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STUDY OF REPORTED VIOLATIONS OF HUMAN RIGHTS IN  
 CHILE WITH PARTICULAR REFERENCE TO TORTURE AND  
 OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR  
 PUNISHMENT (COMMISSION RESOLUTION 8 (XXXI))

Report of the Ad Hoc Working Group established  
 under resolution 8 (XXXI) of the Commission on  
 Human Rights to Inquire into the Present Situation  
 of Human Rights in Chile

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## INTRODUCTION

1. The Ad Hoc Working Group of the Commission on Human Rights to inquire into the present situation of human rights in Chile was established by resolution 8 (XXXI), which the Commission adopted by consensus on 27 February 1975. As provided in the Commission's resolution, the members of the Group were appointed in their personal capacity from the membership of the Commission on Human Rights by the Chairman of the Commission, Mr. Ghulam Ali Allana, and exercised their functions under his chairmanship. They were Ambassador Leopoldo Benites from Ecuador, former President of the General Assembly, Mr. A. Dieye, a member of the Supreme Court of Senegal, Professor F. Ermacora, a former Chairman of the Commission on Human Rights, member of the Austrian Parliament and a member of the European Commission on Human Rights, and Mrs M.J.T. Kamara, a social worker from Sierra Leone. The inquiry was to be conducted on the basis of various resolutions adopted by United Nations organs as well as by specialized agencies, a visit to Chile, and oral and written evidence gathered from all relevant sources. Paragraph 3 of Commission resolution 8 (XXXI) required the Ad Hoc Working Group to report the results of its inquiries to the Commission on Human Rights at its thirty-second session. It also requested the Group to submit a progress report on its findings to the Secretary-General for inclusion in his report to the General Assembly at its thirtieth session under paragraph 6 of General Assembly resolution 3219 (XXIX). At its 1948th meeting, on 6 May 1975, the Economic and Social Council approved the decision of the Commission on Human Rights in its resolution 8 (XXXI) to set up the Ad Hoc Working Group to inquire into the present situation of human rights in Chile within the terms of that resolution.

2. In its resolution 3219 (XXIX), the General Assembly had expressed its deepest concern that constant flagrant violations of basic human rights and fundamental freedoms in Chile continued to be reported. It reiterated its repudiation of all forms of torture and other cruel, inhuman or degrading treatment or punishment. It requested the Secretary-General to submit a report to it at its thirtieth session on the action taken and progress achieved under paragraphs 3, 4 and 5 of the resolution, in which the Assembly respectively (a) urged the Chilean authorities to respect fully the principles of the Universal Declaration of Human Rights and to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms, particularly those involving a threat to human life and liberty, to release all persons who had been detained without charge or imprisoned solely for political reasons, and to continue to grant safe conduct to those who desired it; (b) endorsed the recommendation made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 8 (XXVII), that the Commission on Human Rights at its thirty-first session should study the reported violations of human rights in Chile, with particular reference to torture and cruel, inhuman or degrading treatment or punishment; and (c) requested the President of the twenty-ninth session of the General Assembly and the Secretary-General to assist in any way they might deem appropriate in the re-establishment of basic human rights and fundamental freedoms in Chile in the light of paragraph 3 of the resolution.

3. As indicated above, resolution 8 (XXXI) of the Commission on Human Rights provided that, among other methods, the inquiry was to be conducted on the basis of a visit to Chile. Chapter II of the progress report describes in detail how the efforts of the Group to carry out its mandate to visit Chile were thwarted when, at the last moment before the Group's entry into that country, the Government of Chile revoked the commitment which it had previously made, saying that the time was not propitious.

4. After examining written information from a variety of sources and holding extensive hearings in Geneva, Paris, New York and Caracas, the Working Group prepared a progress report, which was transmitted by its Chairman to the Secretary-General on 4 September 1975. The Group's progress report was issued as an annex to a note by the Secretary-General to the General Assembly on the protection of human rights in Chile (A/10285).

5. In order to enable the General Assembly to examine as comprehensively as possible the questions referred to in its resolution 3219 (XXIX), the Ad Hoc Working Group based its progress report on all the relevant information available to it up to the date of the adoption of the report by the Group, 30 August 1975. Some of the findings of the Group as of that date were included in the progress report. The progress report dealt with the following topics: I. Establishment, functions and methods of work of the Ad Hoc Working Group; II. The question of the visit of the Ad Hoc Working Group to Chile; III. Chilean constitutional and legislative provisions relevant to the inquiry conducted by the Group; IV. Interim findings of the Ad Hoc Working Group on the present situation of human rights in Chile: A. The impact on human rights of the state of siege and of the extension of the jurisdiction of the special military courts; B. Arrest and detention on grounds of security of the State; C. The question of freedom of movement: the right to leave the country and to return to it; D. The question of torture, cruel and inhuman treatment, including threats to human life and security of the person, and the alleged existence of "concentration camps"; E. The situation of women, children and youth; F. The general situation as regards the respect of human rights in relation to civil and political rights and economic, social and cultural rights.

6. In view of the detailed information and the findings contained in the progress report, and bearing in mind the extent of approval which the report received in the General Assembly and elsewhere, the Ad Hoc Working Group decided that its report to the Commission on Human Rights concerning the results of its inquiries under paragraph 3 of Commission resolution 8 (XXXI) would contain, as a first part, the progress report (A/10285) and, as a second part, a supplementary report. The second part of the Group's report, which is contained in the present document, will deal with, on the one hand, relevant developments as regards the situation of human rights in Chile subsequent to 30 August 1975, and, on the other hand, the result of the Group's studies in greater depth of certain subject-matters treated in the progress report and which, as indicated by the General Assembly and the Commission on Human Rights, have special relevance as regards the question of the situation of human rights in Chile.

7. The question of the protection of human rights in Chile was considered at the thirtieth session of the General Assembly under agenda item 12 (Report of the Economic and Social Council) and was referred by the Assembly to the Third Committee. Acting on the recommendation of the Third Committee 1/, the Assembly invited the Chairman-Rapporteur of the Ad Hoc Working Group to assist the Third Committee in its consideration of the Group's progress report. 2/

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1/ See A/10284, para. 4.

2/ This decision was taken at the 2383rd plenary meeting of the Assembly.

8. At the 2144th meeting of the Third Committee, held on 31 October 1975, the Director of the Division of Human Rights introduced the report (A/10295) which the Secretary-General submitted to the General Assembly on the protection of human rights in Chile in conformity with the request contained in paragraph 6 of Assembly resolution 3219 (XXIX).

9. The report of the Secretary-General dealt in particular with the following subjects: (i) the exercise of good offices by the Secretary-General, in consultation with the President of the General Assembly, towards the re-establishment of basic human rights and fundamental freedoms in Chile; (ii) a survey of the consideration of the question of human rights in Chile by United Nations organs, specialized agencies, other intergovernmental organizations and non-governmental organizations. The report included the following statement:

"In light of the information which has been received, including the progress report of the Ad Hoc Working Group established by the Commission on Human Rights ... the Secretary-General is unable to report that the objectives identified by the General-Assembly in paragraph 3 of resolution 3219 (XXIX) have been achieved". 3/

10. At the same meeting of the Third Committee, the Chairman-Rapporteur of the Working Group gave a detailed introduction to the Group's progress report. In his statement, he analysed the progress report and gave an account of the circumstances of the cancellation of the planned visit to Chile, occasioned by the withdrawal of the Government's invitation. He also presented additional information on certain cases of torture and commented on some of the findings of the Working Group. 4/ The Third Committee, at its 2145th meeting, decided that the statement of the Chairman-Rapporteur of the Working Group would be reproduced in extenso. 5/

11. In its consideration of this question, the Third Committee also had before it a letter dated 6 October 1975 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General, which was annexed to the Secretary-General's report (A/10295) and dealt with the situation of human rights in Chile. In addition, it had before it a letter dated 17 October 1975

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3/ Paragraph 3 of General Assembly resolution 3219 (XXIX) reads as follows: "Urges the Chilean authorities to respect fully the principles of the Universal Declaration of Human Rights and to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms, particularly those involving a threat to human life and liberty, to release all persons who have been detained without charge or imprisoned solely for political reasons and to continue to grant safe conduct to those who desire it."

4/ See A/C.3/SR.2144. The Chairman-Rapporteur of the Working Group also addressed the Third Committee concerning the progress report at its 2154th and 2155th meetings. See A/C.3/SR.2154 and 2155.

5/ The statement of the Chairman-Rapporteur is reproduced in document A/C.3/640.

from the Permanent Representative of Chile addressed to the Secretary-General, submitting a statement by the delegation of Chile to the United Nations (A/10303). Under the cover of another letter dated 17 October 1975 and addressed to the Secretary-General, the Permanent Representative of Chile to the United Nations submitted a report entitled "The present situation of human rights in Chile", prepared by the Government of Chile; this letter and the 74-page report of the Chilean Government were circulated in document A/C.3/639. Finally the Permanent Representative of Chile in a letter dated 7 November 1975 submitted additional material and requested that it be made available to the delegations wishing to consult such material. One document in Spanish, entitled "La Situación Actual de los Derechos Humanos en Chile", volume II of 703 pages, was distributed to the members of the Third Committee by the Chilean delegation. The letter describing the material submitted by the Chilean Permanent Representative was circulated in document A/C.3/642.

12. The question of the situation of human rights in Chile was discussed in the Third Committee at the 2144th to 2148th and 2150th to 2155th meetings. Representatives of 42 countries took part in the discussion. 6/ The representative of Chile made extensive statements expressing his Government's views regarding the situation of human rights in his country, the progress report of the Working Group and the allegations made against his Government during the debate. 7/

13. At the 2154th meeting of the Third Committee, on 11 November 1975, the representative of the Netherlands introduced a draft resolution entitled "Protection of human rights in Chile" (A/C.3/L.2172), sponsored by Algeria, Australia, Austria, Bulgaria, the Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Denmark, Equatorial Guinea, Finland, the Gambia, Greece, Guinea, Guinea-Bissau, Guyana, Ireland, Jamaica, Madagascar, Mali, Mexico, Mongolia, the Netherlands, Norway, Poland, Portugal, Senegal, Somalia, Sweden, the Upper Volta and Yugoslavia, joined later by the Byelorussian Soviet Socialist Republic, Hungary, Iraq, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics.

14. At its 2155th meeting the Third Committee adopted the draft resolution by a roll-call vote of 88 in favour, 11 against and 20 abstentions. 8/

15. The General Assembly at its 2433rd plenary meeting on 9 December 1975, adopted the Third Committee's draft resolution by a recorded vote of 95 to 11, with 23 abstentions 9/ as General Assembly resolution 3448 (XXX). The final text of this resolution is reproduced in annex I to the present document. The representative of Chile made a statement to the General Assembly in explanation of his vote. 10/

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6/ For summaries of the discussion see A/C.3/SR.2144 to 2148 and 2150 to 2155.

7/ See A/C.3/SR.2152 to 2154.

8/ For the record of the voting, see A/C.3/SR.2155.

9/ See A/PV.2433

10/ The statement is reported in A/PV.2433.

16. This second part of the report of the Ad Hoc Working Group was prepared during a series of meetings held at Geneva from 12 to 30 January 1975. It follows the same sequence of subjects as the progress report.

17. In a letter dated 29 December 1975 addressed to the Permanent Representative of Chile to the United Nations Office at Geneva, at the request of the Chairman-Rapporteur of the Ad Hoc Working Group, the Director of the Division of Human Rights informed the Permanent Representative of Chile that the Group would appreciate receiving any further oral or written information relevant to its inquiry into the present situation of human rights in Chile which his Government might wish to bring to its attention (see annex II). The reply of the Permanent Representative of Chile, dated 22 January 1976, is reproduced as annex III.

18. In preparing its report during its January 1976 session in Geneva, the Group examined further written material gathered from relevant sources relating to the present situation of human rights in Chile, including information submitted by intergovernmental and non-governmental organizations. Documents submitted by the Government of Chile to the General Assembly as well as data contained in statements by representatives of Chile to the General Assembly were duly considered by the Group in establishing its report. It also heard oral testimony from persons having direct information, and in some cases personal knowledge of recent developments and the present state of human rights in Chile.

19. Since the Group adopted its progress report, the Governing Body of the International Labour Organisation at its 198th session considered a report submitted to it by the Government of Chile in accordance with the decision taken by the Governing Body at its 196th and 197th sessions and also in accordance with the resolution concerning human and trade union rights in Chile adopted by the General Conference of ILO at its 60th session on 23 June 1975. The Governing Body, after considering the report of the Government of Chile, adopted a decision instructing the Director-General of the ILO to ask the Government of Chile, in accordance with article 19 of the Constitution of ILO, to report by 1 April 1976 on developments in the situation with respect to recommendations of the Fact-Finding and Conciliation Commission and the Conference resolution and in part with respect to the matters on which the Chilean Government had not yet supplied information, including satisfactory answers to the points raised in paragraphs 8, 9, 11, 12 and 13 of the Eighth Supplementary Report, and to request the Committee on Freedom of Association to examine the Government's report and submit a report to the Governing Body at its 200th session. 11/

20. The Executive Board of UNESCO on 18 September 1975 requested the Director-General of UNESCO to report on the demand made by the Executive Board to the Chilean authorities to take all necessary measures to restore and safeguard fundamental human rights as well as to ensure the normal functioning of all universities, schools and scientific and cultural institutions. 12/ The

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11/ See ILO documents GB.198/22/10, GB.198/22/24 and GB.198/22/25.

12/ 98 Ex/Decisions 9.4, 9.5, 9.6.

Executive Board of UNESCO is expected to consider the report of its Director-General and any other relevant information regarding human rights in Chile at its next (99th) session in April 1976. 13/

21. The General Assembly in its resolution 3448 (XXX) on the protection of human rights in Chile invited the Commission on Human Rights to extend the mandate of the Ad Hoc Working Group as presently constituted to enable it to report to the General Assembly at its thirty-first session and to the Commission on Human Rights at its thirty-third session on the situation of human rights in Chile, and in particular on any developments which occur to re-establish respect for human rights and fundamental freedoms.

22. The Working Group remains ready to assist the competent organs of the United Nations, as may be appropriate, in their efforts to restore human rights and fundamental freedoms in Chile. In carrying out any future mandate, the Group will, as it has in the past, be essentially concerned with assessing the situation in Chile and ascertaining to what extent human rights have been restored in that country. The Group will continue to perform such functions as may be entrusted to it without any preconceived ideas or prejudices, with the sole objective of assisting in the noble efforts of all those who hope that the dignity and worth of the human person will once more prevail in Chile.

23. The Ad Hoc Working Group wishes to reiterate its great appreciation to Mr. Marc Schreiber, the Director of the Division of Human Rights, and to his associates in the Division of Human Rights for the invaluable assistance they tirelessly extend to the Group in the performance of its functions.

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13/ See also A/10295, para. 25.

I. CHILEAN CONSTITUTIONAL AND LEGISLATIVE PROVISIONS  
RELEVANT TO THE INQUIRY CONDUCTED BY THE GROUP

A. The progress report

24. Those aspects of the Chilean legal structure - both constitutional and legislative - relevant to the Group's inquiry were discussed in paragraphs 63-102 of the progress report. The traditional constitutional and legal system of Chile was dealt with, as were the changes which occurred since 11 September 1973. Among the latter, the questions of the powers of the new Government of the country, i.e. the Government Junta, and the relation of decrees issued by that Government to constitutional provisions, the dissolution and suspension of political parties, the dissolution of the National Congress and the status of the judiciary were considered.

25. The levels and characteristics of the various states of siege were also discussed along with the impact on human rights of the state of siege. Information was given concerning conditions affecting the conduct of legal and judicial proceedings during the state of siege. The arrangements for bringing judicial acts to the notice of the families of those concerned were explained. Other questions treated were the right of amparo (habeas corpus), restrictions on trade union rights, and the specialized organs of state security. In the following sections, new material relevant to the above topics will be discussed.

B. Modification in the level of the state of siege

26. On 11 September 1975 decree-law No. 1181 abrogated the decree promulgated six months earlier (which had set the state of siege over the entire national territory at the level of internal defence) and provided that from 11 September 1975 and for a period of six months, all the national territory would be under a state of siege at the level of internal security. A comparison between these two levels, based on decree-law No. 640 of 10 September 1974, reveals that the level of internal defence may be proclaimed in cases of internal disturbance provoked by rebel or seditious forces already organized or in the process of being organized. The level of internal security, on the other hand, may be proclaimed when the disturbance is provoked by non-organized rebel or seditious forces. The legal consequences of this change on criminal jurisdiction, procedure and penalties are found in decree-law No. 640 of 10 September 1974, as amended by decree-law No. 1009 of 5 May 1975. <sup>1/</sup> Under the state of siege, level of internal defence, war-time military jurisdiction is exercised by the military courts, which apply war-time military procedures and penalties. Essentially these are the "council of war" provisions which were described in paragraphs 92-94 of the progress report. Article 8 of decree-law No. 640, as amended by article 8 of decree-law No. 1009, provides, on the other hand, that in the case of a state of siege at the level of internal security or at the level of ordinary internal unrest, military courts will exercise their jurisdiction and use the procedures appropriate for peace-time except as regards certain crimes. This article also provides that when peace-time procedures are applied during a state of siege at the level of internal security, peace-time penalties will be increased by one or two levels of punishment.

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<sup>1/</sup> Published in the Diario Oficial of 8 May 1975.

27. The peace-time military judicial system has been described as having two instances: the military or naval court in the first instance and the courts martial of appeal (naval or military) in the second instance. The court martial of appeal for all military matters other than naval consists of two judges of the court of appeals of Santiago (an ordinary civil court of second instance), a judge advocate of the carabineros, an air force judge advocate and an army judge advocate. The naval court martial of appeal consists of two judges from the court of appeals of Valparaiso (an ordinary civil court of second instances), an actively serving or retired naval officer with the rank of captain and the naval judge advocate. The judgements of the courts martial may be appealed to the Supreme Court of Justice.

28. An exception is provided in article 9 of decree-law No. 640, as amended by decree-law No. 1009, for certain offences referred to in the Law on the Security of the State. In these cases, during a state of siege, level of internal security or of ordinary internal unrest, the war-time military courts (councils of war) shall hear the cases. Nothing is said in these articles about the procedure of penalties applicable. The provisions of the Law on the Security of the State which warrant trial by war-time military courts during the state of siege, level of internal security or of ordinary internal unrest, are articles 4, 5 (a) and (b) and 6 (c), (d) and (e). 2/ Article 4 of this law and its seven paragraphs cover, inter alia, crimes against internal security, including attacks against the constituted government, provocation of civil war, inciting, financing or taking part in attacks or subversions, revolts, rebellion or resistance to the government. This article also covers incitement to military disobedience, assisting in the organization of private armies, the conducting or propaganda in favour of a violent change in the social or governmental order and the spreading within the country or the sending abroad of false or tendentious information intended to overthrow the republican and democratic system of government or to disturb the constitutional order, the security of the State or the monetary and economic system.

29. Article 5 (a) refers among others to attacks upon persons or kidnapping done with the purpose of disturbing internal security or of intimidating the population. Finally, article 6, paragraphs (c), (d) and (e) include, inter alia, encouraging or promoting the destruction or impairment of public services or of services used in economic activities such as industries, agriculture and mining. Also included is hindering access to public property and the poisoning of water or food intended for public use or consumption. Military trials according to the "time of war" procedures are described in the progress report, paragraph 92, and represent very severe reductions in the rights of the defence.

30. It is evident that because of the general terms used in these provisions a very wide range of interpretation is left open to those authorities charged with their application. It is equally clear that a significant risk exists that innocent conduct could be included within the activities ostensibly covered by these articles. It thus is difficult to see why, in a situation where whatever disturbances that do exist are the result of admittedly unorganized opposition, that the minimum judicial protection of the peace-time military judicial system is not provided in circumstances

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2/ See decree-law No. 890 of 26 August 1975 (Diario Oficial, 26 August 1975).

with a high risk to the rights of persons. Lastly, this major exception makes it possible to bring before the war-time military courts a striking number of offences which include most activities likely to be made punishable at a time of unrest.

### C. Declaration of states of emergency

31. The emergency régimes established in decree-law No. 640 of 2 September 1974 <sup>3/</sup> are the following: (I) state of internal or external war; (II) state of assembly; (III) state of siege, within which come the diverse levels described in the progress report (paras. 89-91); (IV) special powers; (V) zones and states of emergency; (VI) jefaturas de plaza.

32. The declaration of zones or states of emergency (V) is governed by article 31 of the Law on the Security of the State, which provides that in case of public disaster the President of the Republic can declare the affected zone to be in a state of emergency for a period of six months. On 10 December 1975, decree-law No. 1281 modified article 31 by removing the limitation to the effect that the President of the Republic can declare a state of emergency only once. Thus, under article 31 no limitations are now imposed on the number of times a zone may be declared to be in a state of emergency. This is significant in the light of article 34 of the same law, which lists the extensive powers of the military commander of a zone declared to be in a state of emergency.

33. The military commander of a zone in the state of emergency has powers over almost every aspect of life, both civilian and military, in that zone. Of special importance is the power to prohibit the divulging of news of a military character and to establish censorship over the press, telegraph and radio-telegraph services. He is empowered to punish anti-patriotic propaganda, by whatever means transmitted (radio, press, films, theatres), and he can take measures to prevent the divulging of news, true or false, which could produce panic in the civilian population or demoralization in the armed forces. It does not appear that the extent of these powers is diminished or increased in relation to the extent of the emergency situation to which they are applied. At this time article 34 of the Law on the Security of the State is applicable to the whole territory of the country.

### D. Modifications of the laws governing the press, radio and television

34. To the above-described powers of the military commander of a zone in the state of emergency, new authority over the press, radio and television was added by decree-law No. 1281 of 10 December 1975. Giving as purpose the need to attribute to the military commander the power to apply administrative sanctions, without prejudice to other penal actions, in order to enable him to carry out his responsibilities concerning the prevention of the publication or broadcast of news which would reduce the population's spirit of sacrifice or which distorts or falsifies events, this decree-law added a new paragraph (n) to the above-cited article 34.

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<sup>3/</sup> Published in the Diario Oficial of 10 September 1974.

35. New paragraph (n) of article 34 of the Law on the Security of the State empowers the military commander of a zone in a state of emergency to suspend a publication for six consecutive editions, or to suspend the operation of a radio or television station for six days, if they transmit opinions, news or communications tending to create alarm or disgust in the population, distort the true dimension of events, whether clearly false or against the instructions given under that same article for reasons of internal order. In cases of repetition, censorship may be exercised by persons placed within the establishments concerned. An appeal against any measures adopted under this provision may be made to a military court within 48 hours.

36. In the same vein, it is instructive to note the changes made by decree-law No. 1009 of 5 May 1975 in certain other articles of the Law on the Security of the State. Article 16 of the Law, as amended, provides for the suspension from operation by the competent court for 10 days of any publication or broadcasting station that commits an offence against the security of the State. The text of this Law prior to the amendment provided for a six-day suspension for violations of the Law on the Security of the State itself, and not, as now, for all offences against the security of the State. Prior legislation also provided for the immediate seizure of publications in serious cases of violations of the Law on the Security of the State. This power has now been extended to cover any other publication that has the object of replacing one already seized.

37. In addition, new provisions were added extending the circumstances in which printing plants may be confiscated. The Broadcasters' Association of Chile (Asociación de Radiodifusoras de Chile) commented on the modifications referred to above in the powers of the military commander in a zone under a state of emergency over publications and broadcasting stations. While limited only to those changes, these comments are also relevant to the changes brought about by decree-law No. 1009.

38. Referring to the addition of paragraph (n) to article 34 of the Law on the Security of the State this association said:

"This provision means putting into the hands of the military commanders of the emergency zone, which comprises the whole of the country's territory, complete control of the information media, and of the radio in particular, since it is left to the military commander to decide what information and opinions tend to alarm or disgust the population, give a distorted picture of events or contravene instructions which the commander of the zone himself may issue. The possibility of appeal before the military tribunal envisaged in the decree is irrelevant from the legal point of view so long as the provision in question is not suspended.

