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@Amnesty International's concerns at the 48th 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 towards 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 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".

In carrying out its work the organization also opposes abuses which are contrary to minimum standards of humanitarian conduct such as hostage-taking, torture and killings of prisoners and other deliberate and arbitrary killings committed by opposition groups.

Amnesty International has more than 1,100,000 members, subscribers and regular donors in over 150 countries and territories, with more than 6,000 local groups in over 70 countries in Africa, the Americas, Asia, the Pacific, Europe, and the Middle East. To ensure impartiality each group works on cases and campaigns in 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 the victims whose rights it seeks to protect. It is concerned solely with the protection of the human rights involved in each case, regardless of the ideology of the government, opposition forces or the beliefs of the individual.

The human rights standards embodied in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural 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 in further developing the body of international human rights standards and in considering the practical application of existing standards to situations of human rights violations, wherever they occur. Amnesty International hopes that, in the deliberations of the Commission on Human Rights, the responsibility of the international community to safeguard the human rights of all people will be paramount.

The following information relates to a number of issues of concern to Amnesty International relevant to the agenda of the forthcoming 48th 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.

I. THE "THEME" MECHANISMS

There are five "theme" mechanisms established by the Commission which are of particular interest to Amnesty International: on "disappearances", summary or arbitrary executions, torture, religious intolerance and the new mechanism on arbitrary detention, established at the last session in 1991.

The mandates of the theme mechanisms, originally renewable annually, have gradually been extended. When their mandates were last renewed they were extended to two-year terms. However, when the Economic and Social Council (ECOSOC) adopted Resolution 1990/48 expanding the Commission from 43 to 53 members, it also recommended to the Commission that the mandates of the theme mechanisms be extended to three-year terms. When the newest theme mechanism, the Working Group on arbitrary detention, was established at the last session, the Commission decided to give it a three-year mandate. At the 48th session the mandates of the mechanisms on "disappearances", summary or arbitrary executions, torture and religious intolerance are due to be renewed. Amnesty International hopes that the Commission will renew these mandates for three-year terms in accordance with the recommendation of ECOSOC.

Amnesty International welcomed Resolution 1991/31, adopted at the last session of the Commission, which encouraged governments to cooperate fully with the thematic mechanisms and to study the recommendations made following their country visits and to keep the relevant mechanisms informed as to the implementation of these recommendations. The resolution also encouraged the thematic mechanisms to monitor the progress made by governments in those areas relevant to their mandates. Amnesty International hopes that the Commission will pay special attention during its next session to monitoring the extent to which the governments concerned have taken steps to implement such recommendations made by the thematic mechanisms in past years. The organization also urges the Commission to pay particular attention to the reports of on-site visits made by its thematic mechanisms during 1991 and to ensure that the conclusions and recommendations arising from these visits are fully addressed by the Commission and implemented by the governments concerned.

1. THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

At the next session of the Commission the Working Group on enforced or involuntary disappearances will present its 12th report. Throughout 1991 Amnesty International has sent to the Working Group information relating to "disappearances" in 21 countries including Colombia, Guatemala, Peru, the Philippines, and Sri Lanka.

Amnesty International welcomes the activities of the Working Group, and in particular the fact that it has improved its methods of work by establishing a procedure, in accordance with paragraph 3 (a) of Resolution 1990/76, of prompt intervention in order to protect individuals or groups who are the victims of reprisals because of their human rights activities and/or cooperation with the Working Group.

Amnesty International welcomes the fact that, as in previous years, the Commission took up several of the Working Group's concerns and recommendations at its 47th session. In its Resolution 1991/41 the Commission urged governments both to provide protection for the families of the "disappeared" and to guarantee the prevention of "disappearance" when a state of emergency is proclaimed. The Commission also reminded governments of the need to ensure that its competent authorities carry out prompt and impartial investigations when there are reasons to believe that a case of "disappearance" has occurred in the territory under its jurisdiction. The Commission's resolution deplored the fact that some governments have not acted on the recommendations contained in the Working Group's reports concerning them and noted with concern that some governments have never provided substantive replies to the Working Group.

However, the question of impunity, to which the Working Group has given greatest emphasis when referring to the causes of "disappearance", has not yet been fully addressed by the Commission. The Commission has not yet given attention to the implications of amnesties or similar measures which are passed in many countries where "disappearances" have occurred. These measures, apart from granting impunity to the perpetrators, are often prejudicial to the relatives of the victims in that they are prevented from continuing their search for the "disappeared" through judicial or other proceedings. The Commission should take a strong position on measures leading to impunity, which can, and often do, give rise to renewed violations. Relevant to this issue are the "tentative considerations" that the Working Group has transmitted to governments and non-governmental organizations (NGOs) for comment. These deal with some of the most characteristic features of the phenomenon of impunity and propose different ways in which the problem should be tackled. For example, with the investigation of "disappearances" and the publication of the results of such investigations, the tentative considerations forwarded by the Working Group propose that both the identity of the victims and of the perpetrators should be made known to the public and that the investigation, prosecution and punishment of the perpetrators should not be subject to any limitation of time. They further state that no legal measures shielding perpetrators of "disappearances" from accountability should be enacted. They propose that the prosecution and punishment of gross human rights

violations should be dealt with in civilian courts even when the perpetrators are members of the armed forces. Finally, the tentative considerations state that due obedience to orders should not be invoked as a valid defence to charges of responsibility for "disappearances", although it might be considered as a mitigating circumstance in some cases. The comments of both governments and NGOs will be considered with a view to including a summary of them in the report of the Working Group to the 48th session of the Commission.

Amnesty International also welcomed Decision 1991/109 of the 43rd session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (the Sub-Commission) requesting that two of its members draft a working paper for its 44th session to expand and elaborate on the working paper presented to the 43rd session on 'measures to be taken to combat the increasingly widespread practice of impunity for perpetrators of serious violations of human rights'.

Amnesty International would urge the Commission to take a strong position on measures leading to impunity, which can, and often do, give rise to renewed violations, and to encourage the work of the Sub-Commission on this issue.

In accordance with Resolution 1991/31, Amnesty International would also urge the Commission to give greater attention to the type of follow-up which ought to be undertaken by countries to implement fully the recommendations made by the Working Group following its on-site visits. In this regard, the Commission should pay particular attention to the Working Group's report of its visit to Sri Lanka in October 1991 and the recommendations contained in that report (see section IV.2 below).

2. THE WORKING GROUP ON ARBITRARY DETENTION

Amnesty International welcomed Resolution 1991/42 adopted at the 47th session of the Commission by which it decided to establish a Working Group to investigate cases of arbitrary detention. The organization believes that this mechanism fills an important gap in the framework of protection provided by the existing thematic mechanisms. The Working Group held its first session in September 1991. A second session will be held in December 1991 and its first report will be before the 48th session of the Commission.

Amnesty International has begun to submit cases of arbitrary detention for investigation and action by the Working Group in a range of countries including Bhutan, China, Cuba, Egypt, Equatorial Guinea, Iran, Malawi, Malaysia, Myanmar, South Korea, Syria and Uganda. It hopes that the governments concerned will cooperate fully with the Group and provide full and timely responses in respect of all cases it takes up.

Amnesty International would urge the Commission to give its full support and encouragement to the Working Group on arbitrary detention in these crucial early stages of its work and ensure that it is provided with all the resources and facilities necessary for it to function effectively.

3. THE SPECIAL RAPPORTEUR ON SUMMARY OR ARBITRARY EXECUTIONS

The Special Rapporteur on summary or arbitrary executions will be retiring after he submits his 10th annual report to the next session of the Commission. In the past 10 years, the quality of the reports and the number of cases addressed have significantly increased. It will be important for the Commission to select a qualified successor who will continue to develop the mandate and to provide the new Special Rapporteur with adequate resources to carry out the mandate effectively. Amnesty International urges the Commission to give its firm support to the continuance of this important and well-established thematic mechanism; to pay particular close attention to the final recommendations of the present Rapporteur; and to ensure that a qualified successor is appointed as soon as possible.

During 1991 Amnesty International has submitted information to the Special Rapporteur on 58 countries. These included countries where significant numbers of extrajudicial killings were reported such as Brazil, Colombia, El Salvador, Guatemala, Haiti, India, Indonesia/East Timor, Iran, Iraq, Mali, Mauritania, Peru, Philippines, Sri Lanka and Uganda, as well as countries where death sentences were imminent or carried out in violation of international standards such as China, Kuwait, Malaysia, and the United States of America.

Amnesty International welcomes the fact that the Special Rapporteur has attributed particular importance in his work to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth UN Congress on the Prevention on Crime and the Treatment of Offenders on 7 September 1990 and welcomed by the UN General Assembly on 14 December 1990, and which he annexed to his last report. Amnesty International would urge the Commission to consider further steps which could be taken to ensure that these important Principles are fully implemented by all states.

In 1991 the Special Rapporteur was able to visit Zaïre to observe a trial of persons charged with killing students at Lubumbashi University, but was unable to accept invitations to Peru and Sri Lanka. Amnesty International hopes that visits to these countries can be undertaken during 1992. The Special Rapporteur's reports of such visits enable the Commission to have a better understanding of the extent of the problem of summary or arbitrary executions in individual countries. Amnesty International renews its request to the Commission to call on

governments to which the Special Rapporteur has addressed communications or urgent appeals to invite him to visit and offer him whatever facilities he requires to conduct his inquiries.

