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

Extrajudicial, summary or arbitrary executions

Report by the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant
to Commission on Human Rights resolution 1993/71

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Introduction

1. The present report is submitted pursuant to Commission on Human Rights resolution 1993/71 of 10 March 1993, entitled "Extrajudicial, summary or arbitrary executions".
2. This report is the second presented to the Commission on Human Rights by Mr. Bacre Waly Ndiaye. It is the eleventh since the mandate was established by the Economic and Social Council in its resolution 1982/35 of 7 May 1982.
3. In chapter I of the present report, the Special Rapporteur refers to the terms of reference for the discharge of his mandate in conformity with the aforementioned resolution as well as requests, made to him by the Commission on Human Rights in other resolutions, to pay special attention to a number of issues related to violations of the right to life. Chapter I also contains comments on the procedures followed by the Special Rapporteur during 1993 and, in particular, development of these procedures since he first took up his mandate in 1992. In chapter II, the Special Rapporteur provides a short overview of the legal framework for his mandate. In chapter III, he describes the activities undertaken since the finalization of his report to the Commission on Human Rights at its forty-ninth session. Chapter IV contains country-specific situations in which the Special Rapporteur has pursued his mandate: these include an analysis, in general terms, of allegations received concerning violations of the right to life as well as a summary of the correspondence with the Governments regarding allegations received since 1992. Where pertinent, the Special Rapporteur also makes observations on issues of particular interest to the mandate. In chapter V, the Special Rapporteur refers to violations of the right to life in the former Yugoslavia. Finally, in chapter VI, the Special Rapporteur sets forth his conclusions and closes his report with recommendations designed to ensure in future more effective respect for the international instruments and standards to which his mandate refers.
4. Two addenda to the present report (E/CN.4/1993/7/Add.1 and Add.2) contain the findings and concerns of the Special Rapporteur with regard to the situation of the right to life in Rwanda and Peru on the basis of on-site visits carried out in 1993. In these mission reports, the Special Rapporteur also provides observations, conclusions and recommendations.

I. THE MANDATE

5. In this chapter, the Special Rapporteur will address first the terms of reference for the discharge of his mandate as set forth by a number of Commission on Human Rights resolutions. These resolutions provide the framework for both the issues to be examined by the Special Rapporteur, with particular emphasis on certain areas of special concern, and the procedures to be followed in doing so.

A. Terms of reference

6. The Commission on Human Rights, in resolution 1993/71, requested the Special Rapporteur "to continue to examine situations of extrajudicial, summary or arbitrary executions" (para. 5). In the same resolution, the Commission also requested the Special Rapporteur "to pay special attention to extrajudicial, summary or arbitrary executions of children and to allegations concerning violations of the right to life in the context of violence against participants in demonstrations and other peaceful public manifestations" (para. 6); and "to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment" (para. 9).

7. In addition, in several other resolutions of the Commission on Human Rights special rapporteurs are asked to pay particular attention to a number of issues within the framework of their mandates, in particular:

(a) In resolution 1993/39, entitled "Staff members of the United Nations and of the specialized agencies in detention", the Special Rapporteur is requested to examine cases involving the violations of the right to life of staff members of the United Nations system and their families, as well as experts, special rapporteurs and consultants, and to transmit the relevant part of his report to the Secretary-General for inclusion in his report to the Commission on Human Rights;

(b) In resolution 1993/41, entitled "Human rights in the administration of justice", the Special Rapporteur is called upon "to give special attention to questions relating to the effective protection of human rights in the administration of justice (...) and to provide, wherever appropriate, specific recommendations in this regard";

(c) In resolution 1993/45, entitled "Right to freedom of opinion and expression", the Commission invites special rapporteurs to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression;

(d) In resolution 1993/46, entitled "Integrating the rights of women into the human rights mechanisms of the United Nations", the Commission requests all special rapporteurs "in the discharge of their mandates, regularly and systematically to include in their reports available information on human rights violations affecting women";

(e) In resolution 1993/47, entitled "Human rights and thematic procedures", the Commission, inter alia, requests the thematic special rapporteurs to include in their reports gender-disaggregated data, as well as comments on problems of responding and the result of analyses, as appropriate, in order to exercise their mandates even more effectively;

(f) In resolution 1993/48, entitled "Consequences for the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers", the Commission requests all special rapporteurs to continue paying particular attention to the adverse effect on the enjoyment of human rights of such acts of violence committed by armed groups, regardless of their origin, that spread terror among the population and by drug traffickers;

(g) In resolution 1993/54, entitled "Civil defence forces", the Special Rapporteur is invited to continue to pay due attention to the matter of civil defence forces in relation to the protection of human rights and fundamental freedoms;

(h) In resolution 1993/64, entitled "Cooperation with representatives of United Nations human rights bodies", the Special Rapporteur is requested to continue to take urgent steps to help prevent the occurrence of intimidation and reprisals against persons who seek to cooperate, or have cooperated with United Nations human rights procedures, as well as relatives of victims of human rights violations, and to continue to include in his report to the Commission on Human Rights a reference to allegations of intimidation or reprisal, or of hampering access to United Nations human rights procedures, as well as an account of action he has taken in this regard;

(i) In resolution 1993/70, entitled "Human rights and mass exoduses", the Commission recommends that special rapporteurs "pay attention to problems resulting in mass exoduses of populations and, where appropriate, report and make relevant recommendations to the Commission on Human Rights";

(j) In resolution 1993/81, entitled "The plight of street children", the Special Rapporteur is called upon to pay particular attention to the plight of street children.

8. In examining and analysing the information brought to his attention, the Special Rapporteur has taken into consideration these requests by the Commission on Human Rights. Reference to the issues concerned will be made in chapter IV, within the description of the country-specific situations. They will also be addressed in the conclusions and recommendations contained in chapter V of the present report.

B. Extrajudicial, summary or arbitrary executions

9. The "situations of extrajudicial, summary or arbitrary executions" which the Special Rapporteur is requested to investigate comprise a variety of cases. All acts and omissions of State representatives that constitute a violation of the general recognition of the right to life embodied in the Universal Declaration of Human Rights (art. 3) and the International Covenant on Civil and Political Rights (art. 6 and also arts. 2, 4 (2), 26 and,

particularly with regard to the death penalty, also arts. 14 and 15), as well as a number of other treaties, resolutions, conventions and declarations adopted by competent United Nations bodies, fall within his mandate.

10. The most important of these instruments are:

(a) The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65 of 24 May 1989);

(b) The Safeguards guaranteeing protection of the rights of those facing the death penalty (Economic and Social Council resolution 1984/50 of 25 May 1984) and their implementation (Economic and Social Council resolution 1989/64 of 24 May 1989);

(c) The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 3452 (XXX) of 9 December 1975);

(d) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46 of 10 December 1984);

(e) The Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Economic and Social Council resolution 663 C (XXIV) of 31 July 1957 and 2706 (LXII) of 13 May 1977);

(f) The Basic Principles for the Treatment of Prisoners (General Assembly resolution 45/111 of 14 December 1990);

(g) The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173 of 9 December 1988);

(h) The United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") (General Assembly resolution 40/33 of 29 November 1985);

(i) The Convention on the Rights of the Child (General Assembly resolution 44/25 of 20 November 1989);

(j) The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, 27 August-7 September 1990);

(k) The Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169 of 17 December 1979);

(l) The Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977;

(m) The Declaration on the Protection of Women and Children in Emergency and Armed Conflict (General Assembly resolution 3318 (XXIX) of 14 December 1974);

(n) The Convention relating to the Status of Refugees (General Assembly resolution 429 (V) of 14 December 1950);

(o) The Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III) of 9 December 1948);

(p) The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34 of 29 November 1985).

11. An analysis of the provisions of these international instruments relevant to the protection of the right to life makes it possible to group these situations according to the following categories:

(a) Violations of the right to life in connection with the death penalty;

(b) Deaths in custody;

(c) Deaths due to the use of force by law enforcement officials;

(d) Violations of the right to life during armed conflicts;

(e) Expulsion of persons to a country where their lives are in danger;

(f) Genocide;

(g) Breach of the obligation to investigate violations of the right to life;

(h) Breach of the obligation to provide compensation to victims of violations of the right to life.

12. A detailed analysis of these categories, together with a summary of the provisions contained in international instruments specifically relating to them, can be found in chapter II of the Special Rapporteur's report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 42-68).

II. METHODS OF WORK

13. In resolution 1993/71, the Commission on Human Rights requested the Special Rapporteur "to respond effectively to information which comes before him, in particular when an extrajudicial, summary or arbitrary execution is imminent or threatened or when such an execution has occurred" (para. 10). By the same resolution, the Commission requested the Special Rapporteur "to enhance his dialogue with Governments by following up on communications dispatched to Governments transmitting allegations of extrajudicial, summary or arbitrary executions, as well as by following up on recommendations made by the Special Rapporteur in reports on on-site visits to particular countries" (para. 16).

14. Resolution 1993/47 of the Commission contains a number of provisions regarding visits and follow-up visits by thematic special rapporteurs; follow-up on recommendations made by them as well as on progress made by Governments with regard to their specific mandates; cooperation between thematic procedures and non-governmental organizations as well as between thematic special rapporteurs and working groups, relevant treaty bodies and country rapporteurs.

15. On the basis of these provisions, the Special Rapporteur has continued to transmit allegations of violations of the right to life to the Governments concerned in the form of urgent appeals and letters. The follow up to such communications has been intensified. Furthermore, the Special Rapporteur has carried out visits to Rwanda and Peru and enhanced his cooperation with non-governmental organizations as well as other United Nations human rights procedures.

16. In his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur presented a detailed analysis of the procedures established and developed in the course of the first 10 years of the mandate. He also described in detail certain difficulties encountered with regard to these procedures during the first six months of his activity as Special Rapporteur (E/CN.4/1993/46, paras. 11-41 and 689-705). In 1993, the Special Rapporteur continued his efforts to increase the effectiveness of the mandate through further refinement of the criteria for the evaluation of communications containing allegations and of government replies thereto. A number of questions have arisen as a result of these increased follow-up activities. This chapter contains a description and analysis of the Special Rapporteur's methods of work.

A. Allegations received by the Special Rapporteur

17. The Special Rapporteur continues to discharge his mandate mainly on the basis of information brought to his attention by non-governmental organizations, Governments, individuals and some intergovernmental organizations. These communications contain specific cases of alleged extrajudicial, summary or arbitrary executions or death threats, and/or general information about questions related to the right to life. During 1993, the Special Rapporteur received a large number of general

allegations, in particular with regard to legislation or practices concerning the death penalty or the phenomenon of impunity and its impact on the perpetuation of violations of the right to life in certain countries.

Credibility of sources

18. While many of the non-governmental organizations and individuals providing allegations are well known to the Special Rapporteur and other United Nations human rights procedures as sources of credible information, sometimes allegations are received from less well-known non-governmental organizations or entirely new sources.

19. In his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur outlined the main criteria applied in the evaluation of such allegations, namely the degree of detail they contain concerning the victim and the precise circumstances of the incident (see E/CN.4/1993/46, paras. 16-17). Where doubts persist, the Special Rapporteur will continue to seek corroboration of allegations from other sources of undisputed credibility.

20. The extent to which information received from Governments in their replies is taken into account in evaluating the credibility of the sources will increase as the latter are informed of the contents of these replies and invited to provide comments and/or additional clarifications and information within the follow-up procedure recently initiated (see below, paras. 32-63). As already expressed in the Special Rapporteur's report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, para. 18), information provided by Governments that simply clarifies facts reported by a non-governmental organization or sheds new light on them does not adversely affect the credibility of the source, nor do general accusations concerning the motives or reliability of the source. It is to be expected that the Government has more information than a non-governmental organization concerning factual aspects of incidents involving the loss of life, and it is also normal that their evaluation of the significance of such incidents may differ. The situation may change where Governments state in their replies that allegations submitted to the Special Rapporteur were unfounded or substantially distorted. The way in which the sources of allegations respond to the Special Rapporteur's requests for comments on the contents of government replies and/or additional details to clarify the cases submitted by them will provide the Special Rapporteur with a basis for assessing reliability of the sources.

Information required to process allegations of extrajudicial, summary or arbitrary executions

21. While there is no formal procedure for the submission of allegations, certain requirements should be met so as to enable the Special Rapporteur to bring appropriate cases to the attention of the Governments concerned without unnecessary delay. The following points indicate which type of information is needed. This may serve as guidance for those wishing to submit cases of alleged violations of the right to life:

(a) Information regarding the victim: full name; age; sex; place of residence or origin; profession and/or any activities, if related to the alleged extrajudicial execution or threat; any other pertinent information that may help identify a person (e.g. the registry number of a prisoner or the number of his passport or identity card);

(b) Information regarding the event: date; place; description of how the events occurred; in cases of alleged violations of the right to life in connection with the death penalty, detailed information on shortcomings with regard to fair trial guarantees, pertinent legislation, texts of sentences imposed and appeal submissions, etc.;

(c) Information regarding the alleged perpetrators, including an explanation of the reasons why they are suspected to be responsible: names, if known; if they are members of the security forces, their rank, functions, the unit or service to which they belong, etc.; if they are members of civil defence groups, paramilitary or other forces, details on how these forces relate to the State (e.g. cooperation with State security forces including information on chains of command; State connivance with, or tolerance of their operations, etc.);

(d) Information regarding steps taken by the victims or their families and, in particular, about complaints filed (by whom; before which organ). If no complaints were filed, why not;

(e) Information regarding steps taken by the authorities to investigate the alleged violation of the right to life and/or measures adopted to protect persons under threat as well as to prevent similar incidents in the future, in particular: if complaints were filed, the action taken by the competent organs upon their receipt; progress and status of investigations at the time of the submission of the allegation; where the results of the investigation are said to be unsatisfactory, explanation of why this is so;

(f) Information regarding the source of the allegations: name and full address of the organization or individual to facilitate clarifications of unclear details and follow up.

B. Allegations transmitted by the Special Rapporteur to the Governments concerned

22. Where there are no serious grounds to believe that the information provided by the source is not credible, the Special Rapporteur transmits them to the Governments concerned, either in the form of an urgent appeal or in a letter to the authorities.

Urgent appeals

23. As in previous years, such urgent transmissions have been made in cases of death threats, fear of imminent extrajudicial, summary or arbitrary executions, or particularly grave incidents of violations of the right to life, especially abuse of force. The Special Rapporteur also sent urgent appeals after being informed of the imminent expulsion of persons to a country where they may be at risk of extrajudicial, summary or arbitrary execution.

24. The Special Rapporteur appealed to the Governments concerned to ensure effective protection of those under threat or at risk of execution. He also urged the competent authorities to carry out full, independent and impartial investigations and to adopt all necessary measures to prevent future violations of the right to life. The Special Rapporteur requested that he be kept informed about all steps taken in this regard.

25. As in 1992, where urgent appeals also concerned cases of alleged imminent execution of the death penalty, grave incidents of abuse of force by members of the security forces, particularly against participants in demonstrations and manifestations, or alleged fear for the life and physical integrity of persons as a consequence of torture and any other form of cruel or inhumane treatment, the Special Rapporteur also reminded the Governments concerned of specific safeguards and guarantees of the right to life contained in international instruments regarding restrictions on capital punishment and the use of force and firearms, the prohibition of torture as well as minimum conditions of detention.

26. The aim of urgent appeals is the prevention of irreparable loss of life. Consequently, the Special Rapporteur transmits allegations of imminent extrajudicial, summary or arbitrary executions regardless of whether domestic remedies have been taken. This applies to cases of imminent execution of a death sentence alleged to contravene the limitations on capital punishment set forth in the pertinent international instruments but also to allegations of death threats or fear of imminent extrajudicial, summary or arbitrary executions, where the Special Rapporteur does not consider it appropriate to wait for such action, whether penal or civil, as may be undertaken by those under threat before conveying his concern to the authorities.

Other allegations

27. Alleged cases of extrajudicial, summary or arbitrary executions of a less urgent character and questions related to the right to life in general terms were transmitted to the Governments concerned in the form of individual case summaries in letters, together with a request to provide the Special Rapporteur with information concerning the progress and results of investigations carried out into these cases, specific measures adopted to prevent future violations of the right to life, as well as any other pertinent comments or observations.

28. The Special Rapporteur has devised a "reply form" for cases of alleged extrajudicial, summary or arbitrary executions which has been used in all letters transmitting such cases since 29 July 1993. This is an effort to facilitate the governments' response to the Special Rapporteur's communications by providing them with very specific guidance as to the type of information needed for an assessment of the situation. The Governments concerned have therefore been requested to fill in the following questionnaire, where the questions were pertinent to the cases transmitted:

"1. Are the facts alleged in the summary of the case accurate? If not, please provide details of the inquiries carried out to refute these allegations.

2. What is the cause of death indicated in the death certificate?
 3. Was an autopsy performed? If so, by whom? What are the results of the autopsy? (Please provide a copy of the complete autopsy report.)
 4. Which is the authority responsible for investigating these allegations? Which is the authority responsible for prosecuting perpetrators?
 5. Has a complaint, formal or informal, been made on behalf of the victim?
 6. If so, who made the complaint? What is their relationship to the victim?
 7. To whom was the complaint made?
 8. What action was carried out upon receipt of the complaint, and by whom?
 9. Are any inquiries, judicial or other procedures under way? If so, please provide details of their progress to date, and the timetable envisaged for their conclusion. If such inquiries or procedures have been completed, please provide details of the conclusions reached (please attach copies of any relevant documents). Are such conclusions definitive?
 10. Has the person alleged to have carried out the extrajudicial, summary or arbitrary execution been identified? To which unit or branch of the security forces or groups cooperating with them does he/she belong?
 11. Have penal or disciplinary sanctions been imposed on the alleged perpetrators? If so, please provide details of the procedures followed to ascertain the penal or disciplinary responsibility of the perpetrators before imposing such penalties. If no such sanctions have been imposed, why not?
 12. If no inquiries have been undertaken, why not? If such inquiries as have been carried out were inconclusive (for example, if the individuals responsible have not been identified), why so?
 13. Has any compensation been provided to the family of the victim? If so, please provide details including the type and amount of compensation involved. If no compensation has been provided, why not?
 14. Please provide such other information or observations concerning the present case as you consider relevant."
29. As regards questions related to the right to life in more general terms, such as, for example, reports about persistent impunity or legislation alleged to be in contravention of restrictions on the application of capital

punishment contained in pertinent international instruments, these have been transmitted to the Governments concerned together with requests for specific information, legislative texts or other documents.

C. Replies received from Governments

30. In resolution 1993/47, the Commission on Human Rights encouraged Governments "to respond expeditiously to requests for information made to them through the procedures, so that the thematic special rapporteurs concerned (...) may carry out their mandates effectively." In resolution 1993/71, the Commission urged "all Governments, in particular those which consistently have not responded to communications transmitted to them by the Special Rapporteur, and all others concerned to cooperate with and assist the Special Rapporteur so that his mandate may be carried out effectively".

31. Information provided by the Governments concerned in reply to the allegations transmitted to them is indeed of great importance for the Special Rapporteur to form an opinion on the situation in a given country. The Special Rapporteur has received a number of replies to his urgent appeals and letters transmitting allegations of violations of the right to life. As is the case for the communications by which the Special Rapporteur received such allegations, government replies also have to be evaluated. This is closely related to the question of when an alleged extrajudicial, summary or arbitrary execution can be considered as "clarified". It is particularly important with regard to the request for follow up on allegations transmitted which the Commission on Human Rights made to the Special Rapporteur.

D. Follow-up

32. As described earlier, the Commission on Human Rights requests the Special Rapporteur to follow up on allegations of extrajudicial, summary or arbitrary executions. Such a request was first made by the Commission to the Special Rapporteur in 1992. In response to this request, the Special Rapporteur had sent, in late 1992, a first series of letters to a number of Governments requesting updated information on cases transmitted in 1991 by his predecessor, Mr. S. Amos Wako (see E/CN.4/1993/46, paras. 81-85).*

33. Until now, allegations transmitted to Governments, as well as any reply received, were reflected in the Special Rapporteur's report concerning the year in which they were transmitted. In most cases, replies received from Governments were reproduced, in full or in part, in the Special Rapporteur's reports without any comment or analysis. Once presented in this manner, the

* Due to the fact that a database for cases of alleged extrajudicial, summary or arbitrary executions could only be created last year, the Special Rapporteur has decided to concentrate his follow up on allegations transmitted since he was appointed to succeed Mr. Wako in 1992. However, replies received concerning cases transmitted earlier will be reflected in the chapter of the present report which contains an analysis of specific country situations.

vast majority of cases were never referred to again in later reports. Only in the report presented to the Commission on Human Rights at its forty-ninth session did the Special Rapporteur include specific observations regarding some of the replies (see, for example, E/CN.4/1993/46, paras. 20, 183-184, 229, 501, 615, 692-693).

34. In 1993, the Special Rapporteur undertook various follow-up initiatives. In doing so, a number of issues have arisen in relation to the follow up on allegations, in particular with regard to the assessment of government replies as well as the questions of when to consider a case "clarified" and what to do where Governments do not reply to the allegations transmitted. It has become evident to the Special Rapporteur that additional human and material resources are indispensable if such a follow-up task is to be carried out in a meaningful way. The following paragraphs contain a description of follow-up activities and an analysis of the above-mentioned issues.

Follow-up correspondence with Governments

35. The Special Rapporteur sent letters to Governments concerning allegations transmitted in 1992 for which no reply had been received and reiterated his request to be provided with information concerning the progress and results of investigations as well as any measures adopted with a view to preventing further loss of life.

36. The Special Rapporteur also sent communications to Governments concerning allegations transmitted to them in 1992 and 1993 for which replies had been received but which could not be considered as final. These letters contained very specific requests for additional information which is needed in order to determine whether the cases in question can be considered "clarified".

37. Four main types of reply were received from Governments in 1992 and 1993:

(a) In some instances, replies are general in character and do not refer to the particular cases transmitted. While such information is most welcome and helpful for the Special Rapporteur to form an opinion on the situation in a given country, details are needed concerning the specific allegations and, in particular, the progress and results of investigations carried out by the competent authorities. The same applies where Governments address issues relating to the mandate of the Special Rapporteur without going into detail with regard to the cases;

(b) Often, Governments inform the Special Rapporteur that investigations into the allegations have been initiated. In such cases, the Special Rapporteur asks the Governments to provide him with updates on the progress of such investigations or, if they have been concluded, the decisions taken as a result thereof. Where such information has not been provided already, the Special Rapporteur also requests that he be informed about the proceedings followed in such investigations, in accordance with the relevant legislation of the country concerned. The procedural questions apply both to the specific cases in question and in general, including details about the organs investigating, the rights of victims or their families to

participate in such investigations, the sanctions that may be imposed as a result of such proceedings, as well as the possibilities of appeal against decisions taken and whether such decisions are made public;

(c) In some instances, Governments state that investigations have been initiated but then halted for lack of evidence, particularly if it has not been possible to identify the presumed authors of the alleged extrajudicial, summary or arbitrary execution. In such cases, the Special Rapporteur also requests detailed information concerning the investigation, in particular with regard to any right of the victims' families to participate in the proceedings and to challenge any decision to halt the inquiry before a higher instance or another body;

(d) In other cases, Governments state that the allegations are factually incorrect, or they provide a different explanation of events leading to the death of the person in question. In such cases, the Special Rapporteur asks the Governments to provide him with detailed information about the investigations on which these assertions are based, in particular with regard to the organ which carried out the investigation, the methods applied for the gathering and assessment of evidence, whether the results of the investigation have been made public and whether they are final.

38. In response to these requests for follow-up information, some Governments have provided the Special Rapporteur with updated information about investigations under way.

Follow-up correspondence with sources of allegations

39. For the first time since the establishment of the mandate, the Special Rapporteur has addressed letters to the sources of allegations to inform them of the contents of government replies concerning the cases they submitted. The Special Rapporteur has requested them to provide him with their comments and, in some instances, further details regarding these cases.

40. Several non-governmental organizations have already submitted comments or additional information in response to the Special Rapporteur's request.

Follow-up: some questions to be taken into account

41. In resolution 1993/47, the Commission on Human Rights encouraged the Special Rapporteur to follow closely the progress made by Governments with regard to the protection of the right to life. In devising and putting into practice a scheme for follow-up on allegations of extrajudicial, summary or arbitrary executions enabling him to do so, the Special Rapporteur has encountered a number of difficulties.

42. First, it is often very difficult to assess progress made with regard to respect for the right to life. The amount and type of information which comes before the Special Rapporteur continue to depend to a very large extent on the level of organization of non-governmental organizations and their awareness of United Nations human rights procedures. Consequently, the number of allegations received for a given country does not necessarily reflect, in an accurate manner, the scale of extrajudicial, summary or arbitrary executions

which may take place there. Even greater caution is warranted if, on the basis of such information as may be received, comparisons between different countries were to be made - this is not the aim of follow-up as the Special Rapporteur understands it.

43. In the opinion of the Special Rapporteur, follow-up efforts should focus on how Governments comply with their obligation under international law to carry out full, independent and impartial investigations into all allegations of extrajudicial, summary or arbitrary executions transmitted to them, with a view to clarifying the circumstances, identifying and prosecuting those responsible, granting compensation to the victims or their families, and preventing future violations. The Special Rapporteur believes that close monitoring of, and reporting on States' compliance with this obligation and, in particular, progress made by them may constitute an incentive for Governments to increase their efforts in this regard. A greater probability of being held responsible for violations of the right to life may, in turn, help prevent similar incidents from happening in the future.

44. However, the Special Rapporteur will also continue paying attention to, and reporting on problems affecting the right to life as well as progress in its enjoyment in certain countries, such as legislation regarding the application of the death penalty or the use of force and firearms or the phenomenon of impunity in general. While this monitoring of general trends and developments seems to pose less difficulties in practice, there are a number of points which have to be addressed with regard to the follow-up on individual cases, namely the question of when a case is "clarified", how to come to a conclusion where information provided by the Government concerned and the source of the allegation is contradictory, and what to do in cases where Governments do not reply at all to requests for information made to them by the Special Rapporteur.

When is a case "clarified"?

45. If the monitoring of allegations of extrajudicial, summary or arbitrary executions transmitted to Governments takes the form of observing, on the basis of information provided by the Government concerned and the source of the allegation, investigations into these cases until they have been solved, it is necessary to establish the conditions which must be fulfilled before the case may be classified as "clarified" and removed from the list of "open" cases, on which the follow-up continues.

46. Whether or not a case can be regarded as "clarified" is closely linked with the question of whether a reply provided by the Government concerned is in itself satisfactory. In his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur had addressed the problem of evaluating government replies and outlined examples of information that may be regarded as satisfactory (E/CN.4/1993/46, paras. 29-34). In 1993, he continued his analysis of government replies with a particular view to their obligation to investigate violations of the right to life, as mentioned above.

47. On the basis of this analysis breaking down government replies into various categories according to their contents, a number of points are taken into account by the Special Rapporteur in his evaluation. First, as a

minimum, it is essential that the reply specifically refers to the cases transmitted by the Special Rapporteur. As stated earlier, general information on legislation, investigation procedures and practice, etc. is most welcome and helpful but does not permit him to assess the merits of the specific allegations transmitted. It is also essential that the Government, when refuting allegations as factually incorrect, provides information on the investigations carried out which permit this conclusion to be drawn.

48. It is the obligation of Governments to carry out full, independent and impartial investigations into all alleged violations of the right to life. When carrying out such investigations, Governments must meet the standards set forth in the pertinent international instruments, in particular the International Covenant on Civil and Political Rights and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. In keeping with the mandate entrusted to him, the Special Rapporteur evaluates government replies in the light of these provisions.

49. Where the Government replies that investigations into the case have been initiated, the Special Rapporteur takes account of the following:

(a) The character of the investigation (judicial or administrative) and its objectivity;

(b) The independence, impartiality and competence of the organ carrying out the investigation;

(c) The procedures applied in the investigation, in particular with regard to the gathering and assessment of evidence;

(d) The rights of victims or their families or representatives;

(e) The decisions that may be reached as a result of such investigations, and the sanctions that may be imposed as a result thereof;

(f) The possibilities for the victims or their families to receive compensation;

(g) Whether the investigation was initiated, carried out and concluded within a reasonable time.

50. Disciplinary investigations can be considered as being in keeping with the obligation to investigate only if there is a guarantee of objectivity, impartiality and competence on the part of the investigating officials, and if this procedure may result, within a reasonable length of time, in sanctioning according to the gravity of the offence those found responsible, as well as compensation for the family of the victim. If these criteria are not fulfilled, and if it is the only measure taken by the Government concerned, a disciplinary procedure is not satisfactory. Similar considerations apply where special investigative organs are established to inquire into allegations of violations of the right to life.

51. In cases where Governments reply that those responsible have been identified, tried and convicted, the Special Rapporteur takes into account not

only the way in which such proceedings have been conducted but also whether the sentence appears to be proportionate to the gravity of the offence and whether compensation has been granted to the victims or their families. It is important to note that all those involved in the planning and carrying out of violations of the right to life must be held responsible. The conviction and sentencing of "scapegoats" cannot, and must not, be considered as being in compliance with the Governments' obligation under international law to punish all those involved in the planning and execution of violations of the right to life.

52. Where Governments reply that investigations have been stopped for lack of evidence, particularly if the alleged perpetrators could not be identified, the Special Rapporteur also proceeds to an assessment of the investigation according to the criteria described above. In such situations, particular attention is paid to the methods of gathering and evaluating evidence applied during the investigation as well as the possibilities for the victims, their families or representatives to challenge the decision to stop the investigation before a higher instance or another body, or to have it reopened on the basis of new evidence becoming available.

53. If, as a result of his analysis, the Special Rapporteur comes to the conclusion that the reply is not in itself satisfactory, he seeks clarification from the Government concerned and transmits the contents of the reply to the source for comments and/or additional details. The case remains "open" and the Special Rapporteur continues to follow the way it is being investigated. It is envisaged that a list containing all "open" cases will be available, between one and three times a year, to the members of the Commission on Human Rights and that it be included in the Special Rapporteur's annual reports to the Commission.

54. If the Government replies that investigations into a case have been concluded and the reply is satisfactory, the Special Rapporteur also transmits the reply to the source of the allegations. If the source confirms the information provided by the Government, or if it does not respond at all within a reasonable lapse of time, the Special Rapporteur will consider the case as "clarified". The list of clarified cases will, of course, also be reflected in his annual reports to the Commission on Human Rights.

55. The Special Rapporteur will continue monitoring those cases where investigations have been opened and are being carried out in keeping with the standards set forth in the pertinent international instruments. While such cases cannot yet be regarded as completely "clarified", they will nevertheless have to be distinguished from cases where no investigation at all has been opened, or where such investigations cannot be considered as satisfactory. They will form a separate and distinct category in the list of "open" cases.

56. In some instances, Governments have told the Special Rapporteur that no investigation was carried out. In a number of cases involving alleged death threats, this was justified by the fact that the persons said to be under threat had not filed a complaint with the authorities purportedly competent under the law in the country concerned. Other Governments reply that amnesty laws have been passed which encompass the cases of alleged extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur,

and as a consequence, no investigations into those cases have been opened. With regard to these two, relatively frequent, types of unsatisfactory replies, the Special Rapporteur wishes to emphasize the following:

(a) If alleged violations of the right to life are brought to their attention, for example by the Special Rapporteur, Governments are obliged to carry out thorough, prompt and impartial investigations into all such allegations and, where violations of the right to life are said to be threatened or imminent, adopt all necessary measures to ensure the safety of the purported victim. This obligation exists regardless of whether the purported victim has taken any judicial or other action;

(b) Governments are obliged under international law to bring perpetrators of extrajudicial executions to justice and compensate surviving victims or their dependants. This obligation is clearly expressed in the Principles on the Effective Prevention and Investigation of Extra-legal, Summary or Arbitrary Executions: "In no circumstances, including a state of war, siege or other public emergency, shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, summary or arbitrary executions" (principle 19). Accordingly, even if, in exceptional cases, Governments may decide that perpetrators should benefit from measures that would exempt them from, or limit the extent of their punishment, their obligation to bring them to justice and hold them formally accountable remains, as does the obligation to carry out prompt, thorough and impartial investigations, grant compensation to the victims or their families and adopt effective preventive measures for the future.

The problem of contradictory information from Governments and sources

57. In the vast majority of cases where, in the past, replies had been received from Governments, the information they provided refuted, with or without giving details of the basis for this, the allegations transmitted by the Special Rapporteur. This is likely to continue to occur. Indeed, during the short period since the follow-up procedure described above was initiated, there have already been several cases in which the source of the allegation, when asked for comments and additional details in response to the Government's refutation, reiterated its earlier allegations.

58. In this context, it should be recalled that the Government is not only obliged to carry out investigations into alleged cases of extrajudicial, summary or arbitrary executions, but also disposes, in most cases, of much greater facilities to do so than non-governmental sources of allegations. Consequently, it is incumbent upon the Government to provide a satisfactory reply, i.e. to demonstrate that these investigations have been carried out in keeping with the standards set forth by the pertinent international instruments. So long as it is not shown that the Government has done so, the reply cannot be considered as satisfactory and the case will therefore continue to be regarded as "open".

59. A problem arises where the Government reply appears to be satisfactory, but where the source of the allegation maintains that it has a well-founded reason to believe that the evaluation of facts by the Government does not correspond with reality; or that those identified and punished are not, or

not exclusively, responsible; or that no compensation has been granted to victims or their families, despite affirmations to the contrary made by the Government. One way for the Special Rapporteur to come to a conclusion as to the merits of the allegations and the veracity of information provided, respectively, by Governments and sources would be to benefit from the opportunity provided by on-site visits.

60. However, even where it is not possible to conclude whether allegations are accurate or not, they may still provide the Special Rapporteur with a useful basis for the consideration and analysis of issues of a more general nature which arise therefrom. On the basis of such analysis, the Special Rapporteur may propose recommendations such as, for example, changes in legislation so that it conforms more closely to international standards or other measures to prevent future violations of the right to life.

The problem of "silent" Governments

61. In the past, no replies have been received from the Governments concerned to the majority of the allegations transmitted by the Special Rapporteur. Very few Governments have replied regularly, and to all cases brought to their attention. Many others have replied to some cases, omitting to mention others, and some have never replied at all.

62. Where Governments reply to the allegations transmitted to them, they are likely to receive requests for further details and the way they discharge their obligation to investigate such cases will be closely monitored by the Special Rapporteur. Even where replies are satisfactory, there may be follow-up correspondence, such as, for example, where investigations have not yet been concluded and the Special Rapporteur asks the Government to provide him with updated information. The Special Rapporteur will, of course, include all follow-up activities in his report to the Commission on Human Rights. It may therefore happen that those Governments which do comply with the request made to them by the Commission to provide the Special Rapporteur with information could find themselves extensively referred to in the report, while less reporting space and attention may seem to be given to those Governments which do not reply at all and which, consequently, only receive reminder letters. In such a situation, those providing replies may feel "penalized" for their diligence.

63. It is important in this context to stress that the Special Rapporteur highly appreciates the will to cooperate shown by those Governments which provide him with replies. If he writes back to them with a request for additional details, this is not done in a spirit of accusation. It is clear that, since there are at present concerns regarding the more than 70 countries being dealt with under his mandate, the Special Rapporteur is not in a position to know details and differences in legislation and practice in each of them; he needs to be provided with extensive information about the way Governments comply with their obligations under international law. The follow-up procedure recently initiated by the Special Rapporteur endeavours to distinguish very clearly between cases that have been clarified, those being investigated in a satisfactory way and those remaining "open", in which the Governments have not fulfilled their obligation to investigate and prosecute.

E. Visits

64. The Special Rapporteur continues to view on-site visits as an essential component of his mandate. As pointed out in his report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 35-37), the aim of such visits is to obtain first-hand information on the situation of the right to life in the countries visited, to report on the findings and propose, in a spirit of cooperation and assistance, recommendations to improve on areas identified as matters of concern. In conformity with the request made to him by the Commission on Human Rights in resolution 1993/47, the Special Rapporteur intends to keep close contact with the Governments of the countries visited to assist them to the maximum extent possible with the implementation of such recommendations. Follow-up visits within a reasonable time are also envisaged.

65. In 1993, the Special Rapporteur carried out two visits to investigate allegations of violations of the right to life in Rwanda and Peru. He solicited further visits to a number of countries. The selection of countries which he wishes to visit is made primarily on the basis of the number and gravity of allegations and reports he receives concerning violations of the right to life. It is expected that increased follow-up activities will also contribute to the identification of countries where a visit by the Special Rapporteur may be appropriate.

F. Cooperation with other United Nations procedures

66. The Special Rapporteur also attaches great importance to cooperation with other United Nations bodies dealing with issues related to his mandate and to the coordination of his activities with those carried out by such bodies. In past years, this has taken the form of consultations, either on questions concerning the day-to-day operation of his mandate or in preparation of, and during, on-site visits, as well as joint missions with other special rapporteurs and working groups of the Commission on Human Rights. In 1993, this cooperation between the special rapporteurs and members of working groups of the Commission has intensified and several meetings were held in the process of the preparation of, and during the World Conference on Human Rights in June 1993. Furthermore, as regards the questions of fair trial and impunity, the Special Rapporteur has greatly benefited from the reports prepared by the Special Rapporteurs on the administration of justice of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities.

67. The Special Rapporteur continued to seek the cooperation of United Nations human rights monitoring missions based in certain countries by sending them copies of the allegations sent to the respective Governments and requesting them to provide him with any comments and observation they might have, either concerning these cases or the situation of the right to life in general. In addition, the Special Rapporteur has intensified his contacts with different United Nations treaty bodies, and especially the Committee on the Rights of the Child. Finally, with regard to his missions, the Special Rapporteur has greatly benefited from the cooperation extended to him by the United Nations Development Programme (UNDP) representatives based in the host State.

III. ACTIVITIES

68. In 1993, the Special Rapporteur has carried out a number of different activities, including those referred to below.

A. Consultations

69. The Special Rapporteur visited Geneva from 27 February to 5 March 1993. On 2 March 1993, he presented his report to the Commission on Human Rights. The Special Rapporteur also visited Geneva from 26 to 30 July 1993, 23 to 29 September 1993 and 15 to 19 November 1993 for consultations with the Secretariat. During his visits to Geneva, he met with a number of other special rapporteurs, representatives and members of working groups of the Commission on Human Rights. He also held meetings with government representatives of regional groups represented in United Nations bodies, as well as with delegations of certain Governments, and consulted with representatives of non-governmental organizations.

70. Furthermore, in April 1993, the Special Rapporteur participated in a meeting in Geneva of the Preparatory Committee for the World Conference on Human Rights, which he attended from 14 to 25 June 1993. Also in the process of the preparation of the World Conference on Human Rights, the Special Rapporteur attended the African regional meeting at Tunis in November 1992.

B. Communications

71. As in the past, the Special Rapporteur has received an enormous amount of information; some referred to the phenomenon of extrajudicial, summary or arbitrary executions in general, some consisted of allegations of violations of the right to life in particular cases, while others were related to follow-up on cases and general concerns transmitted to Governments earlier. This information was processed and allegations sent to the Governments concerned according to the methods of work described in chapter II of the present report.

72. In total, the Special Rapporteur transmitted to the Governments concerned allegations he had received concerning violations of the right to life of over 3,700 persons in more than 73 countries. One hundred thirty-five cases concerned alleged extrajudicial executions or death threats of minors, 16 of whom were said to be below 10 years of age, the youngest only 9 months old; 168 cases concerned alleged violations of the right to life of women.* More than 700 persons were said to have been killed or threatened with death for exercising their right to freedom of opinion and expression, peaceful assembly and association.

* However, these figures do not necessarily reflect the actual proportion of minors and women among the victims of alleged violations of the right to life, since they constitute cases in which the age or sex of persons identified by their names has been specifically indicated to the Special Rapporteur.

Urgent appeals

73. Since 14 December 1993, the date of the finalization of his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur has sent 217 urgent appeals concerning more than 1,300 persons to the following 52 countries: Algeria, Argentina, Azerbaijan, Bangladesh, Brazil, Burundi, Cambodia, Central African Republic, Chad, Chile, Colombia, Comoros, Djibouti, Ecuador, Egypt, El Salvador, Equatorial Guinea, Guatemala, Haiti, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jamaica, Kuwait, Kyrgyzstan, Malawi, Nicaragua, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Rwanda, Sierra Leone, South Africa, Sri Lanka, Sudan, Sweden, Tajikistan, The Former Yugoslav Republic of Macedonia, Togo, Turkey, Turkmenistan, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, Venezuela, Yemen, Zaire.

74. In 86 cases, the victims of alleged violations of the right to life have been identified to the Special Rapporteur as minors, 87 as women. Six urgent appeals concerned 41 identified minors living as "street children" in Brazil, Colombia and Guatemala. Furthermore, the Special Rapporteur urgently intervened on behalf of more than 200 persons after receiving information concerning alleged violations of the right to life in the context of demonstrations or other peaceful public manifestations in Argentina, Brazil, Chad, Colombia, Ecuador, Equatorial Guinea, Guatemala, Haiti, the Islamic Republic of Iran, Israel, Nicaragua, Pakistan, Panama, Paraguay, Peru, the Philippines, Rwanda, South Africa, Togo and Turkey.

75. Pursuant to Commission on Human Rights resolution 1993/64, the Special Rapporteur sent six urgent appeals to the Governments of Argentina, Colombia, Guatemala and Rwanda on behalf of members of several human rights organizations who had allegedly received death threats after availing themselves of United Nations procedures for the protection of human rights. Pursuant to Commission on Human Rights resolution 1993/39, the Special Rapporteur sent an urgent appeal to the President of Zaire in which he expressed grave concern for the safety of Mikuin Leliel Balanda, President of the ad hoc Working Group of Experts on southern Africa.

Other allegations

76. Allegations concerning the extrajudicial, summary or arbitrary execution of over 2,300 persons (49 of whom were identified as minors, 79 as women) were transmitted to the following 51 countries: Angola, Azerbaijan, Bangladesh, Brazil, Cambodia, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Cuba, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Guatemala, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jamaica, Kenya, Lebanon, Malawi, Malaysia, Mexico, Morocco, Myanmar, Nepal, Nigeria, Pakistan, Peru, Philippines, Rwanda, Sierra Leone, South Africa, Sri Lanka, Syrian Arab Republic, Tajikistan, Togo, Turkey, Venezuela, Yugoslavia, Zaire and Zimbabwe.

77. Forty-nine of these cases concerned alleged extrajudicial executions of minors, two of whom were living as "street children" in Brazil and Guatemala. More than 250 persons were said to have been extrajudicially killed in violation of their right to freedom of opinion and expression, peaceful

assembly and association in Brazil, the Central African Republic, Chad, China, Colombia, El Salvador, Ethiopia, Guatemala, Haiti, India, the Islamic Republic of Iran, Lebanon, Malawi, Nepal, Nigeria, Peru, South Africa, Togo, Turkey, Venezuela, Zaire and Zimbabwe.

78. In addition to these specific cases, allegations referring to questions related to the right to life in general terms were sent to the following 26 countries: Algeria, Azerbaijan, Bangladesh, Brazil, China, Colombia, Egypt, El Salvador, Haiti, India, Indonesia, Iran (Islamic Republic of), Israel, Kenya, Malawi, Malaysia, Mauritania, Morocco, Papua New Guinea, Philippines, Saudi Arabia, South Africa, Sri Lanka, Tajikistan, Turkey and Zaire.

Communications received from Governments

79. Since the finalization of his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur received replies on cases transmitted by him in 1992 from the following Governments: Bangladesh, Cameroon, Chad, Colombia, Ethiopia, India, Iraq, Israel, Lesotho, Mexico, Myanmar, Nepal, Philippines, South Africa, Sudan, Turkey, United States of America, Venezuela.

80. Replies concerning allegations transmitted by the Special Rapporteur in 1993 were received from the Governments of: Algeria, Argentina, Azerbaijan, Bangladesh, Brazil, Chad, Chile, Colombia, Ecuador, Egypt, Guatemala, Haiti, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Kenya, Kuwait, Mexico, Morocco, Nepal, Nigeria, Panama, Philippines, Sri Lanka, Sudan, Sweden, Syrian Arab Republic, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yemen, Zimbabwe.

81. The following countries have not provided the Special Rapporteur with any replies to the cases transmitted by him in 1992: Afghanistan, Angola, Azerbaijan, Burundi, Cambodia, Chile, Dominican Republic, Equatorial Guinea, Honduras, Iran (Islamic Republic of), Mali, Pakistan, Paraguay, Rwanda, Togo, Ukraine, Yemen, Zaire.

82. The following countries have not provided the Special Rapporteur with any replies to the cases or general allegations transmitted by him in 1993: Angola, Burundi, Cambodia, China, Central African Republic, Comoros, Cuba, Djibouti, El Salvador, Ethiopia, Equatorial Guinea, Guatemala, Honduras, Kyrgyzstan, Lebanon, Liberia, Malawi, Malaysia, Mauritania, Myanmar, Pakistan, Papua New Guinea, Paraguay, Saudi Arabia, Sierra Leone, Tajikistan, The Former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan, Yugoslavia, Zaire, Zimbabwe.

Follow-up

83. The Special Rapporteur transmitted the contents of the above-mentioned government replies to the sources of the allegations for comments and observations.

84. The Special Rapporteur sent letters in which he reiterated his request for information with regard to cases transmitted by him in 1992, for which

until 27 April 1993 no replies had been received, to the following Governments (the number of outstanding cases is indicated in brackets): Angola (2), Azerbaijan (5), Bangladesh (18), Brazil (7), Cambodia (11), Cameroon (4), Colombia (76), El Salvador (39), Guatemala (60), Honduras (3), India (43), Iran (Islamic Republic of) (5), Israel (5), Mexico (4), Nepal (10), Pakistan (7), Philippines (7), South Africa (47), Turkey (95), Venezuela (11). A request for information on 106 outstanding cases was transmitted to the de facto authorities in Haiti.

85. The Governments of Bangladesh, Brazil, Cameroon, Colombia, India, Israel, Mexico, Nepal, the Philippines, Turkey and Venezuela provided information on some or all of these cases later during the year.

