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@Amnesty International's Concerns at the 49th Session of the United Nations Commission on Human Rights

Amnesty International is a worldwide voluntary movement that works to prevent some of the gravest violations by governments of people's fundamental human rights. The main focus of its actions is to work toward the release of all prisoners of conscience - those persons detained anywhere for their beliefs or because of their ethnic origin, sex, colour or language who have not used or advocated violence; fair and prompt trials for all political prisoners; the abolition of the death penalty, torture and other cruel, inhuman or degrading treatment of prisoners; and an end to extrajudicial executions and "disappearances". The organization also opposes abuses committed by opposition groups which are contrary to minimum standards of humanitarian conduct such as hostage-taking, torture and killings of prisoners and other deliberate and arbitrary killings.

Amnesty International has more than 1,400,000 members, subscribers and regular donors in over 150 countries and territories, with more than 6,000 local groups in over 74 countries in Africa, the Americas, Asia, the Pacific, Europe and the Middle East. To ensure impartiality, each group works on cases from countries other than its own, selected for geographical and political diversity. The organization is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the views of victims whose rights it seeks to protect. It is concerned solely with the protection of human rights regardless of the ideology of the government or opposition forces or the beliefs of the victims.

The human rights standards embodied in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and other human rights instruments adopted by the United Nations (UN) are central to the work of Amnesty International. It follows closely the work of the Commission on Human Rights and participates in activities aimed at further developing the body of international human rights standards, considering the full implementation of those standards by governments and addressing situations of human rights violations, wherever they occur. Amnesty International considers that the responsibility of the international community to protect the human rights of all people is of paramount importance in the deliberations and work of the Commission on Human Rights.

The following information relates to a number of issues of concern to Amnesty International relevant to the agenda of the 49th session of the Commission on Human Rights. Further information on these concerns can be found in the Amnesty International documents referred to in the text.

ITHE THEMATIC MECHANISMS (Agenda items 10, 12 & 17)

There are five thematic mechanisms established by the Commission which are of particular interest to Amnesty International, which are those concerning "disappearances", summary or arbitrary executions, torture, arbitrary detention and religious intolerance.

Amnesty International attaches considerable importance to the points made in Resolution 1992/41 which encouraged governments to respond expeditiously to requests for information from the thematic mechanisms, to extend invitations for on-site visits, to consider follow-up visits to assist with the implementation of recommendations and to keep the mechanisms well-informed on progress towards implementation. Amnesty International deeply regrets the inadequacy or total lack of response by some governments to the thematic mechanisms; it hopes that the Commission will make further efforts to ensure that all governments to comply with the Commission's often repeated exhortation that full cooperation should be extended to its Working Groups and Special Rapporteurs.

Amnesty International also believes that it is of the highest importance for the Commission to pay particular attention in its debate under agenda item 10 to reports by the thematic mechanisms of their on-site and follow-up visits to individual countries. It should ensure that all conclusions and recommendations arising from these visits are fully addressed by the Commission and kept under review until they have been effectively implemented by the governments concerned.

Resolution 1992/41 addresses another point which Amnesty International strongly endorses: the availability of necessary resources for the thematic mechanisms to be able to carry out effectively all the tasks entrusted to them. For example, in his last report to the Commission (UN Doc E/CN.4/1992/30), the Special Rapporteur on summary or arbitrary executions identified the lack of an adequate number of professional staff and resources as a major impediment to an increase in efficiency of this mechanism and warned that the efficiency of the mechanism would be likely to deteriorate if resources are to remain at the present level.

In Resolution 1992/24 the Commission called for the creation of a standing team of forensic and other appropriate experts who could assist governments in the forensic documentation of human rights violations, including the exhumation and identification of probable victims of human rights violations and in the training of local professionals for the same purpose. Amnesty International believes that the Commission should ensure the prompt implementation of this resolution, and that the expertise of the standing team should also be available to assist thematic and country mechanisms, for whom it would be an essential resource.

This question of resources is one of particular urgency and must be addressed more vigorously by the Commission. Significantly increased resources, including staffing, are essential if the thematic mechanisms are to be able to respond to information sent to them, analyze government responses, and carry out on-site visits and follow-up visits, as they have been urged to do in numerous Commission resolutions. (Please see also Section IX, Strengthening of the Centre for Human Rights.)

1. THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

The Working Group on Enforced or Involuntary Disappearances will present its 13th report at the next session of the Commission. During 1992 Amnesty International has sent to the Working Group information relating to "disappearances" in 31 countries including Colombia, Peru, Philippines, Rwanda and Sri Lanka.

Several points, emerging from the Working Group's last report (UN Doc E/CN.4/1992/18) and Resolution 1992/30, should in Amnesty International's view be further developed at the next session of the Commission. For example, Amnesty International hopes that in its 1993 report the Working Group will be in a position to complete its summary of responses from governments and non-governmental organizations to its tentative considerations on impunity. These tentative considerations were transmitted by the Working Group to governments and non-governmental organizations for comment before the last session of the Commission. Although it received replies from more than 18 governments and many non-governmental organizations, the Working Group decided to continue to study the matter during 1992 in order to be able to enlarge the scope of the analysis. In addition, Amnesty International hopes that the Commission will give every encouragement to the Sub-Commission's study of the issue of impunity.

For the first time, Resolution 1992/30 specifically urged governments to take legislative and other steps to prevent and punish acts of "disappearances". Amnesty International considers that this point should receive particular attention in the Commission's debate at its next session.

The Working Group's last report included an analysis of civil defence patrols. It stated that "The question of civil defence units abusing their powers is a matter of concern to the Working Group, particularly as they are reported to be involved in many cases of disappearance and other abuses" (paragraph 378). The Commission adopted Resolution 1992/57 in which it noted the Working Group's observations and asked the UN Secretary-General to collect information on domestic law and practice relating to civil defence forces, their relationship to human rights and to prepare a report for discussion at the next session. Amnesty International has submitted information on this subject relating to Bangladesh, Bosnia-Herzegovina, Colombia, Guatemala, Haiti, Peru, Philippines, Sri Lanka, Turkey and Yugoslavia and hopes that the Commission will pay attention to this issue at its next session.

It is also of the highest importance that the Commission fully addresses the report of the first follow-up visit undertaken by the Working Group, in October 1992, to Sri Lanka to examine the implementation of the Working Group's recommendations by the government, following the first visit by the Working Group to that country in 1991. Amnesty International's continues to have grave concerns about the situation in Sri Lanka, as detailed in Section III below, and considers that the Commission should ensure that adequate measures are taken to monitor the implementation of the Working Group's recommendations.

2. THE SPECIAL RAPPORTEUR ON SUMMARY OR ARBITRARY EXECUTIONS

The new Special Rapporteur on summary or arbitrary executions will present the 11th report of this thematic mechanism to the next session of the Commission. During 1992 Amnesty International has submitted information to the Special Rapporteur on 63 countries. These included countries where significant numbers of extrajudicial executions or death threats were recorded, including Brazil, Burundi, Chad, Colombia, Guatemala, Haiti, Iraq, Myanmar, Peru, the Philippines, Rwanda, Sierre Leone, South Africa, Sudan, Sri Lanka and Turkey, as well as countries where death sentences after unfair trials were imminent or carried out, including China, Iran, Iraq, Sudan and the United States of America.

During the last three years the Special Rapporteur has dramatically increased the quantity of requests sent to governments for urgent action and for information. In 1988, the Special Rapporteur sent 100 communications to 46 countries; the 1992 report includes information concerning 174 communications to 65 countries. In 1991, the number of urgent appeals alone nearly doubled, increasing from 64 urgent appeals to 25 countries in 1990 to 125 urgent appeals sent to 44 countries in 1991. Nevertheless, these cases represent only a fraction of the thousands of summary or arbitrary executions which occur each year and omit a number of countries where such executions took place on a large scale. The Commission should encourage the Special Rapporteur to devise effective ways to address the full scope of such executions in each country where they occur.

The failure of many governments to respond or respond adequately to the Special Rapporteur's requests for urgent action or for information remains a major problem. In 1992 the Special Rapporteur highlighted those countries which had consistently failed to respond. These were Chad, Haiti, Libya, Pakistan, Somalia, South Africa, Thailand, Uganda and Zaire. The Commission will need to make solution of this problem a priority.

The former Special Rapporteur had visited only four countries (Suriname, Uganda, Colombia and Zaire) up to 1991 and conducted one follow-up visit (Suriname) - far fewer than the other thematic mechanisms have done. During 1992, the Special Rapporteur has visited former Yugoslavia twice, in joint missions with the Commission's Special Rapporteur on that region, the Chairman of the Working Group on arbitrary detention, and, for the first time, a forensic expert. The Special Rapporteur on summary or arbitrary executions has also accepted invitations to visit Peru and Sri Lanka. The Commission should encourage other governments to invite the Special Rapporteur to other countries.

3. THE SPECIAL RAPPORTEUR ON TORTURE

The Special Rapporteur on torture will present his eighth report to the next session of the Commission. During 1992 Amnesty International has submitted information and reports about torture and ill-treatment, including urgent cases of individuals at risk, in some 50 countries, including Cameroon, China, Colombia, Haiti, Israeli-Occupied Territories, Myanmar (Burma), Pakistan, Peru, Sudan, Syria, Tunisia, Turkey and former Yugoslavia.

Resolution 1992/32 stressed the Special Rapporteur's recommendation in his last report (UN Doc E/CN.4/1992/17) on the role of the judiciary in helping to prevent and stop torture. In his oral introduction to that report the Special Rapporteur emphasized that torture should not be

seen as acts which just concern the executive or legislative branches of the government. The judiciary, unlike the legislature, can give immediate relief and redress in individual cases. His report noted that the judiciary can make significant contributions even when torturers are not prosecuted because they cannot be identified or because the prosecuting authorities fail to act. In particular he reaffirmed that judges must refuse to admit evidence which might have been obtained through torture. They should release people arrested and detained in violation of national and international standards. "If the judiciary takes such a position, the use of torture becomes less worthwhile, and thereby less attractive" (paragraph 280). The judiciary can also help to prevent torture by ensuring that detainees' right to legal counsel is respected, as most torture occurs during incommunicado detention, and by promoting human rights by interpreting national rules in such a way that they conform as much as possible to international standards. Amnesty International hopes that the Commission will pay particular attention to the role of the judiciary and ways in which this can be strengthened as an important safeguard against torture.

Amnesty International would also urge the Commission to do more to encourage a wider range of countries to invite the Special Rapporteur to carry out on-site visits. It is very disappointing that no country invited the Special Rapporteur to carry out an on-site visit during 1992, although there is an outstanding invitation from Djibouti, made in 1991, and the Special Rapporteur was one of the members of the second mission to the former Yugoslavia in October 1992. However, the number of invitations from states has continued to decrease since 1990. Between 1987 and 1990 the Special Rapporteur carried out three visits each year, but only one in 1990 (the Philippines) and one in 1991 (Indonesia/East Timor). In his last annual report the Special Rapporteur referred to the fact that some governments may believe that his urgent humanitarian function is sometimes activated by people who seek unfairly to taint the government's image. He point out that "the most logical solution is to invite the Special Rapporteur to visit the country and carry out an investigation himself" (UN Doc E/CN.4/1992/17, paragraph 11).

Furthermore, to strengthen the Special Rapporteur's fact-finding role, the Commission should give special consideration to the recommendation in his 1992 report that, because the Commission's thematic mandates are often referred to as monitoring mechanisms and "since fact-finding forms part of monitoring", then he should be "authorized from time to time, to carry out on-the-spot investigations" (UN Doc E/CN.4/1992/17, paragraph 12).