The failure of governments to respond or to respond adequately to inquiries or appeals by the Special Rapporteur concerning summary or arbitrary executions remains a significant problem. In its Resolution 1991/71 the Commission urged "all Governments, in particular those which have consistently not responded to communications transmitted to them by the Special Rapporteur...to cooperate with and assist the Special Rapporteur so that he may carry out his mandate effectively".

Amnesty International urges the Commission to review this issue again at its next session and to take further steps to ensure that all governments respond to inquiries from the Special Rapporteur as a matter of priority. Furthermore it should request the Secretary-General to use his best efforts to encourage governments which have not yet responded to do so promptly.

4. THE SPECIAL RAPPORTEUR ON TORTURE

During the year Amnesty International has submitted to the Special Rapporteur on torture information and reports about torture and ill-treatment, including urgent cases of individuals at risk, in some 56 countries, including China, Egypt, Israeli-Occupied Territories, Kuwait, Mauritania, Mexico, Morocco, Myanmar, Pakistan, the Philippines, Sudan, Syria and Turkey.

Amnesty International welcomes the detailed reports provided by the Special Rapporteur and the fact that, according to his last report covering 1990, more governments had answered his appeals for information than in previous years. However, the organization remains concerned that some governments persistently refuse to respond to the Special Rapporteur's communications. Other governments who have responded have denied all allegations of torture or have not included the information requested by the Special Rapporteur in their response, making it impossible for the Special Rapporteur to determine whether any action was taken by that government or if such action was adequate to deal with the allegations in question. The Special Rapporteur drew attention to this problem in his report to the last Commission. Governments which persistently fail to respond demonstrate a lack of respect for the authority of the Commission.

In Resolution 1991/38 the Commission drew attention to the need for states to react "properly" to urgent appeals sent by the Special Rapporteur and to answer all communications from him "expeditiously". Amnesty International considers that the Commission should take all necessary steps to ensure, not only that states respond to any communication addressed to them, but also that these replies are full and adequate.

Amnesty International also urges the Commission to devote greater attention to the importance of on-site visits by the Special Rapporteur, which are a very practical and effective method for the Special Rapporteur to fulfil his mandate, enabling him to advise a government on how to prevent torture based on his experience and on first-hand discussions and observations in the country concerned. It is, therefore, disappointing that he was able to carry out only one visit in 1990 (Philippines) and one in 1991 (Indonesia/East Timor). This is in contrast to three visits per year carried out from 1987 to 1989 inclusive. Furthermore, the reports of these on-site visits should be followed up to ensure that the Special Rapporteur's recommendations are properly considered and implemented. While the Commission continues to take up in its resolutions the general recommendations of the Special Rapporteur, Amnesty International urges it to devote more attention to the country-specific recommendations formulated following on-site visits. In particular at the 48th session, Amnesty International urges the Commission to pay special attention to the Special Rapporteur's report on his visit to Indonesia/East Timor and to his recommendations following that visit (see section IV.1 below).

5. THE SPECIAL RAPPORTEUR ON RELIGIOUS INTOLERANCE

During the past year 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 Greece, Egypt and Pakistan.

The Special Rapporteur noted in his report to the last session of the Commission that the problem of religious discrimination and intolerance continues to occur in most regions of the world although recent changes in Eastern Europe regarding the enjoyment of rights, including freedom of religion, were encouraging. He drew attention to the fact that many of those detained for religious reasons are subject to torture and ill-treatment and that "members of the clergy and believers of many denominations are subjected to death threats, intimidation, expulsion or enforced indoctrination. Some have been killed as a result of their religious activities." He noted the problem of impunity which contributes greatly to the persistence of serious human rights violations. The Special Rapporteur also welcomed the large number of responses from governments to allegations sent to them during the year and his report contained replies from 35 governments to a questionnaire on measures taken in national legislation to combat religious intolerance which the Special Rapporteur had sent to all governments.

Amnesty International welcomes the attention given by the Special Rapporteur to the occurrence of human rights violations in the context of the exercise of the right to freedom of religion and belief and hopes that he will continue to include this information in his report.

The organization considers that the Commission should urge all governments to respond fully and promptly to communications from the Special Rapporteur, in accordance with

Resolution 1991/31, and that those states who have not already done so should ratify the International Covenant on Civil and Political Rights which contains provisions to protect individuals against discrimination based on religion and belief.

II. COUNTRIES ON THE AGENDA OF THE 48TH SESSION

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

The following three sections deal respectively with: countries which are already on the Commission's agenda; countries which have been forwarded by the Sub-Commission for the Commission's attention; and countries in respect of which one of the Commission's "theme" mechanisms will be reporting to the Commission on an on-site visit during 1991.

Most of the countries which are already on the Commission's provisional agenda are scheduled to be discussed under item 12 on the violation of human rights and fundamental freedoms in any part of the world. The agenda item under which Guatemala is to be discussed will be decided at the 48th session. In addition, Equatorial Guinea and Haiti will be considered under agenda item 21 on Advisory Services (see section V below).

The country situations described below refer to some very serious instances 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

Since the last session of the Commission the Special Rapporteur has again been able to visit Afghanistan and Pakistan, where there are substantial numbers of Afghan refugees, in September 1991. He is due to return to Afghanistan at the end of December 1991. His report will be before the 48th session of the Commission.

Amnesty International is concerned that over the past 13 years thousands of political prisoners, including prisoners of conscience, have been sentenced to various terms of imprisonment and hundreds to death by special tribunals, who have not given them a fair trial. Hundreds more are kept without charge or trial in over a dozen *Riasat* (Directorate) interrogation centres and in two segregated blocks (Blocks 1 and 2) of Afghanistan's main prison, Pul-e-Charkhi near Kabul. These unsentenced political prisoners are held in poor conditions in isolation cells during an initial period of interrogation which may last several months.

Detainees, who include individuals suspected of involvement in armed opposition or non-violent anti-government activity, are reportedly subjected to routine torture and denied access to legal counsel and family visits. Cells are reportedly not cleaned, there is poor ventilation, and prisoners are infected with skin diseases due to lack of proper sanitation.

Amnesty International has called upon the Afghan Government to set up an independent and impartial review procedure to examine the cases of all sentenced political prisoners and has recommended that the review body should be empowered both to order the immediate and unconditional release of any prisoners found to have been sentenced simply for the non-violent expression of their political opinion or religious beliefs, and to order a re-trial that conforms to the minimum international safeguards for a fair trial for those political prisoners against whom recognisable criminal charges may be laid. The organization has also called upon the Afghan Government to make public information on the reported abolition of special tribunals (See *Afghanistan: Unfair Trials by Special Tribunals*, AI Index ASA 11/03/91).

Amnesty International has also received information about human rights abuses committed by the Mujahideen armed opposition groups, including unlawful detention, torture and deliberate and arbitrary killing. Mujahideen groups have arrested unarmed civilians on suspicion of being government supporters and held them in captivity for periods of up to several years. Prisoners have been tortured in order to "confess" to pro-government activity, to alleged membership of a rival armed opposition group or simply for their alleged "non-Muslim" orientations. Dozens of prisoners have been deliberately and arbitrarily killed or have been executed after summary trials which have failed to conform to international standards for fair trial. In addition, Amnesty International is concerned about assassinations, abductions and torture of Afghan refugees allegedly committed by Mujahideen groups inside Pakistan.

Amnesty International remains concerned about the human rights situation in Afghanistan, and therefore considers that the mandate of the Special Rapporteur should be maintained by the Commission.

2. ALBANIA

The last session of the Commission had before it the report of the UN Secretary-General summarizing his contacts with the Albanian Government and details of his visit to the country in 1990. Resolution 1991/76 welcomed positive steps taken by the government and called on it to free all political prisoners and to take steps towards the ratification of international human rights instruments.

In July the authorities stated that they had released all the remaining political prisoners. However, large numbers of released political prisoners remained without accommodation or

employment and many people previously held in internal exile (interned), although officially free, were unable to leave the camps because they had nowhere to go. At the end of September the authorities declared all former political prisoners and internees innocent and granted a small monthly pension to those without employment or unfit for work. In June Albania joined the Conference on Security and Cooperation in Europe (CSCE) and in September signed the CSCE's Charter of Paris and the Final Act of the CSCE (Helsinki, 1975). In October Albania acceded to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Amnesty International welcomes all these positive developments.

Amnesty International remains concerned about the continued existence of legislation which allows for the imprisonment of people for the non-violent exercise of their right to freedom of expression. However, it knows of no recent cases in which courts have used these provisions to imprison people and it is reported that the criminal code is to be revised. The organization is also concerned that 11 offences (including two economic offences) are punishable by the death penalty. It has so far learned of only one death sentence this year which was carried out on a man convicted of killing border-guards. In view of these continuing concerns and the country's current instability Amnesty International would urge the Commission to continue to monitor the human rights situation in Albania.

3. CUBA

In Resolution 1991/68 the Commission requested the UN Secretary-General to appoint a Special Representative "to maintain direct contact with the Government and citizens of Cuba on the issues and questions contained in, and associated with, the report of the [Commission's 1988] mission to Cuba". The Cuban Government was requested to cooperate with the UN Secretary-General "taking into account the international agreements to which Cuba is a party and the institutional procedures established in the field of human rights". The Special Representative will be presenting a report to the Commission's 48th session.

