained in Evin Prison in Tehran. Only one of the persons was charged and condemned to a prison sentence; he was later transferred from Evin Prison to Ghesel-Hesar's Prison in Karaj where he subsequently disappeared. Six of the nine prisoners were never officially listed as being imprisoned and two others were later eliminated from the inmates' list. One person's name was published in a newspaper as a Government opponent. Family visits were allowed for two prisoners but later discontinued. In all nine cases, despite subsequent inquiries made by relatives or friends at the prisons and of other authorities, no information about their whereabouts was forthcoming.

Information and views received from organizations representing relatives of missing persons

177. At the Working Group's thirteenth session in June 1984, two organizations which submitted reports to the Working Group about enforced or involuntary disappearances made statements describing the circumstances in which those disappearances had occurred. The representative of the Baha'i International Community provided information on the various measures allegedly taken by the Iranian authorities against members of the Baha'i community of Iran. He stated in particular that all missing Baha'is had served the community in an administrative capacity and had not engaged in espionage and other anti-State activities, contrary to the claims made by the authorities.

178. The representative of the National Council of Resistance of Iran and the People's Mojahedin Organization of Iran, speaking on behalf of relatives of missing persons, said that it was difficult to assess the precise number of disappearances and to obtain reliable data in view of the risks family members would run in making inquiries; the situation was further complicated since mass executions had taken place without due process of law. He said that the cases submitted to the Working Group represented a few examples of a large number of persons whose fate remained unknown.

179. At the Working Group's fifteenth session in December 1984, a representative of the National Council of Resistance of Iran submitted new reports of disappearances to the Group. He stated that the practice of disappearances had become a daily occurrence in Iran since mid-1981. In view of the methods currently used by those responsible for the arrests, it was impossible to inform the Group of all the disappearances which had occurred, in particular during 1984. Persons were being arrested collectively in public places, thus making it difficult to find out later who was still detained and who had been released. The arrestees were then brought to one of the 500 newly established "security houses" and kept in hidden cells. In some cases the authorities had orally informed relatives that missing persons had been executed and buried; however, frequently their graves could not be found.

Statistical summary

I. Total number of cases transmitted to the Government by the Working Group	25
II. Government responses	0

9. Lebanon

Information reviewed and transmitted to the Government

180. The activities of the Working Group in relation to Lebanon are recorded in its last two reports to the Commission on Human Rights.<sup>9/</sup> Since its establishment, the Working Group has transmitted a total of 228 reports of enforced or involuntary disappearances to the Government of Lebanon.

181. Since the latest extension of its mandate, the Working Group has continued to receive and examine information relating to enforced or involuntary disappearances in Lebanon brought to its attention by relatives of the persons concerned either directly or through organizations acting on their behalf. By letter of 19 July 1984, the Working Group transmitted 22 new reports of enforced or involuntary disappearances to the Government. Pursuant to the decision taken at its thirteenth session (see para. 79 (a)), it retransmitted 206 earlier reports that remained unclarified.

182. The 22 newly reported cases transmitted to the Government, contained information on the identity of the persons reported missing, the date and place of disappearance and, in many cases, information about the persons considered responsible for the arrests or abductions, mostly agents of the security forces or members of the Lebanese Forces.\* In a few cases, the profession of the person was also provided as well as indications that there were witnesses to the arrests or abductions. Three cases reportedly occurred in 1983 and 19 in 1982. Most of the reports stated that the disappearances had been brought to the attention of the Prime Minister, the Mufti of the Lebanese Republic and the International Committee of the Red Cross (ICRC).

183. In some cases received during 1984, that had occurred in a situation of international armed conflict, the Working Group decided, in accordance with the position it had taken in 1983 in this regard, (see E/CN.4/1984/21, paras. 20-21), that these reports were not within its competence under its present mandate. However, in view of the existing competence of ICRC, the information on these cases was made available to ICRC together with another 46 reports on which more details had to be sought from the sources.

Information and views received from organizations representing relatives of missing persons

184. During 1984, three organizations acting on behalf of relatives of missing persons, namely the Committee of Relatives of Detainees, Disappeared and Abducted Persons in Lebanon, the Committee for the Protection of Democratic Freedoms in Lebanon acting on behalf of the Committee of Relatives and the International Centre for Information on Palestinian and Lebanese Prisoners, Deportees and Missing Persons continued to express their concern for

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\* The Lebanese Forces are the militia of the Phalangist Party.

the safety of missing persons. These organizations reported that they had recorded more than 2,000 cases of missing persons in Lebanon. They emphasized that the families from South Lebanon and from the mountain regions were frequently not able to present their cases to the organizations located in Beirut.

185. At its fifteenth session, the Working Group met a representative of the Committee for the Protection of Democratic Freedoms in Lebanon which he stated had been created in December 1982 by 12 lawyers, four of whom were deputies, inter alia to provide legal assistance to the Committee of Relatives of Detainees, Disappeared and Abducted Persons in Lebanon. He reported that most of the alleged disappearances had occurred in September and October 1982. He also stated that his organization had information that many disappeared persons were still alive and being held in 23 detention centres controlled by the Lebanese Forces.

Information and views received from the Government

186. To date, the Government of Lebanon has not communicated any information to the Working Group on the 228 reports transmitted to it. However, by letters dated 29 August and 17 September 1984, the Government informed the Working Group that on 11 July 1984, the Lebanese Council of Ministers had constituted a Ministerial Commission to investigate enforced or involuntary disappearances. The Government of Lebanon stated that it considered the creation of this Commission to be an important first step towards the solution of the humanitarian problem of missing persons in Lebanon. The Working Group requested the Government to provide more detailed information on the composition, powers and procedures of the new Commission.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	228
II.	Government responses	0

10. Nicaragua

Information reviewed and transmitted to the Government

187. The Working Group's previous activities in relation to Nicaragua are recorded in its four earlier reports.<sup>10/</sup> From 1980 to 1983, the Working Group transmitted to the Government of Nicaragua a total of 136 reports of enforced or involuntary disappearances. The Government informed the Working Group of the difficult circumstances surrounding the change in Government in July 1979 and stated that it was legally and materially impossible to investigate the cases which had occurred prior to the end of 1979. The Government provided information in relation to 103 cases transmitted by the Working Group clarifying 10 of them.<sup>11/</sup> In accordance with its practice the Working Group transmitted to the relatives the information provided by the Government.

188. In 1984, the Working Group continued to receive information about enforced or involuntary disappearances in Nicaragua and transmitted 60 new reports to the Government. The reports transmitted contain information about the identity of the missing person, the date and place of the arrest or abduction, and the persons who carriedied them out. The years in which the disappearances occurred were : 1980, 8 cases; 1981, 3 cases; 1982, 21 cases; 1983, 27 cases; and 1984, 1 case. The most frequently reported professions were farmers, workers and employees. Two of the reports concern missionaries, one, a member of the army and another, an army reservist; two concern minors and one, a woman. The persons most often cited as responsible for the arrest or abduction are the army, State Security officials, militias, or men in plain clothes. Some reports also contain information about the places where the persons were held after the arrests; among the most frequently cited are the prisons of Puerto Cabezas, Nueva Guinea and Zona Franca. Some reports also indicate that there were witnesses to the arrest or abduction.

Information and views received from relatives of missing persons or from organizations acting on their behalf.

189. In 1984, the Working Group continued to receive written and oral information from relatives of missing persons and from the Nicaraguan Permanent Commission on Human Rights, a non-governmental organization acting on behalf of the relatives.

190. The Working Group received written testimonies from relatives of missing persons indicating the problems they had encountered with the authorities in their efforts to determine the whereabouts of their missing relatives. By letters dated 14 and 15 February 1984, the Permanent Commission transmitted information of a general nature about enforced or involuntary disappearances in Nicaragua. It reports that some of the cases of enforced or involuntary disappearances do not contain much information, because the arrests are usually carried out without written orders by military authorities who, on the grounds that there is a state of emergency, do not identify themselves or the authority that ordered the arrests. It also reports that most cases of disappearances occur in rural areas, far from established detention centres, and that, when the persons concerned are transferred to those centres, it

becomes difficult to determine their whereabouts as the responsible authorities do not provide any information. It further reports that the almost total suspension of legal guarantees, habeas corpus (exhibición personal), under the state of emergency from March 1982 until July 1984 left detainees at the mercy of the arbitrary criteria of State Security officials. The Permanent Commission transmitted the testimonies of two persons who were reported missing and who were held incommunicado for one year in the State Security Prison in Managua known as El Chipote.

191. The Permanent Commission also noted that it had determined that a number of persons reported to it as missing, were in fact receiving military training in the northern part of Nicaragua. Such cases had not been brought to the attention of the Working Group. It also stated that it had sent copies of reports of enforced or involuntary disappearances to the army commanders of the different regions where they were reported to have occurred, particularly Region VI (Matagalpa), but that there had been no results to date.

192. By letter dated 5 October 1984, the Permanent Commission transmitted its observations and those of relatives on the information that the Government provided concerning 92 reports of enforced or involuntary disappearances. The relatives accepted the information provided by the Government on 10 cases which the Working Group considered clarified. The relatives or the Permanent Commission also reported that 19 other cases might be considered clarified. By letter dated 27 December 1984, the Working Group forwarded the information on those 19 cases to the Government, requesting it to confirm or disprove the information. The Working Group also drew the Government's attention to 62 cases regarding which the National Commission indicated that the persons might have been executed during the transition from one Government to another, might be in prison or might have died in a clash with the army.

193. The Permanent Commission also sent its comments on two cases which occurred in 1980 and on which the Government had observed that they contained contradictory information. On one case, the Permanent Commission reported that the person was free. On the other, it reported that the person was still missing.

194. In relation to 60 reports which, according to the Government, had occurred under the Somoza Government or in the weeks immediately after the new Government took power and which the Inter-American Commission on Human Rights had not included in its report, the Permanent Commission said that it had presented a number of these cases to international organizations after internal remedies had been exhausted and that the Inter-American Commission had applied rule 39 of its rules of procedure (presumption of truth of the reported facts) to some of them.

195. In August 1984, the Working Group transmitted to relatives in El Salvador the updated information provided by the Government of Nicaragua on the case of a Salvadorian fishing boat and its crew of 11 men. Previous information provided by the Government of Nicaragua was transmitted to the relatives in January 1983. As the Working Group has received no comments from the relatives on the information provided by the Government, it considers that the relatives were satisfied with the information.

196. During its fourteenth session, the Working Group met a representative of the Permanent Commission, who stated that the phenomenon of disappearances in Nicaragua had started under the Somoza Government and had persisted during the five years that the new Government had been in power. He also observed that one of the investigatory methods used by State Security officials was to isolate detainees during the first months of detention. He indicated that some persons had been isolated for 15 days, some for weeks or even months, the time being determined by the degree of co-operation given by the detainee. The representative further expressed concern about the disappearance of Miskito Indians on the Atlantic coast. He stated that at the international level the Government had taken the position that the Miskito Indians had been kidnapped by counter-revolutionary forces; at the national level, however, State Security officials had told relatives to cease their search since a number of the missing Miskito were dead.