4. THE WORKING GROUP ON ARBITRARY DETENTION

Amnesty International welcomed the first report of the Working Group on arbitrary detention (UN Doc. E/CN.4/1992/20), established in September 1991 pursuant to Commission Resolution 1991/42. This report indicated that the new Working Group had moved quickly to define its mandate and working methods and to begin considering allegations of arbitrary detention. During 1992 Amnesty International has submitted cases from Bhutan, Burundi, China, Cuba, Ethiopia, Israel and the Occupied Territories, the Republic of Korea, Malawi and Viet Nam.

Amnesty International welcomes the serious and comprehensive approach of the Working Group to its mandate and its work and would urge the Commission to give it every support and encouragement. Amnesty International would also hope that in situations characterized by large numbers of individual cases of alleged arbitrary detention, the Working Group will give further

consideration to the most effective way to address the question of arbitrary detention. In such circumstances, the investigation of massive numbers of individual cases may be impractical. Amnesty International hopes that the Commission will encourage the Working Group to address this problem.

5. THE SPECIAL RAPPORTEUR ON RELIGIOUS INTOLERANCE

The Special Rapporteur will present his seventh report to the next session of the Commission. During 1992 Amnesty International has submitted information to the Special Rapporteur on Religious Intolerance concerning prisoners of conscience who have peacefully exercised their right to freedom of religious belief, including cases in China, Greece and Viet Nam.

In his report (UN Doc E/CN.4/1992/52) to the last session of the Commission the Special Rapporteur noted that the acts of discrimination and intolerance with regard to religion or belief recorded during the year continue to show the universality of the phenomenon of religious intolerance, both in regard to particular faiths and to geographical areas.

For the first time, Resolution 1992/17 proposed that governments should seriously consider inviting the Special Rapporteur to visit their countries. Amnesty International welcomes this proposal as on-site visits have become standard practice for the other thematic mechanisms. It urges the Commission to encourage appropriate governments to invite the Special Rapporteur to visit. The Commission should also encourage those states who have not already done so to ratify international human rights instruments which contain provisions to protect individuals against discrimination based on religion and belief.

II COUNTRIES ON THE AGENDA OF THE 49TH SESSION (Agenda items 3 and 12)

Amnesty International looks to the Commission on Human Rights to respond impartially and effectively to situations involving serious human rights violations wherever they occur.

This section concerns countries which are on the Commission's agenda under agenda item 12. Two countries, the Israeli-Occupied Territories and South Africa, have their own agenda items, 4 and 5 respectively. A further two countries, El Salvador and Guatemala, are provisionally scheduled under agenda item 3 for a decision on whether they will be discussed under agenda item 12 or item 21 on advisory services and technical assistance.

Most of the country situations discussed below concern extremely serious situations of human rights violations from different regions of the world. Amnesty International hopes that all participants in the forthcoming session of the Commission will consider fairly and objectively how best to use the remedies available to the Commission to implement effective solutions.

1. AFGHANISTAN

The situation of human rights in Afghanistan has been under discussion in the Commission
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since 1980; in 1984 it appointed a Special Rapporteur to examine the situation. Resolution 1992/68, adopted without a vote, welcomed steps taken by the then government and the opposition forces towards the release of prisoners but called for all efforts to be made to speed the release of all prisoners of war. It welcomed the authorities' cooperation with the UN and the International Committee of the Red Cross but urged all parties to the conflict to respect accepted humanitarian rules. Since the last session of the Commission, there has been tremendous change and continuing turmoil in Afghanistan which Amnesty International believes warrants the continued scrutiny of the Commission.

On 16 April 1992 the government of President Najibullah resigned. Efforts for a political compromise led to the formation on 24 April of a 51-member ruling council headed by Professor Sibghatollah Mojaddedi to take power in Kabul and to be replaced after two months by an Interim Government headed by Professor Burhanuddin Rabbani which would hold elections later in the year. This plan was accepted by most, but not all, Mujahideen groups. Fierce fighting between rival Mujahideen groups and between the government and the Hesb-e-Islami (Party of Islam) has reportedly resulted in the deaths of at least 2,500 people in Kabul alone during August 1992.

A general amnesty in late April led to the release of between 2,000 to 3,000 political prisoners, including prisoners of conscience, just from Pul-e-Charkhi, Kabul's largest prison. Similar releases were reported from other towns. It is not known if the hundreds of political prisoners reportedly held in Mujahideen prisons in Afghanistan and the border areas of Pakistan were affected by the amnesty but Amnesty International appealed to the new government and Mujahideen groups to ensure the safety of all prisoners. An amnesty for former government and ruling party members was declared on 29 April. However, some instances of retaliation have been reported, for example, when in May the former Chief Justice, Abdul Karim Shadan, was reportedly abducted, tortured and killed probably in reprisal for his activities as a senior member of the former government.

The rights to freedom of expression and association have been severely curtailed by, for example, the seizure of books considered to be "anti-religious" and the banning of non-Islamic political parties. Participation of congregational prayers and the adoption of the Islamic dress code for women are now compulsory. Amnesty International is concerned that people who persist in peacefully exercising these rights may be attacked or punished.

As described in Afghanistan: New forms of cruel, inhuman or degrading punishment (AI Index ASA 11/02/92), Amnesty International is concerned about the active use of the death penalty and that under new government policies this punishment may be extended to crimes for which lesser punishments were imposed in the past. By early October 1992, 12 men who had been sentenced to death by Islamic courts had been publicly hanged; it appears that their trials were held in secret and concluded in a few days and none of them had had the right of appeal to a higher court or to seek pardon. Amnesty International also fears that forms of punishment such as amputation of hands and feet, public stoning to death and flogging which amount to cruel, inhuman or degrading treatment or punishment prohibited by international human rights standards may be imposed.

2. ALBANIA

The 1992 session of the Commission had before it the report of the UN Secretary-General on his contacts with the Albanian Government which focused on the government's recent action to promote democratic development and human rights. Resolution 1992/69, adopted without a vote, welcomed the positive steps taken by the government and its willingness to cooperate with the UN but called upon it to continue to take steps to effectively promote and protect human rights, including those of minorities, emphasized the need to guarantee free expression in the forthcoming elections and welcomed the agreement with the UN for the provision of technical cooperation. The UN Secretary-General will present a further report to the next session of the Commission.

Following elections in March, the leader of the majority Democratic Party, Sali Berisha, was elected state President by the People's Assembly. In May Albania's first Constitutional Court was sworn in. In October a special commission, formed to identify and compile a list of people from the area of Shkodër allegedly killed for political reasons by the security forces during the period of communist rule from 1944 to 1991, reported that it had so far discovered six common graves in Shkodër and had succeeded in identifying 40 victims, although it believed the total to be around 2,000.

In February 1992, Leonardi Arapi, a student at Shkodër University, died reportedly as a result of beatings by officers of a police unit known as the Rapid Deployment Force. At the time of writing Amnesty International has been unable to ascertain whether any investigation has been held into his death. The trial of three police officers, accused of responsibility for the deaths of four men during demonstrations in Shkodër in April 1991, had not yet ended.

Amnesty International is concerned that the death penalty remains in force for 11 offences including two economic offences. During the year at least 12 men were sentenced to death for murder or other offences resulting in death. Three sentences were commuted to life imprisonment but at least six men were executed. Amnesty International has urged the authorities to take steps to abolish the death penalty.

3. CUBA

A Special Representative on Cuba was first appointed by the Commission in 1991. The Cuban Government has stated that it considers the decision to be "anti-Cuban" and refused to cooperate in any way with the Commission or the Special Representative although it continued to cooperate with other UN institutions. Resolution 1992/61 adopted at the last Commission deplored "the decision of the Government of Cuba not to permit the Special Representative the opportunity to fulfil his mandate .." and regretted profoundly "the numerous uncontested reports of violations of basic human rights and fundamental freedoms" described in his report. It also asked the Commission to designate the Special Representative as its Special Rapporteur on Cuba and again urged the Cuban Government to cooperate with the Special Rapporteur, who was requested to present a report to both the General Assembly and the Commission.

During 1992 Amnesty International's main concerns have been the short-term arrest and

harassment of members of unofficial groups, the imprisonment of prisoners of conscience and probable prisoners of conscience, and the continued use of the death penalty. There have also been an increasing number of allegations of ill-treatment involving both political and common law prisoners, including in some cases deaths in detention and occasional incidents of apparent unlawful killings by members of the security forces. The monitoring of such abuses is hampered by the severe restrictions on human rights monitoring within the country and lack of official information, as well as lack of access to the country for international human rights monitoring bodies, including the Commission's Special Rapporteur and non-governmental organizations such as Amnesty International.

Increasingly strong measures have been taken by the Cuban Government over the past two years to stifle criticism of its policies and leaders. Amnesty International believes that there are at least 300 to 500 prisoners of conscience currently detained, and 300 to 500 other political prisoners convicted or awaiting trial on charges such as sabotage, terrorism and espionage. Prisoners of conscience include leaders and members of political opposition groups, human rights groups, religious groups and independent trade union groups, as well as individuals who have publicly voiced criticism of the government. Dissidents are frequently subjected to serious harassment, particularly since the establishment in June 1991 of special Brigadas de Respuesta Rápida, Rapid Response Brigades, to deal with unrest and dissent. Further information on these violations is provided in Cuba: Silencing the voices of dissent, (AI Index AMR 25/26/92), to be published in December 1992.

Amnesty International also remains concerned about the continued use of the death penalty in Cuba for a wide range of offences. Although no executions for common crimes have been reported during 1992, three political prisoners were executed by firing squad early in the year. The first of these, Eduardo Díaz Betancourt, was executed only 23 days after his arrest on 29 December 1991. He had reportedly confessed, with two others, to being a member of a US-based terrorist organization. Amnesty International's concerns relating to the use of the death penalty in Cuba have been exacerbated by the lack or inadequacy of full guarantees to ensure a fair trial, including denial of access to lawyers before trial, restrictions on habeas corpus, a judiciary which is not independent in political cases, coercion to confess and inadequate time and facilities for a defence.

While regretting the excessive politicization of the debate on Cuba at the Commission over the past few years, Amnesty International believes that the human rights situation in Cuba at present deserves scrutiny and hopes that the Cuban Government will in future cooperate with the Special Rapporteur as it has continued to do with other UN bodies.

4. EL SALVADOR

At the last session of the Commission, the Special Rapporteur presented his final report which welcomed the Chapultepec Peace Agreements of 16 January 1991, signed by the government and the Farabundi Martí National Liberation Front (FMLN), and the work done by the UN Mission in El Salvador, ONUSAL. In view of these developments, the Commission decided in Resolution 1992/62, adopted without a vote, to ask the UN Secretary-General to appoint an independent expert, who will present an interim report to the General Assembly and a final

report to the next session of the Commission. The resolution also stated that the discussion on El Salvador at the next session will be taken under the advisory services agenda item should there be a substantial improvement in the human rights situation.

The peace accords agreed between the government and the FMLN provided for reforms of the armed forces (including the removal of officers with a record of human rights violations), on-site monitoring by the United Nations and the creation of bodies to investigate past and current human rights violations.