Human rights violations in Cuba directed at members of unofficial dissident groups working for political change or in defence of human rights have occurred throughout the year, but particularly since June when special *Brigadas de Respuesta Rápida*, Rapid Response Brigades, were set up to deal with unrest and dissent. Ordinary citizens were requested to volunteer to join the brigades which, in conjunction with the security forces and Communist Party activists, have participated in several incidents, known as "acts of repudiation" ("*actos de repudio*"), especially in Havana, in which large crowds of people have verbally and physically attacked known dissidents in their homes and on the streets. Several members of unofficial groups, whose work so far has been peaceful, have suffered such harassment and, in some cases, arrest and imprisonment. Others have been tried and convicted on charges such as

"illegal association", (*asociación ilícita*), "clandestine printing" (*clandestinidad de impresos*), "incitement to commit a crime" (*instigación a delinquir*) and "public disorder" (*desórdenes públicos*), and are considered to be prisoners of conscience. Trials on such charges take place in municipal courts within days of arrest and the defendant typically has little or no access to a defence lawyer.

Other prisoners of conscience remain imprisoned after being convicted on similar charges or charges such as "enemy propaganda" ("*propaganda enemiga*"), "contempt" ("*desacato*"), "rebellion" ("*rebelión*"), and trying to leave the country illegally ("*intento de salida ilegal del país*"), the majority being in the latter category. A few have been released, such as Elizardo Sánchez Santa Cruz, Hiram Abí Cobas Núñez and Huber Jérez Mariño, convicted in 1989 of "spreading false news with the aim of endangering the prestige or standing of the Cuban State", and Orlando Azcué Rodríguez, sentenced to three years for "enemy propaganda" after being arrested in April 1990.

Amnesty International remains concerned about the use of the death penalty in Cuba. Two executions are known to have taken place in 1991 so far, both for common crimes. No recent news has been received concerning alleged plans on the part of the government to extend the already wide range of crimes to which the death penalty is applicable to include some drug offences.

Amnesty International is concerned about reports that cooperation with the Special Representative by the Cuban Government has not been forthcoming. In view of these continuing concerns Amnesty International hopes that the Commission will give appropriate attention to the situation in Cuba and will continue to monitor developments there.

4. EL SALVADOR

Overall patterns of human rights violations have not altered substantially in El Salvador despite a number of significant agreements on human rights related issues resulting from the peace negotiations between the government and the *Frente Farabundo Martí para la Liberación Nacional*, the Farabundo Martí National Liberation Front (FMLN). Resolution 1991/75 on El Salvador, adopted at the last session of the Commission, expressed satisfaction at the conclusion of the Agreement on Human Rights between the government and the FMLN. It expressed concern, however, at the continuance of politically-motivated human rights violations such as summary executions, "disappearances", and at the ineffectiveness of the judicial system to bring the perpetrators of such violations to justice. The Commission also extended the mandate of its Special Representative for a further year and, at its 48th session, will have before it a further report by the Special Representative on El Salvador.

Amnesty International welcomed the establishment of the human rights verification mission of the UN body ONUSAL in July, a year after the Agreement on Human Rights was concluded between the government and the FMLN. Amnesty International hopes that the verification mission will have a lasting positive impact on the protection of human rights in El Salvador. Other human rights agreements resulting from the peace talks, including the creation of a Human Rights Procurator's Office (*Procuraduría de Derechos Humanos*), judicial reforms, the establishment of mechanisms to tackle impunity and the restructuring of the security forces, could also, if implemented effectively, lead to durable improvements in practice.

However, Amnesty International has continued to document extrajudicial executions allegedly carried out by the security forces, some by uniformed military personnel in the course of military operations, others attributed to clandestine "death squads" believed to be linked to the Armed Forces. In recent months, death threats have been issued against members of human rights groups and humanitarian organizations by clandestine groups accusing them of links with the FMLN. Torture has continued to be reported and detention procedures aimed at preventing torture continue to be flouted. A proposal to extend the applicability of the death penalty to cover certain crimes in peacetime was approved by the outgoing Legislative Assembly in March 1991 but has not been ratified by the new Assembly. While "disappearances" appear to have decreased in the last year, little has been done to clarify the fate of scores who have "disappeared" at the hands of the Armed Forces in recent years. Amnesty International welcomed the September 1991 conviction of a colonel for the killing of six priests and two staff members at the Central American University in 1989. However, the pattern of impunity resulting from the government's continuing failure to investigate and bring to justice those responsible for thousands of human rights violations has remained effectively unchanged.

There have been at least three reported killings this year by the FMLN of off-duty military officers. Several killings of captive army soldiers and of civilians suspected of collaborating with the military have also been reported. The results of investigations by non-governmental human rights groups contradicted allegations made by the army in a number of these cases. The FMLN has continued to carry out abductions, sometimes holding the victim for ransom. In other cases the whereabouts of the persons reportedly abducted remained unknown, though some were believed to have been forcibly recruited into the ranks of the FMLN.

The Commission should take steps to ensure the effective implementation of agreed measures to prevent the continuance of human rights abuses in El Salvador and should maintain the Special Representative's mandate until evidence is seen of a clear and lasting improvement in the human rights situation.

5. GUATEMALA

The 48th session of the Commission will have before it a further report by the Special Expert on Guatemala but again it remains to be decided under which agenda item that report will be considered. Amnesty International continues to have very serious concerns about the human rights situation in Guatemala and was disappointed that the Expert's report in 1991, which documented grave violations of human rights, was not dealt with under the more appropriate item 12 of the Commission's agenda. Resolution 1991/51 on assistance to Guatemala in the field of human rights took note of "the fact that the new Constitutional Government of Guatemala, on entering office on 14 January 1991, made a commitment to the people of Guatemala and the international community to guarantee the full enjoyment of human rights and fundamental freedoms and offered to take immediate and urgent measures to that end." Regrettably, these commitments have not yet been fulfilled.

Amnesty International remains particularly concerned about the extrajudicial execution of hundreds of people in 1991 in circumstances suggesting the involvement of the security forces, and at the "disappearance" of scores of others in similar circumstances. An increasing number of members and leaders of the popular and grassroots movement, as well as human rights activists, students, lawyers and judges and the press, have been subjected to intimidation and death threats. Victims also included those not wishing to take part in civil patrol service. Several of them were abducted and tortured (See *Trade Unionists and Political Activists Targeted under the New Government*, AI Index AMR 34/28/91 of June 1991). Torture was also reportedly used during police custody and against street children.

It appears that the perpetrators of human rights violations have, in effect, continued to operate with impunity. In a number of instances, the government announced that arrests had been made and criminal proceedings initiated in respect of cases of human rights violations. In April 1991 four policemen were convicted of the murder of 13-year-old Nahamán Carmona López. The convictions were, however, overturned on technical grounds in July and a retrial ordered. The case was transferred to another court in October, and no trial has yet taken place. In another instance, two policemen found guilty of the killing of 13-year-old Marvin de la Cruz Melgar in May 1990 were given a three-year suspended sentence and released on bail pending appeal. However, in cases where there was evidence of military involvement in the killings - which, according to the Constitution, are referred to military courts - such as the killing of US citizen Michael Devine in 1990 and the killing of 11 people in the department of Escuintla in August 1991, those accused were released. In another incident, the head of the homicide section of the National Police, in charge of the investigation into the killing of anthropologist Myrna Mack, was killed metres away from the National Police building. He had reportedly uncovered evidence of military involvement in the killing. There are at present over 37 suits pending in Guatemalan courts against the security forces and private security agents for abuses against street children. However, no progress has been made on these and both street children and those who work with them have continued to be subjected to human rights violations.

6. IRAN

Resolution 1991/82, adopted at the last session of the Commission, invited the Secretary-General to respond favourably to requests for technical assistance from the Iranian Government. It called upon the government to comply with international human rights instruments but it made no reference to continuing human rights violations. While the resolution renewed the mandate of the Special Representative, who will be presenting his report to the 48th session, contrary to past years it did not request the Special Representative to present an interim report to the General Assembly and suggested his mandate might be discontinued. Amnesty International considers that such a step would be premature in the present circumstances.

At its last session the Sub-Commission, in Resolution 1991/9, expressed its deep concern about the escalating grave violations of human rights in Iran; called on Iran to grant access to the International Committee of the Red Cross and called on the 48th Commission to extend the mandate of the Special Representative. Amnesty International believes that the gravity of the human rights situation in Iran warrants continued careful scrutiny by the Commission and that it would also be desirable to reinstate the practice of requesting the Special Representative to present an interim report to the General Assembly.

In 1991 Amnesty International learned that a number of political prisoners had been released. However, political prisoners, among them prisoners of conscience, remain incarcerated after unfair trials, in some cases long after their sentences have expired. Reports of torture or ill-treatment have continued to be received, and large-scale executions have taken place throughout the year. Iranian opposition members living in exile, including former Prime Minister Shapour Bakhtiar, were possible victims of extra-judicial execution. (See the forthcoming document AI Index: MDE 13/01/92 *Iran: Imprisonment, torture and execution of political opponents*).

Between May and July 1991 nine prisoners of conscience, arrested in June 1990 after signing a critical open letter to President Rafsanjani, were brought to trial in Evin Prison. Proceedings were held in camera and the defendants had no lawyers for their defence. The nine, who include former ministers in the government of Mehdi Bazargan and other public figures, some of whom are in their seventies and in poor health, were sentenced to prison terms of up to three years and between 10 and 30 lashes. Their prison sentences did not take into account the period of more than one year spent in pre-trial detention. Amnesty International had asked to observe their trials but received no response to its repeated requests.

During the first nine months of 1991 Amnesty International recorded nearly 700 executions, most of them for drug smuggling offences, though this figure also includes 26 who were executed for their political opposition activities.

