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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO
ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:
TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT

Report of the Special Rapporteur, Mr. P. Kooijmans, pursuant to
Commission on Human Rights resolution 1992/32

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Introduction

1. At its forty-first session, the Commission on Human Rights adopted resolution 1985/33, in which it decided to appoint a special rapporteur to examine questions relevant to torture.
2. On 12 May 1985, the Chairman of the Commission appointed Mr. Peter Kooijmans (Netherlands) Special Rapporteur, who, in pursuance of Commission resolutions 1985/33, 1986/50, 1987/29, 1988/32, 1989/33, 1990/34 and 1991/38, submitted reports E/CN.4/1986/15, E/CN.4/1987/13, E/CN.4/1988/17 and Add.1, E/CN.4/1989/15, E/CN.4/1990/17 and Add.1, E/CN.4/1991/17 and E/CN.4/1992/17 and Add.1) to the Commission at its forty-second, forty-third, forty-fourth, forty-fifth, forty-sixth, forty-seventh and forty-eighth sessions respectively.
3. In its resolution 1992/32 the Commission decided to extend the mandate of the Special Rapporteur for a further three years, while maintaining the annual reporting cycle, in order to enable him to submit further conclusions and recommendations to the Commission. It also decided that the Special Rapporteur, in carrying out his mandate, should continue to seek and receive credible and reliable information from Governments, the specialized agencies, and intergovernmental and non-governmental organizations.
4. In conformity with Commission resolution 1992/32 the Special Rapporteur hereby presents his eighth report to the Commission. Chapter I of the report deals with a number of aspects pertaining to the Special Rapporteur's mandate and methods of work. Chapter II consists mainly of a review of the information transmitted by the Special Rapporteur to Governments and the replies received thereon up to 14 December 1992. Chapter III contains information on follow-up visits made by the Special Rapporteur in the past, as well as on the visit carried out to the territory of the former Yugoslavia. Chapter IV contains conclusions and recommendations.
5. In addition to resolution 1992/32, several other resolutions of the Commission on Human rights are also pertinent within the framework of the mandate of the Special Rapporteur and have been taken into consideration in examining and analysing the information brought to his attention. These resolutions are, in particular,
 - (a) Resolution 1992/22, entitled "Right to freedom of opinion and expression", in which the Commission invited its Special Rapporteurs "to pay particular attention, within the framework of their mandates, to the

situation of persons detained, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression";

(b) Resolution 1992/31, entitled "Human rights in the administration of justice", in which the Commission called upon its special rapporteurs and working groups "to give special attention to questions relating to the effective protection of human rights in the administration of justice, in particular with regard to unacknowledged detention of persons, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for possible concrete measures under advisory services programmes";

(c) Resolution 1992/41, entitled "Human rights and thematic procedures", in which the Commission recommended that Governments that had invited any of the thematic special rapporteurs to visit their countries to consider follow-up visits and encouraged Governments to respond expeditiously to requests for information so that the thematic special rapporteurs concerned might carry out their mandates effectively. It also encouraged "Governments encountering problems in the field of human rights to cooperate more closely with the Commission through the pertinent thematic procedures, in particular by inviting a thematic special rapporteur ... to visit their countries";

(d) Resolution 1992/42, entitled "Consequences on the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers" in which the Commission requested the Special Rapporteurs to continue paying particular attention to the adverse effect on the enjoyment of human rights of acts of violence committed by such groups";

(e) Resolution 1992/59, entitled "Cooperation with representatives of United Nations human rights bodies", in which the Commission urged Governments to refrain from all acts of intimidation or reprisal against persons cooperating with representatives of United Nations human rights bodies, availing themselves of human rights protection procedures established under United Nations auspices or providing legal assistance for this purpose, as well as those who submit communications under procedures established by human rights instruments and relatives of victims of human rights violations. It also requested representatives of human rights bodies to help prevent the occurrence of such intimidation and reprisals.

I. MANDATE AND METHODS OF WORK

6. On 3 March 1992 the Commission on Human Rights adopted resolution 1992/43 by which it decided to establish an open-ended intersessional working group in order to elaborate a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, designed to establish a preventive system of visits to places of detention. It may be recalled that the Special Rapporteur in previous reports had advocated the institution of such a system of periodic visits to places of detention.

7. On 28 February 1992 during the debate by the Commission at its forty-eighth session on draft resolution E/CN.4/1992/L.41, by which the Special Rapporteur's mandate was to be extended for three years, the representative of the Philippines suggested an extension of the mandate for only one year. The delegate felt that the issue of torture was already covered by so many mechanisms that the Commission needed time to reflect whether the mandate of the Special Rapporteur had become redundant.

8. Although the Commission did not adopt this suggestion and by resolution E/CN.4/1992/32 extended the mandate for three years, the issue of overlapping mechanisms seemed to be a matter of concern to more than one delegation. The Special Rapporteur, therefore, deems it useful to give his views on the character and functions of the various mechanisms. He hopes that these views may dispel any fears that the scarce human and logistical resources of the Centre for Human Rights are not used in a balanced way. During a meeting on 23 October 1992 with the open-ended working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Special Rapporteur expatiated on this issue. A recapitulation in the present report of what he said on that occasion may be of some guidance

to the Commission when it has to decide in the future which options should be chosen.

9. It cannot be denied that the issue of torture and other cruel, inhuman or degrading treatment or punishment is covered by a variety of mechanisms. This in itself is evidence of the fact that the international community considers torture to be one of the most heinous violations of human rights and unequivocally condemns it.

10. When looking at these various mechanisms, a first distinction can be made between treaty-based ones and the one established by the Commission. The former by definition have competence only with regard to States which have become party to the treaty, whereas the latter can address the Governments of all Member States of the United Nations and of all States which have observer status with the Organization. The Special Rapporteur's mandate is a reflection of the fact that the international community has come to the conclusion that the prohibition of torture is an obligation for all States, whether or not they have ratified a treaty which explicitly contains this prohibition. This conclusion is based, *inter alia*, upon the view of the International Court of Justice which in 1970 stated that the obligation to respect the basic human rights, to which the right not to be tortured belongs beyond any doubt, is an obligation *erga omnes* for each and every State, an obligation which a State has *vis-a-vis* the community of States as a whole. This is also reflected in the draft Code of Offences against the Peace and Security of Mankind, prepared by the International Law Commission. It is now generally accepted that the prohibition of torture is a peremptory norm which under no circumstances may be encroached upon.

11. With regard to those States which have not ratified the two conventions which contain the prohibition of torture (the 1966 International Covenant on Civil and Political Rights and the 1984 Convention against Torture), the Special Rapporteur is the only available mechanism; the number of States which have ratified neither convention is still regrettably high.

12. More important than the difference in "geographical" scope, however, is the difference in character between the various mandates. The treaty-based bodies (Human Rights Committee and Committee against Torture) monitor the compliance of the States parties with their treaty obligations; because of the far more detailed provisions of the Convention, reports to be submitted periodically by the parties have to contain more information than reports submitted under the International Covenant. Under both, the Committee can also deal with individual complaints, whenever its competence to do so is recognized by the States concerned. Finally, the Committee against Torture is entitled to carry out an inquiry in cases of a systematic practice of torture whenever its competence to do so is not explicitly excluded. In all these cases, the essential task of the mechanism is to determine whether a State party is complying with or has complied with its obligations under the treaty. Its function can therefore be characterized as quasi-judicial. If it comes to the conclusion that a treaty obligation has been violated, it gives its view as to whether the State party is responsible for the violation. A State is not responsible as long as it is in a position to redress a wrongful act committed by its organs. It is exactly for that reason that an individual complaint is not admissible if the local remedies have not been exhausted unless the Committee concludes that these local remedies are futile. The inevitable consequence of the need to exhaust local remedies is that a case of torture normally will be considered by the Committee years after it has been committed. Its view will be relevant for the question of whether the State concerned is under an obligation to pay compensation.

13. If we look at the Special Rapporteur's mandate we see a completely different picture. According to the mandate as formulated in the resolution which established it (resolution E/CN.4/1985/33), the Special Rapporteur has to report to the Commission, a body composed of government representatives, on "his activities regarding the question of torture, including the occurrence and the extent of its practice, together with his conclusions and recommendations".

14. In order to be able to report on the occurrence and extent of the practice of torture, he is entitled to receive information from Governments, intergovernmental and non-governmental organizations. The greater part of the information provided by non-governmental organizations deals with specific cases of alleged

torture. He (like other thematic mandates) can bring this information to the attention of the Government concerned and ask for its comments. When doing so, as well as when reporting on this correspondence to the Commission, he does not take a stand on whether such allegations are well-founded. He merely requests the Government to look into the matter and to see to it that, if the outcome of the inquiry confirms that the allegation is true, the perpetrators will be punished and the victims will be compensated. The information received, together with the replies by Governments, enable the Special Rapporteur to draw for the Commission a picture of the occurrence and the extent of the practice of torture and to submit to the Commission his conclusions and recommendations. For that reason it is regrettable that only a minority of the Governments whose comments are solicited provide the Special Rapporteur with a reply, in spite of the fact that the Commission has urged Governments which have not yet responded to communications transmitted to them by the Special Rapporteurs to answer expeditiously (resolution E/CN.4/1992/32, para. 18).

15. The Special Rapporteur is also invited "to bear in mind the need to be able to respond effectively to credible and reliable information that comes before him." This provision, which is also contained in other thematic mandates established by the Commission, has led to the so-called urgent appeal procedure. If anything, this urgent appeal procedure illustrates the essentially different character of the mandates of the treaty-based bodies and that of the Special Rapporteur. The latter's function is basically humanitarian and destined, through the urgent appeals procedure, to avert potential or ongoing violations of the prohibition of torture and through the transmittal of alleged violations to enable Governments to expedite the suppression of torture and the compensation of victims. The instruments of thematic procedures has been developed by the Commission as a tool in the struggle against practices which have been outlawed by the international community and as a means to come to the rescue of potential or real victims of such outlawed practices. Hence, the emphasis is laid on the element of "effectiveness" and on the adoption of preventive measures.