However, Amnesty International continues to have concerns about the human rights situation in El Salvador. Although there is no longer a pattern of "disappearances" following arrest, nor of the systematic arrest and torture of political detainees, serious human rights violations continue to be reported. 1992 has witnessed a higher number of violent deaths than in 1991. The majority of these killings have not been fully clarified by the authorities, nor have those responsible been brought to justice. While a proportion of the killings have been perpetrated by common criminals, some appeared to have been extrajudicial executions by government forces. Others bear the hallmarks of killings by the so-called "death squads" which have claimed hundreds of lives in the past. Among the victims were trade unionists and cooperative members. In addition, FMLN leaders, trade unionists, journalists and others have received numerous death threats throughout 1992 from clandestine groups. The UN operation, ONUSAL, has itself been the object of threats. Clandestine groups have published communiques in which they label ONUSAL as a "pestilence" and demand that its personnel leave the country, and that those who support the peace accords must accept the consequences.

The use of torture has continued to be reported, though its use does not appear to have been as widespread as in previous years. Most of the allegations of torture and ill-treatment concerned non-political detainees. Two detainees died in the custody of the Municipal Police in Soyapango, allegedly as a result of severe beatings, in May and June 1992.

The setting up of mechanisms to investigate both past and current human rights abuses, the disbanding and restructuring of units within the armed forces previously linked to abuses of human rights and other reforms designed to improve respect for human rights are acknowledged by Amnesty International as important steps for the future. However, these measures have not so far resulted in the eradication of serious abuses nor the bringing to justice of those responsible. In view of the present political instability in the country, and until institutional safeguards to protect human rights have been more firmly established, Amnesty International hopes that the Commission will maintain scrutiny of the human rights situation in El Salvador under agenda item 12.

5.EQUATORIAL GUINEA

The human rights situation in Equatorial Guinea has been under Consideration by the Commission since the 1970s. In 1982 the government accepted a Plan of Action drawn up by the Expert (appointed in 1980 under the Advisory Services program) to ensure that the protection of human rights would be guaranteed by an effective judicial system. In 1991 the Expert's report noted that the authorities had provided "no information whatsoever" regarding

the implementation of previous recommendations made by the Commission. In 1992 his report concluded that "[t]he human rights situation has seriously deteriorated... Intimidation, arbitrary arrest in police stations followed by beatings, internal exile or administrative detention, long periods of detention in prison without charge or without being brought before the courts, followed by interminable and cruel periods of detention incommunicado, keep the population in a state of permanent and increasing fear" (UN Doc E/CN.4/1992/51 paragraphs 93 and 94). Resolution 1992/79, adopted without a vote, endorsed the Expert's conclusions and recommendations and expressed concern at the government's failure to implement the 1982 Plan of Action and continuing serious restrictions on fundamental freedoms. It also stated that consideration of the situation in Equatorial Guinea should be moved from the Advisory Services discussion to agenda item 12 "unless there is a significant improvement in the situation of human rights and fundamental freedoms".

January 1992 marked what was expected to be the beginning of a new era in Equatorial Guinea. An amended constitution, approved in November 1991 to allow the introduction of a multi-party political system, was complemented in January 1992 by the introduction of several laws governing the exercise of human rights. However, these laws often restrict the rights they purport to protect. For example, the Law on Freedom of Assembly and Demonstration (Law No. 4/1.992 of 6 January 1992) forbids demonstrations of more than 10 people in public places and holds the organizers of such gatherings responsible for the actions of the participants. No law was passed to give effect to the right to habeas corpus or amparo despite the fact that both rights are guaranteed by the constitution. The rights not to be tortured or to be arbitrarily detained - both long-standing concerns in Equatorial Guinea - were deleted from the 1991 Constitution. Military courts, notorious during the 1980s for convicting political prisoners after unfair trials, remain unchanged by these reforms. Their competence and jurisdiction are still not clearly defined and they are still liable to act arbitrarily on the direct orders of senior officers of the armed forces in the government.

The pattern of political arrests which emerged in late 1990 has continued throughout 1992. Scores of people suspected of favouring a multi-party political system, as well as their relatives and friends, have been arbitrarily arrested and detained without charge, and have sometimes been held incommunicado. Some have been detained for a few days while others were imprisoned for several months. Some have been arrested, released and re-arrested while others continue to be restricted to their homes or villages. A number of prisoners, some of whom Amnesty International regarded as prisoners of conscience, were released from prison and others had their restrictions lifted under the terms of an amnesty promulgated on 6 January 1992 for all political offences committed before 2 December 1991. However, despite the amnesty, some government opponents remained restricted to their homes or villages and some of those released from prison were ordered to return to their villages.

Arrests are normally carried out by military officers or security police with no legal powers to make arrests. There is evidence that those arrested continue to be systematically tortured or ill-treated by members of the security forces. In a report Equatorial Guinea: Torture (AI Index AFR 24/05/90), published in September 1990, Amnesty International called on the government to set up an independent inquiry into reports of torture. The government responded by setting up a national human rights commission to investigate reports of violations. However, its members are

directly appointed by the government, which calls into question the commission's impartiality, and it is not known to have undertaken any investigations.

In view of continuing human rights violations in Equatorial Guinea and the government's apparent unwillingness to implement recommendations made by the Commission, Amnesty International believes that the Commission should maintain scrutiny of the situation to further encourage the government to introduce reforms that will provide for the effective protection of human rights.

6. GUATEMALA

A further report by the Special Expert on Guatemala will be presented to the next session of the Commission, although for the third consecutive year it remains to be decided the agenda item under which the report will be considered. In recent years the situation in Guatemala has been considered under the advisory services agenda item.

Amnesty International continues to have grave concerns about the human rights situation in Guatemala, which were reflected in the conclusions to the Expert's 1992 report, in which he drew attention to the "state of fear" in which the people of Guatemala continue to live (UN Doc E/CN.4/1992/5, paragraph 184). While Amnesty International has noted a decrease in the number of extrajudicial executions and abductions reported during the year, the overall pattern of human rights violations including the impunity enjoyed by those responsible for extrajudicial executions, death threats, torture and "disappearances" remains unchanged.

Several investigations or criminal proceedings were opened and arrests and convictions made. In April 1992 the four policemen convicted for the murder of 13-year-old street child Nahamán Carmona López, whose convictions had been overturned in July 1991 on technical grounds, were retried and convicted again. However the vast majority of human rights violations were not investigated and went unpunished, and investigations and criminal proceedings were generally flawed and subjected to delays.

In recent months, members and leaders of human rights and trade union organizations, students and university teachers have been the subject of a renewed wave of extrajudicial executions, death threats and intimidation. In February 1992, Manuel Estuardo Peña, a history professor at the Universidad de San Carlos (USAC), San Carlos University, was shot by two men in plainclothes who, after showing his photo and asking for him at his home, waited outside until he arrived. Manuel Peña was well known for his political views, and had worked with the internally displaced.

Other victims have included those who have pressed for inquiries into past human rights violations by the security forces, and villagers who have refused to serve in the ostensibly voluntary civil defence patrols. In April 1992 Pedro Raguez was stabbed and shot reportedly by two leaders of the civil defence patrols in the hamlet of Xoluyú San Pedro Jocopulas, El Quiché. He had only recently returned to his hamlet after fleeing because of threats and intimidation for his refusal to participate in the patrols.

Human rights abuses and harassment of street children continue to take place in the context of police claims of a spiralling crime rate, particularly in the capital, Guatemala City, which Amnesty International described in its report of May 1992 Guatemala: Children in fear (AI Index AMR 34/24/92).

With the continued violation of human rights in Guatemala, Amnesty International would still urge the Commission to continue careful scrutiny of the situation under item 12 of the agenda.

7.HAITI

Between 1987 and 1990 the situation in Haiti was examined by the Commission under the Advisory Services program. At the 1990 Commission session Haiti was transferred to item 12, but a year later it was again transferred to Advisory Services and an independent expert was appointed, whose mandate included an examination of the human rights situation. Amnesty International had expressed its concern about the tendency of the Commission to transfer countries prematurely to the Advisory Services program at a time of transition or instability in a country. At its last session, the first since the violent September 1991 coup d'etat in which the newly-elected government of President Aristide was overthrown, the Commission transferred Haiti back to item 12 and appointed a Special Rapporteur under Resolution 1992/77. The resolution strongly condemned the coup and expressed concern over flagrant human rights violations committed in its aftermath. It requested the Special Rapporteur to present an interim report on the situation to the General Assembly and to report to the 49th session of the Commission.

Since the 1991 coup Amnesty International has continued to receive reports of serious human rights violations in Haiti including extrajudicial executions, severe ill-treatment amounting to torture and arbitrary and illegal arrests. Those targeted for human rights violations have included members and leaders of popular or religious organizations, peasants, trade unionists, students, journalists, members of the Catholic church and people suspected of supporting the return of the deposed President Aristide. There is evidence of the widespread extortion of money from civilians by the security forces, and others apparently working in collusion with them, in order to prevent arrest or torture, to secure better conditions in prison, or to obtain release from prison.

Political violence increased in late May 1992 following student demonstrations and protests against the de facto government. An unknown number of students were reportedly arrested and several of them shot during demonstrations in schools, colleges and faculties in Port-au-Prince. Journalists attempting to report these incidents have been intimidated, arrested or beaten. The new Prime Minister, Marc Bazin, who was sworn in on 19 June 1992, pledged to stop repression, but widespread abuses have continued to be carried out with impunity by the security forces (see Haiti: Human Rights held to Ransom, AI Index AMR 36/41/92, issued in August 1992). The attempts of Haitians to flee the repression and seek asylum abroad have been thwarted in particular by the actions of the US authorities, where most of the asylum-seekers have tried to flee, and also by the negative response of other countries.

Amnesty International remains concerned about the continued violation of human rights in Haiti.

It would urge the Commission to give serious attention to the situation and maintain the mandate of the Special Rapporteur.

8.INDONESIA/EAST TIMOR

The situation of human rights in East Timor will be discussed on the basis of a report to be submitted by the UN Secretary-General proposed in a statement, agreed by consensus, made by the Chairman at the last session of the Commission. Then, the debate centred around events in Dili, East Timor on 12 November 1991 when an estimated 100 people taking part in a peaceful funeral procession were killed by Indonesian troops at the Santa Cruz cemetery. In addition, the last session of the Commission had before it the Special Rapporteur on torture's report of his visit to Indonesia from 4 to 16 November 1991.

Amnesty International remains concerned that government measures to investigate and account for the Santa Cruz massacre are inadequate. Specifically, the authorities have failed to accurately determine the number of those killed during the massacre; those who "disappeared" after the massacre have yet to be accounted for. To date the names of those who were killed, tortured or "disappeared" on and after 12 November have still to be made public. Amnesty International hopes that the UN Secretary-General will respond to the request contained in Resolution 1992/20 adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities that invited him to transmit to the Commission the full report of his Personal Envoy who visited East Timor early in 1992.

*In its consideration of this situation, the Commission should also address the long-term pattern of human rights violations which have characterized the situation elsewhere in the country. For more than 20 years Amnesty International has documented gross and systematic human rights violations not just in East Timor but throughout Indonesia. In *Indonesia/East Timor: The Suppression of Dissent* (AI Index ASA 21/09/92), published in July 1992, Amnesty International presents information that indicates a clear and persistent pattern of human rights violations has been practised by the Indonesian authorities to suppress dissent.*

Peaceful protest, including demonstrations against human rights violations, has been treated as "subversive activity" by the authorities. More than 180 alleged government opponents, whom Amnesty International believes are or may well be prisoners of conscience, are detained throughout Indonesia and East Timor. Amnesty International is concerned that all the trials by which they were convicted failed to reach international standards of fairness. Eight people accused of organizing the Santa Cruz demonstration and a further five who staged a peaceful march in Jakarta to protest the massacre have been convicted of anti-government activity. Four of the defendants were convicted under Indonesia's sweeping Anti-Subversion Law and sentenced to prison terms ranging from nine years to life. Amnesty International believes that they have been detained solely for the legitimate exercise of their rights to freedom of expression and association. By contrast, 10 military officers brought to justice for their actions during the massacre were tried by a military tribunal, all but one on disciplinary charges such as failure to obey orders, rather than on criminal offences. They received sentences ranging from eight to 18 months' imprisonment.