86. The Special Rapporteur sent follow-up letters on cases transmitted by him in 1992 and/or 1993, where replies were received but could not be considered as final, to the following Governments: Bangladesh, Brazil, Chad, China, Colombia, Ecuador, Guatemala, India, Iraq, Israel, Kenya, Lesotho, Malawi, Mexico, Myanmar, Peru, Sri Lanka, Turkey, Venezuela, Yemen.

C. Visits

87. From 8 to 17 April 1993, the Special Rapporteur visited Rwanda after he had received allegations of grave and massive violations of the right to life in the context of an armed conflict opposing Rwandese government forces and the armed opposition movement Rwandese Patriotic Front (RPF) since October 1990. The Special Rapporteur's report on this visit, which includes his findings, conclusions and recommendations, was published in August 1993 (E/CN.4/1994/7/Add.1).

88. From 24 May to 2 June 1993, the Special Rapporteur undertook a visit to Peru to look into allegations of violations of the right to life in this country. A report on this visit was published in November 1993 (E/CN.4/1994/7/Add.2).

89. During the forty-ninth session of the Commission on Human Rights, the leader of the Sri Lankan delegation reiterated an earlier invitation to the Special Rapporteur to visit Sri Lanka. The Special Rapporteur also received an invitation from the Government of Argentina to carry out in situ investigations into alleged death threats against journalists and human rights activists (see below, paras. 122-123). The Special Rapporteur also received invitations to conduct visits to Algeria and Colombia.

90. No progress has been made in the preparation of a possible visit to Turkey. The Special Rapporteur has reiterated his request to be invited to carry out a mission to China. Furthermore, he has approached the Government of India and expressed his interest in visiting that country, possibly together with the Special Rapporteur on the question of torture.

91. In resolution 1993/97, the Commission on Human Rights requested the Government of Indonesia to consider inviting the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special

Rapporteur on extrajudicial, summary or arbitrary executions to carry out a visit to East Timor. However, to date no such invitation has been forthcoming.

D. Cooperation with other United Nations procedures

92. From 15 to 20 December 1992, at the request of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, the Special Rapporteur undertook a mission to Croatia to investigate allegations of mass graves holding the remains of victims of war crimes. The report on the findings of this mission was transmitted in its entirety to the Commission of Experts established under Security Council resolution 780 (1992). A summary has been made public as annex I to the report of the Special Rapporteur on the former Yugoslavia to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/50; see also below, chapter V).

93. From 16 to 27 August 1993, the Special Rapporteur participated in the field mission of the Ad Hoc Working Group of Experts on southern Africa to Botswana and Zimbabwe.

94. During his visits to Geneva, the Special Rapporteur has held informal consultations with several other special rapporteurs and members of working groups of the Commission on Human Rights. The Special Rapporteur also met with Committee on the Rights of the Child for an exchange of views on the protection of the right to life of children in Rwanda and Peru. During the World Conference on Human Rights in Vienna, he took part in several meetings of special rapporteurs, representatives and members of working groups of the Commission on Human Rights and, acting as their spokesperson, presented a common paper to the plenary session of the World Conference.

95. Letters transmitting copies of the allegations sent to the respective Governments and asking to be provided with comments and observations on the situation of the right to life were sent to the United Nations field operations in Angola (UNAVEM), Cambodia, El Salvador (ONUSAL) and Haiti. The Special Rapporteur also sent a letter to the head of UNOSOM II in which he requested to be provided with information regarding violations of the right to life and expressed concern at allegations involving members of the international peace-keeping forces in a number of killings.

96. Furthermore, the Special Rapporteur consulted with the United Nations High Commissioner for Refugees (UNHCR) on a number of specific cases involving refugees and, more particularly, before and during the mission to Rwanda.

97. During his missions to Rwanda and Peru, the Special Rapporteur greatly benefited from excellent cooperation from the UNDP representatives in Kigali and Lima.

E. Other activities to promote the mandate

98. In order to enhance the public awareness of the working of his mandate, the Special Rapporteur held a number of press conferences during his visits to both Rwanda and Peru. The report on these missions was accompanied by press

statements. The Special Rapporteur also held a number of press conferences during his visits to the Netherlands and Australia (see below, para. 100).

99. In addition, the Special Rapporteur attended the following meetings and conferences: In January 1993, he was invited to participate in a meeting to prepare for the World Conference on Human Rights, organized by the Carter Center in Atlanta, United States of America. In February 1993, the Special Rapporteur spoke to the African Regional Meeting of the International Association of Young Lawyers in Douala, Cameroon, about the role of United Nations mechanisms in the protection of human rights. Also in February 1993, the Special Rapporteur participated in a meeting on "Human Rights at the eve of the twenty-first century", organized by the Council of Europe, where he presided over the working group on "Human rights and development". Twice, in March and June 1993, the Special Rapporteur was invited by the University of Bochum, Germany, to participate in meetings aimed at the establishment of a non-governmental organization for the promotion of and respect for humanitarian law.

100. Furthermore, in September 1993 the Special Rapporteur was invited by the Dutch section of Amnesty International to deliver a speech on the role of the United Nations in efforts to prevent extrajudicial executions and disappearances. Also in September 1993, the Special Rapporteur attended as a "special guest" an international commission of inquiry organized by Amnesty International's United States section to examine the practice of capital punishment in that country. Finally, in October 1993, the Australian section of Amnesty International invited the Special Rapporteur to carry out a tour through several Australian cities and speak on the role of United Nations mechanisms with regard to the protection of the right to life and the prevention of extrajudicial executions and disappearances, as well as the role of non-governmental organizations in this field.

IV. SITUATIONS

A. General

101. In this chapter, the Special Rapporteur gives an account of the reports and allegations that have come before him concerning extrajudicial, summary or arbitrary executions. It describes the way he has dealt with this information by sending urgent appeals and letters to the Governments concerned as well as the replies he has received. Follow-up action taken by the Special Rapporteur is also mentioned. (The contents of all replies received from Governments have been transmitted to the sources of the allegations. For reasons of brevity, this is not mentioned specifically for each country.) Where appropriate, the Special Rapporteur included country-specific observations, comments and recommendations.

102. It may be noted that the dates of urgent appeals sent by the Special Rapporteur and of communications received from Governments are included in parenthesis in the paragraphs which describe their contents. All urgent appeals sent until 22 November 1993 are reflected in this report. The communications described as "other allegations" were sent on three occasions, on 27 April 1993, 29 July 1993 and 24 September 1993. Allegations of extrajudicial, summary or arbitrary executions received by the Special Rapporteur at a later date will be dealt with in his report to the Commission on Human Rights at its fifty-first session. Follow-up letters were sent to the Governments concerned in late September 1993, with the exception of the follow-up letter to the Government of the United States of America which could only be sent on 19 November 1993.

103. All communications received from Governments by 22 November 1993 were taken into consideration in the preparation of the present report. Replies and other information that reached the Special Rapporteur at a later date will be included in his report to the Commission on Human Rights at its fifty-first session.

104. Due to restrictions on the length of documents presented to the Commission on Human Rights, the Special Rapporteur was forced to reduce considerably the detail in which cases of alleged extrajudicial, summary or arbitrary executions or death threats are presented in this report. In most cases, only the names and a very short description of the events could be included in the account of the Special Rapporteur's activities in a given country. However, all details of these cases as transmitted to the Governments concerned are available in the files of the Secretariat.

B. Country situationsAlgeriaCommunications sent

105. The Special Rapporteur transmitted to the Government of Algeria allegations according to which three Special Courts had been set up by a decree of October 1992 providing for accelerated and secret justice for those accused of "terrorist" offences and doubling the sentence for such offences.

It was reported that this law was retroactive: any case under instruction or awaiting judgement could be transferred to the Special Courts and thus be subjected to increased penalties which did not apply at the time of the offence.

106. The Special Rapporteur expressed his particular concern at reports that these Special Courts have passed 66 death sentences. Those sentenced to death were said to have no right to appeal but could only seek a review by cassation by the Supreme Court, which only rules on procedures without re-examining the facts. The Special Rapporteur asked the competent authorities to provide him with information regarding these issues.

107. The Special Rapporteur sent an urgent appeal to the Government of Algeria after being informed that the following 41 persons were sentenced to death by a Special Court on 26 May 1993: Abderrahim Hocine, Rachid Hechaichi, Karim Fennour, Jamal Chikou, Belkacem Tahri, Jamal Laski, Mabrouk Bakour, Ahmed Dahmoun, Meliani Mansouri, Youcef Boulesba, Rehda Boucherif, Said Soussan, Mohamed Aimet and 28 others (1 July 1993).

Communications received

108. The Government of Algeria replied to the allegations transmitted by the Special Rapporteur and informed him of the following: those sentenced to death on 26 May 1993 had benefited from a fair trial and were sentenced in conformity with the legislation in force at the time they committed their crime, a bomb attack at Algiers airport in August 1992. This legislation provided for capital punishment. The Government further informed the Special Rapporteur that the Special Courts were instituted in Algeria in response to acts of terrorism and subversion spreading terror among the civilian population. The offences qualified as "terrorism" have been specified in a law decree of 30 September 1992. This decree was not retroactive. The Special Courts, composed of five judges, were "special" only with regard to the nature of the offences they were dealing with. The rights of defendants to a fair trial were fully ensured, including the right to review by cassation by the Supreme Court (12 October 1993).

Follow-up

109. The reply received from the Government of Algeria has been transmitted to the source for comments and observations. It should be noted that the source has informed the Special Rapporteur that six of the above-mentioned persons (Abderrahim Hocine, Rachid Hechaichi, Karim Fennour, Jamal Chkou, Meliani Mansouri and Said Soussan) were executed by firing squad on 31 August 1993 after the Supreme Court had upheld their sentences.

110. In November 1993, a delegation of the Algerian Government met with the Special Rapporteur to discuss in detail the concerns expressed by the Special Rapporteur with regard to the above-mentioned anti-terrorism decree. During this meeting, the representatives of the Algerian Government also invited the Special Rapporteur to carry out a visit to Algeria.

Observations

111. The Special Rapporteur wishes to express his great appreciation of the willingness to cooperate shown by the Government of Algeria. The meeting with a delegation of experts in the Algerian justice system was a welcome opportunity for him to deepen his understanding of the situation in the country and the anti-terrorism legislation. The Special Rapporteur thanks the Government of Algeria for its invitation to carry out a mission to that country. The date of the visit will be determined in further consultations with the authorities.

112. The Special Rapporteur fully understands the difficulties faced by the Government in its efforts to curb violent attacks by Islamist militants which have caused considerable human and material damage. However, he remains concerned that the October 1992 decree provides for an extension of capital punishment to a number of offences previously punishable by life imprisonment as well as restrictions on the right to an adequate defence, in particular, the possibility of a prolongation of pre-trial detention up to 12 days, time-limits set for the completion of the judicial stages of the proceedings, the fact that the choice of a lawyer is subject to approval by the judge and the right of judges to impose sanctions against lawyers during the trial and to bar them from exercising their functions. This means that the level of guarantees enjoyed by defendants in proceedings before the Special Courts is considerably lower than in trials before ordinary jurisdictions.

113. The Special Rapporteur is also concerned that the appeal procedure against convictions and sentences passed by the Special Courts, namely the review of cassation before the Supreme Court, does not ensure the full right to appeal, as the Supreme Court only reviews legal aspects and not facts. Furthermore, the decree provides for the imposition of capital punishment on persons from 16 to 18 years of age. Although, as stated by the representatives of the Government of Algeria, this provision has never been applied, it constitutes a breach of the relevant international instruments.

114. While until July 1993, 66 death sentences had been reported to the Special Rapporteur, recent information brought to his attention indicates that more than 350 death sentences were pronounced by Special Courts between February and November 1993. The Special Rapporteur is deeply concerned at this increase and will continue to monitor closely all developments in this area. He calls upon the Government of Algeria to revise its anti-terrorism legislation so as to make it conform to the standards set forth in the pertinent international instruments.

Angola

115. The Special Rapporteur received alarming reports about violations of the right to life in Angola. A particularly high number of killings was said to have been perpetrated both by government forces and by members of the Uniao Nacional para a Independência Total de Angola (UNITA) in Luanda between 31 October and 3 November 1992. Extrajudicial executions were reported to have continued throughout 1993. No information has been received as concerns measures to prevent such executions from taking place or to bring to justice those responsible. The extreme gravity of the situation was

brought to the attention of the Security Council on 25 May 1993, when the Secretary-General reported (S/25840) that 1,000 persons were dying every day as a direct or indirect result of the fighting. In his report to the Security Council on 27 October 1993 (S/26644), the Secretary-General underlined that this figure was a conservative estimate. Large numbers of civilians, including women, children and elderly persons, had died in cities under siege, as a result of lack of food or after the explosion of mines.

Communications sent

116. The Special Rapporteur transmitted to the Government of Angola allegations he had received concerning the extrajudicial execution at different times of 1992 of the following nine persons, among them one woman, in the context of conflicts between government forces and members of the Front pour la Libération de l'Etat de Cabinda (FLEC) in September 1992: Deacon Arao, Pascoal Pitra, Pedro Mbachí Ngimbi, Tereza Mzovo, Joao Maria Taty, Afonso Fombo Mabiala, Joao Bento, Joao Lourenço and Pascoal Mazunga. The Special Rapporteur also transmitted the case of André Segunda.

117. Copies of these allegations were also sent to the head of the United Nations Verification Mission in Angola (UNAVEM), together with a request for any information available concerning violations of the right to life in the country (11 October 1993).

Communications received

118. At the time of the finalization of the present report, no reply had been received from the Government of Angola.

Observations

119. The Special Rapporteur is deeply concerned at the alarming situation in Angola and, in particular, at the recent reports about massive violations of the right to life imputed to all parties to the conflict. The fact that only nine cases could be sent by the Special Rapporteur to the Government of Angola may be explained by the general character of the reports that have come before him. A further number of specific cases were received after the date of the most recent transmission of allegations to the Government. They will be reflected in the Special Rapporteur's report to the Commission on Human Rights at its fifty-first session.

120. The Special Rapporteur will continue to monitor closely the situation in Angola. He intends to do so in close cooperation with UNAVEM. In a letter to the head of this operation, the Special Rapporteur indicated his readiness to collaborate with UNAVEM in any manner that might be considered appropriate, including through a visit to Angola. In the light of the gravity of the reports summarized above, the Special Rapporteur urges the international community to give priority attention to the situation in Angola. Particular emphasis should also be given to human rights issues within UNAVEM.

Argentina

Communications sent

121. The Special Rapporteur sent four urgent appeals to the Government of Argentina. Two (3 February 1993; 27 April 1993) concerned alleged death threats by police against Pedro Salvador Aguirre. Death threats were also reported to have been made by members of the police against Hebe de Bonafini, President of the organization Madres de Plaza de Mayo (26 August 1993). In addition, the Special Rapporteur transmitted to the authorities concerns for the lives of the following journalists and members of their families, who had allegedly received death threats in relation to their critical reporting about the Government: Hernán López Echague, Marcelo Bonelli, Magdalena Ruiz Guiñazú, Mónica Cahen D'Anvers and Graciela Guadalupe (14 September 1993).

Communications received

122. The Government of Argentina replied to the reports of death threats against journalists by inviting the Special Rapporteur to carry out a visit to Argentina in order to verify in situ the full functioning of all institutional arrangements to guarantee the right to life and the exhaustive investigations being carried out by the Executive and the Judiciary to clarify illegal acts against press institutions and their employees (27 September 1993).

Follow-up

123. In reply to this letter of invitation, the Special Rapporteur expressed his appreciation of the willingness to cooperate shown by the Government of Argentina. He pointed out, however, that, before being in a position to decide whether the situation in Argentina warranted a visit by the Special Rapporteur, he would need concrete and factual details concerning the allegations transmitted and, consequently, reiterated his request to the Argentine authorities to provide him with such information. The Special Rapporteur also explained to the Government of Argentina that, due to time and budgetary constraints, only a very small number of visits could be carried out each year, and that it was therefore necessary to set priorities. On the basis of the information received, the overall situation with regard to the right to life in Argentina did not appear to place this country in the most urgent category (26 October 1993).

Azerbaijan

124. The Special Rapporteur has received a number of reports concerning serious violations of the right to life in the context of the ongoing armed conflict between the armed forces of Azerbaijan and forces composed of Armenians fighting for self-determination and the independence of Nagorno-Karabakh, an enclave within the territory of Azerbaijan, populated mainly by ethnic Armenians. Thousands of civilians are said to have lost their lives since 1988.

125. Various sources expressed particular concern at the resurgence of the conflict in 1992. Since January 1992, the armed forces of Azerbaijan were said to have used military airplanes and helicopter gunships in attacks

on civilian targets in a number of towns and villages. It was reported that 500-kilogramme bombs and cluster bombs were dropped on civilian homes, killing and wounding many of their inhabitants and causing great damage. Reportedly, the armed forces also employed heavy weapons such as "Grad BM-21" long-range multiple missile launchers, tanks and artillery in highly populated areas. The death toll among civilians from June 1992 through January 1993 has been estimated at 1,500. Air raids, shelling and heavy artillery attacks were reported in and near Stepanakert as well as several towns and villages in the regions of Martakert and Askeran.

126. The Special Rapporteur has also received reports of extrajudicial executions by members of the Azerbaijani armed forces of civilians or former combatants no longer taking part in hostilities. In several cases, the victims had allegedly been taken hostage and were later killed by their captors.

Communications sent

127. The Special Rapporteur sent two urgent appeals to the Government of Azerbaijan by which he expressed concern at the alleged imminent execution of death sentences passed by the Military Collegium of Azerbaijan's Supreme Court. According to the information received, there is no right to appeal against death sentences passed by the Military Collegium. The urgent appeals sent by the Special Rapporteur concerned Sergej Alexandrovitch Grebenkov (22 February 1993) and five Russian privates: Vladislav Kudinov, Konstantin Tukish, Yaroslav Yevstigneyev, Andrej Filippov and Mikhail Lisovoy (21 May 1993).

128. The Special Rapporteur also transmitted to the Government of Azerbaijan a number of specific cases which were said to have occurred in the context of the armed conflict. They concerned the following four persons, who were said to have been killed while held in detention by Azerbaijani security forces: Youri Housepi Osipovitch Dshangiryan, Vitali Verdyan, Youra Goulyan, Hratchik Shabazyan. He also retransmitted to the authorities the case of Sergej Alexandrovitch Grebenkov, who was found dead in his cell shortly before the scheduled date of his execution.

129. The Special Rapporteur also sent a letter to the Government of Azerbaijan by which he transmitted the general allegations described above and requested to be provided with information in that regard.

Communications received

130. The Government of Azerbaijan replied to the Special Rapporteur's letter containing general concerns about the situation of the right to life in the country, informing him that the Azerbaijani Republic was defending its territorial integrity, independence and sovereignty against unlawful encroachments. The Government also stated that, as a result of large-scale aggression on the part of Armenia, about 20 per cent of the territory of Azerbaijan had been annexed by regular army forces with the participation of Armenian military formations from Nagorno-Karabakh and foreign mercenaries, and accused the Government of Armenia of pursuing a policy of genocide and "ethnic cleansing". The number of dead among the peaceful population,

essentially women, old people and children, was said to total some 17,000. Furthermore, hundreds of prisoners taken by the Armenian forces had been brutally murdered. Journalists covering the events in Azerbaijan and Armenians advocating a peaceful dialogue with Azerbaijan were also said to have been killed by Armenian forces (22 September 1993).

Observations

131. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Azerbaijan in providing him with the above-mentioned reply. However, he wishes to note that no reference has been made by the authorities to the allegations attributing human rights violations to Azerbaijani government forces nor to any steps taken to investigate such allegations or to prevent abuse of force in the context of the armed conflict. No details have been provided on the concrete cases transmitted by the Special Rapporteur in 1992 and 1993.

132. The Special Rapporteur remains concerned at the reports of violations of the right to life and, in particular, large numbers of civilian casualties in the context of the conflict in Nagorno-Karabakh. He will continue to pay special attention to this problem and may envisage requesting the Government of Azerbaijan to invite him to carry out a visit to the area.

Bangladesh

133. The Special Rapporteur received reports about a number of positive steps towards an increased protection of human rights taken by the Government of Bangladesh, namely an amnesty of prisoners detained under the previous government, a review of charges brought against political opponents under the previous government, and the opening of investigations into several cases of human rights violations. However, he also continued to receive many reports and allegations indicating that human rights abuses, including extrajudicial, summary or arbitrary executions, continue to occur in Bangladesh.

134. Different sources expressed particular concern at the situation in the Chittagong Hill Tracts, a remote area under military control in south-east Bangladesh, traditionally inhabited by tribal people known as Jumma. Negotiations between the Government of Bangladesh and the Shanti Bahini, the armed wing of the tribal political organization Jana Shanghati Samiti (People's Solidarity Association), aiming at regional autonomy, have not yet led to a political solution of an armed conflict which have opposed the government security forces and the Shanti Bahini since the mid-1970s. While the latter are said to have been responsible for a large number of killings, many violations of the right to life are said to have occurred in the context of the counter-insurgency policy pursued by the Government of Bangladesh. Those allegedly responsible for extrajudicial, summary or arbitrary executions are members of the security forces as well as paramilitary forces reported to be cooperating with them, such as the "Bangladesh Rifles" or the "Ansar" guards.

135. It was further reported that members of the security forces responsible for human rights violations enjoy virtual impunity from the law. In this regard, the Special Rapporteur was informed that section 132 of the Code of

Penal Procedure of Bangladesh states that no prosecution against any person for any act purporting to be done under this chapter (Unlawful assembly) shall be instituted in any court, except with the sanction of the Government. Reportedly, no magistrate, police, civil or military officer or any subordinate officer or soldier or volunteer doing any act in obedience to any order which he was bound to obey shall be deemed to have committed an offence thereby. Furthermore, the Special Rapporteur was informed that under the Presidential Security Force (Amendment) Act 1992, passed on 15 July 1992, officers of the security forces are granted legal immunity if they shoot or kill anyone whose presence or movement is believed to threaten the physical security of the Prime Minister and of certain other important persons.

136. With regard to the death penalty, the Special Rapporteur received information according to which the Parliament of Bangladesh had approved, on 1 November 1992, the Curbing of Terrorist Activities Act 1992. This law reportedly extended the death penalty to a number of offences for which the maximum punishment previously was imprisonment. Nine offences listed under the heading of terrorism or anarchy were said to be punishable with from five years' imprisonment to the death penalty, without relating specific offences to specific punishment. The Act reportedly provided that investigations of such offences were to be completed within 30 (exceptionally 45) days and that detainees could not be granted bail. The trial, held before a special tribunal, was to be completed within 60 (exceptionally 90) days.

Communications sent

137. The Special Rapporteur transmitted to the Government of Bangladesh communications concerning the alleged extrajudicial, summary or arbitrary execution of over 30 persons, 5 of them women. Four cases concerned alleged violations of the right to life of minors.

138. The Special Rapporteur sent three urgent appeals to the Government of Bangladesh after being informed of the alleged imminent involuntary repatriation of a group of Muslim (Rohingya) refugees from Rakhine State, Myanmar (31 December 1992); of the imminent execution of the death penalty against Munir Hussain, allegedly in breach of internationally recognized fair trial guarantees (23 July 1993); and of death threats against novelist Taslima Nasran (26 October 1993).

139. The Special Rapporteur transmitted two communications to the Government of Bangladesh which contained the general concerns summarized above as well as the following specific cases of alleged violations of the right to life (27 April 1993 and 29 July 1993):

(a) Chempu Chakma, Mohini Ranjan Chakma, Mohini Bala Chakma, Master Nittamay Chakma (10), Subilash Chakma, Shabika Chakma (7), Nirashadebi Chakma (17), Prasannakumar Chakma, Nishi Kumar Chakma, Ramkamal Chakma and several unidentified civilians were reportedly extrajudicially executed by members of the security forces in the Chittagong Hill Tracts;

(b) Fulakamal Chakma, Goladhan Chakma, Ahmed Mominuddin and Momina Khatum reportedly died as a consequence of torture while held in detention by the security forces. A man called Quader was also said to have died while in police custody;

(c) Hussain Anwar, Ali Wajed, Islam Shahidul, Muddin Hasiruddin, Rahman Azizar, Zaidur and Islam Manirul (16) were reportedly killed by members of the "Bangladesh Rifles" in the Chittagong Hill Tracts when they tried to prevent the soldiers from stealing cattle in their villages;

(d) Moin Hussain Raju was reportedly killed by police during a peaceful student demonstration on the campus of Dhaka University.

Communications received

140. The Government of Bangladesh provided replies regarding a number of these cases. With regard to the death sentence against Munir Hussain, the Government reported that three courts, namely the Sessions Court, the High Court Division of the Supreme Court and the Appellate Division of the Supreme Court had reached the conclusive opinion that Mr. Hussain had murdered his wife. He had been defended by competent lawyers. Allegations concerning shortcomings in the right to a fair trial were without basis. His trial, conviction and execution was not extrajudicial, summary or arbitrary (2 August 1993).

141. With regard to the cases transmitted by the Special Rapporteur in his letter of 27 April 1993, the Government of Bangladesh reported that most deaths had occurred during armed encounters between government forces and the Shanti Bahini, or as a result of armed attacks by the latter. Several of those killed were said to have been active members of the insurgents. One of them, Fulkamal Chakma, committed suicide in his cell; one other, Goladhan Chakma, died of natural causes while being escorted by a patrol towards Guimara army camp (19 October 1993).

142. In the same letter, the Government of Bangladesh repeated information provided in an earlier communication (27 May 1993) concerning a number of the allegations transmitted by the Special Rapporteur in 1992. These incidents were described as terrorist attacks in which the security forces had not been involved at all; a clash in which no innocent civilians had been affected; and one case in which law enforcement agents had to open fire to prevent the escape of a terrorist.

143. The Government of Bangladesh also informed the Special Rapporteur that the information whereby a religious group, infuriated by passages in a novel published by Taslima Nasreen, had condemned her to death, were false, concocted and politically motivated. The group itself had denied in a press conference having pronounced such a condemnation. After the publication of the false reports, the writer had requested, and was granted, police protection. Her normal life had not been restricted or disturbed in any way. This has been confirmed by the source of the allegation (17 November 1993).

Follow-up

144. The Special Rapporteur addressed a letter to the Government of Bangladesh in which he requested additional information concerning the replies received during 1992 (see E/CN.4/1993/46, paras. 115-117), as well as on 27 May and on 2 August 1993. These requests concerned, in particular, details on the grounds for the Government's affirmation that the reports of alleged violations of the right to life were without factual basis. With regard to the massacre at Logang cluster village (E/CN.4/1993/46, paras. 116-117), the Special Rapporteur asked to be provided with additional information concerning the inquiry carried out, the text of the decision which concluded the investigation, as well as clarifications concerning the role of the "Bangladesh Rifles" and other paramilitary groups and measures adopted to prevent excessive use of force in counter-insurgency operations.

145. The contents of the replies provided by the Government to the cases transmitted in were communicated to the sources of the allegations. One source already provided the Special Rapporteur with comments, reinforcing the earlier allegations.

Observations

146. The Special Rapporteur appreciates the replies provided by the Government of Bangladesh to a number of the cases transmitted. He has taken note with appreciation of the above-mentioned reports of measures taken with a view to better protection of human rights. However, the Special Rapporteur remains concerned at the situation in the country, particularly since similar allegations continue to be received. In the process of follow-up, the disparity between the allegations received from different sources and the information provided by the Government in its replies has increased further, after additional details have been provided by a source. In this context, the Special Rapporteur wishes to express his continued interest in carrying out an on-site visit to Bangladesh. Such a visit had been requested in 1992, in connection with the killings at Logang cluster village in April 1992 (see E/CN.4/1993/46, paras. 112, 113, 116, 117). The Government of Bangladesh had informed the Special Rapporteur that, since an official commission had investigated the incident, a further investigation would not serve any useful purpose. In a letter to the authorities, however, the Special Rapporteur reiterated his interest in visiting Bangladesh, since the objective of his visit, rather than carrying out an investigation which falls within the responsibility and competence of the local authorities, would be to gather first-hand experience of the situation in the country so as to be in a position to evaluate better the information that comes before him and to make recommendations concerning the protection of the right to life.

Brazil

147. As in former years, the Special Rapporteur has received various reports indicating that violence against "street children" and in the context of land conflicts in rural regions are the two principal causes for violations of the right to life in Brazil.

148. As regards "street children", the Special Rapporteur was informed that in February 1992, a Parliamentary Commission of Inquiry published a report on "The extermination of minors" and concluded that the participation of members of the civil and military police in the killings of children and adolescents was far from being exceptional. According to this commission, police killings were the third highest cause of homicide of children and adolescents in Brazil. "Death squads", often composed of off-duty civil and military police officers hired by local shopkeepers to "clean up" the streets where they have their business, are also often reported to be responsible for killings, death threats and acts of harassment and intimidation against "street youth". Allegedly, local police often support such "death squads" and sometimes even participate in their operations.

149. The Special Rapporteur has recently received information according to which, during the first half of 1993, 320 "street children" were killed in Brazil. Particularly disturbing reports referred to mass killings by members of the military police of "street children" in shantytowns of Rio de Janeiro, and about threats to the safety of eye-witnesses to these massacres who presented their testimony in judicial investigations and identified those responsible.

150. The Special Rapporteur also received numerous reports and allegations concerning extrajudicial killings of and death threats against peasants, particularly if they are of indigenous origin, who claim their property rights to land. These rights are said to be guaranteed in the 1988 Constitution. Persons representing these peasants in their efforts to have their land demarcated, such as human rights workers, trade unionists, lawyers or religious figures, are also often said to be victims of executions or death threats. The States of Pará and Mato Grosso do Sul have repeatedly been named as being particularly affected by this phenomenon. Several observers have denounced the persistent failure on the part of the authorities to assure effective protection for the peasants and to impose sanctions upon those responsible for killings and threats. According to the information received, in most cases these are gunmen hired by local landowners who are said to be enjoying support from the police.

151. The killing in August 1993 of at least 50 Yanomami indians in the north of Brazil by a group of garimpeiros (goldminers) who were said to have threatened them on earlier occasions was reported to the Special Rapporteur as a particularly serious case in which the authorities failed to protect the right to life.

Communications sent

152. The Special Rapporteur communicated to the Government of Brazil allegations concerning violations of the right to life of 128 persons; 20 cases concerned alleged violations of the right to life of women. Ten urgent appeals were sent on behalf of persons whose life and physical integrity was said to be under threat. Three urgent appeals concerned particularly grave mass killings. In three letters to the authorities, the Special Rapporteur transmitted seven further cases of alleged extrajudicial, summary or arbitrary executions. Twenty-five cases concerned alleged violations of the right to

life against "street children". Ten cases were said also to constitute violations of the right to freedom of opinion and expression, peaceful assembly and association.

153. The Special Rapporteur urged the Government of Brazil to ensure effective protection of the right to life of:

(a) "Street child" Valdeci Souza Santos, after the killing of six others: Carlos Henrique Moreira, Carlos Andre dos Santos, Antonio Carlos de Oliveira, Alexandre Silva Neves, Carlos Henrique de Souza Santos and Alexandre Marcio Pacheco de Oliveira (31 December 1993); "street children" Ademir Silveira dos Santos and Moises Silva do Nascimento, as well as street educators Father Horacio Caballero and Sister Maria Cecilia Garez Leme (30 April 1993); human rights activist Raimundo Nonato Souza Santos (16 August 1993); "street children" Fabio de Oliveira (Barao) (13), Michael Andre de Aguiar (13), Marcos Pereira Muniz (14), Fabio Ribeiro (15), Elizabeth Cristina (Beth) de Oliveira Maia (16), Rogerio da Silva (16), Sergio Dias Gomes (16), Leonardo Teixeira de Sa, as well as Neilton Pereira dos Santos and Wagner dos Santos, all of whom had eye-witnessed the killing of seven "street children" in Rio de Janeiro (15 October 1993);

(b) Marilene Lima da Souza, Vera Lucia Flores, Denise Vasconcelo, Euzilar Joana da Silva Oliveira, Edneia Santos Cruz and Teresa Souza Costa, mothers of children who had disappeared in June 1990, after the killing of two of them, Edmeia da Silva Eusebio and Sheila da Conceição (28 January 1993);

(c) Trade unionists Valdinar Pereira Barros and Francisco Geronimo da Silva (22 December 1992); missionary Elsa Rosa Zotti (13 July 1993); lawyers Valdenia Brito, Katia Costa Pereira and Jayme Benvenuto de Lima Jr. (2 August 1993); nun and lawyer Cecilia Petrina de Carvalho, municipal counsellor Analdino Laranjeira and Bishop Pedro Casaldáliga (22 November 1993).

154. The Special Rapporteur also sent urgent appeals to the Government of Brazil after receiving reports of the killings of "street children" Paulo Roberto de Oliveira, Marcelo Candido de Jesus, Valderina Miguel Rogerio de Almeida, Paulo Jose da Silva, Anderson Thome Pereira, Marcos Antonio Alves da Silva, Gamabzinho and Nogento in Rio de Janeiro (30 July 1993); approximately 50 Yanomami Indians in northern Brazil (26 August 1993); Gilberto Cardoso dos Santos and 20 others (names available with the Secretariat) in the Vigario Geral shantytown of Rio de Janeiro (7 September 1993).

155. The Special Rapporteur transmitted to the Government of Brazil the alleged extrajudicial, summary or arbitrary execution of:

(a) "Street child" José Alves da Cunha (13);

(b) Local counsellor Renildo José dos Santos, trade union leader Arnaldo Delcidio Ferreira, Paulo Henrique da Silva, trade union leader Amancio Francisco Dias, Reinaldo Silva and agricultural cooperative leader Joaci Rodrigues da Silva.

Communications received

156. In 1993, the Government of Brazil provided the Special Rapporteur with replies informing him that inquiries had been opened and continued to be carried out into alleged death threats against Nivaldo Vieira do Nascimento (see E/CN.4/1993/46, para. 125 (g)) (1 July 1993) and lawyers Valdenia Brito, Katia Costa Pereira and Jayme Benvenuto de Lima (2 November 1993). All four were granted special protection. The latter three subsequently considered that police protection was no longer necessary and requested its suspension. The Government of Brazil also informed the Special Rapporteur that judicial investigations had been opened into the massacre of "street children" in Rio de Janeiro, and that the eye-witnesses were being protected by military police in the "Witnesses House" in Rio de Janeiro (2 November 1993).

157. With regard to the massacre of 21 people in Vigario Geral, the Government of Brazil informed the Special Rapporteur that the allegations were accurate, and that the crime had roused the abhorrence of the Brazilian Government and the society as a whole. The authorities publicly condemned the massacre as an inadmissible act of revenge. As a consequence, the Minister of Justice announced the creation of a special unit within the Federal Police to investigate crimes perpetrated by gangs and death squads in Brazil, with particular attention to the activities of death squads in Rio. As concerns the police investigation into the crime of Vigario Geral, 28 military police officers had been arrested and warrants had been issued against five others. The commander under whose orders those accused served was dismissed. Legal procedures were initiated to grant compensation payments to the relatives of the victims (15 November 1993).

158. The Government of Brazil also provided information with regard to the following cases transmitted in 1993:

(a) Raimundo Nonato Souza Santos: in response to his claim that the State police in Manaus was giving paramilitary training to children from 9 to 17 years old, this police project was suspended by preliminary ruling on 18 August 1993 and proceedings were initiated by the Attorney for Children and Youth of the State of Amazonas and on the Federal level. The municipality of Manaus was called upon by the federal authorities to provide an alternative form of assistance to the 348 boys involved (10 November 1993);

(b) Elsa Rosa Zotti: the State authorities of Mato Grosso were instructed to provide the necessary protection to the missionary (11 November 1993);

(c) José Renildo dos Santos: the allegations corresponded to the findings of the police inquiry into the case. Six persons, namely the mayor of Coqueiro Seco, his father and four military police officials were formally charged with murder with aggravating circumstances. Their preventive detention was requested (11 November 1993);

(d) The massacre of Yanomami indians: an ad hoc bilateral commission under the joint responsibility of the Brazilian and Venezuelan Ministries of External Relations was set up and had started investigating the events, which occurred inside Venezuelan territory. The commission held its first meeting

to exchange information on 21 September 1993. The Brazilian authorities had arrested two suspects and arrest warrants for 19 others had been issued (18 November 1993).

159. In addition, the Government of Brazil informed the Special Rapporteur about the recent sentence of 516 years' imprisonment imposed on a police officer found responsible for the deaths of 18 inmates of Parque Sao Lucas prison in Rio de Janeiro in February 1989 (23 November 1993).

Follow-up

160. The Special Rapporteur sent a letter to the Government of Brazil in which he requested additional information on a number of cases for which the authorities had provided replies in 1992. These requests concerned the current status of investigations that had been opened as well as the concrete measures adopted to protect persons under threat, and the progress of the inquiries into alleged death threats and attempts of extrajudicial, summary or arbitrary executions (22 September 1993).

161. By the same letter, the Special Rapporteur transmitted to the Government of Brazil additional information he had received concerning the investigation into the killing of 111 prisoners in the Sao Paulo Detention House in October 1992. This case had been transmitted by the Special Rapporteur in 1992 and the Government had forwarded a reply (see E/CN.4/1993/46, para. 130). Several sources had alleged serious shortcomings in the way the inquiries had been carried out, particularly with regard to the gathering and preservation of evidence. It was also pointed out that none of the official investigations concluded by attributing individual responsibility to any of the military police officers involved, despite there being sufficient evidence to do so. However, it was reported that judicial proceedings had been opened before a military court in Sao Paulo. The Special Rapporteur asked the Government of Brazil to provide him with information on the allegations summarized above, the current state of the proceedings, any sanctions imposed on any of the officers involved, any compensation granted to the families of the victims, as well as any measures adopted to prevent similar incidents from happening again in the future.

162. The Government of Brazil also informed the Special Rapporteur that the death threats against Antonio Fernandes Pereira and Isaias Mendonça Araujo (see E/CN.4/1993/46, para. 125 (d)) had been investigated by the police and the public prosecutor of Itaguatins. It was established that they had come from their own relatives in the context of land disputes (15 November 1993).

163. During his visit to Geneva in November 1993, the Special Rapporteur met with a representative of the Brazilian Government who provided him with additional information concerning the efforts undertaken by the Brazilian authorities with a view to investigating past violations of the right to life and preventing the occurrence of similar incidents in the future. In particular, the Special Rapporteur was informed about projects to set up a special unit within the Federal Police to investigate killings by "death squads" and to carry out a reform of the judiciary, as well as measures directed at changing the mentality of the police and diminishing frictions between the federal and State security forces. There are plans to introduce

new legislation under which grave human rights violations would be considered as federal offences and which would place the military police under the orders of the civilian judiciary. The Special Rapporteur was further informed that efforts to curb impunity were widely supported by the civilian population, as was shown by a recent demonstration with over 20,000 participants in Rio de Janeiro.

Observations

164. The Special Rapporteur highly appreciates the willingness to cooperate shown by the Government of Brazil. He has taken note with satisfaction of the measures announced by the authorities to bring to justice the perpetrators of human rights violations and encourages them to continue their efforts in this regard. It is hoped that the increasing awareness of both the authorities and the society, as manifested in the above-mentioned demonstration, may lead to increased protection for the right to life in Brazil. As to the difficulties arising out of the division of tasks between federal and State security forces, the Special Rapporteur wishes to stress that the obligation of the federal Government under international law to investigate human rights abuses, bring to justice those responsible, ensure victims' rights and prevent further abuses, extends to all components in the federative structure. Thus, legislation and practice in all States must conform to the international standards.

165. However, the Special Rapporteur remains concerned at persistent and grave allegations about violations of the right to life against "street children" and in the context of land conflicts. The Special Rapporteur urges the Government of Brazil to undertake every effort to grant special protection to "street children". The Special Rapporteur would also like to express deep concern at the killings of Edmeia da Silva Eusebio and Sheila da Conceição, two of the mothers of a group of children who had disappeared from Magé in June 1990, despite earlier urgent appeals by the Special Rapporteur to the Government of Brazil in which he requested that they be protected from possible attempts at their lives.

Burundi

166. In early 1993, the Special Rapporteur received encouraging reports indicating that positive steps towards democracy had been taken in Burundi: In March 1992, after 26 years of one-party rule under the Party of Unity and National Progress (UPRONA) dominated by the Tutsi ethnic group, the country became a multi-party State. The first presidential elections took place on 1 June 1993 and were reportedly held peacefully. They were followed, on 29 June, by the first multi-party legislative elections since 1965. President Buyoya, who had initiated the reforms, and his party were overwhelmingly defeated, and President Ndadaye, a member of the Hutu ethnic group, and his party, the Front for Democracy in Burundi (FRODEBU), came to power.

167. On 21 October 1993, the armed forces, 90 per cent of whose members are reportedly Tutsi attempted a violent coup d'état during which President Ndadaye and senior government officials (both Hutu and Tutsi) were extrajudicially executed. Following the attempted coup, peaceful

demonstrations were violently repressed by the army which resulted in an undetermined number of civilian casualties. As on numerous occasions in the past, ethnic massacres erupted among the civilian population, especially in the rural areas: Tutsi were killed by Hutu in acts of revenge and Tutsi, especially members of the armed forces, killed Hutu. This violence is believed to have resulted in tens of thousands of deaths and in as many as 700,000 refugees in neighbouring countries.

Communications sent

168. Following the attempted coup, the Special Rapporteur sent an urgent appeal jointly to the Government of Burundi and to the Chief of Staff of the Armed Forces expressing concern for the life and physical integrity of President Ndadaye and other senior government officials (22 October 1993).

Communications received

169. At the time of the preparation of the present report, no communications had been received from the Government of Burundi. However, it should be noted that at the time the Special Rapporteur sent the above-mentioned urgent appeal, the remaining members of the Government had sought refuge in a hotel under the protection of French gendarmes.

Observations

170. The Special Rapporteur was appalled by the recent violent attempted coup in Burundi, which constituted a setback in what appeared to be promising reforms in a country marked by numerous ethnic conflicts and massacres over many years. The information received by the Special Rapporteur was incomplete, due both to the breakdown of communications during the attempted coup as well as to the remoteness of the regions where the worst massacres were reported to have taken place. At the time of the preparation of the present report, precise casualty figures were not known. However, the reports received indicate an alarmingly high death toll.

171. The Special Rapporteur is concerned that the acts of violence described above may affect the already fragile peace achieved in neighbouring Rwanda, where similar ethnic tensions prevail (see E/CN.4/1994/7/Add.1). As the Special Rapporteur pointed out in the conclusions of his analysis of violations of the right to life in Rwanda, lessons should be drawn from the past, and the vicious cycle of ethnic violence which has drenched both Burundi and Rwanda in blood must be broken. To this end, the impunity of the perpetrators of the massacres must be definitively brought to an end and preventive measures to avoid the recurrence of such tragedies must be designed.

172. It was reported that the Government of Burundi had requested that an international force help to stabilize the situation in the country and that an independent international investigation into the killings be carried out. The Special Rapporteur hopes that international intervention in Burundi will not limit itself to sending troops, but that the protection of human rights will be taken into account in its preparation.

173. The Special Rapporteur may request an invitation from the Government of Burundi to carry out a mission to that country. Considering the nature of the problems facing Burundi, such a visit could be undertaken jointly with the Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng. Furthermore, it could be combined with a possible follow-up mission to Rwanda.

Cambodia

174. According to reports received by the Special Rapporteur, grave human rights violations continue to occur in Cambodia in the context of widespread violence and a judicial system which was allegedly incapable of serious enforcement of any existing legal code.

175. The Special Rapporteur received a number of reports concerning members of a newly created legal opposition party, the Buddhist Liberal Democratic Party (BLDP), who were said to have been victims of attacks by members of the Popular Armed Forces, the security forces of the State of Cambodia, in 1992. Information was also received concerning the killing of numerous ethnic Vietnamese civilians by the Partie of Democratic Kampuchea (PDK or Khmer Rouge), which reportedly refused to disarm its troops and violated the cease-fire on a regular basis. It was further reported that, in the context of continuing fighting between the PDK and government forces, the killing of ethnic Vietnamese had become a tool for maintaining a state of terror and endemic violence in many parts of the country.

Communications sent

176. The Special Rapporteur transmitted to the Government of Cambodia 10 cases of alleged extrajudicial, summary or arbitrary executions which were said to have occurred in 1992: five persons were found dead a few days after their arrest by members of the armed forces; In Dar and Vun Thom Dar were killed during a bomb attack on the offices of the BLDP shortly after members of the party had received threats from members of the Popular Armed Forces; BLDP member Ath Sodhan and his mother Yea Naun were killed at home during an attack by members of a unit of the Popular Armed Forces; BLDP member Duong Ngieb was killed by armed men allegedly linked to the police.

Communications received

177. At the time of the preparation of the present report, no communications had been received from the Government of Cambodia.

Observations

178. The Special Rapporteur wishes to emphasize that the recent withdrawal of the United Nations Transitional Authority in Cambodia (UNTAC) does not mean that all problems regarding the respect of the right to life, especially the violent incidents provoked by the forces of the PDK, have been solved in Cambodia. In fact, allegations of violations continue to be transmitted to the Special Rapporteur and, according to the reports received, the weakness of the judiciary and the continuing impunity enjoyed by the perpetrators, as well

as the climate of violence and terror still prevailing in the country, create an atmosphere favourable to the persistence of human rights violations, including violations of the right to life.

179. The Special Rapporteur hopes that the cooperation he had started with UNTAC would continue with its successors. This should be facilitated by the fact that a human rights programme in Cambodia has been initiated by the Advisory Services and Technical Cooperation Branch of the Centre for Human Rights.

Cameroon

180. The Special Rapporteur received reports concerning violations of the right to life in 1992 by members of the Cameroonian security forces in the context of the state of emergency in North-West Province, of political unrest in many cities, and of intercommunal disturbances. Such reports included killings of civilians by gendarmes who were said to have opened fire indiscriminately on groups of people, in particular against participants in peaceful demonstrations. The Special Rapporteur was also informed about one case of death as a result of torture in security police custody.