16. The difference in character of the various mandates is also highlighted if we compare the competence of the Committee against Torture to carry out an independent inquiry in cases where it has received information about a systematic practice of torture and to visit the country concerned with the consent of the Government, with the country visits paid by the Special Rapporteur. An inquiry by the Committee is an ultimum remedium which will only be applied when there is overwhelming evidence of torture on a massive scale and will finally lead to a determination on state responsibility. A visit by the Special Rapporteur is commendable in all those cases where, on the basis of the information received, the situation in a country seems to be problematical and where consultations with the authorities and with non-governmental groups might lead to a clearer picture and to improvements by the taking of certain measures. Such a visit for consultative purposes should be seen much more as falling in the category of advisory services than an investigative mission provided for in the Convention against Torture. This seems also to be the opinion of the Commission when it encouraged Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate more effectively. The difference in character is also borne out by the fact that the Committee will carry out its inquiry in confidence, although a summary account of the proceedings may be included in the Committee's annual report, whereas the Special Rapporteur immediately submits a report on a country visit to the Commission.

17. Of course, a Government may feel that it is useful to invite the Special Rapporteur for an investigative visit to see for himself that the allegations transmitted to the Government are baseless or in order to show the international community that it is willing to cooperate in the eradication of torture. Even if some of the allegations were to be found correct, the report on such an investigative visit should be focused on recommendations to improve the situation in that country. Although geared to a common goal, the eradication of torture, the various mandates are complementary as a result of their completely different character.

18. Would the establishment of a system of periodic visits to places of detention with an infrastructure of its own lead to an overlap? The main thrust of such a system is preventive. Regular inspection of detention places by independent experts, either on a national or on an international level, is bound to have a prophylactic effect on the occurrence of torture. In particular, visits by international experts will lead to

recommendations of a very concrete nature; since the visits will be periodical, the experts will be in an excellent position to see whether their recommendations have been complied with and what results can be ascertained from such compliance. On the universal level this would be a completely new instrument in the fight against torture and, therefore, would be complementary to the existing mechanisms. Such a new instrument is far from superfluous in view of the fact that this fight has been far from successful until now. If they cooperate closely and exchange information whenever possible, the establishment of a system of visits would make all mechanisms more effective.

19. Since the finalization of last year's report the Special Rapporteur sent 44 letters to 43 Governments. In these letters about 700 cases of alleged torture were transmitted to the Governments concerned. If the information received contained not only concrete allegations of torture but also a critical analysis of a more general nature, this information was also brought to the attention of the Governments with the request to comment on this analysis.

20. Seventy-nine urgent appeals were sent to 31 Governments dealing with roughly 300 individuals as well as several groups of persons with regard to whom fears of torture had been expressed.

21. The Special Rapporteur approached a total of 55 Governments asking for their comments and received replies from only 27 Governments; moreover, he received from eight Governments replies dealing with cases which were mentioned in previous reports. Many of the replies received, however, do not refer to all the cases transmitted by the Special Rapporteur. It should be kept in mind, however, that a number of letters were dispatched rather late in the year and that Governments need time to investigate allegations.

22. In his letter the Special Rapporteur specifies in detail the kind of information he needs. The reply should not only contain information on the accuracy of the allegation and relevant factual circumstances but also on the authority responsible for the investigation, the result of any medical examination and the identity of the person who performed it, the outcome of the investigation and the decision taken with respect to a complaint, the grounds for this decision and, if the allegation is found to be accurate, the measures taken.

23. A number of the replies received are more or less in conformity with these requirements. Other replies, however, contain a mere denial of the alleged facts. Even if the allegations were false, the Special Rapporteur is of the opinion that such replies cannot be deemed satisfactory. As he said in his previous report, the sustained campaign of the international community against torture makes it necessary for all Governments to take allegations about torture seriously and to look into each and every case which is brought to their attention (E/CN.4/1992/17, para. 10).

24. When a Government of a country which is mentioned in this report has submitted a report in the course of the present year to the Committee against Torture and the Committee has considered that report, reference is made to the relevant documents. The Special Rapporteur is of the opinion that the information provided in these documents is a useful addition to the information contained in the present report.

25. Twice the Special Rapporteur had to send an urgent appeal pursuant to Commission resolution 1992/59 on behalf of persons who had cooperated with representatives of human rights bodies of the United Nations and with regard to whom fear had been expressed that they might be subjected to retaliatory measures, including torture. It would be sad indeed if people were victimized for doing exactly what the United Nations expects them to do.

26. The Special Rapporteur this year did not receive an invitation to visit a country, although he approached some Governments when the situation in the country concerned appeared to make such a visit advisable. The Special Rapporteur feels that too many Governments still see such an invitation as an admission that torture is wilfully condoned in the country concerned. He wished to reiterate what he has said before: nobody knows better than he how difficult it is to eradicate torture. He therefore feels that he would perform his function in

a half-hearted way if he confined himself to transmitting allegations to Governments without offering advice to them on how to fight effectively the phenomenon of torture.

27. During its forty-eighth session the Commission was addressed by the Minister of Justice and Attorney General of the Sudan. On that occasion the Minister stated that anybody could come to his country and inform himself about the human rights situation there. On 3 March 1992 the Special Rapporteur wrote a letter to the Government of the Sudan in which he asked whether this statement could be seen as an invitation to him to visit the country. On 23 November 1992 he received a reply from the Minister of Justice, the content of which is reflected in paragraphs 412-414 below. The Minister said that access to prisons had already been granted to Western Ambassadors in Khartoum and to representatives of the ACP countries and the EEC Parliamentary Assembly, and that he had informed the Chief Justice and the Minister of Foreign Affairs of the Special Rapporteur's willingness to visit the country.

28. The Special Rapporteur welcomes this reply and expresses the hope that an invitation will be extended to him.

29. In his previous report the Special Rapporteur mentioned that he had received an invitation from the Government of Djibouti to visit that country to carry out an objective and independent inquiry into a number of alleged cases of torture which had been transmitted to the Government. He also informed the Commission that due to a regrettable delay in communications this visit had to be postponed. By letter of 21 August 1992 he asked the Government of Djibouti whether the invitation was still valid and, if so, when the visit could take place. The Special Rapporteur has not yet received a reply from the Government of Djibouti. He wishes to repeat what he said last year: by extending this invitation to carry out an investigation the Government of Djibouti has set an example which may contribute to a more effective functioning of the Commission's mandate on torture.

30. Pursuant to resolution E/CN.4/1992/S-1/1 adopted by the Commission at its first special session in August 1992, the Special Rapporteur, at the invitation of the Commission's Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki, took part in his second mission from 12-22 October 1992. Those findings of the mission which are relevant to torture are reflected in chapter III.

II. INFORMATION REVIEWED BY THE SPECIAL RAPPORTEUR WITH RESPECT TO VARIOUS COUNTRIES

Argentina

Information transmitted to the Government and replies received thereon

31. In a letter dated 21 August 1992 the Special Rapporteur advised the Government that he had received information on the practice of torture in Argentina and also on a number of individual cases. The Government replied in a letter dated 9 November 1992.

32. The Special Rapporteur stated that he had received information on major legislative action taken in recent years such as the reform of the Federal Code of Criminal Procedure under which confessions made to the police are not admissible as evidence and police detention to establish identity may not exceed 10 days. He had however, been informed that notwithstanding these measures the police frequently resorted to torture to elicit information or secure changes in testimony already given. Torture was also used as a form of

punishment and intimidation. Most of the victims were poor people and young people suspected of theft, rape and similar offences. Some cases had however, a political dimension. According to the information received, the police had used torture to link a group of dissidents to the commission of a crime.

33. The most frequently used methods are electric shocks, beating and near-suffocation by means of a plastic bag placed over the head. ("Dry submarine").

34. It was reported that the Government was not taking effective action to prevent torture, although in a number of cases heavy pressure had resulted in disciplinary action against individual policemen. The judiciary, the examining magistrates in particular, rarely charged police with torture. Usually the less serious charge of unlawful pressure was preferred. Even in that case convictions were virtually unknown.

35. The Special Rapporteur had also been informed of seven cases in Buenos Aires city and province. In this connection the Government stated in its reply that it was essential that the Special Rapporteur should identify the unit concerned in an alleged unlawful act and the jurisdiction which had received the complaints as well as the facts needed to establish the details of each case. The Government annexed a list of regulations in force germane to prevention of the use of torture. The cases mentioned are the following:

(a) María Eugenia Corvalán Alarcón, cashier in a restaurant in the San Telmo district of Buenos Aires, was arrested on 4 June 1987 by police searching the restaurant for drugs. She was taken to the police station where she was beaten in the presence of witnesses, subjected to the dry submarine treatment and put in a straitjacket. Various members of the police were charged with the use of unlawful pressure. The Special Rapporteur does not know whether a judicial decision has been taken;

(b) Carlos Delgado, waiter, was arrested in the Moreno district of Buenos Aires by men in civilian clothes riding in a Ford Falcon without licence plates. His hands and feet were tied and he was beaten on the stomach and the soles of his feet while he was interrogated about a stolen motor cycle. He was nearly suffocated by means of a nylon pouch placed over his head. This took place in Moreno first district police station. A number of police took him to a hospital where he was found to be suffering from haematoma all over his body, particularly on the soles of his feet. One of the injuries caused serious circulatory difficulties;

(c) Daniel Caviglia, age 16, was arrested in Luján on 23 July 1990 with a number of other boy scouts by armed men in civilian clothes who took them to the police station. All the scouts were beaten. Daniel Caviglia was stripped, tied to a chair, subjected to the dry submarine treatment and punched in the stomach. As a result of this incident two policemen are said to have been dismissed from the force;

(d) Norberto Hadad was arrested in Luján on 8 August 1990 by members of the detective squad. According to the report received he was handcuffed, beaten and subjected to the dry submarine treatment in order to extract a confession that he had obtained a vehicle illegally. As a result of the torture an eardrum was perforated;

(e) Argentino Cabral was arrested on 7 November 1990 by members of the police intelligence branch in connection with an attack on Barracas school a few days earlier. He was beaten, subjected to the dry submarine treatment, handcuffed to a wall and burnt on the shoulder, apparently with cigarettes;

(f) Aníbal Monzón Novena was arrested on 23 November 1990 by members of the intelligence branch. He was questioned about an organization called the Union of Revolutionary Workers, subjected to the dry submarine treatment, beaten, stripped and hung from the ceiling. He also underwent a mock execution;

(g) Walter Bulacio, age 17, was arrested by the police on 19 April 1991 with other young people attending a rock concert. According to witnesses he was severely beaten. As a result he had to be taken to hospital a few hours later and died a week afterwards. The autopsy report stated that death was caused by a congenital

condition. The family's lawyers dispute this version and note that according to a hospital medical report the youth had bruises on his face and injuries to the skull and thorax.