In regions where the government is combating armed opposition groups, the merest suspicion of sympathy with the opposition cause is sufficient to target individuals or their relatives for "disappearance" or extrajudicial execution by the military. In Aceh and North Sumatra an estimated 2,000 civilians are believed to have been illegally killed since 1989. In East Timor, thousands of real or suspected political activists have been killed or "disappeared" before and since the Santa Cruz massacre. Hundreds of people have been arrested since 1989 in Aceh, North Sumatra, Irian Jaya and East Timor on suspicion of pro-independence activity. Many have been detained for months without trial.

Torture of political prisoners is routine and some have died as a result. As the Special Rapporteur on torture reported to the last session of the Commission, "... torture occurs in Indonesia, in particular in cases which are considered to endanger the security of the state. In areas which are deemed to be unstable...torture is said to be practised routinely; it is also used elsewhere, in particular on persons who are suspected of belonging to groups which threaten the State philosophy, eg by advocating the creation of an Islamic state" (UN Doc E/CN.4/1992/17/Add.1, paragraph 73). The Special Rapporteur made 11 recommendations for the prevention of torture in Indonesia. These include the ratification of the basic international human rights treaties; the repeal of the Anti-Subversion Law; strengthening of the independence of the judiciary; and independent investigation of complaints (idem, paragraph 80). It is important that the Commission monitors carefully the effective implementation of these recommendations.

Despite the government's public assurances to the effect that foreign observers and international organizations are welcome to visit East Timor, Amnesty International reiterates its concern that it has been denied access to Indonesia or East Timor, despite repeated requests, for the last 15 years. The Chairman's statement at the last session of Commission reiterated the call to the government to facilitate access to East Timor for humanitarian and human rights organizations.

Amnesty International strongly believes that the situation in Indonesia as well as East Timor represents a pattern of long-term serious human rights violations which warrant the Commission's scrutiny.

9. IRAN

Resolution 1992/67 adopted at the last session of the Commission was stronger than the previous year's, expressing deep concern at continuing human rights violations in Iran, in particular the widespread use of the death penalty and the absence of guarantees for fair trials. It also reinstated the practice of requesting the Special Representative to submit an interim report to the General Assembly as well as a full report to the next session of the Commission. During 1992 Amnesty International continued to receive reports of serious human rights violations in Iran, including executions of prisoners following secret summary trials and reports of torture. In Iran: Unfair trials of political detainees (AI Index MDE 13/15/92), published in July 1992, Amnesty International describes its concerns about unfair trial procedures in Iran, which continue to fall far short of internationally accepted standards for fair trial. Political trials are almost always held in secret, inside prisons, with summary proceedings and no right of appeal.

Neither the detainees' family nor their lawyer can attend. There is no safeguard against torture, which is often inflicted during the period between a prisoner's arrest and trial in order to extract information or force a confession.

During April and May 1992 hundreds of arrests were reported following widespread demonstrations which occurred in several Iranian towns including Mashhad, Shiraz, Arak, Bukan and parts of Tehran in protest against the government's social and economic policies. On 10 June 1992 at least four people who had been arrested at the end of May in connection with the riots which had erupted in the city of Mashhad were reported to have been hanged in Mashhad prison following summary trials. A further four executions and five death sentences in Shiraz were announced by the official Islamic Republic News Agency, although Amnesty International fears that the true total may be higher. Executions of members of religious or ethnic minorities have also been reported, and the large numbers of executions for other crimes, especially drug trafficking offences, continue. The government's campaign against drug-trafficking has led to increasingly arbitrary arrest and summary trial procedures rapidly followed by executions. Amnesty International's concerns about the continuing high numbers of executions being carried out in Iran are detailed in Iran: Executions of prisoners continue unabated (AI Index MDE 13/8/92), published in October 1992.

Amnesty International remains concerned about continuing human rights violations in Iran and the lack of substantive change in the situation. It therefore urges the Commission to pay particularly careful attention to this situation which has been under consideration for eight years. It should continue to address human rights violations in Iran under agenda item 12.

10. IRAQ

The Special Rapporteur on Iraq detailed gross and widespread human rights violations in his first report, presented to the last session of the Commission, where he stated that "this exceptionally grave situation demands an exceptional response" (UN Doc E/CN.4/1992/31 paragraph 156). His concerns were reflected in Resolution 1992/71 which expressed strong condemnation of the massive violations of human rights against the population as a whole and particularly against the Kurdish and Shi'a Muslim communities. It expressed particular concern that the government had taken no steps to prevent further violations. The Special Rapporteur will present an interim report to the General Assembly and his full report to the next session of the Commission.

Amnesty International continues to be gravely concerned about the situation in Iraq. The situation in the marshes in southern Iraq, where thousands of suspected government opponents and army deserters remain in hiding, has been of particular concern. Scores of non-combatant civilians were extrajudicially executed in this region between April and August 1992 after government armed forces and Republican Guards launched repeated military attacks on the area, in which helicopter gunships and fighter planes were also used. The extent and persistence of the bombardment of civilian targets, which intensified in July, and the government's frequent resort to lethal force as the primary means of repressing dissent has heightened fears that the government was not only failing to discriminate between unarmed civilians and combatants but that it had apparently adopted a policy of deliberately targeting

non-combatant civilians. After the imposition of the "air exclusion zone" on 27 August several thousand people were reportedly arrested in this area. Those detained were largely non-combatant civilians, including whole families, taken from their homes and public places and transferred to unknown destinations. There were fears that many of them were later extrajudicially executed.

Tens of thousands of people arrested in previous years, including hundreds of Arabs and Kurds detained at the time of the mass uprising in April 1991, remain in detention while the fate and whereabouts of thousands of others who have "disappeared" in custody during the 1980s remain unknown. They include Kurds, Assyrians, Turcomans and both Sunni and Shi'a Arabs. Among those arrested in 1992 are 11 foreign nationals from Bangladesh, Pakistan, the Philippines, Romania, Sweden and the United Kingdom.

Reports of torture and ill-treatment of detainees have continued. A US national and a Filipino detained between December 1991 and January 1992 for illegal entry to the country stated after their release that they were thrown naked into a cell, forced to sleep on a concrete floor while blindfolded and deprived of food and water for several days. They said that they had heard the screams of other detainees being tortured, while others held with them, among them Egyptians, Syrians and Iranians, had been beaten and subjected to electric shocks. Further details have become known during the year of the torture to which US and UK military personnel were subjected while held as prisoners of war during the Gulf War. This included beatings, prolonged isolation, mock executions, sexual abuse of female personnel, electric shocks and threats of dismemberment.

Several mass graves are reported to have been found near Arbil, Sulaimaniya and other regions in northern Iraq, each apparently containing the remains of scores of Kurdish civilians and combatants who had "disappeared" in custody. One mass grave outside Arbil contained the remains of 107 Kurdish villagers killed in 1987: they were among a group of 360 people who had survived chemical weapons attacks only to be arrested while seeking medical treatment in Arbil's hospitals.

Scores of executions have been carried out during 1992 although in many cases it has not been possible to determine whether these were judicial or extrajudicial. On 26 July at least 42 merchants, traders and businessmen were executed in Baghdad after being accused of profiteering. They were among several hundred members of prominent Sunni and Shi'a families detained that month in a wave of arrests. The government stated that those executed had been tried and convicted, but reports indicated that several were just shot dead while being apprehended.

Amnesty International remains gravely concerned about the critical human rights situation in Iraq and believes that the UN should urgently resume discussion of how to implement monitoring of the human rights situation throughout the country, as suggested by the Special Rapporteur. Amnesty International urges the Commission to take up this proposal and to seek multilateral action through the UN that will effectively address the human rights situation in Iraq.

11.ISRAELI-OCCUPIED TERRITORIES

Among three resolutions adopted on the Israeli-Occupied Territories at the last session of the Commission, Resolution 1992/2, in two parts, condemned practices such as the killing and wounding of Palestinian civilians, arbitrary detention and torture.

The concerns of Amnesty International in the Israeli-Occupied Territories remained substantially unchanged in 1992, although the scale of some violations has decreased since the beginning of the intifada in 1987. The practice of administrative detention, without charge or trial, has continued. Several hundred Palestinian residents of the Occupied Territories are held at any one time in administrative detention, including prisoners of conscience. The routine denial of access of detainees to judges for 18 days, and without access to a lawyer for longer periods, facilitates the use of torture and ill-treatment.

In a report issued in May 1992 entitled Israel/South Lebanon: The Khiam Detainees: Torture and ill-treatment (AI Index MDE 15/08/92) the organization described the torture and ill-treatment of detainees during interrogation at the Khiam detention centre. Although the centre is staffed by the South Lebanon Army (SLA) militia, Israeli officials are still reported to be involved in its supervision. Detainees in Khiam are cut off from the outside world since family visits were suspended in 1988 and visits by the International Committee of the Red Cross (ICRC) have never been allowed. They appear to be held outside any legal framework.

Amnesty International has called on the Israeli authorities to review the regulations allowing prolonged incommunicado detention and the use of "a moderate measure of physical pressure" during interrogation. In 1992 at least four detainees died while being held under interrogation.

Amnesty International hopes the Commission will urge Israel to take effective steps to establish safeguards which will end these practices.

12.MYANMAR

After considering the situation in Myanmar for two years under the confidential "1503" procedure, the Commission decided in Resolution 1992/58, adopted without a vote, to appoint a Special Rapporteur to "establish direct contacts with the Government and people of Myanmar, including political leaders deprived of the liberty, their families and lawyers, with a view to examining the situation of human rights in Myanmar". The Special Rapporteur will present a first interim report to the General Assembly and a full report to the 1993 session of the Commission.

During 1992 the State Law and Order Restoration Council (SLORC), the military body which rules the Union of Myanmar (Burma), has taken some measures, including the release of some political prisoners and the revocation of two martial law orders, which might appear to be moves towards the promotion and protection of human rights. In practice these have had scant effect on the deeply entrenched disregard for human rights that has prevailed in Myanmar since 1988.

Amnesty International's report Myanmar: "No law at all" - Human rights violations under military rule (AI Index ASA 16/11/92), published in October 1992, describes how human rights continue to be blatantly violated throughout Myanmar and opposition to SLORC systematically

suppressed. Despite the release of over 700 prisoners since April 1992, hundreds remain imprisoned. Many, who have neither used nor advocated violence, are held solely because of their political, religious or other conscientiously held beliefs or because of their ethnic origin, sex, colour or language. Some of them have been held since 1988 without charge or trial; others have been convicted under laws which criminalize peaceful political activity after trials by military tribunals or civilian courts, neither of which guarantee a fair trial to anyone accused of a political offence. Political prisoners are routinely tortured or subjected to other forms of ill-treatment often during prolonged periods of incommunicado detention following arrest.

In ethnic minority areas, the military continues to detain tens of thousands of civilians to work as porters or labourers. These civilians are routinely ill-treated and even summarily killed when they become too exhausted to continue working. In military confrontations against armed insurgency, defenceless civilians have been arbitrarily arrested, tortured and killed. Minorities in areas where there is little or no armed opposition, such as the Moslems of Rakhine (Arakan) State, have also fallen victim to gross violations of their basic rights, including arbitrary arrest, torture and extrajudicial execution.