Communications sent

181. The Special Rapporteur sent one urgent appeal to the Government of Cameroon in response to reports concerning four Chadian exiles who were believed to be about to be forcibly returned to Chad, where their life and physical integrity were feared to be at serious risk: Abbas Kotti, former Minister of the Government of Chad, Bichara Digui, Bichara Idriss Hagar and Mahamat Souleymane (31 December 1992).

182. The Special Rapporteur transmitted to the Government of Cameroon nine specific cases which were all reported to have taken place in 1992. They concerned: Hilary Bantar Njeta, who was said to have been killed by gendarmes in retaliation for assaults by a crowd against their houses; Anthony Tangiri, Joseph Yongla and Glory Ngeh, allegedly due to excessive use of force; two non-identified persons during a demonstration; Gandhi Che Nowa, reportedly as a consequence of torture in security police detention; Fidolis Fonga Ayaba, allegedly shot at close range by a policeman; and Gidéon Manko Ngum, lynched by a crowd reportedly benefiting from the complicity of members of the security forces.

Communications received

183. The Government of Cameroon replied to two urgent actions sent by the Special Rapporteur in November 1992 (E/CN.4/1993/46, paras. 160 and 161), informing him that Victorin Hamari Bieuleu and Nyo Wakai had been released and that their life and physical integrity had not been threatened; Alhadji Umaru Sakini had also been released and Joseph Ekosene had never been arrested (26 April 1993).

Observations

184. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Cameroon in providing replies to two of the urgent appeals

sent in 1992. However, it must be noted that no information was received with regard to another urgent appeal sent by the Special Rapporteur in 1992 in response to particularly grave allegations concerning the treatment of sick inmates of Tcholliré II prison. In this context, it should be recalled that as many as 70 persons held at that prison were reported to have died as a result of malnutrition and medical neglect (E/CN.4/1993/46, paras. 157 and 158).

185. According to information recently received from the source of the allegations, Abbas Kotti was extrajudicially executed by members of the Republican Guard in the Chadian capital N'Djamena on 22 October 1993.

186. The Special Rapporteur calls upon the Government of Cameroon to comply with its obligation to investigate all allegations of violations of the right to life, bring to justice their perpetrators, and provide compensation to the families of the victims. The Special Rapporteur also urges the authorities to adopt all necessary measures to avoid excessive use of force against those peacefully exercising their right to freedom of opinion and expression, peaceful assembly and association.

Central African Republic

187. The Special Rapporteur sent an urgent appeal to the Government of the Central African Republic after receiving information about the killing of at least four persons, including one woman identified as Hermine Yakite, by security forces between April and June 1993. Three were said to have been killed when security forces opened fire against demonstrators. Fears had been expressed that similar abuses of force might occur in further demonstrations that were expected to take place in connection with elections scheduled for August 1993. The Special Rapporteur urged the authorities to adopt all necessary measures to prevent such acts (16 June 1993).

188. The Special Rapporteur also transmitted to the Government of the Central African Republic allegations concerning the killing by police of Dr. Jean Claude Konjugo during a demonstration in August 1992.

Communications received

189. At the time of the preparation of the present report, no communications had been received from the Government of the Central African Republic.

Chad

190. The Special Rapporteur received a number of reports concerning serious violations of the right to life in Chad. According to the information that has come before him, more than 800 persons have been extrajudicially executed since December 1990, when President Idriss Déby came to power. Numerous killings were said to have taken place during counter-insurgency operations and reprisal attacks against persons perceived by government security forces as members or supporters of rebel groups because of their ethnic origin or place of residence.

191. The Special Rapporteur was informed that President Déby started his leadership on a positive note, namely the institution of a commission of inquiry to investigate abuses committed during the eight years of office of President Hissein Habré, during which over 40,000 people are believed to have been killed or to have disappeared. However, according to the reports received, no steps have been taken to exercise effective control over the security forces, who reportedly continued to resort to excessive lethal force against unarmed civilians or captured insurgents. It was further reported that members of the security forces who commit violations of human rights enjoy virtual impunity, in part because the judiciary, allegedly due to lack of support from the authorities, is largely unable to bring those responsible to justice. Similarly, the Procuracy, itself reportedly under threat from the security forces, is said to have no possibility to arrest people who are protected by the military.

192. The Special Rapporteur received alarming reports about massive killings of civilians by security forces in the regions of Moyen-Chari and Logone Oriental during the first half of 1993. A number of these killings were said to have been committed in retaliation for earlier attacks on security forces by armed opposition groups. In August 1993, more than 30 civilians were reported to have been killed when security forces allegedly used automatic weapons and rockets to disperse demonstrators in the capital N'Djamena.

193. A National Conference was held from mid-January to early April 1993 to debate Chad's political future and introduce reforms and measures to ensure respect for human rights. Some steps in this direction, such as the abolition of the security police force set up in 1991 or an inquiry, in April 1993, into human rights violations in southern Chad, are already said to have been taken. However, it is still unclear to what extent the recommendations formulated by the National Conference have actually been implemented.

Communications sent

194. The Special Rapporteur transmitted to the Government of Chad allegations he had received concerning violations of the right to life of at least 250 persons; 132 of them were allegedly extrajudicially executed while exercising their right to freedom of opinion and expression, peaceful assembly and association.

195. The Special Rapporteur sent four urgent appeals to the Government of Chad in which he urged the authorities to adopt all necessary steps to avoid the recurrence of violations of the right to life, after he received information concerning: the killing by the Republican Guard, a unit of the Chadian National Army, of 45 inhabitants of Goré town and surrounding villages, including Djimta Balo, Mathieu Ndotoloum, Jacob Dibo, Gabriel Mbaïtoloum, Rachel Yohodutum and Alphonse Ndooyo, as well as young children and women, and the deployment in the region of Moyen-Chari of large numbers of heavily armed soldiers (12 February 1993); continued attacks on civilians by the Republican Guard in the Moyen-Chari region, which included the alleged extrajudicial execution of Jacques Diedje, Maoundé Mbaléri, Issa Mbaléri, Maoudé Bawa and Yaïnlé Gourde as well as the abduction of four women (23 March 1993); the extrajudicial execution in April 1993 of at least 100 unarmed civilians by the Republican Guard in Logone

Oriental province (27 April 1993); the killing of more than 30 civilians and the injuring of over 150 others during clashes on 8 August 1993 between demonstrators and security forces in N'Djamena (19 August 1993).

196. The Special Rapporteur also transmitted to the Government of Chad the following four specific cases: Mianbe Mbailao, civil servant, reportedly killed by army officials whom he had accused during a radio programme of having stolen international aid funds; Albo Madjigoto, reportedly killed by two unidentified men driving a military vehicle; Mostapha Hisseine, killed in a car accident allegedly provoked by members of security forces; and at least 100 unarmed civilians, allegedly killed when members of the armed forces fired at them indiscriminately during a counter-insurgency operation in Doba.

Communications received

197. The Government of Chad provided the Special Rapporteur with the following information in reply to some of the cases transmitted to the authorities by the Special Rapporteur in 1992. There was nothing to prove that Joseph Behedi had been assassinated by the army nor that Ali Assali, Bedel Gabriel, Mahamat Dabou or Issa Etenna had been arrested solely because of their ethnic origin (see E/CN.4/1993/46, para. 167 (a) and (b)). An investigation had been opened concerning the incidents of October 1991 and concerning the cases of Goukouni Guet and Mahmat Saker (E/CN.4/1993/46, para. 167 (c)) (15 January 1993).

198. The Government of Chad also informed the Special Rapporteur that commissions of inquiry had been established to investigate violent incidents resulting in civilian casualties in October 1991 and June 1992. The Government denied formally the existence of paramilitary groups operating with the acquiescence of the Government and stated that acts of violence committed by individuals or paramilitary groups were the consequence of the proliferation of weapons in the country after a long period of war. The Government also informed the Special Rapporteur that it was the task of the Chadian judiciary to deal with allegations of death threats by the police and that persons under threat should therefore address themselves to the competent authorities (24 May 1993).

199. In reply to the Special Rapporteur's urgent appeal of 23 March 1993 the Government of Chad reported that a Commission of Inquiry had conducted investigations to determine responsibility for the killings of civilians in the context of confrontations between the Chadian National Army and rebels of the Committee for the Revitalization of National Peace and Democracy (CSNPD) in region of Logone Oriental (not in Moyen-Chari). The Commission concluded that innocent persons had been killed as a result of the confrontations between the army and the rebels and that deliberate massacres and looting had been carried out by certain elements of the army. The officers responsible had been arrested and transferred to the capital to be brought to justice and all officials, civil servants and soldiers implicated had been dismissed. Those mentioned in the urgent appeal as having been killed by the security forces were actually killed by the rebels (2 June 1993).

200. Finally, the Government of Chad informed the Special Rapporteur in reply to his urgent appeal of 19 August 1993 that a gathering of mourners in

N'Djamena had turned into an unauthorized demonstration with the clear intention of disturbing public order. In order to prevent an escalation, police tried to disperse the crowd with tear-gas. As it was not possible to control the demonstrators, and after three gendarmes and three policemen had been killed, the Chadian National Army was called upon. After firing warning shots, the army used firearms to disperse the demonstration. In addition, the Government informed the Special Rapporteur that, on 29 June 1993, the Council of Ministers had adopted a number of measures to restore public order and ensure security for the population (10 September 1993).

Follow-up

201. The Special Rapporteur sent a follow-up letter to the Government of Chad in which he referred to the first three of the above replies. The Special Rapporteur requested additional details concerning the commissions of inquiry instituted to investigate human rights violations and, in particular: their composition; the procedures applied; sanctions and sentences, judicial or other, imposed on the persons found responsible for such human rights violations; compensation granted to the families of the victims; and the measures taken to avoid further similar incidents. The Special Rapporteur also asked to be informed about the basis on which the Government imputed killings to the rebel forces, in particular about any inquiries as may have been carried out.

202. With regard to the cases mentioned above, the source of the allegations replied to the Special Rapporteur's request for comments and observations on the information provided by the Government of Chad. The source informed the Special Rapporteur that, according to the information at its disposal, no independent investigation had been conducted into any of the cases; that the commission of inquiry into the events of October 1991 had been announced but never actually began any inquiry; and that none of the recommendations made by the commission of inquiry into the massacres in Logone Oriental prefecture had been implemented. The Special Rapporteur will follow up on this information with the Government of Chad.

Observations

203. The Special Rapporteur wishes to express his appreciation for the willingness to cooperate shown by the Government of Chad in providing him with the replies summarized above. The Special Rapporteur welcomes the holding of the National Conference and the establishment of commissions of inquiry as steps towards a better protection of the right to life. However, he is concerned that recommendations by the National Conference appear not to have been followed. Persistent allegations of violations of the right to life and reports according to which no independent inquiries have been carried out are also most disturbing.

204. The Special Rapporteur calls upon the Government of Chad to take urgent measures to put an end to impunity and to enable the judiciary to effectively carry out its role in the many reported cases of violations of the right to life, especially those perpetrated by the security forces. The Special Rapporteur also urges the authorities to adopt preventive measures to avoid the recurrence of violent incidents.

Chile

Communications sent

205. The Special Rapporteur urged the authorities to adopt all necessary measures to prevent the excessive use of force by security forces, particularly in the context of demonstrations, after José Octavio Araya Ortiz and Sergio Leopoldo Calderón Beltrami were said to have been killed by carabineros during a manifestation. The Special Rapporteur also appealed to the authorities to ensure effective protection of eye-witnesses who had allegedly received death threats (29 September 1993).

206. The Special Rapporteur transmitted to the Government of Chile allegations concerning the killing of the following three persons during an attempted escape from a prison in Santiago, allegedly due to excessive use of force of the prison guards: Pedro Ortiz Montenegro, Mauricio Gómez Lira and José Miguel Martínez.

Communications received

207. The Government of Chile provided the Special Rapporteur with a reply concerning the killing of Pedro Ortiz Montenegro et al. and informed him that the three were part of a group of eight who tried to escape from the prison, using firearms against prison personnel. They also shot at unarmed personnel controlling the entrance to the prison and at guards placed in front of the building. The security forces tried to prevent the escape and to defend themselves. As a result, three prisoners managed to escape; two, among them Pedro Ortiz Montenegro, were recaptured, seriously injured and three died. Two gendarmes and one carabinero were injured. Judicial investigations were opened to determine whether the security personnel resorted to excessive use of force. At the time of the reply (16 June 1993), they had not yet been concluded.

Observations

208. The Special Rapporteur wishes to express his appreciation for the information provided by the Government in reply to his communication of 27 April 1993 and hopes that the dialogue initiated with the Chilean authorities will continue.

China

209. The Special Rapporteur continued to receive very detailed information about the practice of the death penalty in China. Particular concern has been expressed at the large number and broad range of crimes subject to capital punishment. The Special Rapporteur was informed that, according to Chinese legal experts, some 65 criminal offences - a third of all criminal offences under Chinese law - were currently punishable by death. Far from being restricted to "most serious crimes" with lethal or other extremely grave consequences, they were said to include crimes such as "speculation", "corruption" or "bribery".

210. Moreover, it was reported that death sentences were imposed almost mechanically in cases involving theft of goods or "economic loss" to the State, when the amount of the theft or loss exceeded 30,000 yuan. This was also said to be the case where the value of goods allegedly stolen by a defendant over a long period of time reached 30,000 yuan. Due to the rapid growth of the Chinese economy in recent years, this threshold was reportedly reached more easily than in the past, often even by first-time offenders, thus increasing the number of death sentences imposed.

211. The Special Rapporteur was further informed that the number of offences subject to capital punishment had increased since the Chinese Penal Code came into force in 1979. In addition, article 79 of the Chinese Penal Code provides that "a crime not specifically prescribed under the specific provisions of the present law may be confirmed a crime and sentence rendered in light of the most analogous article under the special provisions of the present law". Grave concern has been expressed at this provision, which permits the imposition of capital punishment by analogy.

212. Article 44 of the Chinese Penal Code provides that "a person between sixteen and eighteen years of age who commits a particularly serious crime may be sentenced to death with a two year reprieve". Several observers have pointed out that this provision is in contravention of a number of international instruments which prohibit the imposition of capital punishment for any crime committed by juveniles.

213. The Special Rapporteur has also received a number of allegations of shortcomings in procedures during trials leading to the imposition of the death penalty under Chinese law. According to these reports, under legislation adopted on 2 September 1992, defendants may be brought to trial without notification of the trial and of their right to appoint a lawyer, and without being given in advance a copy of the bill of prosecution in cases involving murder, rape, robbery, causing explosions or other acts which "seriously endanger public security". In such cases, the defendants are said to be tried either without a lawyer or with a court-appointed lawyer who has had no time at all to prepare the defence. In other cases, trials allegedly take place very shortly after the defendant has received the bill of prosecution, leaving insufficient time to prepare the defence. If the defendants have legal counsel, the rights of the lawyers to meet with the defendants are said to be restricted. In addition, it has been alleged that lawyers have access only to parts of the file concerning the case; they cannot confront witnesses and have no possibility of challenging the validity of the charges brought against the defendant.

214. Furthermore, it was reported that there is no presumption of innocence in Chinese legal practice, as decisions on guilt and sentence are allegedly made outside court hearings by committees subject to political influence. As a result of the powers vested in the "preparatory courts" (yupei ting) and the "adjudication committees" (shepan weiyuanhui), the formal trial procedures are said to have little bearing on the outcome of cases.

215. Although Chinese law provides for the possibility of appealing to a higher court, in practice this right to appeal is said not to be fully guaranteed. Reportedly, no hearing is held on appeal. Once the death

sentence is confirmed, there is no further avenue of appeal. Petitions for pardon or commutation of the death sentence by the President of the Republic or the Standing Committee of the National People's Congress do not suspend the execution of the sentence.

Communications sent

216. The Special Rapporteur communicated to the Government of China allegations according to which 19 persons were sentenced to death and executed in application of the legislation and practice described above. Eighteen of them had reportedly been found guilty of theft. One, Luo Deming, was said to have been executed for selling alcohol under a fake brand name, which was said to have been qualified by the Supreme People's Court as having "severely disrupted the socialist economic order, so that the circumstances of the offence were particularly serious".

Follow-up

217. The Special Rapporteur communicated to the Chinese Government the concerns regarding the application of capital punishment. In doing so, he pointed out that similar reports had been received, and transmitted to the Government, in recent years. The Special Rapporteur continues to find himself in a position where it seems impossible to him to arrive at any conclusion as to the merit of these allegations, since they continue to differ substantially from the information that had been provided by the Chinese authorities in 1992 (see E/CN.4/1993/46, paras. 183-184). The Special Rapporteur therefore reiterated his interest in carrying out a visit to China in order to gather first-hand information and thus be in a better position to evaluate the situation.

218. At the time of the preparation of the present report, no reply had been received from the Government of China.

Observations

219. The Special Rapporteur is deeply concerned at the continued grave allegations of lack of respect for the safeguards and guarantees protecting those who may face capital punishment in China. Additional details about legislation and practice with regard to the death penalty which were provided to the Special Rapporteur during 1993 by credible sources have only increased his concern at the serious deficiencies of the Chinese legal system. It is particularly disturbing in this regard that the desire to cooperate with the Special Rapporteur, expressed by the Chinese Government in 1992, when information was forwarded in reply to the Special Rapporteur's communications, has not continued: no reply has been received concerning the cases and general allegations transmitted in 1993, nor have the authorities reacted to the Special Rapporteur's repeated expressions of interest in carrying out an on-site visit to China in order to be able to study and evaluate the situation. Nevertheless, the Special Rapporteur would like to reiterate his readiness to collaborate in any possible way with the Chinese authorities and hopes that he may be able to contribute to an improvement of the protection of the right to life in China.

Colombia

220. The Special Rapporteur received numerous reports and allegations indicating that human rights abuses, and, in particular, violations of the right to life continue to occur at an alarming scale in Colombia. According to data published by Justicia y Paz, during the first nine months of 1993, more than 9,100 people died victims of political violence in the country.

221. A large number of violations of the right to life were said to be committed in regions where security forces maintain a strong presence due to Government counter-insurgency operations. The departments of Antioquia, Arauca, Cauca, Meta and Santander have been pointed out to the Special Rapporteur as being particularly affected. Members of the armed forces, the police and paramilitary groups cooperating with them were reported to be responsible for extrajudicial, summary or arbitrary executions.

222. Very often, the victims of such killings were said to be civilians who were perceived by the security forces as potential guerrilla collaborators. Members of indigenous communities in these areas, such as the Arsario, Arhuaco or Kogui indian peoples, were described as particularly vulnerable. As in former years, the Special Rapporteur also received a large number of allegations concerning extrajudicial executions of, or death threats against, representatives of political opposition parties, members of human rights associations, journalists, lawyers and persons linked with the church.

223. With regard to allegations of violations of the right to life committed by paramilitary forces, the Special Rapporteur received an alarmingly high number of reports concerning the region of San Vicente de Chucurí, Santander. There, paramilitary structures were allegedly activated, supported and protected by State security forces, whose members were frequently said to be directly implicated in extrajudicial, summary or arbitrary executions.

224. The Special Rapporteur was informed that, according to an official document about human rights violations in 1992, published by the Attorney General of Colombia (Procuraduría General de La Nación), 58 per cent of the complaints presented to his office in 1992 were directed against members of the National Police, and particularly its intelligence units.

225. The Special Rapporteur also continued to receive allegations about violations of the right to life in the context of so-called "social clean-up operations" ("operaciones de limpieza social") in a number of Colombian cities. During the course of the year, an increasing number of such reports were received. "Death squads" composed of armed individuals, in a number of cases also of members of the National Police, were reported to be responsible for the killing of the "socially undesirable": "street children", juveniles from street gangs, vagrants and suspected delinquents.

226. Furthermore, the Special Rapporteur received numerous reports indicating that in only a few cases of alleged human rights violations had investigations been initiated. Even where this occurred, it was reported that only in very exceptional cases had such inquiries resulted in the punishment of the authors of human rights abuses and in the compensation of the families affected.

Members of the armed forces, the police and the paramilitary groups cooperating with them reportedly continued to enjoy virtual impunity.

Communications sent

227. The Special Rapporteur communicated to the Government of Colombia allegations he had received concerning the violation of the right to life of more than 300 persons, including 15 minors and 7 women; 28 cases allegedly constituted violations of the right to freedom of opinion and expression, religion or peaceful assembly and association. By sending 28 urgent appeals, the Special Rapporteur intervened on behalf of more than 260 persons. Allegations concerning the right to life of a further 40 people were transmitted in a separate letter.

228. The Special Rapporteur sent 26 urgent appeals to the Government of Colombia in which he expressed concern for the safety of the following persons whose lives were said to be in danger:

(a) "Street children" in Bogotá, after posters were found in the capital announcing the extermination of "street children", inviting them to attend their own funerals (19 August 1993); Harizon Ortiz and nine other "street children" in Cali (15 October 1993);

(b) Lawyers Carlos Edgar Torres Aparicio, Rodolfo Alvarez, Oscar Elías López and anthropologist Etnio Vidardo as well as witnesses of the killing of more than 20 indigenous Páez (17 December 1992); priest and human rights activist Rafaél Duarte Ortiz (4 February 1993); Betty Gómez de Mondragón, widow of Hugo Varela Mondragón (see E/CN.4/1993/46, para. 209 (b)) (26 February 1993); 10 persons accused of being guerrillas, among them local authorities and members of the opposition party "Unión Patriótica": Alvaro Córdoba and nine others (names available with the Secretariat) (26 February 1993); community leader Pedro José Chaparro Cuesta, Luis Sosa and Mr. Fierro, after the assassination of Epiménio Rodríguez Guzmán and Marcos Ortiz González (17) (2 April 1993); community leaders Héctor Torres, Noël Segura Díaz, Alba Segura Díaz and Isidro Torres (12 March 1993); trade unionists Luis Fernando Alzate Alvarez, Oscar Toro, Jorge Barón, Gustavo Peña and Carlos García (2 April 1993); lawyer Dr. Eduardo Umaña Mendoza (30 April 1993); municipal counsellor Alfonso Palacio (16 June 1993); the wife of Gregorio Nieves, who was an eyewitness to his killing (17 June 1993); Gilberto Martínez and five passengers in his car, who had witnessed the extrajudicial execution of brothers Hermes and Linder Osvaldo Jiménez Barco (13 July 1993); members of the Regional Committee for the Defence of Human Rights (CREDHOS) (25 July 1993); community leader Pablo Eli Acosta (29 July 1993); 150 persons on a list, accused of being guerrilla collaborators or sympathizers, to be published by a television station (11 August 1993 and 22 November 1993); detainee and member of an armed opposition group Orlando Quintero Pérez (26 August 1993); lawyer Dr. Rafaél Barrios Mendivil (3 September 1993); community workers Manuel Claro, Erminos Sepúlveda, Luis Reyes and two brothers of Víctor Gaudia, who had been killed (7 October 1993); community members after the killing of John Harol Ortega (29 October 1993).

229. The Special Rapporteur also urged the authorities to investigate the following cases of grave violations of the right to life and to take all necessary measures to prevent such incidents in the future:

(a) The killing, in a "social clean-up operation", of Jesús María Valencia Zuleta and 14 others (names available with the Secretariat). In this context, fear had been expressed for the life of Román Darío Roldán (7 October 1993);

(b) Excessive use of force in counter-insurgency operations resulting in the killing of Víctor Zambrano, Reyes Fuentes, José Fuentes and another peasant (26 July 1993); peasants Moisés Galván Pantoja, Sol Galván Pantoja and their cousin called Chavela (2 April 1993); Pedro Carvajal. In this context, fear had been expressed after death threats against Jorge Torres and Norberto Quintero (22 October 1993);

(c) Events in San Vicente de Chucurí: Leonardo Rangel and Isnardo García Carreño, who were abducted and killed; fear had been expressed for the lives of peasants José del Carmen Peña, Leonardo Pineda, Rosendo Fonseca, Roque Sandoval and Alvaro Quiroga (28 January and 23 February 1993); death threats against mayor Saúl Pico Gómez and Humberto Geovo Almanza (23 February 1993).

230. In three letters to the Government of Colombia, the Special Rapporteur transmitted the following 41 cases of alleged extrajudicial, summary or arbitrary executions:

(a) Pedro Jaramillo Rueda, Humberto Jaramillo Rueda, Mario Lozada Ortiz, Pedro Guevara, Fredy Prada Vargas, José Eugenio Morales and one other peasant, reportedly after torture; Faride Herrera Jaime and Oscar Iván Andrade Salcedo; Elio Valdonado, Herminia Barbosa and Octavio Bovilla; Pastor Ballesteros Tarazona and José Terry Pérez Castellanos; indigenous leader Gerardo Moreno Florez;

(b) Alvaro Diego Escribano, member of "Unión Patriótica"; José Rodrigo García Orozco, leading member of "Unión Patriótica"; trade union leader Eimar Tejada Trujillo; trade union leader Luis Carlos Pérez; trade unionist Hernando Valencia Laso;

(c) In the context of counter-insurgency operations: Wilson Quintero, Gustavo Coronel and Luis Alfonso Ascanio; Ramiro Ramos Ramos and Víctor Garces; Luis Ernesto Ascanio and Ramón Villegas;

(d) In San Vicente de Chucurí, between September 1992 and May 1993: John Raúl Rodas; Ricardo Uribe; José del Carmen Díaz; Euclides Peñaloza Galvis; Luis Ángel Patiño Patiño; Luis Carlos Lopera Londoño; Octavio Sierra; Carlos Alberto Marquez Solano; Rodolfo Carreño Chaparro; Rubén Ardila Pinzón; Jaime Pineda Corzo; Horacio Rueda Castellanos; Eduardo Arciniegas; Antonio María Forero Navas.

Communications received

231. The Government of Colombia provided the Special Rapporteur with replies to the following cases:

(a) Betty Gómez de Mondragón: the competent authorities contacted her to assess the situation and grant protection to herself and to her family (5 April 1993);

(b) Rafaél Duarte Ortiz: the competent authorities were instructed by the Consejería Presidencial para la Defensa, Protección y Promoción de los Derechos Humanos to provide the necessary means of protection (5 April 1993); as a result of a complaint filed by Rafaél Duarte Ortiz, a disciplinary investigation was carried out which resulted in the imposition of three and eight days of detention, respectively, upon two police agents (27 July 1993);

(c) Dr. Eduardo Umaña Mendoza: after he had, on his own decision, declined the escort assigned to him by the Departamento Administrativo de Seguridad, the Consejería Presidencial requested the Attorney General's office to give particular attention to his case (3 June 1993);

(d) Gregorio Nieves: judicial investigations had been opened into his killing. The Consejería Presidencial approached the Defence Ministry and the Army Command with a view to protecting his wife (16 August 1993);

(e) Orlando Quintero Paez: the Consejería Presidencial requested the competent authorities to ensure due protection for the prisoner (18 October 1993);

(f) Víctor Gaudia et al.: investigations have been initiated by the competent office of the Attorney General. The municipal officials said to be under threat met with the police to evaluate their security situation. Measures were adopted to grant them protection and investigate the origin of the death threats against them (11 November 1993).

232. In addition, the Government of Colombia informed the Special Rapporteur that in the aftermath of the criminal attack in Bogotá on 15 April 1993 which caused the death of 10 persons, the authorities were obliged to declare the state of internal commotion, in conformity with article 215 of the Constitution and Legislative Decree 261 of 5 February 1993 (23 April 1993).

233. Furthermore, the Government of Colombia transmitted to the Special Rapporteur a report on the conditions of human rights in Colombia, issued by the authorities. This report referred, inter alia, to the new Constitution of 1991, and, in particular to provisions it contains for the protection of human rights through the "writ of protection" (see below para. 235), legislation on police reform passed in 1993 and on states of emergency (19 November 1993).

Follow-up

234. On 22 September 1992, the Special Rapporteur sent a letter to the Government of Colombia in which he requested to be provided with additional

information regarding a number of cases transmitted both in 1992 and 1993, for which replies had been received. Where the Government had informed him that investigations had been opened, the Special Rapporteur inquired about the current status of the investigations and their results, if already concluded. Where the Government had stated that protection had been granted to persons under threat, the Special Rapporteur asked to be informed about the specific measures adopted.

235. During his stay in Geneva in November 1993, the Special Rapporteur met with representatives of the Government of Colombia who provided him with additional information about measures taken by the authorities to improve respect for the right to life in Colombia. In particular, reference was made to a reform of the police and the "writ of protection", an instrument provided for in the Colombian Constitution of 1991 to ensure respect for fundamental rights and freedoms. As concerns the right to life, the Special Rapporteur was informed that this writ of protection can be used in cases of death threats by members of the armed forces, thus giving the civilian courts some control over acts of military personnel, even when they are on active duty.

236. Furthermore, the Government invited the Special Rapporteur to carry out a visit to Colombia. In view of the fact that four electoral consultations will be held in Colombia in 1994, it is envisaged that this visit will take place after September 1994. In preparation for the visit, the Special Rapporteur plans to intensify his dialogue with the Government of Colombia with regard to the recommendations made by his predecessor, Mr. S. Amos Wako, after his visit to the country in 1989, and, in particular, with a view to identifying the obstacles faced by the authorities in their efforts to implement these recommendations.

Observations

237. The Special Rapporteur highly appreciates the willingness to cooperate shown by the Government of Colombia. He has taken note with appreciation of the measures taken by the Government with a view to better protection of the right to life. The Special Rapporteur would also like to thank the Government of Colombia for inviting him to carry out an on-site visit.

238. However, the Special Rapporteur remains concerned: as described above, he continues to receive a large number of allegations concerning violations of the right to life. It is particularly disturbing to note that similar allegations have now come before the Special Rapporteur for many years. In this context, the Special Rapporteur welcomes the new legislation on police reform and the increased possibilities for the protection of human rights under the 1991 Constitution. He encourages the Government of Colombia to continue its efforts in this regard and urges them to adopt effective measures to prevent further loss of life, particularly in the context of counter-insurgency activities or "death squad" operations against those regarded as socially undesirable. The Special Rapporteur also appeals to the authorities to investigate human rights abuses and bring their perpetrators to justice.

Comoros

Communications sent

239. The Special Rapporteur transmitted to the Government of the Comoros allegations he had received concerning violations of the right to life of 10 persons.

240. The Special Rapporteur sent an urgent appeal to the Government of the Comoros after receiving information according to which M'Tara Maecha, Omar Tamou, Abdallah Ahmed Cheik, Abderrahmane Ahmed Adallah, Combo Ayouba and four others were sentenced to death for having participated in an attempt to overthrow the Government in September 1992. It was alleged that they did not fully benefit from fair trial guarantees, in particular with regard to the independence and impartiality of the judges, who had been designated by the Government. The defence lawyers were said to have had only limited access both to their clients and to the files of the case. Furthermore, the defendants allegedly did not have the right to appeal (30 April 1993).

241. The Special Rapporteur also transmitted to the Government of the Comoros the case of Djida Ahmed, who was said to have been extrajudicially executed by members of the armed forces of the Comoros. No investigation was said to have been carried out.

Communications received

242. At the time of the preparation of the present report, no communications have been received from the Government of the Comoros.

Cuba

Communications sent

243. The Special Rapporteur communicated to the Government of Cuba allegations of the extrajudicial, summary or arbitrary execution of the following seven persons, including one minor: Orelvis Martínez Limonta; Francisco Díaz Mesa, reportedly due to lack of medical attention while in prison; Felipe Timoneda, reportedly as a consequence of torture at a police station; Alain Hermida Oviedo, reportedly as a consequence of a beating administered in prison; Felipe Achin, allegedly while in police custody; Rodolfo Gómez Ramos, reportedly due to lack of medical attention while in prison; and Lázaro Gutiérrez Franco, reportedly due to beating by police officers.

Communications received

244. At the time of the preparation of the present report, no communications had been received from the Government of Cuba.

Djibouti

245. The Special Rapporteur has received information according to which large-scale violations of the right to life have taken place in Djibouti in the context of renewed armed confrontations between government forces and

forces of the Front pour la restauration de l'unité et de la démocratie (FRUD) (Front for the Restoration of Unity and Democracy) since July 1993. Hostilities were said to have intensified in August 1993. According to the reports received, soldiers of the National Army of Djibouti have carried out numerous extrajudicial executions of civilians whom they suspected of being members or sympathizers of the FRUD, particularly in the northern region of Tadjourah. Most of the victims were said to have been of the Afar ethnic group, which reportedly constitutes the majority of FRUD supporters. The Special Rapporteur was further informed that the government forces were carrying out these killings in total impunity.

Communications sent

246. The Special Rapporteur sent an urgent appeal to the Government of Djibouti after being informed about the above-mentioned acts of violence and, in particular, the killings of Kamil Houmed Souleh and Abakari Gadito in the city of Randa, and of the nomadic shepherds Mohamed Dimbiyo Ahmed, Ahmed Abdallah Mohamed, Mohamed Ali Ahmed and Abdo Mohamed in the Tadjourah region, allegedly by soldiers using machine guns (24 September 1993).

Communications received

247. At the time of the preparation of the present report, no communications had been received from the Government of Djibouti.

Observations

248. The Special Rapporteur would like to express concern at the reports of violations of the right to life in the context of ethnic violence described above. The apparent lack of efforts on the part of the authorities to curb ethnic tension and prevent its possible further escalation, particularly in view of the alarming example of neighbouring Somalia, is particularly disturbing. The Special Rapporteur regrets that the Government of Djibouti has not indicated any sign of cooperation with his mandate.

Ecuador

Communications sent

249. The Special Rapporteur transmitted to the Government of Ecuador two urgent appeals concerning alleged death threats by members of the police against José Ignacio Chauvin (17) (12 February and 10 March 1993). He also sent an urgent appeal after receiving information about death threats against Cecilia Guijarro by members of the military after she had publicly accused them of being responsible for the disappearance of her son (3 November 1993).

250. The Special Rapporteur also transmitted to the Government of Ecuador allegations he had received concerning the death in custody, reportedly as a consequence of torture, of Felipe Moreira Chávez.

Communications received

251. The Government of Ecuador provided the Special Rapporteur with information concerning the cases of José Ignacion Chauvin and Felipe Moreira Chávez and informed him that the competent authorities had initiated investigations (5 April and 26 May 1993).

Follow-up

252. The Special Rapporteur sent a follow-up letter to the Government of Ecuador in which he asked for updated information as to the progress of these investigations (22 September 1993).

253. In response to this letter, the Government of Ecuador provided the Special Rapporteur with the text of the initial report by the General Inspectorate of the National Police on its investigations into the case of José Ignacio Chauvin (30 September 1993).

Observations

254. The Special Rapporteur would like to express his appreciation for the will to cooperate showed by the Government of Ecuador in its prompt reply to the allegations transmitted, as well as to his request for additional information, and hopes to continue this dialogue in the interest of the protection of the right to life.

Egypt

255. The Special Rapporteur received a number of communications expressing great concern at amendments to the Penal Code of Egypt introduced through Law No. 97 of 1992 which significantly increased the number of capital offences provided for under Egyptian law. These provisions were said to relate to what the law termed "terrorist" offences. According to the information received, these offences had not been defined, leaving ample room for discretion in determining whether an action was regarded as "terrorism" or not. Moreover, it was reported that in a number of cases defence lawyers had only limited access to their clients, and that the time allowed for the preparation of the defence was not adequate.

256. Furthermore, it was reported that those accused of "terrorism" were tried by military tribunals. Those convicted were said to have no right to appeal. Death sentences passed by these tribunals are subject to confirmation by the President of the Republic and then review by the Military Appeals' Bureau, which is also headed by the President of the Republic. All death sentences are then said to be referred once again to the President of the Republic for final approval or clemency. Concerns have been expressed as to the impartiality and independence of the Military Appeals' Bureau and to the lack of effectiveness of this review procedure.

257. Between December 1992 and the end of September 1993, military courts were said to have sentenced 28 civilians to death; 18 executions sentences were reportedly carried out.

258. The Special Rapporteur has also received information according to which confrontations between the police or security forces and Islamic militants have become increasingly violent in recent years. This was said to have brought about a significant number of deaths among the militants as well as members of the police. Several sources expressed concern that some of the deaths caused by the police were the result of excessive and unwarranted use of lethal force. Some killings were said to have been carried out deliberately although the victims did not pose any violent threat at the time they were shot. It was also alleged that the number of such incidents had risen sharply in 1992, and that this trend had continued during the first months of 1993.

259. In addition, the Special Rapporteur has received allegations concerning deaths in custody, allegedly as a result of torture.

Communications sent

260. The Special Rapporteur transmitted to the Government of Egypt allegations concerning violations of the right to life of 43 persons, 2 of them minors.

261. The Special Rapporteur sent eight urgent appeals to the Government of Egypt. Seven of them concerned the alleged imminent execution of death sentences passed by military tribunals which had convicted the following persons under the new terrorism legislation:

(a) Al-Sharif Hassan Ahmed, Mohammad Shawqi al-Islambuli, Mostafa Ahmed Hamza, Rufa'i Ahmed Taha, 'Othman Khalid Ibrahim, Ahmed Mostafa Nourara, Tal'at Mohammad Yassin and Tala't Fou'ad Qassim (22 February 1993);

(b) Hassan Shabata Badran, Bastawi 'Abd al-Hamid Abu al-Magd, Sa'id Amin Abu Al-Magd, Ashraf Sa'id Abd-Rabbu, Drawi Mohammad Ibrahim 'Abd al-Mutallib, Ahmed 'Abd al-Rahim Radwan, 'Abd al-Hadi al-Saghir Tayi' and 'Abd al-Hamid al-Zamqan 'Ali (16 June 1993);

(c) Hassan Ramadan 'Abdullah Shalqani, Ahmed Hussein Ahmed Al-Husseini, Tariq 'Abd al-Raziq Hassan, Ashraf Al-Sayyid Ibrahim Salih, Ibrahim Sayyid 'Abd al-'Aal and Mostafa Ahmed Hassan Hamza (22 June 1993);

(d) Ramdhan Mostafa Mohammad Hassan, 'Ali Fayed May'ub, Sayyid 'Abd al-Raziq and Hishan Mohammad Mas'ud (1 September 1993);

(e) Mahmoud Salah and Mostafa 'Awni Zaki (24 September 1993);

(f) Yahya Mustapha Imam Shahrour, Ahmed Mohammad Hammouda and Hasham Taha Ahmed Salim (25 October 1993);

(g) 'Abd al-Hamid Mohammad 'Abd al-Hamid, Fathi Imam 'Abd al-Maguid, Khuwaylid Mohammad Bakarat, Mohammad 'Abdullah Mohammad, Ra'fat Mahmoud Mohammad 'Othman, Mohammad Hosam Ahmed al-Sharif, Yasser Kamil 'Ali and Mohammad Zein (12 November 1993).

262. The Special Rapporteur also sent an urgent appeal after being informed about serious fear for the life of Mahammed Ali Mohammed Ali, whose health was said to be precarious after severe torture at a police station (13 July 1993).

263. The Special Rapporteur transmitted to the Government of Egypt allegations concerning the extrajudicial execution, by members of the police who allegedly resorted to excessive force, of seven students, two of them minors: Moustafa Elewa Mohamed, Moustafa Hassan Abd-El Rady, Mohamed Ahmed Mouktar, Khaled Hassan Mouzlem, Ahmed Hasem Abd-El Razek, Moustafa Ramzy Abd-Zied and Mohamed Mohamed El-Saghir.

Communications received

264. The Government of Egypt provided the Special Rapporteur with replies to his urgent appeal of 22 February 1993 (6 April 1993) and to his letter of 27 April 1993 (13 October 1993). Another reply was received with reference to the letters of the Special Rapporteur regarding the occurrence of extrajudicial, summary or arbitrary executions in Egypt (13 October 1993).

265. The Government of Egypt forwarded detailed information as to the offences which are punishable by death under Egyptian law as well as the conditions and safeguards for the application of the death penalty. The Government also informed the Special Rapporteur in detail about the system of military justice in Egypt. With regard to trials of civilians before military courts, the Government stated that military jurisdiction, is normally restricted to a very limited number of offences against military personnel, property or secrets or offences committed by civilians attached to the military. However, the President of the Republic is empowered to refer specific offences, after they have been committed, to the military courts depending on the circumstances and their degree of gravity in the light of their nature or the identity of their perpetrators. In such cases, trial procedures are governed by the Code of Military Justice, whereas the applicable definitions of crime and punishment are those set forth in the Penal Code.

266. Furthermore, the Government of Egypt pointed out that the right to defence, as well as the impartiality of the judges in such proceedings, were guaranteed, as was the right to appeal through review of the judgement, before its confirmation, by more experienced legal officers; the possibility of lodging an appeal against its confirmation on the grounds of illegality or erroneous application or interpretation of the law, or a procedural defect prejudicial to the rights of defence; and a mandatory submission of the judgement to the President of the Republic for pardon.

267. With regard to the case contained in the Special Rapporteur's urgent appeal of 22 February 1993, the Government of Egypt pointed out that only one person, Sharif Hassan Ahmad Muhammad Hassan, was present at the trial, the other seven being fugitives in a foreign country. Sharif Hassan was said to have benefited from all procedural guarantees. At the time of the reply (6 April 1993), the judgement was being considered by the Military Appeals' Bureau. In the case of the fugitives, who had been tried and sentenced in absentia, the time-limit for appeal was reported to begin only from the date of their surrender or capture.

Follow-up

268. The source of the allegations informed the Special Rapporteur about the execution of the death sentences in the cases of: Al-Sharif Hassan Ahmed; Hassan Shahata Badran and seven others; Hassan Ramadan 'Abdullah Shalqani and four others; Ramadhan Mostafa Mohammad Hassan and three others.

Observations

269. The Special Rapporteur wishes to express his appreciation of the detailed and prompt manner in which the Government of Egypt has provided him with replies to the concerns transmitted. The Special Rapporteur is fully aware of the difficulties encountered by Governments which face the problem of violence caused by an armed opposition. While understanding the need for special measures to curb such violence, the Special Rapporteur insists that the right to life is absolute and non-derogable, even under special circumstances.

270. The Special Rapporteur therefore remains concerned that, under the anti-terrorism legislation currently in force in Egypt, those accused of crimes for which the death penalty may be imposed do not benefit from all the safeguards and guarantees contained in the pertinent international instruments. In this regard, the Special Rapporteur notes that the Human Rights Committee, after examining Egyptian anti-terrorism legislation, expressed its opinion that the definition of terrorism contained in law No. 97 of 1992 should be "reviewed by the Egyptian authorities and stated much more precisely, especially in view of the fact that it enlarges the number of offences which are punishable with the death penalty. The Committee underscores that according to article 6, paragraph 2 of the International Covenant on Civil and Political Rights, only the most serious crimes may lead to the death penalty" (CCPR/C/79/Add.23, para. 48). The Human Rights Committee also expressed deep concern about military courts trying civilians and concluded that "military courts should not have the faculty to try cases which do not refer to offences committed by members of the armed forces in the course of their duties" (Ibid., para. 9).

271. The Special Rapporteur is particularly concerned at the restrictions of the independence of the judiciary which result from the implication of the President of the Republic at three levels: first, he decides which case is to be heard by the military courts; second, he presides over the Military Appeals' Bureau; and third, he is called upon to decide on appeals of pardon or commutation of a death sentence. It is to be feared that this renders the appeal procedure ineffective in practice. The Human Rights Committee has also noted with concern the President's role as both part of the executive and part of the judiciary system (Ibid). The Special Rapporteur calls upon the Egyptian authorities to provide for trial procedures which fully respect the safeguards and guarantees protecting those facing the death penalty, in conformity with the pertinent international instruments.

El Salvador

272. The Special Rapporteur received a number of reports concerning violations of the right to life in El Salvador.

273. In March 1993, the Truth Commission, established on 13 July 1992 as a result of the fourth round of negotiations between the Government and the Frente Farabundo Martí para la Liberación Nacional (FMNL) in April 1991, published its report in which it documented massive human rights violations committed by government security forces and groups linked to them as well as, on a lesser scale, killings and abductions carried out by the FMLN. As regards violations of the right to life, the armed forces, police and paramilitary groups were reported to have committed a large number of extrajudicial, summary or arbitrary executions. In many cases, such executions were said to have been preceded by torture and ill-treatment. "Death squads" linked with State structures were reportedly responsible for numerous extrajudicial killings and were said to have been used as an instrument of terror and systematic practice to physically eliminate political opponents. Some of these "death squads" were said to have been linked with certain political leaders, others with intelligence services within the armed forces.

274. The Truth Commission concluded its report with a number of recommendations including the removal from office of all military and judicial officials named in the report and the establishment of a fund to provide financial compensation for the victims of past human rights violations. The Commission also recommended a special, urgent investigation into "death squads", which it considered continued to pose a threat to society. The Truth Commission also expressed concern at deficiencies in the judicial system and recommended extensive reforms so that full and timely justice could be accomplished.

275. In April 1993, the National Counsel for the Defence of Human Rights, whose office had been established in 1992, also as a result of the peace accords, also published a report in which it stated that violations of the right to life continued and in some cases presented characteristics and elements which gave reasonable grounds to believe that there were political motives.

276. According to the information received by the Special Rapporteur, no steps have been taken to put into practice the recommendations made by the Truth Commission. On 20 March 1993, the Legislative Assembly of El Salvador adopted the General Amnesty Law for the Consolidation of Peace, which exempts from responsibility all those, including judicial officials, responsible for carrying out or covering up human rights abuses committed in the context of the civil war, and especially those mentioned by name in the Truth Commission's report. On 21 April 1993, the non-governmental Human Rights Commission of El Salvador (CDHES) reportedly lodged a complaint against this law on the grounds that it violated several articles of the Salvadorian Constitution as well as the State's obligation to respect the international instruments ratified by the Government.

277. In its most recent report, covering the period from May to July 1993, the United Nations Observer Mission in El Salvador (ONUSAL) stated that, while certain improvements could be observed in some fields of human rights, grave violations of the right to life had increased during the first half of 1993. The reappearance of "death squads", although described as isolated, was qualified as most disturbing. No investigations were said to have been opened

into most of the extrajudicial killings attributed to such groups. "Death squads" were also reported to be responsible in 40 cases of death threats registered by ONUSAL between May and July 1993.