While Amnesty International was able to visit Iran in May 1991 to interview Kurds and Shi'a who had fled from Iraq, its outstanding requests for talks with the authorities on human rights concerns in Iran have met with no positive response. Amnesty International also remains concerned that basic safeguards for the protection of human rights in Iran have not been introduced, despite Iran's obligations as a state party to the International Covenant on Civil and Political Rights.

With the continued violation of human rights in Iran, Amnesty International urges the Commission to renew the mandate of the Special Representative and to continue consideration of the situation under item 12.

7. IRAQ

Amnesty International welcomed the decision of Resolution 1991/74 at the last session by which the Commission decided to appoint a Special Rapporteur to examine the human rights situation in Iraq. The first full report of the Special Rapporteur is to be presented to this session, following his interim report submitted to the 46th session of the General Assembly. Some of the organization's recent concerns in Iraq are more fully described in *Iraq: Human rights violations since the uprising - a summary of Amnesty International's concerns* (AI Index MDE 14/05/91) and *Iraq: The need for further United Nations action to protect human rights* (AI Index MDE 14/06/91) which calls on the international community to take action to prevent a further human rights crisis in Iraq, and recommends the establishment of a UN human rights monitoring body in the country to ensure full compliance by Iraq with its international obligations. Amnesty International continues to be gravely concerned about human rights violations in Iraq, particularly in light of the Iraqi Government's record of gross and persistent human rights violations over a number of years which the organization has repeatedly drawn to the attention of the Commission.

In March 1991 an unknown number of detainees were freed by government opponents during the uprisings in northern and southern Iraq, which followed the defeat of Iraqi Government forces in the Gulf War. Between March and May, government forces succeeded in crushing these uprisings and arrested thousands of Kurds, Shi'a Arabs and others on suspicion of having participated in anti-government activities. Many were later summarily executed. Among those arrested were over 100 religious scholars and clerics of various nationalities, including 95-year-old Grand Ayatollah Abu al-Qassem al-Kho'i, Shi'a Islam's most senior cleric. In Kirkuk, northern Iraq, an estimated 5,000 Kurdish males were detained by Iraqi Government forces in mid-March. Most were released by mid-April, but at least 28 were reportedly executed. Information received about other detainees included the names of over 1,300 prisoners held in Abu Gharib Prison near Baghdad. Many had been held for over 10 years following summary trials by the Revolutionary Court.

The torture and ill-treatment of detainees remained widespread and routine. Several American and British military personnel taken prisoner after being shot down over Iraq during the hostilities in January stated that they had been tortured. Further reports of torture were received following the March uprisings. Eyewitness accounts detailed the mutilation of detainees prior to execution, reportedly including the severing of limbs and the gouging out of eyes.

It was not possible to obtain accurate information on the number of people who "disappeared" during 1991, though victims included Kuwaitis, Kurds, Shi'a Arabs and scores of families who returned to Iraq in May after the announcement of official amnesties. Information was also received about "disappearances" in previous years, including the names of over 6,000 Kurds who "disappeared" in a wave of arrests in the spring of 1988. Hundreds of extrajudicial killings were carried out by government forces, mostly while attempting to suppress the uprisings of March and April. These included Kurdish civilians, deliberately targetted by helicopter gunships as they fled towards Iraq's borders and several doctors accused of treating wounded Pesh Merga fighters (armed Kurdish guerillas). An estimated 150 to 170 Shi'a Arab males were reportedly executed by firing squad in March at al-Mahawil Garrison near al-Hilla. Mass firing squad executions were also reported in al-Samawa, al-Najaf, Karbala', Basra and other places in March and April. Some 60 to 70 people were killed after they were allegedly thrown out of the top floor windows of al-Hilla Hospital in March. Others were said to have been pushed into the Tigris River with weights tied to their feet.

In July at least 50 Iraqi refugees, including Kurds and Assyrians, were forcibly repatriated by Turkish officials. Several were later reportedly executed by Iraqi Government forces. In early October, some 60 unarmed Iraqi soldiers captured by Kurdish armed fighters in Sulaimaniya were summarily executed. The executions were said to have been carried out in response to military attacks on residential areas by government forces.

Thousands of other political prisoners, including possible prisoners of conscience, remain in detention from previous years without charge or trial, or are serving prison sentences imposed after unfair trials; large numbers of others were detained in 1990 and 1991 for political reasons. They included members of prohibited political parties, members of their families and Kuwaiti nationals, some of whom were taken forcibly from Kuwait during the Iraqi occupation and are still unaccounted for.

While it is important that the mandate of the Special Rapporteur be maintained, the Commission should consider his report seriously with a view to adopting whatever further measures may be necessary in order to safeguard human rights in the country.

As described in *Iraq: The need for further United Nations action to protect human rights*, referred to above, Amnesty International still considers that the Special Rapporteur alone

is not in a position to ensure adequate protection for the population of Iraq and that further measures are needed, such as on-site human rights monitoring, if respect for human rights is to be secured in the future.

8. ISRAELI-OCCUPIED TERRITORIES

Resolution 1991/1, which had two parts, and was among three resolutions adopted at the last session of the Commission, condemned practices such as the wounding and killing of Palestinian civilians, arbitrary and administrative detention and torture.

The nature of Amnesty International's concerns in the Israeli-Occupied Territories since the beginning of the Palestinian *intifada* in 1987 remains largely unchanged, although the scale of human rights violations has varied. During 1991 the practice of administrative detention, without charge or trial, of political suspects continued. Among those detained were prisoners of conscience. Thousands of Palestinians were tried by military courts, many after having been subjected to torture or ill-treatment. Scores of others were shot dead by Israeli forces in a context in which the guidelines for opening fire, the pattern of killing and subsequent investigations are cause for grave concern.

In July 1991 Amnesty International published an 80-page report entitled *Israel and the Occupied Territories: The military justice system in the Occupied Territories: detention, interrogation and trial procedures* (MDE 15/34/91). The report describes in detail the organization's concerns in this area, including prolonged incommunicado detention, confessions allegedly extracted by duress, and undue pressures on defendants to plead guilty. It calls on the Israeli authorities to introduce urgently safeguards against torture and ill-treatment -- including the publication and review of official, secret guidelines allowing the use of a "moderate measure of physical pressure" during interrogation -- and to ensure fair trials.

The Commission should urge Israel to give priority to the introduction of safeguards to address these concerns.

9. KUWAIT

In 1991 the Commission on Human Rights adopted Resolution 1991/67 by which it decided to appoint a Special Rapporteur to examine the human rights violations committed in occupied Kuwait by the Iraqi forces and to report to the 46th session of the General Assembly and the 48th session of the Commission. While Amnesty International welcomed this appointment, it remains concerned about reports of violations committed by the Kuwait authorities following the withdrawal of the Iraqi troops and considers that these cannot be ignored in the context of any investigations concerning Kuwait. The Sub-Commission at its last session in August 1991 expressed its hope that the Special Rapporteur will "give due attention to alleged gross violations

of human rights currently occurring in Kuwait and will inform the Commission of developments affecting the situation of human rights in Kuwait since the withdrawal of Iraqi forces".

Amnesty International regrets the fact that the opportunity was not taken at the last Commission to address fully the situation of human rights violations occurring in Kuwait when the Commission decided to appoint a Special Rapporteur to investigate violations during the occupation of that country. Amnesty International's own concerns in Kuwait are not of the same gravity as they were in the immediate aftermath of Kuwait's liberation but the organization still considers that any investigation should include human rights violations presently occurring there and that the Commission should take this into account when considering the Special Rapporteur's report.

Amnesty International has received the names of over a hundred people, mainly Iraqis, Palestinians and Jordanians, who "disappeared" in custody following their arrest in Kuwait between late February and late July. Amnesty International believes that many of them have been arrested for allegedly "collaborating" with the Iraqi occupation forces and may be held in secret or incommunicado detention where they could be subjected to torture or other forms of cruel, inhuman or degrading treatment during interrogation.

Amnesty International remains concerned about the fate of hundreds of Palestinians, Iraqis, Bidun (stateless Arabs) and others who have been arbitrarily arrested by Kuwaiti forces since Iraqi forces withdrew from the country and Martial Law was imposed on 26 February (it was subsequently lifted on 26 June). Many of those arrested were routinely subjected to torture and other forms of cruel or inhuman treatment.

The Kuwaiti Government has still not changed many of the trial procedures that led to concerns about the fairness of trials of alleged collaborators with Iraqi forces in May. Amnesty International fears that, unless changes are made, prisoners due to be tried by the State Security Court may not receive a fair trial. Some detainees are still not told why they have been arrested, are denied access to relatives and lawyers, and are not given independent medical attention. However, the government announced in August that it had set up an appeals court, and that it had abolished the practice of indefinite pre-trial detention, limiting the period to six months.

10. ROMANIA

The resolution adopted at the last session of the Commission, 1991/69, extended the mandate of the Special Rapporteur on Romania for a further year. It noted with appreciation the report of the Special Rapporteur and the willingness of the Romanian authorities to continue their action to ensure respect for human rights despite "regrettable lapses". It also recognized the need to

continue to "promote a climate favourable to establishing a social order based on full respect for human rights in Romania".

Following the overthrow of President Ceausescu 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 rights to freedom of expression and movement. It also notes the Romanian authorities' continuing willingness to co-operate with the Special Rapporteur.