In view of the continuing serious nature of human rights violations in Myanmar and the fact that the steps taken by the SLORC are manifestly inadequate to bring these to an end, Amnesty International believes that it is highly important that the Commission maintains careful scrutiny of the situation in Myanmar and takes concrete steps to address it.

13.ROMANIA

The mandate of the Special Rapporteur on Romania, appointed by the Commission in 1989, was terminated at the last session in view of the steps taken by the government to establish a democratic government based on respect for human rights and the rule of law and its willingness to cooperate with the UN. However, as noted in the report of the Special Rapporteur (UN Doc E/CN.4/1992/28), there are still considerable shortcomings in the practical application of the new constitution and laws, the independent and impartial functioning of the judiciary and the treatment of minorities. Resolution 1992/64, adopted without a vote, requested the UN Secretary-General to report to the next session of the Commission on the government's implementation of these and other points contained in the resolution.

Following the overthrow of President Ceauşescu in December 1989, Amnesty International had welcomed the release of all known prisoners of conscience, the abolition of the death penalty and the repeal of many laws and decrees restricting human rights, including those which curtailed the right to freedom of expression and movement. It has also noted the willingness of the Romanian authorities to cooperate with the UN.

However, Amnesty International remains concerned about instances of torture and ill-treatment, particularly of minorities. For example, on 3 July 1992 between 40 and 50 soldiers of the military police unit UM 02180, based in Rahova, Bucharest, reportedly burst into the market and indiscriminately attacked Roma people there, injuring some 13 people. Amnesty International has called on the authorities to conduct an independent and impartial inquiry into the incident but has not yet received any response to its appeal. The organization is also concerned by

continuing reports of torture and ill-treatment of detainees by police.

The authorities have replied to Amnesty International's request for information about the "disappearance" of Viorel Horia, a school pupil who was 15 years old at the time of his arrest on 13 June 1990 during demonstrations in Bucharest. Although the authorities initially expressed doubts about his participation in the demonstrations, in August 1992 the Prosecutor General responded by saying that competent police authorities had been ordered to investigate reports that Viorel Horia had been held at Măgurele military base (where Amnesty International believes he was taken after his arrest) and to clarify the issue of unidentified bodies buried in Străulești cemetery where it is believed he may be buried. Amnesty International has also expressed concern to the authorities about the harassment and intimidation of Natalia Horia while she was trying to investigate her son's "disappearance". The organization has continued to call on the government to conduct a full and impartial investigation of the killing of Andrei Frumușanu and Aurica Crăiniceanu during anti-government demonstrations in September 1991.

14. SOUTH AFRICA

At its last session, the Commission noted some positive developments in South Africa including progress on negotiations for the principles and procedures of a new constitution. However, as recorded in Resolution 1992/19, it reiterated deep concerns about continuing human rights problems, including reports of arbitrary detention. It called on the authorities to take further steps to improve the human rights situation, including the effective exercise of their responsibility to maintain law and order, the impartial investigation of the conduct of security forces and state-funded organizations concerning their alleged complicity in township violence and for accession by the government to international human rights instruments.

Amnesty International's report South Africa State of Fear: Security force complicity in torture and political killings 1990-1992 (AI Index AFR 53/09/92), published in June 1992, documents incidents of politically-motivated killings, assaults, torture and other serious human rights violations by members of the security forces and others acting with their acquiescence. The report noted that, in the vast majority of cases, the security force members and others implicated in these human rights violations have not been called to account for their actions. Amnesty International concluded that the lack of vigorous and credible investigations and actions against human rights violators has reinforced a sense of impunity among the security forces and those forces acting with their acquiescence. In addition, this atmosphere of impunity resulting from official negligence was a major factor contributing to the perpetuation and escalation of political violence in the country in recent years.

As indicated in that report, Amnesty International has made a number of recommendations to the government which, if implemented, would have the effect of curbing security force direct or indirect involvement in extrajudicial executions and other human rights abuses. Amnesty International is, therefore, particularly concerned that the government, rather than taking steps to reinstate the rule of law and enforce legality and accountability among the security forces, instead signed into law on 5 November 1992 a blanket amnesty procedure to be administered in secret, and with the effect of granting immunity from prosecution to those responsible for torture, political killings and other serious human rights violations.

Amnesty International's concern is underlined by the increased evidence of the security force involvement in the ill-treatment and torture of uncharged detainees. By late October at least 105 people had died in suspicious circumstances in police custody during 1992: some of them while held under security legislation, but the majority while held for criminal investigation purposes. In response to considerable publicity in South Africa regarding the high number of deaths in custody, the government has committed itself only to ordering an internal police investigation and appointing retired magistrates to hear the complaints of detainees. However, it is hoped that the agreement reached on 5 October 1992 between the government and the International Committee of the Red Cross enabling the latter to have access for the first time to uncharged detainees may increase the protection for detainees.

Since the publication of its June report, Amnesty International has remained concerned at continuing reports of security force involvement in extrajudicial executions: whether through acts of omission, as in Boipatong on 17 June when the police failed to protect the township residents from attack by hundreds of residents of KwaMadala hostel supporting the Inkatha Freedom Party (IFP), or through the unlawful use of lethal force, as in Bisho (Ciskei) on 7 September when soldiers killed 28 unarmed African National Congress (ANC) demonstrators. Amnesty International is also concerned about the increasing evidence of the involvement of covert elements within the police and military in assassinations and massacres, occurring particularly in the province of Natal. The victims of these killings have included supporters of the IFP as well as the ANC. There is also evidence of attacks by members of the ANC's military wing (Umkhonto we Sizwe or MK) against IFP leaders and members of the security forces.

*Amnesty International is also urging the ANC to take further steps to investigate human rights violations which are reported to have taken place in ANC camps prior to 1991, to compensate the victims of these abuses, to identify those responsible for these abuses in order to bring them to justice, and ensure that they are never allowed to hold office in a future government, particularly in positions of authority relating to prisoners (see *Torture, Ill-treatment and Executions in ANC Camps*, AI Index AFR 53/27/92, to be published on 2 December 1992). Amnesty International is also calling on the governments of several African countries which hosted ANC camps to conduct full and impartial investigations into their own complicity in abuses.*

Amnesty International remains concerned about the high level of human rights violations in South Africa and believes that the Commission should continue to urge the government to introduce effective reforms promptly.

15.FORMER YUGOSLAVIA

Amnesty International welcomed the first special session of the Commission held in August to discuss the situation in the former Yugoslavia and the appointment of a Special Rapporteur who, with representatives of the Commission's thematic mechanisms and other experts, has now paid two visits to the area. The Special Rapporteur will present his interim report to the General Assembly and his full report to the next session of the Commission.

In October 1992 Amnesty International sent an open letter (AI Index: EUR 48/27/92) to states participating in, or members of, intergovernmental bodies which have taken various initiatives relevant to the human rights situation in the former Yugoslavia. In addition to the UN Commission on Human Rights, these include the European Community, the steering committee on the former Yugoslavia of the Conference on Security and Cooperation in Europe, the UN-EC International Conference on the former Yugoslavia, the Organization of Islamic Conference contact group on the situation in Bosnia-Herzegovina and the UN Security Council. Among other matters raised, the open letter reaffirmed that Amnesty International considers that the Special Rapporteur should play a central role in documenting the human rights situation and making recommendations about preventive measures. Amnesty International has urged all governments actively to support his work, by ensuring that the UN provides him with sufficient resources to carry out his task, including basing members of his staff in the field.

The open letter also emphasised the importance of improving the coordination of various intergovernmental human rights initiatives, through regular consultations between the UN and relevant agencies, the CSCE and participants in the Geneva-based International Conference on the former Yugoslavia.

Bosnia-Herzegovina

The results of Amnesty International's own research has been published in Bosnia-Herzegovina: Gross abuses of basic human rights (AI Index EUR 63/01/92), October 1992, covering the period from April to August 1992 and based on eye-witness testimony collected in fact-finding visits to Serbia, Croatia and Hungary in June and August 1992. The information collected shows that most of the people detained were held either to be used in hostage exchanges later on or to intimidate the detainees into leaving their community as part of the process of "ethnic cleansing". While the vast majority of the reported human rights abuses have been carried out by Serbian forces, the report also covers abuses committed by Bosnian Government forces. Amnesty International is investigating reports of abuses by Croatian forces in Bosnia-Herzegovina. Indeed, the organization continues to investigate reports of abuses by all parties and will issue updated information on its findings.

The testimony received by Amnesty International makes it clear that the majority of detainees are non-combatants. Thousands of civilians - particularly Muslims - have been detained solely because of their nationality or political affiliation. Amnesty International considers these people to be prisoners of conscience who must be unconditionally released.

Torture and ill-treatment by soldiers or police have been routine, sometimes resulting in death. The beatings have often started as soon as detainees were picked up, continued while they were being transported and during interrogation and detention. The most common form of torture and ill-treatment has been beatings with objects near to hand, such as rifle butts, and kicking or punching. In addition, Amnesty International has received many reports of rape, most of which centre on the detention camp at Trnopolje, mainly of young women in their teens who were reported to have been taken at night and raped by Serbian guards. However, the sensitivity of this issue means that many victims are reluctant to provide testimony.

Detention conditions often amount to cruel, inhuman or degrading treatment. Those held for a long time were often shuffled from one detention centre to another, where many of the detainees have said they were kept in small rooms or cells with dozens of other people, and given not much more than bread and water to eat.

Large but unquantifiable numbers of people have certainly been deliberately and arbitrarily killed in Bosnia-Herzegovina, although it has been difficult to substantiate allegations of mass killings in places of detention; Amnesty International is seeking further information on such reports.

Leaders of parties to the conflict within Bosnia-Herzegovina, as well as the Governments of the Federal Republic of Yugoslavia and Croatia, must all bear some responsibility for human rights abuses which have occurred. Amnesty International has called on them to ensure that their forces strictly respect and adhere to international human rights and humanitarian law standards. The organization has also called for the unconditional release of all prisoners detained solely because of their national origin or held as hostages, with adequate protection for their safety following their release. The International Committee of the Red Cross must be granted full access to all places of detention. Amnesty International has also called upon all the parties to initiate full and impartial investigations into gross human rights abuses. Anyone who ordered or carried out such abuses must be brought to justice. Furthermore, all parties to the conflict must give unimpeded access to all areas under their control to missions dispatched by humanitarian organizations and intergovernmental organizations, with guarantees that people who provide information to these missions will not suffer reprisals.

Kosovo province, Serbia

Amnesty International is increasingly disturbed by continuing reports of repression, arrests and beatings in Kosovo province, carried out by the largely Serbian security forces against the majority ethnic Albanians. It fears that the tensions in Kosovo risk flaring up into catastrophic ethnic violence of the kind already seen in Bosnia-Herzegovina. In June 1992 Amnesty International documented the almost daily reports of the torture and ill-treatment of ethnic Albanians by the police, sometimes resulting in death, in Yugoslavia: Ethnic Albanians - Victims of torture and ill-treatment by police in Kosovo province (AI Index EUR 48/18/92).

III OTHER COUNTRY SITUATIONS

1. PERU

The last session of the Sub-Commission adopted Resolution 1992/12 on support for the restoration of democracy in Peru. Amnesty International welcomed this move as the first ever UN resolution on Peru and an expression of the Sub-Commission's deep concern about serious events which have taken place since 5 April when the President dissolved the National Congress, altered the composition of the courts and suspended essential functions of the

judiciary. However, it was concerned that the resolution did not refer to the serious situation of human rights violations in the country.