278. These disturbing reports of renewed "death squad" activities were apparently in connection with the March 1994 elections. Members of the FMLN, including members of its National Council and candidates for the legislative assembly, were said to have been killed. Death threats were reported against FMLN members as well as representatives of the political opposition.

Communications sent

279. The Special Rapporteur transmitted to the Government of El Salvador allegations concerning violations of the right to life of 20 persons. In 4 cases, the victims were women; 15 cases concerned the alleged violation of the right to freedom of opinion and expression, peaceful assembly and association.

280. The Special Rapporteur transmitted two urgent appeals to the Government of El Salvador, after being informed of death threats, allegedly by members of the military, against lawyers Mirna de Anaya (8 January 1993) and Félix Ulloa (27 January 1993), both acting as defence counsel for César Vielman Joya Martínez (see E/CN.4/1993/46, para. 246). Further urgent appeals were sent after death threats had been reported against the Secretary-General of the Movimiento Popular Social Cristiano, Gregorio Mejía Espinoza (9 June 1993), and in response to threats allegedly from a "death squad" against the Dean of the Faculty of Law of the University of San Salvador, René Macadel Perla Jiménez (21 September 1993).

281. The Special Rapporteur also sent an urgent appeal to the Government of El Salvador after being informed of renewed "death squad" activities, believed to be at the root of the killings of the following FMLN members: Darol Francisco Veliz; Heleno Hernán Castro; Medardo Brizuela Hernández; Justa Victoria Orellana Cortéz; Manuel de Jesús Acevedo; and Humberto Antonio López; as well as death threats and acts of intimidation against Dr. Rubén Zamora, Vice-President of the Legislative Assembly and candidate for the presidency; opposition politicians Dr. Héctor Silva, Rebecca Palacios and Dr. Enrique Argumedo; journalist Antonio Velado; student leader and FMLN member Gabriél Quintanilla; and human rights activist Margarita Alemán (22 November 1993).

282. The Special Rapporteur also transmitted to the Government allegations he had received concerning the alleged extrajudicial execution by members of the military of Juan Carlos García Panameno and Manuel de Jesús Panameno, as well as the reported killing by police of Santos Martínez as a result of excessive use of force against participants in a demonstration.

Communications received

283. The Government of El Salvador provided the Special Rapporteur with information on the killings of Darol Francisco Veliz Castellanos and Heleno Castro, members of the FMLN. The Government reported that instructions had been given to open inquiries into these killings. At a

press conference on 25 October 1993, President Alfredo Cristiani announced that an inter-institutional commission would be created jointly with the Human Rights Division of ONUSAL to give due follow-up to all cases that appear to be acts of politically motivated violence, and to investigate the existence or formation of groups which might commit such acts of violence, so as to bring them before the courts (4 November 1993).

284. The Government of El Salvador also provided the Special Rapporteur with the text of a statement by the Presidential Commission on Human Rights on the assassination of Darol Francisco Veliz Castellanos, in which it expressed total repugnance of any type of violence assaulting Salvadorian citizens and human dignity (29 October 1993).

Observations

285. The Special Rapporteur would like to express concern at the allegations described above which he has received in 1993 concerning violations of the right to life in El Salvador. With particular regard to the amnesty law passed by the Legislative Assembly in March 1993, the Special Rapporteur would like to note that, while in exceptional cases and under certain circumstances it may be politically opportune to refrain from punishing the authors of certain crimes, amnesty laws must not result in the legalization of impunity. In particular, they must not preclude that investigations into human rights abuses are carried out with a view to establishing the facts and granting compensation to the victims and their families. If the result of amnesty legislation is to refrain from establishing what has happened and thus leave open the dark pages in the history of a country, such laws are very likely to miss their objective of contributing to national reconciliation, most commonly invoked as their justification. In this context, and with particular regard to the situation in El Salvador, the alarming reports of renewed "death squad" activities do not come as a surprise. The Special Rapporteur calls upon the authorities of El Salvador to undertake determined efforts to implement the recommendations made by the Truth Commission and work towards genuine and lasting peace and reconciliation. The Special Rapporteur hopes that the inter-institutional commission announced by President Cristiani to investigate politically motivated violence and the existence of "death squads" could be a step in this direction. However, the Special Rapporteur is concerned at recent reports according to which the President had not yet indicated when he would appoint the Government's representatives to the joint commission. The Special Rapporteur has also learned with alarm that the investigation into the assassination of Heleno Castro was reportedly closed by the authorities, only one month after his killing.

Equatorial Guinea

286. The Special Rapporteur received a number of reports and allegations concerning violations of the right to life by members of the security forces in Equatorial Guinea. Political activists and members of opposition parties were said to have been victims of extrajudicial executions, death threats and acts of intimidation and harassment. Many of them were said to have been forced into hiding.

287. The Special Rapporteur also received alarming reports about the situation on the island of Annobón, where, in the context of an incident described by the authorities as a "rebellion", several civilians were said to have been killed.

Communications sent

288. The Special Rapporteur communicated to the Government of Equatorial Guinea allegations concerning violations of the right to life of more than 22 persons. Three cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

289. The Special Rapporteur sent urgent appeals to the Government of Equatorial Guinea after being informed of fear for the lives of the following persons: Celestino Bacale, Arsenio Moro and the priests Luis María Ondo Mayé and Pedro Ncogo, allegedly after torture in detention (21 January 1993); José Oló Obono, lawyer and member of the opposition party "Convergence for Social Democracy", after death threats (13 September 1993); priest José Luis Engono, after death threats and acts of intimidation against his father Francisco Engono Micué (24 September 1993).

290. The Special Rapporteur also sent an urgent appeal after receiving information about violent events on the island of Annobón, in particular the killing of Manuel Villarubia, Simplicio Llorente and four unidentified persons by security forces as well as Pedro Motu, member of the opposition party "Unión Popular" (31 August 1993) and death threats against Bonifacio Yayeye, Eusebio Juego, Marcos Vidal and Santos Gómez (24 September 1993).

291. After having sent an urgent appeal to the Government of Equatorial Guinea on behalf of Orlando Cartagena and Francisco Medina (or Benevina), allegedly sentenced to death by a military tribunal after summary proceedings (15 September 1993), he was informed by the source of the allegation that the men had in fact been sentenced to 25 years' imprisonment.

292. The Special Rapporteur also transmitted to the Government of Equatorial Guinea allegations he had received concerning the death in police custody, reportedly as a consequence of torture, of Damaso Abaga Nve and of Miguel Nseng Bacale.

Communications received

293. At the time of the preparation of the present report, no communications had been received from the Government of Equatorial Guinea.

Observations

294. The Special Rapporteur, concerned at the reports he had received concerning violations of the right to life and, in particular, violent acts on the island of Annobón, urges the Government of Equatorial Guinea to take all necessary measures directed at full respect for the right to life. He calls upon the competent authorities to ensure that security forces act within the restrictions on the use of force and firearms as contained in the pertinent international instruments.

EthiopiaCommunications sent

295. The Special Rapporteur has communicated to the Government of Ethiopia allegations concerning the alleged extrajudicial execution of nine persons. Seven cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association. Those said to be killed, by soldiers of the Ethiopian People's Revolutionary Democratic Front (EPRDF) in January 1992, were Mohamed Sheikh Mohamoud Iraad and Abdirashid Sulub Anshur. Reportedly, no investigation into their deaths had been initiated. The Special Rapporteur also transmitted to the Government of Ethiopia allegations according to which members of the security forces had killed at least seven students who participated in a demonstration in January 1993. The security forces had allegedly opened fire without any warning on the participants in this demonstration, which had not been authorized. No judicial inquiry was said to have been opened.

Communications received

296. The Government of Ethiopia provided the Special Rapporteur with information about the establishment, on 8 August 1992, of the Office of the Special Prosecutor, which was mandated to create a historical record of the abuses of the regime of Colonel Mengistu and to bring those criminally responsible for human rights violations and/or corruption to justice (4 November 1993).

Follow-up

297. The Government of Ethiopia forwarded a reply to a request for information on cases which had been transmitted by the then Special Rapporteur in 1991, in which it pointed out that the alleged violations of the right to life had occurred during the previous military regime, and that the Transitional Government of Ethiopia should therefore not be asked to account for them. With regard to eight persons allegedly shot during a demonstration shortly after the EPRDF took control of the country, the Government pointed out that this demonstration had been staged by an unruly group and had quickly degenerated into violence. The security forces had to enforce law and order in order to keep the acts of violence from spreading.

Observations

298. The Special Rapporteur has received with appreciation the information forwarded to him by the Transitional Government of Ethiopia. It would appear that the establishment of a Special Prosecutor's Office to investigate human rights violations under the previous government and bring to justice those responsible constitutes a recognition of the need to clarify the facts. It is hoped that this will lead to the allocation of compensation to the victims of such abuses and their families, and that measures will be adopted to avoid the occurrence of similar violations in the future.

Guatemala

299. As in former years, the Special Rapporteur received alarming reports of human rights violations in Guatemala, including extrajudicial, summary or arbitrary executions.

300. According to data published by the non-governmental Human Rights Commission of Guatemala (CDHG), between July 1992 and July 1993, violations of the right to life included 282 extrajudicial executions, 189 execution attempts and 210 cases of death threats. In the first six months of 1993, 104 extrajudicial executions were registered, along with 82 attempted executions and 103 death threats. In 24 cases, extrajudicial executions were said to have been preceded by torture. Members of the armed forces, the civil self-defence patrols (PAC), agents of various police units and so-called "death squads" allegedly collaborating with them are indicated as being the authors of such violations of the right to life.

301. As in past years, children, women and the indigenous population were said to have been among those most vulnerable to human rights abuses. Minors and, in particular, "street children", as well as individuals and organizations such as Casa Alianza seeking to protect them and provide them with education and training, reportedly continued to be victims of killings and death threats. Between 1992 and 1993, CDHG reported 17 extrajudicial executions of minors, 54 attempts against their lives and 15 cases in which they were subjected to death threats. Women reportedly suffered from discrimination due to their gender, their socio-economic status and their ethnic origin. Indigenous people were also said to continue to be victims of acts of harassment, death threats and even extrajudicial killings, often for refusing to join the ostensibly voluntary civil defence patrols or for their activities in indigenous resistance groups.

302. The Special Rapporteur also continued to receive a large number of reports about violations of the right to life of human rights defenders and members of popular organizations, trade unionists, journalists, university students and teachers, as well as persons linked with the church engaged in activities in favour of marginalized sectors. The following organizations active in the defence of human rights have been indicated as targets of death threats and attacks: the National Coordinating Committee of Widows of Guatemala (CONAVIGUA), the Guatemalan Association of Jurists (AGJ), the National Council of the Displaced of Guatemala (CONDEG), the Association for the Advancement of Social Sciences in Guatemala (AVANCSO), the Committee for Peasant Unity (CUC), the Council of Ethnic Communities "We are all Equal" (CERJ), the Mutual Support Group for the Appearance of Our Relatives Alive (GAM) and the Families of Detainees and Disappeared Persons in Guatemala (FAMDEGUA). Several of these associations have been cooperating with procedures of the Commission on Human Rights for years.

303. The Special Rapporteur also received persistent reports of violations of the right to life in the context of the Government's counter-insurgency strategy. Indiscriminate military attacks, employing heavy weaponry against civilian areas, were said to have caused a large number of victims. A total

of 61 bombardments of residential zones and 18 military operations directed against the civilian population were registered by CDHG during the first six months of 1993.

304. In addition, the Special Rapporteur received a number of reports according to which former combatants of the National Revolutionary Unit of Guatemala (URNG) were held in secret detention centres by the military. Several of them who escaped were said to have reported about torture and ill-treatment as well as death threats against the detainees and their families, allegedly with the aim of forcing them to collaborate with the military in the identification of members of the armed opposition.

305. These human rights violations reportedly continued to take place in a climate of impunity. As in former years, the Special Rapporteur was informed that only in very few cases were judicial proceedings initiated which led to the identification and conviction of those responsible for human rights violations. In particular, the civil defence patrols are said to continue to operate with impunity. The Special Rapporteur also received several reports concerning acts of intimidation and harassment and death threats to deter relatives of victims of human rights abuses and witnesses in legal proceedings from denouncing human rights violations and/or providing testimony against members of the security forces or those collaborating with them.

306. After the aborted coup d'état by former President Jorge Serrano Elías on 25 May 1993 and the election of human rights attorney Ramiro de León Carpio as the new President in the absence of a head of State, several observers expressed their hope that the human rights situation in Guatemala would improve and new impulse given to the peace negotiations between the Government and URNG.

Communications sent

307. The Special Rapporteur transmitted to the Government of Guatemala allegations he had received concerning violations of the right to life against more than 220 persons. Seventeen cases reportedly concerned violations of the right to life of minors and in 30 cases the victims were women; 66 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

308. The Special Rapporteur addressed 25 urgent appeals to the Government of Guatemala after he had received reports about death threats by members of the security forces or forces collaborating with them against:

(a) Bruce Harris, executive director of Casa Alianza (15 January 1993);
Demetrio Antonio Pérez Ordóñez, collaborator of Casa Alianza (19 March 1993);
Axel Mejía, collaborator of Casa Alianza (24 March 1993);

(b) "Street children" José Humberto Sandoval Guillo, Carlos Mayén,
Axel Danilo Vásquez, Juan Carlos Calderón, Henry Molina and Francisco Tziac
(19 August 1993);

(c) Ruby Magdalena Guzmán, wife of journalist Alfredo Torres Coyoy (25 January 1993); Angela María Contreras Chávez, collaborator of GAM (30 April 1993); Pablo Itzep Hernández, Cruz Luz Hernández and Manuel Batén Hernández, members of CERJ (28 May 1993); student leaders Amílcar David Montejo García, Armando Estrada Quesada and Ingrid Lucrecia Urrutia Aldana (2 June 1993); Jerónimo Morales Tiriquiz and Tomás Suy Cantil, members of CERJ, as well as their families (17 June 1993); trade union leaders Elizabeth Recinos Alvarez de León and Eluvia de Salam (14 July 1993); Fernando René de León Solano, executive secretary of AGJ (2 August 1993); Oswaldo Enríquez Contreras, leading member of CDHG, and his relatives Ricardo Enríquez, Dr. Roberto Enríquez and María Elena Enríquez (11 August 1993); medical doctor Brenda Mérida (1 September 1993); Olga Ruano Cruz de García, president of a neighbourhood committee (14 September 1993); members of AGJ and CONDEG, after attacks on their offices (20 September 1993); Nineth Montenegro, president of GAM, as well as other members of GAM and FAMDEGUA (29 September 1993); Marco Choco Damas, member of CONDEG (22 November 1993);

(d) Journalists Byron Barrera Ortiz, Hugo Arce, Marco Augusto Quiroa, Otto Morán, Carlos Rafaél Soto, Haroldo Sánchez, Marco Vinicio Mejía, Mario Roberto Morales, Danilo Rodríguez and Rubén Mejía, trade unionists Byron Morales and Romeo Monterroso, student leader Víctor Hugo Godiel, community workers Helmer Velázquez, Oscar Azmitia, Mario Silvestre and Alberto Monterroso, human rights lawyer Rodolfo Azmitia Jiménez as well as Alberto Echeverría, Ricardo Stein, Edgar Franco Rivera, Andrés Campos, Héctor de León Sagastume and Raquel Gartz, whose names were listed in a leaflet threatening them with assassination (8 April 1993); Juan José Rodil Peralta, the President of the Supreme Court, Rigoberta Menchú and 21 other well-known human rights activists, trade unionists, student leaders and journalists, in a communiqué which threatened to kill them (15 October 1993);

(e) Alejandro Pablo, in the context of land conflicts (25 January 1993); trade unionist Carlos Ranferi Gómez López, after a visit to the Indigenous Resistance Communities in El Quiché Department (2 April 1993); Gustavo Monzón, coordinator of Casa Nazareth, an organization which assists indigenous peasants and students (15 October 1993);

(f) César Augusto Paiz, Member of Parliament for the National Liberation Movement (MLN) (25 January 1993);

(g) Human rights activist Rigoberta Menchú and her family (25 January 1993);

(h) Juan Carlos Marroquín Tejeda and José Arnaldo Tejeda, witnesses to the extrajudicial killing of anthropologist Myrna Mack Chang in September 1990 (15 February 1993); Clara Arenas and María Elena Dávila de Torres of AVANCSO and Helen Mack Chang, sister of Myrna Mack Chang (26 February 1993);

309. The Special Rapporteur also transmitted urgent appeals to the Government of Guatemala expressing concern for the lives and physical integrity of:

(a) Efraín Bamaca Velásquez, Anastacia López Calvo, Martín Pérez Cabrera, Antonio Lorenzo, César Augusto Cabrera Hernández,

Aníbal Cabrera López, Carlos López, Reginaldo de Jesús Pérez Llama, Sr. Estrada and 29 others identified only by nicknames, all former URNG combatants who were said to be held in secret detention centres by the army, where they were allegedly subjected to torture and death threats (8 April 1993);

(b) Fifty-eight residents of Colotenango, among them members of CUC, CONDEG and CONAVIGUA, said to be under threat from the local PAC, after the killing of Juan Pablo Chanay (11 August and 14 September 1993); Luis Montefar, Héctor Mendizabel, Dr. Fredy Velásquez and members of San Gaspar Chajul police station, who were said to be at risk for their participation in the exhumation of Nicolás Bernal Mendoza, Miguel Cobo and Gaspar Caba Santiago, allegedly killed by PAC for having refused to participate in their patrols, and the subsequent investigation into these killings (3 November 1993); as well as Marcos Godínez, María Sales López, Ramiro Godínez Pérez, Francisca López Sánchez and Juan Godínez Pérez, after the killing of Andrés Godínez Díaz and his wife María Pérez Sánchez by members of PAC in Colotenango (15 October 1993);

(c) Imprisoned ex-soldiers Francisco Solbal Santay, Tiburcio Hernández Hernández, Noél Jesús de Beteta Alvarez, who, at a press conference in prison, had made declarations about extrajudicial executions by the military of persons suspected of being "subversives" in which they participated, as well as prisoner Jorge Guillermo Lemus, who had organized the press conference, after the killing, allegedly as a warning to them, by security forces of four prisoners: Moisés Tun Toc, Antonio Castillo Méndez, José Morales Campos and Oliverio Echeverría (22 November 1993).

310. The Special Rapporteur also transmitted to the Government of Guatemala the alleged extrajudicial, summary or arbitrary executions of José Tuy Carmen, Juan Tuy Quisquinay, 14-year-old Luis Antonio Tuy Carmen and 17-year-old Susana Tuy Carmen; Lucas Pérez Tadeo; and Mario José Colindres, allegedly by members of the military or groups collaborating with them; Pablo Luciano and Rosana Méndez, allegedly killed by members of the police; Catarino Chanchavac Larios; and Tomás Lares Cipriano, member of CERJ, allegedly for having refused to participate in the ostensibly voluntary PAC; and "street child" Henry Yubani Alvarez Benitez, allegedly by a private security guard.

Communications received

311. At the time of the preparation of the present report, no communications had been received from the Government of Guatemala.

Follow-up

312. The Special Rapporteur addressed a follow-up communication to the Government of Guatemala in which he referred to replies provided by the authorities to a number of cases transmitted in 1992 (see E/CN.4/1993/46, paras. 296-300). The Special Rapporteur requested the Government of Guatemala to provide him with updated information in cases where investigations had been opened and, in particular, whether those identified as authors of extrajudicial killings had been detained. In cases of death threats, the

Special Rapporteur inquired about the measures of protection that had been adopted. Where the Government had informed him that investigations had not revealed any evidence indicating that the persons in question had been a target of death threats, the Special Rapporteur asked for additional details about those investigations.

Observations

313. The Special Rapporteur is deeply concerned at the persistent and grave allegations of violations of the right to life as well as of impunity for those who commit such violations. Continued reports of killings and intimidation of "street children" and human rights activists, many of whom have been cooperating with United Nations procedures for the protection of human rights for a number of years, are most disturbing. The Special Rapporteur is also deeply concerned that violations of the right to life by members of the PAC and in the context of military counter-insurgency operations continue. In the light of the quantity and particularly serious character of the allegations, the Special Rapporteur regrets that no reply at all has been received to the cases transmitted to the Government of Guatemala in 1993. The Special Rapporteur calls upon the competent Guatemalan authorities to make every effort to ensure effective protection of those under threat and to carry out exhaustive and impartial investigations into all allegations of human rights violations with a view to identifying and punishing those responsible and granting compensation to the victims. He also appeals to the Government of Guatemala to adopt measures directed at the prevention of further violations of the right to life.

Haiti

314. The Special Rapporteur continued to receive a large number of allegations of extrajudicial executions, disappearances, death threats or acts of harassment or intimidation in Haiti. Violations of the right to life were reported to have been carried out by members of the army or of the police, as well as by attachés, armed civilians said to operate as auxiliaries to the security forces, and groups constituted by soldiers in civilian clothes known as "Zenglendiros".

315. During the spring of 1993 and again in the month of August, an upsurge of such violations was reported, particularly in the capital, Port-au-Prince. Increased acts of violence directed at supporters of President Jean-Bertrand Aristide were said to reflect the security forces' unease at the agreement signed on 3 July 1993 by President Aristide and Commander-in-Chief of the Armed Forces, General Raoul Cédras, which provided for the return of the former on 30 October 1993. Since this agreement was signed, at least 100 people were reported to have been killed. Many of the victims were said to have been journalists attempting to report incidents of human rights violations or others who had sought to exercise their right to freedom of expression by putting up posters, selling papers or handing out leaflets in support of President Aristide.

316. The Special Rapporteur was further informed that impunity continued to be the general rule in cases of violations of human rights. It was reported

that, almost without exception, members of the security forces and other forces collaborating with them or acting with their acquiescence were not asked to account for their actions.

317. In this context, the Special Rapporteur also wishes to refer to considerations regarding the right to life contained in the report submitted by the Special Rapporteur on the situation of human rights in Haiti, Mr. Marco Tulio Bruni Celli, to the General Assembly in November 1993 (A/48/561).

Communications sent

318. The Special Rapporteur transmitted to the de facto authorities in Haiti allegations he had received concerning violations of the right to life of 115 persons, including at least two minors and six women. At least 15 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

319. The Special Rapporteur sent four urgent appeals to the de facto authorities of Haiti by which he expressed concern for the life and physical integrity of: Jean Emile, journalist, and Gisèle Saint-Firmin, mother of a supporter of President Aristide, allegedly subjected to severe torture in detention and denial of medical care; Dilya Elyasen, Franki Mas, Selo Mas and Jenò Mas, reportedly tortured while in detention (2 February 1993); 17-year-old Francilien Julien and other children and staff members of an orphanage created by President Aristide, after death threats from a group of attachés (3 June 1993); Evans Paul, former mayor of the capital, reportedly under death threats from a group of some 200 attachés, after two of his supporters, including Bayard Edrice, had been killed by the same group (20 September 1993); Jean-Claude Bajeux, human rights activist and Vice-President of KONAKOM, an organization supporting President Aristide, and his wife, Sylvie Bajeux, after being attacked at their home by armed men said to act in cooperation with the security forces (18 October 1993).

320. In his urgent appeal of 20 September 1993, the Special Rapporteur also expressed concern at the wave of political violence initiated on 8 September 1993 and reports about the existence of a "hit-list" of 21 supporters of President Aristide to be executed by the attachés. In this context, the Special Rapporteur also asked the de facto authorities to open an investigation in the alleged killing during a mass of Antoine Izméry and Fritz Jocelyn.

321. The Special Rapporteur also transmitted to the de facto authorities of Haiti more than 100 cases of alleged extrajudicial, summary or arbitrary executions, which were said to have taken place in 1992, including the following:

(a) The following persons, most of them supporters of President Aristide, were said to have been killed by armed men suspected of acting with the acquiescence of the security forces: Marcel Almonaty, Ernest Rosembert, "Ti Bateau", Gabriel Joseph, Jean-Claude Michel, and three unidentified women. Two members of KONAKOM were also said to have been killed in the same circumstances: Jacques Dernoncourt and Marcel Fleurzile;

(b) The following persons had reportedly been killed by the so-called "Zenglenderos": André Jean Joseph and his wife, and 10 unidentified persons;

(c) The following persons were reportedly killed by members of the armed forces, either because they were supporters of President Aristide, or for personal reasons: Amos Mervil, Jean Time, Jean-Charles Misidor, Jean Dadi ("Ti Dadi"), "Ti Blau", Antoine, Gary Jeanty, Lachenais St. Vilus, Paul Vilfranc, Jean Sony Philogane, and five unidentified persons.

322. The Special Rapporteur also transmitted the case of 40 persons who were reportedly killed when members of the armed forces opened fire on a small boat. The victims included: Coreus Peterson, Emile Wilberhard, Ghislaine, Irma, Josue, Pierre Wilfrid, Jean Potin, and Tilous Taylor.

Communications received

323. The de facto authorities of Haiti replied to the Special Rapporteur's urgent appeal dated 10 September 1992 concerning the case of Jude Damus (E/CN.4/1993/46, para. 314), who had been ill-treated while in custody. They reported that he had been released shortly after his arrest, on the intervention of the Commissioner of Jérémie (11 December 1992). A reply was also provided concerning the urgent appeal sent by the Special Rapporteur on 2 February 1993: the case had been transmitted to the competent authorities for investigation (18 February 1993).

Observations

324. The Special Rapporteur expresses deep concern at the reported upsurge of political violence in Haiti. Reports of killings of those attempting to exercise their right to freedom of opinion and expression were particularly disturbing. The Special Rapporteur regrets that the United Nations human rights mechanism which had started to operate in Haiti was forced to interrupt its activities; he wishes to establish cooperation with this operation when it resumes its work. The Special Rapporteur emphasizes that the long-lasting cycle of violence and impunity in Haiti must be terminated. The perpetrators of human rights violations must be brought to justice and measures must be designed to prevent the recurrence of such acts of violence.

Honduras

Communications sent

325. The Special Rapporteur transmitted to the Government of Honduras allegations he had received concerning the extrajudicial, summary or arbitrary execution of Juan Humberto Sánchez, Abraham Vasquez Lazo, 16-year-old Karla Patricia Galindo, and Luis Alfonso Alcántara, allegedly killed by members of the military; as well as Francisco Andres Alvarenga Mena, reportedly shot by police in excessive use of force. All of these killings were said to have taken place in 1992.

Communications received

326. At the time of the preparation of the present report, no replies had been received from the Government of Honduras.

India

327. The Special Rapporteur received a number of reports concerning human rights violations in India. In particular, the Special Rapporteur was informed about the persistence of numerous violations of the right to life in Jammu and Kashmir. While armed separatists were said to be responsible for kidnapping and killing government officials as well as members of paramilitary forces and civilians, serious concerns have been expressed over a large number of killings by the Indian security forces. Very often, these killings were said to be the result of torture and ill-treatment in custody. Since the middle of 1992, the numbers of deaths in police and military custody have reportedly risen sharply. In many cases, the detainees were reported to have died after torture, shortly after their arrest. As in past years, torture was said to be widespread throughout India to extract confessions or information. Allegedly, the victims even included policemen. The Special Rapporteur was informed that, in March 1993, the occurrence of killings of detainees had been admitted by a senior Kashmiri official.

328. According to the information received, the Minister of State for Home Affairs and the Governor of Jammu and Kashmir have both stated that every death in custody would have to be accounted for and that the sternest possible action would be taken against those responsible for those killings. It was alleged, however, that this was rarely done. Inquiries were said to be carried out by police or army officials rather than by an independent and impartial body. Allegedly, their findings were almost never published. The Governor of Jammu and Kashmir was said to have ordered several investigations into human rights abuses. In one case, this reportedly led to charges of murder being brought against the Director of the Border Security Forces (BSF). According to information forwarded to the Special Rapporteur by the Indian authorities, action was taken against 171 members of the security forces in Jammu and Kashmir for human rights abuses. Such action consisted of imprisonment for several months and, in some cases, years, of security forces personnel, as well as dismissals from service, reductions in rank, suspensions or other departmental penalties. The authorities also informed the Special Rapporteur that during 1992, action was taken against 37 security forces personnel in Punjab.

329. Human rights violations perpetrated by members of the security forces were also reported in Punjab. A large number of suspected members or sympathizers of armed opposition groups or their relatives were said to have been killed in police custody, often after torture. The authorities reportedly attribute most of these deaths to armed encounters between militants and security forces. Deaths in custody and disappearances are said to be encouraged by the fact that existing legal safeguards against unacknowledged detention are often not adhered to.

330. According to information provided by the Government of India, between 1988 and 1992, armed separatists were responsible for the killing of 4,602 persons, including 508 members of the security forces, in Jammu and Kashmir and more than 10,000 persons, including over 1,400 policemen, in Punjab.

Communications sent

331. The Special Rapporteur transmitted to the Government of India allegations he had received concerning violations of the right to life of 215 persons, including one identified minor. More than 190 persons were reportedly killed in violation of their right to freedom of opinion and expression, peaceful assembly and association.

332. The Special Rapporteur sent four urgent appeals to the Government of India in which he expressed concern for the lives and physical integrity of Satnam Singh (22 December 1992) after reports about his alleged abduction by police; Mohinder Singh Grewal and D.S. Gill, Secretary-General and Chairman, respectively, of the International Human Rights Organization (IHRO), after allegations of death threats during police interrogations (5 April 1993); Umrao Singh (27 April 1993) and Nazir Ahmed Nisri (29 June 1993), both reportedly held in unacknowledged police detention.

333. The Special Rapporteur also transmitted to the Government of India the following cases that had been brought to his attention:

(a) The alleged extrajudicial killing of at least 53 civilians during an operation by the BSF in the village of Sopore; and of at least 137 people by members of the security forces who were carrying out official orders to suppress violent mobs but who allegedly fired on peaceful demonstrators and other people in Bombay, during the week following the destruction of the Babri Masjid in Ayodhya;

(b) The alleged extrajudicial execution by Indian security forces of Abdul Ahad Magrey and Imtiaz Ahmed; Hamida Mattoo; 10-year-old Ahmed Bilal and his parents; and three unidentified persons when security forces opened fire against demonstrators protesting the killing of Ahmed Bilal and his family;

(c) The killing, by gunmen allegedly linked to the security forces, of human rights activist H.N. Wanchoo; Dr. Farooq Ahmed and Dr. Abdul Ahad Guru, two surgeons who had documented numerous cases of torture; and the latter's brother, Ashiq Hussain, during Dr. Guru's funeral;

(d) The deaths, allegedly as a result of torture while in police or military custody, of: Satyavan; Vidyadhran; Manzoor Ahmed Ganai; police constable Riaz Ahmed; Nandagopal; Vikal Kumar; and Rajinder Prasad.

334. In the light of these allegations and, in particular, of the fact that similar reports had come before the Special Rapporteur over a number of years, the Special Rapporteur conveyed to the Government of India his interest in carrying out a visit to that country with a view to being in a better position to evaluate the situation and, consequently, proposing constructive recommendations that may help prevent the recurrence of such violations. With

reference to the particular problem of deaths in custody due to ill-treatment, it was suggested that such a visit could be carried out jointly with the Special Rapporteur on the question of torture.

Communications received

335. The Government of India provided the Special Rapporteur with information about investigations carried out into the killings of Dr. Guru and his brother A. Hussain, as well as human rights activist H.N. Wanchoo, which were said to have been committed by armed militants (17 November 1993).

Follow-up

336. The Special Rapporteur sent a letter to the Government of India in which he expressed his appreciation for a number of replies forwarded to him during 1992 and in early 1993, in response to allegations transmitted to the Indian authorities in 1992. In several cases of alleged death in custody due to torture, the Government of India had reported that inquiries had been initiated and, as a result, charges filed against members of the security forces. The Special Rapporteur asked the authorities to provide him with general information about the procedures followed to investigate such cases and about the current status of decisions, if any, concluding the inquiries into the specific incidents transmitted by him, as well as details about the organs carrying out those inquiries.

337. Where the Government of India had informed the Special Rapporteur that investigations had been initiated but had failed to determine that security forces personnel were responsible for having committed any offence, he asked for details concerning the investigations, in particular whether autopsies had been carried out. Specific information was also requested in a number of cases where the Indian authorities had informed the Special Rapporteur, for example, that a person had died due to head injuries after a scuffle with security forces personnel during his arrest, or where it was not clear whether an autopsy had been performed to determine the cause of death.

338. During his visit to Geneva in November 1993, the Special Rapporteur met with representatives of the Government of India who informed him about efforts made by the Indian authorities to ensure full respect for human rights. In particular, a Human Rights Commission Bill had been prepared by the Government and introduced in Parliament on 14 May 1993. On 28 September 1993, the Government of India issued the Protection of Human Rights Ordinance 1993 providing for the establishment of a National Human Rights Commission, State human rights commissions and human rights courts. The Special Rapporteur was also provided with details on a number of killings committed by armed separatists in Jammu and Kashmir.

339. With regard to a possible visit to India, the Special Rapporteur was informed by the Government of India that it was preferable to let the newly established human rights mechanisms deal with allegations of violations of the right to life.

Observations

340. The Special Rapporteur highly appreciates the willingness to cooperate shown by the Government of India in forwarding to him details concerning a number of cases of alleged extrajudicial, summary or arbitrary executions as well as information about measures to increase protection of the right to life. The Special Rapporteur welcomes the recent legislation providing for human rights commissions and human rights courts in India and hopes that these organs will become operational soon and contribute to full and impartial investigation of human rights violations with a view to identifying and punishing those responsible and compensating the victims, as well as to preventing similar abuses in the future.

341. The Government of India informed the Special Rapporteur on repeated occasions that most human rights violations occur in the context of fighting terrorist movements in the States of Jammu and Kashmir and Punjab. The Government also stated that even in such circumstances, no extrajudicial executions should occur. The Special Rapporteur entirely agrees with the Government of India that respect for the right to life must be fully ensured, even where the security forces are faced with the difficult task of fighting an armed opposition which often does not show respect for the right to life.

342. The Special Rapporteur remains concerned at allegations of violations of the right to life that continue to come before him. He will continue to monitor the situation closely. As concerns the possibility of a visit to India, the Special Rapporteur informed the representatives of the Government of India that he did not intend to carry out tasks which fall within the competence and responsibility of national institutions charged with the investigation of human rights violations but to seek first-hand information which would provide him with a better understanding of the situation and the problems faced by the authorities with respect to the right to life. This, in turn, would enable him to better evaluate the information that comes before him and offer his assistance in the efforts directed at providing better protection for the right to life.

Indonesia

343. The Special Rapporteur received a number of reports suggesting that serious violations of the right to life continue to be a common occurrence in Indonesia and East Timor. The Government's counter-insurgency operations reportedly entailed a large number of extrajudicial executions and disappearances at the hands of security forces personnel. Executions and disappearances were also said to be used by the authorities as an instrument to deal with other perceived threats to national security such as ordinary criminal activity and peaceful political opposition.

344. According to the information received, East Timor continued to be particularly affected by violations of the right to life perpetrated by the Indonesian security forces. At least 40 persons were said to have been extrajudicially executed by members of the security forces in 1992. The whereabouts of more than 200 persons who allegedly disappeared after the killing of more than 50 persons on 12 November 1991 at Santa Cruz were

reportedly not known at the end of 1992. Many of them were feared to have been killed and buried in anonymous graves outside Dili or thrown into the sea.

345. A similar pattern of extrajudicial executions and disappearances was reported in Aceh. Although the scale of violations of the right to life in this region was said to have diminished since the peak of the Government's counter-insurgency campaign between 1989 and 1991, politically motivated executions and disappearances allegedly continued to occur in 1992, and there had reportedly been no fundamental change in the conditions which allowed them to occur. Fears were therefore expressed that there was a real danger of the emergence of a similar pattern of violations in the context of future counter-insurgency operations in Aceh or in other parts of the country.

346. Extrajudicial executions, in particular killings of detainees while in custody and of suspected criminals, were also reported in Jakarta and other major cities. Police authorities were said to have defended the use of lethal force in what was described as a "shoot-to-kill" policy, stating that this was necessary to counter criminality in the city. Military and police were also reported to employ excessive use of force to disperse peaceful demonstrations and strikes.

347. According to several reports, the perpetrators of human rights violations enjoyed virtual impunity. With very few exceptions, those responsible for unlawful killings or disappearances are not prosecuted or convicted. None of the 10 members of the security forces tried before a military tribunal in connection with the November 1991 killings at Santa Cruz was charged with murder; all reportedly received only light sentences for disciplinary offences.

348. The establishment, in August 1992, of a human rights committee by some members of the Dewan Perwakilan Rakyat and the announcement, in January 1993, by President Suharto of plans to establish an independent national human rights commission in the near future were reported as positive steps towards increased protection of human rights. However, at the time of the preparation of the present report, the Special Rapporteur had not received any detailed information about the working of these institutions.

Communications sent

349. The Special Rapporteur transmitted to the Government of Indonesia allegations he had received concerning violations of the right to life of 32 persons, including one minor and one woman.

350. The Special Rapporteur sent three urgent appeals to the Government of Indonesia in response to reports he had received concerning:

(a) The imminent execution of Khong Thavorn Kamjal, a Thai seaman sentenced to death in 1988 for drug smuggling, allegedly in breach of fair trial guarantees (31 December 1992);

(b) Military operations carried out by the Indonesian security forces to counter movements advocating independence in the province of Irian Jaya,

which were alleged to entail human rights violations, including the extrajudicial, summary or arbitrary execution of civilians. The killing of Hans Soaf was cited as an example of such violations. The members of the security forces were said to act with impunity (29 September 1993);

(c) Alleged death threats by members of the police, or with their complicity, against Ahmad Jauhari, a lawyer working in a legal aid institute, for his involvement in a land dispute (18 October 1993).

351. The Special Rapporteur also transmitted to the Government of Indonesia a number of specific cases which were said to have occurred in Aceh and which concerned the following civilians, allegedly killed by members of the Indonesian Army:

(a) Nurdin Usman Murni, Nurdint Patang, Ibrahim Keumala, Jamaluddin Usman, Sulaiman Tjot Hurong, Ahmad Rusil, Hasan Geusjik, Ithum Hamzah Teungku, Seuman Geusjik, Umar T. Tangse, Iljsa Ali, Utolh Yusuf, Rusii Atjeh, Adnan Ahmad, T. Husan and N. Ismail, who were reportedly killed by soldiers with no apparent reason;

(b) Zulfikli, who was reportedly arrested and forced to join the army's counter-insurgency operation. He was then allegedly shot dead for "trying to escape";

(c) Geusjik Umar Mahmud, a leader of the Free Aceh Movement, allegedly shot dead by the army;

(d) Bang Lah Meuleuweuek, who was reportedly arrested by soldiers looking for her husband. Her dead body was later found bearing marks of torture and of several bullet wounds;

(e) A. Djail Kasem, reportedly arrested by the army to identify members of an opposition movement, and later killed for refusing to cooperate.

Communications received

352. The Government of Indonesia provided the Special Rapporteur with a reply to his urgent appeal of 31 December 1992 and informed him that Khong Thavorn Kamjai had been found guilty and sentenced to death by the State Court of Samarinda of illegal possession of narcotics, according to article 36 of Narcotics Law No. 9. The verdict was upheld by the Higher Court of Samarinda. There was no proof whatsoever that force had been used to compel him to sign a statement of guilt. Since there was no new element which could be used as proof of his innocence, his appeal to the Supreme Court, a plea for clemency to the President of Indonesia and a request for review of the case by the Supreme Court were all rejected. A second request for pardon from the President was filed, but no decision had been taken at the time of the reply (22 June 1993).

353. The Government of Indonesia also replied to the urgent appeal sent on 29 September 1993 concerning military operations in Irian Jaya: Hans Soaf was alive and his whereabouts were given (22 November 1993).

Observations

354. The Special Rapporteur wishes to express his appreciation for the two replies received from the Government of Indonesia, which are detailed and complete. The Special Rapporteur welcomes the plans to set up an independent national human rights commission. He hopes that this institution will be able to investigate effectively allegations of violations of the right to life in Indonesia and East Timor. The Special Rapporteur wishes to receive all relevant information concerning this commission, such as its composition, tasks, status, powers, etc. He also hopes to be able to establish a relationship of cooperation with the commission as soon as it has begun its work.

355. The Special Rapporteur remains deeply concerned at persistent and grave allegations of violations of the right to life in Indonesia and East Timor. The reports outlined above concerning abuse of force by the security forces in Irian Jaya and by the security forces in Jakarta and other cities are particularly disturbing. The Special Rapporteur is also concerned that perpetrators of human rights violations continue to enjoy impunity. The Special Rapporteur calls on the authorities to adopt effective measures to prevent the recurrence of violations of the right to life, in particular instances of abuse of force by the security forces.

356. The Special Rapporteur hopes to have the opportunity to participate in the implementation of Commission on Human Rights resolution 1993/97 on the situation in East Timor, in which the Commission urged the Government of Indonesia, inter alia, to invite him to visit East Timor. In a communication addressed to the Government of Indonesia, the Special Rapporteur has expressed his interest in carrying out such a visit. The Government of Indonesia replied that the content of this letter had been forwarded to the authority concerned in Jakarta for further careful consideration. The authorities drew the Special Rapporteur's attention to the fact that resolution 1993/97 of the Commission was adopted by a vote which Indonesia and many other member countries rejected. Therefore, Indonesia did not feel compelled to abide by its provisions. It was further stated that the Government of Indonesia would give due consideration to a request for a visit to Indonesia, including East Timor, of any thematic rapporteur, as long as it was based on United Nations consensus resolutions.

Iran (Islamic Republic of)

357. The reports and allegations that have come before the Special Rapporteur indicate that extrajudicial, summary or arbitrary executions continue to occur on a large scale in the Islamic Republic of Iran.

358. As in former years, it was reported to the Special Rapporteur that trial procedures before Islamic Revolutionary Courts which lead to the imposition of the death penalty in an alarmingly high number of cases do not conform to internationally recognized fair trial standards. This was said to affect, in particular, the right to an adequate defence and the right to appeal. In political cases, trials were often said to last only a few minutes. Reportedly, the accused have no access to legal counsel at any stage of the proceedings, and they are denied the right to appeal against conviction and

sentence as well as any opportunity to seek commutation of the sentence. Furthermore, hearings are said to be held in camera. The use of televised confessions is feared to further undermine the possibilities of a fair trial. It is particularly preoccupying that similar allegations have now been received for several years, without there being any indication of steps taken by the competent authorities towards a change in procedures.

359. The Special Rapporteur also received numerous reports concerning attacks against members of the political opposition to the Government outside the Islamic Republic of Iran. It has been alleged that those responsible are agents with links to the Iranian security forces.

Communications sent

360. The Special Rapporteur transmitted to the Government of the Islamic Republic of Iran allegations he had received concerning violations of the right to life of more than 100 persons, including one identified minor and two women. More than 50 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

361. The Special Rapporteur sent six urgent appeals in which he expressed concern at the reported imminent execution of death sentences imposed by Islamic Revolutionary Courts on: 51 students of the University of Isfahan (31 December 1992); Abdollah Bagheri (19 March 1993); Salim Saberniah and Mustafa Ghaderi (27 April 1993 and 13 September 1993); 77-year-old Feizollah Mekhoubad (30 June 1993); and Seyed Roh Allah Hashemizadeh (16 July 1993).

362. The Special Rapporteur also transmitted to the Government of the Islamic Republic of Iran the following cases of alleged executions:

(a) Roja Boheilian, allegedly killed by members of a vice-squad; and Bahareh Vejdani (17), allegedly shot dead by a policeman for violating the Islamic dress code;

(b) After having been sentenced to death: Ali Reza Hamidabad, Hamid Kord and Gholam Reza Sagvand in Dezful prison; Mohsen Mohammadi Sabet in Rasht prison; Abbas Sialipour and Gharib Faramarz in Karaj; four unidentified people in Torbat-e-Heidarieh; one unidentified person in Mashad prison; Mohammad Zaef Dorrani in Shiraz; four unidentified persons in Sirjan; Kaliman Narou'i and 11 others (names available at the Secretariat) in eastern border areas of the Islamic Republic of Iran; Hossein Panahi in Karaj; Abdol-Latif Ghabishavi in Ahwaz;

(c) Killings of Iranian nationals abroad, allegedly by agents linked with the Iranian security services: Mohammad Hussein Nagdi, representative of the National Council of Resistance in Rome; Mojahed Mohammad Hassan Arbab, also known as Mohamad Khan Baluch, in Karachi; Ali Akbar Ghorbani, also known as Mansour Amini, in Istanbul; Behran Azadfer in Ankara; Delarvir Narou'i and Heybatollah Narou'i in Karachi. These allegations were also transmitted to the Governments of Italy, Pakistan and Turkey.

Communications received

363. The Government of the Islamic Republic of Iran provided the Special Rapporteur with replies to three of the cases transmitted in 1993. With regard to Abdollah Bagheri, the authorities reported that Mr. Bagheri was one of the ringleaders of the "Komala" terrorist group who had confessed to the murder of four persons, and that his case was under investigation by the competent tribunal (13 May 1993). As concerns the case of Feizollah Meikhoubad, it was stated that he had been arrested on charges of espionage for Israel and was now waiting for the final sentence to be issued by the competent court. The Iranian Government requested to be provided with the father's name, date and place of arrest of Salim Saberian and Mostafa Gnaderi, in order to be able to carry out investigations (22 September 1993).

Follow-up

364. The Special Rapporteur received communications from the Governments of Italy and Turkey concerning the investigations carried out by the competent authorities into the killings of Mohammad Hussein Nagdi and Ali Akbar Ghorbani (11 November and 12 November 1993, respectively).

Observations

365. The Special Rapporteur appreciates the information provided by the Government of the Islamic Republic of Iran in reply to some of the cases transmitted in 1993. He would like to note, however, that these replies do not refer to any of the concerns with regard to shortcomings in the guarantees for a fair trial in proceedings leading to the imposition of capital punishment. The Special Rapporteur calls upon the authorities of the Islamic Republic of Iran to fully respect the rights of those facing the death penalty.