197. The Permanent Commission further observed in writing that the national state of emergency introduced an element of inequality before the law. For example, for persons suspected of violations of articles 1 and 2 of Decree No. 1074 (Maintenance of Order and Public Safety Act), the right to liberty, personal security, and to the minimum guarantees established, *inter alia*, by the Liberty and Personal Security Act was suspended. In practice this meant that persons being questioned by State Security agents were held incommunicado and that the number of reported cases of disappearances had thus increased.

Information and views received from the Government

198. In 1984 the Working Group continued to receive oral and written information from the Government of Nicaragua. Some of that information appears in addendum 2 to the Working Group's report to the fortieth session of the Commission on Human Rights (E/CN.4/1984/21/Add.2, para. 3). As mentioned in that addendum, by note verbale dated 13 February 1984, the Government of Nicaragua transmitted information on 22 reports of enforced or involuntary disappearances; in five cases it stated that the persons were at liberty; in 11 cases it had no records of arrest; one person was in detention; in three cases an investigation was being carried out; one person had been killed by a border guard who was being prosecuted; and one person had been arrested but had escaped from prison and was being sought by the authorities.

199. During its thirteenth session, the Working Group met a representative of the Government of Nicaragua, who reiterated his Government's position regarding the promotion of human rights. The practice of enforced or involuntary disappearances was an offence which, by its very nature, implied the violation of the human rights of those detainees who had disappeared, as well as the violation of the fundamental rights of their families. The representative also stated that his Government considered the statistical presentation of cases to be counter-productive as, in the case of Nicaragua, the mechanical repetition of the number of cases and allegations made in previous years had obliged the Government to repeat the same explanations regarding the same events year after year. He drew the attention of the Working Group to 60 transmitted cases which had occurred under the Somoza Government or in the weeks immediately following its overthrow when the new Government was not yet in full control of the situation throughout the

country. He recalled that the Inter-American Commission on Human Rights had rejected those cases and had thus not referred to them in its report. The representative also referred to the case of 11 members of the crew of a Salvadorian fishing vessel, indicating that it had provided ample information proving that they had never been detained in Nicaragua, including a letter from the International Committee of the Red Cross which confirmed the Government's statement that the premises where the missing persons were reportedly detained was now a museum of the revolution.

200. The representative expressed his Government's regret that, in most cases of disappearances, its first knowledge of the complaint was through the information supplied by the Group, and that the parties making the complaints had not exhausted the country's internal procedures. Finally, he said that the campaign of destabilization and aggression against Nicaragua had resulted in the displacement of the civilian population in several areas, and that many persons who had been reported missing had voluntarily joined the military service.

201. The Government of Nicaragua, by note verbale dated 21 February 1984, formally requested the Working Group to use its good offices in the cases of an unspecified number of Nicaraguan peasants, including women and children, kidnapped by counter-revolutionary forces and carried into Honduran territory. By cable dated 17 September 1984, the Government of Nicaragua addressed a formal request to the Working Group to take the necessary steps to determine the whereabouts of two Nicaraguan nationals abducted in Nicaraguan territory and taken to Costa Rica. In accordance with its established procedure, the Working Group requested the Government of Nicaragua to submit more detailed information on which meaningful investigations could be based.

202. By letter dated 7 December 1984, the Government provided information on 32 reports of enforced or involuntary disappearances. On five cases the Government reported that the persons had been arrested by the authorities and released several days later, on two other cases that the persons were in prison, on three cases that the persons belonged to counter-revolutionary groups and had died in a confrontation with the armed forces, on one case that the person was being sought by the authorities for murder and rape, on 19 cases that an investigation was being carried out, on two cases that the persons had not been detained and that the information available indicated that they had joined counter-revolutionary groups.

203. The Government also observed that the Working Group should take into account its difficulties in investigating cases of enforced or involuntary disappearances, as most of the cases reported had occurred in areas where foreign aggression was most intense. The life of investigators in those areas was threatened by the activities of mercenary bands, the population of entire towns had moved to more secure areas of the country, counter-revolutionary bands had carried out mass kidnappings, and many persons had left the country voluntarily.

204. During its fifteenth session, the Working Group met a representative of the Government of Nicaragua, who reported that officials investigating the whereabouts of disappeared persons faced many obstacles in view of the activities of counter-revolutionary forces. He also stated that there were some 142,000 displaced persons in his country.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	196
<b>II. Government responses</b>		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	125
(b)	Cases clarified by the Government's responses <sup>a/</sup>	31
<b>III. Cases considered by non-governmental sources to be clarified b/</b>		
		21

a/ Persons at liberty : 12  
Persons in prison : 4  
Persons dead : 4  
Salvadorian fishermen not detained in the country: 11

b/ Persons whose relatives have been informed by Nicaraguan authorities that they have been executed: 10  
Persons reported to be free: 6  
Persons reported to be in prison: 2  
Persons reported to be in Hondu: 1  
Persons reported to have died in a shoot-out with the army: 1  
Persons reported to have joined rebel groups operating in the regions of Matagalpa and Jinotega: 1.

## 11. Paraguay

### Information reviewed and transmitted to the Government

205. The activities of the Working Group in relation to Paraguay appear in its first and fourth reports to the Commission on Human Rights.<sup>12/</sup> From 1980 to 1983 the Working Group transmitted five cases of enforced or involuntary disappearances to the Government of Paraguay. Pursuant to the decision taken at its thirteenth session (see para. 79 (a)), these cases were retransmitted to the Government by letter dated 19 July 1984.

206. Since the latest extension of its mandate, the Working Group has transmitted to the Government of Paraguay, by letters dated 19 July 1984 and 12 November 1984, 18 newly reported cases of enforced or involuntary disappearances. Seven of these cases concern trade-union members of the Agrarian League, including a family of four brothers arrested in Santa Rosa in 1976. In most of the cases the arrest was carried out by the investigation police. Five cases concern Paraguayan nationals reportedly arrested in Argentina and one concerns a Uruguayan national arrested in Paraguay.

207. The Working Group notes with regret that the Government of Paraguay has never replied to communications addressed to it by the Working Group.

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

208. In 1984 the Working Group continued to receive written information from relatives of missing persons and from the Committee for the Defence of Human Rights in the Southern Cone of the Archdiocesan Pastoral Commission on Human Rights and the Underprivileged (CLAMOR), an organization based in São Paulo (Brasil) that acts on behalf of relatives of missing persons. It also received written information from Paraguayan Accord in Exile.

209. The Working Group, in particular, received communications from relatives of missing persons of Paraguayan nationality complaining about the difficulties encountered in organizing themselves. According to these relatives, any attempt to create an organization that could collate data on the cases of disappearances, analyse and transmit them to international organizations had been systematically prohibited by the authorities.

210. The Working Group also received information which would indicate that the strata of the population most affected by the phenomenon of disappearances was to be found essentially in rural areas, particularly in the districts of San José, Santa Helena, Piribebuy, Santa Elena and Santa Rosa. It was also reported to the Group that the persons arrested were often detained in Emboscada detention camp.

### Statistical summary

I. Total number of cases transmitted to the Government of Paraguay by the Working Group	23
II. Government responses	0

12. Peru

Information reviewed and transmitted to the Government

211. The Working Group transmitted to the Government of Peru 236 reports on enforced or involuntary disappearances, seven of them through the urgent action procedure. All the cases transmitted to the Government contained information about the identity of the missing persons, the place and date of arrest or abduction, and the persons responsible for it.

Information received from relatives or from organizations acting on their behalf

212. In 1984 the Working Group received both written and oral information from relatives of missing persons or from organizations acting on their behalf, namely the National Commission of Human Rights (CONADEH), the Episcopal Social Action Commission of the Peruvian Catholic Church (CEAS), and the Human Rights Association (APRODEH).

213. During its fourteenth session, the Working Group met a representative of the National Commission of Human Rights (CONADEH), who expressed concern about the speed with which the phenomenon of disappearances had increased in Peru, despite the country's democratic system with a freely elected Government. He also stated that the Constitution, laws and international instruments to which Peru was a party guaranteed respect for human rights.

214. In the extremely poor region of Ayacucho, Sendero Luminoso (Shining Path), a dogmatic and fanatical organization which indulged in terrorist practices, had unleashed a cycle of violence, massacring entire peasant communities. The Government had responded with violence instead of strictly applying the laws. The practice of disappearances had begun when the army had arrived in the region at the end of 1982, after the police forces had failed to control Sendero Luminoso.

215. During its fifteenth session, the Working Group again met the representative of CONADEH who manifested his concern over the rapidly deteriorating situation of human rights in Peru and the growing number of disappearances. He stated that the situation in Peru could be characterized by the worst economic crisis in the last 100 years of republican life; a spiral of violence that was out of control; increased militarization, at two levels, namely in the extension of the regions under military control from seven in 1982 and to 17 at the end of 1984, and in the organs responsible for decision-making; and a weakening of the state institutions.

216. During its fourteenth session, the Working Group also met a representative of the Episcopal Social Action Commission (CEAS). The Catholic Church had published a communiqué expressing its concern about the degree of violence and stressing the need for a strict application of justice. The Bishop of Lima had written to the Attorney General, the President of the

Supreme Court, the Minister of Justice, and the Presidents of the Senate and Chamber of Deputies, transmitting 78 reports of enforced disappearance. He observed that the Minister of Justice had replied indicating that there were no unacknowledged detainees in the prisons.

Contacts with members of the Peruvian Congress

217. During its thirteenth session, the Working Group met the President of the Human Rights Commission of the Chamber of Deputies who stated that the situation in his country must be analysed within the context of the activities of the Sendero Luminoso. He also stated that there was free public discussion of enforced or involuntary disappearances and that the Attorney-General (Fiscal de la Nación) had not found sufficient evidence to bring military leaders to trial. Amnesty International had made unfounded accusations without indicating the authors of reports. He observed that some of the persons reported to have disappeared might have joined Sendero Luminoso. He made it clear that the Human Rights Commission of the Chamber of Deputies was in charge of human rights legislation and had not been asked by the Chamber to investigate cases of violations of human rights. Accusations concerning human rights violations were normally submitted to public prosecutors (Fiscales) who could decide whether or not to open proceedings.

218. During its thirteenth session, the Group met another member of the Peruvian Congress who was also a member of the Human Rights Commission of the Chamber of Deputies. He stated that disappearances had started in Peru when the Government had decided to put certain regions under military control. There was an atmosphere of social unrest in the emergency area, particularly Ayacucho, which was spreading to other areas of the country, and a high percentage of the civilian population had been displaced.

219. The Deputy observed that Sendero Luminoso was a violent organization that assassinated both government and opposition members. It had been responsible for a number of abductions and usually executed the victims. Certain public prosecutors had indicated some 1,500 reports of enforced disappearances, but it was difficult to establish the exact number as relatives were afraid of reprisals. He stated that detainees were taken to clandestine detention centres, mostly army installations, which neither congressmen nor public prosecutors had been allowed to visit.