"The Broadcasters' Association of Chile, through all its members, has sought to contribute effectively to the country's internal order and to peace and unity among all Chileans and has shown understanding for the process of gradual restoration, within an emergency system of freedom of information and of opinion, which is one of the essential bases of Chilean broadcasting. For those reasons it believes that the decree in question is a backward step which seriously impedes the free broadcasting of radio programmes, since for fear that measures taken under the decree by the commander of the zone may affect them, broadcasters will be engaged in a mechanism of self-censorship which will restrict their duty to inform and convey opinions to their listeners.

"What is more, the Association has taken an active part in the drafting of the provisions of the new Constitution governing the legal status of communication media which have won the approval of those working in communication media in the country and elsewhere. The decree to which we refer is obviously at variance with what was adopted in the competent commission." 4/

E. Note on the constitutionality of certain Junta decrees

39. In decree-law No. 1 of 11 September 1973, in which the members of the military junta constituted themselves as a Government Junta and assumed the supreme command of the nation, it was declared that, in the exercise of its mission, the Junta "shall guarantee the full effectiveness of the powers of the Judiciary and shall respect the Constitution and laws of the Republic to the extent possible in the present situation of the country for best fulfilling the objectives it has set itself".

40. The Constitution as then in force in Chile vested legislative powers in the Congress (Chamber of Deputies and Senate), together with the President of the Republic (articles 24-59). Decree-law No. 27 of 21 September 1973, published in the Diario Oficial on 24 September 1973, dissolved the Congress. The validity of laws, according to the Civil Code of Chile (articles 6 and 7) begins only when the law has been published.

41. It may therefore be pointed out that until 24 September 1973 legislative power in Chile remained vested in the Congress, together with the President, and thus that decree-laws promulgated by the Junta until that date were not in conformity with the Constitution. The following decrees would be affected: the declaration of the state of emergency, later called "state of war", imposed by decree-law No. 4; the drastic increase of penalties introduced by decree-law No. 5; the exceptional attributions in penal matters assigned by decree-law No. 8 to the commanders of the military areas; the innovation of the decreto supremo, or supreme decree, created by decree-law No. 9; the extended jurisdiction assigned to military courts by decree-law No. 12; the new functions assigned to the Ministries of Interior and Defence by decree-law No. 14; the penal exemptions granted to carabineros by decree-law no. 23, and the removal of all municipal authorities, as well as the creation of a special court to deal with the dismissal of workers by decree-laws Nos. 25 and 32.

42. Decree-Law No. 788 of 4 December 1974 stated that prior decree-laws which were contrary, opposed to or different from precepts of the Constitution of Chile were to be understood as having modified, explicitly or tacitly, partially or wholly, the corresponding precept of the Constitution. This is a manifestly irregular way to amend the Constitution.

F. The specialized organs of State security

43. The topic of organs of State security created after 11 September 1973 was dealt with in paragraphs 101-102 and 133 of the progress report, which treated in particular the Dirección de Inteligencia Nacional (DINA). As was noted,

decree-law No. 521 of 14 June 1974, which created this organ, in its sole transitional article stated that three articles of the decree-law (articles 9, 10 and 11) would be published in a restricted annex to the Diario Oficial. The contents of these three articles have come to light through newspaper reports. They provide, first, that the DINA has complete control over all internal security matters; second, that it is responsible only to the President of the Republic in person, and third, that it can make arrests and keep persons in detention without warrants or any formal order. 5/ This latter provision would explain why the recourse of amparo or habeas corpus is not effective against persons detained by the DINA for matters considered to relate to internal security. Decree-law No. 1009, of 5 May 1975, established a limit on the length of permissible detention by specialized organs of state security. The effectiveness of this provision will be discussed below.

#### G. The judiciary 6/

44. The independence and immovability of judges, an element essential to the "rule of law", was expressed in article 85 of the Chilean Constitution, which made judges immovable if they were of good behaviour (buen comportamiento). Though provisions were made for transferring judges from one post to another, it was only to the Supreme Court that power was given to declare that a judge did not respect good behaviour standards. By a two-thirds vote of its members the Court could remove from his post a judge who had not fulfilled the requirement of good behaviour.

45. On 6 December 1973 decree-law No. 170 modified article 85 of the Constitution to provide for an annual evaluation of the qualifications of all members of the judiciary and for the removal by a simple majority of the active members of the Supreme Court (miembros en ejercicio) of any member of the judiciary enjoying immovability but who was badly evaluated (mal calificado).

46. The form in which the evaluation of members of the judiciary is to be determined was laid down in decree-law No. 169 of 6 December 1973, which amended the basic laws governing the courts and the administration of justice. The Supreme Court has thus been charged with annually evaluating the judges (ministros) and fiscales of the courts of appeal (cortes de apelaciones) and other judicial personnel, including staff of the Supreme Court itself.

47. This is done by establishing three lists. In list number one are placed individuals with impeccable morality (moralidad intachable) and very high legal preparation who are laborious, efficient and zealous in fulfilling their duties and obligations. List two contains the names of individuals who also must be morally impeccable (moralmente intachables) and who fulfil their duties and obligations satisfactorily, in an efficient and zealous manner. All those not included in lists one or two will be placed on the third list of deficient personnel. Individuals placed in list three by a majority vote of the active members (miembros en ejercicio) of the Supreme Court are removed from their positions. No appeals are possible from these Supreme Court decisions.

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5/ Sunday Times Magazine, 30 November 1975.

6/ See progress report, para. 88.

48. The same system is extended to the personnel of other courts over which the Supreme Court has ultimate supervision. Appeals from decisions by inferior courts placing an individual in the third list are provided. The system of three lists plays a role in the promotion of judicial personnel, since generally to be presented for promotion an individual must be registered in the first list. For the year 1973, decree-law No. 169 provided that the general evaluation of judges and judicial personnel would take place according to the new criteria and procedures within a period to be fixed by the Supreme Court.

49. Through decree-laws Nos. 169 and 170 a new standard for holding judicial appointments and a new procedure for removing immovable judges was instituted. The standard of morally impeccable (moralidad intachable, moralmente intachables) is significantly higher than the simple "good behaviour" required by prior law. Moreover, instead of requiring a two-thirds vote of the members of the Supreme Court, the new procedure requires only a simple majority of active members (miembros en ejercicio).

50. Both the new standards and the new procedure are made retroactively applicable to two periods, that from 1 January 1973 to 10 September 1973 and that from 11 September 1973 to 6 December 1973. This takes on a particular significance when it is remembered that the change in government of 11 September 1973 has often been expressed in "moral" terms (see decree-law No. 1 of 11 September 1973) and thus the qualifications of an individual to be a judge could easily be viewed in relation to the political changes on and after 11 September 1973. A serious and deliberate attack has thus been launched against the irremovability and independence of the judiciary. Decree-law No. 527 of 17 June 1974 includes among the special powers vested in the President of the Government Junta that of supervising the conduct of the judges and assistant judicial officers of the Judicature. Furthermore, if the President considers that one of these officials has been guilty of misconduct, he may require the Supreme Court to take the necessary disciplinary measures or, if sufficient grounds exist to prosecute.

#### H. New institutions

##### 1. Commission on Constitutional Reform 7/

51. The Commission on Constitutional Reform was established after the Junta assumed power. On 27 November 1973 this Commission wrote a memorandum that contains the fundamental principles and objectives that will inspire the new Constitution under preparation. This memorandum was widely disseminated in and outside the country. The purpose of the Commission is to elaborate a preliminary draft of the new Political Constitution of the State. The Commission is made up of professors of law who are stated to represent the different democratic trends of the country. Apart from performing these tasks, the Commission has also reported to the Government on numerous issues of a juridical or constitutional nature presented to it by the Government.

52. The Commission has expressed the opinion that the new Constitution should deal in a special way with human rights, taking into account such international documents as the Universal Declaration of Human Rights, the American Declaration of the Rights

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7/ See La Situación Actual de los Derechos Humanos en Chile, vol. II (Santiago, October 1975), pp. 62-64.

and Duties of Man, and the Declaration of the Rights of the Child. However, no reference was made to the International Covenant on Civil and Political Rights, which has been ratified by Chile and which will become legally binding on its entry into force, expected on 23 March 1976.

53. According to the Commission, the Constitution now under preparation would guarantee freedom of expression and education and property rights, extend the right of amparo, and establish a new democratic régime. It would also declare the Marxist political parties to be illicit associations and bury for ever "sectarianism, political trash and demagogism". The principles of the separation and the independence of the three powers of the State - the executive, the legislative and the judicial - would also be respected in the future Constitution. No time-limit for the completion of this work by the Commission has so far been made known.

## 2. The Council of State 8/

54. The Council of State was established by decree-law No. 1319 of 31 December 1975, as a supreme consultative body to the President of the Republic in matters of Government and civil administration, and its creation appears to be the first formal constitutional act that has been approved by the Government Junta. Article 2 of this constitutional act determines the composition of the Council of State, which is to be composed of persons of great capacity, of well-known moral reputation and experience and who, at the same time, are representatives of the highest functions of the nation and the different sectors of the organized community. Former Presidents of the Republic are members in their own right. Other members, to be appointed by the President of the Republic, are an ex-President of the Supreme Court, an ex-Comptroller-General of the Republic, an ex-commander-in-chief of each of the three armed forces and an ex-Director-General of the Carabineros, among other important personalities.

55. According to article 4, the President of the Republic may ask for the opinion of the Council of State on constitutional reform, on drafts of decrees-laws, when entering into a treaty or international convention of great importance for the country, on conventions, contracts or negotiations which by their nature may engage the credit or interests of the State, or on any other matter of high importance for the nation.

56. According to the international press, Mr. Eduardo Frei, former constitutional President of Chile, has formally refused to be a member of the Council of State. According to these reports, former President Frei based his decision on the fact that membership of the Council would be meaningful only if that organ was part of a Constitution approved by the votes of the people. However, nothing indicates, former President Frei adds, that the Chilean people will be consulted concerning the new Constitution which will be proclaimed in the coming months. In addition, former President Frei remarked that the new organ would have no power and would be incapable of taking any initiative; moreover, the Government would not be required to follow its recommendations. Finally, the former President also noted that the members could be removed by the Government at will.

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8/ See El Mercurio (Santiago), 2 January 1976, p. 8.

I. Constitutional acts 9/

57. As reported above, the Council of State was established by the first constitutional act promulgated by the Government Junta. It has been announced that these constitutional acts will be "fundamental laws with the purpose of protecting in an institutional framework the political, economic and social reality of the country, while the definitive Constitution is elaborated". It also has been announced that before the end of the first semester of 1976, three other constitutional acts will be promulgated: the first will deal with the fundamental basis of the new institutions, the second, with nationality and sovereignty, and the third, with rights and constitutional guarantees and emergency régimes.

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9/ Ibid., p. 1.

## II. THE IMPACT ON THE ENJOYMENT OF HUMAN RIGHTS OF CURRENT CHILEAN CONSTITUTIONAL AND LEGISLATIVE PROVISIONS

### A. The progress report

58. In chapter IV, section A, of the progress report the question of the actual impact on the enjoyment of human rights in Chile of changes in that country's constitution and laws, especially the effect of the state of siege, was dealt with. The limitations on human rights occasioned by the state of siege, especially on the rights to life, freedom from torture and cruel and inhuman or degrading treatment, freedom of association, thought, expression and movement, and economic, social and cultural rights, were discussed and the validity of such limitations under the international law of human rights was tested. The questions of the right to a fair trial and the right to the remedy of amparo, the rights of the defence during military trials, and the extension of the jurisdiction of military tribunals to new areas were also treated. Similar issues will be dealt with below for the period relevant to this report.

### B. The state of siege and limitations on human rights

#### 1. Emergency situations and limitations on human rights under the international law of human rights

59. Article 4 of the International Covenant on Civil and Political Rights, which has been ratified by Chile and is expected to enter into force on 23 March 1976, may be considered as reflecting the general international law of human rights on the subject of emergency situations and limitations on human rights. <sup>1/</sup> A public emergency, according to this article, which threatens the life of the nation can permit States parties to the Covenant to take measures derogating from their obligations under the Covenant to the extent strictly required by the exigencies of the situation. No derogations are permitted from certain articles which form the very minimum standards of human rights: the right to life, freedom from torture or cruel, inhuman or degrading treatment or punishment, freedom from slavery and servitude, freedom from retroactive penal laws or increases in penalties, the right to recognition as a person before the law, and freedom of thought, conscience and religion. <sup>2/</sup>

60. Reference is made by the Chilean Government in a document (A/C.3/639) to events and situations which it regards as justifying the maintenance of the state of siege. Without the collaboration of the Chilean Government, and in light of the Government's refusal to permit a visit of the Group to that country, the Group is unable to verify if the events and situations referred to exist and if they are such as to justify any derogation of human rights similar to those permitted under Article 4 of the Covenant.

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<sup>1/</sup> Cf. article 15 of the European Convention on Human Rights and article 27 of the American Convention on Human Rights.

<sup>2/</sup> See common article 3 of the four Geneva Conventions of 1949.

2. Limitations on human rights imposed by current Chilean constitutional and legislative provisions

(a) Right to take part in government

61. At the present time in Chile, and as from 11 September 1973, the legislative, executive and constitutional power is concentrated in the Government Junta, which has dissolved the National Congress (see para. 87 of the progress report) and declared itself competent to modify both the laws and the Constitution of Chile through the issuance of decree-laws signed by all the members of the Junta (see decree-laws No. 128 of 12 November 1973, No. 527 of 26 June 1974 and, especially, No. 788 of 4 December 1974, and para. 83 of the progress report).

62. The dissolution and suspension of the political parties in Chile described in para. 86 of the progress report is still in effect. Severe limitations on the basic human right to take part in government and to vote and be elected at genuine periodic elections as recognized in article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights are still imposed on the people of Chile.

(b) Right to be free from arbitrary arrest and detention

63. Article 15 of the Chilean Constitution, which permitted the authorities to detain a person for a maximum of 48 hours before placing him at the disposition of the competent judge has not been applied, as noted earlier, in cases of detention by military authorities, by administrative authorities or by specialized organs of State security. The situation of state of siege has been invoked to justify such an important derogation. On 5 May 1975, this constitutional article was modified by decree-law No. 1008 to increase the permissible time of detention from 48 hours to five days in cases of offences against State security during the existence of a state of emergency.

64. Article 72, paragraph 17, of the Chilean Constitution provided that during a state of siege the President of the Republic shall have the authority to transfer individuals from one department to another and to detain them there, in their houses or in other places not destined for the detention of common criminals. Decree-law No. 228 of 3 January 1974 provides that the Government Junta exercises the power of the President under article 72, paragraph 17, to transfer and detain persons during the state of siege and that this power will be exercised through supreme decrees issued by the Minister of the Interior with the words "By order of the Government Junta". In addition, this decree-law declared lawful past measures taken by the administrative authorities which indicated the exercise of this power to transfer and detain. The Minister of Foreign Affairs of Chile has stated that during the state of siege no remedy of amparo from decisions under paragraph 17 of article 72 of the Constitution is possible (para. 99 of the progress report). Decree-law No. 1009 of 5 May 1975 in its preamble stated that "during the existence of a state of siege the administrative authorities are not bound to observe any time-limit with respect to such decisions as they may decide to adopt concerning deprivations of liberty". No indications have been received that this situation, in effect since 11 September 1973, has changed.

65. Decree-law No. 1009 of 5 May 1975 provides that, during a state of siege, when the specialized organs of State security, notably the DINA, exercise their power to detain pending investigation persons reasonably presumed to be guilty of endangering State security, they must notify the immediate members of the detained person's family within 48 hours and within a five-day period they must release the person, place him at the disposal of the competent court, or, when special powers or powers under the state of siege are used, place him at the disposal of the Ministry of the Interior. In this latter case, no further limits on the length of detention exist. The Group has received much evidence to the effect that this provision is rarely respected in practice by the DINA.

66. Presently in Chile, severe limitations are placed on the right to be free from arbitrary arrest and detention and especially on a detained person's right to "take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful" as provided in article 9 of the International Covenant on Civil and Political Rights.

(c) The right to a fair trial

67. Since 11 September 1973 the jurisdiction of military tribunals in criminal matters has been greatly widened to the exclusion of civil court criminal jurisdiction by the transfer of jurisdiction over crimes involving State security effectuated by the declaration of the state of siege, as equivalent to a state of war (see article 26 of the Law on the Security of the State), and by the establishment of new criminal offences against State security which have been placed under military jurisdiction in all circumstances regardless of whether a state of emergency has been proclaimed. 3/

68. The example of this latter method is to be found in articles 2, 3 and 4 of decree-law No. 1009 of 5 May 1975. Article 2 provides punishment for any person who issues or transmits orders, instructions, information or communications in preparation for the commission of an offence against State security. A person found in possession of a document in cipher or code who cannot give a satisfactory account of its contents or origin is presumed guilty of the offence. Article 3 provides punishment for those who aid persons to hide or flee when it is known that such hiding or flight is to evade action by the authorities based on grounds of State security. By article 4 these offences are under military jurisdiction.

69. As was indicated in the progress report, two procedures are applicable under military jurisdiction: peace-time procedures, described in paragraph 92 of the report and war-time procedures, described in paragraphs 93 and 113-114 of the report. From 11 September 1973 to 11 September 1975 the procedure applied by the military authorities in the exercise of their jurisdiction was that of war-time. Since 11 September 1975 this procedure has continued to be applied to many broadly defined crimes against State security.

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3/ In a document submitted to the General Assembly (A/C.3/639) the Government of Chile stated:

"The judiciary maintains its jurisdiction over the civil population and it does not interfere with military jurisdiction, which is entrusted with the trial of military offenses performed by either servicemen or civilians and of some offenses against the internal security of the State."

See also progress report, paras. 113 and 115.

70. No information has been received to warrant modifying the finding in the progress report that in theory and especially in practice the war-time military procedure fails to protect even the most elementary human rights of the accused (see paras. 93-94 and 114 of the progress report). In the absence of adequate authoritative information it is difficult to determine whether the peace-time military procedures (see para. 92 of the progress report), though affording increased protection to the accused, constitute normal basic guarantees as regards criminal procedure, in particular as applicable to civilians. Little information has been received indicating whether, in fact, since 11 September 1975 peace-time military procedures are applied and with what results. Under war-time military procedures the basic right to a fair trial as reflected in article 14 of the International Covenant of Civil and Political Rights is obviously not respected. Severe limitations on this right are imposed under the peace-time military procedure.

(d) Other human rights

71. As noted above, owing to the existence of the state of siege and under articles 31 to 34 of the Law on the Security of the State (decree-law No. 890 of 26 August 1975) almost every significant aspect of the life of ordinary citizens in Chile is subject to regulation by the Military Chief of the region. Examples of some of the restrictions thus imposed are found in military bando (order) No. 81 regulating the curfew in Santiago reported in the newspaper La Tercera of 9 August 1975. The bando provided that from 1 September 1975 new passes must be used by individuals on the streets after the curfew and designated the places (usually military bases) where they were to be obtained.

72. In addition, the bando dealt with certain prohibitions:

"With regard to prohibitions, order (bando) No. 81 reiterates that the movement of citizens, individually or in groups, in vehicles or by any other means, along public thoroughfares during the hours of curfew is prohibited. This means that people must remain at their habitual dwelling or, in the case of authorized night duty, at their place of work.

"Passes will be issued only in very special cases, so that it is recommended not to request them without adequate grounds. Order No. 81 adds that the fact that an individual has been given a pass does not entitle him to request its automatic renewal. He will have to show that the reasons requiring his movement during curfew continue to exist.

"During curfew no private or public collective transport vehicle, hired automobile, taxi or private vehicle of any kind may circulate, with the exception of those providing duly authorized services.

"The armed forces and the Carabineros have been specifically instructed by General Rolando Garay to impose strict compliance with the order.

"Exempt from the order are Fire Department vehicles in case of fire, ambulances on emergency call and authorized buses and freight transport lines between provinces (Ministry of Transport).

"If for any reason a person goes into the street without a pass (illness, outbreak of fire) he must approach the nearest representative of the armed forces or Carabineros in his sector.

"In another part, order No. 81 states that any citizen caught infringing these provisions must halt and approach to be identified and questioned. He must also obey the first order of the public authority concerned, considering that if he does not do so he shall bear sole responsibility for the consequences." 4/

73. Present Chilean criminal law has been amended in such a way as to endanger the right of a person to be presumed innocent. For example, article 5 of decree-law No. 1009 of 5 May 1975 provides that if the circumstances of the case or the personal background of the person concerned permits, then the possession of leaflets or pamphlets urging the commission of crimes defined in the Law on the Security of the State shall lead to the person being presumed as being the author of incitement to commit those crimes. Article 3 applies the same presumptions to the possession of leaflets, pamphlets or brochures serving to disseminate doctrines, news or information which constitute an offence under the law. Possession is presumptive of the offence of propagating such doctrines or disclosing or divulging such news or information.

3. Limitations on human rights: strictly required by the exigencies of the situation?

74. As was stated above (para. 59), the generally accepted international law of human rights provides for derogations from obligations, in the form of limitations on human rights, when an emergency situation threatens the life of the nation. Such limitations, however, must be strictly required by the exigencies of the situation and, moreover, certain very basic human rights may never be the object of limitations or derogations.

75. The first question is thus whether the emergency situation in Chile threatens the life of the nation. The present situation in Chile has been described by the Government in decree-law No. 1181 of 11 September 1975. This decree-law declared that the grave circumstances that occasioned the declaration of the "state of war" have in large part been overcome, that the subversive action of organized groups has been controlled and that the groups themselves have been controlled. As a result the state of siege at the level of internal defence was terminated and the country was placed under a state of siege at the level of internal security. Decree-law No. 640 of 10 September 1974 provides that the state of siege at the level of internal security is appropriate when disturbances are caused by non-organized forces.

76. No information has been received indicating that disturbances have actually taken place. In fact, on the admission made by the Government of Chile, "subversive action of organized groups has been controlled", as is clearly stated in decree-law No. 1181 of 11 September 1975. It is not possible to conclude that the present situation in Chile places the life of the nation in danger.

77. Question two relates to whether the restrictions on human rights imposed by present Chilean constitutional and legislative provisions are strictly required by the exigencies of the situation. In the preceding sections some of the very serious limitations upon, not to say the outright abolition of almost all the human rights consecrated in the Universal Declaration of Human Rights have been reviewed. In the face of admittedly unorganized opposition coupled with the lack of evidence concerning actual disturbances, it is impossible to conclude that such far-ranging and pervasive restrictions on human rights are required by the exigencies of the situation.

### III. ARREST AND DETENTION ON GROUNDS OF STATE SECURITY

#### A. Political prisoners and persons held without charge

78. From the information gathered by the Working Group since the adoption of its progress report, arbitrary arrests and detentions in Chile do not appear to have subsided to any considerable extent. According to the evidence before the Group, arrests have continued to be carried out in homes, places of work and schools and on the streets. Many persons are still arrested without a warrant, sometimes peaceably, occasionally with violence in the presence of members of the family, including children.

79. It was reported that on most occasions those carrying out arrests did not produce proper identification. Only when persistently requested did some Army officers identify themselves by producing their tarjetas de identificación de las Fuerzas Armadas (TIFA) (identity cards of the Armed Forces). When the relatives of arrested persons made inquiries about the actual places where they were being held, their requests were ignored or answered misleadingly.

80. According to testimony presented to the Group, conditions in which persons are being arrested and interrogated may be described as follows. Usually those arrested are transported in cars or vans which do not have licence plates or in vehicles with licence plates that have been altered or covered. After arrest, people are taken for interrogation. Among the interrogation centres mentioned in the progress report (para. 189), Villa Grimaldi is said to continue to be used in spite of repeated denials from the Chilean authorities. In fact, when the Ad Hoc Working Group was expected to visit Chile in July 1975, allegedly most of the prisoners were temporarily transferred from Villa Grimaldi. After the Working Group was refused entry into Chile, Villa Grimaldi appears to have resumed its sinister uses. Prisoners are usually blindfolded for the duration of their stay in such detention centres and the interrogations are accompanied by torture. Some prisoners, apparently, do not survive this period of interrogation; others would seem to be generally kept in such places for several days or even weeks. The Group was told about the case of a political prisoner who heard one of the chiefs of the secret police instruct other officials not to make out an entry card for him and to tell anyone who would ask for him that he was not there. This may explain why some arrested political prisoners are said to have later "disappeared".