366. The Special Rapporteur is also deeply concerned at the reports of extrajudicial killings abroad of persons known to be in opponents of the Iranian Government. In this context, he wishes to express his appreciation for the information forwarded by the Governments of Italy and Turkey, whose authorities are charged with the investigation of the killings that occurred on their national territory.

367. In addition, the Special Rapporteur notes that, should the allegations concerning the killings of two women for having violated the Islamic dress code be substantiated, these are the only cases that have come to his attention during the past year in which the victims have been specifically targeted for being women.

368. The Special Rapporteur would like to refer also to concerns about the right to life expressed by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Mr. Reynaldo Galindo Pohl, in the recent report to the General Assembly (A/48/526).

Iraq

369. The reports and allegations that have come before the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Iraq on a large scale, in particular, attacks by the military on villages. In this context, the Special Rapporteur wishes to refer to reports of indiscriminate bombardment of civilian settlements and arbitrary killings in the Southern Marsh areas, allegedly resulting in the death of large numbers of civilians, including women, children and the elderly. These are contained in the report recently presented to the General Assembly by the Special Rapporteur on the situation of human rights in Iraq, Mr. Max van der Stoep (A/48/600).

370. The Special Rapporteur also received reports expressing concern at the practice of capital punishment in Iraq. Under legislation passed by the Revolutionary Command Council, offences like car theft or smuggling of cars were made punishable by death.

Communications sent

371. The Special Rapporteur transmitted to the Government of Iraq allegations he had received concerning violations of the right to life of at least 24 persons, 11 of them minors.

372. The Special Rapporteur sent an urgent appeal to the Government of Iraq after being informed about an attack on the Kurdish village of Arwina, where members of the Arab Lahib tribe were said to have shot indiscriminately at civilians. The Iraqi military allegedly supported the attack by shelling from military bases. Thirty people were said to have been killed, 17 of whom had been identified (names available at the Secretariat) (6 April 1993).

373. The Special Rapporteur sent a second urgent appeal to the Government of Iraq after being informed that the following persons had been sentenced to death for stealing and smuggling cars and faced imminent execution: Salah Mahdi Mezahim, Ali Salih Abood, Ali Mohammed Abdullah, Fouad Jwad Kadhim, Ali Murad Ali and Qasim Mohammed (15 April 1993).

374. The Special Rapporteur also transmitted to the Government of Iraq the case of the killing, allegedly by armed men linked with Iraqi security forces, of Vincent Robert Ghislain Tollet, a Belgian national and humanitarian aid worker, near Sulaymania.

Communications received

375. The Government of Iraq provided replies to all cases transmitted by the Special Rapporteur in 1993.

(a) With regard to the attack on Awina village, the Government reported that an exchange of fire took place between peasant families after an argument had broken out over the use of farm land belonging to one of them. Casualties resulted from the gunfight which lasted until nightfall. Subversives later exploited this situation by claiming that they had been wounded in an

alleged attack. There were no military units in the area in which the incident occurred, and military personnel did not participate in the attack (27 April 1993);

(b) With regard to the death sentence against six persons convicted for stealing and smuggling cars, the Government of Iraq informed the Special Rapporteur that the death penalty was prescribed by Iraqi law for anyone who commits the offence of vehicle theft, in accordance with Revolution Command Council Decision No. 13 of 1992, which was promulgated with a view to curbing vehicle thefts in wartime. The six persons referred to in the Special Rapporteur's urgent appeal had stolen cars; four had also committed the offence of vehicle smuggling. They were tried before the competent court and benefited from all the standard safeguards for their defence (5 July 1993);

(c) As concerns the case of Vincent Tollet, the Government of Iraq stated that the Iraqi authorities were not responsible for any event in the northern zone. The central Iraqi authorities had not been present in the area for more than two years, due to the flagrant interference of the coalition forces in the region (19 October 1993).

376. Furthermore, the Government of Iraq provided information concerning an urgent appeal sent by the Special Rapporteur in 1992, concerning the execution of death sentences against 67 merchants for economic offences such as profiteering (see E/CN.4/1993/46, para. 375). The Iraqi authorities informed the Special Rapporteur that, as a consequence of the economic embargo imposed on Iraq, the civilian population suffered under extremely difficult conditions. In such circumstances, those exploiting the situation to realize immense profits deserved the death penalty, as prescribed by Iraqi law. Accordingly, 44 merchants, who had monopolized large quantities of food items with the aim of later releasing them onto the market when their prices had risen in order to realize an exorbitant profit, were brought to trial where they benefited from fair trial guarantees. Four were released due to insufficient evidence. The others were convicted of the crime of monopoly and sentenced to death, in accordance with Revolution Command Council Decision No. 315 of 1990. As regards 25 merchants allegedly executed on 17 September 1992, the Government of Iraq denied this information and affirmed that it was untrue (3 June 1993).

Follow-up

377. The Special Rapporteur addressed a letter to the Government of Iraq in which he referred to the replies concerning Awina village and the death sentence against the 40 merchants. With regard to the killings in Awina, the Special Rapporteur requested the Government of Iraq to provide him with additional details, in particular, what investigations had been carried out into the incident, and by which authority; whether the conclusions of such an investigation were available; whether those killed or wounded during the exchange of fire had been identified. As regards the death sentences, the Special Rapporteur asked the Iraqi authorities to inform him in detail about the rules of procedure that apply in trials which may lead to the imposition of capital punishment and which other offences were punishable by death under Iraqi law. He also requested to be provided with the names of the four merchants released for lack of evidence against them.

378. The Special Rapporteur also transmitted the contents of the replies to the sources of the allegations for their comments and observations. The source of the information concerning the Awina attack has already replied, providing additional details which reinforce the earlier allegations.

Observations

379. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Iraq in providing him with the above-mentioned replies. He remains concerned, however, at the reports about violations of the right to life which he continues to receive. With particular reference to capital punishment, the Special Rapporteur calls upon the Iraqi authorities to revise its legislation so as to make it better conform to the standards and safeguards contained in the pertinent international instruments.

Israel

380. According to the information that has come before the Special Rapporteur, human rights violations, including extrajudicial, summary or arbitrary executions, continued to occur in the Occupied Territories.

381. Military attacks by Israeli security forces in the Occupied Territories reportedly continued throughout 1992 and the first half of 1993. Large-calibre machine guns, anti-tank missiles, dynamite and shells were said to be employed to destroy houses in which Palestinians suspected of having committed serious crimes, such as killings of Israelis or other Palestinians, were alleged to be hiding. Concerns were expressed that the massive firepower used in such attacks is excessive and that the destruction of a large number of houses amounts to collective punishment resulting in the deaths of people who were not engaged in any violent activity. A number of reports received by the Special Rapporteur indicate that Palestinians were killed by members of the Israeli military after they had come out of the attacked houses and at a time when they did not pose any threat to the lives of the soldiers, some of them even after they had surrendered without showing any resistance.

382. An upsurge in alleged extrajudicial killings of Palestinian civilians by Israeli forces, including special undercover units, has been reported since the deportation to southern Lebanon of more than 400 alleged supporters of the Islamic Resistance Movement (Hamas) and Islamic Jihad in December 1992. Since then, more than 100 Palestinians were allegedly killed by Israeli security forces. At least 70 of these killings were said to have taken place in the Gaza Strip. More than 30 of the victims were minors. During the month of May, 24 Palestinians were reportedly killed. This is said to be the highest death toll since the beginning of the year. It has been alleged that the Israeli security forces persistently resort to excessive use of force.

383. According to the information received, no steps have been taken by the Israeli authorities to prevent the excessive use of force by members of the security forces.

Communications sent

384. The Special Rapporteur transmitted to the Government of Israel allegations he had received concerning violations of the right to life of 40 persons, including 10 minors and one woman. Ten cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

385. The Special Rapporteur sent three urgent appeals to the Government of Israel in which he expressed concern at the killing of 33 persons (names available at the Secretariat), allegedly by members of the Israeli security forces who resorted to excessive use of force, in the Occupied Territories between December 1992 and February 1993. The Special Rapporteur urged the Israeli authorities to take all necessary steps to prevent such incidents (7 January, 11 February and 5 April 1993).

386. The Special Rapporteur also transmitted to the Government of Israel the following cases of:

(a) Deaths in custody, allegedly as a result of ill-treatment: Mustafa Akkawi, in Hebron central prison; 17-year-old Samir Omar, after having been tortured in Gaza central prison; Muhammad 'Id Hazem, in Hebron central prison; Mustafa Mahmud Mustafa 'Abd-Jadi Barakat, in Tulkarem detention centre; Ayman Sa'id Hasan Nassar, after having been tortured on the way to and in Ashkelon prison;

(b) Killings by members of the Israeli security forces, allegedly in excessive use of force: Ahmad Mustafa As'ad Daqqah Al-Kikh and Amin Mohammad Qasem Rahhal.

Communications received

387. The Government of Israel provided the Special Rapporteur with replies to two of the cases transmitted in 1993 (30 June 1993):

(a) With regard to the death in custody of Mustafa Akkawi, the authorities reported that, according to the investigation carried out, his death was not attributable to an offence but due to natural causes. However, the prison doctor had not acted in accordance with professional norms of behaviour and the General Security Service officer on duty did not act in accordance with what was expected of him under the circumstances. The State attorney had recommended disciplinary measures against them;

(b) With regard to the death in custody of Hazem Eid, the Government of Israel stated that the police investigation had established that he had hung himself with a noose, without the involvement of any other person.

388. The Government of Israel also provided information with regard to an urgent appeal sent by the Special Rapporteur in 1992 on behalf of Ahmed Salman Musa Qatamesh (see E/CN.4/1993/46, para. 382), informing him that neither the detainee nor his wife had been subjected to torture or ill-treatment, and that he was provided due medical attention (30 June 1993).

Follow-up

389. The Special Rapporteur addressed a follow-up letter to the Government of Israel in which he requested additional information on the investigations carried out to clarify the deaths in custody of Mustafa Akkawi and Hazem Eid, in particular, in what manner the prison doctor and security personnel had failed to fulfil their duties and how the noose had got into Hazem Eid's cell.

Observations

390. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Israel in providing him with the above-mentioned replies. However, he remains concerned at persistent reports of deaths as a result of excessive force, particularly in the Occupied Territories. The Special Rapporteur urges the Israeli authorities to take all necessary measures to prevent such incidents from happening in the future and to ensure full respect for the restrictions on the use of force as set forth in a number of international instruments governing the use of force and firearms by law enforcement officials. He hopes that progress in peace negotiations between the Government of Israel and the Palestine Liberation Organization will create a climate more favourable to the protection of the right to life and encourages both parties to adopt measures aiming at the prevention of further acts of violence leading to loss of lives. Such issues should be addressed in the framework of the negotiations.

JamaicaCommunications sent

391. The Special Rapporteur sent an urgent appeal to the Government of Jamaica after being informed of death threats by prison personnel against Randolph Barette and 25 other inmates of St. Catherine's district prison, Spanish Town, after 4 prisoners were killed during disturbances in the jail on 31 October 1993 (11 November 1993).

Communications received

392. The Government of Jamaica provided the Special Rapporteur with information concerning the cases of Earl Pratt and Ivan Morgan, transmitted to the authorities in 1991 by the then Special Rapporteur, Mr. Wako. The Government reported that, at the time of the reply (15 February 1993), a petition filed with the Judicial Committee of the Privy Council had not yet been considered.

Observations

393. The Special Rapporteur has recently been informed about the judgement passed by the Lords of the Judicial Committee of the Privy Council, the highest court for the member States of the Commonwealth, in the cases of Earl Pratt and Ivan Morgan on 2 November 1993. In this judgement, the Lords concluded that in any case in which execution is to take place more than five years after sentence there will be strong grounds for believing the delay is such as to constitute "inhuman or degrading punishment or other treatment"

and advised Her Majesty that the death sentences against Earl Pratt and Ivan Morgan be commuted to life imprisonment. Observers have stressed the bearing of this decision on a large number of cases in various Commonwealth countries where prisoners have been on death row for more than five years.

Kenya

394. The Special Rapporteur received information according to which two investigations - one sponsored by the National Council of Churches of Kenya and another by a parliamentary committee - had concluded that a considerable portion of those killed during inter-ethnic clashes in western and central Kenya during the first months of 1992 had been victims of extrajudicial executions. A group called "Kalenjin warriors", allegedly closely linked to senior officials of the Government and the Kenya African National Union (KANU), was indicated as one of those responsible for the killings. The committee recommended that allegations against certain named government and KANU officials, including the Vice-President, be investigated.

395. According to the information received, in October 1992, the full Parliament, composed solely of KANU members, rejected the report by the committee. To date, no action is said to have been taken to bring to justice any of the officials allegedly responsible.

Communications sent

396. The Special Rapporteur transmitted to the Government of Kenya information he had received concerning the alleged failure of the authorities to carry out exhaustive and impartial investigations into the killing, in February 1990, of former Minister Robert Ouko, and into the extrajudicial executions, allegedly by anti-riot police, of Omar Khalid Alimedi, Said Qalatin and "Kidochi".

397. The Special Rapporteur also communicated to the Government of Kenya the concerns summarized above and asked to be provided with comments and information regarding these allegations.

Communications received

398. The Government of Kenya forwarded replies to the cases brought to its attention and informed the Special Rapporteur that the case of Robert Ouko was before the courts (28 July 1993). As regards the alleged extrajudicial killings by anti-riot police during a demonstration in Mombasa, the Government stated that the police were forced to use firearms after the demonstration had become unruly and riotous and the demonstrators had attacked them with stones, sticks, petrol bombs and other crude weapons. Inquests were opened into the death of three persons (6 August 1993).

Follow-up

399. The Special Rapporteur sent a follow-up letter to the Government of Kenya in which he expressed appreciation at the willingness to cooperate shown by the authorities and asked to be provided with further details concerning the inquest into the deaths of three persons during demonstrations in Mombasa and any steps taken to prevent similar incidents from happening again. In the

same letter, the Special Rapporteur referred to information provided by the Government of Kenya in October 1992 concerning three cases transmitted in 1992 (see E/CN.4/1993/46, para. 389). The Special Rapporteur inquired about the current status of those investigations.

Kuwait

400. The Special Rapporteur received reports indicating that proceedings before the Kuwaiti State Security Court leading to the imposition and subsequent execution of death sentences did not conform to internationally recognized fair trial standards.

401. Concern was expressed at alleged violations of the right to an adequate defence. In particular, during pre-trial detention, defendants before the State Security Court were said to have been denied the right to prompt access to their lawyer, the right to challenge the lawfulness of their detention before a court and to obtain their release if the detention was unlawful. In some cases, it was reported that confessions were extracted under duress. It was alleged that convictions were based on such confessions, on written evidence not made available to defendants or their lawyers, or on hearsay testimony of secret witnesses. In addition, the Special Rapporteur was informed that those tried before the State Security Court were denied the full right to appeal. While defendants in ordinary criminal cases are entitled to a review by the Court of Appeal on issues of fact and law followed by a further review of possible legal errors by the Court of Cassation, those tried by the State Security Court were said to be limited to a review of their convictions by the Court of Cassation.

Communications sent

402. The Special Rapporteur transmitted to the Government of Kuwait two urgent appeals upon receiving information that the following 16 persons were at imminent risk of execution after having been sentenced to death by the State Security Court: Ghaleb Abd al-Majid al-Turki, Muhsin Shawkat Taher Hussain, Huda Mustafa Imam, Khalifa and Siham Ibrahim Hussain Ali (28 May 1993); 'Imam al-Din Mahmud Nimr and 9 others (names available at the Secretariat) (20 June 1993); Walid Jassem Mahdi (29 June 1993).

Communications received

403. The Government of Kuwait provided a reply concerning the above-mentioned cases and informed the Special Rapporteur that, with the exception of Huda Mustafa Imam, who was tried in absentia, all were arrested, detained and remanded in custody pending trial after their statements in their own defence had been heard and checked. They had an opportunity to lodge a protest against the order for their remand in custody before the President of the State Security Court or one of its members. They were given the opportunity to secure legal counsel. The death sentences were based on clear and incontrovertible evidence, none of which was extracted under any form of coercion. Sentences passed in absentia are subject to appeal through the objection procedure and the cases must then be retried by the State Security Court in the presence of the accused. Sentences passed in the presence of the accused are also subject to appeal in cassation. Review of death sentences by

the Court of Cassation is mandatory. At its hearing on 10 August 1992, the Court of Cassation commuted the sentence of Muhsin Shawkat Tahir Hussein to life imprisonment. On 1 March 1993, the Court decided that it could not consider a review of the sentence passed on Huda Mustafa Imam in absentia until she had been notified of that sentence and given an opportunity to lodge an appeal through the objection procedure. At the time of the reply, all other cases were still being considered by the Court of Cassation (30 September 1993).

Observations

404. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Kuwait. However, he remains concerned that in proceedings before the State Security Court, defendants do not benefit fully from the right to appeal as set forth in the pertinent international instruments, since they are deprived of a stage of appeal which fully reviews the case, both with regard to facts and legal aspects. This full appeal procedure is, however, provided for in ordinary criminal proceedings. In this context, the Special Rapporteur wishes to stress that in trials leading to the imposition of capital punishment all safeguards and guarantees for a fair trial must be fully respected. Accordingly, the Special Rapporteur calls upon the Government of Kuwait to provide for full appeal procedures in trials before the State Security Court and to ensure that those facing the death penalty also benefit fully from all other safeguards and guarantees as contained in the pertinent international instruments.

Kyrgyzstan

Communications sent

405. The Special Rapporteur sent an urgent appeal to the Government of Kyrgyzstan after being informed about the imminent execution of the death sentence imposed upon Grigory Abramov (15 April 1993).

Communications received

406. At the time of the preparation of the present report, no communications had been received from the Government of Kyrgyzstan.

Lebanon

Communications sent

407. The Special Rapporteur transmitted to the Government of Lebanon allegations he had received according to which eight unidentified civilians had been killed when security forces opened fire on participants in a demonstration in what was described as an act of excessive use of force (29 July 1993).

Communications received

408. At the time of the preparation of the present report, no communication had been received from the Government of Lebanon.

LesothoCommunications received

409. The Government of Lesotho provided the Special Rapporteur with a reply concerning four cases transmitted in 1992 (see E/CN.4/1993/46, paras. 394-396) and informed him that investigations had been opened into all of them and, at the time of the reply, were still under way (5 February 1993).

Follow-up

410. In response to this reply, the Special Rapporteur sent a letter to the Government of Lesotho in which he expressed his appreciation of the willingness to cooperate shown by the authorities, and requested to be provided with updated information on the progress of the investigations.

Liberia

411. The Special Rapporteur has received alarming reports about violations of the right to life in the context of the armed conflict opposing the Armed Forces of Liberia (AFL), the United Liberation Movement for Democracy in Liberia (ULIMO) and the National Patriotic Front of Liberia (NPFL). Since the outbreak of the conflict, tens of thousands of civilians are said to have lost their lives. All parties to the conflict were reported to be responsible for extrajudicial, summary or arbitrary executions of persons whom they suspected to be active fighters or sympathizers of either the Monrovia-based Government or the NPFL. Concern was also expressed at the possible involvement of soldiers of the peace-keeping force in Liberia of the Economic Commission of West African States (ECOWAS).

412. The Special Rapporteur received reports of particular gravity concerning the massacre of up to 600 people at a camp for displaced people at Harbel, near Monrovia, on 6 June 1993. A panel of inquiry was sent by the Secretary-General to establish the facts, to examine allegations of responsibility and to make recommendations.

Communications sent

413. The Special Rapporteur sent a letter to the Government of Liberia after he had been informed about the outcome of the investigations carried out by the panel of inquiry into the Harbel massacre. The panel concluded that the killing of nearly 600 displaced persons at Carter Camp was planned and carried out by soldiers of the Armed Forces of Liberia. Fourteen others were murdered by AFL soldiers at another location called Camp A, in walking distance of Carter Camp. The panel had also collected evidence indicating individual responsibility of three members of the military. The Special Rapporteur appealed to the Government to carry out full, independent and impartial investigations into the Harbel massacre with a view to identifying all those responsible and bringing them to justice, regardless of their rank, office or position. He also urged the authorities to take adequate steps to prevent such incidents from happening again in the future, and to compensate the families of the victims.

Communications received

414. At the time of the preparation of the present report, no communications had been received from the Government of Liberia.

Observations

415. The Special Rapporteur would like to express deep concern at massive violations of the right to life in Liberia. However, with regard to this country, he finds himself in the position where reports of such violations can be found almost daily in the mass media, but where very little information has come before him which would enable him to act according to his mandate's procedures. The Special Rapporteur wishes to note, however, that he has recently been informed of an initiative taken by the Special Representative of the Secretary-General to Liberia with the view to establishing a human rights component within the United Nations Observer Mission in Liberia (UNOMIL). The Special Rapporteur would like to indicate his readiness to cooperate in such an effort in any manner that may be considered appropriate, including through a visit to Liberia with the objective of obtaining first-hand information on the situation in the country and making recommendations for better protection of the right to life.

Malawi

416. The Special Rapporteur received a number of reports and allegations concerning violations of the right to life in the context of the campaign preceding the referendum of 14 June 1993 which has led to the end of the one-party system in Malawi. Various supporters of the institution of multi-party democracy had reportedly been victims of death threats and acts of harassment, and in some cases even extrajudicial execution. Those responsible for violations of the right to life were said to have been the police and security forces, the para-military Malawi Youth League and supporters of the Malawi Congress Party (MCP), which had held the monopoly of political power for 29 years. On several occasions, the security forces were said to have opened fire indiscriminately against participants in peaceful demonstrations. The outcome of the referendum, however, and the fact that on 29 June 1993 the Malawi Parliament, though restricted to the ruling MCP, changed the Constitution to allow opposition parties, have been noted by several observers as positive steps towards increased protection of human rights.

417. The Special Rapporteur also received a number of reports concerning procedural shortcomings that were said to affect trials leading to the imposition of the death penalty. Such trials were reportedly held before "Traditional Courts", which had originally been established by the British colonial authorities for minor offences and later extended to rape, murder and treason. According to the information received, it is incumbent on the prosecution to decide whether a case is heard before the High Court system or the "Traditional Courts". The bench of the latter is said to consist of four chiefs, i.e. local administrative officers, appointed by the President and removable by him, as well as one qualified lawyer who writes the judgement.

418. Allegedly, defendants before "Traditional Courts" have no right to legal representation and do not receive an advance summary of the

prosecution evidence in order to prepare their defence. The Traditional Courts (Procedure) Rule reportedly allows the defendant to call witnesses in his or her defence. However, in the trial of Orton and Vera Chirwa in 1983, this right was said to have been denied. In another case, it has been alleged that three anonymous letters were accepted as evidence. Discretion as to the right to appeal reportedly lies entirely with the Minister of Justice, and appeals may be lodged only within the "Traditional Court" system. Concern has been expressed that these procedural shortcomings may seriously affect the safeguards of those facing the death penalty, as provided for in several international human rights instruments.

Communications sent

419. The Special Rapporteur transmitted to the Government of Malawi allegations he had received concerning violations of the right to life of more than 42 persons. Over 40 of them were said to have been extrajudicially executed while exercising their right to freedom of opinion and expression, peaceful assembly and association.

420. The Special Rapporteur sent an urgent appeal to the Government of Malawi after being informed of the imminent execution of the death sentence, imposed by the Central Region Traditional Court, upon Foster Azele Mlombwa, former MCP chairman for Dedza (27 August 1993).

421. The Special Rapporteur also transmitted to the Government of Malawi allegations he had received concerning alleged death threats and attempts on the life of Reverend Emmanuel Chinkwita Phiri and the killing of at least 40 unidentified participants in a demonstration for multi-party democracy, when police were said to have opened fire against them.

Communications received

422. At the time of preparation of the present report, no communications had been received from the Government of Malawi.

Follow-up

423. The Special Rapporteur sent a follow-up letter to the Government of Malawi in which he requested to be informed about the progress of the investigations into the alleged extrajudicial execution of Mkwapatira Mhango (see E/CN.4/1993/46, para. 406). In September 1992, the Government of Malawi informed the Special Rapporteur that the case had been referred to the appropriate authorities.

Observations

424. The Special Rapporteur is concerned at the reports about grave limitations on safeguards and guarantees to protect those facing capital punishment in Malawi. Without wishing to interfere with the manner in which a State may decide to organize its judicial system, the Special Rapporteur wishes to stress once again that trials leading to the imposition of death sentences must conform to the highest standards of independence, competence, objectivity and impartiality of the judges and all safeguards and guarantees for a fair trial must be fully respected, in particular as regards the right to defence and the right to appeal and to seek pardon or commutation of the

sentence. He calls upon the authorities to take appropriate steps so as to ensure that legislation and practice in Malawi conform to the international standards relating to capital punishment and protecting those who may face death sentences.

Malaysia

425. The Special Rapporteur received reports expressing concerns at the presumption of guilt contained in the Dangerous Drugs Act, 1952. Under this law, suspected drug traffickers are presumed guilty until they can prove their innocence. When drugs are found concealed in a bag, box, home, office, shop or car belonging to or being used by the accused, he is presumed to have prior knowledge of the presence of the drugs. It is reportedly a common practice for the police to give cash rewards to informers and agents provocateurs who are able to entrap suspected drug traffickers. Evidence provided by such informers or agents provocateurs is allegedly readily admissible in court for the prosecution of the accused. The death penalty is mandatory for those convicted of drug trafficking.

Communications sent

426. The Special Rapporteur transmitted to the Government of Malaysia allegations he had received concerning the execution by hanging of Hasim Escandar, sentenced to death after having been tried and convicted under the Dangerous Drugs Act, 1952.

Communications received

427. At the time of the preparation of the present report, no communications had been received from the Government of Malaysia.

Observations

428. The Special Rapporteur wishes to express concern at the presumption of guilt contained in the Dangerous Drugs Act, 1952, which constitutes a clear breach of the fundamental right of every defendant to be presumed innocent until guilt is proven through a fair trial, providing for full respect for the right to defence and appeal. Furthermore, the mandatory character of capital punishment for those convicted of drug-trafficking is most disturbing, since it precludes the consideration of any mitigating circumstances. The Special Rapporteur calls upon the Government of Malaysia to review its anti-drug legislation so as to make it conform to the international instruments governing the application of capital punishment and providing for safeguards and guarantees for those who may face death sentences.

Mauritania

429. On 29 May 1993, the Mauritanian Parliament passed a law which grants total amnesty to all members of the security forces who committed offences during a three-year period between 1989 and 1992. During this time, at least 400 black Mauritians were said to have been extrajudicially executed and thousands of others detained for lengthy periods. Many others allegedly disappeared.

430. According to the information that has come before the Special Rapporteur, the majority of these deaths was due to torture and other cruel and inhuman treatment, including extremely harsh conditions of detention. Most victims were said to have been army officers or civil servants belonging to the Pular, Soninké and Wolof ethnic groups from the southern parts of the country. They had allegedly been rounded up after mass arrests in the cities of Nouakchott and Nouadhibou. The families of the victims were said to have repeatedly requested the authorities to provide them with explanations as to the fate of these persons. However, despite political reforms which included the first multi-party elections in 1992, no official investigation was reported to have been opened into human rights violations.

431. Concerns were expressed that the recent amnesty, announced by the Mauritanian authorities as a sign of national harmony, constitutes a serious breach of the Government's obligation under international law to carry out investigations into all human rights violations and to grant compensation to the families of the victims.

Communications sent

432. The Special Rapporteur transmitted these concerns in a letter to the Government of Mauritania, in which he invited the authorities to provide him with comments and observations.

Communications received

433. At the time of the preparation of the present report, the Government of Mauritania had not provided a reply to the aforementioned letter.

434. A reply was received on 30 December 1992 concerning alleged extrajudicial executions brought to the attention of the Government of Mauritania in 1991 by the then Special Rapporteur. The Government explained that investigations into the allegations had shown that incidents involving certain army units had taken place in late 1990, but nobody had been killed by soldiers in cold blood; the military commanders involved had been punished. Since July 1991, the new Constitution protected all citizens against abuses.

Observations

435. The Special Rapporteur wishes to express his appreciation of the willingness to cooperate shown by the authorities of Mauritania. However, he stresses that a State cannot be considered to have carried out its obligation to investigate allegations of human rights violations simply by passing an amnesty law. While it may be politically opportune, under certain circumstances, to exempt from punishment those responsible for certain acts, this must be a very exceptional measure and does not mitigate the Government's obligation to conduct exhaustive and independent inquiries to establish the facts and responsibilities, and to grant compensation to the victims or their families. In the case of Mauritania, it is particularly disturbing that the amnesty law was passed at a moment when such inquiries had been initiated and that, according to the information at the Special Rapporteur's disposal, the authorities have not indicated their willingness to reveal the facts nor any

disposition to compensate the victims' families. The Special Rapporteur calls upon the Government of Mauritania to comply with its obligation under international law to do so.

Mexico

436. The information that has come before the Special Rapporteur indicates that extrajudicial, summary or arbitrary executions continue to occur and that, in many cases, their perpetrators continue to enjoy impunity. The National Commission on Human Rights has reportedly investigated a number of such violations and confirmed that human rights abuses had indeed taken place. However, its recommendations, particularly concerning the arrest of those identified as responsible, were very often said to have not been followed.

Communications sent

437. The Special Rapporteur transmitted to the Government of Mexico allegations he had received concerning violations of the right to life of seven persons:

(a) One case concerned the alleged death in police custody, as a result of torture and ill-treatment, of Pedro Lenin Vilchis Domínguez;

(b) The following persons were reportedly killed in the context of land conflicts: Mateo Vargas Nava, Isidro Vargas Nava and Bulmaro Vargas Najera; Sabino Díaz Osorio and Rodrigo Gómez Zamorano. In these cases, as in the case of the reported murder of José Ramos Núñez, an indigenous peasant, those responsible for the killings are said to be closely linked with representatives of the local authorities. Arrest warrants against them were reportedly issued but not carried out. In addition, an eye-witness to the killing of Mateo Vargas Nava was said to have been threatened with death by judicial police if he presented his testimony to the authorities.

Communications received

438. The Government of Mexico provided the Special Rapporteur with a reply concerning the case of Pedro Lenin Vilchis Domínguez, informing him that the National Human Rights Commission had opened an inquiry into the case and, at the time of the reply, was studying information brought to its attention by judicial authorities of the Federal District (15 June 1993).

439. In the same letter, the Government of Mexico forwarded information concerning four cases transmitted by the Special Rapporteur in 1992. The National Commission on Human Rights had initiated investigations into all of the cases and had issued a number of recommendations to the effect that the conduct of members of the police as well as other State representatives should be examined to establish their responsibility for the killing of Víctor Manuel Oropeza Contreras (see E/CN.4/1993/46, para. 423) and of Tomás Diego García during a police operation in the Indian community of La Trinidad Yaveo (see E/CN.4/1993/46, para. 422). Recommendations concerning the arrest of certain officers had not yet been carried out. With regard to the alleged death threats against Misael García Santiago during this operation, the Government of Mexico informed the Special Rapporteur that the National Human

Rights Commission could not find any information in its database. As concerns the killing of Francisco Quijano García (see E/CN.4/1993/46, para. 424), the National Human Rights Commission had recommended that criminal proceedings be opened against the police officers responsible for the extrajudicial killing of his sons Erick Dante, Jaime Mauro and Héctor Ignacio Quijano Santoyo, but did not make any pronouncement concerning his own disappearance and subsequent killing.

Follow-up

440. The Special Rapporteur sent a follow-up letter to the Government of Mexico in which he expressed his appreciation for the willingness to cooperate shown by the Mexican authorities. With reference to the above-mentioned replies, the Special Rapporteur requested to be informed about the functioning of the National Human Rights Commission and, in particular, whether its recommendations were binding. He also inquired specifically about the measures, judicial or disciplinary, adopted with regard to those police agents identified by the National Human Rights Commission as responsible for extrajudicial killings, and whether any compensation had been granted to the families of the victims. Furthermore, the Special Rapporteur asked to be informed about the database referred to in the reply, and about the reasons why recommendations to arrest certain persons had not been put into practice.

441. In the same letter, the Special Rapporteur also referred to a reply received from the Government of Mexico in 1992 concerning alleged death threats against lawyer María Teresa Jardí (see E/CN.4/1993/46, paras. 420 and 425) and requested to be provided with updated information about the progress of the investigations carried out as well as the measures adopted to ensure her protection.

Observations

442. The Special Rapporteur notes with concern that in a number of cases, recommendations made by the National Human Rights Commission appear not to be followed by the authorities. In particular, this seems to apply quite often with regard to recommendations to detain persons identified by the Commission as responsible for human rights violations. The Special Rapporteur calls upon the competent authorities to ensure that such recommendations are followed and to ensure that all perpetrators of human rights violations are brought to justice.

Morocco

443. The Special Rapporteur received information according to which, one year after the dismantling of the secret prison at Tazmamert and the release of most of the remaining 30 surviving inmates, no investigations had been initiated into the deaths of 33 persons detained at Tazmamert. It was reported that the victims had been held in total isolation and had died of diseases caused by inadequate food and hygiene, as well as neglect and lack of medical attention. Furthermore, the Special Rapporteur was informed that the families of the victims had not been informed of the causes of the deaths of their relatives, and that they had not been granted any compensation.

Communications sent

444. The Special Rapporteur sent a letter to the Government of Morocco in which he transmitted the case of Abdesslam Belkaïd, who allegedly died in Kenitra central prison due to lack of medical attention.

Communications received

445. The Government of Morocco provided the Special Rapporteur with a reply to this letter and stated that the competent authorities had carried out investigations into the case and had established that the prison registry number contained in the communication by the Special Rapporteur did not correspond to the name of Abdesslam Belkaïd. The authorities requested the Special Rapporteur to provide them with the exact name of the person who allegedly died in Kenitra central prison on 27 January 1993 (14 September 1993).

Observations

446. The Special Rapporteur expresses his appreciation of the willingness to cooperate shown by the Moroccan authorities. While contacting the source, in accordance with the follow-up procedures recently initiated, the Special Rapporteur notes that the fact that the registry number does not correspond to the name of the prisoner indicated should not impede the authorities from finding out whether any prisoner by that name had died on or around 27 January 1993 at Kenitra central prison, or whether the prisoner identified through the registry number, although bearing a different name, died due to lack of medical attention.

Myanmar

447. The reports that have come before the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Myanmar.

448. As in former years, such reports contained allegations of gross human rights violations committed by the Myanmar security forces against Muslims in Rakhine (Arakan) State, also referred to as Rohingyas, in what was described as a general pattern of repression against religious or ethnic minority groups. Numerous extrajudicial, summary or arbitrary executions were said to take place in the context of forced labour. Members of minority groups are reportedly taken for porter duty by the military, either as punishment for suspected involvement with armed insurgents or simply at random. While on duty, they are said to be subjected to severe ill-treatment including deprivation of food, water and sleep, beating with bamboo sticks and rifle butts, kicking with heavy boots, burning with cigarettes or slashing with bayonets. When, as a consequence of the hard work under such conditions, they fall ill or become too weak to work, they are reportedly killed by the military or simply left to die. The Special Rapporteur also received reports about deaths in military custody due to torture and ill-treatment.

Communications sent

449. The Special Rapporteur transmitted to the Government of Myanmar allegations he had received concerning violations of the right to life of more than 55 persons, including two minors and two women.

450. The specific cases brought to the attention of the Government of Myanmar concerned:

(a) The extrajudicial execution, by members of the military, of the following persons forced to serve as porters: Abdul Mozid, allegedly beaten to death; Islam Nur, reportedly shot because he could not carry his load of ammunition; Zuri Ahmed, reportedly shot because he could no longer carry his load on a steep hill; Nai Aung Nyein, reportedly beaten to death;

(b) The extrajudicial execution by members of the military of: 17-year-old Zahida, allegedly after having been abducted and raped by soldiers; Abdul Rahman, allegedly shot dead by military intelligence agents who suspected him of being a supporter of the Rohingya Solidarity Organization; Sein U Than, village headman of La Kaing, allegedly accused by soldiers of cooperating with the insurgents; at least 20 unidentified Muslims, allegedly shot dead by Myanmar security forces when they attempted to cross the Naaf river into Bangladesh; at least 17 unidentified persons, when soldiers threw a bomb into a group of people; Nai Aung Hla; two unidentified villagers, allegedly for having refused to perform military service; 82-year-old Mi Shwe U, allegedly when soldiers opened fire indiscriminately on her village; Nai Thein and Nai Aung, allegedly by drunken soldiers who opened fire indiscriminately; 11-year-old Min Aung Soe, reportedly abducted and shot dead by an army firing squad; and Nai Nyunt Maung.

Communications received

451. At the time of the present report, no replies to the cases transmitted in 1993 had been received from the Government of Myanmar.

452. The Government of Myanmar provided the Special Rapporteur with replies concerning cases transmitted in 1992 as well as in 1991, by the then Special Rapporteur. The Government reported that the allegations according to which several persons had been tortured and shot to death (see E/CN.4/1993/46, para. 436 (a)-(c)), were not true and could only be fabricated. Upon his arrest, Mohamed Ilyas (see E/CN.4/1993/46, para. 436 (e)) had received treatment for severe stomach pains but had succumbed to disease.

Follow up

453. The Special Rapporteur addressed a follow-up letter to the Government of Myanmar in which he referred to the aforementioned replies to the cases transmitted in 1992. In particular, he requested to be informed in detail about the investigations carried out to show that the allegations were fabrications. In the case of Mohamed Ilyas, the Special Rapporteur asked for further details about his death and, in particular, whether an autopsy had been carried out (22 February 1993).

454. In reply to this letter, the Government of Myanmar provided the Special Rapporteur with additional information, stating that Mohamed Ilyas, who had been caught while setting mines and explosives at the public golf course in Maungdaw, had died of a stomach ulcer from which he had been suffering for a long time. This was established by the post-mortem examination carried out by the Township Medical Doctor. With regard to Saing Shwe, the authorities reported that extensive inquiries within the military commands in Shan State had established that no person of that name was killed or wounded in the area and during the period indicated (15 November 1993).

Observations

455. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Myanmar with regard to follow up on cases transmitted in 1992. However, he notes with concern that grave allegations of violations of the right to life continue to come before him. In this context, he wishes to make reference to the recent report of the Special Rapporteur on Myanmar to the General Assembly (A/48/578), which contained details, in particular on the phenomenon of extrajudicial killings of Muslims forced to serve as porters. The Special Rapporteur calls upon the Government of Myanmar to adopt measures to effectively protect the civilian population from abuses by the security forces and, in particular, the Muslim population of Rakhine State.

Nepal

Communications sent

456. The Special Rapporteur transmitted to the Government of Nepal allegations he had received concerning violations of the right to life of 25 persons, including two minors and two women; 22 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

457. The cases brought to the attention of the Government of Nepal concerned the alleged extrajudicial killings of: Raja Ram Shakya and at least 18 others (names available at the Secretariat), when the police opened fire on demonstrators in Kathmandu and neighbouring towns. One woman, Rita Silpakar, was reportedly killed while watching the demonstrations from her nearby window; Rigzin Tsering, a monk, reportedly by Nepalese Border Guards; Jamyang Kelsand, reportedly shot in the head and killed when police opened fire on a crowd of Tibetans who had crossed the border into Nepal; Kapildev Singh and Bijaya Mahato, killed when police opened fire on a group of people who had gathered at Barahathawa police station, where three students were being tortured. One of them, Kiran Shrestha, reportedly died of the injuries sustained during the beatings.

Communications received

458. The Government informed the Special Rapporteur that Jamyang Kelsand, Kapildev Singh and Bijaya Mahato had died after police were compelled to use force for their own safety. Inquiries were carried out. Those responsible for the killings were identified, but it was not necessary to have penal or

disciplinary sanctions imposed on them. The families of Kapildev Singh and Bijaya Mahato received compensation. Kiran Skrestha died of a chronic disease, and from a beating (22 November 1993).

459. The Government of Nepal provided the Special Rapporteur with information concerning nine cases transmitted in 1992 and informed him that in three of these cases, security forces had to fire in self-defence, killing Om Prakash Yadav, Nathuni Mahato and Sotilal Mukhiya. Immediate investigations had confirmed that the situation required the action taken by police. Financial relief had been provided to the families of the deceased. The deaths of Tularaj Acharya, Poshan Lal Kunwar Danuwar, Ram Saran Yadav, Ram Prasad Singh, Abdul Miya and Dilliram Chouhan were the result of clashes between opposing party workers or local residents. Judicial investigations into these cases were under way (13 August 1993).

Observations

460. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Nepal in providing him with the above-mentioned replies. He remains, however, concerned at the use of lethal force by security forces and calls upon the authorities to take all necessary steps to prevent similar incidents from happening again in the future.

Nicaragua

Communications sent

461. The Special Rapporteur sent an urgent appeal to the Government of Nicaragua in response to reports expressing fear for the lives and physical integrity of sugar workers on strike after the police had allegedly resorted to excessive use of force in trying to intervene on the premises of the sugar company (19 March 1993).

Communications received

462. At the time of the preparation of the present report, no communications had been received from the Government of Nicaragua.

Nigeria

463. The Special Rapporteur received reports about violations of the right to life in areas of Rivers State inhabited by the Ogoni community. Security forces were said to have used excessive force against participants in peaceful demonstrations against the destruction of fields and crops without indemnification by Nigerian and multinational companies exploiting oil fields in the region. Killings were also said to have taken place during ethnic clashes between the Ogoni and the neighbouring Adoni people, in which the authorities allegedly supported the latter.

464. The Special Rapporteur also received reports expressing concern at trial procedures before the Civil Disturbances Special Tribunal leading to the

imposition of capital punishment, in which fundamental fair trial guarantees were said to be denied, in particular the right to appeal before a higher court.

Communications sent

465. The Special Rapporteur transmitted to the Government of Nigeria allegations he had received concerning violations of the right to life of more than 57 persons, including three minors and one woman. More than 35 persons were said to have been extrajudicially executed in violation of their right to freedom of opinion and expression, peaceful assembly and association.

466. The Special Rapporteur addressed urgent appeals to the Government of Nigeria after being informed that the following persons had been sentenced to death by the Civil Disturbances Special Tribunal in Kaduna: Major-General Zamani Lekwot; Gankon Dawa Kurfi; Iliya Maza; General James Atomic Kude; Yohanna Karau Kibori; Marcus Mamman; Yahaya Duniya; Julius Sarki Dabo as well as three members of the Hausa ethnic group and three members of the Kataf ethnic group (10 February 1993 and 8 March 1993).

467. The Special Rapporteur also transmitted to the Government of Nigeria allegations he had received concerning the alleged extrajudicial, summary or arbitrary execution of at least 35 members of the Ogoni ethnic group, including the husband of Mrs. Nwiku and three young children, during an armed attack by Adoni people on Kaa town, in which the military was said to have failed to attempt to restore order, and of Agbarator Otu, who was said to have been killed when security forces opened fire on Ogoni people demonstrating against oil companies.

Communications received

468. Concerning the allegations of killings in Ogoni-land, the Government of Nigeria stated that Agbarator Otu and 10 others from this region had not been killed. The Government also informed the Special Rapporteur that Ken Karo-Siwa had been arrested in June 1993 in connection with the political and civil disturbances in Rivers State during the election period and released on 4 September 1993. During his detention, he was accorded all relevant rights and protection and was not subjected to torture or any inhuman or degrading treatment (22 November 1993).

Observations

469. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Nigeria in providing him with the above-mentioned reply. He will follow up on the information it contains in accordance with the follow-up procedure recently initiated.

470. However, the Special Rapporteur remains concerned at the allegations of lethal force by security forces against peaceful demonstrators described above. Reports of acts of inter-ethnic violence resulting in numerous casualties, in which government forces are said not to have taken any preventive action, are also most disturbing. Furthermore, the Special Rapporteur is concerned that defendants before the Civil Disturbances Special

Tribunal are not guaranteed a full right to appeal. The Special Rapporteur calls upon the Government of Nigeria to adopt all necessary measures to prevent the excessive use of force in the context of demonstrations; to ensure equal protection of the right to life of all people, regardless of their ethnic origin, and prevent inter-ethnic violence; and to assure full respect for all safeguards and guarantees protecting those who may face the death penalty.

Pakistan

471. The Special Rapporteur continued to receive reports expressing concern at the continued application of capital punishment in Pakistan after trials in which internationally recognized safeguards and guarantees for those who may face the death penalty are not fully guaranteed. Particular concern has been expressed at the fact that the scope of the death penalty had been extended in recent years: in May 1991 the death penalty had become mandatory in cases of blasphemy and the Government was said to be planning to extend it to drug offences in August 1993.

Communications sent

472. The Special Rapporteur transmitted an urgent appeal to the Government of Pakistan after being informed of the imminent execution of three members of the Christian religious minority, Manzoor Masih, Rehmat Masih and Salamat Masih, who had been charged with blasphemy. According to the information received, their trial presented grave shortcomings with regard to the right to defence. The Special Rapporteur expressed particular concern at the fact that Salamat Masih was only 13 years old (7 September 1993).

473. The Special Rapporteur also transmitted to the Government of Pakistan two cases of alleged extrajudicial executions said to have occurred in late 1990, in which the authorities were reported to have failed to fulfil their obligation to open investigations. The names of those killed, allegedly by identified members of the security forces, were Zulfikar Ali Domki and Mashood Ahmed Domki.

Communications received

474. At the time of the preparation of the present report, no communications had been received from the Government of Pakistan.

Observations

475. The Special Rapporteur notes with alarm the extension of the scope of capital punishment as described above. He is also deeply concerned at the reports of death sentences handed down after trials in which the defendants did not benefit from full guarantees for a fair trial. The death sentence imposed upon a 13-year-old boy is particularly disturbing. Death as mandatory punishment in cases of blasphemy clearly constitutes a violation of article 6 (2) of the International Covenant on Civil and Political Rights, whereby only the most serious crimes which entail lethal or other extremely grave consequences may be punished by death. The Special Rapporteur urges the Government of Pakistan to refrain from widening the scope of capital

punishment and to ensure that defendants in capital cases fully benefit from all safeguards and guarantees contained in the pertinent international instruments. The Special Rapporteur also calls upon the authorities to revise legislation so as to make it conform to these instruments.