A pattern of widespread "disappearances", extrajudicial executions and torture by members of the security forces has been documented by Amnesty International since January 1983, following the placing of state of emergency zones under the political-military control of the armed forces. Since then the organization has documented at least 4,000 cases of people who reportedly "disappeared" following arrest, and some further 500 people who were summarily executed in 18 separate massacres. The Public Ministry, headed by the Attorney General, has documented over 5,000 people who "disappeared" in the same period. The fate of the vast majority of these victims has never been clarified and, with rare exceptions, the perpetrators have never been brought to trial and convicted.

Despite repeated statements made since July 1990 by President Alberto Fujimori that his government is pursuing a policy of full respect for human rights, the pattern of violations has been maintained throughout his administration and a sense of impunity continues to be enjoyed by members of the security forces.

On 5 April 1992 President Fujimori broadcast a speech to the nation in which he announced the immediate dissolution of Congress and the setting up of a transitional, executive-led Government of Emergency and National Reconstruction. In his speech the President also announced that the judiciary, Public Ministry, Congress and the Constitution were to be comprehensively reformed. In the wake of the announcement the judiciary and Public Ministry were effectively closed for a period of four weeks, during which denunciations of human rights violations and habeas corpus petitions could not be filed with the authorities. The dissolution of Congress meant that several commissions in the Chamber of Deputies and Senate with a responsibility for investigating human rights violations and the extent of political violence in Peru were prevented from continuing with their work.

Since the April announcement President Fujimori and his Council of Ministers, with the full political backing of the Armed Forces Joint Command, has ruled the country by Decree Law. The new decree laws have included new counter-insurgency legislation designed to widen the legal definition of "acts of terrorism", expedite the judicial handling of cases in which the accused have been charged under the anti-terrorism laws, and lengthen the terms of imprisonment for those found guilty.

The new anti-terrorist legislation includes Decree Law N° 25,475 issued on 6 May 1992. This law specifies a wide range of criminal acts as terrorist and for which the penalties range from five years to life. On 13 August 1992 Law N° 25,659, which defines the crime of treason was issued. Article 6 of this law states that at no stage of police and judicial procedures involving those charged under the provisions made in Decree Law N° 25,475 and 25,659, may a petition for habeas corpus be filed in favour of the defendant. This latter decree law also states that civilians accused of treason are to be tried by military tribunals and those found guilty are to be sentenced to life imprisonment. Since this law came into effect several people have been detained, charged, tried and convicted on charges of treason.

The secret nature of trials conducted under the military system of justice precludes the possibility of independent observers having access to the trials. However, on the basis of information received from independent Peruvian jurists and lawyers working for human rights organizations in Peru, Amnesty International believes that the measures put into effect by President Fujimori's anti-terrorist legislation are conducive to the holding of treason trials in which the defendants' rights are violated. In particular Amnesty International is concerned that the suspension of the right to habeas corpus; the inadequate periods of time allowed for the preparation, hearing, conviction, sentencing and appeals; and the fact that military tribunals which try civilians may lack independence and impartiality contribute to the serious erosion of standards enshrined in international human rights treaties which Peru has ratified.

In October President Fujimori announced publicly that the government was to take the necessary steps to withdraw its obligations to abide by those articles of the American Convention on Human Rights which prohibit the extension of the death penalty. Article 4.3 states that "[t]he death penalty shall not be re-established in states that have abolished it" and article 4.4 that "[i]n no case shall capital punishment be inflicted for political offences or related common crimes". Peru ratified the Convention in 1978. The President and other representatives of the government have stated that they advocate that those convicted of treason under the new anti-terrorist legislation should be sentenced to death.

Amnesty International believes that by taking such a step the Government of Peru would seriously undermine the protection of the right to life -- one of the central tenets of the Convention -- and the spirit in which the American system for the protection of human rights has been strengthened over the past two decades.

Atrocities by the armed opposition group Partido Comunista del Perú (Sendero Luminoso), PCP, Communist Party of Peru (Shining Path), including the execution-like killing of captives, first reported in 1980, continued to be widespread throughout 1992. Since 1983 Amnesty International has repeatedly and firmly condemned the torture and killing of people held captive by the PCP and the Movimiento Revolucionario Túpac Amaru, MRTA, Túpac Amaru Revolutionary Movement. Following a decision taken by Amnesty International in September 1991 to extend its condemnation of such abuses, the organization has expressed its unqualified opposition to the arbitrary and deliberate killing by these groups of defenceless civilians not directly involved in the armed conflict, and of security forces who are hors de combat, or who have been incapacitated, have surrendered or been detained. At the end of October 1992 these atrocities, including the execution-like killing of captives, continued to be widely perpetrated by the PCP.

In view of its continuing serious concerns about human rights violations in Peru since the dissolution of Congress in April 1992, Amnesty International believes that the situation requires the Commission's closest scrutiny.

2. SRI LANKA

As noted in Section I above, the Working Group on Enforced or Involuntary Disappearances has just paid a second visit to Sri Lanka to monitor the implementation of recommendations from its

first visit in October 1991. In addition, the government has extended an invitation for the Special Rapporteur on summary or arbitrary executions to carry out an on-site visit.

The government of Sri Lanka is displaying much greater openness to scrutiny by international human rights organizations, and has established new internal mechanisms to monitor and investigate certain kinds of violations. However, grave human rights violations - including "disappearances", extrajudicial executions and torture - continue to be committed, albeit at a lower rate than a year ago. Many of the 30 recommendations made by Amnesty International which the government accepted in 1991 have yet to be implemented, including those specifically intended to protect all persons in custody. To date there is no complete, central register of detainees available to the public, and no list of authorised places of detention has been published.

The army in particular has failed to implement Amnesty International's recommendations for the protection of prisoners. Military officers have admitted to Amnesty International that the army holds certain prisoners in unacknowledged detention for periods varying from a few days to a few weeks, with no written record of the arrest and hidden from the International Committee of the Red Cross. Only when the prisoner is handed to the custody of the police does record-keeping start in these cases. Such conditions put prisoners at particular risk of gross violations. Amnesty International found that orders issued by army headquarters in July 1992 regarding arrest and detention procedures are not necessarily followed in practice: for example, no "receipts" are issued to relatives of prisoners taken during cordon and search operations and arrests are not reported as a matter of routine to the Human Rights Task Force, which has the task of compiling a register of detainees. In addition, several Amnesty International recommendations were only accepted in greatly weakened form by the military, so that they no longer provide the intended safeguards. For example, the recommendation that the battalion or detachment to which a soldier belongs should be clearly marked on all military uniforms has only been partially accepted: while operational, soldiers are not required to wear any such insignia.

Prisoners are still not taken before a judicial authority promptly after arrest. Indeed, neither Emergency Regulations nor the Prevention of Terrorism Act require that this be done. The Human Rights Centre at the University of Colombo is currently reviewing the Emergency Regulations, and is expected to make recommendations to the government about amendments to the regulations. The government has not yet made known which areas of the regulations it may be willing to revise.

A review of command and control structures in the security forces was announced, but the committee has not yet reached any conclusions. Impunity remains a serious problem. Although several cases have been brought against security forces personnel believed to have perpetrated human rights violations, no satisfactory conclusion has yet been reached in any case. Inquiries into human rights violations are not always conducted by independent authorities, and the cases are not necessarily brought before civilian courts. Most recently, a military tribunal failed to find any soldier responsible for the murder of villagers at Kokkadichcholai in June 1991, although it did convict one officer on lesser charges.

Compensation is not yet being paid to the relatives of the "disappeared". Draft legislation on compensation has been prepared, but Amnesty International understands that the central issue of whether victims of violations by government forces will be eligible for compensation is still to be decided.

The recently-established Human Rights Task Force (HRTF) has not been granted sufficient powers to fulfil its task adequately. Its register of detainees contains only those prisoners who have been seen by HRTF officers in person. In the absence of a full list of all authorised places of detention, the HRTF cannot know whether or not it has visited all places of detention. Several regional HRTF offices have been opened, as Amnesty International recommended, and there is a 24-hour service in Colombo, but at present not all HRTF officers have unrestricted access to army camps, police stations and other detention centres. Only the Chairman of the HRTF, Justice Soza, appears to visit detainees in army camps and the ability of other HRTF officers to visit detainees in police custody varies in different areas. As arrests, transfers and releases are not immediately reported to the HRTF by either the army or the police, it is not possible for the HRTF to maintain a complete, up-to-date register of detainees.

The Presidential Commission of Inquiry into Involuntary Removals continues its hearings in Colombo. It is only empowered to investigate "disappearances" which occurred after 11 January 1991, leaving the tens of thousands of cases which took place before that date beyond scrutiny. So far, it has not made any recommendations about the prevention of "disappearances". Government officers have been nominated in the regions most affected to receive complaints on behalf of the Commission, which they forward to the Commission office in Colombo. To date, no hearings have been held outside Colombo, although the Commissioners told Amnesty International's delegates that if the need arose, they would consider sitting in other areas. The Commission has received hundreds of complaints which fall within its terms of reference, many of which are under investigation. To date, it has not investigated any "disappearance" believed to have been perpetrated by the army. It has completed its hearings into only six cases of "disappearance" so far, and submitted its conclusions in these cases to the President of Sri Lanka, who has yet to announce whether there will be any prosecutions against police personnel on the basis of these findings. The reports are expected to be published as government Sessional Papers, but no publication date has yet been set. In one case, the Attorney General stopped murder proceedings against a police officer believed responsible for a "disappearance", because the Commission's findings had not tallied with the findings of an inquiry which the Criminal Investigation Department had already held into the case. The Commission had concluded that the victim had been transferred to a particular police station before his "disappearance", but had been unable to identify the particular police officer responsible.

Amnesty International considers that it of the highest importance for the Commission to pay particular attention to reports of on-site and follow-up visits made by the Commission thematic mechanisms. It should ensure that all conclusions and recommendations arising from these visits are fully addressed by the Commission in its debate under agenda item 10 until they have been effectively implemented by the government.

3.SUDAN

As the Chairman of the Commission announced at the last session of the Commission, Sudan has been under discussion in the confidential "1503" procedure. However, Amnesty International feels that recent and serious developments in the country make this discussion more appropriate to the public agenda. It urges the Commission to pay particular attention to the grave human rights situation in Sudan, for which public scrutiny should be instituted at the next session.

Human rights violations in Sudan continue in the context of the repression of independent civil society in northern Sudan and armed conflict in the south and west of the country. In Khartoum and other major cities in the north, the pattern of short term detention by various state security agencies in secret detention centres, known in Sudan as "ghost houses", persists. Most detainees are held for periods ranging from a few days to, more commonly, several months. At any one time during the past 12 months between 200 and 300 people were known to be held in detention centres in Khartoum. For example, in August 1992 at least 14 trade unionists were taken into incommunicado detention while hundreds of others were required to report daily to security offices. The arrested trade unionists were still detained in November 1992.

Although the general pattern was for periods of detention to average around three months, dozens of prisoners were held for much longer. For example, among those remaining in detention in November 1992 were an Ethiopian refugee, arrested in March 1990 and held in Kober Prison in Khartoum; six men suspected of being members of the banned Sudan Communist Party, arrested in April 1992 and held in an unknown location; and at least two members of the banned Ba'ath Arab Socialist Party, arrested in May 1992 and held in a "ghost house".

In July 1992, the government announced the release of 59 political prisoners from several prisons in different parts of northern Sudan, the majority of whom had been tried by military courts whose procedures failed to reach internationally accepted standards of fairness. They were convicted of involvement in various attempts to overthrow the government since June 1989. An unknown number of detainees, possibly as many as 50, whose detention had never been officially acknowledged, were also released.