81. The Group has been informed that after leaving the interrogation centres, some prisoners spend some time incommunicado at the so-called Cuatro Alamos detention centre, usually a period of one or two weeks, during which they can recover from torture or ill-treatment suffered at the interrogation centre. Finally, upon recovery, the prisoner is transferred to the Tres Alamos detention camp, where visits are permitted, although sometimes only after 20 or 30 days. The Group was told of the case of a political prisoner who was held incommunicado in Tres Alamos for nine days during November 1975, including seven days in solitary confinement. Of the 180 other people who were with him in Tres Alamos, only two or maybe three would have spent less than five days incommunicado. This would be in violation of the Chilean Government's own decree-law No. 1009.

82. Families of prisoners who have disappeared are told that their husband or son or brother has never been arrested. If they do reappear later, a warrant of arrest is issued before the prisoner may be allowed to receive visits. In many cases, arrest warrants are said to have been issued several days after effective arrest and interrogation.

83. Many times those arrested and detained are threatened with cancellation of visiting privileges or with being put in subterranean cells on bread and water. Other prisoners have complained that they were beaten while in such cells. It would appear that there is no means of seeking redress for mistreatment in these places. Allegedly, some prisoners have been executed while supposedly attempting to escape. Prisoners may also be placed on lists of those to be expelled from Chile, but if no country will grant them a visa they are told that such is the case because they really are undesirable everywhere. Cases seem to have existed where prisoners who had been granted entry visas by other countries were reclassified as not entitled to expulsion by the Chilean Government.

84. According to the information available to the Group, prisoners who are awaiting trial or who have been convicted are less susceptible to ill-treatment since their custody is supervised by the prison authorities rather than by the secret police. In cases of irregularities, however, they have difficulty in having their situation reviewed. Certain benefits granted normal prisoners by present Chilean legislation, such as the possibility of parole or certain visiting privileges, are frequently denied political prisoners.

85. The uncertainty of the fate of those imprisoned may be better described by members of their families. The following is an account supplied by a group of wives of prisoners who held important posts under the previous government and who have been in detention since the present government took over.

"... This prolonged and distressing detention of our husbands, which has so severely affected our families and caused such anxiety to their children and wives, has now become still worse as a result of new developments.

"During the second week of September 1975 the military Government announced the release of 12 political prisoners, among whom six were our husbands. They were not released, however. On the contrary it was made known immediately afterwards that these six persons, together with many others, will be brought before the military tribunals by the naval prosecuting authority of the town of Valparaiso. Some of our husbands have already been transferred to Valparaiso prison while others are still in the Ritoque detention camp. What is still more serious, however, is that the announced trial has already been prepared and according to reliable information an enormous file containing more than 1,000 pages has been prepared. Nevertheless the trial has been kept secret so far and although the military authorities have repeatedly announced that there would be a trial of the leaders of the Government of President Allende, no specific information has ever been provided concerning the trial and those presumed to be the accused have not even been notified that preparations are being made for their trial.

"Even our husbands' lawyers were unaware until a few days ago that any trial was to be held and they have not as yet been able to find out what is the subject of the trial.

"According to other reports the public prosecutor has been asked to call for extremely severe penalties for some of the accused.

"While we have no official information, we have learned that this secret trial is being prepared, following the recent transfer of some of our husbands from one prison to another - after the false hope due to the announcement by the authorities of the release of several persons, a hope which now gives way to the prospect of a trial carried out on a wartime basis ..."

86. The Group wishes to point out that in 1974 at the thirtieth session of the Commission on Human Rights, the Chairman of the Commission was authorized to send a telegram to the Government of Chile saying that Senator Luis Corvalan and others detained with him should be released. This appeal has gone unanswered by the Chilean authorities. The General Assembly, in its resolution 3448 (XXX), dated 9 December 1975 has called upon the Government of Chile to ensure that no one is tried retroactively which would be contrary to article 15 of the International Covenant on Civil and Political Rights. This decision would apply to Senator Luis Corvalan and the others who have been in detention since September 1973. In this connexion the Group is deeply concerned to learn that it is proposed to hold a military trial of Senator Luis Corvalan and the other Chilean personalities in March 1976, after the thirty-second session of the Commission comes to an end. This situation is a serious one and calls for an immediate special decision by the Commission, in accordance with the requests for release referred to above. This would be in the interest of justice, which is the first prerequisite for the full enjoyment of human rights and fundamental freedoms.

87. As regards the number of persons being held in detention in Chile, the Group notes that in his statement before the Third Committee of the General Assembly, on 10 November 1975, the Chilean representative stated that today there were fewer than 500 persons detained under the State of Siege Act. A total of 2,117 persons had been sentenced by military courts during the past two years, and those courts had tried cases under the Arms Control Act, infringements of the Act on the Internal Security of the State and also all cases which fell within the normal jurisdiction of the military courts. He stated that the number of persons tried by the armed forces was 1,398; thus, the situation of detainees under the State of Siege Act had changed considerably from one year to the next. 1/

88. In his statement regarding the number of persons detained under the State of Siege Act, presumably the Chilean representative was referring to the total of 494 detainees held in the camps of Tres Alamos, Pirque, Puchuncavi and Ritoque. This information is contained in the statistical summary of detainees issued by SENDET (Secretaria Ejecutiva Nacional de Detenidos) on 30 September 1975.2/ Although, according to article 2 of the decree creating it, SENDET was expected to provide statistics of all detainees and places of detention in the whole territory of Chile, the summary mentions only four places. Those still used by DINA and the different Army Intelligence Services, as well as the National Penitentiary and the barracks of the various military regions, are not included although according to reliable information they still exist.

89. According to other information supplied to the Group the number of persons detained for political reasons is much higher than the figure declared by the Chilean representative. In a report submitted to the Working Group it is stated that

"In the first weeks after the coup, Church sources in Chile estimated the number of prisoners as between 45,000 and 50,000, excluding those who were detained for a period of 24 hours or less. The figure given by the Junta was less than a quarter of that amount. By Spring 1974, official figures were between 3,000 and 4,000 while Church estimates were approximately 10,000." 3/

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1/ A/C.3/SR.2153.

2/ La situación actual de los derechos humanos en Chile (document submitted by the Chilean Government) vol. No. 2, October 1975.

3/ Chile, an Amnesty International Report, September 1974.

90. According to another report:

"In August 1974 it was estimated that out of approximately 180,000 people detained in Chile since the coup for periods ranging from a few hours to fourteen months, only 2,000 had been tried while on repeated occasions prisoners have been sentenced without having had access to any form of legal aid. Others have been released without having been charged after a whole year. The selection of prisoners for trial is so arbitrary that there have even been cases of prisoners who have arrived at their trial without any accusation having been lodged against them." 4/

They have nevertheless been sentenced without, generally speaking, having been able to obtain the assistance of counsel. The World Council of Churches reported that since 11 September 1973 about 100,000 persons have been deprived of freedom, of whom 6,000 are still in detention, while 2,000 have disappeared or are missing in Santiago province alone and about 50,000 persons have left the country in order to avoid political persecution. 5/

91. Independent reporters have also indicated that the number of political prisoners was greater than official figures would lead to believe. In a report published in December 1975 it was stated "Since it overthrew the Allende régime two years ago, the Junta has probably detained for political reasons some 90,000 people, of whom about two thirds were held for more than 72 hours. By conservative estimate, more than 3,000 of these prisoners were executed without trial or died of torture. There are thought to be at least 5,000 political prisoners in jail today". 6/ Another report published in the international press in November 1975 said: "It is estimated that almost 100,000 persons, one in every 100 Chileans, have been detained at some time for political reasons". 7/

92. It has been brought to the attention of the Group that General Pinochet has granted a presidential amnesty to 210 persons implicated in infringements of the law on the state of siege. The prisoners benefiting from this amnesty were released at Christmas 1975 and on the occasion of the New Year. The Chilean authorities have expressly stated that these releases are a further proof of the multiple measures adopted by the Government of Chile towards the total normalization of the country.

93. On the basis of further evidence received by the Group, severe conditions of detention, as described in paragraph 136 of the progress report, still prevail in many instances. Overcrowding, mixing of different categories of prisoners, lack of medical services, bedding, food and exercise, and the absence of contact with the outside world (including contact with relatives, counsel, diplomatic or consular representatives, etc.) are reported from various sources.

94. As indicated in chapter II, decree-law No. 1009 limited to five days the period during which agencies responsible for national security could detain a

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4/ Chile, under the military régime, Chile Committee for Human Rights, 1975.

5/ La situación general de la mujer bajo el gobierno militar de Chile, June 1975.

6/ Time, 1 December 1975.

7/ The Sunday Times Magazine, 30 November 1975.

suspect. Within that time-limit the person detained, according to this decree, must either be released, or placed at the disposal of the competent court or at the disposal of the Ministry of the Interior. The Government of Chile has stated that the decree "was enacted in order to ensure that the restriction of personal freedom as a result of the state of siege is kept within a framework of respect for fundamental rights". <sup>8/</sup>

95. In a document presented to the General Assembly by the Government of Chile, <sup>9/</sup> declarations made by 76 individuals, who were either under detention or had been detained and subsequently released, were reproduced. The signatories referred to the good treatment they had received and to the absence of torture or other cruel or inhuman treatment. A study of the statements contained in these documents, especially a comparison of the dates of arrest and dates on which the documents were signed, for those still in custody, reveals extended periods of detention, exceeding significantly the five-day limit provided for in decree-law No. 1009.

96. The recent case of Dr. Sheila Cassidy reinforces the finding that the provisions of decree-law No. 1009 are not generally applied. As Dr. Cassidy's statement indicates (see annex V) she was held in detention for a period of almost two months.

97. This failure to apply decree-law No. 1009 has been partly ascribed to the independent operation of the different intelligence agencies, notably DINA, and because of the negative attitude taken by the judiciary concerning the use of the remedy of amparo. In spite of the fact that according to article 1 of decree-law No. 1009, the violation of its provisions is a criminal offence, punishable under article 150 of the Penal Code and article 330 of the Code of Military Justice, no information has reached the Working Group concerning criminal prosecutions for extended detention in violation of decree-law No. 1009.

98. The attention of the Group has also been drawn to the fate of a large group of Chileans who, having been arrested and subsequently released, live in constant fear of rearrest and a repetition of the cycle of interrogation and imprisonment described above. In some cases people are said to have been arrested as soon as they signed documents attesting to their release. Other men and women who have been released from prison are threatened with new arrests. Relatives of these people also fear that other members of the family will be taken as hostages, as a means of pressure on the former detainees. Frequently many other persons, previously detained, are again picked up, questioned and then released.

99. The evidence before the Group shows conclusively that, either in violation of their own laws or in disregard for generally accepted international human rights standards, the right to be free from arbitrary arrest and detention is not respected in Chile today.

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<sup>8/</sup> A/C.3/639, p. 37.

<sup>9/</sup> La Situación Actual de los Derechos Humanos en Chile, vol. II (Santiago, October 1975).

B. Missing persons

100. The problem of persons who in various ways have been and are being taken away from their homes, places of work, schools and universities, and whose whereabouts remain unknown, sometimes for an extended period, was considered as "very serious" in the progress report (see paras. 138-151) and does not seem to have been solved. The documents submitted to the General Assembly by the Chilean Government 10/ which have been examined by the Group minimize the over-all problem of arrested persons and ignore the problem of those who have disappeared. According to estimates from other sources the number of persons in the country who have been arrested and disappeared exceed 1,000 and may even be close to 2,000. 11/

101. According to information received by the Group, writs of amparo or habeas corpus for the protection of arrested persons continue to be refused. Although the Supreme Court is now consenting to examine applications for amparo or habeas corpus, this development does not appear to have made it possible to free persons held irregularly in custody in prisons or detention camps. The numerous petitions addressed on their behalf to the competent authorities, in particular the Ministries of Defence and of the Interior, the inquiries addressed to police and penal institutions, do not produce any result. Everyone, it seems, gets answers like the following: "Your husband, your son, your father, your brother, is not in custody"; "Your relative has joined the underground as a guerrilla"; or, "You are tools of an international conspiracy to discredit the government". No account is taken of the sworn statements of eye-witnesses of the arrests, including testimonies of close relatives, fellow workers or students, neighbours and friends of those arrested.

102. Among the specific instances of "disappearance" which were brought to the attention of the Group, the following may be briefly described as illustrations of a particularly disturbing situation from the point of view of human rights.

103. Alphonse-René Chanfreau, son of a French father and a Chilean mother, was arrested in July 1974 at his home in Santiago. His wife Erika and her baby were taken by a DINA inspector to the home of her parents. The following morning she was taken away by security forces to an ordinary-looking house near a church. She joined about 60 other people, among them her husband, being held in a single room. All were blindfolded, and they were watched by two armed guards. Mrs. Chanfreau was not interrogated herself and some time later she was allowed to say good-bye to her husband. Three days after she was transferred to the women's section of the Tres Alamos prison where some 100 women were being held. On 7 November, following the intervention of the French Government, she was able to leave Chile, but was unable to obtain any official news about her husband. According to the international press, all public and private inquiries received one and the same answer: "We know nothing of Mr. Chanfreau. He has never been in our custody. His name cannot be found in any of our prison records". 12/

104. Dr. Bautista van Schouwen Vasey was arrested by agents of the military government in December 1973 at a Catholic church where he had been given shelter. The Junta has systematically denied holding Dr. van Schouwen although there would seem to be clear evidence of his arrest in the papers presented to the courts in

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10/ A/C.3/642.

11/ Commission of the Churches on International Affairs (World Council of Churches), annex III, December 1975.

12/ Le Monde, 28-29 December 1975.

support of the writs of habeas corpus on his behalf by the lawyer Héctor Valenzuela Valderrama, an ex-Vice-President of the Chamber of Deputies of Chile. These writs of habeas corpus were rejected by the courts for no other reason than the denial by the Junta that they were detaining him. His mother, a British subject, wrote to the wife of the President of the Junta, Mrs. Lucía Hiriart de Pinochet, asking her as a mother to intercede for her son. Many weeks later she received a printed form bearing a facsimile signature and informing her that her request had been forwarded to the competent authorities. Notwithstanding the denials of the Junta, recent information suggests that Dr. van Schouwen was admitted to the Naval Hospital of Valparaiso for treatment of injuries caused by torture, that he is still alive but immobilized with a suspected broken back and damage to the spinal cord.

105. Ricardo Ruz Zañartu was arrested by the Chilean Air Force Attorney-General's Office in April 1974, then transferred to the Tres Alamos prison in April 1975 and finally to the penitentiary of Santiago from which he ultimately was to disappear. He was put on trial; the proceedings were practically concluded, all aspects of the investigation having long since been covered, and sentence was soon to be pronounced, with the appearances of the accused before a full court martial. The Attorney-General had asked the Court to sentence the defendant to up to 18 years' imprisonment. In June 1975 members of his family paying the weekly authorized visit saw him being removed from the penitentiary by unidentified individuals. From then on the whereabouts of Ruz Zañartu and the identity of the persons who removed him have remained a mystery. The competent authorities have so far provided his family with no information. A similar occurrence, the case of David Silverman Guruvich, who was kidnapped at the penitentiary itself and who is still missing, was reported in the progress report (see paras. 140-143). The same also applies to Guillermo Beausire Alonso, an Anglo-Chilean, who is "missing" or has "disappeared" (see paras. 144-147 of the progress report). In addition a Catholic priest with the surname of Llidó, born at Valencia (Spain), who was attached to the Diocese of Valparaiso, is known to have disappeared and is presumed to have been taken into custody.

106. The Working Group has received extensive evidence in the form of sworn statements supplied by members of the family or friends of missing persons and other eye-witnesses of their arrest. The following are descriptions by witnesses of some of the methods and procedures used by military intelligence agents in making arrests. It is worth noting that disappearances seem usually to follow illegal arrests.

107. The first witness stated that in August 1974 her husband was arrested for the first time by carabineros. In September of the same year, he was released. He came home sick and had to keep strictly to his bed. In December two individuals came to her house in a vehicle and asked for her husband. They went into the house and one of the men addressed her husband, asking him whether he knew him, to which he replied that he had seen him there (meaning, apparently, the place where he had been detained before). They ordered her husband to get dressed and asked him to go with them, saying he was not to worry, it was only to sign some papers. Her husband immediately got up and put his clothes on. They took him away and she has heard nothing more of him since.

108. The second witness stated that nine armed persons from the police, including two or three women, had come to the family house asking for his brother. As he was not at home, they proceeded to take his sister away in custody for what they called "a few questions". The next day, people came from the Ministry of Defence and asked for medicines to give to his sister "to check a uterine haemorrhage". That was in December 1974 and since then she has not been seen again.

109. The third witness said that her son, an engineering student, alternated study with his favourite sport, cycling. Then came the terrible day when he was arrested: one day in July 1974 he had gone to a cycle repair shop belonging to a family he knew to get his bicycle put in order for the new season. That day her son did not come home and they were very worried. They looked for him but could get no news of him. Two days later the family that ran the shop told them that while her son had been there four individuals from the police had arrived, identified themselves as members of the DINA, and arrested four persons who happened to be there, her son among them. The day after she got this news, a message reached her from the Archbishop's See. It said that a Jesuit priest had a message for her from her son. He had been found knocked over in the street and taken to the central (medical) station by ambulance. He was accompanied by the priest, to whom he gave his name and explained why he was there. They gave him emergency care, treating injuries to his legs. Her son complained of pains in the spine and numbness in the legs. The doctor in attendance gave instructions for him to be sent to the Casualty Hospital. When they were getting ready to take her son there, two policemen came, identified themselves to the doctor and took her son away in custody. Since then she has had no news of him. He was 22 years old.

IV. THE QUESTION OF FREEDOM OF MOVEMENT: THE RIGHT  
TO LEAVE THE COUNTRY AND TO RETURN TO IT

110. In the progress report (paras. 156-183), the problems relating to the freedom of movement were examined from the standpoint of the right of a person to leave his country and from that of his right to return to his own country. Under the first heading below, special attention will be given to the problems of those who tried to leave the country after having obtained diplomatic asylum in an embassy or as refugees under the mandate of the Office of the United Nations High Commissioner for Refugees (UNHCR). The problems of persons denied the right to return to their country either because of expulsion or because they had been deprived of a valid passport or of their nationality are dealt with under the second heading.

A. The right to leave the country

1. The question of diplomatic asylum

111. As regards the application of international instruments relating to diplomatic asylum, and with special reference to the Convention on Political Asylum of Montevideo (1933), President Pinochet had declared in 1974 in a message to the country that Chile recognized its obligation to deliver safe conducts to persons who had sought refuge in embassies of countries that were parties to this Convention, which had been ratified by Chile. He added that the Government of Chile had also granted safe conducts to persons who resided as "guests" in other embassies, "based on humanitarian reasons and wishing to maintain the best relations with these nations". 1/

112. The information received by the Ad Hoc Working Group was to the effect that nearly all persons who sought and obtained diplomatic asylum in embassies have been able to leave the country under safe conducts. It was reported in particular that on 31 December 1975 only 15 persons were still enjoying the right of asylum in embassies. It has been reported to the Working Group that some men of the DINA entered a foreign embassy in order to arrest certain people who had sought asylum in that embassy and in the course of their operation carried military weapons with them.

2. The question of refugees

113. The Group has received information since the submission of its progress report that the number of persons from other Latin American countries (mainly Bolivians, Brazilians and Uruguayans) who had sought refuge in Chile under the previous régime could be estimated at about 11,000. Many of these refugees are suspected by the Government of Chile of left-wing political activities or sympathies and were particularly sought after in the search and arrest operations carried out by the military authorities after the coup. At least 700 are known to have been arrested and some appear to have been killed in the early days following the coup.

114. As of 31 October 1975, the number of Latin American refugees in Chile still in need of resettlement were reported to have been reduced to a few persons

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1/ Un Año de Construcción: 11 septiembre 1973 - 11 septiembre 1974, El Jefe Supremo de la Nación General de Ejército Augusto Pinochet Ugarte informa al País (Santiago de Chile, 1974), p. 29.

sheltered in a "safe-haven" under the United Nations flag. At that date, a total of 10,133 refugees from Chile had been resettled under the auspices of UNHCR. The countries of actual departure were Argentina (about 2,700), Peru (more than 2,000) or Chile (5,231). Of the latter, over 2,800 left Chile to join refugee heads of the family abroad. A number of new registrations for family reunion keeps the caseload at a constant level of over 1,500 persons.

115. The terms of reference of UNHCR derive from the Convention of 1951 and the Protocol of 1967 on the status of refugees, which have been ratified by Chile. Except for family reunion cases, UNHCR cannot deal with Chileans who are still in Chile. In the resettling of refugees, UNHCR received the support of the Intergovernmental Committee for European Migration (ICEM), which assisted UNHCR with travel arrangements.

116. In addition to persons under the mandate of UNHCR, ICEM also assisted Chilean nationals who had left the country either voluntarily or under compulsion. In two years over 13,000 persons were assisted by ICEM in moving to no less than 48 different countries (10,000 directly from Chile and 3,000 through transit countries in Latin America). According to the most recent figures, published by ICEM on 15 January 1976, 14,073 persons were resettled under its Special Programme for Resettlement from Chile to several countries between 6 October 1973 and 31 December 1975. The countries that have taken most refugees are: Sweden (1,701), Romania (1,340), United Kingdom (1,240), France (1,100) and Federal Republic of Germany (989). Among the Latin American countries, Mexico has accepted 768, Argentina 723 and Cuba 412.

117. Notwithstanding the generous attitude shown by many Governments in offering permanent resettlement opportunities so urgently needed, the problems of resettlement are far from solved, particularly as the influx continues. The bodies assisting refugees are tirelessly seeking to have them accepted by countries that will give them permanent residence. The High Commissioner for Refugees, on behalf of those who are outside Chile, and the Director of ICEM, on behalf of political prisoners in Chile and their dependants, have repeated their appeals to Governments for resettlement opportunities and for financial resources, which would enable the continuation and the completion of their humanitarian programmes.

118. It may be said that the Chilean Government generally respected its international obligations in matters of diplomatic asylum and refugees. The same cannot be said of the Government of Chile insofar as the right to leave one's country and to return to one's own country is concerned. The international standards relevant to the question of freedom of movement are to be found in article 13 of the Universal Declaration of Human Rights and in article 12 of the International Covenant on Civil and Political Rights, ratified by Chile on 10 February 1972.

## B. The right to return to one's country

### 1. The question of exiled persons

119. As noted in the progress report (paras. 100 and 171), expulsion from Chile is regulated by decree-laws No. 81 and No. 604. Under decree-law No. 81 of 11 October 1973, the penalty of "extrañamiento" (expulsion from the territory of the Republic) can be imposed on persons who disobey a summons made publicly by the Government to appear before the authorities for reasons of security of the State. If the accused is abroad, his passport may be cancelled. Moreover, decree-law No. 604 of 9 August 1974 forbids the entry into the territory of Chile of nationals or

foreigners who spread or encourage doctrines which tend to destroy or alter through violence the social order of the country or its system of government. Both decree-laws provide that Chileans to whom entrance to the country is forbidden may ask the Minister of the Interior, through the appropriate consulate, for authorization to return to the country. For reasons of security of the State, however, the Minister may refuse this authorization.

120. Under these decree-laws, a great number of Chileans are denied the right to return to their own country. In particular, as mentioned in the progress report (para. 181), many Chileans have received a passport bearing the mention "Valido sólo para salir del país" (Valid only to leave the country). Moreover, according to the information received by the Group, the Chilean consular authorities have refused to renew the validity of passports of Chilean nationals who were abroad at the time of the coup d'état or who subsequently left Chile by their own means. Being without papers, those persons were forced to seek asylum in the country where they were living.

121. In this connexion, it was stated by the Government of Chile in documents submitted to the General Assembly that many persons had returned to Chile for brief or extended periods and that some of them, moreover, had decided to remain permanently in the country. But the Government added: "Of course, Chile reserves itself the right to reject petitions, inasmuch as there are certain elements who only intend to subvert public order, create insecurity and continue to disseminate hatred and endanger the institutional existence of the country. Such Chileans may not return until they justify a change of attitude towards their country and their fellow countrymen". 2/ In any event, it is pertinent to note that the Ad Hoc Working Group has received no indication that the Minister of the Interior has authorized any significant number of expelled people to return to Chile.