Panama

Communications sent

476. The Special Rapporteur transmitted an urgent appeal to the Government of Panama after fears had been expressed for the life and physical integrity of trade union leader Orlando Stanziola and seven other trade unionists, who were said to have been detained after a strike in a sugar mill. They had allegedly received death threats (2 April 1993).

Communications received

477. The Government of Panama provided the Special Rapporteur with two replies to the aforementioned urgent appeal and informed him about the events at the sugar mill. The Government forwarded a number of official documents indicating that the security forces did not threaten or ill-treat Orlando Stanziola or the seven detained. According to a report by the Ministry of Labour and Social Welfare, those detained were visited eight minutes after their detention by a representative of the Commission on Human Rights of Panama. When they were released, shortly afterwards, upon an order by the President of the Republic, all seven signed a note confirming that they had not been subjected to ill-treatment.

Papua New Guinea

478. The Special Rapporteur received information according to which a large number of human rights violations, including extrajudicial, summary or arbitrary executions, had occurred since April 1991 on the island of Bougainville in the context of the ongoing armed conflict between the security forces of Papua New Guinea and the Bougainville Revolutionary Army (BRA).

479. A large number of suspected BRA members had allegedly become victims of executions and disappearances. It was reported that a large number of them had died after their boats or trucks were shelled or strafed from the air by the armed forces. Other killings were said to have taken place in government controlled "care centres" ostensibly established by the authorities to provide shelter to Bougainvilleans fleeing the BRA. According to the reports, the latter were also responsible for serious human rights abuses, including killings of alleged opponents. To date, no information has been received regarding efforts made by the authorities to stop such human rights violations. On the contrary, the Government of Papua New Guinea was reported to have persistently denied the occurrence of human rights violations in Bougainville.

Communications sent

480. The Special Rapporteur sent an urgent appeal to the Government of Papua New Guinea after being informed about concerns for the lives and physical integrity of Ken Savia, Mr. Toromura and Gabriel Tameung, who were said to have been arrested by the security forces and were feared to have been killed while in custody (21 May 1993).

481. The Special Rapporteur also transmitted the above-mentioned concerns to the Government of Papua New Guinea with a request for information on the situation with regard to the right to life in the country and, in particular, on any steps taken to bring perpetrators of human rights violations to justice and prevent similar incidents from happening in the future.

Communications received

482. At the time of the preparation of the present report, no communications had been received from the Government of Papua New Guinea.

ParaguayCommunications sent

483. The Special Rapporteur sent an urgent appeal to the Government of Paraguay after being informed about repeated death threats against former political prisoner Martín Almada, human rights lawyer Gloria Estrago and Reverend Armin Yhle. The threats were said to emanate from an extreme right-wing organization allegedly enjoying support from the Government (27 April 1993).

Communications received

484. At the time of the preparation of the present report, no reply to the urgent appeal had been received from the Government of Paraguay.

485. On 28 June 1993, the Government of Paraguay provided the Special Rapporteur with information regarding three cases transmitted in 1991 by the then Special Rapporteur. In the case of death threats against two lawyers, investigations had been opened but could not be pursued by the Public Ministry, since death threats required civil penal action and the complainants could not forward any evidence to substantiate the complaint. No one had filed a complaint concerning an alleged attempt on the life of a Member of Parliament.

Observations

486. The Special Rapporteur appreciates the willingness to cooperate demonstrated by the Government of Paraguay in providing him with the replies summarized above. Although, for reasons pointed out earlier, replies to cases transmitted in 1991 cannot be included in the same follow-up procedure as those sent to the Governments concerned in 1992 and 1993, the Special Rapporteur would like to note that it is the obligation of each State to guarantee full protection of all fundamental rights and freedoms and, in

particular, the right to life. The interest of providing such protection goes beyond the interest of the individuals involved and includes the obligation to investigate violations of the right to life, identify and punish those responsible, and prevent their future occurrence. Consequently, the investigation of alleged death threats should not be subject to a civil penal action, whereby the victim is exclusively responsible for initiating the action; the public prosecutors should be entitled to pursue investigations on their own initiative. The Special Rapporteur calls upon the Government of Paraguay to consider revising its legislation so as to enable the authorities to fulfil their obligations under international law irrespective of whether or not the victims are able to provide evidence to identify the authors of human rights abuses against them.

Peru

487. From 24 May to 2 June 1993, the Special Rapporteur visited Peru to look into allegations of violations of the right to life in that country. His findings, together with his conclusions and recommendations, are contained in an addendum to the present report (E/CN.4/1994/7/Add.2). This chapter contains an account of the cases transmitted to the Government of Peru in 1993 as well as follow-up correspondence concerning allegations transmitted earlier.

Communications sent

488. The Special Rapporteur transmitted to the Government of Peru allegations he had received concerning violations of the right to life of 95 persons, including 3 minors and 25 women. Four cases were said to involve violation of the right to freedom of opinion and expression, peaceful assembly and association in five urgent appeals, the Special Rapporteur responded to allegations of death threats against eight persons.

489. The Special Rapporteur sent urgent appeals to the Government of Peru in response to reports expressing fear for the lives and physical integrity of the following persons: Rosa del Pilar Pastor, the wife of General José Pastor Vives, imprisoned after an attempt to overthrow the Government of President Fujimori in September 1992, after death threats (31 December 1992); journalist Cecilia Valenzuela, after death threats related to her articles on serious human rights violations imputed to the State security forces (30 March 1993); Heriberto Benítez Rivas and his family, after death threats said to be related to his activities as lawyer for the families of the 10 victims of La Cantuta (see E/CN.4/1993/46/Add.2, paras. 55-73) (26 July 1993); trade union leader José Barletti Pascuales, said to be held in unacknowledged police detention (7 September 1993); Camilo Núñez Quispe, reportedly abducted by police agents, after the killing by police of his brother Teófilo Núñez Quispe. Fears were also expressed for the safety of the latter's wife Natalia Escobar Silvestre and father Guillermo Núñez Palomino, and of Soledad Ramos Ramos, all of whom were said to have witnessed his killing (24 September 1993).

490. In an urgent communication on 8 July 1993, the Special Rapporteur urged the Peruvian authorities to adopt all necessary measures to protect four graves found on the road from Lima to Cieneguilla which were said to contain

the remains of the 10 victims of La Cantuta, and to ensure that the investigation of these remains are carried out by a team of recognized experts, according to the highest standards. The Special Rapporteur reiterated this appeal in another communication on 22 September 1993 (see E/CN.4/1993/46/Add.2, paras. 68 and 73).

491. On 22 September 1993, the Special Rapporteur addressed a further urgent communication to the Government of Peru in which he expressed grave concern at the possible extension of the scope of the death penalty to crimes of terrorism and treason, as provided for in one of the articles of the new Constitution whose draft was submitted for approval by the Peruvian people in a referendum on 31 October 1993. The Special Rapporteur pointed out the tendency towards a limitation and eventual abolition of capital punishment contained in various international instruments and expressed particular concern at the shortcomings with regard to guarantees for a fair trial under the anti-terrorism legislation currently in force in Peru (see E/CN.4/1993/46/Add.2, paras. 74-78).

492. The Special Rapporteur also transmitted to the Government of Peru the following cases of alleged extrajudicial, summary or arbitrary executions that have been brought to his attention:

(a) Alleged extrajudicial executions by members of the military in 1992: Erick Rojas Llanca and Rafael Navarro Pisango in Los Jardines de Tarapoto; Amadeo Ircañaupa, Luciano Huamán García, Antonio Janampa Auccasi, Constantina García Gutiérrez, Mariano Janampa García, Agripina Auccasi Espilico, Celedonio Huamán García and Maura Huamán Paucar, in Pallcca; Demetrio Huamán León, between Pallcca and Manchiri; Víctor Huamán Paucar, Mauro Huamán Paucar, Narcizo Huamán Paucar and Melecio Chonta Huamán, in Manchiri; Pedro Honorato Davila Espinoza, in Aucayacu; Cirilo Ccora Quispe, in Pastales Huando; Josías Ramírez Angulo, in Lamas; Pedro Huilca Tecse, in Lima;

(b) Thirty students of the Universidad Nacional del Centro del Perú in Huancayo, who were reportedly abducted by members of the security forces after the military had carried out a census of all students and teachers. A large number of them were said to have been found dead later, some bearing marks of torture. A special attorney was appointed to investigate these cases. However, to date, no one was said to have been brought to justice. The names of the students are available at the Secretariat;

(c) Alleged extrajudicial executions by members of the military in 1993: José Omar Martín Morales Martínez, in Lima; César Alfonso Ramírez Pinchi, in Caserío del Mariscal Cáceres; Ruby Porras Montes, in Chupuro; Alberto Calipuy Verde and Rosa Carbajal (or Rosenda Yauri Ramos), in Angasmarca; Julia Herrera Pablo, in Uchucchahua; Santos Hilario Tayganpan, Sara Bolostro, Juana de la Cruz, Omar Tayganpan de la Cruz, Gabina Tayganpan de la Cruz, Crispín Tayganpan de la Cruz and Segundo Benjamín Huamán, in Angasmarca; 17 year-old Kisinger López Ruiz, in Lima; Percy Nima Seminario, in Piura; Francisco Díaz Mancilla, in Lima; José Antonio Alcázar Gómez, in Lima; Carlos Augusto Gallardo Malpartida, in Huánuco; Armando Ruiz Vásquez, in Huánuco; and Juan Silva Céspedes, in Huánuco;

(d) Furthermore, it was reported to the Special Rapporteur that the police officer responsible for the killings of Zacarías Pasca Huamani and Marcelino Valencia Alvarado in Santo Tomás, Cuzco, in September 1990, as well as the extrajudicial execution of David Ito Huanaco in 1991 has received only a suspended sentence and is still at liberty.

Communications received

493. The Government of Peru provided the Special Rapporteur with replies to two of the above-mentioned urgent appeals and informed him that:

(a) Cecilia Valenzuela had not activated any of the internal mechanisms provided by the Peruvian legal system to deal with cases such as hers. The Government noted that such action constituted one of the most important preconditions for the admissibility of individual complaints before international organs (13 May 1993);

(b) José Barletti Pascuales was released on 11 August 1993. During his detention, his physical integrity and judicial guarantees were fully respected (16 September 1993).

494. The Government of Peru also provided the Special Rapporteur with information concerning allegations transmitted by him in 1992 and informed him that, in the cases of:

(a) Juan Luna Rojas (see E/CN.4/1993/46, para. 472), there had been no attempt to abduct or detain him by any government organ. The register of detainees did not contain any record of his past or current detention, and there was no case against him pending (14 April 1993);

(b) The killing of 15 peasants in Santa Bárbara, Lt. Javier Bendezú Vargas of the Peruvian Army had been sentenced to 10 years' imprisonment (see E/CN.4/1994/7/Add.2, paras. 32 (a) and 53) (14 April 1993);

(c) The killing of five peasants in Chavín (see E/CN.4/1993/46, paras. 475 and 480 (e)), investigations had been opened against several police officers and members of the rondas campesinas of Challhuayaco, Rancas and Huaripampa (19 April 1993);

(d) Alleged death threats against more than 40 journalists in Ayacucho (see E/CN.4/1993/46, paras. 473 and 480 (c)), these threats were expressed in one leaflet which circulated in Ayacucho in September 1993 and whose authors, the self-proclaimed "Anti-terrorist Movement of Ayacucho", could not be identified (11 May 1993);

(e) Carlos Vásquez Reinel and Salvador Carrasco Gómez (see E/CN.4/1993/46, paras. 477 (b) and 480 (p)), judicial proceedings had been opened against five policemen who, at the time of the reply, were being held in detention in Tarapoto (see also E/CN.4/1994/7/Add.2, para. 33 (c)) (11 May 1993);

(f) Cynthia Tumis Quezada Roque (see E/CN.4/1993/46, paras. 467 and 480 (a)), investigations had revealed that she had not been hurt by a bullet fired by a police officer but bit herself on the lip, frightened by the sound of the shot (8 January 1993, 16 and 19 April 1993);

(g) Alleged death threats against prosecutor Manuel Antonio Córdova Polo (ibid.), criminal proceedings had been opened against a lieutenant of the Peruvian Army (8 January and 19 April 1993);

(h) Inés Sinchitullo Barboza (ibid.), criminal investigations had continued but the authors of the attack against her home could not be identified (19 April 1993).

495. The Government of Peru also provided the Special Rapporteur with follow-up information on a number of cases transmitted to the authorities in 1991 by the then Special Rapporteur (5 January, 21 July and 3 November 1993).

496. The Government of Peru also provided the Special Rapporteur with detailed information about numerous killings, in particular of members of local authorities and members of the indigenous Asháninka tribe in Satipo, as well as other violent attacks resulting in the destruction of schools and other public property committed by members of armed opposition groups, particularly the Communist Party of Peru "Shining Path" (see also E/CN.4/1994/7/Add.2, para. 29).

497. In addition, the Government of Peru forwarded to the Special Rapporteur information concerning measures adopted by the Peruvian authorities to promote awareness of and respect for human rights. These included several Legislative Decrees concerning human rights education and rules concerning the processing of complaints about human rights abuses and their investigation.

Follow-up

498. The Special Rapporteur sent a follow-up letter to the Government of Peru in which he referred to a number of replies received from the authorities in reply to cases transmitted to them in 1992, as well as information regarding these cases contained in documents received by the Special Rapporteur during his visit to Peru.

Observations

499. The Special Rapporteur appreciates the willingness to cooperate demonstrated by the Government of Peru in providing him with the aforementioned replies. As concerns the reply to the allegations of death threats against Cecilia Valenzuela, the Special Rapporteur wishes to emphasize that the aim of urgent appeals in such cases is the prevention of irreparable loss of life and to alert the authorities so that they may provide effective protection to the persons said to be at risk and open inquiries into the origins of the alleged threats. Consequently, the Special Rapporteur transmits such cases regardless of whether domestic remedies have been exhausted.

500. The Special Rapporteur thanks the Government for its cooperation in the preparation of, and during his visit to Peru. As concerns his assessment of the situation of the right to life in Peru, the Special Rapporteur would like to refer to his report on this visit. The Special Rapporteur hopes to continue his dialogue with the Peruvian authorities on issues relating to his mandate and, in particular, with regard to the implementation of the measures recommended with a view to achieving better protection of the right to life. He will continue to monitor closely all developments in this field.

Philippines

501. The Special Rapporteur received reports indicating that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in the Philippines.

502. As in former years, most of the abuses are said to take place in the context of the ongoing violent political conflict between the Government and armed opposition groups, in particular the New People's Army (NPA), the armed wing of the Communist Party of the Philippines (CCP) engaged in guerrilla warfare. While liquidation squads of the NPA known as "sparrow units", military rebel forces and Muslim separatist forces such as the Moro National Liberation Front (MLNF) and the Moro Islamic Liberation Front (MILF) are said to be responsible for acts of violence including killings, numerous violations of the right to life continue to be attributed to government forces.

503. The Special Rapporteur received particularly disturbing allegations of extrajudicial killings by members of the Citizen's Armed Forces Geographical Units (CAFGUs), one of the paramilitary forces deployed by the Philippine Army in its efforts to defeat the armed opposition, particularly the NPA. The Philippine National Police and the Philippine Army were also repeatedly named as responsible for killings, death threats and acts of harassment and intimidation. Those most frequently said to be the victims of such human rights violations are civilians, including elderly people, women and children in rural areas, where the government forces suspect them to be members or supporters of the NPA.

504. In this context, it has repeatedly been reported that the Government continues its counter-insurgency strategy of "total war" against the armed opposition. This is allegedly responsible for most of the human rights violations. Although in recent years the Philippines has adhered to a number of international human rights instruments and civilian courts have regained jurisdiction over military offenders, convictions for politically motivated killings are still said to be exceptional and the perpetrators of human rights violations allegedly continue to enjoy a high degree of impunity.

Communications sent

505. The Special Rapporteur transmitted to the Government of the Philippines allegations he had received concerning violations of the right to life of 16 persons, including 4 women. Five cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

506. The Special Rapporteur sent urgent appeals to the Government of the Philippines in response to reports expressing fear for the lives and physical integrity of: 71 year-old Inostacia Masuela, after she had witnessed the killing of her 75 year-old husband Porferio Masuela by CAFGU members said to remain armed and at large (28 May 1993); poet and journalist Clovis Nazareno and witnesses who testified on his behalf, after he was arrested and ill-treated by police (27 August 1993); Sonny Boy de la Peña and Edwina Bodozo Joromo, peasant organizers and human rights activists, allegedly under threat from CAFGU and police (13 September 1993); as well as Henry Llanos Banos, Graciano Pardillo and Danilo Cangmaong, all three allegedly under death threats from local government officials and police (3 September 1993).

507. The Special Rapporteur also transmitted to the Government of the Philippines allegations he had received concerning the following cases of extrajudicial executions by members of the CAFGUs: Jovito and George Banidad, allegedly killed by CAFGU members, who threatened their family with death if they reported the incident; human rights activist Chris Batan; trade unionist Exquito Lasquite; Emily Macabite; and Lolita Has y Domigina. In addition, the Special Rapporteur transmitted the case of Joselito Furugganan, allegedly extrajudicially executed by members of the Philippine Army.

Communications received

508. The Government of the Philippines provided the Special Rapporteur with information on investigations carried out by the Philippine Commission on Human Rights into the following cases:

(a) Complaints made by Clovis Nazareno against policemen whom he accused of misconduct and oppression. This investigation had been closed after he could not establish a factual basis for these complaints. A second investigation was opened after allegations of renewed threats by military personnel. The Commission concluded that he had not been a victim of the alleged threats and closed the case (1 June 1993). A police investigation into the most recent complaints by Clovis Nazareno was dropped and closed as being without merit or basis (29 October 1993);

(b) Reports about the killing of Lolita Has y Domigina. This investigation led to the filing of a criminal complaint against CAFGU member Joaquin Baron Sr. As of 21 April 1993, preliminary investigations were being conducted and monitored by the Commission. Witnesses to the killing, who had themselves been abducted by CAFGU members and Philippine Army soldiers, refused to file charges against them for fear of reprisals (9 August 1993);

(c) Death of Exquito Lasquite. As of 5 July 1993, the Commission was conducting investigations. Witnesses were hesitant to testify for fear for their lives (9 August 1993).

509. The Government of the Philippines also provided the Special Rapporteur with a reply concerning the case of Eduardo Faelnar, transmitted in 1992 (see E/CN.4/1993/46, para. 495). The commanding officer of the Military Intelligence Command admitted that NPA members who had surrendered and were in his custody had, without his permission, initiated actions, some of which

amounted to harassment, against Eduardo Faelnar. The latter subsequently stated to the Commission that he was no longer being "tailed by suspicious-looking men" (22 April 1993).

Observations

510. The Special Rapporteur wishes to express his appreciation of the willingness to cooperate shown by the Government of the Philippines. However, the Special Rapporteur has noted with concern that, in the reports of the Philippine Human Rights Commission, it is repeatedly stated that witnesses do not dare present testimony about human rights violations as they fear for their lives. The Special Rapporteur urges the Government of the Philippines to invest the Philippine Human Rights Commission with procedures and resources which effectively ensure protection of victims, their families and witnesses who present complaints or testimony.

511. The Special Rapporteur is also concerned at the persistent reports about violations of the right to life by paramilitary civil defence groups cooperating with the Philippine National Army in counter-insurgency tasks, in particular the CAFGUs. The Special Rapporteur calls upon the Government of the Philippines to adopt all necessary measures to ensure that both security forces and members of civil defence groups fully respect the right to life of the civilian population and insurgents who are hors de combat.

Rwanda

512. From 8 to 17 April 1993, the Special Rapporteur visited Rwanda after he had received allegations of violations of the right to life in that country. His findings, together with his conclusions and recommendations, are contained in an addendum to the present report (E/CN.4/1994/7/Add.1). This chapter contains an account of the cases transmitted to the Government of Rwanda during 1993.

Communications sent

513. The Special Rapporteur transmitted to the Government of Rwanda allegations he had received concerning violations of the right to life of more than 300 persons, including those involving one minor and six women.

514. The Special Rapporteur sent two urgent appeals to the Government of Rwanda expressing concern about human rights activists or witnesses of human rights violations: Eustache Mupenzi and other persons who had collaborated with or testified before the International Commission of Inquiry on violations of human rights in Rwanda since 1 October 1990, following reports of reprisals and acts of intimidation against those persons and of a resumption of the killings (15 February 1993); Ignace Ruhatana, Permanent Secretary of the non-governmental human rights organization Kanyarwanda, after he had been injured during an attack by a commando of armed men on his house (12 May 1993).

515. The Special Rapporteur also transmitted to the Government of Rwanda allegations he had received concerning the extrajudicial killings of more than 300 persons. It must be noted, however, that while the incidents had

been reported in considerable detail, the names of most of the victims were not communicated to the Special Rapporteur. Some of those cases had been reported by an official commission of investigation. Regarding the types of allegations referred to in the following cases, reference is made to the report on the mission carried out by the Special Rapporteur in Rwanda (E/CN.4/1994/7/Add.1).

(a) The following persons were allegedly killed by members of the security forces: Hayiparusi Kituku, Bonaventure Bigora, Tito Umuto, Evariste Bizimungu, Charles Karake, Ephrem Twaguramungu, Vedaste Murangwa, Claver Kirangwa, Claire Rwamwaga, Hitimana, Mafigi, Kavaruganda, Mukamugara, Gatambara, Andre Rukiliza, Gerard, Gatura, Ngiruwonsanga, Gakwaya, Elias Ndayambaje, Gahima, Etienne Bayijahe, Albert Katalyera, Jean-Bosco Bagiranza, Kanyakore (alias Sekufeko), Gakwenzire, Ismail Songoro, Justine Muhungwange, Bugirimfura, Mukantwari, Mukabahinde, Simeon Mutarambwira, Rugelinyange, Claude Mutsinzi, 75 unidentified persons, and 2 groups of an undetermined number of unidentified persons;

(b) The death of the 34 unnamed persons and of two groups of an undetermined number of unidentified persons was attributable to local government officials;

(c) The following persons had been killed by members of the Movement révolutionnaire national pour la démocratie et le développement (MRND): Sophie Ntawera, Mukamana, Semafaranga, Nkunzwenimana, Mbendegezi, Fatuma Mukandutiye, Martin Nsabimana, Kadogo, Hategekimana, and 154 unidentified persons;

(d) In addition, the case of Emanuel Gapyisi, a prominent leader of the opposition political party, Movement démocratique républicain (MDR), was reported. It was alleged that he had been killed by a death squad said to be linked with certain Rwandese authorities.

Observations

516. The Special Rapporteur welcomes the signature of a peace agreement on 4 August 1993 in Arusha, United Republic of Tanzania, between the Government of Rwanda and the Rwandese Patriotic Front (FPR). It was reported that the internally displaced persons had started returning to their villages. However, according to the information received, none of the concrete steps to avoid the recurrence of violations of the right to life in the country announced by the President and the Prime Minister in their joint declaration of 8 April 1993 had been put into practice.

517. At the time of the preparation of the present report, no reply had been forwarded by the Government of Rwanda, either on the report on the mission of the Special Rapporteur, which was transmitted to the authorities on 23 August 1993, or on the urgent actions or the cases transmitted to the Government. It was therefore not known what measures had been adopted by the Government to implement the recommendations made by the Special Rapporteur after his mission. The Special Rapporteur wishes to carry out a follow-up visit to Rwanda, possibly as a joint mission with the Representative of the

Secretary-General on internally displaced persons. In the light of the violent incidents which have taken place in neighbouring Burundi, and taking into account the similarities of the problems facing those two countries, the Special Rapporteur envisages the possibility of conducting a combined visit to both Rwanda and Burundi.

Saudi Arabia

518. The Special Rapporteur received a number of reports concerning the practice of capital punishment in Saudi Arabia. In particular, it was reported that 1992 had witnessed a sharp increase in applications of the death penalty: 105 persons were said to have been publicly executed. Serious concerns were expressed with regard to grave shortcomings in the procedures during trials that lead to the imposition of capital punishment. The defendants were said to be denied most basic rights during pre-trial detention, including the right of access to lawyers and prompt access to a judge, the right to challenge their detention before a judge and medical attention. Furthermore, defendants reportedly do not benefit from adequate time or facilities to prepare their defence. During the trial, they are allegedly denied the right to be formally represented by a lawyer. It was reported that in many cases convictions were pronounced solely on the basis of confessions, and there were numerous allegations of forced confessions which were said to have been extracted under torture.

519. In addition, it was reported that the number of capital offences was extended twice: in 1987, a fatwa was issued to extend the scope of the death penalty to drug smuggling or receiving and distributing drugs from abroad. In 1988, another fatwa extended the death penalty to acts of sabotage or "corruption on earth" that "undermine security and endanger lives and public or private property". Previously, such offences were punishable by the death penalty only if loss of life was involved.

Communications sent

520. The Special Rapporteur addressed a letter to the Government of Saudi Arabia in which he expressed his concern at the reports summarized above and requested to be provided with specific information about the range of offences punishable by death and the rules of procedure that apply to such cases, with particular regard to the rights of persons held in preventive detention and during the trial itself.

Communications received

521. At the time of the preparation of the present report, no communications had been received from the Government of Saudi Arabia.

Observations

522. The Special Rapporteur is deeply concerned at the practice of capital punishment in Saudi Arabia, which, according to the reports at his disposal, constitutes in many aspects a violation of article 6 of the International Covenant on Civil and Political Rights, through the extension of the range of capital offences, its application to offences which do not have lethal

consequences but entail only damage to property, and the failure to ensure full fair trial guarantees. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to his request for information. He urges the authorities to revise the legislation and practice so as to make them conform to the standards as set forth by the pertinent international instruments.

Sierra Leone

523. The Special Rapporteur received a number of reports concerning serious violations of the right to life in the aftermath of alleged attempted coups d'etat: at least 26 persons were said to have been sentenced to death and executed in Freetown on 29 December 1992 for their alleged involvement, following a trial before a new military tribunal which failed to respect the minimum guarantees for a fair trial. In particular, it was reported that not all of the five army officers who formed the tribunal had received legal training, that the defendants had not been guaranteed the right to be assisted during their trial by legal advisers or defence lawyers and that they had no right to appeal their conviction and sentences.

524. The Special Rapporteur also received reports of violations of the right to life in the context of an armed conflict between the army and rebel forces in the south-east of the country. Most of the cases brought to his attention had occurred in 1991. A non-governmental source reported that, according to government estimates in mid-1992, more than 8,000 civilians and 125 soldiers had died since March 1991, when an invasion force from Liberia composed principally of Sierra Leoneans belonging to an armed group opposed to the Government captured villages and towns in Southern and Eastern Provinces. In this context, it was also reported that government troops had tortured and executed people suspected of supporting or assisting rebel forces.

Communications sent

525. The Special Rapporteur transmitted to the Government of Sierra Leone allegations he had received concerning violations of the right to life of 59 persons, including 2 women.

526. The Special Rapporteur sent four urgent appeals to the Government of Sierra Leone after receiving reports about the execution of the death penalty imposed on at least 26 persons for their alleged involvement in the attempted coups d'etat. James Bambay Kamara, James Yaya Kanu, Kahota Dumbuya were among those reportedly executed. Fears had been expressed that nine others (names with the secretariat) might also be sentenced to death and executed after a trial that did not conform to internationally recognized fair trial standards (6 and 15 January, 10 February and 27 April 1993).

527. The Special Rapporteur also transmitted to the Government of Sierra Leone the following specific cases: Jibiru Turay, Mohamed Turay, Thairu Turay, Lahai Kpatewah and Alhadji Morrey, allegedly killed by soldiers on suspicion of having joined the insurgents; Ansumana Sheriff, Alusine Sheriff and Ensign Sesay, reportedly robbed and killed by soldiers because they were in possession of rebel documents; Kanneh Braima and Augustine Kamara, captured while hiding in the bush and allegedly executed by soldiers; Koakei Karimu,

killed by soldiers because he was mistaken for a man who was believed to have joined the rebels; and Momo Koneh, allegedly a self-confessed rebel, handed over by the local authorities to the army headquarters for further investigation and reportedly executed there.

Communications received

528. At the time of the preparation of the present report, no communications had been received from the Government of Sierra Leone.

Observations

529. The Special Rapporteur was deeply concerned at the fact that despite repeated urgent appeals sent to the Government of Sierra Leone, fears continued to be expressed concerning the life and physical integrity of the persons arrested and held incommunicado on suspicion of involvement in alleged coup attempts, and regrets that no information was forwarded by the Government on those allegations. The Special Rapporteur calls upon the Government of Sierra Leone to ensure full respect for the right to life and, in particular, for the guarantees and safeguards protecting those who may face capital punishment, in accordance with the pertinent international instruments.

Somalia

530. The Special Rapporteur received a number of reports concerning grave human rights abuses, including violations of the right to life, in the context of what was described as a human rights disaster caused by the ongoing armed conflict between the warlords and their numerous armed groups and famine. The victims of deliberate killings were said to have included numerous civilians who did not take part in the hostilities, as well as humanitarian relief workers and members of the United Nations Operation in Somalia (UNOSOM).

531. With particular concern, the Special Rapporteur has received reports about alleged extrajudicial killings of civilians involving members of the international forces deployed in Somalia during both phases of operations authorized by the United Nations. For example, during the first phase, until the end of April 1993, members of various national contingents of the United Nations International Task Force (UNITAF) were said to have been responsible for the killing of several Somalis, allegedly using excessive force. The killing of approximately 20 Somalia civilians in Mogadishu by Pakistani troops forming part of the United Nations peace-keeping force in Somalia who allegedly opened fire on a large crowd of people, including women and children, was also reported to the Special Rapporteur.

Communications sent

532. The Special Rapporteur addressed a letter to the head of UNOSOM. Since the reports on violations of the right to life in Somalia were rather general, and the current situation in Somalia did not permit him to follow the normal procedure established for the working of the mandate, the Special Rapporteur requested information about the situation of the right to life of civilians in Somalia, both in general (figures, perpetrators, circumstances, etc.) and with regard to specific cases.

533. In the same letter, the Special Rapporteur expressed grave concern at the allegations implicating international peace-keeping forces in killings of civilians and asked UNOSOM to provide him with information about the inquiries carried out to establish the precise circumstances of those incidents and, in particular, whether the military personnel involved resorted to excessive use of force. The Special Rapporteur also asked for information about the organs which carried out such investigations, their legal basis and the sanctions, if any, imposed as a result of such proceedings. Finally, the Special Rapporteur inquired what measures had been adopted to avoid excessive use of force by members of the international peace-keeping force and, in particular, whether they received any specialized instruction with regard to internationally recognized standards and the obligation to abide by them even during armed conflicts.

Observations

534. The Special Rapporteur is deeply concerned at reports about the reported involvement of members of the international forces in violations of the right to life in Somalia. In this context, he wished to express his view that members of United Nations field missions should be held responsible for violations of rights and guarantees contained in international human rights instruments. As each State is bound under international law to respect these standards, an organ representing these States in their collectivity has at least the same degree of responsibility. As peace-keeping and observer missions under the auspices of the United Nations multiply, it may be desirable to envisage the institution of an organ within the United Nations, or within each peace-keeping or observer mission, to investigate human rights abuses by members of such missions and hold their authors responsible. Provision should also be made to grant compensation to the victims of such abuses or, in the case of extrajudicial killings, to their families. With a view to preventing such incidents, all members of peace-keeping and observer missions should receive thorough training in human rights matters as well as in mediation and conflict resolution.

South Africa

535. As in former years, the Special Rapporteur received a large number of allegations concerning extrajudicial, summary or arbitrary executions, death threats or acts of harassment and intimidation against members of the political opposition, in particular the African National Congress (ANC), trade unionists, human rights defenders and student leaders. The South African Police (SAP), the South African Defence Forces (SAF) and groups allegedly cooperating with them were said to be responsible for most of the killings and death threats reported to the Special Rapporteur. Some of these acts were said to be directed against persons who had provided testimony in inquiries into human rights abuses imputed to members of the security forces.

536. According to the information received, grave acts of political violence continued to occur, including attacks on black train commuters or on ANC-supporting communities by armed men believed to be operating from hostels controlled by the Inkatha Freedom Party (IFP) in which the police were said to acquiesce. Reports were also received concerning deaths in police custody, allegedly after torture and excessive use of force against demonstrators.

537. The Special Rapporteur was further informed that impunity continued to be the general rule in cases of violations of human rights. Almost without exception, members of the security forces and other forces acting with their acquiescence were reportedly not asked to account for their actions. In July 1992 a report on 120 cases of death in police custody under suspicious circumstances by Dr. Jonathan Gluckman, a leading South African pathologist, was issued by the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation, chaired by Justice Goldstone, seized documents revealing that the Chief of Staff of Military Intelligence had authorized the operations of a task force aimed at destabilizing the ANC. With regard to Dr. Gluckman's report, the authorities were said to have refused to acknowledge the seriousness of the alarming death rate amongst uncharged detainees in police custody or the opening of an independent judicial investigation. In November 1992, the Government enacted the Further Indemnity Act which was said to grant impunity to human rights violators. On 19 December 1992, the South African President reportedly announced that he had ordered the suspension from duty or early retirement of 23 military officers for alleged involvement in illegal activities, including murder. However, it was reported that key senior officers implicated in assassinations of government opponents and covert operations against the opposition retained their posts.

538. The Special Rapporteur was invited by the ad hoc Working Group of Experts on Southern Africa to participate as an observer in the field mission to the front-line States Botswana and Zimbabwe in August 1993. During this mission, the Special Rapporteur had the opportunity to meet with representatives of South African non-governmental organizations as well as with witnesses, and to exchange views with the Working Group on issues of common concern.

Communications sent

539. The Special Rapporteur transmitted to the Government of South Africa allegations he had received concerning violations of the right to life of 60 persons, including 2 minors and 2 women; 15 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

540. The Special Rapporteur sent 14 urgent appeals to the Government of South Africa by which he expressed concern for the life and physical integrity of the following persons:

(a) ANC members and leaders: Siza Rani (22 December 1993); Chris Khoza, after the killing of Bheki Maseko (30 April 1993); Malose Lehobye (10 June 1993); Godfrey Maseko and Mkhanyisi Dlomo (11 August 1993);

(b) Leaders or members of students associations: Solomon (Solly) Bokaba and Gloria Sekamoeng (2 June and 17 August 1993); students in the so-called "homeland" of Bophutatswana, after violent acts by the SAP, including the killing of David Letsile (aged 14) (1 September 1993);

(c) Trade unions officials Bheki Ntuli, Willie Mchunu, Enoch Nzuza and Mike Mabuyakhulu (10 February 1993);

(d) Two persons scheduled to be executed after an allegedly unfair trial: Frans Netshirombeni and Wilson Nelukalo (28 May 1993);

(e) Patrick Huma, human rights lawyer (16 December 1993); Sipho Mthiyane and Lucky Mthiyane, after attacks by armed men allegedly linked to the security forces (2 July 1993); Johnson Mpukumpa, after the killing of Eric Hewu and Super Nkatazo (13 July 1993); Louis Sibeko, last surviving member of the Thokoza Civic Association, who had provided information to the Goldstone Commission, and Lucky Seepe (17 August 1993); as well as Ronnie Mjoli and Boysie Mpošana, after the killing of Wellington Mbili in SAP custody (18 October 1993).

541. The Special Rapporteur also transmitted to the Government of South Africa allegations he had received concerning the extrajudicial killings of: Bernard Sekhube Mushi, allegedly shot at close range by members of the SAF, and David Mokgalaka, reportedly tortured and shot dead in the custody of the SAP. No charges were said to have been brought against the policemen responsible for his death.

542. The Special Rapporteur also sent a letter to the Government of South African by which he requested to be provided with information on the problem of impunity in South Africa. In particular, he referred to the Further Indemnity Act and reports received from the source of allegations concerning the massacres of 28 unarmed demonstrators in Ciskei in September 1992 (E/CN.4/1993/46, para. 525), according to which no steps had been taken by the authorities to investigate the incident and bring to justice those responsible.

Communications received

543. The Government of South Africa replied to the Special Rapporteur's first urgent appeal concerning the case of Siza Rani (see E/CN.4/1993/46, para. 526) and informed him that the allegations transmitted were unfounded since that person had not filed any complaints about death threats. The SAP had no knowledge of an attack on Siza Rani's house. Mr. Rani was interviewed by the police in order to locate the suspect of an armed attack. The SAP was totally unbiased and its actions were conducted impartially (26 March 1993).

544. The Government also provided a reply concerning the urgent appeal sent by the Special Rapporteur on 2 July 1993 concerning the case of Sipho Mthiyane and Lucky Mthiyane, reportedly shot and stabbed with impunity by a person believed to be a member of the police. Those two persons had reported being assaulted. An immediate investigation launched by the police had led to the identification of a suspect, the warrant for whose arrest would be executed as soon as he was traced (10 November 1993).

Observations

545. With regard to the reply received from the Government of South Africa in response to his urgent appeal of 2 July 1993, the Special Rapporteur notes with satisfaction that the Government used the reply form provided for that purpose. However, the Special Rapporteur is concerned at the small number of reported investigations into allegations of violations of the right to life,

and at persistent reports of impunity enjoyed by those responsible for such violations. It is also disturbing that few measures appear to have been adopted to stop and prevent the recurrence of killings, and to fight the deeply rooted violence existing in the country, in particular inter-communal violence. The Special Rapporteur calls upon the Government of South Africa to adopt measures with a view to complying with its obligation under international law to investigate human rights violations, bring to justice their perpetrators and grant compensation to the victims.

546. The Special Rapporteur hopes that the mechanisms of the United Nations which will assist South Africa during its transitional period will address the question of inter-communal violence and will assist the reforms of the police and the judiciary.

Sri Lanka

547. The Special Rapporteur received reports indicating that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Sri Lanka.

548. The military conflict between government troops and the Liberation Tigers of Tamil Eelam (LTTE) was said to have continued, particularly on the Jaffna peninsula and in the Mannar and Vavuniya districts. The Special Rapporteur received numerous reports about civilian casualties as a consequence of counter-insurgency operations carried out by the Sri Lankan Armed Forces. Despite assurances allegedly made by the authorities that air attacks were directed only against LTTE bases and camps, many civilians were said to have been killed during large-scale aerial bombardments by the Sri Lankan Air Force as well as naval strafing and shelling from military bases.

549. During the forty-ninth session of the Commission on Human Rights in February 1993, the head of the Sri Lankan delegation reiterated an invitation to the Special Rapporteur to carry out an on-site visit to Sri Lanka.

Communications sent

550. The Special Rapporteur transmitted to the Government of Sri Lanka allegations he had received concerning violations of the right to life of more than 110 persons, including 19 minors and 8 women.

551. The Special Rapporteur sent an urgent appeal to the Government of Sri Lanka in response to reports expressing fear for the life and physical integrity of Tharmalingam Selvakumar, who had allegedly received death threats after filing a complaint with the Supreme Court of Sri Lanka in which he protested about torture and ill-treatment during police detention (27 April 1993).

552. The Special Rapporteur transmitted to the Government of Sri Lanka the cases of more than 100 civilians who were said to have been killed during indiscriminate army attacks on residential areas (all names are available with the secretariat). These attacks were reportedly launched from army bases with

support from aeroplanes and helicopters. Several persons were killed at sea, when their boats were allegedly intercepted by the Sri Lankan Navy.

553. Nineteen minors were said to have been killed in these attacks. Their names have been reported as follows: Swakumar Ponnuthurai (15); Chandran Ponnuthurai (10); Yoganathan Yoganari (12); Yoganathan Rajanimalar (3); Sasikumar Thangarasa (17); Rangithkumar Thangarasa (15); S. Nanthan (12); S. Suganthan (10); S. Subagini (7); Nandakumar (9); Charles Robinson (11); Sarvily (daughter of Nagamuttu Thamrirasa) (10); Jeyasuthanage (son of Johnson Saraswathy) (10); Sri Nanthagopal (son of Nanniyar Nagamuttu) (10); Sebastian George Marcel (17); Sivanantham Suthaharan (12); Sathiyaseelan Robinson (13); Ligoury James (16); and Yogatharsan (16).

Communications received

554. The Government of Sri Lanka provided the Special Rapporteur with a reply to the urgent appeal on behalf of Tharmalingam Selvakumar, informing him that he had indeed filed a complaint with the Supreme Court alleging violation of his fundamental rights. The date for the hearing of the case was fixed for 25 February 1994. However, although Mr. Selvakumar filed further affidavits in June and July 1993, he did not mention that he had been threatened. Any complaints about death threats would undoubtedly have been inquired into (12 November 1993).

Follow-up

555. The Special Rapporteur sent a follow-up letter to the Government of Sri Lanka in which he referred to a reply received from the authorities in 1992 concerning the killing of 130 villagers in Alanchipothana, Karapola and Muthugal in April 1992 (see E/CN.4/1993/46, paras. 539 and 543). The Government informed him that a committee chaired by a retired judge of the Supreme Court had been appointed to inquire into these killings. The Special Rapporteur requested to be informed about the progress of the investigations. He also asked the Government to provide him with detailed information about the working of the committee, in particular the legal basis for its inquiries, the procedures followed, its relations with other, judicial or administrative, investigations, etc.

Observations

556. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Sri Lanka in providing him with replies to cases transmitted in 1992 and the urgent appeal sent in 1993. He would also like to thank the authorities for the invitation to visit Sri Lanka. The Special Rapporteur envisages carrying out this visit after the elections scheduled for April 1994, at a date to be fixed in consultation with the Sri Lankan authorities. In the meantime, the Special Rapporteur continues to monitor the situation of the right to life in Sri Lanka, in particular with regard to areas of concern such as the reported killings of civilians during counter-insurgency operations. The Special Rapporteur calls upon the Sri Lankan authorities to take steps with a view to the prevention of civilian casualties.

Sudan

557. The Special Rapporteur received a number of reports of a general nature concerning numerous and grave violations of the right to life in the Sudan, committed both by government forces and by the different factions of the Sudan People's Liberation Army (SPLA).

558. The recent interim report of the Special Rapporteur on the situation of human rights in the Sudan to the General Assembly (A/48/601) contained information concerning the following questions related to the right to life in the Sudan. As a consequence of the alleged killing of hundreds of civilians and army officers following an SPLA attack on Juba in June and July 1992 (see E/CN.4/1993/46) an investigation committee was established in November 1992 but so far no sentences have been pronounced by the special military courts set up to deal with the perpetrators of the killings. The fate of 230 individuals who were reportedly arrested in Juba between June and August 1992 remains unknown, and it is feared that many of them had been extrajudicially or summarily executed. According to reliable information gathered by the Special Rapporteur on the situation of human rights in the Sudan, the practice of extrajudicial killings, summary executions, arbitrary arrests and detention without trial continued during 1993 in Juba and in surrounding villages under the control of the Government.

559. The interim report of the Special Rapporteur also contained information concerning indiscriminate and deliberate aerial bombardments by government forces on civilian targets, for example camps for displaced persons, in the SPLA-controlled areas. It was further reported that joint forces of so-called Arab militias and the official paramilitary Popular Defence Forces (PDF) had allegedly killed hundreds of civilians along the railway tracks between Babanusa and Wau - Northern Bahr Al-Ghazal - in February/March 1993 and in July/August 1993. With regard to the situation of human rights in the Nuba mountains, it was reported that grave violations of the right to life were committed by the Sudanese Army and the paramilitary forces under its control.

560. According to reports forwarded by non-governmental sources, the government forces and rival factions of the SPLA had created a humanitarian disaster by waging war on villagers and herders. The displacement of millions of people and the killing of thousands of civilians have not been by-products of the conflict but a tactic integral to it. The flagrant violations of human rights standards and of the principles protecting civilians in times of conflict have created famine and dependency on food relief in many areas affected by war. Hundreds of thousands of people have lost their lives through illness, food shortage or deliberate assault.

Communications sent

561. The Special Rapporteur sent one urgent appeal to the Government of the Sudan in response to reports expressing fears for the life and physical integrity of four retired military officers, Col. Mustafa Ahmed El Tai, Col. Mohamed Hassan Osman, Col. Mohamed El Hassan Osman El Zubeir and Lt. El Tayeb Nour El Dayem Mohamed, as well as six civilians, Mubark Mohamed Abdalla Gadane, Dr. Jaffar Yassin Ahmed, Osman Mahmoud Ali Gumma, El Tarafi El Taher Fadul, El Hassan Ahmed Saleh Mohamed and Yasir Abu Zeid Ahmed Abu Zeid,

arrested in April 1993 after an announcement by the Sudanese Government that a coup d'état had been aborted before it had taken place. They were said to have been shown on television, handcuffed and shackled, and bearing signs of severe torture (30 April 1993).

Communications received

562. The Government of the Sudan provided the Special Rapporteur with information in reply to an urgent appeal concerning fears for the life of at least 135 civil servants, politicians and community leaders from Upper Nile State, most of them from the Nuer ethnic group, who had reportedly been arrested in Malakal in late October 1992 and held by military intelligence or in incommunicado detention by State Security (see E/CN.4/1993/46, para. 552).

563. The Government reported that in mid-October 1992 Malakal had been attacked by the "Kejor" anti-government rebels, apparently in collaboration with a group of persons within the town itself. Some arrests were subsequently made, and the persons concerned were well treated. After proper investigations some were released and others were to be prosecuted before an ordinary criminal court, with the full right to legal representation in open court. Some of the persons mentioned in the urgent appeal had never been arrested (21 December 1992).

564. In addition, the Government provided the Special Rapporteur with the following information in reply to his urgent appeal of 30 April 1993: Dr. Jaffar Yassin Ahmed, El Tarafi El Taher Fadul and Osman Mahmoud Ali Gumma were arrested by the competent Sudanese authorities on charges of attempting to bomb essential economic projects. Judicial proceedings had started. They were being held in Madni prison, where they could be visited by lawyers and relatives. All other rights were also fully guaranteed (25 October 1993).