220. During its fourteenth session, the Working Group met the first Vice-President of the Chamber of Deputies and former President of the Chamber's Human Rights Commission with whom the Group had met in his former capacity during its thirteenth session. The Working Group also met the new President of the Human Rights Commission of the Chamber of Deputies.

Information and views transmitted by the Government

221. In 1984 the Working Group received both written and oral information from the Government of Peru. By letters dated 21 August and 25 September 1984, the Government transmitted information on two cases clarifying one of them. By letter dated 22 November 1984, the Government forwarded information on 17 cases transmitted to it by the Working Group. On four cases, it reported that the persons had been arrested; on four others, that the persons were leaders or members of subversive groups (no indication of their whereabouts was given); on two cases, that the persons had disappeared from their district; on two others, that the persons had not been detained; on another two, that the persons were being sought by the authorities; on one

case, that the person had been arrested by the authorities and released two days later; on another, that the person had been found in a radio station playing tapes with illegal propaganda (the current whereabouts of the person was not specified); and on another one, that the person had been abducted by unknown individuals.

222. During its fourteenth session, the Working Group met a representative of the Government of Peru who emphasized that his Government was democratic and committed to human rights. At the international level, Peru had shown its commitment to human rights by ratifying a number of international instruments. At the national level, apart from the Constitution, there were control and protection organs such as the Office of the Attorney-General, and the Constitutional Court. He emphasized that writs of habeas corpus that had had negative results could be brought before the Constitutional Court. Finally, he stated that, in a large number of cases of disappearances, the actual existence of the individual was doubtful and never proven, and that in other cases of disappearances the persons had joined the Sendero Luminoso terrorist group.

223. During its fifteenth session, the Working Group met a representative of the Government of Peru, who again recalled that the current Government had been democratically elected and was committed to respect for human rights. The representative further stated that all human rights organizations, both national and international, had access to the region of Ayacucho. Sendero Luminoso had killed 74 magistrates which explained why so many judges or public prosecutors had resigned in recent times. All judges responsible for the trials of members of the Sendero Luminoso received threats. The Government's commitment to human rights was also proven by the fact that Peru was a party to many international instruments for the protection of human rights, including the Inter-American Convention on Human Rights, and had thus accepted the jurisdiction of the Inter-American Court of Human Rights. However, no case of disappearance in Peru had yet been presented to the Court.

224. By letter dated 12 November 1984, the Government of Peru informed the Working Group that it would be pleased to receive representatives of the Group in Peru. During its fifteenth session, by letter dated 7 December 1984, the Working Group was informed by the Permanent Representative of Peru to the United Nations Office at Geneva that his Government would gladly receive the Group's visit during the first two weeks of January 1985. The Working Group decided that two of its members, Mr. Toine van Dongen and Mr. Luis Varela Quirós should visit Peru on its behalf and, in view of the need for a thorough preparation and given the busy schedule of its members, asked the Government whether the visit could take place during the week starting on 21 January 1985, which would still enable the Working Group to report its findings to the Commission on Human Rights at its forty-first session. By letter dated 27 December 1984, the Deputy Permanent Representative of Peru to the United

Nations Office at Geneva, reiterating the invitation to the Working Group, stated that it would be convenient for his Government if the visit took place as of 23 April 1985, i.e. after the general elections in Peru, in order to ensure that the visit was not used to distort the electoral campaign which had already started in the country. Furthermore, as of 1 February 1985, the Peruvian Government would be receiving an official visit from Pope John Paul II.

Statistical summary

I. Total number of cases transmitted to the Government by the Working Group 236

II. Government responses

(a) Total number of responses received from the Government relating to cases transmitted by the Working Group	19
(b) Cases clarified by the Government's responses <sup>a/</sup>	6

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a/ Persons who have been arrested: 4  
Persons arrested and released: 1  
Persons found dead : 1.

13. Philippines

Information reviewed and transmitted to the Government

225. The Working Group's activities in relation to the Philippines appear in its four previous reports to the Commission on Human Rights.<sup>13/</sup>

226. From 1981 to 1983 the Working Group transmitted a total of 261 reports of enforced or involuntary disappearances to the Government of the Philippines. In accordance with the decision taken at its thirteenth session (see para. 79 (a)), the Working Group retransmitted 139 cases to the Government. Of the previously transmitted 261 cases of enforced or involuntary disappearances, only those which had remained unclarified and which contained information that would allow the Government to undertake meaningful investigations were retransmitted.

227. Since the extension of the Working Group's mandate, no new reports of disappearances have been received by the Working Group. The Group is however, awaiting supplementary information from non-governmental organizations on reports with incomplete case descriptions.

228. Pursuant to the decision taken at its thirteenth session (see para. 79 (f)), the Working Group, also addressed a letter to the Government of the Philippines, dated 19 July 1984, in which the Group drew attention to Commission on Human Rights resolution 1984/23 and expressed its belief that a visit to the Philippines would make an important contribution to the Group's understanding of the situation.

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

229. The Working Group received information from a non-governmental source which would appear to clarify one case transmitted to the Government in 1983, since the person missing was reported to be currently imprisoned. In accordance with the decision taken at its fourteenth session (see para. 79 (d)), the Working Group requested the Government, by letter dated 6 November 1984, to confirm or disprove this information.

Information and views received from the Government of the Philippines

230. By letter dated 2 May 1984, the Permanent Representative of the Philippines to the United Nations Office at Geneva submitted a list of 84 persons released and 13 others granted executive clemency on 24 January 1984 which was considered by the Group at its thirteenth session. The Working Group replied, by letter of 19 July 1984, that it noted with regret that the list contained none of the names of the persons reported to have disappeared in the Philippines which had previously been transmitted by the Working Group to the Government.

231. At its fifteenth session in December 1984, a representative of the Permanent Mission of the Philippines to the United Nations Office at Geneva informed the Group that the Government was not yet in a position to provide information on outstanding cases. However, special investigative teams had been set up in the Philippines with a view to clarifying all reported cases of enforced or involuntary disappearances and the Working Group would be informed in due course of the results of investigations of individuals cases.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	261
<b>II. Government responses</b>		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	205
(b)	Cases clarified by the Government's responses	52
<b>III. Cases considered by non-governmental sources to be clarified</b>		
		1

14. Uruguay

Information reviewed and transmitted to the Government

232. The activities of the Working Group in relation to Uruguay are recorded in its four previous reports to the Commission on Human Rights. <sup>14/</sup> During the period 1980-1983, the Working Group transmitted a total of 43 reports of enforced or involuntary disappearances to the Government. Six of these reports were clarified by information provided by the Government (E/CN.4/1984/21, paras. 104-105).

233. Since the extension of its mandate, the Working Group has transmitted, by letter of 19 July 1984, 10 new reports of enforced or involuntary disappearances and, pursuant to the decision taken at its thirteenth session (see para. 79 (a)), it has retransmitted 37 reports unclarified as yet to the Government. Two of the newly reported cases occurred in Uruguay whereas eight are transnational cases concerning Uruguayan citizens who were arrested in Argentina with the reported participation of Uruguayan authorities. All 10 reports transmitted to the Government contain information about the identity of the missing persons and the date and place of the arrest. In some cases the profession of the person is also provided (painter, student, trade-unionist, employee) together with an indication of the persons reportedly responsible for the arrest. In some other cases, it is reported that the missing persons were seen by witnesses in clandestine detention centres, allegedly run by Argentine and Uruguayan military personnel. In many of these cases, habeas corpus petitions and appeals to Government were reportedly made without success.

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

234. Since the extension of its mandate, the Working Group has received further written information and views concerning enforced or involuntary disappearances in Uruguay from Amnesty International and from a group of mothers and relatives of Uruguayans who were detained and disappeared in Uruguay. The information included lists of missing persons containing the names, profession and date of disappearance of the persons concerned. In most cases, other relevant information was provided by witnesses, such as a description of the arrest, detention and other circumstances surrounding the disappearance.

235. Many of the cases included in the above-mentioned list had previously been transmitted to the Government of Uruguay; however, 10 cases were transmitted for the first time in July 1984. Some reports did not contain sufficient information and the sources have, therefore, been requested to provide additional elements.

236. The Group was also provided with the text of a statement made before a criminal court in Argentina by a person who reports having been arrested and detained in Argentina, held in a clandestine detention centre run by Argentine and Uruguayan military and security personnel and then transferred to Uruguay from a military airport in a plane belonging to the national Uruguayan

airline, together with a group of Uruguayan refugees in Argentina. The case described was previously transmitted to the Government of Uruguay by the Working Group on the basis of the testimony of the person concerned. In his statement, the witness accused the Argentine and Uruguayan military authorities of illegally arresting, detaining and ill-treating him and a number of other Uruguayan refugees in Argentina. The author further alleges that, during his detention in a clandestine prison, a 20-day-old Uruguayan child who had been separated from his mother was kidnapped and disappeared.

Information and views received from the Government of Uruguay

237. During 1984, the Permanent Mission of Uruguay to the United Nations Office at Geneva transmitted the names of 36 persons who were reportedly released in 1983; however, none of the names on that list appears in the Working Group's files. The Working Group hopes that, when the newly elected Government assumes power, new and more effective channels of communication with the Working Group will be established. The Group also hopes that, as in other countries, the new Government will set up a commission of investigation, with which the Group would be ready to co-operate and which it would provide with all the information it has collected to date.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	53
<b>II. Government responses</b>		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	24
(b)	Cases clarified by the Government's responses <u>a/</u>	6

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a/ Persons released from detention: 2  
Persons arrested and in prison: 4.

B. Instances in which less than 20 reports of enforced or involuntary disappearances have been transmitted by the Working Group to a Government

1. Angola

238. The activities of the Working Group in relation to Angola are recorded in its latest report to the Commission on Human Rights (E/CN.4/1984/21, paras. 121-122). In October 1983 the Working Group transmitted five cases of enforced or involuntary disappearances to the Government. In accordance with its decision at the thirteenth session (see para. 79 (a)), the Working Group retransmitted those cases which remained unclarified to the Government of Angola.

239. To date the Working Group has not received any communication from the Government of Angola on the fate of the five persons considered missing.

Statistical summary

I. Total number of cases transmitted to the Government by the Working Group	5
II. Government responses	0

2. Brazil

Information reviewed and transmitted to the Government

240. The Working Group's activities in relation to Brazil are recorded in its four earlier reports to the Commission on Human Rights.<sup>15/</sup> In 1981 the Working Group transmitted to the Government of Brazil seven reports of disappearances which allegedly occurred between 1970 and 1974. In 1982 those reports were again brought to the attention of the Government.

241. In accordance with its decision at the thirteenth session (see para. 79 (a)) the Working Group retransmitted the above seven cases and reminded the Government of Brazil of the Group's previous communications dated 24 September and 10 November 1981, 8 November 1982 and 7 October 1983, in which it had requested specific information on those seven cases which might have become available in the meantime.