122. In the progress report (paras. 172-176), reference was made to the decision of the Chilean Government which authorized persons detained for political reasons to apply for expulsion and to leave the country, provided an entry visa from an immigration country could be obtained for them. The agreement on that prison release programme was signed on 9 May 1975 by the Chilean authorities, the Chilean National Committee for Refugees (CONAR), the International Committee of the Red Cross (ICRC) and ICEM. The role of ICEM consisted in calling on Governments to accept Chilean detainees, to advise prisoners on resettlement opportunities, to obtain exit permits and immigration visas, to arrange transportation and to escort prisoners to the airport.

123. Since the beginning of this programme, and as of 31 December 1975, 682 political prisoners and 859 of their dependants have been moved to countries for permanent asylum. At the same date, there were still 366 prisoners who had been designated by the Government as eligible for release but whom no country had agreed to receive. Panama has recently received a group of 95 prisoners, the largest number to date under this ICEM programme. Another 95 prisoners were moved to Mexico outside ICEM arrangements. As of 31 December 1975, the cases of 881 prisoners and 1,695 dependants were being processed. In addition, there were about 2,300 more prisoners whose sentences could be commuted into exile provided they were accepted with their relatives by permanent asylum countries.

124. The Working Group was informed that, although some prisoners serving sentences preferred to stay in prison, so as to remain in Chile when eventually released, nearly all those with longer sentences saw this as their only opportunity to obtain freedom: some feared that even if they completed their sentence they might be arrested again, as has happened in many cases. The attention of the Group was drawn in particular to the situation of those detained under the special legislation relating to the state of siege. In the case of people in extreme need, because of physical illness or bad emotional or mental state, or because of harmful effects on children, it was suggested to the Group that everything should be done to secure their release, even accompanied by an expulsion decree, as soon as possible; the opinion was also expressed that foreign countries should not open their doors to just anyone the Junta had detained and wanted to get rid of without any form of judicial decision.

125. From the evidence submitted to the Ad Hoc Working Group, it appears that the Government of Chile expels systematically all persons who dare to criticize its policies. In doing so, the Government not only violates the right to return to their own country of a very large number of Chileans but, at the same time, it places a heavy burden on the members of the international community which for humanitarian reasons are asked to receive them as permanent residents. Another - and a particularly effective - way of frustrating the right of an individual to return to his country is the arbitrary deprivation of his nationality, which constitutes in itself another violation of a basic human right. This poses a serious problem to many Chileans, and some effective measures should be envisaged to put an end to this inhuman propensity of the Military Junta.

## 2. The right to a nationality

126. As noted in the progress report (paras. 100 and 182), decree-law No. 175 of 3 December 1973 added a new clause to article 6 of the Constitution. <sup>3/</sup> As a result, Chilean nationality can also be lost "(4) for seriously attempting from the exterior a crime against the essential interests of the State during a situation of exception contemplated in article 72, paragraph 17, of the Political Constitution". However, a withdrawal of nationality under the new clause requires a supreme decree, previously agreed to by the Council of Ministers, which in all cases must consider the written report of the appropriate Chilean diplomatic or consular authority. Moreover, decree-law No. 355 of 25 February 1974 provides for the possibility of an appeal to the Supreme Court by a person deprived of his nationality by supreme decree. The Ad Hoc Working Group has little information on the application given to this new provision or of any such appeals to the Supreme Court. The Working Group could have assessed this situation by a visit to Chile. It is well known that the Working Group was denied the possibility to go there.

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<sup>3/</sup> According to article 6 of the Constitution, Chilean nationality is lost: (1) by naturalization in a foreign country; (2) by cancellation of the letters of naturalization; (3) by lending aid during war to the enemies of Chile or their allies.

## V. TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT

127. Although conceptually different, "torture" and "cruel, inhuman and degrading treatment" are so closely linked that it is not always easy to make a distinction between them, particularly when the terms refer not only to physical but also to psychological aspects. In paragraph 185 of the progress report, reference is made to provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Standard Minimum Rules for the Treatment of Prisoners. By resolution 3452 (XXX) of 9 December 1975, the General Assembly unanimously adopted the "Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment". Article 1 of this Declaration states that:

"Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners."

According to the same article, torture "constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment". Article 2 says:

"Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights".

Article 3 states:

"No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment".

Other articles refer to preventive measures, to the need to keep interrogation methods under systematic review, the right to complain against the acts enumerated, to proceed to an impartial investigation even if there has been no formal complaint; to institute criminal proceedings and obtain redress and compensation. All these measures reflect, in a more detailed way, what is already provided for in the International Covenants on Human Rights, which, in turn, are based on the Universal Declaration of Human Rights and the Charter of the United Nations.

128. The statements received by the Working Group show that, contrary to what has been repeatedly stated by the Chilean authorities, torture and cruel, inhuman or degrading treatment continue in Chile on a large scale. Reliable documents and written information indicate that they are still widely practised. As indicated in paragraph 190 of the progress report, the main responsibility for torture and ill-treatment of detainees lies with the Directorate of National Intelligence (DINA) and the Air Force Intelligence Service (SIFA). These statements show that ill-treatment and torture are common not only in detention centres and penitentiaries but in barracks, the army and air force academies, hospitals and

other places and that physical methods as well as drugs and hypnotism are still used to obtain information or confessions or to intimidate people. The Group has taken note of reports in the international press according to which the Chilean authorities were reported to have punished some torturers. The Working Group hopes that the Government of Chile will furnish information to substantiate the reports that have appeared in the international press, to explain the nature of the torture inflicted and to give the names of the torturers who were punished.

129. In paragraphs 132, 188 and 189 of the progress report the Group listed a number of detention centres and interrogation centres. Some of these, such as Tres Alamos and Cuatro Alamos ("Pabellón de incomunicados"), Melinka (Punchuncaví) and the Academia de Guerra Aérea, continue to be mentioned frequently; it appears that Cuatro Alamos is being used for torture more and more frequently. Other places where torture was alleged to have occurred, according to information received by the Group, are (1) the camp at Nueva Aurora de Chile; (2) Canal Bajo, near Osorio, described by several witnesses and in several documents as a detention and torture centre used by the Army Intelligence Service (SIM); (3) the barracks of the infantry regiment San Bernardo, called Chena, in Santiago; (4) the Infantry Regiment Barracks in Buin; (5) the Special Forces ("Black Berets") at Paldehue; (6) the premises at José Domingo Cañas No. 1315, Santiago; (7) the Hospital Militar, Los Leones, Santiago; (8) the Escuela de Caballería (Cavalry School) in Quillota near Valparaiso; (9) the Valparaiso gaol; (10) the Concepción gaol; (11) the Army barracks, Calama; (12) the Ovalle gaol; (13) the Army barracks, Chillan; (14) the gaols of Rancagua and San Fernando, and other provincial gaols in the northern and southern zones of Chile; (15) three clandestine clinics in Agustinas, Cerro Santa Lucía, and Apoquindo, all in Santiago, apparently well known as places of torture; (16) the underground parking lot of the police station in the Plaza de la Constitución and a new bungalow in La Florida known as Nido 18 (Nest 18) both in Santiago; (17) the air base of La Colina; (18) the telecommunications units in a military area in the north, near the town of Iquique, and in Valparaiso; (19) the Casino de oficiales de la Marina (naval officers' club); (20) the Colonia Dignidad, a large agricultural and cattle farm near the town of Parral in the province of Linares, which includes land in the Andean mountains right up to the Argentine border. At present this farm, which has its own airfield on both sides of the border, is reported to be surrounded by armed police and soldiers. It has been reported that Coronel Espinoza, Chief of SENDET, has often stopped in Parral. According to one source of information, many of the people on the list of 119 prisoners who have disappeared were in the Colonia Dignidad and it is possible that some are still there.

130. The transferring of prisoners from one place to another, often under different branches of the security agencies, not only makes the tracing of detainees difficult but is designed to enable the agencies concerned to deny that the detainee is in their custody.

131. In paragraph 192 of the progress report, the Group describes the three broad categories that constitute the type of ill-treatment reported by persons appearing before it. Paragraph 193 describes some forms of torture common to several cases. The types of torture and of cruel, inhuman or degrading treatment which have been reported to the Working Group since the preparation of the progress report have not greatly changed, but the following forms of torture have been more frequently referred to in recent statements:

- (a) Burying in the sand, leaving only the head free and exposed to the sun;
- (b) Putting the victim into an empty drum on which the lid is fixed and which is taken up an incline and rolled down;

(c) The "telephone", which consists in hitting both ears at the same time apparently with the torturer's hands;

(d) Repeatedly throwing the victim to the ground from a height of about three metres;

(e) Stretching on a grating with the extremities tied and each pulled in a different direction; in one case the victim's mouth was filled with salt while suffering this type of torture;

(f) Throwing a handcuffed victim into a well, bringing him out and repeating the operation a number of times;

(g) "Lora" - an electrified metal bed on which the victim is "massaged";

(h) Injection of pentothal and the use of other drugs in order to achieve divers purposes;

(i) Driving over the detainee with a small lorry, first driving over his feet, then over his legs and finally over his body; the victim is left without medical care and as a result of bodily injuries usually dies;

(j) Cuts with razor-blades all over the body;

(k) Electricity applied to open wounds.

132. One form of torture, apparently discontinued because too many victims died from it, is that known as the baño seco (dry bath), which consisted in putting the prisoner in nylon bags until he began to be asphyxiated. On the other hand, the Group received fresh information confirming the use of animals in the torture of women; this refers, in particular, to the practice of introducing mice into the vagina and the use of dogs in molesting and sexual abuses.

133. The evidence before the Group reflects other forms of ill-treatment. The frequency of reports of such forms of ill-treatment warrant mention here.

134. One type of such ill-treatment is that involving arbitrary temporary detention, as exemplified by the case of a mother and her two children, each of whom was detained a number of times for periods varying from four days to three weeks. In these instances, the procedure is the same: a number of "civilians" force their way into the house and, without any kind of detention order, take away one or another person, usually to Tres Alamos, where they are blindfolded, held incommunicado, beaten, kicked and tortured with electricity. They are then released but remain under the threat of rearrest. A specific case of such arrest reported to the Group took place in October 1975, while the General Assembly was considering the situation of human rights in Chile.

135. In several cases brought to the attention of the Group, detainees, before being released, were threatened with death if they disclosed the kind of treatment received, or threatened with rearrest or the detention and torture of their children. Several persons stated that they were forced to sign false declarations that they were well treated while in detention. The Working Group has noted from the statement of Dr. Sheila Cassidy that a man of the DINAs pulled out from his table drawer a cyclostyled declaration to the effect that she had not been tortured and forced her at gunpoint to sign it, and that the same procedure is followed with other prisoners as well, some of whom have been forced to say that they had been members of certain political parties, or that they had travelled abroad and received guerrilla training.

136. A number of cases of attempted hypnotism have been reported, sometimes in connexion with the use of drugs to extract information from detainees. In most cases the attempt seems to have failed. In recent cases reported to the Working Group (arrests during the last quarter of 1975) the use of drugs appears to be increasing. This has been asserted by Dr. Sheila Cassidy, based on what she heard from other prisoners while she was in detention.

137. The treatment by the guards, in most cases soldiers and carabineros, varies, but as a rule it is insulting and brutal and can go to extremes which blatantly contravene the Standard Minimum Rules for the Treatment of Prisoners, which also apply to detainees. Moreover, evidence submitted to the Working Group shows that some of the guards put in charge of prisoners by the armed forces are seriously emotionally disturbed, and frequently commit rape on women prisoners. It is alleged by one witness that on New Year's Eve of 1975, the soldiers at Villa Grimaldi got drunk and committed rape on all seven women prisoners indiscriminately.

138. Article 1 of the Declaration on the Protection of All Persons from Being Subjected to Torture and other Cruel, Inhuman and Degrading Treatment or Punishment refers to torture "intentionally inflicted by or at the instigation of a public official". The Group has assessed the evidence before it bearing in mind the provisions of this article. In this context, responsibility for such acts extends to public officials, irrespective of their level of authority, other than those who are reported to have directly inflicted torture. Moreover, the number of alleged actual torturers cannot be established, principally because, in many cases, they could not be identified by their victims. The names of torturers listed below should be added to those mentioned in paragraph 194 of the progress report.

1. Luis Alarcon-Gacitua, Mayor de Carabineros;
2. Mario Baros Gonzalez, Coronel, lawyer;
3. Manuel Contreras, Coronel, Chief of the camp of Tejas Verdes, at present director of DINA;
4. Jorge Espinosa Rilloa, Coronel, in charge of the National Stadium;
5. Omar Dapick;
6. José Garcia Huidobro, Coronel, FACH;
7. Ariel Gonzalez, Naval Service Intelligence, Valparaiso;
8. Franklin Gonzalez, Naval Intelligence Service;
9. Pablo Iturriaga Marchesse, Coronel, Terruco Area;
10. Oriosto Kueller, Naval officer;
11. Ramon Larrain, in charge of the Piragua camp;
12. Carol Flores Castillo;
13. Inspector Tapia;
14. Marcelo Moren, Army officer;
15. Captain Young;
16. Sergio Lizasoain, Commander, FACH;
17. Conrado Pachero Cardenas, in charge of the Tres Alamos camp;
18. Herman Ramirez, Commander of the Military Zone of Cautin;
19. Guillermo Toro Dávila, Commander of the regiment of Chillan;

20. Luis Valencia;
21. Manuel Torres Cruz, Commander of the Military Zone of Punta Arenas;
22. Lautaro Van de Vingand, Comandante;
23. Ricardo Contreras, Capitán;
24. Daniel Doren, Comandante;
25. León Dufey, Capitán;
26. Victor Dumas, Teniente;
27. Hector Manterola, Capitán;
28. Ricardo Castelli, Teniente;
29. Juan Carlos Sandoval, Capitán;
30. Germán Esquivel, Capitán;
31. Florencio Duble, Capitán;
32. Carlos Villalobos, detective;
33. Carlos Miranda, Sargento;
34. Dr. Horacio Tarico, Capitán;
35. Arno Wenderoth, Capitán;
36. José Labra, Capitán;
37. Hector Orrego, Capitán;
38. Pedro Fernandez, Teniente;
39. Sergio Rosaces Ojeda, Teniente Coronel;
40. Jorge Uribe Mayorga, Mayor de Carabineros;
41. Daniel Fernandez, Capitán;
42. Eduardo Lauanderos, Mayor;
43. Hans Schernberger, Capitán;
44. Rolando Rios, Capitán;
45. Jorge Godoy, Teniente;
46. Hector Olivares, Teniente;
47. Jorge Contrera Klinner, Capitán;
48. Ary Acuña Figueroa, Chief of the Naval Intelligence Service;
49. Oscar Bull Monsalvez, Capitán;
50. Jorge Bencke Frank, Capitán;
51. Blanlot, Capitán;
52. Luis Silva Gordon, Teniente;
53. Luis Caceres, Teniente;
54. Miguel Velasquez Ahumada, Teniente;
55. Miguel Ahumada Caceres, Teniente;
56. Pedro Muñoz, Teniente;
57. Carlos Foncea, Capitán;

58. Lautaro Silva Arias, Cabo Enfermero;
59. Navarro, Cabo;
60. Cruz, Cabo;
61. Victor Henriquez Garat, Commander of the Naval Base;
62. Anibal Aravena Miranda, Governor of Tome;
63. Benjamin Bustos Lagos, Coronel;
64. Francisco Pinares, Mayor;
65. Sergio Arevalo, Capitán;
66. Sergio Ricotti, Teniente;
67. Alex Graft, Teniente;
68. Valenzuela, Teniente;
69. Offerman, Teniente;
70. Cares, Sargento;
71. Cerma, Cabo;
72. Miguel Labra Perez, Mayor;
73. Juan Sanchez, Capitán;
74. Adolfo Muñoz;
75. Carlos Zapata, Sargento;
76. Nelson Arriagada Montoya, carabinero;
77. Augusto Klapp Navarro, detective.

139. In paragraph 194 of its progress report the Group referred to the fact that a considerable number of witnesses had mentioned the name of Oswaldo Romo as having been their torturer. The Group drew the particular attention of the General Assembly to the acts of this man. In the course of the consideration of the progress report in the Third Committee at the thirtieth session of the General Assembly, the representative of Chile referred to the allegations made against Oswaldo Romo and stated that Oswaldo Romo was the name of a person under detention who had formerly been in the leadership of the Movimiento de la Izquierda Revolucionaria, that he had run as a candidate for election as alternate representative for the Union Socialista Popular. The representative of Chile offered the explanation that Oswaldo Romo had actually been condemned to death by his own political colleagues (A/C.3/SR.2152). In reply to this statement, the Chairman of the Group referred to the evidence received by the Group concerning Romo and stated that the evidence against Romo was overwhelming and that several persons who had been tortured by him had testified; the allegations against Romo could not be dismissed by attributing to them political motivations, especially to the political past that Romo may have had. The Chairman emphasized that the Group had received information from impartial sources which proved not only Oswaldo Romo's existence but also that he was one of the principal torturers. On behalf of the Group the Chairman renewed the demand that Oswaldo Romo be tried for crimes against humanity (A/C.3/SR.2154).

140. The evidence presented to the Group since that time contains further details on Oswaldo Romo and his activities as a torturer. This evidence, coming from persons who knew Romo personally, fully confirms the information previously received by the Group. According to this information, Oswaldo Romo was one of the group of persons who founded the National Party under the leadership of Mr. Jorge Mockeberg.

In 1967 Romo was known as a member of the Socialist Party and ran for election for councilman in the Municipality of Ñuñoa. In 1969 he was expelled from the Socialist Party; according to reports, while a member of the Party, Romo was involved in the mishandling of money and appeared to have involvements with young women from the slum areas. For a time he belonged to the United Socialist Popular Party (USOPO). According to further reports, he was accused of illegal handling of money involving 400 persons in a real estate development programme. In 1971 he ran for councilman in Ñuñoa and was defeated. In the 1973 general election he ran for Parliament and was defeated again. According to reports before the Group, on the day of the coup d'état Romo was collecting money from slum dwellers to pay electricity bills and water charges. He was detained in November 1973, released, and put under house arrest, and at this time he requested asylum from Church authorities. In mid 1974 Romo apparently started to work for DINA. In September 1975 Romo is said to have sold his house and car; his wife is reported to have said that they were leaving the country and that her husband was out of a job. Information available to the Group confirms, however, that Romo remained in Chile. The Group is more than ever convinced of Romo's existence and his personal responsibility, and reiterates its demand that he be tried for crimes against humanity. Dr. Sheila Cassidy confirmed in her statement that she had heard from many prisoners while she was in gaol that Oswaldo Romo had been their torturer. Another witness said that Oswaldo Romo's nickname is "Guaton", which in Spanish means "the fat stomach". The same witness left a picture of Romo taken from a magazine. The same witness said that, while under interrogation, he was carrying a Bible with him, as he was a Catholic priest, and Romo snatched the Bible from his hands, struck him on the head with it and said, "This is a Marxist book". In addition, the Group has received three sworn affidavits on Romo made by relatives of three different persons who had been tortured. According to these affidavits, these persons went to Romo's house to secure his help in getting their relatives out of the torture centres. They report that Romo informed them that friends of his daughter at school had started to tell her that her father was a torturer. Literature received by the Group from an organization states that Oswaldo Romo was the torturer and murderer of Lumi Videla and her husband Sergio Perez, who were also whipped along with their four-and-a-half-year-old son (murder as a result of torture, as defined in the Codigo Penal, art. 150, No. 1 and 2, and art. 391).

141. On several occasions the President of the Chilean Government has made declarations denying the infliction of torture. On 20 July 1974, referring to statements made by several Bishops, the President said that they were generalizations and that when cases of torture had been proved, criminal proceedings had been initiated. On the basis of information given by the Minister of Justice, the international press reported on 29 October 1975 that five Chilean police officials had been convicted on charges of torture and that eight others were being tried on similar charges. No details were given of charges brought against the police officials concerned.

142. The statements by the President of the Chilean Government on the subject of torture were communicated to the Group by Bishop Helmut Frenz of the Lutheran Church, who appeared before it. (The statement of Bishop Frenz is reproduced in annex IV to this report). In his testimony Bishop Frenz referred to the case of Sergio Zamora, who had been tortured. Church authorities took Zamora to a doctor for examination; the doctor examined him and gave a certificate that the man had been tortured. A high dignitary of the Catholic Church took the certificate of the doctor to President Pinochet who, upon seeing it, said, "This is a typical case of self-torture". Bishop Frenz stated that he himself had had conversations with the President four times, the last time in December 1974. On that occasion he gave the

President voluminous documentation on tortures and missing persons in Chile. According to this witness, President Pinochet said, "Of course, we have to torture the members of the MIR because without torture they will not sing. ... You are naïve pastors, but you must know that the national security is more important than human rights".

143. On another occasion Bishop Frenz met the President of the Supreme Court, Justice Eyzaguirre, who was told all about illegal detention and torture. According to this witness the President of the Supreme Court shrugged his shoulders and said, "What can we do? We are living under a dictatorship".

144. Information before the Group confirms that torture has become part and parcel of the present régime and that it cannot be eradicated so long as the responsibilities of the DINA and the four intelligence services of the Armed Forces, as well as of the heads of military zones and carabineros, as regards treatment of detainees are not effectively controlled and unless abuses are properly sanctioned. The Group, after hearing several opinions, and bearing in mind the remarks made in its progress report, doubts that any improvement can be achieved so long as the above-mentioned methods continue and the organizations, especially DINA, which adopt them are allowed to continue to exist in their present form.

145. The Group has received a number of press clippings and other information which would seem to indicate that the attempt on the life of Senator Bernardo Leighton and his wife in Rome on 6 October 1975 was politically motivated and that it was inspired by sources which may have roots in Chile. Bernardo Leighton is an ex-Vice-President of Chile and has held other high political positions in the Christian Democrat party in Chile. The Group will further study in greater depth the case of attempted murder, as well as the reported refusal of the Chilean Government to renew the validity of the passports of Mr. and Mrs. Leighton, if the mandate of the Group is extended.

146. The evidence before the Group attests to severe conditions in several places of detention. There are many reports of detainees being kept without food for long periods of time; in some cases detainees were given orange peel to eat and there is the case of a girl who tried to eat the cement off the walls. Generally, food is reported to be very poor; women have been given their meals in the room next to that in which men were being tortured. In some instances meals were given at odd hours causing the victim to lose all sense of time.

147. Detention centres are reported to be overcrowded; in some cases, no one can even sit down. In other cases detainees are not allowed to sit and are kept standing even in the corridors by kicks and blows. In those places of detention where beds are available, they are - in several instances - shared by two or three persons; and invariably things are so arranged that throughout the night the cries of the tortured are heard. In some cases, detainees are kept in darkness for months and they are taken to the fresh air only very rarely. In one case a boy was kept in a space so small that he could only curl up on the floor to sleep, without any blankets and with very little food.

148. A further example of prison conditions is the instance in November 1975 when at midnight, one night, a film was made in one of the torture centres; the detainees were ordered to shave and tidy themselves; they were seated against a wall and questioned. The questioner then held up a paper showing the answers which the detainee was to give, designed to show that the detainees were members of the Communist Party and had received instruction in the use of arms, that they had travelled abroad and been taught about explosives.

149. Washing and toilet facilities are reported to be extremely unhygienic in most of the temporary places of detention and torture. At night prisoners are said to be shut in their cells for between 12 and 15 hours. In one camp the treatment was so bad that, although knowing they would be seriously punished, the prisoners went on a hunger strike as a protest.

150. The Group has received information on conditions in a house used as a detention centre in the Calle José Domingo Cañas, described by a detainee who spent more than two weeks there. According to this information the detainees were cold, hungry and depressed, they were given very little to eat, they were taken out only to be interrogated and during the night they could hear the cries of their companions under torture.

151. The Working Group also heard a Chilean in an important position who reportedly constantly travels around the country and visits prisons. He testified that there is complete liberty to see the political prisoners. He regards prison conditions, including food, as adequate and has not heard of any case of beating, sexual abuse or "disappeared" persons. According to this witness, his organization provides assistance to prisoners in the form of food, clothes and medicines. This is a solitary statement of its kind made before the Group as against massive and numerous statements to the contrary.