With regard to the first six cases the Government stated that no complaints or other material had been received by the Office of Human Rights. With regard to the seventh case, the Government reported that Walter Bulacio's death had been caused by a vascular cerebral incident brought on by excessive tension. The police commissioner responsible for the arrest of Bulacio and the other youths had been put on trial.

36. The Committee against Torture examined Argentina's periodic report at its ninth session (9-20 November 1992). The report is reproduced in document CAT/C/17/Add.2.

Bahrain

Information received from the Government on cases included in previous reports

37. On 10 January 1992 the Government replied to the case of the alleged death as a result of torture of Mamdouh Mahdi Ahmad, which had been transmitted by the Special Rapporteur on 18 October 1991. According to the reply Mamdouh Mahdi Ahmad, who was not subjected to any form of torture, exercised all the rights to which accused persons are entitled, including the assistance of a lawyer and family visits in prison. His death on 19 May 1991 was in no way connected with the alleged torture.

Bangladesh

Information transmitted to the Government

38. By letter dated 12 November 1992 the Special Rapporteur communicated to the Government of Bangladesh that he had received allegations with regard to the practice of torture in the country. According to these allegations on 25 March 1991 members of the Range Reserve Police Force fired at a crowd in Bheramara, Kushtia district, and arrested five persons, Shukchand, Atiar, Ripon, Biplab and Mannan, after having injured them. They were reportedly taken to the local high school, which the police were using as a temporary camp, where they were reportedly subjected to severe beating. As a result, Biplab's leg was broken and Shukchand died.

39. The Special Rapporteur was also informed of 18 cases of torture and ill-treatment in the Chittagong Hill Tracts. Among them were the following:

(a) Milan Kanti Chakma, Upali Chakma, Syamal Kanti Chakma, Dipankar Chakma and Bimalendu Chakma. These persons were among a group of villagers of Poapara village, in Kaukhali Upazilla, Chittagong Hill Tracts, who, on 20 March 1992, were summoned to the Kashkhali army camp. Once there they were interrogated and subjected to various forms of torture. They were reportedly hung from trees upside down, beaten severely, given electric shocks and water was forced through their nostrils until they lost their hearing and became unconscious;

(b) Silcham Chakma; Master Kamal Chakma, aged 16; Barpeda Chakma, aged 17; Priyalal Chakma; Kula Mohan Chakma and Pindu Mohan Chakma. They were among a group of persons who, on 20 May 1992, were arrested by army personnel of Champa Tali camp, in Ghagra zone. Once in the camp they were interrogated and subjected to severe beating with sticks and kicked with boots;

(c) Bina Chakma, aged 15; Mita Khisa, aged 13; Rakhi Sona Khisa, aged 16; Karuna Chakma; Royna Chakma, aged 14; Urbasi Chakma and Tipu Rani Chakma, aged 17. On 14 March 1992 members of the Chowdhuri Chara army camp occupied by the 8th Engineering Corps of the Bangladesh Army led an operation against the people of Krishnama Chara village in No. 71 Choto Mahapuram Mouza and No. 78 Bagachari Mouza and raped the above-mentioned girls.

40. In addition to the above-mentioned the Special Rapporteur sent an urgent appeal to the Government on 21 February 1992 on behalf of Kanti Charan Chakma, Bandi Charan Chakma, aged 17, and Tungo Chakma, with respect to whom fears were expressed that they might be at risk of being tortured. According to the information received, these persons were arrested on 14 January 1992, during the campaign for local elections in Chittagong Hill Tracts. They were taken to Baraitali army camp by members of the Bangladesh military stationed in the Chittagong Hill Tracts. It was also reported that they were held incommunicado and that another person arrested at the same time, Mr. Abiran Chakma, had died as a result of excessive beating.

Information submitted by the Government in connection with Commission resolution 1992/42

41. On 6 April 1992 the Government submitted a list of people who had been killed or kidnapped in terrorist acts carried out in the Hill districts of Bandarban, Khagrachari and Rangamati.

Bhutan

Information transmitted to the Government and replies received thereon

42. By letter dated 21 August 1991 the Special Rapporteur communicated to the Government that he had received information on alleged abuse and torture, including the rape of teenage girls and old women carried out by security forces in Bhutan. He also communicated the following individual cases, to which the Government replied on 20 October 1992.

43. Jayanarayan Bhandari was arrested without a warrant by the army on 9 November 1991 and imprisoned in the district jail of Samdrupjongkhar, where he was whipped and kicked on the genitals, punched in the stomach and immersed in cold water. He was released on 21 February 1992.

44. With respect to this case the Government reported that Jayanarayan Bhandari was arrested on 9 December 1991 for aiding and abetting a terrorist. Investigations revealed that he made a full confession of his links with the Bhutan Peoples Party as soon as he was arrested. There is no evidence whatsoever to show that he was inhumanely treated while in detention. There are strict government orders to police officers not to torture or ill-treat prisoners in any way while in detention. The agency in Bhutan which is responsible for investigating allegations of torture or ill-treatment of prisoners and prosecution of those responsible is the Ministry of Home Affairs. The investigations are carried out methodically and thoroughly by senior officers not below the rank of director. Whenever any evidence is detected of police high-handedness or violation of rules and regulations, the concerned police officers are severely punished. The question of giving any compensation to the relatives of Jayanarayan Bhandari does not arise as he confessed to aiding and abetting a terrorist, and he had also participated in several acts of terrorism.

45. In February 1991, Ramlal Kuitel, Dhan Bahadur Budathoki, Hem Bahadur Budathoki and Bhanu Bahadur Neupane were arrested without warrant by the army and taken to the Tashigang jail where they were severely beaten. In particular, they were kicked and whipped while forced to stand upside down.

46. With respect to these cases the Government replied that these persons were arrested by the Bhangtar subdistrict police and granted amnesty on 4 February 1992. No evidence could be unearthed during the investigation to indicate that the four detainees had been tortured or mistreated during their detention.

47. Information was also transmitted to the Government on the cases of three persons who were allegedly beaten to death by the Royal Bhutanese Army in October 1991. Their names are Tikaram Subba, a student of grade VI at Bukuli Primary School, village Royatar, Bukuli, Samdrupjongkhar district; Mon Bahadur Darjee, aged 17, a student of grade V at Bakuli Primary School, village Magori, Dalim district and Bhakta Bajadur Pokharel, from Dhumpa, Dalim, Samdrupjongkhar district.

48. With respect to the case of Tikaram Subba, the Government reported that he was taken to hospital on 1 October 1991 and died on 1 November 1991. The medical report, dated 2 November 1991, indicated that he was suffering from serious health problems. The allegation that he was beaten to death was totally false and baseless.

49. On the case of Mon Bahadur Darjee, the Government replied that he was apprehended on 11 November 1990 by the National Assembly member for Bhangtar, Mr. R.B. Kharel, and the village headman of Bakuli, Mr. Taranidhi Sharma. He was handed over to the Bhangtar subdistrict police by them on the same day. The medical report, dated 7 October 1991, indicated that his health was poor and that he died on 6 October 1991. The allegation that he was beaten to death was totally false and baseless.

50. As for the case of Bhakta Bahadur Pokharel the Government reported that his medical report dated 26 August 1991, indicated that his health was poor and that he died on 25 August 1991. The allegation that he was beaten to death was totally false and baseless.

51. According to the Government, in view of the seriousness of the offences committed by Bhakta Bajadur Pokharel, Mon Bahadur Darjee and Tikaram Subba, all of them arrested for terrorist activities, the question of granting compensation to their relatives does not arise.

Bolivia

Information transmitted to the Government

52. In a letter of 21 August 1992 the Special Rapporteur informed the Government that the following four cases of torture were reported to have occurred in Bolivia:

(a) Alvaro García Linera and Raquel Gutiérrez de García, a Mexican citizen, were held in units of the Ministry of the Interior on 10 April 1992 and tortured by means of electric shocks on the hands, thorax, genitals, lower limbs and ears. Mrs. Gutiérrez was forced to remain for hours in the so-called swine position and repeatedly kicked and beaten on the buttocks, abdomen and lower limbs;

(b) Victor Ortíz and Macario Tola, prisoners in the Chonchocoro jail, were arrested in April 1992 and tortured by means of blows and electric shocks. Macario Tola was made to wear an earphone and listen to unbearably high pitched sounds.

Brazil

Information transmitted to the Government and replies received thereon

53. In a letter of 7 September 1992 the Special Rapporteur notified the Government that he had received information on the practice of torture in Brazil. According to the information, street children in Cuiabá, Matto Grosso, are regularly beaten and maltreated by the police to make them hand over part of the proceeds of their thefts. Children with nothing to hand over or refusing to do so are taken to the police station and beaten, often with the fist wrapped in a cloth so as not to leave marks. Children are often taken in the trunk of a car to a place on the bank of the Cuiabá river called man-eater by the police. There the children are tied to a post and held in the river until they are nearly drowned. Children are told that they will be killed if they report the maltreatment.

54. A report was received on the case of Mauro Martins Solano, age 17, who is alleged to have died after torture by the police who arrested him on 22 September 1991 near his home in Cuiabá. He was accused of stealing electrical appliances and taken to the Santa Isabel police station and tortured for several hours. According to his wife, who was also held by the police, the torture included beating and immersion of the head in water until the victim was on the point of suffocation. The police took Martins' body to the hospital where they reported that he had suffered a heart attack. The death certificate records the cause of death as suffocation caused by immersion in water and the medical report states that the lungs contained nearly a litre of water.

55. On 25 November 1992 the Government reported, with respect to this case, that the Centro de Defesa dos Direitos da Pessoa Humana had requested from the Mato Grosso State Attorney-General clarifications regarding measures undertaken by his office to investigate the case and punish those responsible. In reply, the State Attorney-General reported that a police investigation had been opened on the episode and that the criminal proceeding had been submitted to the criminal civil justice prosecutor.