Observations

565. The Special Rapporteur wishes to express his appreciation of the willingness to cooperate shown by the Sudanese authorities. However, he does wish to point out the problems encountered in dealing with situations such as the one in the Sudan. The vast majority of the allegations brought to his attention concern violations affecting prominent personalities in cities whereas the gravest violations are said to occur in remote regions and concern ordinary people.

566. The Special Rapporteur is deeply concerned at the scale of the reported violations of the right to life in the Sudan, especially in the southern part of the country, both at the hands of the government security forces and of the different factions of the SPLA. He therefore appeals to all parties to the conflict to respect at least the most basic human rights of the civilian population, in accordance with the provisions of the Geneva Conventions of 1949.

Sweden

Communications sent

567. The Special Rapporteur sent an urgent appeal to the Government of Sweden after being informed about the imminent repatriation of Mónica Castillo Páez to Peru, where her life and physical integrity were feared to be at risk, after her application for asylum had been rejected by the Swedish authorities (18 June 1993). A second urgent communication was sent to the Government of Sweden on her behalf, after the Special Rapporteur received reports that she had been taken into custody at a centre near Stockholm airport, reportedly in preparation for her deportation (19 August 1993).

Communications received

568. In its reply to his first urgent appeal, the Government of Sweden informed the Special Rapporteur that the European Commission on Human Rights had examined the case of Mónica Castillo Páez and declared it inadmissible on the grounds of its being manifestly ill-founded. The European Commission had also stated that the Swedish authorities had examined the case carefully. The Government of Sweden also informed the Special Rapporteur that, according to recent information available to the Government, there was no reason to believe that asylum seekers deported from Sweden to Peru would be at risk of torture or persecution (2 July 1993).

569. The Government also replied to the Special Rapporteur's second urgent appeal on behalf of Mónica Castillo Páez, informing him that on 21 August 1993, the expulsion order was carried out in accordance with the government's decision of 1 October 1992 and that Ms. Castillo Páez left for Lima via Amsterdam. Upon her arrival in Amsterdam, she applied for asylum in the Netherlands. The Government further reported that Mónica Castillo Páez had been detained in order to prevent her from going into hiding in Sweden. New requests for a residence permit lodged after her detention were rejected since they did not adduce new elements, as was a petition to the Government to quash the expulsion order as an act of mercy, since the legal provision invoked by Ms. Castillo Páez did not apply to her case (14 September 1993).

Observations

570. The Special Rapporteur highly appreciates the prompt and detailed manner in which the Swedish authorities provided him with replies to his urgent appeals and will continue monitoring any developments in this case.

Syrian Arab Republic

Communications sent

571. The Special Rapporteur transmitted to the Government of the Syrian Arab Republic allegations he had received concerning the execution on 20 May 1993 of the death sentence imposed upon 'Ali Mahmud Qasim, Farid Mahmud al-Jabri, Qahraman Jamhir Muhammad, Muhammad Amin Bin Muhammad and Ahmad Varhan Sakfan,

who had been found guilty of setting fire to a prison in March 1993, causing the death of 57 inmates. Fears were expressed that the trial procedures did not conform to international fair trial standards.

Communications received

572. The Government of the Syrian Arab Republic replied that the five above-mentioned persons were sentenced to death and executed after a trial before a military court, established pursuant to legislation providing for exceptional courts, after having been convicted of multiple crimes including murder. Three other accused persons were sentenced to life imprisonment. Members of the prison police were also tried (25 October 1993).

Observations

573. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of the Syrian Arab Republic in providing this reply. However, no details were provided as to due process guarantees enjoyed by the defendants. The Special Rapporteur remains concerned that the short duration of the proceedings - only two months elapsed between the time of the crime and the execution of the death sentences - may not have given them full possibilities to exercise their rights to an adequate defence and appeal.

Tajikistan

574. The Special Rapporteur received reports expressing concern at violations of the right to life in the context of the armed conflict between forces loyal to the Government and armed opposition forces. Since the eruption of factional violence in May 1992, up to 20,000 people are said to have lost their lives.

575. It was reported to the Special Rapporteur that since the entry into Dushanbe of forces subordinate to the Government in December 1992, unarmed civilians have been victims of extrajudicial executions by law enforcement officials. Many of these killings were said to have followed checks of identity papers on the streets or at the airport as well as during house-to-house checks. The victims were then allegedly executed on the spot. Persons originating from the Garm region or the Pamir mountains were said to be the main target group. Reportedly, law enforcement officials had been authorized to execute people summarily. Several public statements by government officials allegedly confirmed this "shoot-to-kill" policy. In addition, it has been alleged that many of the bodies of those killed by the security forces which had been found in the city morgue of Dushanbe showed evidence of lethal torture, such as partial skinning or burning to death.

Communications sent

576. The Special Rapporteur transmitted to the Government of Tajikistan allegations he had received concerning violations of the right to life of more than 22 persons, including 1 minor and 1 woman.

577. The Special Rapporteur sent an urgent appeal to the Government of Tajikistan expressing concern at reports of the killing, in late 1992, of

scores of unarmed civilians from the Pamir and Garm regions, who were suspected by government forces of supporting the opposition. The victims included Musa Isa, leader of an opposition movement and originating from the Pamir region, and journalists Akhmed Shakh Kamil, Mubarak Shakhov Khushbakht and "Sultan" (13 January 1993).

578. The Special Rapporteur also addressed an urgent appeal to the Government of Tajikistan after receiving information about the imminent execution of mullah Adzhik Aliyev, who was said to have been sentenced to death after a trial in which he allegedly did not benefit from the right to an adequate defence (1 September 1993). The Special Rapporteur sent a second urgent appeal to the Government of Tajikistan after receiving additional information alleging irregularities in the trial procedures, in particular as concerns witnesses' testimony. Furthermore, it was reported that, since capital cases are being heard by the Supreme Court of Tajikistan as the court of first instance and the only possible remedy against a death sentence is judicial review by the same court, the right to appeal was not fully guaranteed (19 October 1993).

579. The Special Rapporteur also transmitted to the Government of Tajikistan allegations concerning the extrajudicial, summary or arbitrary execution by security forces or groups cooperating with them of the following persons: Muso Isoyev; Shogunbek Davlatmirov; 7 members of the Rizvonov family, including a 4-year-old child and an 80-year-old grandmother, as well as 4 refugees who were staying in their house; Mukhatabtsho Abdulnazarov, Amirsho Khovarshoyev, Asilsho Khovarshoyev and 7 other, non-identified persons.

Communications received

580. At the time of the preparation of the present report, no communications had been received from the Government of Tajikistan.

Observations

581. The Special Rapporteur wishes to express deep concern at the alarmingly high numbers of civilian casualties reported as a result of the armed conflict in Tajikistan. The lack of full fair trial guarantees in trials leading to capital punishment and the fact that such cases are being judged by the Supreme Court of Tajikistan as court of first instance are also disturbing. In the light of the gravity of the violations of the right to life that have come before him in 1993, the Special Rapporteur has decided to request the Government of Tajikistan to invite him to carry out a visit to this country with a view to being in a better position to evaluate the situation and contributing, through recommendations, to an increased protection of the right to life in Tajikistan.

The Former Yugoslav Republic of MacedoniaCommunications sent

582. The Special Rapporteur sent an urgent appeal to the Government of the Former Yugoslav Republic of Macedonia after being informed that refugees of Albanian origin were being repatriated from that country to the Federal Republic of Yugoslavia. In the light of continuing reports of human rights violations, including deaths in custody, of Albanians in the Federal Republic of Yugoslavia, and particularly in Kosovo, the Special Rapporteur appealed to the authorities of The Former Yugoslav Republic of Macedonia to refrain from repatriating these refugees unless their safety could be assured (21 September 1993).

Communications received

583. At the time of the preparation of the present report, no communications had been received from the Government of The Former Yugoslav Republic of Macedonia.

Togo

584. The Special Rapporteur continued to receive an increasingly large number of allegations of extrajudicial executions, death threats or acts of harassment and intimidation by members of the Togolese security forces against members of the legal political opposition, as well as abuse of force against peaceful demonstrators.

585. It was reported that political instability and violence had intensified following the National Conference in 1991, when transitional arrangements were made to lead to legislative and presidential elections. Rivalry between the head of State President Gnassingbé Eyadéma, backed by the Togolese Armed Forces (FAT), and the opposition reportedly increased. The victims of human rights violations were generally said to be targeted because of their ethnic origin and political views. The Special Rapporteur received a number of reports referring to alleged extrajudicial executions by members of the FAT in the context of an attack against the barracks of the Togolese Combined Regiments (RIT), in Lomé on 25 March 1993. Extrajudicial executions were also said to have been carried out at a shooting-range in the suburbs of the capital.

586. The Special Rapporteur was further informed that impunity continued to be the general rule in cases of violations of human rights. In this context, it was alleged that the security forces had repeatedly committed human rights violations, if not on instruction, at least in the confidence that they would not face prosecution. In fact, in the vast majority of cases, members of the security forces and other forces acting with their acquiescence were reportedly not asked to account for their actions.

Communications sent

587. The Special Rapporteur transmitted to the Government of Togo allegations he had received concerning violations of the right to life of 43 persons, including 3 minors; 18 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

588. The Special Rapporteur sent 3 urgent appeals to the Government of Togo by which he expressed concern for the life and physical integrity of: Nebeyu Shone, Eugène Akpemado and other staff of the FOPADESC, a branch of the World Confederation of Labour, after attacks by armed men (12 January 1993); several persons, including 2 members of the armed forces named Lawson and Commander Foudoumi, arrested on charges of having participated in an attack against the RIT on 25 March 1993, after the alleged extrajudicial killing by members of the FAT of 13 persons, including 3 minors (names with the Secretariat) (2 April 1993); Koujou Agbolossou and Missiagbeto, both soldiers, reportedly arrested following the 25 March attack and Doblì Omorou Odanou and Doblì Dermane Odanou, allegedly arrested by the gendarmerie because their children were distributing leaflets (14 May 1993).

589. The Special Rapporteur also transmitted to the Government of Togo the following specific cases: Edoh Komi Sewoul and at least 18 others (names with the Secretariat), who reportedly died at the Blitta police station during the night of 26 to 27 August 1993. The victims were among a group of 40 suspected members of opposition parties who were arrested and placed in a cell designed for 5. They reportedly died as a consequence of ill-treatment or suffocated; Boudjakine Bidjakiwe and Bonjal, members of an opposition party, who were reportedly shot at point-blank range by soldiers on the orders of a village chief.

Communications received

590. The Government of Togo, through its Ministry for Human Rights, replied to the Special Rapporteur's first urgent appeal concerning the case of the FOPADESC staff, indicating that during the night of 31 December 1992 to 1 January 1993, there had been attacks by unidentified individuals against many buildings, including that of FOPADESC. Following those incidents, the Government had worked to restore peace and security in the country (12 October 1993).

591. The Government of Togo also replied to his urgent appeal of 14 May 1993, informing him that a judicial inquiry had been opened in order to establish the responsibility of the persons concerned. Their conditions of detention respected human dignity (11 October 1993).

Observations

592. With regard to the reply received from the Government of Togo in response to his urgent appeal of 12 January 1993, the Special Rapporteur wishes to note that no information was provided regarding any investigations concerning the identity of the persons responsible for the attacks. The Special Rapporteur also notes that no reply was received regarding the grave allegations

concerning both the case of the persons extrajudicially killed following the attack of 25 March 1993 against the RIT barracks, and the death in custody of at least 19 persons in the police station at Blitta.

593. The Special Rapporteur notes with regret that human rights mechanisms, such as the Ministry for Human Rights, seem to have a limited impact on the investigations and prosecutions that should take place concerning the grave allegations of violations of the right to life in Togo that continue to reach him. On the contrary, according to all information at the Special Rapporteur's disposal, the alleged perpetrators of human rights violations continue to enjoy impunity. It appears that the Togolese Armed Forces are not under the control of the civilian authorities. The Special Rapporteur urges the Government of Togo to adopt effective measures to investigate past human rights abuses and bring those responsible to justice, and to prevent further violations of the right to life, in particular in view of the forthcoming electoral campaigns.

Turkey

594. According to the information that has come before the Special Rapporteur, human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Turkey in the context of the armed conflict between government security forces and guerrillas of the Partiya Karkeren Kurdistan (Kurdish Workers' Party, PKK) in the south-eastern parts of Turkey.

595. Since 1984, this conflict has said to have cost more than 6,000 lives on both sides and among the civilian population. Both government forces and the guerrillas are said to be responsible for serious human rights abuses. Between March and June 1993, the human rights situation reportedly improved significantly after the PKK declared a unilateral cease-fire, although their forces were not withdrawn and government forces continued their operations. During the course of the cease-fire, killings of civilians by village guards and of alleged informers by the PKK were said to have virtually ceased, while assassinations of opponents of the Government also halted. After a PKK attack on a convoy of unarmed soldiers travelling in civilian clothes which caused the death of 32 soldiers and 4 civilians, however, the cease-fire ended. Government forces allegedly responded with large-scale military operations covering the entire region. Fears have been expressed that this might lead to a renewed escalation of violence, entailing extrajudicial executions of suspected members or supporters of the PKK and killings of civilians who do not participate in the conflict.

596. The Special Rapporteur received numerous reports expressing concern at security raids carried out by soldiers in cooperation with special teams and village guards. Villagers who refuse to join these - theoretically voluntary - self-defence arrangements were often said to be suspected of supporting the guerrillas. Those who served as village guards, on the other hand, were often subject to reprisals from the PKK for cooperating with the security forces.

597. The Special Rapporteur also continued to receive reports about deaths in custody as a result of torture and ill-treatment. Often, such cases were said to occur after villagers are arrested and taken away during security raids

against villages. Concern was expressed at the fact that by taking people into their custody for interrogation village guards exceed their authority to engage in legitimate self-defence activities. It was persistently alleged that those responsible for extrajudicial killings and torture, whether members of the State security forces or village guards, were not brought to justice. Only in a few cases were disciplinary measures said to be taken against them and sanctions, if imposed at all, were reportedly very light.

598. Members of political opposition parties, human rights activists and journalists working for newspapers which oppose government policy in the south-east of Turkey were also reported to be victims of death threats and extrajudicial killings. Collaborators of the journal Özgür Gündem were particularly often said to be victims of attacks against their lives. In some cases, the security forces were said to be responsible, in others they were said to collude with or protect those responsible for the killings.

Communications sent

599. The Special Rapporteur transmitted to the Government of Turkey allegations he had received concerning the violation of the right to life of more than 102 persons. In 6 cases, the victims were said to be minors; 7 cases concerned women. It was alleged that 36 cases constituted violations of the right to freedom of expression and opinion, peaceful assembly and association.

600. The Special Rapporteur sent nine urgent appeals to the Government of Turkey after being informed of fear for the lives of: Ahmet Akkun and 10 other people reportedly abducted by security forces, after the abduction and subsequent killing, also by security forces, of Mehmet Akan and Mehmet Akkum (18 December 1992); Fevzi Veznedaroglu, human rights lawyer and chairman of the Diyarbakir branch of the Human Rights Association, after repeated death threats (20 January 1993); human rights lawyer Metin Can and Dr. Hasan Kaya (26 February 1993); Fatma Can, wife of Metin Can (27 April 1993); Esref Yasa, owner of a newspaper kiosk in Diyarbakir, after the killing of his uncle Hasim Yasa (17 June 1993); Hafiz Uzun, representative of the People's Labour Party (HEP) and of the human rights association IHD in Lice (2 July 1993); Tacettin Demir, Diyadin correspondent for Özgür Gündem, after being detained by security forces (26 July 1993).

601. The Special Rapporteur also sent urgent appeals after receiving reports expressing fear for the lives and physical integrity of the members of 13 Assyrian Christian families, who were said not to receive any protection from the security forces (24 September 1993); and of Leyla Zana and 15 other Members of Parliament for the Democracy Party (DEP) as well as nine human rights activists after repeated death threats against them and the killing of DEP Member of Parliament Mehmet Sincar (24 September 1993).

602. Furthermore, the Special Rapporteur addressed an urgent communication to the Turkish authorities after being informed about the imminent repatriation of Hassanzadeh Afshar Mohammad Reza, an Iranian national, whose life was said to be at serious risk if he were to be returned to the Islamic Republic of Iran (4 May 1993).

603. The Special Rapporteur also transmitted to the Government of Turkey the following cases of alleged extrajudicial, summary or arbitrary executions:

- (a) Journalists Namik Taranci; Kemal Kilic; Ferhat Tepe; Aysel Malkac; Halit Kapcak; and taxi-driver Halil Adanin, allegedly for distributing Özgür Gündem;
- (b) During raids on villages by village guards in cooperation with members of the security forces: Ibrahim Dilek; Mustafa Dogan; Yusuf Cakar; Seydo Ceviren, Bahriye Ceviren, Ahmet Ceviren, Yusuf Ceyiren, Necat Arizi and one unidentified person; a three-year-old child killed by the explosion of a hand-grenade in Ormanici;
- (c) By security forces: Saban Budakm, Mehmet Bulut and Kasim Bulut;
- (d) While in the custody of the security forces, allegedly after torture: Ramazan Altunsoz; Remzi Basalak; Veysi Kaymaz; Abdülessim Orak; Ramazan Sat; Tahir Saday;
- (e) DEP Member of Parliament for Mardin Mehmet Sincar and Metin Zdemir, President of the Batman Section of HEP, by "Kontrgerilla"; Habib Kiliç, leading member of the Batman Section of HEP;
- (f) Also by "Kontrgerilla": Dr. Zeki Tanrikulu, director of Silvan hospital, after receiving death threats.
- (g) During police operations, allegedly as a result of excessive use of force: Bedir Yagan, Aydin (Özgür) Gürçan, Meral Menekse, Rifat Kasap and Asiye Fatma Kasap in Istanbul; Gurbet Deniz, Fetullah Akalin, Süleyman Kaplan, Latif Deniz, Semsettin Evsin and one unidentified person in Nusaybin.

Communications received

604. The Government of Turkey provided the Special Rapporteur with information on a number of the cases transmitted in 1993. In particular, it was stated that:

- (a) Metin Can and Hasan Kaya had been found dead under a bridge near Tunceli. Investigations had been opened by the competent authorities in Tunceli. In conformity with the Code of Criminal Procedure, however, the pertinent documents could only be consulted by the defence of those accused (9 April 1993 and 19 May 1993);
- (b) Hassanzadeh Afshar Mohammad Reza had applied for permission to remain lawfully in Turkey in order to subsequently move to a third country. The competent Turkish authorities granted this permission for three months so that he could obtain, in the meantime, a visa for another country (11 January and 24 May 1993);
- (c) Fevzi Veznedaroglu had not filed any complaint against the police officers allegedly threatening him, either with the prosecutor's office of Diyarbakir or the prefect. However, a detained member of the PKK had stated that the PKK planned to assassinate Fevzi Veznedaroglu and other personalities

in a way that their killings would be perceived as having been committed by the security forces. Whereas two others were immediately warned by the security forces, Mr. Veznedaroglu could not be reached as he was abroad, but was advised through a colleague to contact the Security Directorate upon his return (24 May 1993).

(d) Hafiz Uzun had been arrested and brought before the Diyarbakir State Security Court, which acquitted him of charges of having offered assistance and shelter to terrorists. While detained at Diyarbakir prison, he had lodged a complaint alleging that the Commander of the Lice County Gendarmerie Unit had threatened to kill him. Investigations had been opened into these allegations. No other complaints had been filed by Hafiz Uzun (14 October 1993).

(e) Bedri Yagan et al. had been killed by security forces attempting to capture them. An investigation resulted in the eight security officers involved in the operation being charged with manslaughter (4 November 1993).

(f) Süleyman Kaplan et al., all members of the PKK, had fired on security forces, who had appealed to them to surrender, and lost their lives in the ensuing skirmish. An investigation to determine whether the security forces had committed any errors during the operation was still under way (4 November 1993).

(g) Tacettin Demir had been arrested after an armed attack by the PKK in Diyadin on 13 July 1993, during which six members of the Ciftci family were killed. He was released on 21 July 1993 and proceedings against him are under way (12 November 1993).

(h) Mehmet Sincar and Metin Ozdemir were killed during an armed attack in Batman on 4 September 1993. One suspect was detained. He declared having participated in the killing as a guard and identified those who had actually shot and killed the victims. The suspect was being held in detention and the other persons were being sought (22 November 1993);

(i) Zeki Tanrikulu had been shot and severely injured by unidentified armed men in Silan on 2 September 1993 and died in hospital shortly after (22 November 1993);

(j) Habib Kiliç had been killed by unidentified armed persons in Batman on 2 September 1993. An investigation into the case was under way (22 November 1993);

(k) Ramazan Sat had been shot dead by unidentified persons in the street at Sanliurfa on 2 July 1992. It was established that he had links with the PKK. An investigation into the case was under way (22 November 1993).

605. The Government of Turkey also provided the Special Rapporteur with three replies containing information on numerous cases transmitted in 1992. Investigations had been opened and then concluded through a decision of nonsuit in six of the cases. In over 80 cases, investigations had been initiated and, by the time of the replies (14 December 1992 and 2 February 1993), were still under way. With regard to the killings

of more than 30 persons, the Government of Turkey informed the Special Rapporteur that these had been carried out by PKK terrorists whom the authorities had not yet been able to identify. Furthermore, more than 50 persons were said to have been killed in armed clashes between PKK terrorists or unidentified persons and government security forces.

Follow up

606. The Special Rapporteur addressed a follow-up letter to the Government of Turkey in which he asked for additional information on the following cases, transmitted both in 1992 and 1993, to which the Turkish authorities had provided replies:

(a) With regard to the investigations concluded through a decision of nonsuit, the Special Rapporteur requested details on the exact meaning of such a decision under Turkish law, as well as on the organs that had carried out the inquiries, the procedural and substantive norms that apply in such inquiries and the possibilities for appeal against the decisions taken;

(b) The Special Rapporteur requested updated information on investigations that had been opened. In a number of cases, the Special Rapporteur asked for specific details related to the inquiries;

(c) Where the Turkish authorities informed him that the unidentified killers had been PKK terrorists, the Special Rapporteur inquired about the elements permitting this to be affirmed, through which inquiries, and by whom these elements had been obtained;

(d) With regard to deaths which, according to the Government of Turkey, had resulted from armed confrontations between government forces and PKK terrorists and, in particular, during the Newroz celebrations (see E/CN.4/1993/46, para. 610), the Special Rapporteur requested information about the investigations carried out to identify, in each single case, the authors of the killings and, in particular, whether ballistic tests had been performed during such investigations.

607. In the same letter, the Special Rapporteur transmitted to the Government of Turkey additional information he had received concerning the cases of:

(a) Metin Can and Dr. Hasan Kaya. In particular, it had been stated that the authorities had not taken any action to determine the whereabouts of the two men between their disappearance on 21 February 1993 and the discovery of their bodies on 27 February 1993. In view of these reports and further allegations that linked the killing of Metin Can and Dr. Hasan Kaya to the "Kontrgerilla", in collaboration with the security forces, the Special Rapporteur asked the Government of Turkey to provide him with details about the manner in which the police investigations had been conducted immediately after their disappearance as well as any other steps taken with a view to identifying those responsible for the killings;

(b) Fevzi Veznedaroglu. In particular, it had been alleged that the detainee who stated that the PKK was planning Mr. Veznedaroglu's assassination had been forced to do so by the security forces. The Special Rapporteur

invited the Turkish authorities to provide him with comments on these allegations and to inform him about the measures adopted to protect the life and physical integrity of Fevzi Veznedaroglu.

608. In addition, the Special Rapporteur asked the Government of Turkey to provide him with information on the current status of Hassanzadeh Afshar Mohammed Reza.

609. During the Special Rapporteur's visit to Geneva in November 1993, he met with representatives of the Government of Turkey for consultations about different aspects of his mandate. With regard to a possible visit to Turkey, he was informed that it was preferable to wait until the authorities had transmitted to the Special Rapporteur all the information he had requested concerning allegations.

Observations

610. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Turkey in providing him with replies to a number of cases transmitted both in 1992 and 1993. However, he remains concerned at the persistent and grave reports of violations of the right to life in the context of the armed conflict between the government security forces and groups cooperating them and members of the PKK. The Special Rapporteur is fully aware of the enormous human and material damage caused by violent attacks committed by members of the armed opposition and the difficulties faced by the authorities in protecting the civilian population and curbing such violence. However, it must be recalled that the right to life is absolute and must not be derogated from, even under the most difficult or exceptional circumstances. In this context, the Special Rapporteur calls upon the Government of Turkey to undertake every effort to ensure full respect for the right to life of both the civilian population and members of the armed opposition who have been captured or laid down their arms, in accordance with the international instruments governing the use of force and firearms by law enforcement officials. The Special Rapporteur also urges the Turkish authorities to take effective steps directed at the prevention of human rights abuses by civil defence groups cooperating with the security forces in fighting the armed opposition.

611. With regard to cases of alleged deaths in custody, the Special Rapporteur wishes to refer to the summary account of the results of the proceedings concerning the inquiry on Turkey by the Committee Against Torture (A/48/44/Add.1). The Committee expressed concern at the number and substance of the allegations of torture it had received, which confirmed the existence and systematic character of the practice of torture in Turkey. In this context, the Special Rapporteur calls upon the Turkish authorities to adopt all necessary measures to ensure that the right to life and physical integrity of those in custody is fully guaranteed. The Special Rapporteur is also concerned at persistent allegations that those responsible for violations of the right to life do so in virtual impunity.

612. With regard to Turkey, the Special Rapporteur continues to find himself in a position where detailed and numerous allegations received from credible sources and the information provided by the Turkish authorities in their

replies differ considerably. For this reason, and given the gravity of the allegations received and the fact that similar reports had come before him repeatedly, the Special Rapporteur had requested the Government of Turkey in 1992 to consider inviting him to carry out a visit to that country. However, consultations with the Government have not yielded any results. The Special Rapporteur wishes to express his continued interest in visiting Turkey so as to gather first-hand information so as to be in a better position to evaluate the allegations he receives and to make recommendations aiming at increased protection of the right to life.

Turkmenistan

Communications sent

613. The Special Rapporteur sent an urgent appeal to the Government of Turkmenistan after receiving information about the imminent execution of the death sentence imposed on Yuri Yurevich Ayriyev, after a trial whose procedures were said to have fallen short of internationally recognized fair trial standards (1 July 1993).

Communications received

614. At the time of the preparation of the present report, no communications had been received from the Government of Turkmenistan.

United Kingdom of Great Britain and Northern Ireland

Communications sent

615. The Special Rapporteur sent an urgent appeal to the Government of the United Kingdom in response to information received concerning the imminent repatriation of Karamjit Singh Chahal to India, where his life and physical integrity were said to be at risk. It was alleged that the deportation procedure followed in his case did not allow Karamjit Singh Chahal to effectively challenge possible untruths, inaccuracies or distortions used by the authorities as the basis for their decision (16 August 1993).

Communications received

616. The Government of the United Kingdom, in reply to the aforementioned urgent appeal, reported that Karamjit Singh Chahal was detained pending his deportation because he represented a substantial threat to national security. Mr. Chahal had been informed about the reasons for the decision to deport him, and he had an opportunity to rebut the allegations. The Home Secretary had sought, and received, assurances from the Indian Government that Mr. Chahal would be safe from ill-treatment if taken into custody by the Indian authorities. At the time of the reply, the case was before the Court of Appeal, awaiting judgement (20 September 1993).

Follow-up

617. Before the contents of the reply could be transmitted to the source of the allegations, the latter provided the Special Rapporteur with additional information on the case of Karamjit Singh Chahal according to which, on 22 October 1993, the Court of Appeal dismissed his appeal against the High Court's ruling of February 1993.

618. The Special Rapporteur addressed a second letter to the Government of the United Kingdom in which he thanked the authorities for their prompt and detailed reply to his urgent appeal. He reiterated his concern for the life and physical integrity of Mr. Chahal in the event of his repatriation to India and expressed his confidence that the United Kingdom would not return him unless his safety was guaranteed.

United States of America

619. The Special Rapporteur continued to receive numerous reports indicating that the practice of capital punishment in the United States of America did not conform to a number of safeguards and guarantees contained in international instruments relating to the rights of those facing the death penalty. In most cases, it was alleged that defendants did not benefit fully from their right to an adequate defence. A number of cases concerned death sentences imposed for offences committed when the defendants were below 18 years of age, or where they were said to be mentally retarded.

Communications sent

620. The Special Rapporteur sent urgent appeals to the Government of the United States in which he urged the authorities to ensure full respect for the rights of the following 13 persons facing the death penalty, including 4 minors:

(a) The following persons were said to have been sentenced to death after being convicted for crimes they had committed before they were 18; Gary Graham (21 May 1993 and 29 July 1993); Frederick Lashley (7 July 1993); Ruben Cantu (29 July 1993);

(b) The following persons were said to have been sentenced to death despite their serious mental retardation: Robert Sawyer (4 March 1993); Bobby Shaw (21 May 1993); John Selvage (28 May 1993); Chuck Lee Mathenia (3 June 1993); Curtis Harris (11 June 1993); Wayne Bates (12 November 1993);

(c) The following person was said to have been sentenced to death after trials in which his right to an adequate defence had allegedly not been fully ensured: James Dean Clark (7 April 1993);

(d) The following persons were said to have been sentenced to death despite strong indications casting doubt on their guilt: Leonel Herrera (27 April 1993); Walter J. Blair (1 July 1993); and Robert Nelson Drew (11 October 1993).

621. The Special Rapporteur also addressed an urgent appeal to the Government of the United States after he received information according to which the United States Coast Guard had begun the summary forcible repatriation of Haitian migrants intercepted at sea, without any screening or hearing, and thus without distinguishing between refugees fleeing persecution in Haiti and other emigrants. In view of persistent allegations concerning numerous extrajudicial, summary or arbitrary executions in a climate of total impunity in Haiti and a resolution by the Inter-American Commission on Human Rights made public on 17 March 1993, according to which Haitians who were returned to Haiti by the United States authorities very frequently suffered persecution at the hands of Haitian authorities, the Special Rapporteur urged the United States authorities to refrain from forcibly returning Haitian nationals in all cases where their lives and physical integrity would be in danger (4 May 1993).

Communications received

622. The Government of the United States provided the Special Rapporteur with a reply concerning the urgent appeal on behalf of Leonel Herrera (10 June 1993), as well as John Selvage, Gary Graham, Chuck Lee Mathenia, Bobby Shaw, James Dean Clark, Frederick Lashley, Ruben Cantu and Walter Blair (22 September 1993). The Government also forwarded replies concerning a number of urgent appeals in death penalty cases transmitted by the Special Rapporteur in 1992 (see E/CN.4/1993/46, paras. 625-631), as well as the case of the extradition to El Salvador of César Vielman Joya Martínez (see E/CN.4/1993/46, para. 632).

623. In its reply to urgent appeals transmitted in 1992, the Government of the United States provided the Special Rapporteur with detailed information about United States law concerning the death penalty. In particular, it was stated that both State and federal law fully ensured fair trial guarantees and the right to appeal against convictions. In addition to those guarantees, applicable in all criminal cases, additional protections were provided in capital cases. These include the obligation of States to provide a bifurcated process, by which the determination of guilt is separated from the sentencing process. Death sentences are automatically appealable to the State's highest court.

624. As regards death sentences imposed on juvenile offenders, the Government of the United States informed the Special Rapporteur that, when ratifying the International Covenant on Civil and Political Rights in 1992, the United States Senate had made an explicit reservation concerning application of capital punishment to those under the age of 18, noting that the United States Supreme Court had held that it was not unconstitutional to execute a defendant who was 16 or 17 years old at the time of the offence. However, the Government stated that a penalty of death was extremely rare in cases involving juveniles, and available only when the court had determined to try the defendants as adults.

625. The United States had expressly accepted the obligation not to execute pregnant women in its instrument of ratification, and United States courts had held that the death penalty may not be imposed upon insane persons (8 February 1993).

626. As concerns the cases transmitted in 1993, the Government of the United States informed the Special Rapporteur that the defendants were given the possibility fully to exercise their right to appeal against their convictions and sentences, both in State and federal courts. They were able to raise, for judicial review, allegations concerning procedural inadequacies or lack of fairness during their trials. They were also able to apply for a stay of execution or commutation of their death sentences (10 June 1993 and 22 September 1993).

627. With regard to the extradition of César Joya Vielman Martínez, the Government of the United States informed the Special Rapporteur that written assurances had been received from the highest levels of the Government of El Salvador that it would provide Mr. Joya Martínez appropriate protection during his incarceration and trial and permit access to him by both the International Committee of the Red Cross (ICRC) and the United Nations Observer Mission in El Salvador (ONUSAL).

Follow-up

628. The Special Rapporteur transmitted the contents of the replies received from the Government of the United States to the sources of the allegations for their observations. The sources responded with detailed comments. Information was received from the source of the allegation that the following persons on whose behalf urgent appeals had been sent were executed: James Dean Clark, on 14 April 1993; Walter J. Blair, on 21 July 1993; Frederick Lashley, on 28 July 1993; Ruben Cantu, on 24 August 1993.

629. The Special Rapporteur sent a letter to the Government of the United States in which he expressed appreciation for the detailed information provided by the authorities with regard to legal safeguards for those facing the death penalty. However, he remains concerned that these safeguards do not fully conform to the standards set forth by the pertinent international instruments. The Special Rapporteur conveyed to the authorities his preoccupation with shortcomings affecting the right to adequate time and facilities for defence which, in practice, also very much influence the right to appeal; racial discrimination in the application of capital punishment; and low standards for the qualification of a defendant as mentally competent.

630. The Special Rapporteur is particularly concerned at the continuing imposition and execution of death sentences in the case of juvenile offenders, in clear contravention of the International Covenant on Civil and Political Rights and a number of other pertinent international instruments. The Special Rapporteur feels that the fact that the United States has made a reservation concerning this clause of article 6 of the Covenant indicates that United States legislation in this area falls short of international standards. In addition, the United States Supreme Court's recent ruling whereby a defendant's youth does not in itself constitute a mitigating factor for the jury when deciding about capital punishment is most disturbing, as is the fact that, in Texas, a September 1991 statute enabling the jury in capital cases to consider youth as a mitigating factor is not retroactively applicable to juvenile offenders who committed their crimes before that date.

631. The Special Rapporteur also pointed out that, in a federative structure, the obligation to ensure full respect for the safeguards and guarantees protecting the right to life apply to all components of the State.

632. The Special Rapporteur calls upon the Government of the United States to make its legislation and practice conform to the safeguards and guarantees set forth in pertinent international instruments. He has notified the authorities that he would be entirely available for any assistance he might offer in this regard.

Observations

633. The Special Rapporteur highly appreciates the willingness to cooperate shown by the authorities of the United States of America in providing information. He hopes that the dialogue initiated, particularly in relation to the death penalty, will be continued in the interest of better protection of the right to life.

634. The Special Rapporteur refers to chapter VI of the present report, which contains an analysis of the safeguards and guarantees that must be respected by national legislation and practice in order to conform to the standards embodied in the pertinent international instruments.

Uzbekistan

Communications sent

635. The Special Rapporteur addressed urgent appeals to the Government of Uzbekistan after being informed of the fear for the life and physical integrity of Abdumanob Pulatov, a human rights activist and member of a political opposition movement, who had allegedly been abducted by members of the Uzbekistan National Security Services (16 December 1992).

636. The Special Rapporteur also sent urgent appeals to the Government of Uzbekistan in response to allegations regarding the imminent execution of death sentences imposed upon Venera Kasimova and Yashar Khasanov, who were said to have been convicted on the basis of confessions extracted under duress. Venera Kasimova allegedly also did not benefit from an adequate defence (22 June and 19 August 1993).

Communications received

637. At the time of the preparation of the present report, no communications had been received from the Government of Uzbekistan.

Venezuela

638. The Special Rapporteur has received a number of reports concerning human rights violations, including extrajudicial, summary or arbitrary executions, in the context of demonstrations. As in the past, several deaths were said to have been caused by arbitrary and excessive use of force by members of the

security forces, in particular the Metropolitan Police (PM), the Criminal Investigations Police (PTJ), the National Guard, the Directorate of Intelligence and Prevention Services (DISIP) and the Directorate of Military Intelligence (DIM).

Communications sent

639. The Special Rapporteur transmitted to the Government of Venezuela allegations he had received concerning violations of the right to life of more than 73 persons, including two women. One case reportedly involved a violation of the right to freedom of opinion and expression, peaceful assembly and association.

640. The Special Rapporteur sent an urgent appeal to the Government of Venezuela in response to reports expressing fear for the life and physical integrity of university student Ivo Rodríguez Escudero, who was allegedly threatened by members of the DISIP if he did not withdraw complaints filed against members of the police whom he accused of having tortured him in November 1992, in the aftermath of student demonstrations (10 March 1993).

641. The Special Rapporteur also transmitted to the Government of Venezuela reports concerning the alleged extrajudicial, summary or arbitrary execution of:

(a) At least 63 prisoners of El Retén de Catia prison, during an attempt to escape on 27 November 1992, the day of an attempted coup d'état, by members of the PM. Two days after the event, PM and National Guard agents were said also to have fired indiscriminately upon family members of the prisoners who had assembled outside the prison, waiting for information;

(b) Ernesto Leal Hernández, by members of the PM; Atahualpa Pérez and Johnny Vergara, by members of the security forces; and Clara Ariza, by members of the National Guard, on 27 November 1992; Virgilio Fernández, by members of the National Guard; Enrique Key, by DISIP agents; and María Verónica Tecuari, by members of the PM, on the same day;

(c) Wayuu indians Pedro José Paz and Nasser Palmar, by DISIP agents allegedly resorting to excessive use of force.

Communications received

642. The Government of Venezuela provided the Special Rapporteur with information concerning the urgent appeal sent on behalf of a number of cases transmitted in 1993:

(a) With regard to the alleged death threats against Ivo Rodríguez Escudero, the Government reported that investigations had been initiated by the Public Ministry in Carabobo (26 May 1993);

(b) As regards the killings at El Retén de Catia prison, the Ministry of Justice forwarded a report indicating that, as a result of a mutiny in the prison, 46 inmates were killed, 52 others injured and 25 escaped. An investigation was opened by the Homicide Division of the Judicial Police. The

Human Rights Directorate of the Public Ministry also provided a report on the steps taken by that entity with a view to identifying those killed during the mutiny and clarifying the cause of their death. The report also described the requests made by the Public Ministry for a criminal investigation before the competent court into the events and a series of irregularities within the prison premises (31 August 1993);

(c) With regard to the killings of Ernesto Leal Hernández, Atahualpa Pérez Lira and Clara Ariza, the Government of Venezuela reported that judicial investigations had been opened. On 6 July 1993, an indefinite strike of all tribunals had started and was continuing as of the date of the reply (31 August 1993). However, the Public Prosecutor's Office continued to carry out preliminary investigations.

643. The Government of Venezuela also provided the Special Rapporteur with information on a number of cases transmitted by him in 1992 for which no reply had been received during 1992.

(a) As concerns the killings of Romer Figueroa Lizardi, Pedro José Vásquez and José Gregorio Romero Uzcátegui (E/CN.4/1993/46, para. 640), judicial investigations had been opened against members of the security forces and were still under way at the time of the reply (31 March 1993);

(b) As regards the killings of Darwin Capote Rondón, José Gregorio Soteldo and Humberto López Arías (E/CN.4/1993/46, para. 643), proceedings before civilian courts were initiated against two former members of the Metropolitan Police accused of intentional homicide and undue use of firearms. The proceedings had reached the sentencing stage when, on 6 July 1993, all tribunals in the country went on strike (25 August 1993);

(c) In the cases of Guadalupe Rivas Columba, Gilberto Peña Campos, Angel Ruiz and José Zerpa Miotta (E/CN.4/1993/46, para. 644 (b)), judicial investigations were opened before the competent military court. Parliament also initiated an investigation into the circumstances of their deaths. The Public Ministry also carried out inquiries with a view to clarifying the circumstances. Subsequently, a special follow-up commission, composed of qualified Public Ministry representatives, was created to coordinate the actions taken before the military courts. With regard to three cases in which the victims had not been identified (*ibid.*, para. 644 (a)), the Government of Venezuela reported that investigations were under way. However, the Public Prosecutor's Office had stated that it was difficult to investigate complaints concerning victims who had not been identified (31 August 1993).

644. Furthermore, the Government of Venezuela informed the Special Rapporteur that Antonio Ríos (see E/CN.4/1993/46, para. 641) was held in a cell completely separated from the other prisoners in El Junquito prison, and thus without any possibility of contact between him and the person who was said to have made an attempt against his life (24 August 1993).

Follow-up

645. The Special Rapporteur addressed a follow-up letter to the Government of Venezuela in which he requested information about the progress of the proceedings in the cases mentioned in the Government's reply of 31 March 1993, as well as additional details about the inquiries into the alleged death threats against Ivo Rodríguez Escudero (22 September 1993). The remaining replies, although dated late August 1993, were received only after this follow-up letter was sent to the authorities. They will be the object of subsequent follow-up correspondence.

Observations

646. The Special Rapporteur highly appreciates the willingness to cooperate demonstrated by the Government of Venezuela in providing him with information concerning most of the cases transmitted in 1992 and 1993. However, he wishes to express concern at the continuing strike of the Venezuelan tribunals and hopes that the authorities will soon reach a solution that permits the courts to continue their investigations into alleged cases of extrajudicial, summary or arbitrary executions.

Yemen

Communications sent

647. The Special Rapporteur sent to the Government of Yemen an urgent appeal in response to reports about the imminent execution of the death sentence imposed upon Yabya Naji Muhammad al-Asadi and 24 others (names with the secretariat), after trials which were said to have fallen short of internationally recognized fair trial standards (23 December 1993).

Communications received

648. The Government of Yemen provided the Special Rapporteur with a reply to the urgent appeal, informing him that the appeal had been transmitted to the authorities in Sana'a. The Government further reported that all fair trial principles mentioned by the Special Rapporteur were enshrined in the Yemeni justice system and that, in case of death sentences, the Shariah, as codified, interpreted and applied in Yemen, specified that not only during the trial but even after sentencing no efforts should be spared to avoid executing a death sentence (28 December 1993).

Follow-up

649. The Special Rapporteur addressed a follow-up letter to the Government of Yemen in which he expressed his appreciation at the willingness to cooperate shown by the authorities in providing him with the aforementioned reply, and asked whether any progress had been made with regard to the investigation into the cases of the 25 persons sentenced to death.

YugoslaviaCommunications sent

650. The Special Rapporteur transmitted to the Government of the Federal Republic of Yugoslavia allegations he had received concerning the extrajudicial execution by members of the security forces of 11 persons between November 1991 and August 1992. The victims were said to have been of Albanian origin. One of them reportedly was an 11-year-old mentally retarded child: Afrim Prepreza was said to have been beaten to death by three civilians with a shovel and sticks. The three were not arrested, and no proceedings against them were said to have been initiated. Bajram Hoxhaj and two more unidentified persons were allegedly shot dead by police while taking their children to school. The following persons were allegedly beaten to death while in police detention: lawyer Mikel Marku; Ali Sahit Haxhiu, a refugee from Albania; Sami Babaj; Haki Pavataj; Rexhep Tahiri; 70-year-old Fetah Sokoli; and a man named Haki.

Communications received

651. At the time of the preparation of the present report, no communications had been received from the Government of the Federal Republic of Yugoslavia.

Observations

652. The Special Rapporteur is concerned at the reports received concerning violations of the right to life of persons of Albanian origin, particularly in Kosovo. Most of these reports, however, were general in character and did not contain specific cases. The Special Rapporteur would like to make reference to the human rights situation in the Federal Republic of Yugoslavia documented by the Special Rapporteur on the situation of human rights in former Yugoslavia in his recent report to the General Assembly and in particular to the information it contains with respect to excessive use of force by police against detainees of Albanian origin in Kosovo (see E/CN.4/1994/47, paras. 166-170 and 189-192).

Zaire

653. The Special Rapporteur received a number of reports concerning continuing serious violations of the right to life in the context of the struggle for power between President Mobutu Sese Seko and opponents. Large-scale human rights violations were said to have been committed by members of security forces in a climate of virtual impunity.

654. According to the information received, in the southern province of Shaba, a politically motivated campaign of ethnic terror instigated by supporters of President Mobutu was threatening the lives and livelihoods of tens of thousands of Zairians who have their roots in the neighbouring regions of East and West Kasai. Several reports indicated that similar acts of violence had

occurred against the Kinyarwanda-speaking population (called Banyarwanda) in the North Kivu region, near the borders with Rwanda and Burundi. The reported number of deaths was as high as 7,000. In the north-eastern part of the North Kivu region, government troops were reported to have killed unarmed civilians and committed gross abuses of human rights in the context of counter-insurgency operations.

655. Indiscipline and low or no wages in the armed forces were said to be the basis of a climate of insecurity and a situation where soldiers were systematically and in total impunity carrying out looting and rapes. In January 1993, soldiers who had been paid, on President Mobutu's order, with 5-million-zaire notes - had been declared illegal tender by Prime Minister Tchisekedi - reportedly looted the capital when traders refused to accept the notes. It was also reported that hundreds of people - according to some accounts, as many as 1,000 - had been killed during those incidents.

656. The Special Rapporteur received several reports of politically motivated violations of the right to life which had allegedly been committed by members of the security forces loyal to the President. In particular, it was reported that a new wave of arrests was initiated in late April 1993. Those arrested were said to include politicians, journalists and trade unionists who had criticized President Mobutu or were members of the non-violent opposition. Fear was expressed that they were subjected to torture and ill-treatment when they were first arrested and held in secret cells. Subsequent extrajudicial executions were reported. Furthermore, a number of reports indicated that abuse of force often took place when security forces and, in particular, the Special Presidential Division (DSP), had opened fire on crowds of unarmed demonstrators. Other reported violations of the right to life included death in detention due to lack of medical attention or starvation.