152. Since the adoption of its progress report the Group has continued to receive evidence of a considerable number of cases of torture and cruel, inhuman or degrading treatment, some of which occurred before the Group adopted its progress report and others after the adoption of that report. The following is a representative selection of such cases; in order to protect witnesses the identity of the persons concerned is withheld, as explained in paragraph 5 of the progress report:

(1) A young woman stated that she was detained for 30 days, was undressed, thrown to the ground and hit all over the body. Various objects were put into her genital organs. She was then dressed and put with other persons who had been tortured and the beating continued; when she could not get up, cold water was thrown over her and she was beaten on the ground. She was told that she would be shot. She was beaten unconscious, revived, blindfolded, beaten and questioned again. She was taken to a place with other women, taken out again, stripped, electricity was applied to her breasts, to her elbows, and from her genital organs down to her legs. Very young girls were made to watch. She was also taken on a long journey and again questioned about explosives and arms and tortured to unconsciousness. This witness was taken from the prison in a car and thrown out on to the street. She is obviously badly affected both mentally and physically.

(2) A student leader stated that he spent 14 months in detention was released and rearrested at his home and beaten in front of the entire family. He was not present at his trial or informed of the charges. The torture to which this witness was subjected included beatings with rifle butts; he was made to kneel with hands behind his neck with head lowered, each finger tied to a finger of the other hand, his hands tied to his feet with a rope and made to walk on his knees for five or six metres to enter the compound where torturers were waiting; he was stripped and enclosed in two sacks, both wet, down to the waist; the hair of his beard was pulled out through the bag; he was simultaneously held and bashed against the wall. At the same time his feet, hands, knees, body and testicles were subjected to heavy blows, then his feet were untied and he had to stand up as his genitals were kicked; when he fell down the kicks and blows continued. Electrodes were put on his temples, chest, genitals, behind the ears, feet, wrists - the shocks started slowly. He was

hung up from a crane above a drum full of water and submerged time and again. The bag was taken up sufficiently to leave his genitals in view and an Alsatian or German sheep dog was allowed enough rope to scratch him on the thighs but he was able to keep it from the genitals by moving right and left. This was repeated two or three times. He was then put in an empty drum, the lid was put on and it was taken to the top of a small hill and rolled down. This produced the effect of being hit simultaneously thousands of times and a deafening noise as if his head would burst. After this, electric shocks were again applied, this time while his body was wet, and he lost consciousness. He was returned to the crane and left hanging for an unknown period. He was put incommunicado in a cell for 20 to 30 days. This witness made what he considered to be a heroic statement during interrogation as a result of which he was made to run naked at night before a jeep on the front of which was a person with a pointed stake or bayonet.

(3) An unmarried student stated that she was arrested by four armed civilians in her home at 3 a.m. Her detention lasted two months. She was blindfolded, stripped and searched, including the vagina; interrogation started the same night. She was put into a room with 30 women and two young children next to the torture room. The conditions were very bad; there was no water and they were not allowed to go to the toilet so the smell was terrible. Their hunger was so great that one woman tried to eat the cement from the walls. This witness was submitted six or seven times to the electric shock treatment, particularly to the nipples and vagina, which lasted from half an hour to four hours. She was raped many times and at one time tied naked and blindfolded to a narrow table and people came into the room and made fun of her, smacked her and pinched her breasts. The ringleader said "Volodia" would be coming into the act to do his bit and then there was a dog on her body; it licked her all over and showed maximum excitement - this greatly amused her torturers.

(4) A housewife stated that she was arrested while she was pregnant and lost her child as a result of torture. The first four months of her detention, which lasted altogether almost nine months, were spent in a basement blindfolded; the basement corridor had a number of rooms off it in each of which were about 10 prisoners, as well as many in the corridor, usually standing. She was interrogated after some weeks and as she did not co-operate she was returned to the corridor for two days and forced to remain standing without moving or eating; if she moved or fell down she was made to get up by blows - sleep was forbidden. She was tortured continuously for one week during which period she was kept blindfolded. She was made to take off her clothes, except her brassiere and briefs - she received blows on her stomach, lower abdomen and breasts with what is known in Chile as a "manopla", metal rings on the fingers of the torturer. This caused her to start bleeding internally. She was made to take off her brassiere and little strings were attached to her nipples which were pulled from side to side and forwards. After medical treatment, the witness was returned to the place of detention.

(5) A man who had held an important non-political position stated that he was arrested with 40 other officials, detained for a year and nine months and finally expelled from the country with a passport not valid for return to Chile. He was very badly treated starting in the Chile Stadium where he was hit with rifle butts and kicked, with the result that a number of his ribs were broken. He was sent to Dawson Island, where climatic conditions were extremely harsh, and remained there eight months in inadequate huts, with insufficient food and severe forced labour. He was transferred and spent two months in a cellar with lights on day and night and continuous loud music; he was taken only twice into the fresh air. Visitors were searched, and frequently the women were made to strip to ensure that they were not taking anything forbidden into the centre.

(6) A professional woman stated that she was detained for a year and three months; as she was unable to answer the questions asked, she was shut up in a metal vehicle from 10 a.m. to 8.30 p.m. without food or drink or any toilet facilities. She was taken to Tejas Verdes, where she saw many people, including children and old people, chained up or with masks over their heads. She was held incommunicado and made to stand for many hours. With hands tied behind her back and a hood over her head she was taken in a vehicle to a cellar where interrogation continued. She was put on a bed and electrodes attached to her ankles, breasts and genitals; she was hit on the head. She was interrogated about five times. She was returned to a prison camp; her hands were untied and her hood removed and she was put into a cell with a number of very young girls. She was also hung from the ceiling by the hands.

(7) A graduate student stated that he was detained for 12 months, then released after interrogation and trial, at which he was found not guilty; he left the country when he learned he was to be tried again. He was held in many different places of detention. He was beaten with rifle butts, his hands and feet were bound and he was hung from a rope; he could practically not breathe, and he was taken to hospital with back injuries. With hands tied behind his back and ankles attached to a crane and suspended head down, he was submerged repeatedly in a barrel of excrement. Electric current was applied to various parts of his body, particularly his sexual organs. A very big dog was urged to jump on him and to bite him; he was hit with a "lucky" (an iron bar covered in rubber). He was threatened with a knife and wounded on the left side of his chest, requiring six stitches. Blows on the face caused blood clots in his eyes and he was practically blind for four months. At one stage he was thrown into the sea from a height and retrieved. He was also kept hanging from a pole for several hours.

(8) A lawyer, who had won his case in court, stated that he was freed and immediately rearrested under the "state of siege". He spent 19 months in detention and was expelled from Chile with a passport valid only for exit from the country. His hands were handcuffed behind his back, he was blindfolded in a dungeon and hit, and when he lost his balance, he was kicked. He was stripped, hit on the stomach, and his feet were stamped on. Electric current was applied with clips or hooks to his head, lips, nostrils, genitals and rectum, to produce contortions; this was repeated three or four times daily. When he was handed over to the Air Force, he was hung on a beam and beaten, and the electric current was repeated. He was always kept incommunicado and was sent to Dawson Island. On Good Friday 1975, after a religious service, when the prisoners were in bed, they were forced to get up, walk and run, and threatened with shooting; they were forced, by beating or pressure with knives on various parts of the body without causing wounds, to submerge the entire body or the head in tanks of water; they were forced to fight among themselves - with corporal punishment for those who disobeyed - to dance closely in pairs and kiss each other, while being mocked and insulted, to wallow in mud and eat it; finally, they were pushed and made to throw themselves against the barbed wire, and threatened that the law of escape (ley de fuga) would be applied. This witness also complained about the treatment of women visitors, who were stripped and manhandled.

(9) A woman stated that she was arrested with her husband, who has since disappeared. On arrest Scotch tape was put over her eyes; on arrival at a house this was replaced by a blindfold; she was searched. They heard the cries of a friend being tortured; they were kicked, insulted and threatened; another detainee in a bad condition was brought in, kicked and taken out again. The witness was taken to another room, stripped and put on an electric bed and questioned, largely about sexual matters. She was hung from an upper bunk-bed by hands and feet and electric current was put in her vagina, mouth, breasts, etc. She was hit by the torturer Romo, who pretended to rape her, but it was with his finger and various

objects. Sixteen days were spent in this house with so little to eat that the guards gave them orange peel; 24 persons were kept in one room listening to others being tortured. The witness was hung up with her husband and subjected to five sessions of electric shocks.

(10) A woman stated that she was arrested the day after her husband because the latter "didn't want to talk"; she was released after about three months and expelled from the country; the husband is on the list of 119 presumed dead. She was taken to the room where her husband was being tortured; on three or four occasions she was tortured in front of her husband and he was told that if he didn't give names and information she would be tortured more. She was sexually molested and raped. She was told her husband was to be transferred to Tres Alamos and given a few minutes to say goodbye to him. She has not seen him since.

(11) A young woman stated that she was arrested by DINA and detained for four days in the Calle Londres. While there, she was drugged and questioned about the whereabouts of her student husband. The husband was later arrested; he was tortured and on three occasions he was taken, blindfolded and handcuffed, to the house of his parents by five armed civilians, including Oswaldo Romo. On one occasion he was allowed to have a bath and his wife saw the marks of torture on his body. He has since disappeared and his name appears on the list of 119 missing persons.

(12) A woman stated that she was detained and tortured in order to make her parents talk. She was blindfolded and locked in a room containing four camp beds and 16 women and forced to listen to cries of the tortured all night. Raising part of her blindfold she saw, through the one window, files of men, blindfolded, with hands on the shoulders of the man in front, going towards the lavatory, followed by three boys whose arms and legs were chained and who had to hop. Next went the women; there was no water or paper and the smell was so awful she could only vomit. She heard the cries of her mother being tortured and saw her pitiable condition. The witness had electric current applied on her genitals and breasts in front of her parents who, although blindfolded, could hear her voice and cries.

(13) A woman stated that, after nearly 14 months in detention, she was released and left Chile the same day, in mid 1975. During the first two or three weeks in the Calle Londres she was beaten, drugged and raped; she went through the Chilean Stadium and spent the remainder of the time at Tres Alamos. Eight of her fellow prisoners were pregnant and two babies were born while their mothers were detained. At the end of July all the women were to be transferred to Pirque. Romo is mentioned as one of her torturers; it is thought that the other torturers used false names.

(14) A person stated that he was arrested during a party in his house at the end of October 1975 by members of the armed forces. The house was surrounded; three men took the victim out and put him in the trunk of a small car. When they reached their destination, a sack was put over his head and he was beaten and kicked. The first night he spent hanging by his wrists with repeated applications of electricity. The next day he was put on the parrilla and sent to another room where he was fiercely beaten with rubber truncheons. He was thrown into a well, still handcuffed, brought out and thrown in again three times. He was then hypnotized and drugged.

(15) In October 1975 three men and a woman were reported to have been arrested in their house by six armed civilians believed to be from the Air Force (FACH); the agents later returned in force and ransacked and destroyed part of the house. During interrogation the woman's hands and feet were tied and she was hung up; electric current was applied to all parts of her body, including breasts, vagina and hands; a towel was tied round her mouth, her hair was pulled and she was beaten

and kicked; she was threatened with death. Before being released she was threatened with rearrest and told that if she did not co-operate her baby would be tortured. Two of the men have disappeared; recurso de amparo is pending.

(16) It was reported that at the end of October 1975 a group of men from the Air Force intelligence service entered a house after leaping over the wall screaming and shouting. Without showing any detention order they arrested an elderly man, gagged and blindfolded him and began beating him as soon as he was in their vehicle. He was savagely tortured in two different houses, and as a result of this, an old surgery scar reopened. He was about to be subjected to the electric treatment known as the parrilla when a person who was probably the doctor ordered him to hospital. After a few days in hospital he was transferred to a DINA centre and kept incommunicado. This man is still illegally detained. Recurso de amparo was rejected.

(17) A young woman stated that she was arrested in the street by DINA agents and taken to the Villa Grimaldi, where she was kept for several weeks blindfolded and very poorly fed: this was in September 1975. Among the tortures to which she was subjected many times was the iron bed on which electricity was applied to the breasts, vagina, head and feet: she was beaten and kicked and had her hair pulled out. She also suffered intolerable insults and threats of her torturers. She was finally transferred to Tres Alamos, where she remains. Recurso de amparo was refused.

(18) A young woman was reported to have been arrested in the street in Santiago in September 1975 and taken to the Villa Grimaldi, where she was brutally tortured. She was beaten all over the body, her breasts were crushed and she was tied to the iron bed and electricity was applied - the persons doing these things masturbated in front of her. They threatened that if she did not "talk" they would do the same to her mother. The mother was taken to see her daughter but this was not possible because the girl was unable to move and when lifted to her feet immediately fell to the floor; she had to be given blood transfusions. She is still imprisoned.

(19) A man was reported to have been arrested by DINA in September 1975 and taken to the Villa Grimaldi; he was handcuffed, blindfolded and kept incommunicado. He received very little food, was beaten, kicked and insulted, as well as tortured with electricity on the parrilla on the head, mouth and genitals. He was transferred to Cuatro Alamos and is at present in Tres Alamos. The recurso de amparo was refused.

(20) A man stated that he was arrested in October 1975 by two civilians who claimed to be members of the Intelligence Service of the Air Force (SIFA) but who produced no detention order. He was thrown to the floor of their vehicle and covered with a blanket. He was taken to a new bungalow in La Florida known as nido 18 (nest 18). His eyes and nose were covered with adhesive tape and he was blindfolded; immediately the torture began. Among other tortures, electric current was applied; his hands and feet were handcuffed and he was made to lean against an electrified iron bed; he was left hanging by the handcuffs for eight hours. After five days of torture he was transferred to an Air Force base and again tortured and interrogated; electricity was applied to all parts of his body and, with hands and feet tied, he was hung from the ceiling in a foetal position. He was left hanging for three days with other detainees, including old people. After two weeks of torture he was put with others in a small open-topped car, covered with a blanket and left, with the radio full on, for the whole day in the sweltering heat, almost deafened by the noise. In another place the tortures began again; electric current was applied to the whole body; he lost consciousness during the interrogation and he was hit in the

face and kicked. Transferred to a DINA centre, he was given lunch, still blindfolded; after tearing off the tape and blindfold, stealing his jewellery and threatening him with further arrests, his captors freed him in the street.

(21) It was reported that two young persons, brother and sister, were arrested by the Servicio de Inteligencia Militar (SIM); it was not until a month later that their parents were able to discover where they were held, at which time the girl was found to be in the Women's Prison and the boy in the Santiago Penitentiary. They were accused of illegal possession of arms. Four months later they were found not guilty by the judge and should have been freed immediately, but they continue in detention. Recurso de amparo has produced no results.

(22) It was reported that at the end of October 1975 a man was arrested by armed security agents of DINA, tied and blindfolded and taken to an unknown destination. He was beaten during the whole of the following day and as he was unable to give the information wanted he was taken to a basement where he was bound and tied naked while they applied electric current to his wet body, beating and insulting him; he was hung up and brought down, only to be hung up again; he was then beaten on the floor. He lost consciousness and the torturers continued asking for names. For a change, they made him run in the sand, hitting and kicking him. He was subjected to the parrilla, attached by handcuffs which made deep cuts on his hands, the current was applied to his genitals, ears, mouth, etc. Recurso de amparo was refused.

(23) It was reported that after almost two years in detention (since January 1974), and two applications for amparo refused, a young man has been subjected to every imaginable form of torture by both DINA and SIM. He has been moved back and forth from one torture and detention centre to another, including Villa Grimaldi, Tejas Verdes, Tres Alamos, Cuatro Alamos and Ritoque. There are no charges against him. He is now in poor health.

(24) It was reported that the Intelligence Service of the Carabineros (SICAR) arrested a man illegally at the end of September 1975; they had no detention order and they refused to give any reason. He was blindfolded and handed over to DINA; after interrogation he was returned to SICAR. For nearly two weeks he remained blindfolded, handcuffed and fettered; in this condition he was given bread and water to eat. He was tortured, bullied and threatened. An attempt was made to hypnotize him but without success. The last heard was that he remains detained in Cuatro Alamos. Recurso de amparo has been refused.

(25) It was reported that a young woman was arrested together with her husband. Her father last saw her in August 1974; she was also seen at different times by detainees who appeared before the Group, in particular at the end of September by a witness in a torture centre. At the beginning of November 1974, another witness met the young woman in a torture centre in Santiago, located near the junction of two streets called "Infante" and "José Domingo Cañas". Other detainees at Tres Alamos informed the woman's father that she had been tortured there. The corpse of the young woman was eventually found on the grounds of a foreign embassy in Santiago; death had reportedly resulted from a sex orgy that was said to have taken place the previous night in that foreign embassy. Documentary evidence attributes her death to Oswaldo Romo, and the same is claimed in a document prepared by an international organization. Relatives of the victim are still under detention. There is strong evidence before the Group that this woman was subjected to torture in various centres.

153. In addition to the above cases the Group wishes to make special reference to the ill-treatment of Dr. Sheila Cassidy, which is described in her statement attached as annex V.

154. Luis Alberto Corvalan, son of Senator Luis Corvalan, said in his statement before the Group in Geneva on 18 August 1975 that he had been arrested on 14 September 1973. While in detention, he stated, he was severely beaten on the head and the chest and as a result had developed lapses of memory and a severe heart condition. This young man of 28 years died of heart failure in Sofia, Bulgaria, far from his native Chile.

## VI. THE PRESENT SITUATION OF WOMEN, CHILDREN, YOUTH AND THE FAMILY

155. The information gathered by the Group since August 1975 does not contain elements which would substantially modify the interim findings of the Group regarding this aspect of the situation of human rights in Chile as set out in paragraphs 196 to 211 of its progress report.

156. The Group noted that the objectives of the Secretariat for Women's Affairs set up on 17 October 1973 are to offer women opportunities for their effective participation in the socio-economic and cultural programmes of the Government by integrating them into the economic and social development of the community and the country. However, the Group did not receive information enabling it to assess the actual impact of the projects and activities of the Secretariat 1/ on the situation of Chilean women.

157. The representative of Chile in the General Assembly stressed that the present Government had appointed many women to important positions and that Santiago had a woman mayor at present. Women were also said to play an important role in juvenile and labour courts. 2/ Referring to the statement in the progress report (para. 201) on declining figures of female students' registrations at the School of Medicine of the Catholic University of Santiago, the representative of Chile indicated that in 1975, 62 per cent of the students admitted to the first year medical course had been women. 3/

158. On the other hand, the Group was informed that women students, as well as their male colleagues, have been expelled from universities for their political convictions, or because members of their families had been arrested. This is a denial of the elementary right to education.

159. According to the information available to the Group, women suffer gravely from unemployment, because of the general economic situation in the country and in many cases because members of their families are detained. If the woman had been working before the detention, she was very often dismissed. If she was obliged to work as a result of the breadwinner's imprisonment she was unable to find a job, because of the stigma attached to the whole family. Therefore, it was reported that, not being in a position to provide sufficient food and clothing for their children, a considerable number of women have been forced to take to the streets as prostitutes. In this context the statement of the Chilean Government about decrease of prostitution 4/ has to be confronted with a report dated September 1975 brought to the attention of the Group which provides irrefutable evidence that the measures taken by the Government lead to disruption of the family and in particular to a progressive increase in prostitution, which takes many and visible forms.

160. The Group was also informed about the psychic stress on wives of detainees. Some of the men have been detained for more than two years, and their wives are in anguish and convinced that they will in any case be investigated and tried in secret, unless they are simply expelled from the country. A promise by the Chilean Government to release some of them has reportedly been kept only in very few cases.

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1/ For details, see "Memoria 1973-1974 Secretaría Nacional de la Mujer".

2/ A/C.3/SR.2152.

3/ Ibid.

4/ A/C.3/639, p. 65.

161. The Group received evidence that the number of women still detained amounts to several hundreds. <sup>5/</sup> A distinction can be made between two groups of prisoners: those women waiting to be tried or who have already been tried by a military tribunal and who are being held in prison, and those who have been arrested under the legislation relating to the state of siege and who are being held in detention or torture centres. The latter group seems to represent the majority of the cases.

162. According to the information available to the Group, some of the women awaiting trial had been severely tortured and forced to sign a blank paper which was later filled in by their torturers and used against them. Those who had already been tortured and tried by a military tribunal had likewise been forced by prison officials to sign a cyclostyled document which stated that they had not been ill-treated during their detention period. Very often they were not even heard by the tribunal condemning them. Generally speaking, the situation of women was aggravated by the uncertainty of the duration of their detention, very bad prison conditions - for example, insufficient food and unhygienic conditions - and the difficult living conditions of their families.

163. The evidence before the Group shows that women detained under the state of siege were mostly first brought blindfolded by DINA agents to a torture centre. Some of them stayed there for one month or even more before being transferred to one of the detention centres, which did not put an end to interrogation and torture. Most of these women never appear before a court. Their fate depends solely on the will and pleasure of DINA. They are imprisoned and tortured with the intention to put pressure on the militants in order to induce them to turn themselves in to the police.

164. The Group was provided with evidence that the methods of maltreatment and torture of women by DINA, the armed forces and the carabineros, as described in the progress report (paras. 192, 193), continue to be applied with little change in spite of the repeated denials of the Chilean authorities. <sup>6/</sup>

165. The Group received evidence that the main torture centres are the Villa Grimaldi and, especially for women, a place called Quilin, known as "venda sexy". Even pregnant women are tortured. In addition to physical torture, psychological torture is applied and the prisoners suffer from all kinds of petty chicaneries.

166. The Group was informed in detail about the prison conditions in Tres Alamos, which are deplorable. The rooms are overcrowded, the number of beds and covers does not correspond to the number of prisoners, ventilation and sanitary conditions are insufficient, for example, there are 4 toilets for 130 prisoners. The daily food ration, with not enough proteins and vitamins, causes malnutrition. Prisoners who are ill get only noodles. Pregnant and nursing women do not receive any additional or special food.

167. Medical and dental services are almost non-existent. Surgery hours are held weekly or every fortnight, and in most cases no medical care is provided. Doctors refuse to help the prisoners. Medicaments which are needed are not provided in the

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<sup>5/</sup> A partial list published by the International Council of Social Democratic Women, London, in circular No. W14/75, contains the names of 495 women prisoners.

<sup>6/</sup> See, for instance, the statement of the Chilean representative at the 2152nd meeting of the Third Committee of the General Assembly (A/C.3/SR.2152, p. 13).

prison but have to be bought by relatives or friends, if they have the money. The Group has before it statements regarding severely ill prisoners who did not receive any medical care. The same applies to pregnant women, especially to those who gave birth during their detention.

168. The Group has reason to believe that the special hardship conditions suffered by children, as described in the progress report (paras. 208-211), have not disappeared. The main cause lies in the political persecution of parents or their detention and the resulting poor economic conditions. The number of children who have become orphans since 11 September 1973 is said to run into tens of thousands.

169. The Group noted that the Chilean Government had developed a plan <sup>7/</sup> to improve the situation of minors, the first phase of which covered May 1974 to May 1975, the second July 1975 to December 1976 and the last, January 1977 to December 1980. According to the documentation provided by the Chilean Government, "by the end of 1975 the Government of Chile shall be in possession of the global and sectoral data required to define a national policy on minors and youth with the consequent social planning for these groups". <sup>8/</sup> Among other activities and programmes, it is stated that 306 nurseries serving 28,000 children have been put into operation in 1975 and that in the "third phase" supplementary programmes, including distribution of milk to infants, will be undertaken.

170. The Group also noted the initiative supported by religious groups to establish children's dining rooms or canteens in the shanty towns of Santiago and other main cities. However, the Group was informed that five such canteens had been closed down by government order in the Santiago area on the grounds of defective operating conditions. It was alleged that the aim of the authorities was to reduce the contact between the churches and the people and to take over the control of these and similar institutions. On the other hand, the Group noted that an editorial in El Mercurio on 25 June 1975 suggested that 50 per cent of Chilean children may be suffering from some degree of undernourishment. In addition, the Group was informed that in the mornings children go from house to house asking for bread and although it is forbidden to beg in the centre of the city, children who are obviously hungry ask for money. Hunger is also driving the children to look for alternatives, such as that adopted by a group of children who had become addicted to the inhalation of neopren, a sort of glue. El Mercurio reported on 24 July 1975 that one small boy said "it makes us feel as if we were drunk and it takes away hunger". The effect of this glue is said to be most damaging to the health of children. Some eye-witness accounts were given to the Working Group that on the streets of Santiago famished women and children can be seen searching for food in the garbage.