242. Following the latest renewal of its mandate, the Working Group also decided to transmit to the Government two newly reported cases of disappearances which were said to have occurred in 1974 and 1975 respectively. One of the missing persons was arrested in May 1974 when crossing the Araguaia river. He was then reportedly kept in the army barracks of Xambioa. His arrest and detention were witnessed by peasants from the area and he was last seen by one of his fellow prisoners who was later released.

The second person reported missing was last seen at his home on 13 January 1975. On 14 January 1975, security forces searched the houses of two of his friends with the aim of arresting him there. After a two-day occupation of those houses, the security personnel received a telephone call after which they reportedly stated that their mission had been accomplished. In both cases of reported disappearances, inquiries and appeals made by relatives gave no results.

Information and views received from the Government

243. By letter dated 2 October 1984, the Deputy Permanent Representative of Brazil to the United Nations Office at Geneva reported that all necessary measures were being taken to clarify the two new cases of alleged disappearances. No additional information could be provided on the other cases examined previously.

Information and views received from relatives of missing persons

244. Since the latest extension of its mandate, the Working Group has received supplementary information, in letters dated 1 and 6 November 1984, from relatives of two of the seven missing persons whose cases were first transmitted in 1981. With regard to one case, the Brazilian Government stated in 1981 that no criminal records had been found. However, according to the above-mentioned letter the Inter-American Commission on Human Rights informed the relative in 1975 that the person in question was not being held in any military unit, but was in fact wanted for a security offence. With regard to the second case, in which the State had been found responsible for the disappearance in the court of first instance by decision of 19 October 1981, the relative informed the Group that the appeals procedure had been before the Federal Tribunal since February 1982, but that a final decision had not yet been taken.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	9
II. Government responses		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	9
(b)	Cases clarified by the Government's responses	0

3. Chile

245. The activities of the Working Group in relation to Chile are recorded in its four previous reports to the Commission on Human Rights.<sup>16/</sup> In 1981 the Working Group transmitted two cases of enforced or involuntary disappearances to the Government of Chile.\* Pursuant to the decision taken at its thirteenth session (see para. 79 (a)), these cases were retransmitted to the Government by letter dated 19 July 1984.

246. Since the extension of its mandate, the Working Group has transmitted two new cases of enforced or involuntary disappearances to the Government. One case, transmitted by letter of 6 November 1984, concerns a Chilean national who disappeared in 1981 while entering the country illegally. The other case, transmitted to the Government under the urgent action procedure by cable of 18 October 1984, deals with a Chilean national who, according to witnesses, was arrested and detained by police forces on 4 September 1984 and subsequently disappeared. According to a non-governmental source, the body of this person was found on 24 October 1984 and was identified by relatives. Pursuant to the decision taken at its fourteenth session (see para. 79 (d)), the Working Group requested the Government to confirm or disprove this information.

247. The Working Group noted with regret that the Government of Chile had never replied to the above-mentioned reports transmitted to it by the Working Group.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	4
II.	Government responses	0
III.	Cases considered by non-governmental sources to be clarified	1

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\* At its first session, the Working Group decided that it would be appropriate for the question of enforced or involuntary disappearances in Chile to continue to be part of the mandate of the Special Rapporteur on the situation of human rights in Chile (E/CN.4/1435, para. 42). The Working Group has only dealt with cases of enforced or involuntary disappearances that have occurred since its creation. In his report to the General Assembly (A/39/631, para. 179), the Special Rapporteur notes that with regard to the number of cases of missing detainees thought to have occurred between 1973 and 1977, the authorities themselves estimate that there are 471 cases, and also state that the judicial investigation of these pending cases is continuing. The Special Rapporteur has been able to consult other sources, particularly Chilean human rights organizations, according to which, at the end of June 1984, the total number of unresolved cases of missing persons was 663.

4. Colombia

Information reviewed and transmitted to the Government

248. By letter dated 4 May 1984, the Working Group transmitted 17 reports of enforced or involuntary disappearances to the Government. Pursuant to the Working Group's decision at its thirteenth session (see para. 79 (a)), these cases were retransmitted on 24 July 1984. Fourteen of the cases reportedly occurred in 1982, and three in 1983.

249. All the cases contain information about the identity of the persons reported missing, the date and location of the arrest or abduction as well as an indication of the type of persons reported to have carried out those acts. Most of the arrests or abductions were carried out in public places (street, airport, etc.) and in 12 cases it was reported that there were witnesses to the arrest. In the other cases it was reported that the arrests or abductions were carried out by security forces, armed men, or agents in plain clothes. In nine cases, information was also provided on the vehicles used in the arrest or abduction: in one case a military van was used; in four cases a black taxi without license plates; in one case a yellow jeep without license plates; in three cases a general description of the vehicles used was given and, in one of the three, the license plate number of the vehicle was indicated. Information about detention centres was also provided, namely the Military Institutes Brigade (BIM), the Intelligence Service Headquarters, and the Junin Battalion's barracks.

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

250. During its fourteenth session, the Working Group met a representative of the Colombian Association of Relatives of Disappeared Detainees, an organization affiliated to the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM). The representative of the Colombian Association stated that it had received information about a number of disappearances in Colombia, most of which had taken place in the rural areas of Magdalena, Caqueta, Urabá and other regions where, according to the Association, the army had been fighting guerrilla groups.

251. The representative of the Association further stated that, in the areas of Turbo and Amalfi clandestine graves containing the bodies of persons reported missing had been found.

252. The representative also provided information on disappearances in urban areas, the different police and military authorities reportedly responsible for the arrests, and the activities of paramilitary groups. The representative also stated that most writs of habeas corpus had negative results, and that, in March 1984, the Office of the Attorney-General had set up an investigative commission to look into some cases of enforced or involuntary disappearance, but that, so far, its findings had not been made public.

253. The Working Group also received a report from the Committee for Human Rights in Colombia stating that the phenomenon of disappearances in Colombia stems largely from abuses in the implementation of article 121 of the Decree establishing a state of emergency. The report also stated that some 70 per cent of the arrests or abductions leading to disappearances were carried out by state security agents and some 30 per cent by paramilitary forces.

Information and views received from the Government of Colombia

254. The Government of Colombia has transmitted information on seven cases of enforced or involuntary disappearances brought to its attention by the Working Group. The Government reported that, in three of those cases the persons had not been arrested; in two cases the persons were being sought by the authorities for having participated in the kidnapping and subsequent murder of three children aged six, seven and eight; one case was being investigated and the results of investigation into another were negative thus far, but the inquiry was nevertheless continuing.

255. During its thirteenth session, the Working Group met a representative of the Government of Colombia who stated that the reported cases of disappearances were under investigation. Inquiries were being made in prisons and hospitals and the Office of the Attorney-General had also been requested to provide information. The representative further expressed his Government's view that some of the disappearances in Colombia were linked to the narcotics traffic and he mentioned some examples. In its efforts to combat the problem, the Government had declared a state of emergency and had decided to establish the jurisdiction of the military over all narcotics related cases.

256. The Government representative stated that other disappearances were the result of the activities of guerrilla groups. He further informed the Working Group that the Government had signed a cease-fire agreement with some guerrilla organizations and that an amnesty law had been passed. In relation to the paramilitary group Muerte a los Secuestradores (MAS) (Death to Kidnappers) mentioned in some reports, he stated that it was no longer operating due to action taken by the Government. The Government representative also explained the habeas corpus procedure in Colombia.

Statistical summary

I. Total number of cases transmitted to the Government by the Working Group	17
II. Government responses	
(a) Total number of responses received from the Government relating to cases transmitted by the Working Group	7
(b) Cases clarified by the Government's responses	0

5. Guinea

257. The Working Group's activities in relation to Guinea are recorded in its last two reports to the Commission on Human Rights.<sup>17/</sup> In 1981 the Working Group transmitted to the Government eight cases of disappearances which occurred between 1970 and 1977.

258. In accordance with the decision taken at its thirteenth session (see para. 79 (a)), the Working Group, in July 1984, retransmitted to the Government summaries of the eight cases which remained unclarified. In the letter of retransmission, the Working Group also reiterated its request for confirmation and clarification of information received by relatives of the disappeared persons in 1982 from the Government via the European Parliament and the Government of France. To date the Working Group has received no communication from the Government of Guinea.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	8
II.	Government responses	0

6. Haiti

Information reviewed and transmitted to the Government

259. During the period under review, the Working Group transmitted a total of 14 cases of enforced or involuntary disappearances to the Government of Haiti. Three of these cases reportedly occurred in 1981, one in 1982 and 10 in 1983. Pursuant to the Working Group's decision at its thirteenth session (see para. 79 (a)), 11 cases were retransmitted in July 1984.

260. All reports transmitted to the Government contain information on the identity of the missing persons, their profession, the date and place as well as the circumstances surrounding the disappearance. The persons considered responsible for the disappearance are also indicated.

Information and views received from the Government of Haiti

261. During its fourteenth session, the Working Group met a representative of the Government who provided information on 13 cases. The information given clarified the situation concerning nine cases.

262. In four cases, the persons were reported to be in prison after due process of law and after having been found guilty and sentenced by the Criminal Court on 21 September 1984. In four cases, the persons had been arrested and subsequently released since no evidence had been found against them. In one case, the Government reported that, due to the spreading activities of the terrorist movement and the escape of witnesses, the legal process had been delayed and the person was therefore still in prison. In one other case, the Government stated that according to investigations undertaken by the immigration services, it seemed that the person had never entered Haiti and was apparently living in Europe. In another case, the person was completely unknown to the authorities. In two other cases the Government informed the Group that the persons had never been arrested or detained.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	14
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II.	Government responses	
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	13
(b)	Cases clarified by the Government's responses <sup>a/</sup>	9

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<sup>a/</sup> Persons at liberty: 4  
Persons in prison: 5.

7. Mexico

Information reviewed and transmitted to the Government

263. The Working Group's previous activities in relation to Mexico are recorded in its reports to the thirty-seventh, thirty-eighth and thirty-ninth sessions of the Commission on Human Rights.<sup>18/</sup>

264. In 1984, the Working Group transmitted to the Government of Mexico eight reported cases of enforced disappearances. These reports contained information about the identity of the missing persons, the place and date of arrest or abduction, and the persons carrying them out. Most of the reports concerned students. The arrests or abductions were allegedly carried out by the Judicial Police, security forces, or armed men. Some of the reports contained information indicating that the persons were taken into, or seen in, official custody.

265. The Working Group also reminded the Government of Mexico of its assurances, as reflected in paragraph 80 of the Working Group's report to the thirty-ninth session of the Commission on Human Rights (E/CN.4/1983/14), that any further information on a number of cases transmitted in the past would be communicated to the families and the Group.