Former detainees report that torture and ill-treatment by security officials at the security headquarters in Khartoum and in "ghost houses" remains common. Ill-treatment includes being made to perform military-style physical exercises and being beaten. Beatings are particularly common on arrival at "ghost houses". More severe torture during interrogation is also reported to be taking place. Amnesty International has received reports of prisoners being deliberately burned, submitted to electric shocks and subjected to severe beatings.

In the south and west of the country, where the government is facing armed opposition from the Sudan People's Liberation Army (SPLA), human rights violations are contributing to an emerging humanitarian disaster. During 1992 the government has fought a counter-insurgency campaign in the Nuba Mountains which has involved the destruction of villages, the forcible relocation of tens of thousands of civilians and the detention without charge or trial of at least 100 prisoners. There is considerable concern that many of these prisoners have "disappeared".

Over the past three years Amnesty International has received several reports from the Nuba Mountains describing extrajudicial executions. The most recent incident took place in June 1992 when at least 16 civilians were reportedly extrajudicially executed at al-Faus in South Kordofan.

In the southern Sudanese city of Juba, which is besieged by the SPLA, hundreds of people were detained and over 300 civilians, southern Sudanese soldiers and policemen are reported to have been extrajudicially executed by government forces following SPLA assaults on the city in June and July 1992. In June seven southern Sudanese soldiers detained on suspicion of collaborating with the SPLA were extrajudicially executed. In July at least 200 civilians were extrajudicially executed by government troops moving from house to house through a suburb recently evacuated by the SPLA. In the same month at least 40 more southern Sudanese Government soldiers suspected of assisting the SPLA were extrajudicially executed. In August the authorities detained many civilians, including civil servants, Sudanese employees of international relief organizations and the United Nations as well as a priest. The government has acknowledged the deaths of an employee of the United States Agency for International Development (USAID) and an employee of the European Community, who it says were executed after they were convicted of treason by a military court. Such courts do not allow proper defence representation nor the right of appeal to a higher tribunal. The government has not accounted for the many other people known to have been detained. It is feared that they have been extrajudicially executed.

The principal detention centre in Juba is in the city's main barracks. Former detainees report that psychological and physical torture is commonplace there. Amnesty International has received testimony describing torture involving scalding prisoners with boiling water, the pressing of hot heated irons against skin, sealing a prisoner's head into a plastic bag containing chili pepper and severe beatings.

The Sudan People's Liberation Army (SPLA) has also been responsible for grave human rights abuses. The killing in September 1992 by SPLA soldiers of three foreign aid workers (two of whom were UN employees) and a journalist in Eastern Equatoria are particularly well documented but they were among more than 2000 civilians deliberately and arbitrarily killed by SPLA forces in the past 12 months.

IV ADVISORY SERVICES AND TECHNICAL COOPERATION (Agenda item 21)

The next session of the Commission will have before it the report of the UN Secretary-General on progress in the implementation of the program of advisory services. There are currently no country situations on the Commission's provisional agenda under item 21 although, as noted above in Section II, the Commission will have to decide on the agenda items for El Salvador and Guatemala at the start of its next session.

Resolution 1992/80 restated the aims of the advisory services and technical cooperation programs and noted steps taken towards clarifying procedures for the identification, implementation and evaluation of projects. It drew a clear distinction between activities under the regular program of advisory services and the technical cooperation projects financed under

the Voluntary Fund. Thus a program decided by the Commission, such as those that have been implemented on Guatemala or Equatorial Guinea, are funded by the regular UN budget while projects requested by states are usually supported from the Voluntary Fund. While Amnesty International believes that the advisory services and technical assistance programs have a potentially important role in the promotion and protection of human rights, it believes that they should not be used in a way that allows a government to evade accountability for or avoid scrutiny of the human rights situation in its country.

When the Commission is considering the provision of advisory services, Amnesty International believes that the Commission should first appoint an independent expert to carry out a thorough analysis of the state of human rights in the country concerned and of the factors which contribute to continuing violations. This analysis should take into account information from the government as well as that provided by other UN human rights bodies, including the thematic mechanisms and, where appropriate, information from the treaty monitoring bodies as well as from non-governmental organizations. Only if this information is available can the Commission, guided by the expert's recommendations, objectively evaluate the effects of assistance programs that may have already been implemented and decide what future action will lead to a real improvement in the protection of human rights. It is of the utmost importance that the Commission does not continue to mandate the provision of advisory services for particular countries year after year without this process of analysis and evaluation.

Some progress has been made in clarifying issues of policy and criteria in the selection and implementation of technical assistance projects under the Voluntary Fund. However, Amnesty International believes that there is still a need for greater transparency in the formulation and, particularly, in the evaluation of projects. It is important that there are clearly designed policies and procedures in the Centre for Human Rights, so that the limited resources of the Voluntary Fund are put to the most effective use in projects that are firmly within the area of the Centre's expertise and, where appropriate, in cooperation with the specialized agencies. It is important that the Commission formalize the role of national and international non-governmental organizations in this process and utilize their information, which is often already available to the UN, in the design, implementation and evaluation of projects.

VSTANDARD SETTING

1.HUMAN RIGHTS DEFENDERS (Agenda item 23)

In January 1993 the Commission's Working Group will continue its discussion on the draft Declaration on the rights and responsibilities of individuals, groups and organs of society to promote and protect universally-recognized human rights and fundamental freedoms, commonly referred to as the "Declaration on human rights defenders".

Amnesty International welcomed the progress made at the last meeting of the Working Group in completing the first reading of the draft Declaration. In line with Resolution 1992/82, it hopes that in 1993 the Working Group will be able to complete its second reading, including finalization

of outstanding elements in the light of comments made by governments and non-governmental organizations, and that the text can be adopted by the Commission and transmitted to the higher bodies of the UN for final adoption. It would be particularly timely for the Commission to do all it can to ensure that this instrument is adopted in 1993, the year of the UN World Conference on Human Rights when the work of human rights defenders in all parts of the world should receive the recognition and renewed support of the international community.

Amnesty International has submitted two points with regard to the outstanding elements in the text. The first proposal is for a clear statement of the right of those involved in human rights work to draw public attention to relevant issues concerning the promotion and protection of human rights at the international as well as the national level. The second proposal is for a clear statement concerning the right for international trial observers to attend trials, in addition to the right to observe such proceedings at the national level which is already included in the text. Amnesty International hopes that the Working Group will take careful note of these points and that these elements will be included in the final text of this instrument.

Related to this issue is Resolution 1992/59, on cooperation with representatives of UN human rights bodies. Amnesty International welcomes its renewed call to governments to refrain from all acts of intimidation and reprisal against groups who cooperate with the UN and representatives of its human rights bodies. Considering the abuses suffered by human rights workers and activists in all regions of the world, Amnesty International hopes that the Commission will consider carefully the information compiled by the UN Secretary-General in accordance with this resolution and will agree to further measures to ensure the protection of all those who uphold human rights, often at great risk to themselves. Bearing in mind that human rights workers and activists often become victims themselves before they have had the opportunity to invoke the procedures and remedies afforded by the UN, Amnesty International would urge that the Commission extends the scope of this resolution to cover all human rights defenders.

2.DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE (Agenda item 10 (d))

Amnesty International welcomed, and actively participated in, the first session of the Working Group on the draft Optional Protocol to the Convention against Torture in October 1992. The task of this Working Group is to elaborate an instrument providing for the regular inspection of places of detention throughout the world, using the revised text submitted by Costa Rica as the basis for discussions.

At the Working Group's session, governments from all regions, non-governmental organizations and invited experts engaged in a constructive exchange of views on the conceptual and policy issues raised by the instrument. The discussion highlighted strengths of the existing text as well as issues which need further consideration. The report of the Working Group indicated that the discussion recognize in principle the importance of regular visits to places of detention in order to strengthen the protection for detainees from torture and other cruel, inhuman and degrading treatment or punishment. It goes on to affirm that a preventive mechanism providing for this would be of considerable value as an element in the universal protection of human rights.

Amnesty International shared the conclusion of the Working Group that useful progress was made at this initial meeting and that work on the draft should continue. It hopes that the Commission will again request the Working Group to meet for a further two weeks prior to the 1994 session of the Commission to continue work on this instrument with a view to its early completion.

The Working Group concluded that substantial progress on the elaboration of the text could be achieved within a reasonable period of time and Amnesty International therefore hopes that the second session of the Working Group will focus on seeking substantial agreement on the actual text. It welcomed the informal working methods adopted by the Working Group, particularly the valuable participation of representatives from the European Committee for the Prevention of Torture, the UN Committee against Torture and the International Committee of the Red Cross, as well as the Special Rapporteur on torture. The continuing involvement of these and other experts who have comparative experience in this field will be essential at future sessions of the Working Group, as will the active participation of a wide range of governments and non-governmental organizations from all regions of the world.

VITHE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (Agenda item 17)

Amnesty International believes it to be of great importance that all states should ratify or accede to international human rights instruments, in particular the International Covenant on Civil and Political Rights (ICCPR), its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Furthermore, Amnesty International believes that states should ratify or accede to these instruments without limiting reservations, declarations or understandings which undermine the guarantees contained in the treaties and call into question the willingness of a state to comply fully with its international obligations under these treaties. It believes that the Commission should pay particular attention to this question in 1993, the year of the World Conference on Human Rights. Universal ratification of all major international human rights instruments should be a fundamental goal of the international community on the occasion of the first high-level summit on human rights for 25 years.

During 1992, Amnesty International has been pleased to note the ratification of or accession to the ICCPR by Angola, Azerbaydzhan, Benin, Brazil, Cambodia, Cote d'Ivoire, Croatia, Guatemala, Latvia, Lesotho, Paraguay, Seychelles, Slovenia, Switzerland and the USA. Amnesty International has also welcomed the ratification of or accession to the ICESCR by Angola, Azerbaydzhan, Benin, Brazil, Cape Verde, Cote d'Ivoire, Croatia, Latvia, Lesotho, Paraguay, Slovenia and Switzerland. In respect of the Convention against Torture, Benin, Cambodia, Cape Verde, Croatia, Latvia and the Seychelles either ratified or acceded to this treaty during the year. This makes a total of 115 States Parties to the ICCPR, 65 to its first Optional Protocol, 11 to its Second Optional Protocol aiming at the abolition of the death penalty, 116 to the ICESCR, and 71 to the Convention against Torture. Of the 53 members of the Commission in 1993, only four, Australia, Finland, the Netherlands and Portugal, have ratified all five of these instruments.

Amnesty International is disappointed to note that nine members of the Commission have neither ratified nor signed the ICCPR, its Optional Protocols, and the ICESCR. They are Bangladesh, China, Cuba, Guinea-Bissau, Indonesia, Malaysia, Mauritania, Nigeria and Pakistan. China has ratified CAT; the remaining eight members of the Commission have not ratified any of these international human rights treaties. Amnesty International believes that it is essential that these members of the Commission ratify or accede to these human rights instruments as a matter of priority. The Commission, as a body, should strongly encourage all states to do the same.

Amnesty International also considers that those states which have already taken this step should carefully examine any limiting reservations which may have been made at the time of ratification, with a view to their withdrawal. In addition, States Parties should take all necessary steps to cooperate fully with the monitoring bodies established under these instruments.