However, Amnesty International continues to have concerns about the human rights situation in Romania. In July 1991 it addressed a number of its concerns to the Romanian Government. Some of these relate to cases of ill-treatment by police officers during detention in the period before the overthrow of President Ceausescu which have not yet, to Amnesty International's knowledge, been fully investigated by the Romanian authorities. It is alleged that many of the police officers involved in these cases have not been replaced despite the change of government. The organization has continued to receive allegations of ill-treatment in detention by police in the period since December 1989. There have also been allegations that the police and other officials have colluded in attacks on ethnic Hungarians, Roma, government opponents and in one case a journalist seeking to expose former *Securitate* members.

In the light of the present political instability and unrest in the country Amnesty International hopes that the Commission will maintain careful scrutiny of the human rights situation in Romania.

11. SOUTH AFRICA

During 1991 the trend towards improvements in the human rights situation in certain areas which have long been of concern to Amnesty International, such as judicial executions and detention without charge or trial, has continued. At the same time, however, there has been an alarming increase in the number of extrajudicial executions.

Death sentences continue to be imposed and, as of late September 1991, there were 337 prisoners under sentence of death at Pretoria Central Prison, although only two executions have occurred so far in 1991. These executions took place in the nominally-independent "homeland" of Venda, where there are approximately 10 people under sentence of death. The situation in the nominally-independent "homeland" of Bophuthatswana, where two scheduled executions were stayed at the eleventh hour, remains one of particular concern because of the repeated failure of the "homeland" authorities to ensure that individuals under sentence of death are allowed to exhaust all available judicial remedies.

Amnesty International remains concerned that legislative changes to the 1982 Internal Security Act in June 1991 left in place Section 50, providing for 14-day "preventive" detention, and Section 31, permitting the incommunicado detention of potential prosecution witnesses. The amendments to Section 29 still give the police the power to detain a person incommunicado for 10 days, a period which can be renewed upon application to a judge. The amendments also contain a clause permitting the police not to inform the detainee's lawyer or family of his or her detention, and to deny independent medical access to the detainee, if, in their view, either step would hamper police investigations.

Amnesty International is particularly concerned at continuing widespread reports of assaults and torture of uncharged political detainees and suspects in ordinary criminal investigations. The security forces involved in these incidents include members of the South African Police and members of the police forces in the "homelands" of Bophuthatswana, KwaZulu, Lebowa and the Ciskei, as well as members of the South African Defence Force. In some cases, such as that of a young teacher and trade unionist, Solly Mogashoa on 14 October 1991 in the Lebowa "homeland", the ill-treatment has led to the detainee's death. Concern about these incidents is increased by the failure, in general, of the authorities to investigate fully and bring to justice those responsible for unlawful assaults and killings.

During 1991 scores of political activists, in particular members of the African National Congress (ANC), trade unionists and individuals prominent in their local communities in peace efforts, have fallen victim to the operations of hit squads, directly or indirectly linked to the military or police. Many others have survived attempts on their lives or have been forced to go into hiding to avoid being kept under surveillance. Hundreds of other residents of the townships and squatter camps in and around Johannesburg and in Natal have died during attacks on their

communities by armed men, predominantly members of the Inkatha Freedom Party (IFP), with the active or passive collusion of members of the military or police. Scores of other people have died when gunmen have opened fire on township residents commuting on trains or in taxis, or on occupants of social venues in the townships. The victims in these attacks have not always been apparently randomly selected. For example, on 7 October 18 people died when gunmen in unmarked vehicles opened fire on mourners at the funeral of assassinated ANC member and trade unionist, Sam Ntuli. An injured victim of the shootings subsequently identified two of the gunmen, whom the police later acknowledged to be members of the police force. Other attackers have been linked to the South African Defence Force Special Forces Units or to Inkatha.

Amnesty International remains concerned about continuing serious human rights violations in South Africa, many resulting from security force complicity in political violence. The organization has particular concerns about the powers of detention without charge or trial and assaults and torture of uncharged political detainees and suspects in ordinary criminal investigations. Despite legislative changes to the 1982 Internal Security Act there has been no repeal of laws allowing for incommunicado detention of potential prosecution witnesses and for potentially indefinite detention without charge for others. Amnesty International is also particularly concerned about the increase in the number of extrajudicial executions being carried out by hit squads directly or indirectly linked to the police, and calls on those responsible for human rights violations to be brought to justice and for members of the security forces to be held fully accountable for their actions.

III. COUNTRIES FORWARDED BY THE 1991 SUB-COMMISSION

1. CHINA

At its last session in August 1991 the Sub-Commission adopted Resolution 1991/10 entitled "Situation in Tibet", calling on the Chinese Government to respect the human rights and freedoms of the Tibetan people. Amnesty International continues to be gravely concerned about the human rights situation in Tibet and elsewhere in China.

Political and religious activists continued to be arrested throughout 1991, including Tibetans advocating national independence and members of the Mongol minority in Inner Mongolia. Political prisoners and prisoners of conscience in Tibet were reportedly submitted to prolonged solitary confinement and severe beatings and torture in prison. Many of the victims of human rights violations in Tibet were Buddhist monks and nuns suspected of political

activities. Some of the prisoners held in detention centres have been sentenced to terms of administrative detention of up to three years, imposed without trial and without any effective means of appeal by the detainees against the administrative decision against them. A Tibetan prisoner of conscience, serving a two-year prison term for his alleged involvement in activities relating to Tibetan independence, died in custody in December 1990, reportedly as a result of being repeatedly denied adequate medical treatment following beatings in detention.

Amnesty International is also concerned about the thousands of political prisoners who remained in prison in China in 1991, including hundreds of prisoners of conscience. Some have been held without charge for more than a year. At least 26 prominent pro-democracy activists were sentenced to terms of imprisonment after highly publicized political trials in Beijing in early 1991. They included Chen Ziming and Wang Juntao, who, along with others, were held in solitary confinement from April to August 1991.

Trial procedures continued to fall far short of international standards for fair trial. The rights of detainees to present an adequate defence continued to be largely ignored, and defence lawyers were still denied a significant role in the conduct of trials. Many political prisoners, including prisoners of conscience, continued to be held without charge or trial under various forms of administrative detention, in violation of international standards and, in many cases, of Chinese domestic laws and regulations. The number of reported death sentences was higher in 1991 than at any time since 1983. Over 1,300 death sentences were recorded by Amnesty International in the first nine months of 1991 alone. However, the real number of death sentences in 1991 is probably several times higher.

Amnesty International welcomes the Sub-Commission's resolution as it continues to have serious concerns about the human rights situation in Tibet, and believes that the Commission should take effective action to address these. The situation in China as a whole requires the Commission's closest scrutiny and a response which fully conveys the concern of the international community about such grave human rights abuses.

IV. COUNTRIES VISITED BY UN THEME MECHANISMS

1. INDONESIA/EAST TIMOR

In October 1991 the Special Rapporteur on torture made a visit to Indonesia and East Timor. His report of that visit will be before the 48th session of the Commission. In August 1990 the Sub-Commission adopted a resolution on East Timor which recommended that the 1991 Commission consider the human rights situation in East Timor and asked the Secretary-General to transmit to the Commission reliable information received. The Commission had before it a note by the UN Secretariat on the situation in East Timor which was discussed but no specific action was taken by the Commission.

Amnesty International remains concerned by an accelerating pattern of short-term detention, torture and ill-treatment of alleged political opponents in East Timor, many of whom may be prisoners of conscience. It is also concerned by persistent reports of extrajudicial executions, hundreds of cases of unresolved "disappearances" and the continued imprisonment of at least eight alleged *Fretilin* supporters sentenced in trials which Amnesty International believes were unfair. Further information on these concerns are contained in Amnesty International's statement to the UN Special Committee on Decolonization on 7 August 1991 (published as ASA 21/14/91).

Since August 1991, very serious human rights violations have been reported in East Timor. Human rights violations escalated in the context of heightened tension over a visit to East Timor by a delegation of Portuguese parliamentarians. The visit was postponed shortly before the delegation was scheduled to arrive in early November. Then, on 12 November 1991, as many as 100 people may have been killed and dozens wounded when Indonesian security forces opened fire on a group of mourners at Santa Cruz Cemetery in Dili (see *East Timor: The Santa Cruz Massacre*, AI Index ASA 21/23/91 and *East Timor: After the Massacre* AI Index ASA 21/24/91). Others, including foreign journalists, were reportedly beaten during the incident and scores were said to have been detained. The victims were among hundreds of people who had gone to the grave of Sebastiao (Gomes) Rangel, and Alfonso Henriques. Sebastiao Rangel and Alfonso Henriques had been killed on 28 October when Indonesian troops entered the Motael church compound where Sebastiao and about 20 other political activists were hiding. Amnesty International is concerned that scores of people arrested in connection with these events may be at risk of torture and ill-treatment. Although the Indonesian Government established a National Investigation Commission into the recent events, Amnesty International is concerned that the Commission is not fully independent and impartial and that it is difficult to see how it can conduct a fair and adequate inquiry. Amnesty International is calling for the establishment of an international inquiry into these events to be conducted under UN auspices.

Despite the government's public statements to the effect that foreign observers and international organizations are welcome to visit East Timor, and in spite of repeated requests, Amnesty International has not yet been permitted to visit the territory. The continued denial of access raises serious questions about the sincerity of the government's commitment to protecting and promoting human rights. Amnesty International would urge the Commission to examine the report and the findings of the Special Rapporteur on torture following his October 1991 visit with particular attention and to call on the Indonesian Government to follow up on any recommendations that he may make. The Commission should request the government to report back to the next Commission on how it has responded and to consider inviting the Special Rapporteur to return in order to review the implementation of these recommendations.