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

266. The reports transmitted to the Government in 1984 were submitted by relatives and by Amnesty International. The Working Group also received oral and written information from the Mexican National Committee for the Defence of Prisoners, Persecuted and Missing Persons and Political Exiles, an organization acting on behalf of relatives of missing persons. The representative of the Committee expressed her deep concern that so far the cases that had occurred before 1982 had not been clarified and that the families had had to face many obstacles in their search for their missing relatives. Since 1982, a number of cases of enforced or involuntary disappearances had occurred in Mexico, but only a few remained unclarified. In many cases the persons had reappeared without any official explanation. The Committee representative noted that this clearly indicated that cases of disappearances could be solved in Mexico and the practice eradicated.

267. The Committee also presented two witnesses who had been missing for some time. One witness reported that he had been missing twice, the first time in 1975 for eight days and the second time in 1978 for 22 days. He stated that the first time he had been held at the Icacos Naval Base in Guerrero. In 1978 he had been arrested together with his wife by persons who identified themselves as members of the Brigada Blanca, an organization that, according to the witness, was controlled by the army. He further stated that during the 22 days that he was missing he had been held in three different clandestine detention centres: first, in Mexico City in the old building of the Dirección Federal de Seguridad (Federal Security Department), which was controlled by the Ministry of the Interior, then, in a former workshop of the Ministry of Works, now demolished, and finally in the old Hotel Papagayo. He stated that, in the workshop, he and his wife had been detained together with 30 other persons who had been reported missing, and that they had been able to identify four of them.

268. The second witness stated that he had been arrested in April 1978 and taken to Campo Militar No. 1 where he had been held incommunicado for about four months. He reported that he had then been transferred to the Reclusorio Norte where he had been kept for four and a half years. He also reported that, during that time, he had been moved seven times from the Reclusorio to Campo Militar No. 1 for short periods and had been able to identify five persons in Campo Militar No. 1 who had been reported missing.

Information and views received from the Government

269. During its fourteenth session the Working Group met a representative of the Government of Mexico, who submitted information on six reports of enforced or involuntary disappearances transmitted by the Working Group in 1984, clarifying two of them. On one case the representative stated that there was physical evidence that the person had died after having been wounded in an armed clash with police forces; on another case he reported that the person concerned was living in Mexico City and that neighbours in the area had testified that they had seen him. On the case of a person reported to have disappeared in 1983, the representative reported that he had been arrested and convicted for illegal association and robbery and that he had been released in December 1981, but that the Government had no further information on him after that date. On three other cases the representative stated that the Attorney-General had reported that there was no information on the supposed arrest or detention. He asked the Working Group to transmit more information that might be of assistance in the investigations. By letter dated 28 November 1984, the Government reported that it had no information on two further cases on which investigations continued.

270. In relation to a list of disappearances (reported to have occurred after December 1982) presented to the Government by the above-mentioned National Committee, the representative of the Government gave the Working Group a copy of a press release from the Ministry of Interior of Mexico (Secretaría de Gobernación, Dirección General de Información). According to the press release, some of the 38 persons on the list were free, others were subject to investigation or criminal proceedings and others had been sentenced in various courts for murder, illegal possession of firearms, use of firearms, robbery with violence, association for criminal purposes and other crimes. In some cases only names had been reported which made investigation difficult. On 26 November 1982, the Attorney-General of the Republic had officially announced that, until that date, all cases had been investigated in depth with a view to reaching precise conclusions so that the relatives of persons reported missing could be certain that all efforts had been duly made to clarify each case.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	8
II.	Government responses	
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	8
(b)	Cases clarified by the Government's responses <sup>a/</sup>	2

<sup>a/</sup> Persons reported dead: 1  
Persons reported free: 1.

8. Morocco

271. The activities of the Working Group in relation to Morocco appear in its reports to the Commission on Human Rights at its thirty-ninth and fortieth sessions.<sup>19/</sup> The Working Group transmitted a total of 10 reports of enforced or involuntary disappearances to the Government of Morocco in 1982 and 1983. Pursuant to the Working Group's decision at its thirteenth session, (see para. 79 (a)), eight cases were retransmitted to the Government by letter dated 19 July 1984.

272. In 1983, the Government of Morocco, provided information on seven of the 10 cases, clarifying two of them. Since the extension of its mandate, the Working Group has continued to receive information from the Government of Morocco. By letter dated 29 August 1984, the Permanent Representative of Morocco to the United Nations Office at Geneva, referring to one case, stated that the records of the courts, the Ministry of Justice and the prisons had been searched but that no record of any judicial proceedings initiated against the person had been found.

273. The Working Group received information from a non-governmental source indicating that one person reported to have disappeared had in the meantime been released. The Working Group, in accordance with the decision taken at its fourteenth session (see para. 79 (d)), transmitted that information to the Government asking it to confirm or disprove it.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	10
<b>II. Government responses</b>		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	8
(b)	Cases clarified by the Government's responses	2
<b>III.</b> Cases considered by non-governmental sources to be clarified		
		1

9. Sri Lanka

274. The Working Group's previous activities in relation to Sri Lanka are recorded in its last three reports to the Commission on Human Rights.<sup>20/</sup>

275. In 1981 Amnesty International reported to the Working Group that three youths had been arrested in Sri Lanka in 1979 and had subsequently disappeared. The same cases were again submitted to the Group by a lawyer representing the relatives of the missing persons. In August 1983 the Government of Sri Lanka, in response to a request addressed to it by the Working Group, provided copies of the document entitled "Report of the Parliamentary Select Committee to inquire into and report on the allegations against the Sri Lanka Police", in which reference was made to the disappearance of the three youths. The report did not, however, clarify their fate but merely recommended additional investigations.

276. The Working Group, in accordance with the decision taken at its thirteenth session (see para. 79 (b)), therefore requested the Government of Sri Lanka by letter dated 6 November 1984, to provide information on the outcome of further investigations on these cases. The Government of Sri Lanka subsequently informed the Working Group that, with regard to two of the youths, the Sri Lankan police authorities had continued inquiries as recommended in the report of the Select Committee and had found no evidence as to their whereabouts. In the case of the third youth, the Government was awaiting information from the relevant authorities.

Statistical summary

I. Total number of cases transmitted to the Government by the Working Group	3
II. Government responses	
(a) Total number of responses received from the Government relating to cases transmitted by the Working Group	3
(b) Cases clarified by the Government's responses	0

10. Syrian Arab Republic

277. The Working Group has dealt with reports of enforced or involuntary disappearances which allegedly occurred in the Syrian Arab Republic in its two most recent reports to the Commission on Human Rights.<sup>21/</sup> In 1982 the Working Group transmitted to the Government of the Syrian Arab Republic information on three cases of disappearances which reportedly occurred in 1980. Pursuant to the decision taken at its thirteenth session (see para. 79 (a)), the Working Group retransmitted to the Government the three reports which remained unclarified.

278. To date the Working Group has received no information from the Government of the Syrian Arab Republic on the fate of the three persons considered missing.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	3
II.	Government responses	0

11. Uganda

Information reviewed and transmitted to the Government

279. The Working Group's previous activities in relation to Uganda are recorded in its report to the thirty-eighth session of the Commission on Human Rights.<sup>22/</sup> As reported therein, in 1981, the Working Group transmitted one case to the Government, which informed the Group in due course that the person concerned had, in fact, left the country and had appeared at a press conference in London.

280. Since the latest renewal of the Working Group's mandate, the Group has transmitted three newly reported cases of disappearances to the Government. One case, which was received and transmitted on 18 July 1984 under the urgent action procedure, concerned an 18-year-old girl, who was arrested on 30 May 1984 at her home in a village near Kampala by unidentified armed men who arrived in a Landrover. The girl is the daughter of an opposition member of the Ugandan Parliament who is reportedly wanted for a criminal offence and who has also reportedly been missing since his house was raided in early 1984. The teenager was then taken to Makindye military barracks and was subsequently transferred to the military interrogation centre at Nile Mansion. According to those reports, the girl was neither handed over to civil police nor charged with any offence.

281. The Working Group also transmitted to the Government two further reports of disappearances which allegedly occurred in Uganda in 1981. One person, a retired diplomat, was arrested on the afternoon of 21 May 1981 by unidentified men who came to his home in the Province of Ankole in a military vehicle. The captors reportedly said that they were taking him for interrogation, but since his arrest his fate has remained unknown.

282. The second person, who reportedly disappeared shortly after his arrest on 25 May 1981 at his farm in the eastern Ankole district, was a retired magistrate. The captors, a group of armed officers who were said to have identified themselves as members of the military and police intelligence forces, took him to Mbarora Police Station where he presumably stayed for two days. He was then transferred to Nile Mansion where he was reportedly last seen. Inquiries made to various authorities about any legal charges against him and about his fate have had no results.

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

283. With regard to the above-mentioned case of the 18-year-old girl, which was first transmitted to the Government on 18 July 1984, the Working Group received additional information from Amnesty International in August 1984, to the effect that the case would appear to have been clarified, since the missing person is now in civil custody and was charged with the same crime as her father. In accordance with the decision taken at its fourteenth session (see para. 79 (d)), the Working Group requested the Government, by letter dated 6 November 1984, to confirm or disprove this information.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	4
II.	Government responses	
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	1
(b)	Cases clarified by the Government's responses	1
III.	Cases considered by non-governmental sources to be clarified	1

12. Other countries

284. During the period October to December 1984 the Working Group also transmitted one case of reported disappearance to each of the following Governments : Chad, Dominican Republic, Iraq and Togo.

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

Information reviewed and transmitted to the Government of South Africa

285. The Working Group's activities in relation to enforced or involuntary disappearances in South Africa and Namibia are recorded in its four previous reports to the Commission on Human Rights.<sup>23/</sup> In its first and fourth reports, the Working Group also informed the Commission on Human Rights about the South African legislation relevant to the phenomenon of disappearances.

286. From 1981 to 1983 the Working Group transmitted nine reports of enforced or involuntary disappearances to the Government. In accordance with the decision taken at its thirteenth session (see para. 79 (a)), the Working Group retransmitted those cases to the Government.

Information and views received from the Government of South Africa

287. By letter dated 7 February 1984, the Permanent Representative of the Republic of South Africa to the United Nations Office at Geneva provided information and observations on the legal provisions contained in the Working Group's last report (see E/CN.4/1984/21/Add.1, paras. 12-14). With regard to the specific cases transmitted to it, the Government stated that three persons had been arrested and released and no information was available on their whereabouts; with regard to a fourth case, the South African authorities had no knowledge of the person's whereabouts. Concerning the cases reported to have occurred in Namibia, one was before the Windhoek Supreme Court and, since the case was sub judice, the Government could not supply further details. The Government denied the allegations of arrest and detention by the security forces with regard to two other disappearances; a high-ranking police officer had been entrusted with the task of investigating the allegations, but no evidence had been found to implicate the security forces in the disappearances. The Government also reported that the persons detained at Hardap Dam, Mariental, received regular visits from the International Committee of the Red Cross (ICRC) and that they were in contact with their next of kin. (ICRC stated in its annual report of 1983, that its delegates were authorized to visit the persons detained in the camp; it continued its visits through 1983 and 1984.) By letter dated 23 November 1984, the Government of South Africa subsequently informed the Working Group that the detainees held at the military camp at Mariental had been released, with the exception of one who continued to be detained under Proclamation AG-26.