56. The Special Rapporteur also transmitted information to the Government regarding Carlos Aparecido Ladislau, Antonio Pinheiro Azevedo, Laurentina Aperecido dos Santos, Gilson Alves da Cruz, Milton Luz, Elizeu de Jesus, Marcio Bozoli, Macionil Fernandez do Prado, Fermino Lopes, Valdecir de Almeida and Jorge Rosa de Sousa all members of the landless rural workers' movement. According to the complaints lodged, they were arrested by the military police on 27 July 1991 at Taquaralzinho in Anasatacio, Matto Grosso do Sul, and taken to the Aquiduaana jail. Because of the maltreatment to which they were subjected, one of the detainees had to be taken to hospital and the others had difficulty in walking.

57. On 25 November 1992 the Government replied that information on allegations of torture inflicted on these persons and the related measures undertaken to investigate responsibilities had been requested by the Centro de Defesa dos Direitos da Pessoa Humana from the Secretary of Public Security of the State of Mato Grosso do Sul.

58. In addition to the foregoing, the Special Rapporteur transmitted an urgent appeal on 11 June 1991 requesting comments from the Government with regard to the death in police custody of Luiz Alexandre da Silva, a builder with no criminal record, who was detained together with three other persons named Reginaldo Silva, Ironaldo Batista and a minor known as "Marquinhos", by the São Paulo State military police on 22 April 1992 near his home in Itapevi. Three hours later he was taken to the Itapevi police station, which is manned by the civil police, where he died, allegedly as a result of severe beatings. The autopsy by the official Legal Medical Institute reportedly stated that Luiz Alexandre da Silva's body showed multiple bruises on the

face, chest and abdomen and superficial injuries on the limbs. It also showed extensive internal haemorrhage in the chest resulting from the rupture of the heart and major blood vessels. The forensic doctors concluded that the cause of the death was acute haemorrhage caused by blunt trauma. The three men who were detained together with Luiz Alexandre da Silva and said to have witnessed the beatings were released by the police but went into hiding, allegedly in fear for reprisals.

Burundi

Information transmitted to the Government

59. In a letter dated 21 August 1992 the Special Rapporteur informed the Government that he had received information that many people of Hutu origin had been arrested and tortured following rebel attacks in November 1991 on military and other installations at Bujumbura, Bunbaza and Cibitoke. Attention was drawn to the following cases:

(a) Jean Berchmans Baragunzwa was arrested on 12 December 1991 at Gihanga, Bubanza province, and taken to the Bubanza police station. His hands were tied so tightly that his arms were badly hurt and he was unable to feed himself;

(b) Charles Mugiraneza was also arrested on 12 December 1991. He was tortured during interrogation by the security forces in Bubanza police station. He received various injuries, notably to the foot;

(c) Isidore Ciiza was arrested at Bujumbure, Cibitoke, on 9 December 1991 and taken to special intelligence branch headquarters. He was badly beaten and tortured during interrogation and two ribs were broken. He received no treatment for his injuries.

60. According to information received, 20 persons suspected of being members of the Party for the Liberation of the Hutu People (PALIPEHUTU) were held at the headquarters of the police special intelligence branch. They were detained in a cell 5 metres by 4. Their hands were kept tied. They had fractured bones and open wounds and do not appear to have received any medical treatment.

61. The Special Rapporteur has also been informed that even before the November incidents suspected members of PALIPEHUTU were commonly tortured in gendarmeries and public security police detention centres. The method of torture most frequently employed involved binding the arms of detainees very tightly so that the shoulders were brought close together behind the back and the rope cut into the flesh. Victims of this treatment are reported to have contracted gangrene or suffered paralysis of the arms. In addition detainees are often wounded with bayonets, beaten, particularly on the soles of the feet, and forced to kneel on bottles or pebbles for hours at a time.

Cameroon

Information transmitted to the Government and replies received thereon

62. In a letter dated 21 August 1992 the Special Rapporteur advised the Government that he had received information that a series of special laws, most recently revised in late 1990, had empowered senior

government officials to detain people for long periods, sometimes indefinitely, without indictment or trial. Cases of torture had occurred during these periods of detention. It was becoming increasingly common for opponents of the regime or critics of the Government to be detained for short periods without trial. During detention they were subjected to torture and other cruel, inhuman and degrading treatment. This typically took the form of beating on the soles of the feet and the application of electric shocks. There has never been an official inquiry into the alleged use of torture. The following cases have been reported:

- (a) Anicet Ekané and Henriette Ekwé were unlawfully held in solitary confinement for several weeks in February 1990 and subjected to torture and ill-treatment during interrogation. Anicet Ekané was stripped, beaten and forced to remain on her feet without food or water for several days. Henriette Ekwé was also denied food for three days when she was interrogated by the police;
- (b) Jean-Jaques Ekindi, a former government supporter resigned from the ruling party, the Democratic Rally of the Cameroonian People, in May 1991 and formed the Progressive Movement. On 23 September 1991 he was arrested while trying to organize a political rally in Douala. He was held for less than 24 hours but is reported to have been tortured while in police custody and had to be taken to hospital after he was released without any charges against him. His wife and mother were also subjected to violence by the security forces but were not arrested;
- (c) Samuel Eboua of the National Union for Democracy and Progress and Charles Tchougang of the Cameroonian Human Rights Organization and 15 important members and leaders of recently constituted opposition groups were also held for 24 hours about 24 September 1991 when they were organizing a demonstration to protest against the detention of Jean-Jaques Ekindi. They are reported to have been tortured and several had to receive hospital treatment after release. Charles Tchougang was beaten on the soles of the feet with an iron rod and whipped with iron wire enclosed in a rubber tube. Another detainee Samuel Eboua was shut up in a small dark cell in his underclothing with four other prisoners and beaten;
- (d) In November 1989 some 30 political prisoners in Nkondengui prison were beaten and tortured and left without medical care after the prison authorities found a radio receiver, a copy of the Koran, a chaplet and other prohibited objects in their cells. Some of the prisoners had been detained without trial. Others had been convicted by special military courts or had not been released after serving the terms to which they were sentenced after the attempted coup d'état of April 1984. Two prisoners are reported to have died after being beaten and refused medical care. There has been no official inquiry into their death or the alleged torture and ill-treatment;
- (e) Zama Kimbi Ndefru and Blaise Berinyuy. The Special Rapporteur has received additional information on these cases with regard to which he made an urgent appeal on 21 February 1992. According to the information received they were beaten by at least 10 members of the military police in the presence of the head of the local gendarmerie post. They were taken to the gendarmerie, again beaten and drenched in cold water. After release Zama Kimbi Ndefru had to receive hospital treatment.

63. The Special Rapporteur has received information concerning the unusually harsh conditions in Tcholliré II prison in the north of the country which is reported to have claimed many victims. Prisoners are not allowed to leave their cells. The rations of water and food are inadequate and there is no medical care. Prisoners thought to have complained are reported to have been beaten and locked in an unlighted cell for seven days.

64. In addition to the Special Rapporteur made urgent appeals on behalf of the following, who were feared to be in danger of subjection to torture. The dates of the appeals are given in brackets at the end of the summaries.

65. Senfo Tonkam, the leader of a student organization, is reported to have been arrested by members of the security forces at Douala during the night of 17/18 November after attending a meeting of the opposition

parties' coordinating committee. According to the informant, many persons who were arrested for political reasons during the preceding months were subjected to torture in police stations (20 December 1991).

66. On 26 February 1992 the Government replied that Senfo Tonkam was in custody at the central prison at Yaoundé awaiting trial. He was charged with forgery, the use of forgeries and offences under the legislation on names. He had access to medical treatment and could receive visits. He was not subject to special restrictions and had not been tortured or subjected to ill-treatment. On 1 June 1992 the Government informed the Special Rapporteur that Senfo Tonkam had been tried in a court of first instance and found guilty on all counts.

67. Jean-Michel Nintcheu, a publisher and chairman of the opposition Patriotic Rally and a member of Cap Liberte, the Committee for Popular Action for Freedom and Democracy, and Emmanuel Wato, a computer specialist and regional coordinator of Cap Liberte in Douala, were reported to have been arrested without warrant on 3 January 1992 and taken to the police facilities at Bonanjo, Douala. There they are reported to have been severely beaten. As a result of the maltreatment, Jean-Michel Nintcheu was reported to be incapable of walking and in precarious health. Neither prisoner had been allowed to see a doctor or lawyer (29 January 1992).

68. Dr. Zama Kimbi Ndefru, leader of the Cameroon Anglophone Movement (CAM), Stephen Ndi, leader of the CAM branch at Bamenda, Blaise Berinyuy, secretary of the branch and Gilbert Azeh, a student, were members of a group of demonstrators who were arrested during a peaceful demonstration at Bamenda on 11 February 1992 and taken to the gendarmerie. There witnesses saw some of the detainees beaten with clubs and rifle butts. Later the detainees were kept in solitary confinement (21 February 1992).

69. Hameni Bieuleu was beaten and arrested at N'Kongsamba on 5 November 1992 and later taken to Yaoundé where he was held in solitary confinement at the gendarmerie headquarters. According to information received, he has not received medical care although he is diabetic and in poor health (2 December 1992).

70. After the declaration of a state of emergency in the north-west province on 27 October 1992, mass arrests of members of the Social Democratic Front (SDF) took place at Bamenda. Many of those arrested were beaten. Some 200 people, including Ngalla Nfor, an SDF member, Peter Ngufor, a businessman, Francis Sama, a lawyer, Ophelia R. Sendze, a lawyer, and Nyo Wakai, a former president of the Supreme Court, are reported to have been held in solitary confinement in the headquarters of the mixed mobile brigade, the security police and the gendarmerie (11 December 1992).

Central African Republic

Information transmitted to the Government

71. On 27 October 1992 the Special Rapporteur addressed a letter to the Government summarizing the information received concerning the death in detention of Dr. Jean-Claude Konjugo, a 50-year-old optometrist and a member of the Alliance for Progress. He had been arrested by the police at Bangui on 1 August 1992 during a demonstration organized by the trade unions and opposition political parties. He was taken to the gendarmerie post and hit so hard that he was unable to stand up. He was taken to hospital and died there a few hours later.