171. The Group was also informed that children suffer not only because adult members of their family are detained, but that hundreds of children have themselves been detained (with or without their mothers), sometimes as hostages pending the finding of members of their families, and that some have even been tortured as a means of extracting a confession from their parents. The following evidence was received by the Group. A four-year-old girl was taken with her parents to a torture centre; in front of them she was beaten with a whip and her head was held in a bucket of icy water until she was almost drowned. A boy of eight was hit in front

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<sup>7/</sup> A/C.3/639, pp. 60-62.

<sup>8/</sup> A/C.3/639, p. 61.

of his father in the torture room. A woman was raped in front of her six-year-old daughter to compel her to confess; later the girl was stained with cat's blood and taken to her mother in the darkness to make her believe the child was bleeding. The Group also heard of three boys whose arms and legs were chained so that they had to hop to the lavatory. It was said that children between 12 and 14 years of age detained on political grounds in ordinary gaols had been sexually abused by common criminals.

172. The Group noted that, contrary to generally accepted international principles concerning the treatment of juvenile offenders, 9/ supreme decree No. 313 of 1974 provided that juvenile offenders in need of institutional treatment would "remain in institutions under the gendarmerie". 10/ The Gendarmeria de Chile (Chilean Gendarmerie) was created by decree-law No. 842 of 30 January 1975, which transformed the Prison Service into a military service. One of the express purposes was revitalizar la mistica profesional de la institucion (to revitalize the professional mystique of the institution).

173. The information available to the Group tends to show that the everyday life even of those children who are not detained is dominated by the impression of soldiers and military trucks, as reflected in the drawings which detained parents receive from their children.

174. Although the Chilean authorities have denied the alleged existence of a plan to re-educate 600,000 children which was reported to have been put into practice in 1975 by the organization of a camp for 96 children from the shanty towns and working-class areas of Santiago, 11/ the fact remains that the involvement of youth in support of the Government is one of the main targets of present Chilean policy. On 17 June 1975, President Pinochet told a meeting of young people in Concepción that the armed forces had not taken over the government in order to give it back to any political party. The thinking behind these words is obviously that President Pinochet wants to perpetuate the rule of the military junta.

175. On the basis of additional information received since the adoption of its progress report, the Group can only stress once again the considerable impact of the continuing repressive measures on the life of those families of which one or more members are detained. Other family members are likely to lose their jobs and the resulting socio-economic difficulties have already been described. In addition, the Group was informed about far-reaching psychological effects on the families of detained or "missing" persons caused by the uncertainty of their fate and the fact that the detainees were taken and ill-treated and that their dignity as human beings was brutally insulted in front of their relatives.

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9/ See the conclusions of the First, Second and Third United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, Geneva 1955, London 1960 and Stockholm 1965, all of which excluded gendarmerie and similar bodies from institutional and non-institutional treatment of juvenile offenders.

10/ A/C.3/639, p. 62.

11/ See the statement by the representative of Chile at the 2152nd meeting of the Third Committee of the General Assembly (A/C.3/SR.2152, p. 5).

VII. THE GENERAL SITUATION AS REGARDS THE RESPECT OF HUMAN RIGHTS IN RELATION TO CIVIL AND POLITICAL RIGHTS AND ECONOMIC, SOCIAL AND CULTURAL RIGHTS, IN PARTICULAR, FREEDOM OF ASSOCIATION, THE RIGHT TO FORM AND JOIN TRADE UNIONS, AND THE RIGHT TO INTELLECTUAL FREEDOM

176. The present chapter contains observations by the Group supplementary to those contained in paragraphs 212 to 238 of the progress report. The Group considers that the general situation with respect to matters covered in those paragraphs remains essentially the same as described therein. Bearing in mind General Assembly resolution 3448 (XXX) of 9 December 1975, which called on the Chilean authorities, inter alia, to take, without delay, all necessary measures to ensure that the right to freedom of association, including the right to form and join trade unions, be respected and that the right to intellectual freedom be guaranteed, the Group placed particular emphasis in this part of its report on the situation with respect to those rights as enumerated in articles 19 and 22 of the International Covenant on Civil and Political Rights.

177. The possibility for effectively protecting the human rights of Chileans who may have suffered as a consequence of the events of September 1973 has been greatly diminished as a result of the dissolution of the Committee for Co-operation for Peace in Chile in December 1975. This Committee was established in October 1973, from the legal standpoint within the Archbishopric of Santiago, under the co-chairmanship of the Catholic and the Lutheran Bishops, and with the participation of other confessional groups and churches. According to the evidence received by the Group, the Committee for Co-operation for Peace in Chile was the only effective institution outside governmental control to which individuals could address themselves for legal assistance on behalf of political prisoners, and through which cases of serious violations of basic rights and freedoms could be brought to the attention of government authorities for possible remedy. In addition to these functions the Committee also concerned itself with other charitable and humanitarian activities responding to urgent economic, social and spiritual needs of large sectors of the population, including those who had suffered at the hands of the DINA. In September 1975, approximately 180 persons, including lawyers and doctors, worked for the Committee in Santiago and the rest of the country. Despite the fact that the Committee's work was devoted exclusively to humanitarian tasks and was performed entirely within the existing legal framework of the country, in 1975, nevertheless, there began a campaign of harassment and persecution against members of the Committee which grew in intensity in the later months of the year.

178. Statements were made before the Group indicating that a wave of arrests was launched by the authorities beginning in early September against a number of clergymen and laymen involved in the work of the Committee. Among those arrested were: Georgina OCARANZA (a secretary working for the Committee, arrested on 9 September); Pastors Juan POLANCO and Denis O'SHEE (arrested on 29 September); Father E. Domingo GONZALES (arrested on 5 October); Father Gerardo WHEELAN and Father Rafael MAROTO (both arrested on 2 November); Father Fernando SALAS and Father Patricio CARRIOLA (both arrested on 14 November); Father Daniel PANCHOT (a United States citizen, arrested on 15 November); José ZALAUQUETT (chief lawyer of the Committee, arrested on 15 November); Marcos DUFFAU (lawyer of the Committee, arrested on 20 November). Most of the clergymen were subsequently released.

However, according to the most recent information available to the Group, Mr. ZALAUETT, Mr. DUFFAU and Mrs. OCARANZA are still under detention. Lutheran Bishop Frenz, a German citizen, co-founder and co-chairman of the Committee, was denied re-entry into Chile on 3 October 1975. This decision was made known to him while he was on a trip to Europe. The residency permits of Father Cornelio WIJFJES, a Dutch citizen, and of Father PANCHOT, a United States citizen, were cancelled by the Chilean authorities. On 1 November, security forces violently assaulted the building which houses the religious order of St. Columban in Santiago, in the course of which a house employee named Henrietta REYES was shot dead. Dr. Sheila Cassidy was an eye-witness to this incident and she was arrested. In a letter dated 11 November 1975 addressed to Cardinal Archbishop Silva Henríquez, the President of Chile, observing that the Committee was "a medium used by the Marxist-Leninists to create problems that jeopardize public order", requested the dissolution of the Committee. In his reply, dated 14 November 1975, the Cardinal Archbishop, while expressing disagreement with the judgement of the President concerning the Committee, reluctantly accepted to dissolve it on the understanding that its religious and charitable activities would continue within the respective church organizations (the exchange of letters is reproduced in annexes VI and VII).

#### A. Civil and political rights

##### Political rights

179. As noted in paragraph 213 of the progress report, political parties were either dissolved or declared to be "in recess" in October 1973. Political parties have not been permitted to resume their activities and the persecution of persons formerly active in political parties has continued.

180. Declarations were made on behalf of the Chilean Government regarding plans to promulgate, in the near future, Constitutional Acts on "the fundamental bases of the new institutionalism"; on "nationality and citizenship"; and on "constitutional rights and guarantees and emergency systems" (A/C.3/639, p.41). No indications were received as to whether the exercise of normal political rights, including those of forming political parties and holding free elections, would be permitted under these Constitutional Acts. The Group draws attention to a previous declaration of President Pinochet on this matter, reference to which is made in paragraph 84 of the progress report.

##### Freedom of opinion and expression

181. Recent evidence before the Group indicates that there was little relaxation in the application of policies and practices that inhibit free expression of opinion by individuals. With respect to the press, the Group examined materials indicating that the former system of direct censorship and control has now been replaced generally by one requiring the practice by editors of rigorous self-censorship. A modification of Internal Security Law No. 12927 of 6 August 1958 was adopted in decree-law No. 1281 of 10 December 1975 (see chap. I). According to the provisions of this decree-law, local military authorities are empowered to prohibit publication of newspapers or periodicals in which offensive items have

appeared for up to six editions, or, in the case of electronic media, to suspend transmission for up to six days. The imposition of direct censorship or the complete closing down of a publication or installation would also be permitted in certain cases. It was stated before the Group that this constituted a serious infringement of the freedom of the press, leaving the control and decisions about the functioning of information media to the discretion of local military authorities. It was reported that journalists in Chile protested openly against the new measures.

182. Evidence before the Group indicates that a number of foreign correspondents whose reporting had displeased the Chilean authorities have been denied entry into Chile or have been expelled from the country. The function of accrediting foreign correspondents, which until last October was performed by the Correspondents' Association under a gentleman's agreement with the Government, has since been taken over by the Government. However, the Group has had no information indicating that this change has had an adverse impact on the process of accrediting foreign correspondents.

#### Freedom of association

183. Information available to the Group may permit one to say that the right to freedom of association is still heavily restricted in Chile. The most recent example concerns the dissolution and the confiscation of the property and assets of five teachers' associations by decree-law No. 1284 of 11 December 1975. Among these associations were the Unión de Profesores de Chile, which was established in 1918, and the Sociedad Nacional de Profesores, which had been in existence since 1909. As noted above, political parties have been abolished or declared to be "in recess". Many other types of associations, particularly student associations, have also been prohibited and their funds frozen or confiscated. The student association at the Catholic University of Santiago, which has not been banned, appears to be an exception.

184. Chilean authorities have stated that "Union freedom as understood and practised by democratic countries" has been re-established (A/C.3/639, p. 63). They have also noted that 452 new trade unions or federations were set up between 11 September 1973 and 1 August 1975, and that 196 new applications were under study as of October 1975. There have been allegations made in statements before the Group that only those trade unions which support government policies are allowed to be established and to function. The Group has received information that in several cases the normalization of trade union activities has been deliberately obstructed, that trade union leaders have been arrested and held in custody because of their trade union activities, and that workers who engage in trade union activities do so under the constant threat of government reprisal.

#### Freedom of thought, conscience and religion

185. While the right to worship continues to be unrestricted, information before the Group indicates that in recent months the application of repressive measures against priests, nuns and religious social workers has been particularly frequent. Chilean authorities have taken action in recent months against several church-sponsored initiatives, such as requiring the closing of a number of church-supported children's canteens in the Santiago area (see chap. VI above).

186. As stated in paragraph 2 above, the Committee for Co-operation for Peace in Chile, an interdenominational group, which for more than two years had been carrying out humanitarian activities, was dissolved at the end of 1975, in compliance with the wishes of Chilean authorities.

187. One case has been reported to the Working Group which needs to be noted here. The incident concerns the prohibition of certain religious processions and marches that had been planned by the Catholic Church authorities for 8 December 1975 to celebrate the feast of the Immaculate Conception and the bicentennium of the Cathedral of Santiago. On 4 December the military authorities of the emergency zone of Santiago, claiming that Marxist-Leninists planned to use the procession as an occasion for inciting anti-government disturbances, issued bando No. 91 banning "all processions and marches" on 8 December. The prohibition of these traditional religious processions compelled the Catholic Church authorities to cancel all the religious observances that had been scheduled for that day. The Working Group views with serious concern such interferences in religious practices and ceremonies by the military régime and hopes that such acts will not be repeated in the future by the Government of Chile.

#### B. Economic, social and cultural rights

188. Material available to the Group attests that economic developments in 1975, while said to be favourable in some respects, continued to affect adversely the enjoyment of economic, social and cultural rights in Chile. The effects of the economic measures initiated under the Government's austerity programme to improve Chile's external economic situation have been particularly severe for the poorer sections of the population, especially during the second half of the year as the impact of these measures has become cumulative. While these austerity measures may have proved beneficial in reducing the balance-of-payments deficit and the rate of inflation within Chile, it may be pointed out that industrial production fell in the first nine months of 1975 compared with the same period in 1974, and that unemployment has been gradually rising, particularly in the second half of 1975.

189. Statements have been made before the Working Group that, owing to the present policies of the Government, the cost of living within the country has risen appreciably. The cost of basic food items in particular has remained extremely high, and an ordinary worker's salary is said to cover barely one third of a normal family's basic necessities.

#### Right to work

190. The Group reviewed material alleging that the pattern of dismissals of workers and employees for political reasons in various sectors of the economy has continued, particularly in the case of industrial workers who demonstrate against economic or working conditions, and in the case of teachers and university professors, where such dismissals are said to have become "an institution". According to estimates made available to the Group, 40 per cent of the teaching staff at primary and secondary school level and 25 to 35 per cent of university teachers have lost their jobs since September 1973.

191. As noted in paragraph 229 of the progress report, an ILO Commission of Inquiry in May 1975 recommended that Chile provide persons who have been dismissed because of political opinions and beliefs with the possibility of an impartial re-examination of their cases, including the examination of appeals where no appeals had been filed originally. The Government of Chile, replying to this recommendation in October 1975, stated that the re-examination of such dismissals would conflict with the principle of res judicata and that the reopening of the appeals procedure would be "impracticable". <sup>1/</sup> On the basis of the extensive information in its possession, the Group affirms that almost all the dismissals that have occurred since 11 September 1973 have been ordered solely by the Executive: a fact which makes the principle of res judicata completely irrelevant. The Chilean Government has stated that the new Labour Code - expected to be completed in the first quarter of the current year - will contain precise standards concerning non-discrimination in employment in conformity with ILO Convention No. 111, to which Chile is a party.

#### Trade union rights

192. The rights to hold trade union elections, to bargain collectively and to strike continue to be denied in Chile. The early reinstatement of these rights was among the recommendations formulated in 1975 by an ILO Fact-Finding and Conciliation Commission on Freedom of Association (paras. 232 and 233 of the progress report). In this connexion, Chilean authorities advised the Governing Body of ILO at its 198th session in November 1975 that a new Labour Code, containing provisions on individual work relations, trade unions and collective work relations, is under preparation and that comments on the proposed Code have been solicited and obtained from numerous trade unions, employers' organizations, universities and church leaders. The authorities also advised the ILO Governing Body that no trade union elections will be held in the near future and that the right to collective bargaining and the right to strike will remain suspended until 1 March 1976. The Governing Body of ILO invited the Chilean Government to provide further information and clarification on these matters not later than 1 April 1976.

#### Education

193. Material available to the Group indicates that Chilean authorities continue to maintain tight control over all aspects of the country's educational system. Strict standards have been established governing educational curricula at all levels and with respect to deportment at school. Arrest of persons who fail to conform to these standards in important respects continues - a recent example being the arrest of 23 persons at the Catholic University of Santiago in October 1975.

194. A prominent educationist, Mr. Enrique Kirberg, former Rector of the State Technical University of Chile, whose name was included in the telegram addressed to the Chilean authorities by the Chairman of the Commission on Human Rights at its thirtieth session, and who was arrested, detained in Dawson Island and other detention centres, ill-treated and eventually expelled from the country in September 1975, submitted to the Group a sworn statement, which is reproduced as annex VIII.

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<sup>1/</sup> ILO document GB 198/22/24, p.2.

195. In July 1975, a "Superior Academy of National Security" was established under the control of the Ministry of Defence, having apparently as a major purpose the development of a uniform body of doctrine with respect to economic, social and juridical subjects and the subsequent translation of this body of doctrine into various areas of public and private life, particularly through appropriate training at secondary schools and universities.

196. According to information made available to the Group, educational enrolment at primary and secondary levels fell off slightly in 1974, making it the first time in 15 years that a decrease in such enrolment was recorded. University enrolment decreased substantially in the past two years - allegedly by 10 per cent in 1974 and by 15 per cent in 1975. These decreases have been attributed partly to dismissals of students for political reasons, particularly at the higher educational levels, and partly to the economic difficulties being experienced in Chile and the increased cost of education resulting from the drastic cutbacks in government aid to education.

#### Health services

197. The Group noted the official Chilean statement according to which new health facilities have been built in rural areas and elsewhere in Chile and child mortality rates have been reduced (A/C.3/639, p. 63). Other documents before the Group, however, indicate that the National Health Service, which before 11 September 1973 provided 96 per cent of the health care available to the Chilean people and which concentrated in particular on the provision of health services to the poorer classes of the population, continues to be progressively dismantled, without there being a concomitant rise in the availability of comparable services through other channels. It is alleged that there has already been a large decrease in the availability of health services to the poor in all sections of the country and that this situation can only worsen if the Government carries through its announced intention to discontinue all direct State support to the health services sector as of 1 January 1976. It is also reported that the cost of drugs has increased up to 5,000 per cent since September 1973, attaining a level which simply puts them out of the reach of the poor. According to data reportedly published by the Economic Commission for Latin America, the rate of infant mortality in Chile rose from 65.3 per thousand in 1973 to 77.3 per thousand in 1974.

198. In this connexion, Dr. Sheila Cassidy, a British national, who appeared before the Group, and whose statement is attached to this report as annex V, said to the Group that her personal experience in Chile as a doctor for four years has led her to the conclusion that health services in Chile after the military coup have considerably deteriorated, and that they were far better under the previous régime.

#### VIII. CONCLUDING OBSERVATIONS

199. As stated in the introduction, the Ad Hoc Working Group submits to the attention of the Commission on Human Rights the progress report which it presented through the Secretary-General to the thirtieth session of the General Assembly. That report was the result of comprehensive study and investigation by the Group until the end of August 1975. Together with the report submitted by the Secretary-General in accordance with the request contained in General Assembly resolution 3219 (XXIX), it formed the basis of the consideration of the current situation of human rights in Chile by the highest political organ of the United Nations, a thorough debate which led to the adoption of resolution 3448 (XXX) in which by an overwhelming majority the General Assembly, inter alia, expressed its profound distress at the constant flagrant violations of human rights which continue to take place, and called on the Chilean authorities to take all necessary measures to restore and safeguard basic human rights and to this end to obtain certain specific results. The Assembly deplored the Chilean authorities' refusal, in spite of a previous solemn assurance by them, to permit the Ad Hoc Working Group to visit Chile.

200. The progress report contains various findings of the Group as called for in paragraph 3 of Commission resolution 8 (XXXI). Since the submission of that report, and bearing in mind the presentation made by its Chairman-Rapporteur before the Third Committee of the General Assembly and the statements made in the Assembly on behalf of the Government of Chile, the Group examined with persistence all the information made available to it in order to verify the correctness of its findings, with the undisguised hope that it would be able to report to the Commission facts and measures pointing to an improvement of human rights in Chile or to a restoration of those rights. This second part of the report to the Commission on Human Rights relates to that task. The Group regrets to have to inform the Commission that the situation reported as at the end of August 1975 has not substantially changed.

201. On the positive side may be placed the opportunity given to a number of persons whom the present régime considers as its opponents or as dangerous to security or public order to leave the country and seek abroad a refuge against measures of repression. The conditions of such expulsions are, however, those of a State where there is scant respect for human rights. On the positive side may also be mentioned a very relative possibility given to the Chilean people of being informed through the press or radio of world events and of the interest of friendly States and international organizations in their welfare. The general picture Chileans can obtain through these channels is, nevertheless, limited and in many respects distorted.

202. As regards new legislation, reportedly meant to alleviate the harshness of a long-lasting emergency and a state of siege situation, the only criteria that can be applied in assessing the situation of human rights is whether and how such legislation is applied to ensure a better respect of the human person as set out in relevant international instruments, in particular the International Covenants on Human Rights, which are currently coming into force and to which Chile is a party. New legislation should not be merely a façade meant to appease the conscience of some lawyers or of others who consider themselves as political or spiritual leaders of the national community and support the Government in power. The changes such legislation represents must be reflected in an actual movement towards the attainment of humanitarian objectives, which the legislation is purported to have. In spite of a careful and genuine search for changes of direction, the Group cannot as yet report any significant progress.

203. The state of siege is based on less than precise constitutional provisions. It is elaborated on and interpreted by the present régime without any democratic control. The Government continues to invoke it a long time after the overthrow of the previous régime, in order to prevent objective review by the judiciary, as well as to justify measures that are patently alien to universally recognized legal norms but which are sought to be justified by the concept of the security of the State. The Government Junta has powerful means of influencing or intimidating magistrates of all ranks. At the same time, the power of the State police still continues to appear as unlimited.

204. The DINA and the security establishments of the armed forces continue to do what they wish under the pretext of public order. All this is being done for the maintenance of the present régime and the continuation of an obstinate struggle against what they indiscriminately label Marxism or communism. The methods used continue to be characterized by extreme ruthlessness. They extend from cold, methodical application of torture as a means of extracting information or of punishing and destroying political opponents to frequent manifestations of barbaric sadism by individual operators. In this connexion statements made before the Group stagger the imagination. In that sense, and without any reported means of check and control, torture is indeed institutionalized and has become a part of the present Government. Two years and four months after coming into power, the present rulers, obsessed as they appear to be by problems of security of the State, still act as if they were the military occupiers of a foreign hostile territory and completely disregard internationally accepted standards of humanitarian conduct as set forth in international conventions. The Group was concerned by statements reported by reliable witnesses as emanating from the highest Chilean official that "national security is more important than human rights" or that "if they are not tortured they will not sing".

205. The Group has voluminous evidence that there are a number of well trained, professional torturers on the pay-roll of the DINA and other similar organizations in Chile. The names of some of them are given in the progress report and in the present document; these people are said to have committed murder and rape and to have inflicted torture and inhuman and degrading treatment on a number of people. Among these torturers, the Group has been especially informed of the activities of an individual named Oswaldo Romo. A request has been made that he should be brought to trial for crimes against humanity.

206. According to reports received, denial of human rights and fundamental freedoms, torture and inhuman, cruel and degrading treatment have thus become a pattern of governmental policies in Chile. The international community should not watch passively in a situation where a change of government by violent means leads to this kind of condition and to reprisals resulting in series violations of human rights, since this might create a dangerous precedent. The appropriate United Nations organs should give some attention to this problem.

207. Since the progress report was drawn up, a very disturbing feature has entered the already disquieting arena of the national life of Chile. Statements before the Group and documentation presented to it seem to indicate that in the last few months the authorities have focused their attention on the Church and the clergy, who were rendering service to suffering humanity, true to their ancient traditions. In this connexion, of special significance is (a) the statement made by Bishop Helmut Frenz, a Bishop of the Lutheran Church, and (b) the letters exchanged

between President Pinochet and Cardinal Silva Henriques. The letter of President Pinochet compelled the Church authorities to bring to an end the humanitarian activities of the Committee for Co-operation for Peace in Chile. These are attached as annexes to this report.

208. The Chilean Government took the position of stating in the General Assembly and in other international forums that these allegations, including those recorded by the Working Group, were ill-intentioned lies. The Group, prevented as it was by the Government from verifying these violations of human rights at the places where they were alleged to have been committed, would have been more than happy also to reach such a conclusion. However, the large number of statements made before the Group by persons who had been victims of the State torture apparatus leads the Group to contrary conclusions. Bishop Helmut Frenz, in his statement before the Group, said that there was no doubt in his mind that persons who had been tortured and whom he had met afterwards were telling the truth. At the very moment when denials of torture were being expressed in the General Assembly by representatives of the Chilean Government, Dr. Sheila Cassidy, from the United Kingdom, whose full statement is annexed to this report, was being "questioned", in the sense given to that word at some barbaric periods of history in the past. So were some others who appeared before the Group and whose names cannot be mentioned for reasons stated in the progress report. Persons continue to "disappear". Are they alive or are they dead? The answer to this question, which Chile owes to the international community, has still not been satisfactorily given. This constitutes a grave human tragedy. The tentacles of the DINA seem to stretch to countries other than Chile, as DINA appears to have spread its net so as to throw its ominous shadow on foreign lands.