288. By letter dated 11 May 1984, addressed to the Permanent Representative of the Republic of South Africa to the United Nations Office at Geneva, the Chairman of the Working Group, referring to the case sub judice, drew the attention of the Government to information to the effect that the Windhoek Supreme Court had rendered a final decision, and requested copies of that decision as well as of the submissions made by the parties regarding the case. By letter dated 28 September 1984, the Permanent Representative of

South Africa confirmed that on 14 June 1983 a judgement on the case had been delivered by the Windhoek Supreme Court.\* The Group was also informed that the Minister of Police intended to appeal against the Court's decision and that, should leave to appeal be granted, the Appeal Court's final ruling would be provided in due course.

Information and views received from organizations representing relatives of missing persons

289. The information contained in the letter from the Permanent Representative of South Africa, dated 7 February 1984, regarding alleged disappearances in South Africa and Namibia was brought to the attention of those organizations which had submitted reports of disappearances to the Working Group in the past, namely Amnesty International, the International Defence and Aid Fund for southern Africa and the United Nations Centre against Apartheid; the Office of the Commissioner for Namibia and the South West Africa People's Organization (SWAPO) were also informed of the contents of the Government's reply.

290. Replies to the Working Group's letter were received from SWAPO and from Amnesty International. Amnesty International informed the Group about the verdict rendered in the case reported by the Government to be sub judice. By letter dated 29 May 1984, SWAPO, submitted six new reports of disappearances to the Working Group. Since these reports did not contain sufficient elements for transmission to the Government, the Group, by letter dated 2 July 1984, attempted to obtain supplementary information from SWAPO. To date, no such information has been received.

Statistical summary

I.	Total number of cases transmitted to the Government by the Working Group	9
<b>II. Government responses</b>		
(a)	Total number of responses received from the Government relating to cases transmitted by the Working Group	9
(b)	Cases clarified by the Government's responses	1a/

\* A copy of the judgement in Africaans was provided by the Government.

a/ The Mariental case.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

291. The Working Group is still firmly of the view that enforced or involuntary disappearances constitute the most comprehensive denial of human rights in our time, bringing boundless agony to the victims, ruinous consequences to the families, both socially and psychologically, and moral havoc to the societies in which they occur. It is indeed a gruesome form of human rights violation that warrants the continued attention of the international community and in particular that of the Commission on Human Rights.

292. In its previous reports, the Working Group noted that, in many cases, disappearances had followed internal disturbances in the countries concerned as the Governments and other forces involved deliberately employed the technique of disappearances as a means of solving their political problems. This report clearly shows that, although the phenomenon has ceased in some countries, it has appeared in others and still remains a constant feature of the overall human rights situation in the world.

293. Further analysis of the practice of enforced disappearances may lead to the conclusion that, once the technique is introduced in certain political situations, it usually spreads beyond the Government agencies and tends to become a practice followed by other participants in national political life. It is therefore evident that Governments are primarily responsible not only for their own policies, but also for the introduction of the practice within society as a whole.

294. It cannot be claimed that a major breakthrough has been achieved in the effort to eradicate the occurrence of enforced disappearances. The number and details of the cases presented in the report speak for themselves. In countries where the problem has been rampant for many years, the trend has by no means been reversed. In countries where the phenomenon is almost exclusively connected with a specific political structure of the past, hardly any noticeable progress has been made in clarifying outstanding cases. In others, where disappearances were still considered an incipient phenomenon at the time of the extension of the Working Group's mandate, the situation has in the meantime reached alarming proportions. In some countries, where changes of Government have led to a more co-operative attitude towards the Group, few concrete achievements have been recorded, despite genuine efforts to investigate reported cases. From the Working Group's point of view these facts are all the more disheartening as they provide little comfort to the relatives of missing persons, an important element of the Group's work. Without purposely seeking such a role, for many the Working Group may have become a beacon of hope. Yet, against the background of the trend described, it is going to be increasingly difficult for the Group to meet such expectations.

295. The resolution extending the Working Group's mandate for the present year was read by the members as an appeal to revitalize its procedures and display more dynamism in the performance of its functions. That, as the present report shows, is precisely what the Group has attempted to do during the past year. However, the co-operation of Governments remains vital for the clarification of most of the cases brought to the Group's attention. The core

of its activities consists in the formal transmission of well-documented cases to the Governments in question. Even though the Group insists on a thorough investigation in each case and asks to be informed of its results, basically it is only the public authorities in the respective countries who can provide a conclusive answer to requests for information on persons who have disappeared.

296. The Group sees the holding of regular sessions outside Geneva or New York as an important variation in its methods of work. Its session in San José, Costa Rica, made that clear; it was generally felt that the Group's presence there had been a successful attempt to bridge the distance between those who suffer and what they themselves often perceive as some far-off intangible United Nations organ. In addition, because of reduced travelling distances, more organizations representing relatives were able to come and testify, thus adding to the information available to the Group. Furthermore, regional publicity for such sessions not only enhances public awareness of the role of the United Nations with regard to disappearances, it also draws the attention of Government authorities to the problem.

297. The Group also considers missions or visits an efficient tool in its workshop. Such visits significantly improve the quality and quantity of information and greatly enhance the general understanding the Group must have of the different country situations. Such visits have the added advantage of facilitating direct contacts with all levels of Government. They also enable the Group to provide moral encouragement to those who count missing persons among their relatives or friends.

298. Visits can also be made to countries in which disappearances have come to a halt but the Government requires additional support and technical assistance in its efforts to close cases. The recent visit to Bolivia, which provided a welcome opportunity for the Group to explore what it perceives as a new avenue in the area of disappearances, was a case in point. In the Group's opinion this approach should be extended to other similar situations.

299. The Group greatly appreciates the continuous co-operation of an increasing number of non-governmental organizations, particularly organizations of relatives. The information they send and the testimonies they provide are very important for the functioning of the Group. These organizations have a responsibility with respect to the accuracy of the material they present; doubts have arisen from time to time as to whether the motivation of their informants is purely humanitarian.

300. The Working Group values highly the co-operation it has received from an increasing number of Governments. In the past year several Governments have sent representatives to make statements before the Group and answer questions. This could be indicative of a growing recognition of the humanitarian spirit in which the Group carries out its responsibilities. Not all statements, however, have yielded an equal amount of information or produced the same opportunity for fresh insights.

301. Finally, the Working Group believes that the implementation of General Assembly resolution 33/173 should be further studied, with a view to making general recommendations for measures to prevent and solve cases of

disappearances. As a first step, the Group has therefore asked for information on measures taken by Governments in pursuance of the said resolution. Likewise, it has solicited the views of non-governmental organizations on the matter. The responses received so far do not yet permit an assessment and the question will therefore have to be pursued further.

\* \* \*

302. In addition to recommendations made in previous reports, the Working Group recommends that the Commission on Human Rights:

- (a) Appeal to Governments of countries where the phenomenon of enforced or involuntary disappearances has reached alarming proportions to consider setting up national organs to investigate reports of missing persons;
- (b) Appeal to Governments to respond to requests from the Working Group for information on the measures they have taken in pursuance of General Assembly resolution 33/173;
- (c) Consider drafting an international instrument on enforced or involuntary disappearances;
- (d) Consider the possibility of renewing the Working Group's mandate for a period of two years, while maintaining its obligation to report to the Commission on Human Rights annually, taking into account the Group's organizational and financial requirements.

V. ADOPTION OF THE REPORT

303. At the last meeting of its fifteenth session, on 14 December 1984, the present report was adopted and signed by the members of the Working Group on Enforced or Involuntary Disappearances:

Ivan Tosevski (Yugoslavia)  
Chairman/Rapporteur

Toine van Dongen (Netherlands)

Jonas K. D. Foli (Ghana)

Agha Hilaly (Pakistan)

Luís A. Varela Quirós (Costa Rica)

Notes

1/ E/CN.4/1435, paras. 47-78 and annexes IX - XII; E/CN.4/1492, paras. 33-52 and annexes IV - VII; E/CN.4/1983/14, paras. 22-37; E/CN.4/1984/21, paras. 22-44 and E/CN.4/1984/21/Add. 1, paras. 3-6.

2/ E/CN.4/1435, para. 164; E/CN.4/1492, paras. 53-57; E/CN.4/1983/14, paras. 38-42; E/CN.4/1984/21, paras. 45-48; E/CN.4/1984/21/Add. 1, para. 7.

3/ E/CN.4/1435, paras. 20,36, and 79-83; E/CN.4/1492, paras. 65-66; E/CN.4/1983/14, paras. 43-46 and E/CN.4/1984/21, paras. 49-51.

4/ E/CN.4/1435, paras. 84-101 and annex XIII; E/CN.4/1435/Add. 1, para. 6; E/CN.4/1492, paras. 67-87 and annexes IX-XI; E/CN.4/1492/Add. 1, paras. 11, 12 and 19; E/CN.4/1983/14, paras. 47-56; E/CN.4/1984/21, paras. 52-61; E/CN.4/1984/21/Add. 1, para. 8.

5/ E/CN.4/1435, paras. 107-116 and annex XIV; E/CN.4/1492, paras. 91-102, and annexes XII - XIII; E/CN.4/1492/Add. 1, para. 19; E/CN.4/1983/14, paras. 57-63; and E/CN.4/1984/21, paras. 62-68.

6/ E/CN.4/1492, para. 106-109; E/CN.4/1492/Add.1, paras. 13 and 19; E/CN.4/1983/14, paras. 64-69; E/CN.4/1984/21, paras. 69-74; E/CN.4/1984/21/Add.1, para. 10.

7/ E/CN.4/1435, paras. 117-121; E/CN.4/1492, paras. 110-113; E/CN.4/1983/14, paras. 70-73; E/CN.4/1984/21, paras.75-77; E/CN.4/1984/21/Add.2, para. 2.

8/ E/CN.4/1492, paras. 114-117; E/CN.4/1983/14, paras. 116-120; E/CN.4/1984/21, paras. 132-133.

9/ E/CN.4/1983/14, para. 121; E/CN.4/1984/21 paras. 78-84.

10/ E/CN.4/1435, paras. 131-144 and annex XV; E/CN.4/1435/Add.1,. para. 3; E/CN.4/1492, paras. 122-130 and annex XIV; E/CN.4/1492/Add.1, para. 14; E/CN.4/1983/14, paras. 82-86; E/CN.4/1984/21, paras. 85-91; E/CN.4/1984/21/Add.2, para. 3-4.

11/ E/CN.4/1983/14, para. 82; E/CN.4/1984/21/Add.2, para. 3.

12/ E/CN.4/1435, para. 173; E/CN.4/1435/Add. 1, para 4; E/CN.4/1984/21, paras. 137-141.

13/ E/CN.4/1435, paras. 145-149; E/CN.4/1492, paras. 131-137; E/CN.4/1492/Add.1, paras. 15-16; E/CN.4/1983/14, paras. 87-90; E/CN.4/1984/21, paras. 92-98; E/CN.4/1984/21/Add.1, para. 11.