VI REFUGEE ISSUES: MASS EXODUSES (Agenda item 12)

The number of refugees is increasing and intergovernmental organizations at both regional and universal levels are becoming more involved in the search for solutions to their plight. Within the United Nations system, the agency which is most directly involved is the United Nations High Commissioner for Refugees, which is responsible for ensuring the protection of refugees and for seeking durable solutions for them. The increasing numbers of refugees in recent years has led the international community to focus more attention on the "root causes" of refugee movements, and the necessity of tackling those problems to mitigate or prevent the causes of flight. When, as so often happens, people flee across international borders to escape a situation where they are threatened with serious and widespread human rights violations, it is the obligation of the international community, and especially of the Commission as the main UN human rights body, to address the human rights violations which caused them to flee, and to bring pressure to bear on the country they have fled to abide by its international human rights obligations.

The Commission has given some recognition to this problem. A regular resolution on human rights and mass exoduses has been dealt with by the Commission for a number of years, but it has not proved a satisfactory way of addressing the problem. The particular human rights violations causing refugees to flee have not been sufficiently examined or dealt with in the context of this resolution, and the Commission has not formulated any specific proposals or recommendations in this regard.

The Office of the UN High Commissioner for Refugees has made a statement to the Commission each year since 1988, drawing attention to the need for the Commission to become more actively involved in situations where human rights violations are causing people to flee, and also in ensuring that states observe their human rights obligations regarding the protection of refugees and asylum-seekers. At last year's session of the Commission, the High Commissioner noted that it needs clearly to be recognized that human rights violations are a major factor of many coerced departures and that prevention of such violations is the best protection for refugees. The High Commissioner went on to suggest a number of practical steps that might be taken by the Commission and, of particular interest, called for the establishment of

a separate item on the Commission's agenda providing a more thorough and focused examination of violations of human rights and population displacements. She suggested that UNHCR could present a report each year on the state of the world's refugees under that agenda item.

Amnesty International believes that this proposal should be taken up by the Commission at its next session and a separate agenda item on refugees and displaced persons should be established in the context of the overall rationalization of the Commission's program of work. The purpose of establishing this agenda item would be twofold. Firstly, it would establish an explicit focal point in the Commission whereby a link is made between countries where human rights violations cause refugees to flee, and implementation activities undertaken generally by other Commission bodies. Secondly, by drawing attention, in appropriate situations, to the serious human rights violations which have led people to flee, this will help to ensure that those who have fled, but are at risk of serious human rights violations if returned, are provided with adequate protection until it is safe for them to go home.

The establishment of a separate agenda item for such questions would not have the purpose of taking over the traditional protection activities undertaken by the UNHCR; rather the role of the Commission would be, in appropriate cases, to provide support for the work of UNHCR and to independently address the human rights violations which lead people to flee.

VIIIFREEDOM OF OPINION AND EXPRESSION (Agenda item 10)

Freedom of opinion and expression has been the subject of a study in the Sub-Commission since 1989, and resolutions on this topic have been adopted at successive sessions of the Commission since 1984. Resolution 1992/22 reiterated the Commission's appeal for all states to respect these and related rights and to release immediately any person detained solely for their exercise. It included the suggestion, first proposed by the Sub-Commission, that the Working Groups on Enforced or Involuntary Disappearances and on Arbitrary Detention, as well as the other thematic mechanisms, should pay particular attention to violations against those who have exercised their rights to freedom of opinion and expression. The Sub-Commission should have completed its study on this topic at its last session; however, there was little discussion and no resolution was adopted on the final report, recommendations and conclusions submitted by the Special Rapporteurs.

At its next session, the Commission will review this matter in the light of the Special Rapporteurs' report to the Sub-Commission. Amnesty International hopes that the Commission will urge the Sub-Commission to complete its discussions at its next session. Recommendation IIB contained in the Special Rapporteurs' report (UN Doc E/CN.4/Sub.2/1992/9/Add.1) suggested a new Commission mechanism, or a report by the UN Secretary-General, to protect professionals in the field of information. Amnesty International hopes that future discussions of these proposals will take into account the full diversity of occupations of those whose human rights are violated because of they have exercised their rights to freedom of opinion and expression.

IX STRENGTHENING OF THE CENTRE FOR HUMAN RIGHTS (Agenda item 11)

At its last session the Commission adopted Resolution 1992/53 on the strengthening of the Centre for Human Rights. This emphasized the importance of adequate staffing and other resources for the Centre to respond to its increasing workload, including the preparations for the World Conference on Human Rights.

Amnesty International believes that the Centre for Human Rights urgently needs significantly enhanced resources if the work of the Commission and other UN human rights bodies is to be carried out promptly and effectively. This point has been made by the Special Rapporteurs and Working Groups of the thematic mechanisms, who have also raised the need for provision of technical experts such as forensic specialists. Other needs have been identified by the chairpersons of the treaty monitoring bodies meeting in Geneva in October 1992. Their recommendations have included the establishment of a centralized information and documentation unit, a resource room where basic documentation is easily accessible and computerization of information related to the treaty bodies.

In addition to the growing workload of the thematic mechanisms, the Centre is having to cope with the additional demands of the World Conference on Human Rights and an increased number of country mechanisms, including the first exceptional session of the Commission in August 1992 on the situation in the former Yugoslavia.

X CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (Agenda item 26)

The right of everyone to refuse to perform military service on the grounds of conscientiously-held beliefs is a legitimate exercise of the right to freedom of thought, conscience and religion. This was expressly recognized by the Commission in Resolution 1989/59 which also called on all states with a system of compulsory military service to provide alternative service for conscientious objectors and to refrain from imprisoning them. The resolution emphasized that the alternative service should be of a non-combatant or civilian character, in the public interest and not of a punitive character. It called on states to establish independent and impartial decision-making bodies with the task of determining whether a conscientious decision is valid in a specific case.

Unfortunately, the Commission did not further develop its recommendations in this area when it briefly considered the issue at its 1991 session. The 49th session of the Commission, which will again consider the issue, provides an important opportunity both to encourage all states to fully implement the 1989 resolution and to strengthen protection of this fundamental right.

Amnesty International is concerned that despite the Commission's 1989 resolution, some states still have not introduced any domestic legislation and procedures to give effect to the right to conscientious objection to military service. Persons in these countries who object to military service are routinely imprisoned or forced into military service. Other states have not implemented the recommendation of the Commission that forms of alternative service should not be of a punitive nature and should be of a civilian character. Amnesty International would

urge the Commission to take the necessary steps to ensure that all aspects of the 1989 resolution are implemented by governments.

In some countries only limited grounds for refusal, such as religious motives, are deemed acceptable and those who object on other grounds may be imprisoned. Amnesty International considers that people have a right to refuse to perform military service for reasons of conscience or profound conviction arising not only from religious motives, but also from ethical, moral, humanitarian, philosophical, political or similar motives. These are all motives which legitimately fall within the scope of the right to freedom of thought, conscience and religion and the organization hopes that the Commission will expressly recognize the legitimacy of such motives.

In some countries there is no right to claim conscientious objection based on conscience or profound conviction developed after conscription into the armed services. The Commission should recognize that the right to claim conscientious objection extends to such situations and applies equally to volunteers who subsequently develop conscientious objections. Amnesty International has adopted as prisoners of conscience conscientious objectors imprisoned for leaving the armed forces, who did not use the means which do exist to apply for conscientious objection because they were deprived of reasonable access to information about the procedures by which to exercise these rights. Amnesty International urges the Commission to affirm the positive obligation of governments to disseminate such information and not to imprison individuals whose enjoyment of the right to conscientious objection is nullified because they have been deprived of reasonable access to this information.

Amnesty International would also urge the Commission to recognize that a person has a right to refuse to perform not only armed service, but any other direct or indirect participation in wars or armed conflicts. Furthermore, a person may object to participation in a specific conflict but still be willing to serve in the armed forces or serve in a different conflict. As long as such a refusal is for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical, political or similar motives, this too is a legitimate expression of the right to freedom of thought, conscience and religion and should be recognized as such by the Commission.

XIWORLD CONFERENCE ON HUMAN RIGHTS (Agenda item 25)

Amnesty International has been deeply concerned about the lack of progress by the Preparatory Committee on the World Conference on Human Rights, particularly on substantive issues. The third session of the Preparatory Committee was unable even to adopt an agenda for the Conference although it is hoped that, by the time of the 1993 Commission session, the General Assembly will have been able to agree on the agenda. The very late decisions on the participation of non-governmental organizations in the regional meetings and the Conference itself, particularly those without consultative status with ECOSOC, has also greatly impeded the preparations and contribution to the Conference of non-governmental organizations which it is very regrettable. Very little time now remains before the Conference takes place in Vienna. As the principal human rights body of the UN, Amnesty International believes that the Commission

has a special responsibility to ensure that this Conference lives up to the high expectations which rest on this first world summit meeting on human rights for 25 years. It hopes that the Commission will be able at its next session to discuss further the substantive objectives and outcome of the Conference and provide the Preparatory Committee with guidance and recommendations, as has been the case at the last two Commission sessions where useful resolutions on the World Conference have been adopted, Resolution 1991/30 and Resolution 1992/37.

In this regard, it is also regrettable that the Commission on Human Rights was not represented as such at the first regional preparatory meeting for Africa, held in Tunis from 2-6 October 1992. These regional meetings are an integral part of the preparations for the World Conference and it would seem to be highly desirable for the main UN human rights body to be represented and to make a contribution. Amnesty International hopes that the Commission will be represented at the regional meetings for Latin America (expected to take place in January 1993 before the Commission meets) and Asia.

Amnesty International is also concerned about the very limited possibilities which there have been for participation in the preparatory work for the World Conference by the Commission's own experts, especially its thematic rapporteurs and working groups and its country rapporteurs, as well as representatives of the treaty-monitoring bodies. Rule 65 of the Rules of Procedure of the World Conference clearly establishes their role as observers at the Conference. Yet there have been some difficulties experienced by these experts in participating fully and actively in the Preparatory Committee sessions. Although representatives of a number of the treaty-monitoring bodies have attended the Preparatory Committee sessions regularly, for example, and have put forward a number of constructive recommendations there has been little opportunity for them otherwise to make real input or a significant contribution to the on-going work. The treaty bodies themselves have raised their concerns about this also.

Amnesty International has emphasized from the very beginning of the preparations of the Conference its belief that the expertise and the contribution of these UN human rights experts, both those appointed by the Commission and those who sit on treaty bodies, should be an essential element of the preparatory process. Their statements and contributions should be seriously considered and discussed. Amnesty International would urge the Commission to consider this and to take steps at this last Commission session before the Conference to encourage a fuller contribution from its experts in the regional meetings, the final Preparatory Committee session and at the Conference itself, and to ensure that adequate financial provision is made available for this without detriment to their regular work.

The Commission should also support and encourage a clear role for these experts in the preparatory process and the Conference itself. It has been proposed that a working group of representatives of the treaty bodies be established at the Preparatory Committee and at the Conference. Amnesty International hopes that the Commission will support and encourage such a proposal and recommend a similar Working Group be established to facilitate the participation of its own thematic mechanisms and other special rapporteurs.

Amnesty International is submitting a paper to the preparatory process, The United Nations and

human rights: some proposals for reform and development (AI Index IOR 41/16/92, setting out its proposals for some areas of reform within the UN human rights program. These include a proposal for a major reform initiative - the establishment of a Special Commissioner for Human Rights - and proposals for incremental reform of some of the other human rights procedures and mechanisms. Amnesty International hopes that members of the Commission and observer governments will be able to give careful consideration to these proposals and consider how they and other concrete recommendations for reform submitted by other governments, human rights experts and non-governmental organizations might be advanced in the context of the World Conference.