209. What about the Chilean people? It is obvious that many of them are unaware of what is going on in their country. Others prefer to remain silent as to what goes on in Villa Grimaldi, in Tres Alamos, in Cuatro Alamos or in other places of detention and torture whose names have taken their shameful place beside similar centres of torture of past history which the collective conscience of mankind can only remember with contempt and indignation. This phenomenon of ignorance by close neighbours was not unknown under régimes of fascist inspiration and fascist methods. In fact, one witness stated before the Working Group that the cruelties of the Chilean régime are probably better known abroad than in Chile.

210. Even those who are not catalogued as enemies of the régime are, of course, preoccupied and adversely affected by the present economic and social situation of Chile. Only a small number of people thrive and flourish under the status quo. On the present economic situation, the Group has noted that Mr. Eduardo Frei, one of the former Presidents of Chile, has written that, in spite of the sparsity of the natural resources of the country, Chileans used to have one of the highest standards of living on the Latin American continent. He stated that every day there are fewer jobs, fewer hopes for the future for the young, fewer opportunities for the employee and the worker to earn his living, and that, what is very serious, at present, with more inhabitants, fewer houses are built, fewer industrial products are produced and, what is worse, there is less food available. He goes on to say that today there is less room for students in the universities and there are fewer opportunities of professional work than five or six years ago. This, he says, is demonstrable mathematically and useless to contest. Moreover, he states that this year there is no doubt whatsoever that, contrary to what happens in other countries of Latin America, where national product increases, in Chile it diminishes and that the population which wishes to work cannot find how and where to do it.

211. Answering the question as to what the aspirations of his fellow countrymen are, former President Frei wrote:

"The country thinks that respect for human rights, which goes beyond any difference in position or in ideas, is essential; that disregard for human rights, instead of strengthening authority, eventually weakens it; that torture can never be allowed; that the country cannot live permanently in a state of emergency; that the rule of law is no obstacle to the maintenance of order and discipline in a society, and that controlling violence should not mean using methods which themselves do violence to millions of people. Security so achieved pays too high a price and in the last analysis does not solve problems but adds to them, heightening tensions and hatreds." 1/

212. The argument used by the present rulers, who do not disguise their extreme aversion to all forms of democracy, that the present situation in Chile is falsely represented by a "Marxist plot" against that country hardly deserves any evidence and therefore does not merit an analysis. Annexed to the present report are verbatim statements by persons representing two branches of the Christian faith whose sincerity and high purposes have greatly impressed the Working Group. The acute concern for the situation of human rights in Chile is not only expressed by countries inspired by Marxism. It is forcefully expressed by professors and students at universities of the Western world, by newspapers and other publications of that region, by churches, by members of government and of parliament, by trade unions, by organizations of youth, of lawyers and many others known for their dedication to parliamentary democracy and who are generally opposed to communist ideologies.

213. As regards the Working Group, it is greatly encouraged by the appreciation generously expressed to it orally and in writing from all these sources, Marxist and non-Marxist, for its efforts. Its own political detachment and professional objectivity do not call for justification. If in the performance of its delicate functions it displayed any emotion it was imposed by the respect and esteem that all the members of the Group have acquired for the Chilean people. Its members are activated by a fervent wish that this noble nation, which has such a glorious heritage, should be spared further suffering and humiliation.

214. As stated earlier, the General Assembly by its resolution 3448 (XXX) of 9 December 1975 invited the Commission on Human Rights to extend the mandate of the Ad Hoc Working Group as presently constituted to enable it to report to the General Assembly at its thirty-first session and to the Commission on Human Rights at its thirty-third session on "the situation of human rights in Chile and, in particular, any developments which occur to re-establish respect for human rights and fundamental freedoms". The Group would be ready to continue its efforts in the spirit mentioned above and within the framework of the directives of the Commission on Human Rights and the General Assembly. It would be important for this purpose that "the propitious occasion" for a visit to that country anticipated by the President of Chile in July 1975 should materialize in the near future. It would be essential that the Chilean Government should re-establish co-operation and consultations with the Group that would go beyond the furnishing of official documents to the Secretariat. It may be that the Government would agree, as seems to be indicated by it, to examine, as a first step, with the co-operation of the Group, individual cases of alleged serious violations of human rights which have already been or which may be reported to the

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1/ Eduardo Frei Montalva, El Mandato de la Historia y las Exigencias del Porvenir (Chile, December 1975).

Group. This would enable the Group to continue to study in greater depth, if possible with the co-operation of the Government of Chile, the situation of human rights in Chile.

215. More and more influential voices within Chile express concern about the reputation of primitive brutality which their country is acquiring within the international community of nations as a result in particular of the present attitude towards United Nations endeavours to assist it in the restoration of the human rights of its citizens. The Working Group as presently constituted would also be ready to assist the Government of Chile, if so requested, in the re-establishment of human rights and fundamental freedoms, in accordance with the aims of the United Nations Charter and the international instruments on human rights, and also in keeping with the high democratic traditions of the Chilean people, and to assess whether the measures recommended to the Government of Chile in the above General Assembly resolution have been implemented or not and to submit a report thereon to the General Assembly.

IX. ADOPTION OF THE REPORT

216. At the meeting held on 30 January 1976 the present report was unanimously adopted and signed by the members of the Ad Hoc Working Group of Experts.

(Signed) Ghulam Ali Allana (Pakistan)  
Chairman/Rapporteur

(Signed) Leopoldo Benites (Ecuador)

(Signed) Abdoulaye Dieye (Senegal)

(Signed) Felix Ermacora (Austria)

(Signed) M.J.T. Kamara (Sierra Leone)

Annex I

GENERAL ASSEMBLY RESOLUTION 3448 (XXX)

(adopted at the 2433rd plenary meeting, on 8 December 1975)

Protection of human rights in Chile

The General Assembly,

Conscious of its responsibility under the Charter of the United Nations to promote and encourage respect for human rights and fundamental freedoms for all,

Recalling that, in accordance with the Universal Declaration of Human Rights,<sup>1/</sup> everyone has the right to life, liberty and the security of person and the right not to be subjected to arbitrary arrest, detention or exile, or to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling that, in its resolution 3219 (XXIX) of 6 November 1974, the General Assembly expressed its deepest concern about reported constant and flagrant violations of basic human rights and fundamental freedoms in Chile and urged the authorities in that country to take all necessary steps to restore and safeguard those rights and freedoms,

Noting that the General Conference of the United Nations Educational, Scientific and Cultural Organization, at its eighteenth session, the General Conference of the International Labour Organisation, at its sixtieth session, the World Conference of the International Women's Year and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its twenty-eighth session, called for the cessation of violations of human rights and fundamental freedoms in Chile,

Noting that, in its resolution 8 (XXXI) of 27 February 1975,<sup>2/</sup> the Commission on Human Rights, after expressing its serious concern about the continuing reports of violations of human rights in Chile, decided to establish an ad hoc working group to inquire into the present situation of human rights in that country on the basis of all available evidence, including a visit to Chile, and appealed to the authorities of Chile to extend their full co-operation to the group,

Having considered the report of the Secretary-General under General Assembly resolution 3219 (XXIX)<sup>3/</sup> and, in particular, the progress report submitted by the Ad Hoc Working Group on the Situation of Human Rights in Chile,<sup>4/</sup>

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<sup>1/</sup> General Assembly resolution 217 A (III).

<sup>2/</sup> See Official Records of the Economic and Social Council, Fifty-eighth Session, Supplement No. 4 (E/5635), chap. XXIII.

<sup>3/</sup> A/10295.

<sup>4/</sup> A/10285, annex.

Convinced that the progress report contains evidence from which to conclude that constant flagrant violations of basic human rights and fundamental freedoms have taken place and continue to take place in Chile,

Expressing its appreciation to the Chairman and the members of the Ad Hoc Working Group for their report, which has been prepared in a commendable manner notwithstanding the refusal of the Chilean authorities to permit the Group to visit the country,

Reaffirming its condemnation of all forms of torture and of cruel, inhuman or degrading treatment or punishment,

1. Expresses its profound distress at the constant flagrant violations of human rights, including the institutionalized practice of torture, cruel, inhuman or degrading treatment or punishment, arbitrary arrest, detention and exile - to which the progress report of the Ad Hoc Working Group on the Situation of Human Rights in Chile, established under resolution 8 (XXXI) of the Commission on Human Rights, brings additional evidence - which have taken place and, according to existing evidence, continue to take place in Chile;

2. Calls upon the Chilean authorities to take, without delay, all necessary measures to restore and safeguard basic human rights and fundamental freedoms and fully to respect the provisions of the international instruments to which Chile is a party and, to this end, to ensure that:

(a) The state of siege or emergency is not used for the purpose of violating human rights and fundamental freedoms, contrary to article 4 of the International Covenant on Civil and Political Rights;<sup>5/</sup>

(b) Adequate measures are taken to end the institutionalized practice of torture and other forms of cruel, inhuman or degrading treatment or punishment in full respect of article 7 of the International Covenant on Civil and Political Rights;

(c) The rights of all persons to liberty and security of person, in particular the rights of those who have been detained without charge or are in prison solely for political reasons, as provided for in article 9 of the International Covenant on Civil and Political Rights, are fully guaranteed and steps are taken to clarify the status of those individuals who are not accounted for;

(d) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed, contrary to article 15 of the International Covenant on Civil and Political Rights;

(e) No one, in accordance with article 15, paragraph 2, of the Universal Declaration of Human Rights, shall be arbitrarily deprived of Chilean nationality;

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<sup>5/</sup> General Assembly resolution 2200 A (XXI), annex.

(f) The right to freedom of association, including the right to form and join trade unions, shall be respected, in accordance with article 22 of the International Covenant on Civil and Political Rights;

(g) The right to intellectual freedoms, as provided for in article 19 of the International Covenant on Civil and Political Rights, shall be guaranteed;

3. Deplores the refusal of the Chilean authorities to allow the Ad Hoc Working Group to visit the country, notwithstanding previous solemn assurances given by the authorities in this regard, and urges them to honour these assurances;

4. Invites the Commission on Human Rights to extend the mandate of the Ad Hoc Working Group, as presently constituted, to enable it to report to the General Assembly at its thirty-first session and to the Commission on Human Rights at its thirty-third session on the situation of human rights in Chile and, in particular, on any developments which occur to re-establish respect for human rights and fundamental freedoms;

5. Requests the President of the thirtieth session of the General Assembly and the Secretary-General to assist in any way they may deem appropriate in the re-establishment of basic human rights and fundamental freedoms in Chile.

Annex II

LETTER DATED 29 DECEMBER 1975 FROM THE DIRECTOR OF THE  
DIVISION OF HUMAN RIGHTS TO THE PERMANENT REPRESENTATIVE  
OF CHILE TO THE UNITED NATIONS OFFICE AT GENEVA

I have the honour to refer to resolution 8 (XXXI) adopted by the Commission on Human Rights on 27 February 1975 concerning a study of reported violations of human rights in Chile. In accordance with paragraph 3 of that resolution, the Ad Hoc Working Group established by the resolution is required to report the results of its inquiries to the Commission on Human Rights at its thirty-second session, which will be held in Geneva from 2 February to 5 March 1976.

Mr. Ghulam A. Allana, the Chairman of the Ad Hoc Working Group, who is at this time in Karachi, requested me to inform Your Excellency's Government that in the light of the discussions held at the thirtieth session of the General Assembly on the progress report of the Ad Hoc Working Group. The Group would appreciate receiving any further oral or written information relevant to its inquiry into the present situation of human rights in Chile which the Government of Chile may wish to bring to its attention.

The Ad Hoc Working Group will resume its meetings at the Palais des Nations in Geneva from 12 to 30 January 1976. In the event that Your Excellency's Government would wish to make a written or oral submission of information, the Chairman of the Group would appreciate it if such presentations could be effected as early as possible. An oral presentation could be made between 12 and 17 January 1976.

(Signed) Marc SCHREIBER  
Director  
Division of Human Rights

Annex III

LETTER DATED 22 JANUARY 1976 FROM THE PERMANENT REPRESENTATIVE  
OF CHILE TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO  
THE DIRECTOR OF THE DIVISION OF HUMAN RIGHTS

I have the honour to refer to your communication of 29 December 1975, in which, through me, you request the Government of Chile to provide information relating to the present situation of human rights in my country.

On this matter, I would reiterate that in accordance with its consistent policy, my Government has co-operated with the United Nations by giving the Secretary-General, directly or through the Division of Human Rights, all the information requested of it as well as unrequested information which the Government of Chile felt might be of interest to the United Nations.

I should therefore like to point out that, as regards matters having to do with the present situation of human rights in my country, the United Nations has at its disposal the comprehensive oral and written information submitted to the Third Committee at the most recent session of the United Nations General Assembly, the oral and written information supplied to various United Nations bodies, such as the ILO, UNESCO and the Commission on Human Rights itself, the background information on specific cases supplied to the Secretary-General and to the Director of the Division of Human Rights, the information which the Government has itself furnished the Secretariat in the belief that it might be of interest, and all the background data and information which, because of its public nature, is available to anyone (the Press in general, Official Gazette, judicial records, etc.).

For all the above reasons, my Government considers it its duty to draw your attention to the fact that it has furnished the United Nations, through its regular channels, not only the information requested but, in addition, all the information of a general nature which Chile has considered might be of interest to the United Nations, and that it will continue to respond to requests for information on specific cases which are addressed to it by the Secretary-General directly or through the Division of Human Rights.

Finally, I wish to inform you that, as it has always done, my country will continue to co-operate with the United Nations in its function of promoting universal respect for human rights and expresses the hope that there will soon be established an impartial and objective system of human rights, such as that which it advocated, without success, at the last session of the General Assembly.

(Signed) Abelardo SILVA DAVIDSON  
Ambassador  
Permanent Representative of Chile

Annex IV

STATEMENT BY BISHOP HELMUT FRENZ  
(MEETING HELD ON 12 JANUARY 1976)

Here are first of all some personal data. I am a German citizen and I had my theological training in West Germany. Since 1959 I am a Pastor of the Evangelical Lutheran Church in Germany. I left Germany in September 1965 to go to Chile in order to serve there as a parish pastor in the German-speaking congregation of Chilean citizens with a German background. That means of German origin or the families of German immigrants who came to Chile 120 years ago. This German-speaking congregation in Concepción, Chile, is a member of the Evangelical Lutheran Church in Chile. In 1970 I was elected bishop of the church by the Senate of the Evangelical Lutheran Church in Chile and so I had to go from Concepción to Santiago City and to serve there the Lutheran communities as their bishop. This was at the time of the election of Mr. Allende. He was elected the same month, September 1970, as President, and so I had to start my work as a bishop at the beginning of the régime of Mr. Allende and this was really a very tough time for me because the majority of the Lutheran believers in Chile belonged to that group which was most affected by the policy of the Unidad Popular of Mr. Allende. Our work brought tensions into our communities, especially in Southern Chile. Many of our believers are big landowners and were affected by the land reform - that means, by expropriation of their land or part of their land. This is very important to see, because this brought into our work a tension which finally brought a split in our church. Then at the time of Mr. Allende, when I became bishop of the church, especially our Lutheran Church, which is a member of the World Council of Churches - there are only Evangelical churches in Chile which are member churches of the World Council. All the others, especially the Pentecostal churches, are not members of the World Council, and as you know, the church in Chile is the Roman Catholic church, because about 90 per cent of the whole population belongs to the Roman Catholic church, at least theoretically. At that time, that means from 1970 to 1973, when the military coup took place, our church, in very close relation with the World Council of Churches, started a programme for political refugees in Chile. Because at that time Chile was one of the few islands of freedom in Latin America and surrounded by many countries under dictatorships, so we had many thousands of political refugees in Chile, mainly Brazilians, Argentinians, Uruguayans and Bolivians, but also people from other Latin American countries. First of all, our Evangelical Lutheran Church in Chile started this social programme to give social and financial aid to political refugees in Chile. This is important to mention because this fact indicates that we, before the coup, were in contact with this group of political refugees. When the coup took place the first wave of persecution was directed against this group of foreign political refugees as a kind of scapegoat in Chile, but only during the first days. Normally, they lived in small communities so that it was very easy for the police and for the military to detect them and to detain them. One of the first measures taken by the new military government was a total curfew, if I remember well, of two days. And then when the curfew finished, for some hours there was an invasion of those foreigners who had found political asylum in Chile - an invasion of the churches, and especially of my church, by political refugees, Bolivians, Brazilians - but only women and children because all the men had been detained during the first days of curfew. Those very first days after the coup, if I remember well, the 13th or 14th, I had in my home and in my church (the parish house was behind that church) about 50 women and children, giving them protection, because all of them had been expelled

from their houses where they lived with their husbands. It was strictly forbidden to give shelter, so I had to phone to the new government indicating that so many people were living in my home without shelter, so that I had to protect them. They said, "O.K., send us a list of the names of the persons who are living in your home". So I did. The same happened in other parishes, in all the churches, not only of the Lutheran church but also, first of all I would say, the Evangelical church. This fact forced us to organize the work. It was impossible. One of the pastors tried to resolve the problems. So we organized in the first days after the coup the Committee for Political Refugees. Its official name was Comité Nacional para la Ayuda a los Refugiados. We did this in very close relation with the United Nations High Commissioner, and his representative, Mr. Haselman, was one of the first foreigners who came to Chile after the coup, and this programme was sponsored by the United Nations High Commissioner. This work with foreign political refugees under the protection of the United Nations brought us in very close contact with the government, especially with the Minister of the Interior, General Oscar Bonilla, who died one and a half years ago, I think, in an accident. From the very beginning, all the churches which co-operated in this committee to aid foreign political refugees in Chile stated that our motivation was not political or ideological, that our motivation is evangelical and Christian and humanitarian. So all the churches in Chile, or the majority of the churches: the Roman Catholic church, the Evangelical Lutheran church, the Orthodox church, some Pentecostal churches and the Methodist church and the Jewish community, participated in this humanitarian work. We were able to get an official agreement, by decree of the government, which recognized us as an official body in order to work with the political refugees, to bring them out of Chile and to resettle them in other countries, and so we had another agreement with the United Nations High Commissioner and with ICFM. Then, after a very few days we noted that the real problem was in the Chilean area; that now the scheme of "scapegoat" was finished and really there was a very hard wave of persecution against the members and sympathizers of the Allende régime, persecution against - the language they used in Chile was the International Marxism and Leninism.

I don't have at this moment exact figures about how many Chileans were detained and put in gaol at that time, but I think there exists exact figures. So the churches felt the necessity to found a new entity, the Committee to Defend Human Rights. This was the first official title the church leaders gave this new entity, but then the Minister of the Interior, General Oscar Bonilla, said that this title was not acceptable, because it is the government which has to defend human rights and not the churches. So we had to change the title. The new title was, or still is up to 31 December of last year, "Comité de Cooperación para la Paz en Chile". (Committee of Co-operation for Peace in Chile), and it was very important to indicate that it was co-operation; that means co-operation with the Chilean Government. I must confess here that really during the first half year there was a kind of co-operation, especially with the Minister of the Interior, General Oscar Bonilla. Oscar Bonilla was, I think, a very correct man; several years ago he was the Aide-de-camp of President Frey, and so he expressed several times evidence to be a sympathizer of the Christian Democratic policy. I had many, many meetings with him because after the foundation of the committee I was one of the two co-presidents. The other one is still the Roman Catholic Bishop, Fernando Ariztia. He is now Bishop in Copiapo. And as co-president, I met several times with General Bonilla and he said that he knew about violations of human rights but that he had tried to investigate those cases and to punish the responsible people. And I think the good relation we had with the Minister of the Interior at that time is the reason why the Committee was able to work during the first six or ten months.

We had a kind of protection by the Minister of the Interior, and at that time the centralized secret police, called DINA, did not exist. The DINA, if I am well informed, was founded at the beginning of 1974 but it took a certain time to organize this centralized secret police, and they really started to work, I would say, in the middle of 1974. The DINA decree, I think, came into force on 14 June 1974.

Now let me describe the areas of work of the Committee of Peace. First of all, when we started to work in the middle of October 1973, it was in two areas: area 1, we called "Human rights" and area 2, "The labour sector", and to document the violation of human rights and to bring the documentation to the Minister of the Interior; this was the result of the first conversation we had with the Minister of the Interior. He asked us to bring it to him first of all and to bring it to the civil courts. At that time we considered only the very grave violations of human rights such as detention without a detention order, or home search without a search order. But then also, the beginning of torture or of brutal interrogation or brutal treatment in relation with detention and at that time I remember well we had the first cases of rape. All these cases were outside the detention camps; we didn't know at that time exactly what happened in the detention camps. Some of these cases in the homes where the women had been detained, in their own homes. I spoke with a woman who was raped in her home, and her three children were present.

Another case was that of a woman raped in a police station. Her name is Helena ... But this is very difficult for me to explain to you because many people asked me when I spoke about this experience in my own church, especially in the Church Council, because I thought that it was necessary also to inform the responsible people of my church. They said to me "Do you think, Bishop, that it is possible that the people who told you of their torture, or of the rape, for example, are only simple people who try to make propaganda?" But I must say, if you meet tortured people, not people who have been tortured a year ago or five years ago but people who have been tortured a week ago or hours ago, there is no doubt about it that the witness they are giving is true. If I would tell you what they said in detail it starts to become a story and it is very inhuman. I saw also broken bones and wounded people, but it is first of all not a question of broken bones but a question of broken personalities. Sometimes it takes hours until people start really to open their hearts ... it is necessary that there be an atmosphere of confidence between the tortured people and the Bishop. At the very beginning after the coup this was the problem. Many people didn't speak when we saw tortured people. But during that time, I became a very well known person in Chile. All the people knew who Bishop Frenz was and where they could get in contact with me. The way was shorter to get in contact and to create a climate of confidence because they knew with whom they spoke. Especially, it is very, very difficult for the young women to speak about rape, and I think it's easier for them to speak to a priest and to a bishop about this experience. And of course I never asked for details because it is too inhuman.

Now I started to describe the first two areas we had in the Committee for Human Rights. I don't like "Peace Committee" because I know the peace committees we have in socialist countries behind the Curtain, and we are not such a peace committee as they have in socialist countries directed by political parties. This is an Ecumenical Committee to Defend Human Rights - nothing more, nothing less.

To document this kind of violation of human rights we asked the people who came to the churches, to the parishes, telling us what had happened to give their full names and we as pastors and bishops stand for their names and their persons. This was possible in the time of General Bonilla and I don't know one single case where a person who gave this witness of torture was detained after this during the first months.

The second area was the labour area, because many thousands of workers had been fired from their jobs without any trial, and there was a group of some thousand university students. We tried to get official legal papers of their dismissal - because most of them were under pressure, and the boss said "... if not, I will denounce you". So they had to go without any papers and this didn't give them the opportunity to reintegrate in the working process. And we brought all these cases to the courts but our work in this area was not very successful, especially with regard to university students. So that after some months' experience we closed up this area for university students. There wasn't any possibility of reintegration into the campus. A university student, once under suspicion, was not admitted to the universities.

And then the third biggest area we had was to give legal defence to the political prisoners in the trial. In this way the committee was growing and growing. When I left Chile in mid September 1975 we had all over the country about 180 full-time people working in the committee, about 110 of them in Santiago. It was not a small committee, it was a really big institution.

The Peace Committee worked on the legal base of the Roman Catholic church. Our lawyers who defended the political prisoners had different experiences. Some had good access to the documentation and were able to prepare an adequate defence; others had only the possibility to get a contact with the prisoners some hours or minutes before the trial took place. I think that another person should speak about this very specific work of legal defence. This was different in all parts of Chile and depended on the fiscal. But it was possible for the committee to give this legal defence to the political prisoners. Then - I don't remember when - General Bonilla lost the Ministry of Internal Affairs and a new man came up, General Benavides, and the good climate we had had between the Ministry of Internal Affairs and the Committee finished the very day they changed the Minister of the Interior. I don't remember the exact date, but it is a historical date. And at that time, in the second part of 1974, the DINA started to work and there was competition between the secret police of the different armed forces. There was a secret police for the army, another one for the navy, another one for the air force, and one for the police, another for the civil police. I had a conversation with one of the chiefs of the secret police of the air force, Colonel Cabiezes. I don't remember exactly whether it was at the end of 1974 or the beginning of 1975. He asked me to speak with him and he gave us two arrested people with the obligation to bring them to an embassy - two members of the Leftish movement, the Movimiento Izquierdo Revolucionario (MIR), because he did not want to hand them over into the hands of the DINA, and it was one of my pastors, Pastor Verna, who the next day received the two young men from the hands of the secret police of the air force. This is typical for that time when the DINA started to work, the competition among the different secret police.