Notes (Contd.)

14/ E/CN.4/1435, paras. 150-163 and annex XVI; E/CN.4/1435/Add. 1, para.5; E/CN.4/1492, paras. 142-147 and annex XVI; E/CN.4/1492/Add. 1, para. 18; E/CN.4/1983/14, paras. 91-95; E/CN.4/1984/21, paras. 99-108.

15/ E/CN.4/1435, para. 165; E/CN.4/1492, paras. 58-61; E/CN.4/1983/14, paras. 102-104; E/CN.4/1984/21, paras. 123-125.

16/ E/CN.4/1435, paras. 40-42; E/CN.4/1435/Add. 1, para. 6; E/CN.4/1492, paras. 62-64; E/CN.4/1983/14, paras. 105-108; E/CN.4/1984/21, paras. 126-128.

17/ E/CN.4/1983/14, paras. 112-115; E/CN.4/1984/21, paras. 129-131.

18/ E/CN.4/1435, paras. 122-130; E/CN.4/1492, paras. 120-121; E/CN.4/1492/Add.1, paras. 2-9; E/CN.4/1983/14, paras. 74-81.

19/ E/CN.4/1983/14, paras. 122-123; E/CN.4/1984/21 paras. 134-136.

20/ E/CN.4/1492, paras 138-139; E/CN.4/1983/14, para. 128; E/CN.4/1984/21, para. 166.

21/ E/CN.4/1983/14, para. 125; E/CN.4/1984/21, paras. 142-143.

22/ E/CN.4/1492, paras. 140-141; E/CN.4/1492/Add.1, para. 17.

23/ E/CN.4/1435, paras. 175-183; E/CN.4/1492, paras. 158-163; E/CN.4/1983/14, paras. 96-100; E/CN.4/1984/21, paras. 109-120; E/CN.4/1984/21/Add.1, paras. 12-16.

Annex I

GENERAL ASSEMBLY RESOLUTION 39/111\*

Question of enforced or involuntary disappearances

The General Assembly,

Recalling its resolution 33/173 of 20 December 1978, entitled "Disappeared persons", and its resolution 38/94 of 16 December 1983 on the question of enforced or involuntary disappearances,

Deeply concerned by the persistence, in certain cases, of the practice of enforced or involuntary disappearances,

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

Convinced of the importance of implementing the provisions of General Assembly resolution 33/173 and of the other United Nations resolutions on the question of enforced and involuntary disappearances, with a view to finding solutions for cases of disappearances and helping to eliminate such practices,

Bearing in mind Commission on Human Rights resolution 1984/23 of 6 March 1984, in which the Commission decided to extend for one year the term of the mandate of the Working Group on Enforced or Involuntary Disappearances, and Economic and Social Council decision 1984/135 of 24 May 1984, in which the Council endorsed the Commission's decision,

1. Expresses its appreciation to the Working Group for the humanitarian work it has done and to those Governments that have co-operated with it;

2. Welcomes the decision of the Commission on Human Rights to extend for one year the term of the mandate of the Working Group, as laid down in Commission resolution 1984/23;

3. Also welcomes the arrangements adopted by the Commission on Human Rights in its resolution 1984/23 to enable the Working Group to fulfil its mandate with even greater efficiency;

4. Appeals to all Governments to provide the Working Group and the Commission on Human Rights with the full co-operation warranted by their strictly humanitarian objectives and their working methods based on discretion;

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\*/ The final edited text of this resolution will be published in Official documents of the General Assembly, Thirty-ninth Session, Supplement No. 51 (A/39/51).

5. Calls upon the Commission on Human Rights to continue to study this question as a matter of priority and to take any step it may deem necessary to the pursuit of the task of the Working Group when it considers the report to be submitted by the Group at its forty-first session;

6. Renews its request to the Secretary-General to continue to provide the Working Group with all necessary assistance.

101st plenary meeting  
14 December 1984

Annex II

STATEMENT BY FEDEFAM AT THE FOURTEENTH SESSION OF THE  
WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES  
SAN JOSE, COSTA RICA (3-11 OCTOBER 1984)

Mr. Chairman,

I wish to thank you for this opportunity of introducing a report which we have prepared specially for your meeting here in San José, Costa Rica.

This report begins with some comments on your own report on the work of the Group during the past year, the debate and resolution adopted during the meeting of the Commission on Human Rights and our attitude, particularly during that meeting.

We consider that last year's report was a very useful document in that it posed the problem of enforced disappearances in its persistent gravity and enabled the Commission to take a new look at the situation.

However, the debate in the Commission was very poor and very few ideas were incorporated in the Group's mandate, resulting in very little progress. The emphasis on visiting the countries concerned has been highlighted and we congratulate you on coming to Costa Rica this time for your meeting. Fortunately Costa Rica does not have these problems, but you are certainly much closer to the situations with which you are most directly concerned.

In order to ensure that the matter was given further consideration in the Commission, on 20 February the FEDEFAM delegation carried out a protest which consisted of two measures :

1. A silent protest at the doors of the room in which the Commission was meeting and a 24-hour fast as a way of communicating our concern to the members of the Commission;
2. A decision not to submit new cases to the United Nations until some kind of solution was found to the cases already presented.

This second measure shows the depth of the families' disillusionment with the United Nations on the matter.

At the June meeting of the Steering Committee, in Caracas, Venezuela, we felt that some progress had been made and that little more could be achieved by continuing with the protest. We therefore encouraged families once again to intensify their work with the United Nations and to come to see you here in Costa Rica.

We wish to make it very clear that we consider that the Working Group has done most useful work in enabling the United Nations to analyse and discuss flagrant violations of human rights. The weak point, which is the source of so much frustration, is the lack of progress on individual cases. We feel that it

is very important that the Working Group should now assume responsibility for an overall analysis of the problem in each country and establish criteria to help solve individual cases. We continue to stress the importance of individual cases, but, perhaps even more so, the measures which need to be adopted on an overall basis, particularly the need for a convention against enforced disappearances, and areas in which we feel progress can be made.

An examination of the situation of enforced disappearances in Latin America shows that the problem exists in an increasing variety of countries. We have divided them into four categories, which may be useful for an understanding of what is possible in each situation, and what the specific problems are.

1. Old style dictatorships

Examples of these are Haiti and Paraguay. The longevity of these dictatorships has distorted the entire social and legal structure to such an extent that human rights organizations scarcely exist in these countries and relatives organizations are very weak. It is very difficult to obtain adequate documentation or testimonies from these countries. Cases have been, and are, denounced, but it is difficult to obtain information and the real picture could be much worse. The situation is simply not known. The characteristics of these long dictatorships have produced a certain apathy and obvious fear in society which explains this silence. It certainly does not mean that everybody is content. Censorship is very deeply rooted in both countries, and the majority of the population have difficulty in expressing themselves in Spanish or French. We hope to devote considerable efforts to these countries in the near future to find out what is happening.

2. Military dictatorships

This is the classic context for the practice of enforced disappearances: countries with de facto Governments that are engaged in fierce campaigns against their political opponents and whose legal structure has no independence whatsoever. The armed forces are directly responsible for what happens. The countries which we consider to be in this category are Guatemala, Uruguay and Chile. Except in the case of Uruguay, where a return to democratic government is fairly imminent the situation is indeed very serious.

A few weeks ago, we visited Guatemala where disappearances have tragically been a daily occurrence since 1966, i.e. for some 18 years. Individual guarantees, even in the formal sense, are practically non-existent, the independence of the judiciary has been completely eroded, and, for counter-insurgency purposes, the armed forces consider it to be most useful to make their opponents disappear. As there are no human rights organizations working within the country, it is very difficult to have a clear picture of the situation.

However, thanks to the heroic initiative of a group of families that has organized itself under the name of Mutual Support Group for the Return of Missing Relatives Alive, the subject has at least been publicly debated and the Head of State has promised to resolve the problem. The Constituent Assembly has

recently begun its work, but we are still waiting for concrete steps towards a formal democracy. In an otherwise bleak situation, it is most important that there is public discussion of the matter with the active participation of the Catholic Church, relatives and the authorities; and, it is hoped that the Working Group will help to guarantee that the process is not suppressed as it has been in the past.

The case of Chile is equally serious. Assassinations now seem to be an alternative to enforced disappearances in terms of repression, and the situation is becoming more and more dramatic. The dictatorship has become so drastic that no advance seems possible in the present situation. Obviously, in this context, no progress has been made on the question of those who have disappeared.

### 3. Countries with constitutional Governments which have followed military dictatorships

There are countries where enforced disappearances were common practice under de facto régimes, but constitutional Governments have since come to power and are trying to reorganize their countries along democratic lines. The most obvious cases are Argentina and Bolivia. Both countries are trying to restore independence to the judiciary, investigate enforced disappearances and assassinations and bring those responsible to justice. However, when we examine the situation, we find that there is still a long way to go before these objectives can be achieved. The judiciary is still dependent on judges who were in office under the dictatorship; military jurisdiction has been established in Argentina for all crimes perpetrated by the armed forces during the dictatorship, with the possibility of appeal to civilian courts, a decision that we strongly dispute. The investigations have established, beyond any doubt, the reality of the phenomenon in all its brutality, but none of these who disappeared has been recovered alive and the work of investigation is colossal as the armed forces do not help in any way, particularly in finding the necessary documentation. Furthermore process of applying justice has proved very difficult. However, in this respect, Bolivia seems to have advanced further than Argentina. Consequently, the security apparatus responsible for all these situations persists even though it is no longer official; the principal positive aspect is that no new cases have been reported. There is a long way to go before the problem is solved and solid judicial structures are established that will guarantee that, in future situations of conflict, the phenomenon of enforced disappearance does not reoccur. The situation in Brazil is a special one, but similar in many respects to that in Argentina and Bolivia. However, the response has been the amnesty decree which has been applied in a very arbitrary fashion. This year, it is five years since that decree was issued. Practically no investigations have taken place and indeed there are indications that, as summary executions are becoming a common practice, enforced disappearances may well return.

A number of countries are attempting a return to democratic rule but have not, as yet, undertaken any programmes similar to those in Argentina or Bolivia, so the situation has not changed. The most obvious case is El Salvador. A Constitution was adopted, elections were held, and there is a newly elected Government in power. However, the state of emergency persists, with the

suppression of individual guarantees. The judiciary is totally subservient to the executive, the Legislative Assembly, in which probably the majority supports any methods used against the so-called "Communists". The promised investigations into the death squads have made no progress and, to date, no investigative commission has been set up. It is not surprising then, that enforced disappearances continue and the situation deteriorates with each new case. The Working Group should urge the Salvadorian authorities to set up a commission and make it operational. If such a commission really got working it would be a sensational breakthrough.

Perhaps reference should be made here to the cases of Guatemala and Uruguay. In Guatemala, a new Constitution is being drafted; however, we feel that the Working Group should recommend that the state of emergency measures be carefully limited so that they do not facilitate enforced disappearances, as the Salvadorian Constitution does by permitting detention incommunicado for 15 days. In Uruguay, we are requesting that an investigative commission be set up by the new Government, which will be elected in November, and will be responsible for ensuring that justice is done.