Amnesty International would also urge the Commission in particular to take all further appropriate steps to address the very serious human rights violations which have occurred in East Timor since November 1991. It should ensure that an adequate and impartial investigation under UN auspices is carried out into the Santa Cruz massacre and its aftermath and that its findings are made public. It should also consider what further steps should be taken to ensure that human rights violations in Indonesia/East Timor are brought to an end.

2. SRI LANKA

In early October 1991, a delegation of the Working Group on Enforced or Involuntary Disappearances visited Sri Lanka and held talks with the government and human rights activists. They travelled to the east and the south of the country. A report on their visit will be before the 48th session of the Commission. Throughout the year, Amnesty International has submitted information on some 1,000 individual cases of "disappearances" in Sri Lanka to the Working Group. The organization has also submitted cases and information relevant to their respective mandates to the Special Rapporteur on summary or arbitrary executions (whose invitation to visit Sri Lanka is still outstanding) and the Special Rapporteur on torture.

The last time the Commission took any action in respect of Sri Lanka was in 1987 when it adopted a resolution (1987/61) inviting "the Government of Sri Lanka to intensify its cooperation with the ICRC in the fields of dissemination and promotion of international humanitarian law and to consider favourably the offer of the services of the ICRC to fulfil its functions of protection of humanitarian standards, including the provision of assistance and protection to victims of all affected parties." It took more than two years for the government to comply with this request.

The human rights situation in Sri Lanka has been of particularly grave concern to Amnesty International for more than seven years now. In the last few years, unprecedented levels of violations have taken place without the international community taking appropriate

action to hold the Sri Lanka Government accountable. The scale on which these human rights violations have taken place, in particular "disappearances", have been of historic proportions. Amnesty International urges the Sri Lanka Government to publicly acknowledge that widespread human rights violations have taken place in the country during the past seven years and recognize the responsibility of its security forces in perpetrating these violations, most notably "disappearances" and extrajudicial executions. Such acknowledgement is essential in order to create a climate conducive for the introduction of effective remedial and preventive measures.

Prior to July 1987, when the Indo-Sri Lanka accord was signed, Amnesty International had recorded some 680 "disappearances" in the period since 1983. All but one of these cases were reported from the north-eastern part of the country. After July 1987, 43 "disappearances" were reported from these areas for which the Indian Peace Keeping Force (IPKF) and armed Tamil groups aligned with them were believed to be responsible. Since June 1990, after the IPKF had left the country and the fighting between the Sri Lankan security forces and the Liberation Tigers of Tamil Eelam (LTTE) had broken out in the northeast, a further estimated 3,500 "disappearances" have taken in the northeast. The large majority of "disappearances" have occurred in the southern part of the country where the Sri Lankan security forces have been trying to crush the violent opposition by the JVP (Janatha Vimukthi Peramuna). Between mid-1987 and early 1990, tens of thousands of people (mainly young men) are estimated to have "disappeared" or were extrajudicially executed in the southern part of the country. Since 1990 the number of "disappearances" has decreased in the south. Nevertheless, they are still reported at regular intervals. During the first seven months of 1991, Amnesty International recorded over 30 cases of "disappearances" from the southern part of the country, where the government claims the law and order situation has returned to normal and no human rights violations are taking place.

Amnesty International was able to visit Sri Lanka in March and June 1991, the first time since 1982. In September, it published a document entitled *Sri Lanka - The Northeast: Human rights violations in a context of armed conflict* (ASA 37/14/91) providing substantial evidence of large-scale extrajudicial executions and "disappearances" occurring in the northeast since June 1990. Government forces are apparently acting with an almost total sense of impunity and the pattern of human rights violations that emerged in the south in the period between 1987 and early 1990 is now repeating itself in the northeast. The report also describes human rights abuses by the LTTE, the main Tamil armed opposition group which effectively controls parts of the northeast of Sri Lanka. The vast majority of their victims are Tamils, in whose name the LTTE say they are fighting for a sovereign state. The LTTE has itself consistently carried out arbitrary execution-style killings of hundreds of civilians including large numbers of Sinhalese and Muslims as well as Tamils it labelled "traitors". The insurgents are also responsible for many abductions, unacknowledged detentions and the torture of prisoners.

The government has established a Commission of Inquiry into the Involuntary Removal of Persons, mandated to investigate "disappearances" occurring in the period 11 January 1991 until 11 January 1992. Amnesty International is calling for the mandate of this commission to be extended prior to January 1991 and beyond January 1992. Another step taken by the government is the establishment of the so-called Human Rights Task Force, which is mandated, among other things to maintain a central register of all people in detention. According to a letter in late November 1991 of the Presidential Advisor on International Affairs, the human rights task force would also be mandated to investigate "disappearances" that occurred prior to 11 January 1991. Amnesty International has sought clarification on this.

Amnesty International has welcomed these initiatives but it also considers that further steps are needed to make these procedures more effective and has made specific recommendations to this effect to the government. In addition to the extension of the mandate of the Commission of Inquiry noted above, Amnesty International has asked the government to take steps to ensure that people from the northeast are given greater access to the new mechanisms.

Despite the recent government initiatives, the high scale of violence and violations of human rights in Sri Lanka continue unabated. Amnesty International believes that this situation can no longer be ignored by the international community and therefore requires an effective and urgent response by the Commission.

Special attention should also be drawn to the need for an expeditious and adequate response by the government to the recommendations made in the report of the Working Group on Enforced or Involuntary Disappearances. The Commission should carefully monitor the implementation of those recommendations.

V. ADVISORY SERVICES AND TECHNICAL COOPERATION

Amnesty International believes that the UN's Advisory Services and Technical Assistance program can potentially play an important role in the protection and promotion of human rights. The organization believes, however, that special vigilance should be exercised by the Commission when considering projects to be established or being implemented under this program. It is important that the program is not used in a way that allows a government to evade accountability for or avoid scrutiny of the human rights situation in its country. As the UN Secretary-General stated in his 1989 report to the Commission such activities "can be a complement to but never a substitute for reporting, monitoring and investigating activities

conducted under other sections of the UN's human rights program and mandate by the competent UN human rights bodies".

The Advisory Services program aims to increase awareness of and to help implement international human rights standards by providing practical assistance and advice to governments as well as training scholarships, seminars and regional training workshops. Amnesty International has previously been concerned about the lack of involvement of NGOs in these programs and the lack of project design and implementation criteria which would enable objective evaluations of the projects and thus the program as a whole. The organization therefore welcomed the Secretary General's report to the 1991 Commission which stated that project guidelines had been elaborated during 1990. Amnesty International hopes that the report to the 1992 Commission will indicate the way in which these guidelines are being applied. Likewise, the organization welcomed the reference (in Resolution 1991/49 on the Voluntary Fund for Technical Cooperation in the Field of Human Rights) to projects being formulated by the Centre for Human Rights in consultation with governments taking into account relevant suggestions from NGOs amongst others. NGOs have for many years been active in providing the UN with information about human rights. This information should be utilized as fully as possible in assessing the suitability of projects and NGOs should also be more involved in the design, implementation and evaluation of projects.

1. 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 have provided "no information whatsoever" regarding the implementation of previous recommendations by the Commission regarding a) the establishment of a Special Review Committee to monitor the Plan of Action; b) the promulgation of a General Association Act; and c) measures to facilitate the repatriation of exiles. He expressed deep concern that since his first visit to Equatorial Guinea in 1979 representative democracy has still not been established and that "consequently there is no adequate institutional framework for the protection of human rights". The Commission subsequently adopted Resolution 1991/80 which broadened and strengthened the Expert's mandate, requesting him to study the existing situation of human rights and fundamental freedoms in Equatorial Guinea and to report to the Commission at its 48th session.

Equatorial Guinea remains a one-party state ruled by the *Partido Democrático de Guinea Ecuatorial* (PDGE), Democratic Party of Equatorial Guinea. Since 1990 Equatorial Guineans have stepped up their own calls for a multi-party political system, in line with

increasing demands for political reform in other countries in the region. The government has responded, on the one hand, by announcing that it will introduce a multi-party political system and, on the other, by arresting those who call for or are suspected of favouring political pluralism. However, the pattern of arrests that has emerged over the past year differs from that of the past, although the intimidation of political opponents has persisted. In the 1980s there were waves of mass arrests of real or suspected opponents followed by unfair trials by military courts. In contrast, over the last 12 months arrests have occurred at more frequent intervals but have involved fewer people. Dozens of people are reported to have been arrested in the last year and Amnesty International has learnt the names of over 20, at least one of whom is a prisoner of conscience. Some of those arrested were detained for a few days and then released; others were imprisoned or placed under house arrest and some were re-arrested soon after being released. None of those detained over the past year are known to have been charged with any offence.

Amnesty International remains concerned at the limited progress made by the Equatorial Guinea Government in protecting human rights. 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 the torture reports. The government responded by setting up a national human rights commission to investigate reports of human rights violations. However, its members are directly appointed by the government, which calls into question the commission's impartiality, and it has not apparently undertaken any investigations into reports of abuses. As far as Amnesty International is aware, there has been no attempt to put an end to torture. Equatorial Guinea has not yet ratified the Convention against Torture and its initial report to the Human Rights Committee on its implementation of the International Covenant on Civil and Political Rights remains outstanding since December 1988.