Chad

Information transmitted to the Government

72. The Special Rapporteur addressed two urgent appeals to the Government on behalf of people who had been arrested and were believed to be in danger of torture. The first was sent on 19 May 1992 and concerned a group of Chad citizens who were reported to have been arrested in Nigeria in February 1992, forcibly repatriated to Chad and imprisoned. Some of the people concerned were said to have been confined in the former presidential palace at N'Djamena and a police building known as the Centre for the Collection and Coordination of Intelligence. Some prisoners are said to have died as a result of the harsh conditions and ill-treatment.

73. The second appeal, sent on 11 December 1992, was on behalf of Mahamat Khaled and Mahamat Issak who belonged to the opposition group known as the Movement for Democracy and Development, and 13 other Chadians who were presumed members of the group and had been living in exile in the Nigerian State of Borno. According to the information received, they had been repatriated to Chad and were confined in the Intelligence Centre at N'Djamena.

Chile

Information transmitted to the Government

74. In a letter dated 21 August 1992 the Special Rapporteur advised the Government that he had received information on 17 cases of torture in the years 1990-1992. They were:

- (a) Bernada Eugenia Valenzuela Montecinos was arrested on 20 July 1990 at a peaceful, authorized demonstration. While she was under arrest she was beaten with truncheons and kicked by police. According to a medical certificate attached to the complaint lodged with the courts she sustained a haematoma above the left eyebrow, a haematoma on the right knee and a synovial cyst caused by injury to the left wrist;
- (b) Juan Carlos Chavez Pilquil was detained by police at a street rally called by an organization of relatives of disappeared detainees. He was taken to the Santiago police headquarters where he was kicked, punched on the face, nearly suffocated with a bag and handcuffed to a grille for hours;
- (c) Jorge Alfredo de la Fuente Llanos and Mario Valenzuela Martinez were arrested on 12 April 1991 during a police raid when they were passing through La Pintana. They were taken to the 39th police station and questioned by members of the missing vehicles section who asked them to spy on political militants in their village. When they refused electric shocks were applied to various parts of their bodies;
- (d) Adán Eloy Pacheco Pinto was picked up by a large party of police and civilians who broke into his house after an attack on the Teniente Merino police station in Pudahuel. He was taken to the 3rd police station, where he was interrogated, brutally kicked and beaten and not allowed to eat or sleep;
- (e) Roberto Antonio Morales Pinochet was abducted in El Pinar square in San Joaquin on 13 May 1991 by a party of unknown size of men suspected of being members of government forces. He was blindfolded, pushed into a vehicle and driven to a place where he was questioned about the whereabouts of a person believed to have been involved in the death of Senator Guzmán. Meanwhile he was kicked and punched. The men's fists

were wrapped in damp cloth so as not to leave visible injuries. After more than 6 hours he was taken, still bound and blindfolded, and dumped on the public highway;

(f) Nelson Ernesto Ruz Aguilera was arrested in the street on 29 May 1991 by police and taken blindfolded to the 3rd police station. He was subjected to intensive interrogation for seven days. For most of the time he was left hanging or standing up. He was not given food or drink and was beaten, chiefly on the head. The police threatened to injure members of his family. He was held in solitary confinement for 23 days;

(g) Alfredo Herberto Marchant Figueroa was picked up in the street by police on 30 May 1991. He was taken blindfolded to the 3rd police station, blindfolded and subjected to intensive interrogation, in the course of which he was repeatedly beaten. This went on for seven days during which he was handcuffed and given no food. For four days he was not allowed to sleep. He was also frequently exposed to the cold. He was held in solitary confinement for 23 days;

(h) Francisco Javier Díaz Trujillo was picked up by police as he was walking along the street. He was taken blindfolded to the Santiago 3rd police station and interrogated. He was kicked and punched and beaten with a hosepipe on the shoulders and arms. Damp cloths were used to soften the blows. A lighter was used to inflict minor burns. This went on for seven days during which he was not allowed to sleep, eat or drink and was forced to stand for much of the time. He was held in solitary confinement for 23 days.

(i) Alicia Lira Matus, leader of the coordinating organization for human rights and the Association of Families of Political Prisoners; Nérida Molina Morgado and Lorena Reyes Anderson, members of the Movement against Torture; José Antonio Sabat Méndez and Francisco Olea Lagos, leaders of the National Commission for Juvenile Rights (CODEJU) were detained in November 1991 while taking part in a peaceful demonstration and were taken to the 1st Santiago police station where they were beaten, insulted and threatened. Later the women were taken to the 38th police station where they were forced to strip and were blindfolded;

(j) Ana María Sepúlveda Sanhuesa was arrested in her home on 6 March 1992 by 15 or so men who did not identify themselves. She was taken to the Central Investigations Barracks, blindfolded questioned, threatened, stripped and given electric shocks;

(k) Cristián Cárdenas Jofre was arrested in the street on Monday 9 March 1992 and taken to the Central Investigations Barracks where he was slapped, punched, kicked and given electric shocks on various parts of the body;

(l) Mirentchu Vivanco Figueroa was arrested by police on 29 March 1992 in Villa Franca. He was taken first to the 21st police station and later to the 38th. In both he was harassed and maltreated. In the first his head was covered with a skirt and he was brutally beaten. His hair was pulled and he was nearly suffocated. He was forced to assume unnatural positions and was shut in a sort of cupboard.

75. The Special Rapporteur was also informed of the frequent maltreatment of young conscripts during military service. His attention was drawn to three cases:

(a) Antonio Lenín Sánchez Pardo began his military service on 1 May 1990 at the Peldehue paratroopers and special forces school. In September 1990 he was subjected to various forms of torture, chiefly beating and threats by soldiers of the 11th section under a lieutenant Vladilo;

(b) Jose Cristián Arriagada Melo began his military service at the NCO's school, San Ignacio Street, Santiago. He was repeatedly maltreated by his squad commander, sergeant René Opazo Riquelme, sergeants Salinas and Bustos Pinochet and corporal González Chamorro. On 12 November 1991 he was treated for haematomas in the regimental sick quarters after being beaten by sergeant Salinas;

(c) Jorge Antonio Concha Meza began his military service on 1 October 1991 at the La Reina telecommunications school and was later transferred to Peldehue. In both places he was continuously harassed. At Peldehue among other forms of corporal punishment he was subjected to beating with blunt objects, punches on the neck and bites on the ear. On one occasion after being beaten with sticks and ropes on the feet he went to the sick quarters where he was again beaten on the feet with a radio lead. Later corporals Bascunan and Peñailillo gave him and other recruits electric shocks on the neck.

China

Information transmitted to the Government and replies received thereon

76. On 7 September 1992 the Special Rapporteur transmitted to the Government of China a letter containing a summary of allegations received with regard to the practice of torture in the country as well as a number of individual cases. The Government replied to this letter on 28 October 1992. In addition to this, the Special Rapporteur made six urgent appeals on behalf of persons who, according to the information received, were at risk of being tortured. The Government also sent replies with respect to some of them.

(a) Information regarding the practice of torture in general

77. According to the information received, torture and other forms of cruel, inhuman or degrading treatment or punishment are a routine part of detention in police stations, detention centres, labour camps and prisons with respect to persons arrested for suspected nationalist activities or sympathies in the Tibet Autonomous Region. The methods of torture most commonly mentioned in the reports include the use of electric batons applied to the torso and sometimes in the mouth, soles of the feet and genitals; the use of lighted cigarettes to inflict burns; the use of dogs to bite detainees; the use of manacles and chains to restrain prisoners for long periods; the practice of making people stand outside for several days at a time, sometimes on blocks of ice, and of making prisoners kneel on the point of triangular pieces of wood.

78. Convicted prisoners are sometimes tortured or severely ill-treated as a punishment for alleged breaches of prison discipline. However, torture and mistreatment most often occur when detainees are held for a few weeks or months without trial and then released, and prior to the laying of formal charges. In these cases torture is an adjunct to the intensive interrogation process and is reportedly carried out by Public Security Bureau (PSB) or People's Armed Police (PAP) officers.

79. Detainees are questioned for several hours at a stretch, up to three or four times a day, sometimes in the middle of the night. The interrogation usually takes place in a room with one or two chairs and a table. The detainee is sometimes made to strip naked and sit on the floor. While one person takes notes, one or more interrogators alternate between questioning and beating the prisoner. Until the questioning is completed detainees are normally held incommunicado without access to legal counsel and isolated from family and friends. On the other hand, there are reportedly no effective official channels through which a detainee or a relative can make a complaint.

80. On 28 October 1992 the Government of China sent the following comments which, at its request, are reproduced below in their entirety:

"1. Resolutely opposing and prohibiting all forms of torture has consistently been the Chinese Government's basic position. China has long conscientiously banned torture, effectively guaranteed its citizens' right to life and ensured that their individual dignity is not subject to unlawful encroachments. Its policy has always been that where there is a law it can and must be adhered to, and breaches must be investigated; it adheres to the principle that all citizens are equal before the law, and treats with the utmost seriousness the incessant refinement of its legislation and the incorporation of its ban on torture into the legal system.

2. The Chinese Constitution and relevant legislation lay down provisions for the prohibition of torture both in principle and in substance: no citizen may be arrested without the approval of or an order from a people's procuratorate or an order from a people's court, or by anyone other than the public security authorities; unlawful taking into custody and unlawful encroachment or limitation on citizens' right to life by other means are prohibited; citizens' human dignity is inviolable. Libelling, slandering, bringing false charges against or framing citizens in any manner is prohibited. The Chinese Penal Code lays down corresponding penalties for torture: that is, for the crimes of extracting confessions by torture, unlawfully taking into custody, unlawfully placing under surveillance, illegally conducting searches, libel and slander, inflicting corporal punishment on or ill-treating prisoners, unlawfully encroaching on citizens' freedom of religious belief or violating the customs and traditions of ethnic minorities, and so forth. The Penal Code also stipulates that if State employees inflict bodily suffering or disguised bodily suffering on persons undergoing investigation or convicts serving sentence as a means of extracting statements, the law enforcement authorities must apply penalties corresponding to the seriousness of the crime. Where torture does not result in lasting physical injury, it is to be treated as a serious case of "causing bodily harm", punishable by three to seven years' imprisonment; if death ensues, the punishment is from seven years to life in prison. Chinese legislation also contains provisions to prevent and prohibit torture during law enforcement procedures. The Administrative Suits Act, promulgated in 1990, permits citizens to seek legal protection when their rights are violated by a State institution or its staff, and provides a direct and effective channel.