Communications sent

657. The Special Rapporteur sent five urgent appeals to the Government of Zaire expressing concern about the lives of: François Kandolo, Buana Kabue (both members of the Comité Laïc de Coordination), Jacques Matanda and Kamanda wa Kamanda (both members of the Haut Conseil de la République), whose name was on a blacklist of persons alleged to be targeted for execution by members of the security forces (12 January 1993); Mikuin Leliel Baland, Chairman of the United Nations ad-hoc Working Group of Experts on Southern Africa and President of the Supreme Court of Zaire, who had been the victim of three armed attacks attributed to members of the security forces and whom the authorities had failed to provide with protection (17 February 1993); and concerning the incidents of 15 April 1993, when members of the DSP indiscriminately and without provocation opened fire on a peaceful crowd in front of the residence of the Prime Minister, as well as massacres of Banyarwanda in North Kivu (27 April 1993).

658. The Special Rapporteur also intervened on behalf of Thassinda Kilolo, who had reportedly been abducted by members of a special team of the DSP known as the "owls", as well as his two sisters, Thassinda Malaku and Thassinda Misaku, who had been the victims of several attempted abductions and death threats from members of the security forces (24 September 1993); Félix Mbayi Kalombo, adviser to Prime Minister Tchisekedi, who was the victim of an attempt on his life as he was being treated at the hospital for wounds inflicted in an attack against his home, allegedly carried out by members of the security forces; and Lambert Tshitshimbi Katombe, also an adviser to the Prime Minister, who had reportedly been followed by security agents (19 October 1993).

659. The Special Rapporteur also transmitted to the Government of Zaire one specific case which was said to have occurred in Kinshasa, when members of the DSP reportedly killed at least 15 civilians including an 11-year-old child and a pregnant woman, in retaliation for the murder of one of their members.

Communications received

660. At the time of the preparation of the present report, no communications had been received from the Government of Zaire.

Observations

661. The Special Rapporteur is deeply concerned at the alarming reports of large-scale and grave human rights violations reported to occur in a climate of violent anarchy prevailing in Zaire. These reports indicate that the people of Zaire are paying a high price in the struggle for political power between President Mobutu and his opponents, and that the country is sliding towards a total breakdown of law and order. The Special Rapporteur urges those in control of the security forces to ensure that human rights violations will not be tolerated under any circumstances, that abuse of force will be avoided, that a strict chain-of-command control will be maintained, and that the perpetrators of human rights violations will be held criminally responsible for their acts.

662. The Special Rapporteur is appalled at the upsurge of inter-communal violence sparked by political instability, particularly in the regions of Shaba and North Kivu. A pattern of inter-ethnic conflicts in a climate of total impunity seems to be emerging in the region, whereby events and developments in any of the neighbouring States of Rwanda, Burundi and Zaire have strong repercussions in the others (see also the chapters on Burundi and Rwanda). The Special Rapporteur will continue to pay particular attention to this region.

Zimbabwe

Communications sent

663. The Special Rapporteur communicated to the Government of Zimbabwe allegations he had received concerning alleged extrajudicial, summary or

arbitrary executions of six persons. In the cases of the reported killing by the military of Edwin Bhundani Nleya and the death in an army prison, reportedly as a consequence of torture, of Shepard Chisango, the authorities were said not to have fulfilled their obligation to carry out investigations with a view to identifying and punishing those responsible. Four persons, among them a 10-year-old boy, were allegedly killed when police opened fire against demonstrators in Chakari.

Communications received

664. At the time of the preparation of the present report, no communications had been received from the Government of Zimbabwe.

V. QUESTIONS RELATING TO THE RIGHT TO LIFE
IN THE FORMER YUGOSLAVIA

665. After participating in two missions to the former Yugoslavia (see E/CN.4/1993/46, chapter V), the Special Rapporteur continued his cooperation with the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki. On behalf of Mr. Mazowiecki, he visited Croatia from 15 to 20 December 1992 to carry out preliminary investigations into allegations received indicating that victims of war crimes might be buried in various mass graves in the former Yugoslavia, particularly in Croatia. In the initial investigation and assessment of the sites visited during his mission, the Special Rapporteur was assisted by a member of a team of forensic experts examining a site at Ovchara on behalf of the Commission of Experts established pursuant to Security Council resolution 780 (1992). A summary of the Special Rapporteur's findings, as well as a number of practical, legal and political considerations, were included in Mr. Mazowiecki's report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/50, annex I).

666. During 1993, the Special Rapporteur has received very little direct information regarding violations of the right to life in the former Yugoslavia. Since the appointment of Mr. Mazowiecki after the first special session of the Commission on Human Rights in August 1992, information regarding such allegations has been centralized and channelled to his staff in Geneva and his staff based in the field office established in Zagreb. This was done both to avoid duplication of efforts and to ensure a comprehensive approach to the former Yugoslavia, as well as to maximize the specialization which the human rights crisis in the former Yugoslavia requires.

667. It is perfectly clear to the Special Rapporteur that the amount of information received by his mandate bears no relation whatsoever to the level of violations of the right to life which have occurred, and continue to occur, in the former Yugoslavia, and particularly in Bosnia and Herzegovina. The ongoing conflicts in Bosnia and Herzegovina and the humanitarian emergency there call for extraordinary responses. The Special Rapporteur's usual procedures for communicating allegations by urgent appeals or letters to the Government concerned cannot usefully be applied to a country where it is estimated that two thirds of the territory are not under the control of the recognized Government.

668. The Commission on Human Rights, at its second special session in October 1992, endorsed Mr. Mazowiecki's call for a number of his staff to be permanently based in the former Yugoslavia (resolution 1992/S-2/1). Thus since the forty-ninth session of the Commission on Human Rights, the Special Rapporteur on the situation of human rights in the former Yugoslavia has presented four periodic reports to the Commission (E/CN.4/1994/3, 4, 6, 8). These reports refer extensively to grave violations of the right to life.

669. In his most recent report, which comprises the situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (E/CN.4/1994/47), Mr. Mazowiecki once again reported massacres of civilians, ethnically inspired killings of individuals, deaths of civilians as a result of indiscriminate shelling, the use of prisoners-of-war as human shields or

forced labourers on the front lines by all parties to the conflicts in Bosnia and Herzegovina and in Croatia. With regard to the situation of the right to life in the Federal Republic of Yugoslavia, Mr. Mazowiecki presented disturbing information of deaths of Albanians in police custody in Kosovo as a result of torture as well as a sharply increased mortality rate as a consequence of the catastrophic health situation.

670. The Special Rapporteur would like to add his voice to the appeals and requests addressed by Mr. Mazowiecki to the parties to the conflict in the former Yugoslavia with a view to ensuring full respect for the right to life, particularly of the civilian population. The Special Rapporteur strongly supports Mr. Mazowiecki's call on the international community for generous and speedy humanitarian aid so as to allay to the maximum extent possible the humanitarian disaster in Bosnia and Herzegovina. He also wishes to endorse Mr. Mazowiecki's request that all those responsible for human rights abuses, and, in particular, violations of the right to life in all areas of the former Yugoslavia, be held accountable and punished.

VI. CONCLUSIONS AND RECOMMENDATIONS

671. As in the past, at the end of a reporting cycle the Special Rapporteur finds himself compelled to report that extrajudicial, summary or arbitrary executions have not ceased to occur. On the contrary, armed struggles for power and territorial control have continued unabated in many parts of the world, often disguised as ethnic, religious or nationalistic conflicts. The former Yugoslavia, Angola, Liberia, Somalia, Rwanda and Burundi, Azerbaijan and Tajikistan are only a few examples that come to mind, where violations of the right to life, in particular of the civilian population, take place on a massive scale. The Special Rapporteur has also continued to receive increasing numbers of allegations of extrajudicial, summary or arbitrary executions and death threats attributed to government forces or groups cooperating with them or enjoying the acquiescence of the authorities.

672. The Special Rapporteur responded to these continuing violations of the right to life with a marked increase in the range of his activities (see above, chap. IV). On the basis of the information that has come before him, the Special Rapporteur focused his attention on two main areas of concern: violations of the right to life in the context of capital punishment and impunity enjoyed by perpetrators of violations, which has important implications for almost all other types of extrajudicial, summary or arbitrary executions, particularly for their prevention. In compliance with the requests made to him by the Commission on Human Rights (see chap. I), the Special Rapporteur also paid special attention to a number of other issues. This chapter contains his conclusions and recommendations regarding these questions as well as on a number of procedural points and other matters of concern to the Special Rapporteur.

A. Capital punishment

673. In its resolution 1993/71, the Commission on Human Rights requested the Special Rapporteur to "continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto".

The desirability of abolition of the death penalty

674. Capital punishment is not yet in itself prohibited under international law. However, in its comments on article 6 of the Covenant, the Human Rights Committee observed that this provision "also refers generally to abolition in terms which strongly suggest that abolition is desirable (paras. 6 (2) and (6)). The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life (...)." 1/ The desirability of abolition was also expressed repeatedly by the General Assembly. 2/ Moreover, in re-approving article 6, paragraph 6, of the International Covenant on Civil and Political Rights, the Economic and Social Council, in its resolution 1984/50, adopted the Safeguards

guaranteeing protection of the rights of those facing the death penalty, on the understanding that they should not be invoked to delay or to prevent the abolition of capital punishment.

675. Article 6, paragraph 2, of the Covenant provides that "in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes... ". The General Assembly has referred to article 6 as forming part of the "minimum standard of legal safeguards" for the protection of the right to life in a number of resolutions concerning summary or arbitrary executions, most recently in paragraph 12 of resolution 45/162 of 18 December 1990. In its comments on article 6 of the Covenant, the Human Rights Committee stated that "the expression 'most serious crimes' must be read restrictively to mean that the death penalty should be a quite exceptional measure", limited to offences with lethal or "other extremely grave consequences". 3/

676. The Special Rapporteur has received with concern reports of the extension of the scope of capital punishment to offences previously not punishable by death in a number of countries. In Bangladesh, the Curbing of Terrorist Activities Act 1992 reportedly extends the scope of the death penalty to a number of offences under the heading of "terrorism", which had previously been sanctioned with imprisonment. In China, the range of capital offences has been broadened since the Chinese Penal Code came into force in 1979. Currently, some 65 criminal offences are punishable by death in China, including crimes such as "speculation", "corruption" or "bribery". Law No. 97 of 1992 significantly enlarged the number of capital offences in Egypt. In May 1991, Pakistan introduced a mandatory death penalty in cases of blasphemy and it was reported that the Government was planning to extend it to drug-related offences in August 1993. The new Peruvian Constitution, approved by referendum on 31 October 1993, widens the scope of capital punishment to cover crimes of terrorism and treason (see E/CN.4/1994/7/Add.2, paras. 74-78). In Saudi Arabia, two fatwas, in 1987 and 1988, extended the range of capital offences to a number of drug-related offences and to acts of "sabotage" or "corruption on earth" that "undermine security and endanger lives and public or private property". Previously, such offences were punishable by death only if loss of life was involved. According to reports recently received, a federal crime bill is currently being drafted in the United States of America which would extend the death penalty to 47 offences which, at present, are not punishable by death.

677. Loss of life is irreparable. The Special Rapporteur therefore strongly supports the conclusions of the Human Rights Committee and emphasizes that the abolition of capital punishment is most desirable. The scope of application of the death penalty should never be extended and the Special Rapporteur invites those States which have done so to reconsider.

Fair trial

678. All safeguards and guarantees for due process, both at pre-trial stages and during the actual trial before a court, as provided for by several international instruments such as the Universal Declaration of Human Rights (arts. 10 and 11), the International Covenant on Civil and Political Rights (arts. 9, 14 and 15), the Safeguards guaranteeing protection of all

those facing the death penalty as well as Economic and Social Council resolution 1989/65 on their implementation, must be fully respected in all cases, and especially where the life of the defendant is at stake.

679. In particular, proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries. All defendants in capital cases must benefit from the fullest guarantees for an adequate defence at all stages of the proceedings, including adequate provision for State-funded legal aid by competent defence lawyers. Defendants must be presumed innocent until their guilt has been proven without leaving any room for reasonable doubt, in application of the highest standards for the gathering and assessment of evidence. All mitigating factors must be taken into account. A procedure must be guaranteed in which both factual and legal aspects of the case may be reviewed by a higher tribunal, composed of judges other than those who dealt with the case at the first instance. In addition, the defendants' right to seek pardon or commutation of the death sentence must be ensured.

680. During the past year, the Special Rapporteur received numerous and alarming reports about legislation and practice leading to the imposition and execution of death sentences where the defendants did not fully benefit from these guarantees and safeguards. Such reports concerned the following countries (for details see chap. IV): Algeria, Azerbaijan, Bangladesh, China, Comoros, Egypt, Iran (Islamic Republic of), Kuwait, Kyrgyzstan, Malawi, Malaysia, Nigeria, Pakistan, Peru, Saudi Arabia, Sierra Leone, South Africa, the Syrian Arab Republic, Tajikistan, Turkmenistan, United States of America, Uzbekistan, Yemen.

681. The Special Rapporteur is particularly concerned at reports indicating a tendency towards the establishment of special jurisdictions to speed up proceedings leading to capital punishment in certain cases, particularly in response to acts of violence committed by armed opposition groups. Such special courts often lack independence, for example, because the judges are accountable to the executive, or because they are military officers on active duty within the chain-of-command structure of the army. Time-limits which are sometimes set for the conclusion of the different trial stages before such special jurisdictions gravely affect the defendants' right to an adequate defence. Concerns have also been expressed at limitations on the right to appeal in the context of special jurisdictions. In some cases, the law establishing special courts also provides for an extension of the scope of capital offences. The Special Rapporteur notes that, as a general rule, the standards of due process and respect for the right to life before such jurisdictions are lower than in ordinary criminal proceedings. He wishes to refer, in this context, to the sections of this report on Algeria, Egypt, Kuwait, Malawi, Nigeria, Pakistan, Peru and the Syrian Arab Republic.

682. The Special Rapporteur wishes to refer to a recent judgement of the Judicial Committee of the Privy Council of the United Kingdom of Great Britain and Northern Ireland, wherein it held that the execution of a death sentence five years after it had been handed down would constitute cruel and inhuman punishment. Consequently, the death sentences of two prisoners in Jamaica who had been awaiting execution for more than five years were commuted to life imprisonment. The Supreme Court of Zimbabwe recently reached a similar

conclusion. While welcoming the decisions, the Special Rapporteur wishes to express concern that they might encourage Governments to carry out executions of death sentences more speedily. This might, in turn, affect defendants' rights to full appeal procedures, including new hearings if additional evidence is discovered even years later. The Special Rapporteur feels that these judgements should rather be interpreted in the light of the desirability of the abolition of capital punishment: if, as a first step, it is recognized that awaiting execution for five years constitutes in itself cruel and inhuman punishment, the second, towards the rejection of capital punishment as such, may be easier to take.

683. In summary, judicial errors can no longer be remedied once a death sentence has been carried out. The Special Rapporteur urges the Governments of all States in which the death penalty has not yet been abolished to ensure that proceedings which may lead to the imposition of the death penalty are conducted in accordance with the highest standards of due process and that defendants fully benefit from all safeguards and guarantees set forth in the pertinent international instruments.

684. The Special Rapporteur calls particularly on the Governments of Algeria, China, Egypt, the Islamic Republic of Iran, Kuwait, Malawi, Malaysia, Nigeria, Pakistan, Peru, the Syrian Arab Republic, Tajikistan and the United States of America to revise their legislation governing procedures for trials where the imposition of capital punishment is at stake so as to make them conform to the pertinent international instruments.

Special restrictions on the application of the death penalty

685. Article 6, paragraph 5, of the International Covenant on Civil and Political Rights stipulates that "sentence of death shall not be imposed for crimes committed by persons below eighteen years of age". A number of other international instruments also prohibit the capital punishment of juvenile offenders, in particular the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), and the Safeguards guaranteeing protection of the rights of those facing the death penalty. The reports received concerning the imposition and execution of death sentences in cases involving minors in Egypt, Pakistan and the United States of America are most disturbing. The Special Rapporteur is also deeply concerned at legislation allowing for death sentences for minors in Algeria, China and Peru.

686. Furthermore, international law prohibits the capital punishment of mentally retarded or insane persons, pregnant women and mothers of young children. In this context, the Special Rapporteur refers to allegations he has received concerning executions of mentally retarded persons in the United States of America.

687. The Special Rapporteur urges the Governments of Algeria, China, Egypt, Pakistan, Peru and the United States to consider which measures may be more suitable than the death penalty to promote rehabilitation and reinsertion into society of juvenile or mentally retarded offenders.

B. Impunity

688. Governments are obliged under international law to carry out exhaustive and impartial investigations into allegations of violations of the right to life, to identify, bring to justice and punish their perpetrators, to grant compensation to the victims or their families, and to take effective measures to avoid future recurrence of such violations. The first two components of this fourfold obligation constitute in themselves the most effective deterrent for the prevention of human rights violations. Conversely, if perpetrators may be certain that they will not be held responsible, such violations are most likely to continue unabated. The recognition of the duty to compensate victims of human rights violations, and the actual granting of compensation to them, presupposes the recognition by the Government of its obligation to ensure effective protection against human rights abuses on the basis of the respect for the fundamental rights and freedoms of every person.

689. Economic and Social Council resolution 1989/65 of 24 May 1989 on the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions sets forth in detail the aforementioned obligations. In addition, as regards deaths as a result of excessive use of force, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provide that arbitrary or abusive use of force and firearms by law enforcement officials is to be punished as a criminal offence under national law (principle 7). In May 1991, the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development and Humanitarian Affairs published a document of major importance for guaranteeing the right to life. Entitled Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ST/CSDHA/12), it lays down procedures for conducting investigations into extra-legal executions or killings.

690. In practice, however, human rights violations and, in particular, violations of the right to life continue to be perpetrated with impunity in very many countries. The reports and allegations that have come before the Special Rapporteur indicate that grave breaches of the above-mentioned obligation occur at all levels.

691. In some cases, the basis for impunity may be legislation which exempts perpetrators of human rights abuses from prosecution. The Special Rapporteur received reports about amnesty laws in El Salvador and Mauritania. He was also informed about provisions granting members of the security forces immunity from prosecution in Bangladesh (Bangladesh Penal Code) and South Africa (Further Indemnity Act). In this context, the Special Rapporteur wishes to emphasize that "under no circumstances ... shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, summary or arbitrary executions" (principle 19 of the Principles on the Effective Prevention and Investigation of Extra-legal, Summary or Arbitrary Executions). Even if, in exceptional cases, Governments may decide that perpetrators should benefit from measures that would exempt them from or limit the extent of their punishment, their obligation to bring them to justice and hold them formally accountable remains, as does the obligation to carry out prompt, thorough and impartial investigations, grant compensation to the victims or their families and adopt effective preventive measures for the

future. The Special Rapporteur appeals to all Governments concerned to revise any legislation as may be in force exempting those involved in violations of the right to life from prosecution.

692. However, in many countries where the law provides for the prosecution of human rights violators, impunity is the practice. Often, no investigation at all is initiated into cases of alleged violations of the right to life. Authorities do not react to complaints filed by the victims, their families or representatives, or by international organs, including the Special Rapporteur. In this context, it should be recalled that Governments are under obligation to initiate inquiries into allegations ex officio as soon as they are brought to their attention, particularly where the alleged violation of the right to life is imminent and effective measures of protection must be adopted by the authorities. Also, legislation should permit victims or their families or representatives to initiate such proceedings. The Special Rapporteur therefore calls on all Governments to enact legislation enabling the competent authorities to fulfil their obligations under international law irrespective of whether or not the victims are able to provide evidence to identify the authors of human rights abuses against them, and to ensure that these obligations are fully implemented in practice.

693. In other instances, victims or witnesses are said to be too afraid to complain to the authorities, particularly where they perceive to be under threat from exactly the same authorities that are supposed to protect them. The Philippine Human Rights Commission, for example, repeatedly informed the Special Rapporteur that persons were too afraid to testify or file complaints before the authorities. Disturbing reports about death threats against, or even extrajudicial killings of persons who had witnessed human rights violations and, in some cases, testified before investigating organs were received concerning Brazil, Colombia, Guatemala and Peru. In other cases, the State organs which should carry out the investigations were themselves under threat, as was reported with regard to public prosecutors in Peru or the judiciary in Chad. The Special Rapporteur urges all Governments to ensure effective protection for all those who participate, as witnesses, prosecutors, judges, court officials or in any other capacity, in investigations of alleged human rights violations.

694. There are also countries where there is no independent judiciary that could carry out such investigations, or where the justice system simply does not work in practice. Cambodia was reported to the Special Rapporteur as an example in this regard. In Peru and Rwanda, too, the civilian justice system does not function properly. In such cases, reforms should be carried out to enable the judiciary to fulfil its functions. It should count on an adequate number of judges, court officials and prosecutors and sufficient material. The independence of the judges should be guaranteed by law and fully respected in practice.

695. In the absence of a functioning civilian justice system, or in cases which warrant particular treatment because of their special nature or gravity, Governments may envisage establishing special commissions of inquiry. They must fulfil the same requirements of independence, impartiality and competence as judges in ordinary courts. The results of their investigations should be made public, and their recommendations should be binding for the authorities.

The Special Rapporteur is concerned that the establishment of such commissions is sometimes only announced but not put into practice, as was reported in the case of Chad; that recommendations made by such commissions are not or not always followed, such as in Mexico; or that such commissions do not fulfil the above-mentioned requirements and are, in reality, tools to evade the obligation to carry out thorough, prompt and impartial investigations into alleged violations of the right to life.

696. In other cases, investigations are initiated without, however, leading to the punishment of members of the security forces or paramilitary and other groups cooperating with them or acting with their acquiescence. Where perpetrators of such violations are brought to justice and sentenced, these sentences are often not proportionate to the gravity of the offences, as was reported in the case of the Santa Cruz massacre in East Timor or the killings of peasants in Accomarca and Santa Bárbara in Peru (see E/CN.4/1994/7/Add.2, paras. 32 and 53). On other occasions, low-ranking members of security forces have been convicted and sentenced for having carried out human rights violations, while those in positions of command escaped their responsibility for having planned and ordered these violations. The Special Rapporteur calls on all Governments to prosecute all those involved in the planning and carrying out of alleged extrajudicial, summary or arbitrary executions, including those who, although in a position of authority, have not made any attempts to prevent them.

697. The problem of military jurisdiction over alleged perpetrators of human rights violations has once again been raised in this regard. Sometimes, the fact that the civilian justice system does not function properly is invoked by the authorities to justify trials before military tribunals. Ample information received by the Special Rapporteur indicates that, in practice, this almost always results in impunity for the security forces. The Special Rapporteur therefore once again appeals to all Governments concerned to provide for an independent, impartial and functioning civilian judiciary to deal with all cases of alleged violations of the right to life. The Special Rapporteur also calls on the authorities to ensure that the security forces fully cooperate with the civilian justice system in its efforts to identify and bring to justice those responsible for human rights violations.

698. The Special Rapporteur considers the implementation of Commission resolutions 1993/33 and 1992/24 to be a matter of high priority. In this regard, he would like to stress the need for expertise in forensic pathology, anthropology and archeology in order to conduct excavations of mass graves and examine human remains found therein. In this context, efforts to establish a standing team of internationally recognized experts in this field who could provide advice and assistance to national investigating organs should be continued.

699. The link between the effective investigation of human rights violations of the right to life and the prevention of their recurrence in the future cannot be over-emphasized. Consequently, the Special Rapporteur calls on all Governments to comply fully with their obligation under international law to ensure that thorough, prompt and impartial investigations are carried out into all allegations of the right to life and that all those involved in their

planning and execution be identified, brought to justice and punished in accordance with the gravity of the offence, regardless of any rank, office or position they may hold.

C. Allegations received and acted upon by the Special Rapporteur

Death threats

700. The Special Rapporteur received allegations concerning death threats or fear for the lives and physical security of more than 380 persons. He continues to view urgent appeals on behalf of those under threat as an essential part of his mandate. In the past year, he has transmitted urgent appeals with the aim of preventing loss of life to the Governments of: Argentina, Bangladesh, Brazil, Burundi, Chad, Ecuador, El Salvador, India, Indonesia, Iran (Islamic Republic of), Panama, Papua New Guinea, Paraguay, Peru, Philippines, Rwanda, South Africa, Sri Lanka, Togo, Turkey, Venezuela and Zaire. In almost all of these countries, the lives of human rights activists, members of the political opposition, trade unions, community workers, writers and journalists were reported to be at serious risk. The Special Rapporteur is particularly concerned about Colombia, where he intervened by sending 26 urgent appeals, and Guatemala, where he sent 25 urgent appeals. Furthermore, the Special Rapporteur noted with deep concern reports about the alleged execution, while in custody, of a prisoner in Azerbaijan, and the killing of two mothers of disappeared children in Brazil. In both cases, he had urged the authorities to ensure their protection. It is also most disturbing that in countries such as Brazil, Colombia, Guatemala, South Africa and Turkey, patterns of intimidation and threats seem to persist for years.

701. The Special Rapporteur urges all Governments to adopt effective measures, in accordance with the requirements of each particular case, to ensure full protection of those who are at risk of extrajudicial, summary or arbitrary execution. The Special Rapporteur calls on the authorities to conduct investigations into all instances of death threats or attempts against lives which are brought to their attention, regardless of whether or not any judicial or other procedures have been activated by those under threat.

Deaths in custody

702. The Special Rapporteur received numerous reports concerning deaths in custody in Azerbaijan, Cambodia and Sierra Leone. Such deaths were alleged to be the result of torture or other cruel, inhuman and degrading treatment in Bangladesh, Cuba, Ecuador, India, Indonesia, Israel, Mexico, Nepal, Peru, South Africa, Turkey and Yugoslavia. The Special Rapporteur also received allegations of deaths in custody due to medical neglect or otherwise untenable prison conditions in Cuba, Morocco and Togo. A particular form of death while in detention was reported, as in former years, in Myanmar, where Muslim villagers continue to be forced by the military to serve as porters and die after torture or simply because they are too weak to carry on.

703. The Special Rapporteur appeals to all Governments to ensure that conditions of detention in their countries conform to the Standard Minimum Rules for the Treatment of Prisoners and other pertinent international

instruments. He also urges them to make efforts to ensure full respect of the international norms and principles prohibiting any form of torture or other cruel, inhuman or degrading treatment. Prison guards and other law enforcement personnel should receive training so as to be familiar with these norms as well as the rules and regulations concerning the use of force and firearms to prevent escape or control disturbances. The Special Rapporteur also calls on the competent authorities to prosecute and punish all those who, through action or omission, are found responsible for the death of any person held in custody, in breach of the aforementioned international instruments.

Deaths due to abuse of force by law enforcement officials

704. The Special Rapporteur received a considerable number of allegations concerning violations of the right to life as a consequence of excessive or arbitrary use of force. Cases in this category were reported in Brazil, Cameroon, Chad, Chile, the Comoros, Egypt, Honduras, Israel and Venezuela. In Bangladesh, Cameroon, Chad, Chile, the Central African Republic, El Salvador, India, Lebanon, Malawi, Nepal, South Africa and Zaire, hundreds of people were reportedly killed by security forces using excessive force against participants in demonstrations and other manifestations. The Special Rapporteur was particularly shocked by reports about deliberate use of firearms against young children by Israeli security forces and Brazilian military police.

705. The Special Rapporteur calls on all Governments to ensure that the security forces receive thorough training in human rights matters and, in particular, with regard to the restrictions on the use of force and firearms in the discharge of their duties. Such training should include methods of keeping crowds of people under control without resorting to excessive force. Full and independent investigations must be carried out into alleged deaths due to abuse of force, and all law enforcement officials responsible for violations of the right to life must be held accountable.

Violations of the right to life during armed conflicts

706. The Special Rapporteur received increasing numbers of reports concerning deaths as a consequence of armed conflicts, both international and internal, in various parts of the world. Massive violations of the right to life were said to have been committed against combatants who had been captured, or after they had laid down their arms, and particularly civilians. This was reported, for example, in Angola, Azerbaijan, Cambodia, Chad, Djibouti, Liberia, Papua New Guinea, Sierra Leone, Somalia, Sri Lanka, the Sudan, Tajikistan, Turkey and the conflict areas in the former Yugoslavia. Thousands of people were reportedly killed, either as a direct consequence of the hostilities - through deliberate and indiscriminate shelling of residential areas, often with heavy weaponry including aerial bombardments, and deliberate executions - or indirectly, as a result of sieges, blocking off water, food and medical supplies, refusal to evacuate sick or wounded persons. Children, elderly and those in poor health are particularly affected by such measures.

707. The Special Rapporteur calls on all parties to conflicts, international or internal, to respect the norms and standards of international human rights and humanitarian law which protect the lives of the civilian population and those combatants who are captured or lay down their arms. He also appeals to all those involved in armed conflicts to allow convoys of humanitarian aid to reach their destinations as well as to allow the evacuation of the wounded, elderly persons and children. All those responsible for violations of the right to life in situations of armed conflicts must be held accountable. In this context, the Special Rapporteur particularly wishes to endorse the appeals for respect for the right to life made by the Special Rapporteurs on the situation of human rights in the Sudan and, on repeated occasions, by the Special Rapporteur on the human rights situation in the territory of the former Yugoslavia.

708. In this context, the Special Rapporteur wishes to refer to the role of the United Nations in situations of armed conflict. Increasingly often called upon to exercise peace-keeping tasks, United Nations personnel in many countries are operating under very difficult and often dangerous conditions. A high number of United Nations staff have on many occasions risked, and lost, their lives. However, in the recent past reports have been received indicating that members of United Nations forces were themselves involved in extrajudicial, summary or arbitrary killings in Somalia. The Special Rapporteur is of the view that, as each State is bound under international law to respect these standards, an organ representing States in their collectivity has at least the same degree of responsibility. A human rights component should be an integral part of all peace-keeping and observer missions. As such missions under the auspices of the United Nations multiply, it may be desirable to envisage the institution of an organ within the United Nations, or within each peace-keeping or observer mission, to investigate human rights abuses by members of such missions and hold their authors responsible. Provision should also be made to grant compensation to the victims of such abuses or, in the case of extrajudicial killings, their families. With a view to preventing such incidents, all members of peace-keeping and observer missions should receive thorough training in human rights matters as well as in mediation and conflict resolution.

Violations of the right to life in the context of communal violence

709. The Special Rapporteur would once again like to draw the attention of the international community to the problem of communal violence, understood as acts of violence committed by groups of citizens of a country against other groups. In Burundi, Nigeria, Rwanda and Zaire, where violent confrontations were reported between different ethnic groups, government forces allegedly not only did not intervene to stop the violence but actively supported one side in the conflict, or even began it. In other instances, Governments, for example those of Bangladesh and Sri Lanka, denied their responsibility for killings, asserting that they occurred in the context of communal violence. Such conflicts, if allowed to continue, may degenerate into genocide. Effective steps should therefore be taken by Governments of countries where acts of communal violence occur to curb such disturbances at an early stage. The Special Rapporteur also strongly appeals to all Governments to refrain from supporting groups, on ethnic or other grounds, either actively or by simply tolerating acts of violence committed by them. On the contrary, efforts

should be made towards reconciliation and peaceful coexistence of all parts of the population, regardless of ethnic origin, religion or any other distinction. Mass communication media and campaigns of education and information promoting mutual respect should be used in this regard. Furthermore, all acts of incitement to hatred or violence must be punished.

Expulsion of persons to a country where their life is in danger

710. The Special Rapporteur received reports about the imminent extradition of one or more persons to countries where their lives might be at risk. All Governments should take due notice of the norms and principles contained in international instruments that refer to this particular question. They should refrain from extraditing a person in circumstances where his or her safety is not fully guaranteed.

Rights of the victims

711. As stated earlier, the recognition of the right of victims or their families to receive adequate compensation is both a recognition of the State's responsibility for the acts of its organs and an expression of respect for the human being. Granting compensation presupposes compliance with the obligation to carry out an investigation into allegations of human rights abuses with a view to identifying and prosecuting their perpetrators. Financial or other compensation provided to the victims or their families before such investigations are initiated or concluded, however, does not exempt Governments from this obligation. The Special Rapporteur notes with concern that, with the exception of Nepal, no Government provided him with information about any such compensation provided to victims or their dependants. The Special Rapporteur urges States to make pertinent provisions under national legislation and set up funds for those who have suffered damage as a consequence of extrajudicial, summary or arbitrary execution or attempted execution.

D. Issues of special interest to the Special Rapporteur

Freedom of opinion and expression

712. More than 700 cases which were brought to the attention of the Special Rapporteur during the past year concerned alleged violations of the right to life involving a breach of the right to freedom of opinion and expression, peaceful assembly and association. Extrajudicial killings as a result of abuse of force against demonstrators and participants in other peaceful manifestations have been referred to earlier. The Special Rapporteur is deeply concerned at the large numbers of reported death threats, assassination attempts and extrajudicial executions of members of legal political opposition parties, trade unions, student movements and community organizations, human rights groups and activists, as well as journalists, writers and persons assisting indigenous people and peasants in Argentina, Brazil, Cambodia, Chad, Colombia, El Salvador, Equatorial Guinea, Guatemala, Haiti, India, Malawi, Paraguay, Peru, the Philippines, Rwanda, South Africa, Turkey and Zaire.

713. The Special Rapporteur is particularly preoccupied by reports of "hit squads" or "death squads" linked to the authorities, which are said to be instruments of violent repression of any political opposition. Such groups, often said to be composed of members of the security forces, allegedly carry out orders to intimidate or eliminate persons perceived as a threat to Governments or certain political parties. Disturbing allegations to this effect were received concerning Brazil, Colombia, Guatemala, El Salvador, Haiti, Kenya, Peru, South Africa and Turkey. Agents linked to the security forces of the Islamic Republic of Iran were said to be responsible for the killing of political opponents in Italy, Pakistan and Turkey.

714. The Special Rapporteur calls on all Governments to fully respect the right of all persons to freedom of opinion and expression, peaceful assembly and association, as guaranteed in the pertinent international instruments. He urges the authorities of those countries in which death squads or similar structures are alleged to exist to carry out full investigations with a view to eliminating such groups and identifying and prosecuting their members, as well as all those under whose orders they are found to operate.

Violations of the right to life of women

715. In 168 cases, the victims of reported violations of the right to life were women. As stated earlier, this figure does not necessarily reflect the actual proportion of women among those on whose behalf the Special Rapporteur intervened. This is due to the fact that several cases concerned alleged extrajudicial, summary or arbitrary executions of groups of unidentified civilians, where it was not specified how many women were among those killed. In other cases, the Special Rapporteur could not discern the sex of a person simply by the name and the source did not indicate whether the allegation concerned a man or a woman.

716. However, women make up a relatively small percentage of purported victims of extrajudicial, summary or arbitrary executions or death threats reported to the Special Rapporteur. Women appear not to be particularly targeted for reasons of their sex. This may partly be explained by the fact that women continue to play a small role in the political and economic life of many countries. The underrepresentation of women in positions of influence, for example in political parties or trade unions, or in professions such as law or journalism, means that they are also less exposed to acts of violence at the hands of Governments that may perceive them as a threat. On the other hand, in areas where women are actively participating in public life, they do not seem to be in a different position from their male counterparts, as may be illustrated by the following cases acted upon by the Special Rapporteur in the past year: Peruvian journalist Cecilia Valenzuela, allegedly threatened with death by the security forces; human rights activists Hebe de Bonafini and journalists Magdalena Ruiz Guiñazú, Mónica Cahen d'Anvers and Graciela Guadalupe in Argentina; missionary Elsa Rosa Zotti, lawyers Valdenia Brito, Katia Costa Pereira and Cecilia Petrina de Carvalho, as well as mothers of disappeared children pressing for an investigation into their abduction in Brazil; human rights activists Nineth de Montenegro, Rosalina Tuyuc, Angela María Contreras Chávez and Rigoberta Menchú in Guatemala; lawyers Mirna Perla de Anaya in El Salvador and Gloria Estrago in Paraguay; as well as Leyla Zana, Member of Parliament in Turkey.

Armed groups that spread terror among the population and drug traffickers

717. Violence by armed opposition groups constitutes a serious problem in a number of countries: the situations in Algeria, Colombia, Egypt, Guatemala, parts of India, Myanmar, Peru, the Philippines, Sri Lanka and Turkey are well-known examples in this regard. The Special Rapporteur wishes to express his most profound repugnance at the acts of violence committed by these armed opposition groups, which are responsible for grave human and material losses in these countries. He fully understands that the Governments concerned and their security forces face an extremely difficult task in attempting to curb violence by such groups, in particular where they resort to terrorist methods, indiscriminately targeting civilians. However, the Special Rapporteur is concerned at reports according to which operations by the security forces aimed at fighting such armed opposition groups very often result in extrajudicial, summary or arbitrary executions. Algeria and Egypt, for example, have executed death sentences against persons convicted of terrorism after trials which fall short of the international standards for the protection of those facing capital punishment. In all other aforementioned countries, security forces allegedly extrajudicially executed civilians whom they perceived to be collaborators or sympathizers of the armed opposition groups. In Colombia, Guatemala and Sri Lanka it was also reported that residential areas were bombarded by the military. In a number of countries, where drug traffickers are also said to be responsible for killings of members of the security forces and civilians. According to the information received, drug traffickers in Colombia, Costa Rica and Peru have increased their influence by establishing links with armed opposition groups.

718. In this context, the Special Rapporteur wishes to emphasize that the right to life is absolute and must not be derogated from, even under the most difficult circumstances. This means that Governments must respect the right to life of all persons, including members of armed groups that demonstrate their total disrespect for the lives of both State representatives and civilians. The Special Rapporteur urges the Governments of all countries where such groups are active to ensure that counter-insurgency operations are conducted in a way so as to minimize the loss of lives. Security forces should receive proper training in this regard, and excessive use of force should be sanctioned.

Civil defence forces

719. In several countries, civilians, particularly in rural and/or remote areas, have formed groups of self-defence in situations where they feel that their lives or property are threatened. While such threats may emanate from common criminality, for example cattle thieves, civil defence forces are frequent in areas where armed opposition groups operate. Often, they are supported or even set up by the security forces and integrated into the Governments' counter-insurgency strategy. This was reported to be the case, for example, with the Bangladesh Rifles and Ansar Guards in Bangladesh; the civil self-defence patrols (PAC) in Guatemala, the rondas campesinas and

comités de defensa civil in Peru; the Citizen's Armed Forces Geographical Units (CAFGUs) in the Philippines; or the Kontrgerilla and Village Guards in Turkey. The Special Rapporteur received numerous reports about extrajudicial, summary or arbitrary executions committed by members of such groups, either in cooperation with units of the security forces or with their acquiescence. With very few exceptions, they were said to enjoy impunity for their actions. Often, the victims of such killings were said to be peasants suspected of being members or sympathizers of the armed opposition because they refused to join the, ostensibly voluntary, civil defence groups.

720. The Special Rapporteur appeals to the Governments of all countries where such civil defence structures exist to ensure full respect of human rights by the members of these groups. In particular, they should be trained to act in conformity with the restrictions on the use of force and firearms for law enforcement officials. All arms used by such groups, particularly if provided by the military, should be registered and their use subjected to strict control. All abuses should be punished, and effective measures should be taken to prevent their occurrence. Furthermore, no one should be forced to participate in civil defence groups.

Right to life and administration of justice

721. Respect for human rights within the administration of justice is of relevance to the Special Rapporteur's mandate in the field of capital punishment. In this context, the Special Rapporteur wishes to refer to paragraphs 673 to 687 above, concerning the right of defendants in capital cases to benefit fully from all guarantees of due process. In addition, the Special Rapporteur takes fair trial requirements into account when he evaluates proceedings that lead to the conviction and punishment of perpetrators of violations of the right to life. The Special Rapporteur appeals to all Governments to provide for legislation governing trial procedures in full conformity with the safeguards and guarantees embodied in the pertinent international instruments. He also urges all Governments to ensure that these safeguards and guarantees are fully ensured in practice. Effective protection should be ensured for all those forming part of the justice system. Particular attention should be given to the security of judges, prosecutors and lawyers where they may face threats or even attempts against their lives in the context of terrorist violence or corruption among political leaders.

Violations of the right to life of minors, particularly "street children"

722. The Special Rapporteur is deeply concerned at reports about violations of the right to life of minors and, in particular, children and adolescents without homes. Death threats against, and extrajudicial killings of "street children" have been reported in Brazil, Colombia and Guatemala. Reports of attacks against those who provide this particularly vulnerable group with shelter and education programmes, for example the collaborators of Casa Alianza in Guatemala or persons linked with the church in Brazil, are also

very disturbing. The Special Rapporteur also wishes to express deep concern for violations of the right to life of minors in armed conflicts. Children are among those who suffer most from lack of food and medicine as a result of deliberate blocking of humanitarian aid and assistance in conflict areas. They were also said to have died in large numbers as victims of indiscriminate attacks against residential areas. In addition, the Special Rapporteur received numerous reports of incidents in which children, even very young ones, were deliberately shot by members of the security forces, for example in the Occupied Territories or in Sri Lanka. As regards the question of capital punishment for minors, see above, paragraphs 685-687.

723. The Special Rapporteur calls on all Governments to ensure full respect for the right to life of children. He urges Governments in countries where children are forced to live in the streets to provide them with food, shelter and education programmes and to effectively protect them from violence in any form.

E. Procedural aspects

724. The Special Rapporteur wishes to thank all those, both individuals and non-governmental organizations, who have provided him with information and support in the discharge of his mandate. He also wishes to express his appreciation for the cooperation he received from a number of Governments, in particular those who have invited him to carry out visits to their countries. The Special Rapporteur regrets that a number of Governments did not supply him with any of the information he requested.

725. The Special Rapporteur would also like to thank all other United Nations mechanisms and procedures for the protection of human rights from whose cooperation he benefited during the past year and, in particular, the Special Rapporteur on the question of torture, the representative of the Secretary for internally displaced persons and the Committee on the Rights of the Child. The Special Rapporteur also wishes to thank the ad hoc Working Group of Experts on Southern Africa for its invitation to participate in their mission to Botswana and Zimbabwe in August 1993.

726. As stated earlier, the Special Rapporteur received, and transmitted to 73 Governments, allegations of the right to life concerning more than 3,700 persons. In 217 urgent appeals he urged the competent authorities to ensure effective protection of persons whose lives were feared to be at risk. This constitutes an increase of almost 50 per cent, as compared with the number of urgent appeals sent in 1992. In over 90 letters, the Special Rapporteur asked Governments to fulfil their obligation under international law to investigate human rights violations, bring to justice those responsible and grant compensation to the victims. The Special Rapporteur made an effort to transmit these allegations to the Governments earlier in the year to allow for more time to reply, as announced in his report to the Commission on Human Rights at its forty-ninth session. The Special Rapporteur believes that the

initiation of the follow-up procedure, as described in chapter II of this report, constitutes an important new element in the working of his mandate. The Special Rapporteur also hopes that his visits to the former Yugoslavia, Rwanda and Peru, as well as his participation in numerous public and private events, may contribute to promoting respect for the right to life and awareness of United Nations human rights procedures and mechanisms.

727. It has become evident, however, that unless the resources of the Secretariat are increased considerably, it will be impossible to assure the day-to-day work of the mandate. The Special Rapporteur continues to count on two staff members at the Centre for Human Rights, only one of them full-time. The amount of work involved in the assessment of the incoming information, almost daily urgent appeals, thorough follow-up, preparation of missions, etc. would require at least three staff members and one secretary working exclusively on the mandate. The Special Rapporteur hopes that the strengthening of the resources of the Secretariat announced at the World Conference on Human Rights in Vienna in June 1993 will soon be put into practice.

728. While appreciating the opportunity provided at the World Conference to meet with other special rapporteurs, representatives and members of working groups of the Commission on Human Rights for an exchange of views and a discussion on issues of common interest, and to present a common declaration to the plenary of the Conference, the Special Rapporteur regrets that it was not possible to present these concerns before the drafting committee for the Vienna Declaration and Programme of Action. The scant attention given to the problem of violations of the right to life in that document is disappointing. The Special Rapporteur feels that the scale and gravity of extrajudicial, summary or arbitrary executions in many parts of the world would have justified a special heading in the Programme of Action.

F. Prevention

729. During his visits to the former Yugoslavia, Rwanda and Peru, the Special Rapporteur could clearly recognize the enormous, and irreparable, loss of lives in armed conflicts and other situations of internal violence. By establishing the facts and trying to determine the causes for such violence in these countries, it may be possible to discern ways of reducing the extent of violations of the right to life there and preventing their occurrence in other situations. In this context, it is most important to learn to notice signs of incipient conflict situations that may, if allowed to develop, degenerate into humanitarian and human rights crises with very severe consequences. All internal mechanisms for the peaceful solution of such conflicts at the earliest stage should be strengthened. When a country tries to enact such mechanisms, or where there exists a grave humanitarian or human rights crisis, the international community should make every effort to assist with a view to re-establishing peace and preventing a new crisis. Wherever this entails an international peace-building or peace-keeping operation, human rights should be a central component.

730. In all situations, whether armed conflict or not, the main question to be addressed with a view to prevention of violations of the right to life is the treatment of their authors: impunity is the key to the perpetuation of human rights violations, including extrajudicial, summary or arbitrary executions. Putting an end to impunity requires a genuine will to recognize and enact the safeguards and guarantees for the protection of the right to life of every person. The Special Rapporteur calls once again on all Governments to comply with their obligation under international law to investigate all instances of alleged violations of the right to life, to prosecute and punish their perpetrators and to grant adequate compensation to the victims or their families. The Special Rapporteur also appeals to the international community to continue and reinforce its efforts to curb the phenomenon of extrajudicial, summary or arbitrary executions by putting into practice the international standards already existing, as well as improving them where shortcomings are identified. Finally, the Special Rapporteur reiterates his readiness to provide his full collaboration and assistance in this cause of common concern.

Notes

1/ A/37/40, annex V, general comment 16 (6), para. 6.

2/ For example, in resolutions 2857 (XXVI), 2393 (XXIII) and 39/118.

3/ A/37/40, annex V, general comment 6 (16), para. 7.