The Commission should review the Expert's report carefully and consider whether the Advisory Services program is fulfilling its intended role in Equatorial Guinea. In particular, the Commission should continue to ensure that it takes into account the human rights situation there and consider ways to address more effectively the concerns which have been raised by the Expert.

2. HAITI

Resolution 1991/77, concerning the situation in Haiti, adopted at the last session of the Commission, was more strongly worded than the previous year's resolution. While expressing satisfaction at the democratic electoral process and noting Haiti's accession to the International Covenant on Civil and Political Rights, it nevertheless expressed concern at continued acts of violence committed in rural areas of the country and at the ineffectiveness of the judicial system. Notwithstanding these concerns, the Commission transferred Haiti from item 12 to the Advisory

Services program and appointed a new Expert whose mandate included an examination of the human rights situation. Amnesty International has repeatedly expressed its concern about the tendency of the Commission to transfer countries prematurely to the advisory services program at a time of transition or continuing instability in the country concerned. Seven months after the Commission's consideration of the situation and the transfer of Haiti from item 12 to advisory services the newly elected government of President Jean-Bertrand Aristide was overthrown in a violent coup.

Amnesty International is concerned at reports of widespread violations committed by the security forces in Haiti since the coup that deposed President Jean-Bertrand Aristide in September. These violations included a large number of extrajudicial executions, beatings and large numbers of arbitrary arrests without warrant of known or suspected supporters of President Aristide and members and leaders of grassroots and religious organizations. According to the information received by Amnesty International in the days immediately following the coup, security force agents deliberately shot a large number of civilians in different sectors of Port-au-Prince, resulting in hundreds of dead and wounded. Other reports of extrajudicial executions include the killing of Radio Caraïbe Director, Jacques Caraïbe, and of Camille César and Camille Bazile, two known supporters of the deposed President. Other reports have included incidents in Cité Soleil and Lamentin 54, where the military allegedly killed over 60 people apparently in reprisal for the killing of two officers by a crowd (see *Human Rights Violations in the Aftermath of the Coup d'État*, AI Index AMR 36/09/91 of October 1991). Many members and leaders of grassroots and religious communities or development organizations have been arrested, and their offices searched and destroyed. Politicians supporting President Aristide also suffered the same fate.

Amnesty International would urge the Commission to continue careful scrutiny of the situation in Haiti and to take this up under the more appropriate item 12 of its agenda.

VI. STANDARD SETTING

1. DRAFT DECLARATION ON ENFORCED DISAPPEARANCE

The Commission's Resolution 1991/41 established an open-ended working group to consider the draft Declaration, with a view to its adoption by the Commission at its 48th session. The Working Group met in Geneva from 28 October to 8 November 1991 and adopted a revised text that will be examined by the Commission at its next session.

In the preamble the text describes enforced disappearance as occurring when "persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by

officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, thereby placing such persons outside the protection of the law".

The Declaration has long been awaited by the victims of this appalling phenomenon and their relatives. "Disappearances" violate some of the most fundamental human rights protected under international law and an instrument which specifically prohibits this practice and which sets out the steps that should be taken by states in national legislation to investigate cases, bring perpetrators to justice and prevent its occurrence is urgently needed.

Amnesty International therefore considers that the adoption of the Declaration would constitute international recognition of the seriousness of the widespread phenomenon of "disappearances" and would be an important step towards prevention of their occurrence. Amnesty International would urge the Commission to give priority to the adoption of the revised draft Declaration at the 48th session so that it can be transmitted promptly to ECOSOC and the General Assembly for final adoption.

2. DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE

The next session of the Commission will again have before it the draft Optional Protocol to the Convention against Torture. This draft instrument, originally proposed by Costa Rica at the 1980 session of the Commission, envisages the setting up of an international body to carry out fact-finding visits to places of detention in states which are parties to the protocol, in order to examine the situation of detainees and prisoners and to make recommendations to prevent torture and other ill-treatment.

Costa Rica presented a revised draft to the last session of the Commission. The revised draft proposed that the body to carry out visits under the Optional Protocol would be a sub-committee of the Committee against Torture. This Sub-Committee, comprising a maximum of 25 members serving in their individual and expert capacity, would be responsible for organizing missions to the territory of States Parties in order to visit places of detention. The mission would be entitled to visit any place of detention, and would draw up a report on its findings to be submitted, with recommendations as necessary, to the State Party. Commission Decision 1991/107 agreed to consider the draft Optional Protocol at its 48th session as a separate sub-item on its agenda.

Consideration of the Optional Protocol has been repeatedly postponed by the Commission in order to take into account the experience of a similar regional system established by the Council of Europe. The European Committee for the Prevention of Torture has now been functioning since 1989 and its first report, covering the year to December 1990, provides useful information as to how such a system can be established and can function effectively. The revised draft of the Optional Protocol specifically deals with the possible existence of such regional systems with a view to avoiding duplication and overlap, which means that the existence of any regional system need not preclude development of such a system at the international level. The Special Rapporteur on torture has repeatedly called on the Commission to consider establishing such a preventive system of visits to places of detention on an international level and has described such a system as "one of the most effective preventive measures against torture."

Amnesty International considers that the Commission should consider this draft instrument as a matter of high priority. It considers that it is particularly appropriate for the UN to give more attention at the present time to the discussion and development of preventive mechanisms such as this one and urges the Commission at its 48th session to set up a Working Group to examine the text of the draft Optional Protocol in more detail.

3. HUMAN RIGHTS DEFENDERS

In January 1992 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'.

The Working Group made only limited progress at its last meeting in January 1991, when most of the discussion centred inconclusively on Chapter V, which deals with issues relating to individual and community responsibility in the promotion and protection of human rights. There was also discussion on the issue of the right of NGOs to seek, receive and provide financing for human rights work. One proposal that was introduced would effectively permit governments to limit fundraising to national sources. Amnesty International considers that this would constitute a serious restriction on the rights and work of NGOs and that its inclusion in the draft Declaration would be very damaging. This issue will also be considered at the January 1992 meeting and Amnesty International would urge that such a limitation not form part of the final text.

There is an urgent need for greater protection by the international community of people working to protect and promote human rights, as is indicated in a number of the situations and cases in individual countries described above. Amnesty International believes that, overall, the draft Declaration should incorporate and maintain existing relevant rights and freedoms enshrined in existing international instruments, particularly those set out in the proclamatory paragraphs and in Articles 8, 10, 11, 12, 13, 19, and 20 of the Universal Declaration of Human Rights. It is important that the Declaration does not impose new restrictions or limitations on human rights defenders.

Amnesty International hopes that work on the Declaration can be speedily completed at the next session of the Working Group with a view to transmitting to the 48th Commission for adoption a text that will guarantee the improved protection of human rights defenders without in any way restricting their important activities in the field of human rights.

Related to this issue is Resolution 1991/70, on cooperation with representatives of UN human rights bodies, adopted at the last session of the Commission. Amnesty International welcomes its renewed call to governments to refrain from any acts of reprisal against individuals and groups who co-operate with the UN and representatives of its human rights bodies. Considering the abuses inflicted on 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 Secretary-General in accordance with this resolution and will agree to take further measures to ensure the protection of all those who uphold human rights, often at great risk to themselves. Amnesty International suggests that the 1992 Commission consider a further resolution on this important topic which should, in particular, extend the scope of the resolution

to all human rights defenders and request that the Secretary-General continue to compile information on this subject from a wide range of sources, including NGOs.

VII. HABEAS CORPUS AS A NON-DEROGABLE RIGHT

Following an initiative of the Sub-Commission at its 43rd session the Commission will have before it a draft resolution calling "on all states which have not yet done so to establish a procedure such as habeas corpus by which anyone who is deprived of his or her liberty by arrest or detention shall be entitled to institute proceedings before a court, in order that court may decide without delay on the lawfulness of his or her detention and order his or her release if the detention is found to be unlawful," and "to maintain the right to such a procedure, at all times and under circumstances," including during states of emergency.

The last report of the Working Group on Enforced or Involuntary Disappearances submitted in 1991 referred to habeas corpus as "potentially one of the most powerful legal tools for unearthing the fate or whereabouts of a disappeared person." The report specifically stresses that the habeas corpus procedure is inoperative "if co-operation by the executive branch stops at the barrack gate". The Working Group also recommended that the relevant governments undertake "a systematic revision of habeas corpus procedures, repairing their deficiencies".

The judicial safeguards such as habeas corpus, amparo, or other mechanisms, which enable a person deprived of liberty to challenge the lawfulness of the detention before a court, are frequently suspended when a state of emergency is proclaimed. In some cases governments have suspended these guarantees, while in other cases the guarantees are rendered ineffective de facto. Detainees are thus deprived of the protection afforded by judicial control of the detention when they may be most in need of such protection.

In recent years there has been increasing recognition among human rights experts that those guarantees such as habeas corpus, amparo or other similar procedures should also be considered non-derogable, in particular because they are often one of the most effective, if not the only, means to protect the rights which may not be derogated from in any circumstances, such as the right to life and the right to be free from torture and other ill-treatment. Furthermore, Principle 32 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that a detainee shall be entitled at any time to take legal proceedings to challenge the detention. The Body of Principles contains no provision allowing for derogation from any of its safeguards, including this right to challenge the detention in any circumstances.

Amnesty International therefore hopes that the Commission will give serious consideration to this issue and will adopt the draft resolution before it calling on all states who have not already done so to establish a procedure such as habeas corpus to protect the human rights of individuals and to maintain it - even during states of emergency.

VIII. THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Amnesty International attaches great importance to all states ratifying or acceding 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.