3. In China, the essential rights of convicts serving sentence are legally protected. Not only are convicts given essential material life, medical care, industrial safety and labour protection, but they also have the right to appeal, to defence and to physical safety and the individual rights not to be humiliated, to complain, to report offences, etc. No criminals are deprived of their political rights, they are all entitled to exercise their votes in accordance with the law.

4. The Chinese law enforcement authorities investigate and punish individuals guilty of torture every year, mostly State employees who use torture to extract confessions and prison warders who inflict corporal punishment on or mistreat inmates. Under the law, when cases of torture are investigated there are normally two methods of proceeding. In one, the public security organs or procuratorate register the case and carry out the investigation, then pass the case to the courts for trial; in the second, the investigation is handled by the administrative authorities. The competent administrative body is the supervisory department, which handles civic discipline; it is required to refer any case which may constitute a crime to the law enforcement authorities, which conduct the investigation in accordance with legal procedure.

5. To check whether penalties are being properly applied in convicts' housing quarters, prisons and other correction through labour facilities and whether inmates are being subjected to corporal punishment or ill-treatment, special prison inspection mechanisms have been set up in every procuratorate. Some of these are based at prisons and custodial units, some work on a day-to-day inspection pattern. The departments in charge of such matters in the public security organs must, when investigating the handling of a case by public security personnel, investigate whether confessions have been extracted by torture besides looking into working procedures and methods. Public security organs at every level normally have legal, supervisory and disciplinary departments and a complaints centre which will accept reports and complaints of torture and beatings, and will mount conscientious inquiries into any cases of confessions extracted by torture or similar infringements of citizens' right to life that arise. Where breaches of discipline by prisoners lead to injuries among inmates, an inspection is carried out by medical personnel; in the event of deaths, an inquest is held by

the medical examiner attached to a people's procuratorate or people's court.

6. Chinese legislation also stipulates that individuals who have suffered injury owing to violations of their civil rights by State organs or State employees are legally entitled to seek compensation. Article 41 of the Constitution states: Citizens who have suffered losses through infringement of their civic rights by any State organ or functionary have the right to compensation in accordance with the law. Article 67 of the Administrative Suits Act states: If the lawful rights and interests of any citizen, body corporate or other organization are violated or injured as a result of a specific administrative act by an administrative body or employee thereof, that individual, body corporate or other organization shall be entitled to seek compensation. Article 42 of the Public Order Regulations states: If the penalty imposed on a citizen by the public security organs for a breach of public order is incorrect, the error must be acknowledged to the injured party and any confiscated property must be restored; where the injured party's lawful rights and interests have suffered, compensation must be made for the loss. China is currently stepping up the preparatory work for and formulation of a compensation act. Before this act is finalized, the most important items of torture victims' claims for compensation, such as medical expenses, lost earnings, supplementary food costs and so forth, after approval by administrative and law enforcement authorities, can be negotiated or ruled on by an administrative body; alternatively the courts can hear a civil or administrative suit in conjunction with criminal proceedings and issue a compensation order.

7. The Chinese law enforcement authorities have always upheld criminals' legal rights and afforded them humane treatment. The accusation in the enclosure to your letter that torture in Tibet and other parts of China is "routine" is entirely unfounded. The list of cases detailing all manner of cruel ill-treatment and torture inflicted on criminals is nothing but fictitious and malicious rumours".

(b) Individual cases transmitted to the Government

81. Sonam Dolkar was arrested without a warrant on 29 July 1990 by a group of approximately 20 policemen who also searched her house in Lhasa. She was then taken to Seitru prison (Prison Section No. 4, part of the Sangyip prison complex). From 2 August 1990 she was stripped naked and given electric shocks or other forms of torture every second day for six months. She was also sexually violated with an electric baton. She received no medical treatment until February 1991, when a prison doctor warned that she was close to death and the torture sessions stopped. She was not allowed out of her cell at any time and never saw other prisoners. She was not provided with a mattress or blanket.

82. The Government reported that Sonam Dolkar was investigated in July 1990 in accordance with the law for supplying information to an enemy agency outside the country and engaging in illegal activities with a view to the overthrow of the Government. As she acknowledged her guilt and her behaviour was good, she was able to confess her crime of her own volition and undertook not to transgress again. The Chinese public security organs on 17 January 1991 showed leniency as provided by law and ordered her release.

83. Lobsang Tenzin and Tempa Wangdrak, both prisoners in Drapchi, were severely beaten and put in solitary confinement after they tried to hand a petition to a delegation of United States diplomats who visited the prison in March 1991.

84. With respect to these cases, the Government reported that on 1 April 1991, during a visit by the former Permanent Representative of the United States to China to prisons in the Tibet Autonomous Region, one criminal, Tempa Wangdrak, asked another, Lobsang Tenzin, to slip a note he had prepared to one of the visitors. The prison, in accordance with prison regulations, assigned both of them to a brief period of confinement as punishment; the alleged severe beating and placing in solitary confinement did not occur.

85. Ngawang Zoepa, from Doe, Damshung region, reportedly serving a five- or six-year sentence; Kelsang Gyaltzen, reportedly serving a six-year sentence; Ngawang Tsondrue, reportedly serving a four- or five-year sentence;

Ngawang Legshe, reportedly serving a four- or five-year sentence;

Ngawang Namgyal, from Damshung, reportedly serving a three- or four-year sentence. These five monks from Ding-gar, a Tibetan Buddhist monastery in Toelung Dechen near Lhasa, were reportedly detained on the afternoon of

17 March 1991 while attempting to unfurl a Tibetan nationalist banner at the start of a demonstration in the Barkhor area. A witness alleged that the monks were beaten by officers of the Public Security Bureau, and that one of the monks appeared to have had his hand broken.

86. With respect to these cases, the Government reported that Ngawang Zoepa, Ngawang Legshe and Ngawang Namgyal were sentenced by the Lhasa municipal people's intermediate court in March 1991 respectively to six, four and three years' imprisonment for engaging in unlawful activities aimed at the division of the country and the overthrow of the Government.

87. Tsering Taschi, a monk of Sera monastery from Medro Lapdong, was arrested and severely beaten for taking part in a demonstration in the Bakhor area of Lhasa on 26 May 1991. He was then taken to Gutsa prison and forced to give blood.

88. Ngawang Tsepak; Sonam Lhamo, from Tachi Lhoka; Ngawang Choezom, from Lhoka Chonggye; Phuntsog Tendrol; Pasang Wangmo; Pasang Drolma; Dechen Drolma; Lobsang Choedron; Dawa Chazom. These nine nuns from the Chubsant and Shungsep nunneries were reportedly arrested in Lhasa in September 1989 and taken to Gutsa prison. While in detention they were hung from their arms and feet, beaten and given electric shocks.

89. A number of detainees in prisons and detention centres in the Tibet Autonomous Region are in recent years reported to have died in custody, or within weeks of their release, apparently as a result of ill-treatment or lack of medical care while in detention. The following cases, in particular, were reported:

(a) Tsamla, a woman trader from Lhasa, died in late August or early September 1991, about three months after her release from two and a half years in detention at Gutsa detention centre. She was held incommunicado for at least the first six weeks of her detention, during which time she is said to have been repeatedly beaten and kicked while undergoing interrogation. Her condition worsened over her months in detention, and in May or June 1991 she was reportedly taken to a clinic near Gutsa and then to Lhasa People's Hospital, where exploratory surgery was apparently performed, finding that she had suffered a ruptured spleen. While in hospital, she was apparently told that she had been released and should go home. She died at home about three months later, apparently as a result of the injuries she sustained in custody;

(b) Yeshe (ye-shes), a painter from Lhasa, resident of Tarpo Lingka, was arrested at around midnight on 8 March 1989 after having allegedly participated in demonstrations a few days earlier. He was severely beaten in prison and was badly bruised. He sustained severe damage to the genitals and when he was released in July or August, he was unable to hold his bladder and to walk. He died on 22 August 1989;

(c) Chozed Tenpa Choephel (chos-mdzad bstan-pa chos-'phel), was arrested in January 1988 and severely beaten in prison. On 24 August 1989 he was transferred from a prison in the Sangyip complex to Lhasa People's Hospital. Reports say that he died either the following day or on 27 August. According to the statement of an eyewitness, the body was "entirely black-blue".

90. In the above-mentioned letter of 7 September 1992 the Special Rapporteur also transmitted to the

Government of China information on the case of: Han Dongfang, a labour activist during the 1989 pro-democracy protests, who was seriously ill-treated on 14 May 1992 at the Dongcheng District People's Court in Beijing, where he had been summoned to discuss a housing order. He was severely beaten with electric batons by court personnel who did not stop until they noticed that Han Dongfang was having serious breathing problems. The beatings reportedly caused his chest cavity to fill with fluid.

91. The Special Rapporteur also informed the Government that he had received a report containing allegations of torture against persons arrested in connection with the 1989 pro-democracy movement and kept in the prisons of Hunan province, particularly those of Yuanjiang, Hengyang, Lingling, Huai'hua, Chenzhou, Longxi and Changsha. The following cases, in particular, were reported.

92. Yu Zhijian and Yu Dongyue, prisoners at Lingling prison, have allegedly been kept in solitary confinement cells since late 1989 and subjected to different physical tortures. As a result, their health has deteriorated dramatically and Yu Dongyue has lost control of his excretory functions.

93. With respect to the case of Yu Zhijian from Liuyang county in Hunan province, the Government reported that he was sentenced on 11 August 1989 by the Beijing municipal people's intermediate court to life imprisonment and stripped of his political rights for life for breach of the criminal law. As for Yu Dongyue from Liuyang county in Hunan province, the Government reported that he was sentenced on 8 August 1989 by the Beijing municipal people's intermediate court to 20 years' imprisonment and stripped of his political rights for five years for breach of the criminal law.

94. Pen Yuzhang, a retired professor of Hunan University, was arrested in mid-June 1989 and taken to Changsha No. 1 jail. During his imprisonment he was reportedly placed for about three months on a device known as the "shackle board" - a horizontal plank roughly the size of a door, equipped with metal shackles at the four corners and a large hole at the lower end. The prisoner is laid upwards on the board, and his hands and feet are secured by the four shackles. The hole allows the prisoner to perform basic bodily functions.