#### 4. Constitutional States where enforced disappearances take place

This is a new phenomenon in Latin America which has taken many people by surprise. In countries with elected Governments, in some cases following dictatorships, the use of enforced disappearances has become a common practice. This is now the situation in Mexico, Colombia and Peru and there are indications that the practice is starting in the Dominican Republic (previously it was normally used against Haitian citizens).

A common characteristic of these countries is that the security forces are controlled by the military and, in many cases, certain parts of the country have been declared military areas, where the military have taken complete control and the judiciary has practically ceased to exist. The most serious situation at the moment, and one of the worst of all in Latin America, is that in Peru. We visited the so-called emergency zone in January and May this year. This area in the central mountain region of Peru has been under military control since December 1982 by Presidential decree. The area initially included three departments (Ayacucho, Huancavelica and Apurimac), but now it has been extended to other areas of the country.

In January, during a three-day visit to Ayacucho, we received reports of 192 cases of enforced disappearances and, in May, new cases occurred all the time. The recent discovery of clandestine cemeteries in Huanta, with many bodies, shows that the practice continues unabated and seems in fact to have intensified. In the emergency zone, judges have to wait over two weeks for bodies to be delivered for identification. Obviously, the bodies recovered are difficult, if not impossible, to identify. The Attorney-General (Fiscal de la Nación) processed more than 800 cases of disappearances in May, but the investigations were getting nowhere. It would be an important step if the Working Group could visit Peru, as its presence would at least be a deterrent. Peru is indeed a priority in Latin America at the moment.

Mexico is in some respects similar to Peru, but it has been a long-standing problem. We have received reports that cases are occurring in the southern State of Chiapas. However, President Miguel de la Madrid has not received the families of Mexicans who have disappeared, despite a hunger-strike organized for that purpose. There have also been many cases of foreigners, particularly Guatemalans and Salvadorians, who have been made to disappear temporarily by the authorities in the past month. We regret to say that the situation in Mexico is getting worse and you made a serious mistake in not including it in your report.

In Colombia, considerable progress has been made in terms of peace and the pacification of the militarized zone in the country, such as Caquetá, Magdalena Medio, Cauca, etc. The Attorney-General carried out an investigation, but little real progress was made. It is incredible that the Working Group has never mentioned a country where even children have disappeared, in its report.

In Honduras, there are high hopes that, with the ousting of General Martínez this year on 31 May, the situation could improve. No new cases have been reported for a number of months and investigations have at least begun within the armed forces. We have recently spoken to the General Assessor of the Armed Forces who is working on these matters. Together with the Committee of Relatives of Disappeared Detainees in Honduras (COFADEH), we have encouraged the establishment of an investigative commission; the Working Group should also encourage that initiative. Recently, it was reported that two peasants were detained and disappeared; so, tragically, the lull seems to have been temporary.

During the disturbances in the Dominican Republic, some 200 cases of disappearances were reported by the Dominican Human Rights' Commission. We have not received any lists to date, but with its past history of disappearances of Haitian exiles, we are deeply concerned. In concluding this report, in which we have attempted to give you a very brief picture of the situation in Latin America, we should express our concern about the situation in Guyana, about which we have very few details.

We conclude this report with some suggestions. As you can see, despite the variations, the problem continues to be dramatic and is, in fact, increasing. Effective action must be taken on different levels :

- (1) The work of relatives and human rights organizations in all these situations, especially in the most difficult ones, should be encouraged;
- (2) The establishment of investigative commissions in all situations should be encouraged; relatives should not have to await political changes for that to happen;
- (3) Profound judicial and constitutional reforms should be carried out to guarantee that human rights are respected in all situations; that the judiciary is totally independent and truly effective; that all these cases are dealt with in civil and not military courts; and that penal codes include the specific crime of enforced disappearances.

- (4) Due to problems, such as the identification of bodies, in different countries, for example Argentina, the Working Group should study the entire problem of legal medicine and recommend that forensic institutes be established with total independence from the security forces, the judicial system, and the executive. Otherwise, the situation will continue with bodies not being identified, death certificates forgotten and autopsies not carried out. The American Association for the Advancement of Science is doing very important work in this area.

On an overall basis, we are submitting the following requests to you which were discussed and approved in a recent meeting of FEDEFAM here in Costa Rica:

- (1) The Working Group should visit the countries affected by this problem. As a matter of urgency, we consider that you should visit Peru, Guatemala, El Salvador and Honduras.

The objective of these visits would be to study the legal and constitutional situation through contacts with the Supreme Court, Legislative Assembly, etc, and to have direct contact with the relatives in order to receive their testimony and become acquainted with their problems. It is also important to contact the different human rights groups and other humanitarian organizations working in the respective countries. Finally, you should speak with both Civilian and military authorities in order to achieve an effective solution with regard to this situation.

- (2) The Working Group should study our draft international convention against enforced disappearances and recommend both its study and its approval by the United Nations.

Now that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has been completed, this matter could be taken up by the United Nations, if it is not, the situation will continue to deteriorate.

- (3) The Working Group should make public those cases which it feels have not been solved. This measure would encourage the authorities to make a greater effort to co-operate.
- (4) The Working Group should launch a world campaign against enforced disappearances, arrange a special conference on the matter or undertake any other measures that would effectively mobilize international public opinion on the problem.
- (5) The Working Group should insist on the establishment of investigative commissions in all countries where the problem exists.

We are confident that you will study our report and recommendations and that the United Nations will make progress in dealing with the problem of enforced disappearances.

Our organization has requested consultative status with the Economic and Social Council and we would like to ask for your support in this connection. It would open many doors to us for a more active participation in the work of the United Nations.

Finally, we wish to reiterate our invitation to you to attend our Fifth Latin American Congress which will be held in Argentina from 12 to 19 November 1984.

Wishing you success in your work,

Reverend Patrick Rice  
Executive Secretary  
FEDEFAM

Annex III

FEDEFAM DRAFT CONVENTION ON ENFORCED DISAPPEARANCES

Article I

The Contracting Parties confirm that the enforced disappearance of persons is a crime under international law and a crime against humanity which they undertake to prevent and to punish.

Article II

In the present Convention, the enforced disappearance of persons means any act or omission which is designed to conceal the whereabouts of a political opponent or dissident, of whose fate his family, friends or supporters are unaware, and is committed with intent to suppress, prevent or impede opposition or dissidence by persons in government office, by government officials at any level or by organized groups of private individuals acting with the support or permission of the foregoing.

Article III

The following acts or omissions in particular shall be punishable :

(a) The arbitrary arrest or detention of political opponents or dissidents, either without information or with false information as to the fate of the victim;

(b) The refusal of the authorities to provide information on the whereabouts of any detainee in their power when requested to do so by that person's relatives, friends or supporters, unless the victim is placed at the disposal of the courts within the time-limit provided for by law;

(c) The refusal by persons in government office or by government officials to acknowledge that they are keeping an opponent or dissident in prison or detention;

(d) The failure by persons in government office to shed light on the fate of an opponent or dissident whose whereabouts are unknown;

(e) The foregoing acts or omissions when they affect persons who are not opponents or dissidents, but whose disappearance may intimidate, leave defenceless or influence the conduct of opponents or dissidents.

Article IV

No penalty shall be imposed on persons involved in the offence who release the victim unharmed within 15 days of his disappearance or provide conclusive information as a result of which he is found unharmed within the same period of time.

Article V

For the purpose of sentencing any person involved in the offence, any act or information as a result of which the victim is found alive shall be considered a significant mitigating factor, the effect of which shall depend on whether the victim is in good or poor health.

Article VI

The following acts shall also be punishable :

- (a) Conspiracy to carry out enforced disappearances;
- (b) Direct and public incitement to carry out enforced disappearances;
- (c) Attempt to carry out an enforced disappearance;
- (d) Legal forms of involvement in enforced disappearances;
- (e) Complicity in the offence.

Article VII

Persons committing the offence of enforced disappearance in any of its forms, in accordance with articles II, III and VI above, shall be punished, whether they are government leaders, officials or private individuals.

Claims of having acted in obedience to administrative or military orders or for reasons of State shall be inadmissible and reasons of war or national security may not be invoked as a defence.

Article VIII

The Contracting Parties undertake to enact, in accordance with their respective legislations, the necessary legislative measures to give effect to the provisions of the present Convention and in particular to provide effective penalties for persons guilty of enforced disappearances.

Until such measures are adopted, the Contracting Parties shall impose as penalties for the offences covered by this Convention the maximum penalties provided for in their existing legislation for other offences committed with a view to or in connection with an enforced disappearance, such as unlawful detention, ill-treatment of private individuals by officials, threats and intimidation, torture and assassination.

Article IX

Persons charged with the acts enumerated in this Convention shall be tried by a competent court of the State in the territory of which the act was committed, or by the court of any Contracting Party in the territory of which they are arrested or by the competent international tribunal.

Article X

Since enforced disappearance is a crime against humanity, its punishment shall be governed by the following rules :

1. It shall not be considered a political offence; it shall therefore be extraditable and the Contracting Parties shall be bound to make provision for extradition; territorial or diplomatic asylum shall not be applicable;
2. No statutory limitation shall apply to the offence or the penalty therefor;
3. No effect shall be given to any pardon granted by the political régime or Government on whose behalf the offender acted;
4. Offenders shall be criminally responsible regardless of any privileges they may enjoy.

Article XI

Since enforced disappearance is an international offence which has been characterized as a crime against humanity and must be punished in accordance with principles of law recognized by the international community, the provisions of this Convention shall also apply to offences committed prior to its entry into force.

Article XII

In cases in which a person charged with enforced disappearance is acquitted by a national court owing to lack of evidence, the competent international tribunal may order a new trial based on new evidence which may be produced or authorize another national court to institute such proceedings.

The international tribunal may overrule judgements relating to enforced disappearances handed down by national courts in violation of basic legal principles or in flagrant disregard for the merits of the case.

Article XIII

The offences referred to in article VIII, second paragraph, and committed with a view to or in connection with an enforced disappearance shall also engage the responsibility of any person involved in them.

Article XIV

In the event of conflict, the provisions of this Convention shall take precedence over the provisions of the legislation of the Contracting Parties.

Article XV

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for enforced disappearances, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article XVI

1. The present Convention shall be open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State party to the Statute of the International Court of Justice and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Convention.

2. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

The present Convention shall be open to accession by any State referred to in paragraph 1 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations shall inform all States which have signed the present Convention or acceded to it of the deposit of each instrument of ratification or accession.

Article XVII

1. The present Convention shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the thirty-fifth instrument of ratification or accession, the Convention shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article XVIII

1. Any State Party to the present Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate proposed amendments to the States Parties to the present Convention with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favour such a conference, the Secretary-General of the United Nations shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Convention in accordance with their respective constitutional process.