During 1991, the 25th anniversary of the adoption of the two International Covenants, Amnesty International has been pleased to note the ratification of or accession to the ICCPR by Albania, Estonia, Grenada, Haiti, Israel, Lithuania, Nepal and Zimbabwe; and to its first Optional Protocol by Australia, Czechoslovakia, Mongolia, Lithuania, Nepal, Poland, Ukraine and the USSR. Amnesty International has also welcomed the ratification of or accession to the ICESCR by Albania, Estonia, Grenada, Israel, Lithuania, Nepal and Zimbabwe. In respect of the Convention against Torture, Cyprus, Estonia, Israel, Jordan, Nepal, Venezuela, Yemen and Yugoslavia either ratified or acceded to this treaty. This results in a total of 100 States Parties to the ICCPR, 60 to its first Optional Protocol, 104 to the ICESCR and 63 to the Convention against Torture.

Amnesty International particularly welcomed the entry into force in July 1991 of the second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, adopted in December 1989. So far 10 states - Australia, Finland, Iceland, Netherlands, New Zealand, Norway, Portugal, Romania, Spain and Sweden have ratified or acceded to it and a further 11 states - Austria, Belgium, Costa Rica, Denmark, Germany, Honduras, Italy, Luxembourg, Nicaragua, Uruguay and Venezuela - have become signatories. Amnesty International hopes that these 11 signatory states will promptly ratify or accede to this instrument and that other states will take the necessary steps towards early ratification or accession.

Of the 53 members of the Commission in 1992, only two, Australia and Portugal, have ratified all five of the above-mentioned human rights instruments. Five Commission member countries have ratified the ICCPR, its first Optional Protocol and the ICESCR and signed the second Optional Protocol: Austria, Costa Rica, Italy, Uruguay and Venezuela. Fifteen other Commission member countries have ratified the ICCPR, its first Optional Protocol and the ICESCR: Argentina, Barbados, Canada, Colombia, Czechoslovakia, France, Hungary, Libya, Madagascar, Peru, Philippines, Senegal, Somalia, USSR and Zambia.

It is, however, particularly disappointing to note that 10 members of the Commission have neither ratified nor signed the ICCPR, its first Optional Protocol, and the ICESCR. They are Angola, Bangladesh, China, Cuba, Ghana, Indonesia, Lesotho, Mauritania, Nigeria and Pakistan. Amnesty International considers that it would be appropriate that these states, as members of the Commission, give priority attention to becoming a State Party to these treaties.

As well as the goal of universal ratification of these instruments, Amnesty International believes that there is a need for them to be more effectively implemented. Amnesty International also attaches great importance to all States Parties complying promptly with their reporting obligations to the appropriate monitoring bodies established under these instruments.

IX. FREEDOM OF OPINION AND EXPRESSION

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 1991/32, adopted at the last session of the Commission, was very similar to that of the previous year, but also added reference to the preliminary report by the two Special Rapporteurs carrying out the Sub-Commission study, noting the "link between violations of the right to freedom of opinion and expression and violations of other fundamental rights".

An update to the preliminary report was prepared for the last session of the Sub-Commission and in its resolution 1991/39 the Sub-Commission invited the Working Group on Enforced or Involuntary Disappearances, the newly-established Working Group on Arbitrary Detention and the Special Rapporteurs of the Commission to pay particular attention to the situation of persons detained, ill-treated, or discriminated against for having exercised their right to freedom of opinion and expression.

Amnesty International hopes that the Commission will give every encouragement and support to this important study, and will continue to pay special attention to this question at its 48th session.

X. PUBLIC INFORMATION ACTIVITIES

Since December 1988 the United Nations has been running a World Public Information Campaign for Human Rights, which included the printing and distribution of materials related to human rights and the organizing of seminars and workshops. Amnesty International has welcomed this and other steps taken by the UN to increase its activities in this field and hopes that they will remain a constant feature of its activities.

The report submitted on this subject to the last Commission indicated that the campaign had led to the increased utilization of UN complaints procedures, such as the thematic mechanisms, which had received more information on alleged violations of human rights; accelerated the rate at which the ratification of human rights treaties were taking place; resulted in more requests from governments for technical assistance since 1988 than the previous 32 years in total; and increased the demand for UN human rights publications.

Resolution 1991/24, which endorsed this campaign, gave greater attention to the role of UN information Centres (UNICS). The resolution included a new request that the recent periodic reports of States Parties to treaty monitoring bodies, and the summary records of discussion on these, should be available in the UNIC of the country which submitted the report. It notes also that the Commission's request in its previous resolution for information on what human rights documentation is kept at UNICs has not been met, and it reiterates the need for UNICs to collect basic UN information and reference material on human rights.

Another aspect of the UN's public information activities has been the support given to national and regional institutions or arrangements for the promotion and protection of human rights. A report presented to the last Commission referred to the commissions and similar bodies established in Burkina Faso, France, Guatemala, Japan, Mexico, Morocco and the Philippines, yet noted that most of these bodies "seek amicable settlements" but do not have the authority "to take binding decisions themselves".

Resolution 1991/27 reaffirmed the importance of developing effective national institutions for human rights protection and promotion and also "maintaining their independence and integrity", and welcomed "the constructive role that non-governmental organizations can play in relation to national institutions". Amnesty International supports the development of effective national and regional human rights institutions for the protection and promotion of human rights but considers that special vigilance is needed to ensure that such institutions have adequate powers and resources to fulfil their task effectively.

Amnesty International encourages all governments to participate in the World Public Information Campaign for Human Rights by, for example, establishing national focal points which could be used, with UN Information Centres in different countries, for the dissemination of materials produced as part of the Campaign. In addition it is important that every government provides the UN with a full report of their activities, in order to evaluate the campaign and plan future activities.

XI. WORLD CONFERENCE ON HUMAN RIGHTS

The decision by the United Nations to convene a World Conference on Human Rights clearly demonstrates, once again, that human rights are a matter of legitimate international concern and that the international community has a special responsibility to ensure that human rights are respected and to take remedial measures whenever they are violated.

However, the convening of such a Conference also represents a major challenge; a challenge to tackle constructively and openly the areas where international human rights protection is not yet adequate and to take action to remedy these deficiencies. Amnesty International considers that the World Conference should provide a unique opportunity for the international community - governmental and non-governmental - to undertake an in-depth and critical review of the work of the United Nations in the field of human rights; to examine closely the proper relationship and coordination of these activities with other areas of work undertaken by the United Nations; and to elaborate specific recommendations to improve the effectiveness of United Nations activities and mechanisms in the field of human rights. It is also imperative that there is effective and sustained follow-up of the proceedings and recommendations of the World Conference to ensure that words and aspirations are translated into concrete reality. The preparatory process and the Conference itself should give careful consideration to this and ensure that specific follow-up measures form an integral part of the conclusions of the Conference and its recommendations for future action.

Notwithstanding the progress in the past 40 years in the areas of standard-setting and the creation of mechanisms aimed at securing the implementation of these standards, there remains a pressing need for the United Nations to establish new and more effective ways to address situations of grave and massive violations of the most fundamental human rights whenever these occur. Torture, "disappearances", summary or arbitrary executions and arbitrary and unlawful detention are still a harsh reality today and in some countries are occurring on a large scale. The continued existence of such gross violations remains as great a challenge for the United Nations as it has always been. Amnesty International believes that the United Nations must, as a matter of urgency, determine ways in which it can tackle more effectively such situations of gross violations. Special consideration could be given, for example, to the creation of a standing mechanism capable of a coordinated, concrete and rapid response in such situations. Part of this response, when this is needed, could be to establish a mechanism to undertake on-going and sustained human rights monitoring by the United Nations aimed at protecting individuals at risk, bringing such violations to an end and, in the longer-term, working towards the full restoration of respect for human rights in a country.

The UN Secretary-General has stated that "resolution of conflicts, observance of human rights and the promotion of development together weave the fabric of peace; if one of these strands is removed, the tissue will unravel". Amnesty International believes that the World Conference should also pay special attention to ways in which human rights protection can be

more systematically and comprehensively addressed in the context of wider political discussions and settlements, particularly when the United Nations is playing a key role in such discussions.

The World Conference should also critically review existing methods and mechanisms in the field of human rights and focus in particular on the major obstacles which have undermined their effectiveness and ways to overcome these.

The General Assembly in its Resolution 45/155 has identified a multiplicity of tasks for this World Conference. Many of the suggestions that were made during the first preparatory meeting in September 1991 or which were reflected in the documentation prepared for it are creative and wide-ranging. Amnesty International would urge, however, that a high level World Conference on Human Rights should focus its attention primarily on the larger challenges in the field of human rights and on the major and long-standing obstacles to the realization of universal respect for human rights. In particular the Conference need not and should not delay or be a substitute for on-going efforts by all United Nations human rights bodies to keep their procedures under review and to take steps to improve their effectiveness. It is unlikely that it will be possible for the preparatory process or the Conference to take up all the suggestions which have already been made and those which will be put forward in the coming months. Yet, this should not preclude human rights bodies such as the Commission from considering these in the course of their regular work, thereby maximizing the opportunities created by the World Conference for real improvements in the human rights machinery at all levels.

Amnesty International also considers that it is imperative that all UN human rights bodies play a full role in the World Conference and its preparatory process. The participation of the Commission and of its various mechanisms, such as the thematic mechanisms, will be particularly important. Amnesty International would urge the Commission to ensure such participation in all stages of the preparatory process and the Conference itself.