95. The Government informed that Pen Yuzhang, male, an employee of Hunan University, was taken into custody by the Changsha municipal public security bureau for taking part in the 1989 riots, but was later released.

96. Zhou Zhirong was sentenced in 1990 to seven years' imprisonment and sent to Longxi prison. On 12 February 1991 he was transferred to a solitary confinement punishment unit at Provincial No. 3 prison in Hunan's Lingling prefecture. Once there, he was reportedly put on a "shackle board" and kept there for a full three months.

97. The Government reported that Zhou Zhirong, from Anxiang county in Hunan province, was sentenced on 29 March 1990 by the Hunan provincial people's intermediate court to five years' imprisonment and stripped of his political rights for two years for breach of the criminal law.

98. Fan Zhong, arrested at the end of June 1989, was held in Changsha No. 2 jail where he was reportedly given repeated shocks by an electric baton to sensitive parts of the body. He was also put on the "shackle board".

99. The Government reported that Fan Zhong was taken into custody by the public security bureau for taking part in the riots in 1989, but was later released.

100. Chen Gang, a worker at the Xiangtan Electrical Machinery Factory, was convicted in June 1989 and allegedly kept shackled hand and foot for a 10-month period.

101. The Government reported that Chen Gang, male, was sentenced to death, suspended for two years, in August 1989 for gangsterism by the people's intermediate court in the city of Xiangtan. He is still serving his

sentence.

102. In addition to the above-mentioned, the Special Rapporteur transmitted to the Government of China six urgent appeals on behalf of the following persons, regarding whom fears were expressed that they might be subjected to torture. The date on which they were sent is mentioned in brackets at the end of the corresponding summary.

103. Gao Shuxian, a former cadre of the Hengyang Petroleum Company, was arrested in August 1989 in Hengyang and charged with embezzling funds from the company he ran. According to the reports he was held incommunicado for over two years and beaten during interrogation by an investigator from the Hengyang Southern District Procuratorate. As a result, he has reportedly lost the hearing in one of his ears; however, he was not allowed to see a doctor or given any treatment for the injury. His complaints to various local authorities about his treatment reportedly received no response. Moreover, he had reportedly not yet been indicted or tried and it was feared that he might be subjected to further ill-treatment to press him to admit to the charges. (7 February 1992).

104. Liu Gang, Zhang Ming and Kong Xianfeng, students; Tang Yuanjuan, Li Wei and Leng Wanbao, workers at the Changchung No. 1 Car Manufacturing Factory. According to the reports these six dissidents, sentenced to prison terms ranging from 3 to 20 years and imprisoned at the Lingyuan labour camp in Liaoning province, north-east China, were being severely ill-treated. In addition to being forced to work up to 14 hours a day, they were frequently kicked and beaten with fists, electrified batons and leather belts. Three months before Lin Gang reportedly had his arm broken by jail warders. (14 February 1992).

105. With respect to these cases, the Government replied on 29 April 1992 that Liu Gang, Tang Yuanjun, Kong Xianfeng, Zhang Ming, Li Wei and Leng Wanyu were convicted in accordance with the law for breaches of the Chinese Penal Code, and were serving their sentences with the Liaoyuan Reform-through-Labour Detachment in Liaoning province. The arduousness of the work assigned to Liu Gang and the others, and their working hours, were the same as for other convicts, and they had never been required to perform work which exceeded their strength or extended beyond the established hours. They were in good health, and had never been maltreated by prison officials. The suggestion that Liu's arm had been broken was utter nonsense.

106. Tanak Jigme Zangpo and three other prisoners held at Drapchi prison, 3 km north of Lhasa, had been held in punishment cells in a state of total isolation after being accused of shouting slogans calling for Tibetan independence during the visit made to the prison by four Swiss diplomats on 6 December 1991. (4 March 1992).

107. Mr. Karma, Mr. Monlam and Mr. Gyatso were arrested between 17 and 19 March 1992 at Gyama Trigang village in Maldro Gungkar district of Lhasa. According to the reports they were arrested in connection with the appearance of some wall-in the district, and taken to the Maldro Gungkar district prison where they were allegedly beaten. (5 June 1992).

108. With respect to these cases the Government reported on 26 October 1992 that the Tibetan public security organs had made repeated inquiries, but as far back as 1990 there was no record of anyone named Karma, Monlam or Gyatso being arrested in Lhasa.

109. Ren Wanding, a prisoner at Beijing No. 2 prison who is said to be in danger of losing his eyesight if he does not receive urgent medical attention. According to the reports, Ren Wanding was at risk of suffering a retinal detachment, which could lead to a permanent loss of vision, despite which he had not been given adequate treatment since July 1991. (9 November 1992).

110. On 24 November 1992 the Government reported that Ren Wanding was being humanely treated in

prison. He was in good health and his vision was normal. There were absolutely no grounds for claiming he was in danger of "going blind".

111. Ngawang Dechoe, arrested on 10 April 1991; Ngawang Gomchen, arrested in August 1991; Ngawang Zangpo, arrested in August 1991; Jampel Nyima, arrested in August 1991; Ngawang Ludrup, arrested on 16 May 1991. According to the reports, these five Tibetan monks from the Drepung monastery were being held at the Gutsa detention centre run by the police (PSB) and have been tortured. Fears have been expressed that they may further be subjected to this kind of treatment. (17 November 1992).

Colombia

Information transmitted to the Government

112. In a letter dated 21 August 1992 the Special Rapporteur informed the Government that he had received reports on the following cases of torture alleged to have occurred in Colombia:

(a) Jaime Ramírez Corzo, José del Carmen Najas and Omar Merchan were arrested at Esmeralda, Arauca, on 5 March 1991 by a military patrol which accused them of being members of a guerilla band. They were stripped, tortured and threatened with death. Jaime Ramírez was forced to drink salted water without stopping for breath and his head was held under water. He was also forced to lie on the ground while a soldier jumped on his stomach. Before being released they were required to sign a document saying that they had been correctly treated by the army;

(b) Harold Alexander Jaramillo, Raúl María Salazar Villareal, Estanislao Anaya and Nelson Jaimes Quintero were arrested in Barrancabermeja, Santander, on 28 September 1991 by members of the national police (SIJIN). They were taken to the police barracks and interrogated. Because of their replies the detainees were held down in water tanks, stripped, tied up and later brutally beaten. Their noses and mouths were covered with towels soaked in salted water and they were given electric shocks of up to 220 volts. They were repeatedly threatened with rape. In the cases of Mr. Anaya and Mr. Quintero an inquiry was held and disciplinary action was taken against the policemen concerned;

(c) Norman Alexander Trujillo Correa and Alberto Alarcón Salcedo, both students, were snatched on 2 November 1991 by soldiers of the Maza mechanized group from the Carlos Rosas store on La Angelita road in El Zulia (North Santander). They were forced to lie on the ground face up and their hands were tied. Wet towels were stuffed in their mouths to prevent them from breathing and they were brutally beaten. Soldiers jumped on their stomachs;

(d) Hugo Varela Mondragón, a lawyer, journalist and member of the National Committee of People's Housing Organizations (CENPAVI) was held at Palmira (Valle) on 21 April 1992 by armed men who identified themselves as members of F-2. The next day his body was found with signs of torture in Puente Vélez, Jamundi;

(e) Pablo León a plantation manager, was tortured on 19 July 1992 by soldiers of Mobile Brigade 2 near San Vicente, Magdalena Medio. The soldiers threatened to kill him. A complaint was lodged with the municipal attorney;

(f) Samuel Fernando Rojas Motoa, a member of the executive committee of the United Workers Organization (CUT) in Valle del Cauca and of the Cartago municipal workers' union was taken from his home on 4 June

1992 by members of the intelligence unit (B-2) of the Ayacucho battalion stationed in Manizales, Caldas, and driven to the Ansema military base where he was tortured, threatened with death and subjected to a mock execution. He was then taken to the San Mateo battalion in Pereira, Risaralda, where he was again questioned, threatened with death and not allowed to sleep;

(g) José Delfin Torres Castro, police inspector at Tabeta, El Cerrito, Santander is reported to have been tortured on 9 June 1992 before being executed by a military patrol belonging to the García Rovira battalion;

(h) Oscar de Jesús Silva Gutiérrez, a member of the committee for solidarity with political prisoners and a student leader, was detained in Cali on 1 May 1992 by members of the national police who beat and threatened him;

(i) Gabriel Flores Oviedo, chairman of the national association of peasant land users and a member of the Chucurí human rights organization was arrested by soldiers on 22 June 1992 at Montebello, San Vicente de Chucurí, Santander. He was tortured while under interrogation.

113. The Special Rapporteur also received information concerning the case of Mrs. Yolanda González Villamar, an inmate of the Good Shepherd National women's prison who died of a heart attack on 8 February 1992. According to the information received, Mrs. González Villamizar had been in poor health but had not been allowed to leave the prison to obtain proper hospital treatment. She received little or no medical care in prison.

114. In conformity with resolution 1992/59, "Cooperation with representatives of United Nations human rights bodies", the Special Rapporteur made an urgent appeal to the Government in connection with information received concerning the cases of César Chaparro Nivia, a trade unionist and member of the Patriotic union, and Vladimir Hincapié Galeano. On 29 February 1992 the two men were arrested by members of the administrative security department in the Kennedy district of Bogotá and taken to the department's premises. During the arrest Mr. Chaparro Nivea was hit by bullets. At about 5 p.m. Mr. Hincapié Galeano was admitted to the San Juan de Dios hospital with injuries reported to have been caused by torture. At 12.35 the next day Mr. Chaparro was also admitted to the hospital. According to witnesses both men were constantly guarded by security department agents who prevented them from communicating with their families. Mr. Chaparro, who died on 4 March, told a nurse that he had been tortured and asked her to inform the public prosecutor's office. On 18 March at 6.30 p.m. his wife, Margarita Agudelo Alzate, and her brother, Hernando Agudelo Alzate, received death threats from an anonymous telephone caller. The threats are reported to have been prompted by the family's complaint to the public prosecutor's office concerning Mr. Chaparro's death. Information received from the Government with respect to cases included in previous reports

115. On 21 July 1992 the Government forwarded a reply concerning the case of Mr. Emiro Bustamente who was detained in Sucre on 10 February 1989. The case was brought to the Government's attention on 6 June 1990 (E/CN.4/1991/17, para.49). The reply stated that Mr. Bustamente had been arrested by police from the San Benito Abad station on 11 February 1989 and released the following day. The Human Rights Office considered that Mr. Bustamente's allegations of torture were unconvincing and in a decision dated 4 May 1992 ruled against a formal disciplinary enquiry and ordered the case to be filed.

Information received from the Government in connection with Commission resolution 1992/42

116. In a letter of 24 July 1992 the Government reported that the activities of various violent groups external to the State were a direct impediment to the enjoyment of the rights set out in the Declaration on Human Rights and such instruments as the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights. These activities had a variety of effects on the rights established in the instruments cited and besides causing material losses had a serious impact on the nation's social and political life. Many of

the victims were well known and highly regarded political trade union and civic leaders.

Cuba

Information transmitted to the Government and replies received thereon

117. The Special Rapporteur informed the Government in a letter of 21 August 1992 that he had received information on various cases of torture and maltreatment in Cuba. The Government replied in a communication dated 2 November 1992.

118. Some of the cases mentioned involved the 10 prisoners in the combined eastern prison listed below.

119. Jesús Hernández Luis was severely beaten on the head with wooden bats and electric prods on 9 November 1991 because he asked for more food. In spite of his injuries he was refused medical assistance and was sent to a punishment cell.

120. The Government reported that there had been no incident involving the prisoner. There was no trace of such an incident in the prison records and the prisoner stated that he had never been placed in a punishment cell and had not been maltreated.

121. In November 1991 Luis Enrique Ramos was handcuffed and beaten with electric prods until he fainted because he had asked for more food.

122. The Government reported that no prisoner answering this description appears in the prison records.

123. Leonel Baró Abscal, Pedro Eduardo Caseira, René Téllez González and Leonardo Mascaquel Gómez were severely beaten with truncheons, batons and hosepipes on 2 December 1991. Leonardo Mascaquel Gómez suffered a broken arm.

124. The Government reported that on 20 December 1991 the prisoners mentioned and various cellmates caused an outbreak of disorder in the cell. This was brought to an end after the prison authorities interviewed the ringleaders (Casellas Díaz and Téllez González) and persuaded them not to go on. No other measures were needed to restore order. There were no victims and no one was injured.

125. Daniel Brito Vázquez was beaten with truncheons by some recruits on 21 May 1991 and had to be admitted to the prison hospital.

126. The Government reported that no prisoner answering this description appears in the prison records.

127. José Ramón Morales Hernández, a prisoner in the special area of building 1 was beaten with a rubber club by sergeant Alejandro, chief warder of the unit, on 28 April 1991. He suffered haematoma on the stomach, shoulder and chest.

128. The Government reported that the prisoner attacked a prison warder. The latter used his regulation truncheon to beat off the attack. Disciplinary action was taken against the warder since the disciplinary tribunal ruled that the prisoner could have been controlled without use of the truncheon. Morales Hernández was released on 13 September 1991.

129. Carlos Font Reyes was beaten with rubber truncheons on 4 May 1991 by the warder Erasmo and other soldiers in the special area of building 2.
130. The Government reported that no prisoner answering this description appears in the prison records.
131. Santiago A. Miranda Castillo was severely beaten on 27 December 1991. A cut on the left cheek required three stitches. His right arm was fractured and he lost consciousness and was taken to the prison hospital.
132. The Government stated that the prisoner's name is Santiago Miranda Rodríguez and that he has not been involved in any incident. On 26 December 1991 he received medical assistance for an injury to the left elbow. It was caused by an accident and was not the result of violence.
133. The Special Rapporteur also transmitted information to the Government on the following 11 cases.
134. Noel Toledo Delgado, of Remedios, was hit with a club and kicked in the stomach by a guard in section 3 of the Villaclara provincial prison in April 1991.
135. The Government states that the prisoner was hit by a warder in the provincial prison. The guard appeared before a disciplinary tribunal and was dismissed from the service. The prisoner suffered no sequelae as a result of the incident.
136. Arnaldo Pérez Martí, of Remedios, was beaten up by a group of guards in the Villaclara provincial prison led by Lieutenant Juan de la Cruz. The prisoner was placed in solitary confinement and lost consciousness twice.
137. The Government reported that the prisoner, who had several convictions, had committed a number of breaches of prison discipline. In February 1991, he attacked a warder who complained of a breach of discipline. The prisoner was brought under control by the prison authorities and sentenced by a competent court to an additional three months' imprisonment, the penalty for assault.
138. Raul Figueroa Castro, of Caibarién, was brutally beaten on 14 March 1991 in the Villaclara, provincial prison by 10 Ministry of the Interior guards led by sergeant Joaquin Caloso. The latter kicked him in the mouth causing a cut on the upper lip that required three stitches. The other guards participating were Savino González Rodríguez, Gustavo, Machín, Omar, Marin and Mesa who hit him with clubs and machetes. He was then locked in a punishment cell.
139. The Government stated that the prisoner attacked and injured a warder in the Villaclara provincial prison on 14 March 1991. The other warders intervened to bring the prisoner under control. The prisoner has since been released.
140. Antonio Serrano, known as Tony Arcenta, was savagely beaten by sergeant Llero in the Kilo 7 prison, Camaguey, in early February 1991. The prisoner had to be placed in the intensive care unit of the hospital.
141. The Government stated that Rodríguez Serrano was serving a 30-year sentence for various crimes, including murder, assault and theft, which had been the subject of 11 trials. On 6 February 1992 he quarrelled with another prisoner, Maurilio Pino Batueca, inflicting a 12 centimetre wound on the cheek with a crude weapon. The prison authorities intervened. After order was restored sergeant Osvaldo Yero Cervantes exceeded his duty and beat the prisoner, who was taken to the provincial hospital for treatment. Sergeant Yero Cervantes was sentenced to six months imprisonment. Rodríguez Serrano will face trial for assault.
142. Bernardo Cruz Pérez was badly beaten by sergeant Alexis Olivera and the jailer Humberto in Alambra de Manacas prison. He had to be taken to the infirmary for treatment. Later he was again beaten up. Covered

with wounds, bleeding and denied medical attention, he was shut up in a punishment cell.

143. The Government states that there is an inmate of the Manacas prison with the second surname Mena, not Pérez. He has not been involved in incidents with the warders. This is corroborated by the prison records and the prisoner himself.

144. Daniel Cardó Hernández, an inmate of the Boniato prison, was severely beaten in May 1991. He was later taken to the general police barracks in Havana and then rushed to the Carlos J. Finelay military hospital.

145. The Government states that the prisoner was not beaten on the date given or on an earlier or later date.

146. Jorge Nuard Rodríguez, an inmate of the Canaleta, Ciego de Avila prison, injected oil into his arms in order to receive medical attention. Instead of receiving assistance, he was sent to a punishment cell and stayed there 12 days. On 7 June 1991 at 2 p.m. he was taken from the cell unconscious and with gangrene in both arms. His arms had to be amputated at the shoulder.

147. The Government states that the prisoner injected the oil in the hope that the injuries would secure his release. He received immediate medical care, initially at the provincial hospital and later at the Morón hospital. His arms had to be amputated because of the danger of death from generalized sepsis caused by the gangrene. He was subsequently released on humanitarian grounds.

148. Pedro Luis Garcia, of Manacas, Villaclara, was struck by sergeant Alexis Olivera with a truncheon on 27 June 1991 in the Alambrada de Manacas prison. Other guards beat him with rubber truncheons. Covered with wounds he was shut up in an isolation cell.

149. The Government states that the prisoner was not maltreated by the prison authorities while in Manacas prison. This has been corroborated by Pedro Luis Garcia, who is now out of prison.

150. Mario Santana Fontela, of Santa Clara, was brutally beaten by a guard of section 2 of the Santa Clara provincial prison on 30 April 1991.

151. The Government states that the prisoner disobeyed orders on 30 April 1991 and refused to return to his cell. He attacked a warder who had to use his regulation truncheon to defend himself. The tribunal that investigated the incident found the warder had acted in the performance of his duty and in self defence to bring the prisoner under control. He had not gone beyond the bounds of duty.

152. Francisco Martes Sánchez, aged 16, of El Cerro, an inmate of Jovellanos, was forced to squat although he was known to suffer from asthma. When he refused he was brutally beaten and had to be rushed to the Colón hospital where he died on 20 July 1991. The authorities claim that he died of asthma. One of the people who took him to hospital alleges that he died of a brain haemorrhage caused by blows on the head and that his body was covered with haematoma.

153. The Government states that the prisoner's proper name was Francisco Montes Sánchez. The records, together with the testimony of witnesses and documents, show that the prisoner was the victim of a heart attack which caused his death while he was being taken to a treatment centre where he could receive the medical care required by an acute attack of asthma. The autopsy established that the asthma attack was the cause of the fatal events. It does not record any sign of external violence.

154. Ifraín Suárez Lezcano, an inmate of the Santa Clara prison, was beaten with hosepipes and kicked by a party of guards, Héctor Morales Otero, Iosvani Calloso, Osmany Mederos Gutiérrez and Miguel López Montero.

155. The Government states that Efrain Suárez Lezcano quarrelled with another prisoner while they were

playing prohibited games. The prison authorities intervened and did not use excessive force in the discharge of their duty.

156. The Special Rapporteur also informed the Government that he had received reports of harsh conditions of detention including beating, and including medical and pharmacological attention suffered by a group of inmates with AIDS in the eastern combined prison. Their names are Oscar Pérez Celles, Ismael Duquesne Arteaga, Heriberto Pedro Almeida, Abel Martínez Marto, Ariel Rodríguez León, Lázaro Valdés Ramírez and Güilfredo Reinaldo Aguilar García.

157. The Government states that Ismael Duquesne died as a result of AIDS on 11 July 1992 in the Miguel Enríquez civil hospital in Havana. Abel Martínez Matos was released on 8 July 1992 on completion of his sentence. There is no trace of a prisoner with the name Lázaro Valdés Ramírez in the prison or hospital records. Oscar Pérez Celles, Heriberto Pedro Almeida, Ariel Rodríguez León and Güilfredo Reinaldo Aguilar García receive treatment in prison similar to that received by other patients suffering from the virus in the national health system hospitals. This includes enriched diet and specialized medical and pharmacological care. None of the prisoners mentioned has been beaten or maltreated by the prison authorities.

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