This same Colonel Cabiezes was the man who interrogated me, myself, in February 1974. I was detained twice. My detention is of minor importance. It was because they searched a house of our church - a parish house - in Santiago City, and there we had hidden some persecuted people and they detected this but since I was not the man

responsible for this, they arrested me for some hours only and interrogated me in a very, very correct manner. During the year 1975 the DINA became more and more the real power of persecution in the country. The DINA depends on Pinochet himself, and I should mention one case - it's a well known case, but I witnessed it. This happened in May 1975. A young man named Sergio Zamorra was detained one morning in Santiago city at the central railroad station by the DINA and was tortured the whole morning, as he told me. They asked him about another man and Zamorra said "I don't know where he is, but I know another person who is working in the office of the Peace Committee and I know that this man leaves his office every day between 6 and half past 6 in the afternoon". And so they brought him - I think there were four members of the DINA - to a spot near to the office of the Peace Committee, of course telling him that if he tried to escape they would shoot him. But this young man was able to escape and enter the office of the Peace Committee, had only to cross the street and between 6 o'clock and half past 6 there is movement in the street of Santa Monica - that's the name of the street where the Peace Committee is - and there he shouted "The DINA is behind me and I have been tortured", so that our people of the Peace Committee who still were in the office defended him. The DINA entered the building, but it was a private building with a very narrow staircase and we had about 20 members still there on the committee. They took their machine-guns but of course they couldn't use them, and so after a very brief conversation between the members of the committee and two of the secret police, they left the house and surrounded the whole block. Then they called me and I went directly to the committee. I saw that all was surrounded but I had no difficulty in entering the street or in entering our building, and so I saw the man. I saw his tortured body, it was burned, especially on the arms here and here on the shoulder and on the neck and on the back you could see the signs of torture. What could we do, surrounded by DINA? So we tried to get in contact with the Cardinal and the Minister of the Interior. We got in contact with the Sub-secretary of the Interior. He said we had to hand over the man to the DINA. We said we didn't know if they were really from the DINA because they didn't show credentials, and he said if we didn't hand him over, we were in rebellion. So I said "How are we in rebellion if they don't show their credentials as police - they could be kidnappers". He said "You must excuse me, but I'm not responsible for the DINA. It is the DINA", he said; he knew this exactly "and the DINA depends directly from Pinochet". So we forced, by telephone, the Cardinal to get in contact with Pinochet and he did, and he told Pinochet that the Church could not hand over the man to the DINA because he had been tortured, and Pinochet said "Impossible, because we don't know torture in our country", and so on. Then Pinochet gave the order to hand over the man - Sergio Zamorra - directly to him because he himself, Pinochet, wanted to see the tortured man. We put the condition that first of all the DINA had to leave the street, and the DINA really left the street. It was open so that the people of our committee could leave the committee and go to their homes and we, the responsible men of the committee, we waited for about one hour. Pinochet said that he would send police to take the man. First, a Roman Catholic Bishop, Enrico Alvear, who was also there, and I decided to accompany the man to Pinochet, but then under the pressure of the workers of the committee, who said "Impossible, you will be separated from him if you enter the office of the President, and please don't hand him over", and with the pressure and our own responsibility and conscience, we decided after having waited one hour for the police, to bring him - Sergio Zamorra - to another place and to hide him. Another hour later the police came, headed by the chief of the DINA, Colonel CONTRERAS, together with a doctor whom one of the committee's members could identify as Doctor Guillermo GARCIA - a very tiny man with very big glasses, and lame. They asked for Sergio Zamorra, and they told him - I was not there because I was the man who took Sergio Zamorra in my car in order to hide him - "He is not here because he was in so delicate a situation with his health

that we had to bring him to a doctor". So they asked for the telephone and phoned the Cardinal and told the Cardinal "Now we are here" (and identified themselves as Manuel Contreras) "but Sergio Zamorro is not here, we cannot see him to see if he really has been tortured". This was a very delicate situation for the Cardinal. The next morning we met with the Cardinal and then we decided to find a doctor; and the personal doctor of the Cardinal, whose name I don't remember at this moment said "I am ready to see the man and also to give witness as a medical doctor, but not in a hidden place, it must be in hospital". So we had to find a hospital and bring the man to the hospital and then the doctor came and I was present when the doctor for two hours made this very profound check of the whole body of the man. The Cardinal at the same time called together the Permanent Episcopal Committee of Roman Catholic Bishops. The doctor went to this meeting and gave his witness to the Permanent Episcopal Committee of the Roman Catholic Church and then also he gave his written report about the torture of this man, Sergio Zamorro. The Cardinal went to Pinochet and Pinochet's answer was that it was a typical case of self-torture... The Cardinal himself told me this, because I was very much involved. Sergio Zamorro is now outside Chile. He lives, I think, in France.

Another thing I should mention is that I had four conversations with Pinochet, two in my capacity as co-president of the Peace Committee. The last one was in December 1974. After that time I didn't speak to him; I saw him but didn't have a conversation with him. This last one was together with the other co-president, Bishop Ariztia, and we gave Pinochet a very big documentation about torture and about disappearance of detainees - that is another theme I have to touch upon after this. We, the two Bishops, were very well prepared with very accurate documentation, and we didn't speak at the beginning of torture but of interrogation with physical pressure. But then he immediately used the word torture and he said - I heard this with my own ears, and the other witness is Bishop Ariztia - "Of course, we have to torture the members of the MIR because without torture they will not speak"; and he finished the whole conversation about torture by saying "You are naive pastors, but you must know that the national security is more important than human rights". This meant really for me that the President himself didn't deny this. He said the members of the MIR must be tortured otherwise they would not 'sing'.

Let me touch on one very important thing. The DINA changed its practice at the beginning of 1974, in March, let me say. As I said, the DINA became more and more an uncontrolled power and the real power of persecution in Chile. Now they are detaining people normally during curfew and make them disappear immediately. And they come into the homes of the victim during curfew without any credentials, without any possibility to identify them. Also the cars are without plates. Asking for a man or a girl and detaining the person and the same moment the person disappears, and the Government does not respond, does not assume responsibility for this detention. The relatives didn't have - or don't have, because this practice continues still - any possibility to intervene, because it is curfew and they cannot leave their home; they have to wait until the end of curfew which is normally at 5.30 a.m., and there isn't any official office which responds to this detention. All of them say "No, your husband (or your daughter, or wife) hasn't been detained. Of course, he disappeared but we suppose he is going underground". Or "He left the country with false documents". So the relatives don't have any other possibility than to go to the Committee of the Church; it is the only institution which opened its doors for such cases. In the Committee we are writing a report and the witnesses, normally eye witnesses, relatives, have to give a sworn declaration that they are telling the truth and nothing but the truth.

With this we go to the Appeal Court asking for habeas corpus, which is very, very important, because in this way it becomes a juridical case. The Appeal Court sends this, now that we are without relations with the Minister of the Interior, to the responsible office, the Ministry of the Interior, asking what happened to the person. The answer is mimeographed ... "We never detained the person, we suppose that the person is going underground". Now what should the Appeal Court do? Suppose that the person who gave the sworn declaration didn't tell the truth and investigate against the witnesser? or investigate against kidnappers? We don't know of any case where they have done either of these things. We had a conversation with the president of the Supreme Court and in privacy, he said, "What can we do, we are living under a dictatorship".

Now in relation with the disappearance of so many people, you may have some exact figures. You know that on 5 May 1975 the Government published a new decree law No. 1009, which indicates that the police have to communicate to the relatives within a period of five days where and why a person has been detained. This decree law was one of the answers to the committee. It indicates that each person detained under the state of siege must be released or placed at the disposition of the tribunal within five days. That's not very democratic, within five days, but it was better than before. But this is only theory. Since that date, 5 May 1975, the committee registered 745 cases of detention in Santiago city alone, and of those 745 cases, 677 persons had disappeared for a longer time, that means for more than five days; and of these 745 detainees, 489 have been released or placed at the disposition of the authorities; 180 are still missing, 296 are free, 225 arrested, 35 under process, 2 sentenced and 7 dead during the arrest (we found the bodies in the morgue; we have a special observer and people go every day to the morgue). Now in relation to the months, there is an increase of detention. I have here the figures from May until end October: 98 in May, 86 in June, 66 in July, 141 in August, 206 in September, 148 in October. If we look at the persons themselves we can notice that this is because there was a tough wave of persecution against the workers of officials of the unions in July and August and against the people of the universities in August and September.

Annex VSTATEMENT BY DR. SHEILA CASSIDY  
(MEETING HELD ON 19 JANUARY 1976)Part 1. Summary

On 21 October 1975 I was asked to treat a wounded leftist revolutionary who was in hiding. I saw him on two occasions and operated upon his leg under local anaesthesia while he was being hidden in the house of a group of North American nuns; this was my only connexion with him. I took no part in the preparations made to get him into asylum in the house of the Papal Nuncio.

On 1 November, while attending a sick nun, I was detained by the Chilean Secret Police, the DINA. I was taken by car to a house of interrogation where I was submitted to electrical torture on three separate occasions. After four days in this house of detention I was transferred to another detention centre, where I was in solitary confinement for a total of three weeks. I was then transferred to a detention camp of women political prisoners, which is known officially as Tres Alamos, which means Three Poplars. I was detained for a further five weeks. I received no further physical torture during this period.

I was released by the Chilean Government on Monday, 29 December and expelled from the country.

Part 2. Factual account of my experiences

This is a fully factual account of my experiences. Part 3 will be hearsay evidence of what was told me by the other political prisoners with whom I spent five weeks.

On 21 October I was telephoned by a Chilean priest who said he had a request to make of me. He then came to my house and told me that there was a wounded leftist revolutionary who had two bullet wounds in the leg and who needed medical treatment. He asked if I was prepared to assist this man and I agreed. I was fully cognizant of the risk of being detected, detained, interrogated and expelled from the country. I had no doubts that it was correct to attend this man, as the torture methods of the Chilean Secret Police are such that an important revolutionary person would be very severely tortured and probably killed. This information is well documented in Chile by the Committee for Peace, which is an entirely non-political organization composed of a union of the Roman Catholic and other Christian Churches.

I was taken to the house of the American Sisters of Notre Dame, where I treated Nelson Gutierrez and where I met his girl friend Maria Bachman and Mary-Ann Beausire, who is the girl friend of Andres Pascal Allende, who is the head of the Movimiento Izquierdo Revolucionario (MIR), the revolutionary leftist movement in Chile.

I found Gutierrez to have three bullet wounds in the leg. One was an exit and entrance wound of one bullet and the other was only an entrance wound, which meant that the bullet was still in his leg. I explored the wound but was unable to find the bullet. I operated on his leg and drained a large abscess. It was at this time my impression that his condition would improve with rest and antibiotics and I agreed to return 48 hours later. This I did and found his condition greatly worse. He had a high fever and was unable to walk. I once more explored the wound to try to find the bullet but this was impossible as

his leg was greatly swollen and the bullet was very small. It was my considered medical opinion that it would be impossible to treat him in this house without proper medical equipment and I thought that his life was in great danger as he could very possibly die from a generalized septicaemia and was already showing signs of this condition. I explained to him that it was impossible for him to go into hiding, that he was putting in risk the lives of the people who were helping him and that furthermore he was likely to reach a state of delirium in which he would be a danger to his own friends. He therefore agreed to accept the offers of asylum which had been made to him by the priests who had been helping him. I left the house and went to speak with the priests who were assisting him and they then proceeded with the necessary negotiations to get him political asylum.

The following day I was telephoned and asked to go to another convent for an urgent discussion. This I did and was presented to one of the Bishops of Santiago. I explained to him my medical reasons for the urgency and necessity for asylum for Nelson Gutierrez and I agreed to come to the house of the Nuncio the following day to make a further attempt to extract the bullet. They told me that it was absolutely out of the question to send Gutierrez to a hospital even under the protection of the Papal Nuncio, as this was far too dangerous and they considered his life would be gravely in jeopardy.

On Saturday, 25 October, I went therefore to the house of the Papal Nuncio. This house is very heavily guarded by police with machine-guns. I felt it inadvisable to reveal my own identity and therefore called myself Sister Isobel. This was the only occasion on which I had ever called myself by a false name or said that I was a religious and it was done with a very specific purpose.

When I entered the Nunciatura, the house of the Nuncio, I was told that another doctor had been called. I did not see Gutierrez on this occasion and I have not seen him since. I returned to my home and during the week that followed I carried on with my ordinary life and work.

On the evening of Saturday, 1 November, I was in the house of the Columban Fathers, which is very close to my home. These missionary priests, many of whom are Irish, American or Australian, are my friends and I was a frequent visitor in their house. I was at that time caring for an American nun who had had a nervous breakdown due to overwork and I was visiting her on this particular occasion. While I was with her in her room at the back of the house on the first floor I heard a loud scream and ran downstairs thinking that the maid had had an accident. I found her lying on the floor, prone, with her back towards the french windows leading on to the street. There was a large pool of blood at her side and a large bullet wound in her back. I then pulled her by the hands through towards the back part of the house because bullets began to enter from the direction of the street. After a very brief period I got the impression the bullets were coming through the dining-room and the kitchen windows, that is, from the other side of the house, and I realized that I could do no more for the maid and that my own life was in grave danger. I therefore hid under a table in the kitchen and waited for the gunfire to cease. I would estimate that firing continued over some 10 to 15 minutes. The only people in the house at this time were Father William Hallidan, who is the chief of the Columban priests in Chile, and Sister Connie Kelly, who is a young American religious. All stories put forward by the Chilean Government that I was accompanied by a friend with a gun are totally without foundation.

When the firing ceased there was a loud knocking on the back door and Father Hallidan opened it. A man in ordinary clothes but armed with a machine-gun entered brusquely, followed by some five or six similarly armed men. They pushed past us

both and ran to search the house. Their first comment was "Who fired upon my men?" and they then asked me my name and when I told them that it was Sheila they said, "She is the one we are looking for". There was then an interval while they searched the house, rang the hospital for an ambulance to take away the maid and brought the sick nun down so that she was confronted with the dying maid. Again they asked me what my name was and again they commented among themselves "She is the one we are looking for". They refused all of my requests for identification. I went upstairs and hid in the bathroom because it seemed a nice safe place. After a while, however, they began to call my name and began to search the house and when they came to the bathroom door they began to break it down, so fearing that they would begin to fire I came out. I was led at gunpoint from the house and managed to call to Father Hallidan to inform the British Consul. I was not given any kind of warning or told why I was being detained and at this point I had no idea what they had detained me for or who they were. I was led to a private car and a man with a machine gun got in beside me. As soon as we drove away he struck me sharply across the face and then put a blindfold upon my eyes. As we drove through Santiago (it now being dark), he told me that he knew that I had treated Nelson Gutierrez, so I saw no point in lying. I was driven for about 15 minutes through the streets of Santiago. I managed to lift the blindfold over my left eye without my guard realizing and I recognized that we were driving parallel to the canal which is in one of the smart residential areas of Santiago. This is in a street which is called Tobalaba. We crossed the canal and went a short distance along a street, a dirt road, in an area which I believe to be Peñaloen. We stopped outside a house and I clearly saw that this was a dark red colonial building on the left-hand side of the road as we were going away from the canal.

We entered the house and I was taken immediately to a room of interrogation. I was interrogated for what I think was only a few minutes and then told to remove my clothes. I declined to do so and my interrogator then began to tear my shirt off. Not wishing to be further manhandled, I removed all my clothes. I was then told to lie on the bed. In the room there was a double metal bunk. They removed the mattress from the bottom floor of the bunk and I was tied to the frame of the bunk. My wrists and ankles were secured to the side of the bunk so that I was spread-eagled with my legs apart. I was further secured by a wide band across my abdomen and two straps which were passed around my upper arms. I was very tightly blindfolded but before they tightened the bandage I was able to see that this was a small room in which there was the metal bunk, a chair and a large street map of Santiago hung from the wall. There was also a woman present amongst the group of some five men. They then began to interrogate me. They immediately gave me a violent electric shock which seemed to be a generalized shock. At that time I think the electrodes had been placed on my wrists but I couldn't be sure. They asked me where I had treated Gutierrez. When I realized that they didn't know where I had treated him, I realized that they must be ignorant of the involvement of the priests and nuns in the treatment and subsequent asylum of Nelson Gutierrez. Not wishing to implicate the Church and more especially not wishing to endanger the lives of the Chilean priests who had helped him, I invented a long and detailed story of how I had treated Gutierrez in a private house at the request of a Chilean doctor and in a distant part of Santiago. It was not particularly difficult to invent this story as all their questions were direct and I just fabricated answers to each of the questions. When I realized that they were believing me and that I was diverting them completely from my friends it became easier still to lie in this way. Every time I faltered in my story they gave me another electric shock. These were extremely painful but providing I kept talking it was possible to bear it. Eventually I persuaded them that perhaps I might be able to identify the house so they allowed me up. They lifted me from the bed as I was unable to move alone and they dressed me as I was likewise too weak to dress myself. My eyes were then secured with sellotape and I was taken by car accompanied by armed guards to look for the house.

When we got to the centre of Santiago, to the region of the Central Station, they removed the sellotape from my eyes and told me to look out for the house. After some distance they pressurized me considerably to identify the turning and I said I thought that we had arrived at it. We cruised around looking at houses from some 15 minutes while they became progressively angrier; then they stopped the car, had a conference with another of their group and told me, with great excitement, that they thought they had found the street. I had told them that I thought the street was called, "Bishop something-or-other", "Obispo no se cuanto". They had by some curious coincidence found a street called "Obispo Subercaseaux". With the finding of this street they became convinced that I was telling the truth; we cruised along and again by curious coincidence we found a house which fitted very closely the description that I had given. I had told them that the house was a large white colonial house with black gates; this in actual fact fits the description of many houses in Santiago, but it was curious to find one in this street, because this was an area that I had never before visited.

They then took me to a police station and handcuffed me and blindfolded me with my sweater. When they realized that I could see through the sweater they wrapped a thick velvet curtain around my head. There was then a lot of shouting and telephoning and movement of men and I realized that they were organizing a raid. After a while they took me again by car and we went and waited in the shadows of the street alongside the house. By then I had considerable moral qualms as to whether I was doing the right thing but I thought that this would be a house with rich people and that they would be able to explain to the police very rapidly that they had no connexions with the MIR.

This manoeuvre of mine was a mixture of desperation and a play for time because I kept hoping that the Consul would be able to contact the Secret Police and that I would be freed.

We entered the house and I found to my great distress that it was not a house of rich sophisticated people but that there was an elderly couple who were obviously guarding the house while it was being remodelled; I immediately said that this was not the house. They didn't believe me, but eventually I persuaded them and they then became very angry and said that I was obviously lying and that I should go back to what they call "the parilla", which is Spanish for "barbeque".

I was taken by car, once more blindfolded, back to the original place of detention. I was led immediately to the original room, ordered to remove my clothes and once more secured to the bed frame. This time they inserted an electrode in my vagina and began to stimulate me with a wandering electrode, by which I mean they had an electrode which had some kind of a pincer and they stimulated me in various parts of my body, largely over my lower abdomen and thighs and pubic regions. Whether because of the siting of the electrodes or because of the increase of current, this pain was greatly more severe, and I was very distressed. Their attitude was very much more aggressive and although they told me that when I was prepared to talk, I should raise my fingers, when I did so they gave me several more shocks, each time before they removed the gag from my mouth to allow me to talk. After what I would imagine was about 20 minutes of this repeated shock treatment, I disclosed that I had treated Gutierrez in a Roman Catholic convent. Because they found this idea so fantastic and because I had previously lied, they did not believe me, so they continued with the interrogation and the shocks.

After a total of about one hour they believed me and I was once more freed and taken from the bed, dressed and taken by car to show them the location of the convent. This I did and I was brought back to the detention site.

I should mention that during these two journeys to Santiago, my guards said to me on more than one occasion, "It would really be much easier if we were to kill you here and now". This was said in a casual way and I had no cause to disbelieve them.

On one occasion I tried to escape, in that three young men passed by and I grabbed hold of the jacket of one of them and said, "I am a prisoner of the DINA, please help me". They were very frightened and tried to run away and eventually I was forced to let go of the jacket.

After my second return to this house of interrogation, I was again returned to the bed, stripped and tied in a similar manner, electrodes were again placed in my vagina and I was again given electrical shocks over various parts of the lower part of my body. This time because of the known association between Nelson Gutierrez and Pascal Allende and especially because Mary-Ann Beausire had been in the house when I treated Gutierrez they were convinced that I knew the whereabouts of Andres Pascal Allende. I told them repeatedly that I had never known him, that I had never met him and that I had no idea as to his whereabouts, but they did not believe me and continued with repeated shocks. They shouted at me many times that I was lying. In between the shock sessions I was left stripped, tied to the bed, while my interrogators went away to confer amongst themselves. While left in the hands of men who I presume are more junior members of the torture team, I was frequently stroked and fondled and asked if I enjoyed it. They repeatedly asked whether or not I was a virgin and I was very fearful that they would try to rape me.

I was then taken from the bed and taken into an office for interrogation. I was interrogated by a group of men, I don't know how many, I would say at least three. I told them that I had attended Gutierrez because he was a sick man and that it was not in my code of behaviour to refuse attention to somebody who needed my help. They found this, frankly, too incredible to believe and were convinced that I was an active member of the MIR.

They were also becoming progressively more angry at the fact that Gutierrez had escaped them and were obviously very angry at the association of the nuns and priests, because they felt unable to touch them.

During the third interrogation session under torture, I told them that I had been told that day, in response to a question as to the physical state of Nelson Gutierrez, that a priest I knew had tried to find asylum for Pascal Allende. This information I gave in considerable desperation, because of their repeated insistence and inability to believe that I had no more information.

During the interrogation in the office, I was offered to be taken to the British Embassy if only I would disclose the whereabouts of Pascal Allende. I repeated that I did not know where he was.

I should mention at this point that at the very beginning of the torture I told them that I was a British citizen and that their behaviour could lead to an international incident, and they replied, "Our image in the exterior is so bad that it doesn't matter".

I was interrogated, in all, over a period of 12 hours, and judging by the voices and the way of behaviour of the interrogators at the office, it was by a group of very senior men. It was certainly not one or two junior torturers not obeying commands, there were a lot of people involved.

During the interrogation sessions, I was also threatened with whipping, and a man who I believe is a senior official told me, "Doctor, you are a sensible woman, you must realize that you have now received three sessions of electrical treatment and that this can go on and on up to ten or twelve or thirteen, and that after each session you will be in progressively worse physical condition".

Eventually, I was returned on two further occasions to the torture room where I was stripped and tied to the bed, but on each of these last two occasions there was a long lapse of time and a discussion with the chief of the interrogators and I was released without further electrical current being passed. At about 7 o'clock in the morning after I had given the address for the priest who had tried to get Pascal Allende into asylum, I was told that I would be taken away to rest. The man who led me away spoke kindly, but I was given clearly to understand that he proposed to have sexual relations with me; this was obviously just to try and frighten me because I was taken to a dormitory where there were three other young women. He then left us and locked us in.

I was detained with three young professional women in this room for the next four days. On Sunday, 2 November, I was interrogated many times during the day but received no further torture. I was, however, struck many times about the head and face, but not enough to leave any permanent damage apart from a slightly split lip. I was taken on one occasion to the room where I had been tortured and told that I would be making a statement. I was told that if I did not make this statement things would go very badly for me and that I would say just what I was told to say. The statement began, "I, Sheila Cassidy, in Santiago, without any physical or mental duress declare". They then dictated to me questions and answers. The information contained in the statement was true apart from the fact that it was not made under duress. At no time was I left without armed guards. I had some difficulty in writing clearly but they spoke harshly to me and told me that I must make a big effort.

I should mention that I had been told by the other prisoners that it would be very dangerous for me to drink water during the first 24 hours after the electric shock treatment, and during the time I was being interrogated I was offered a cup of coffee. I drank half of this and the man who had given it to me then said, "It's just as well you didn't drink it all, because you could have had a serious convulsion".

At about midnight on Sunday, that is, a little more than 24 hours after the time of my detention, the intensity of the interrogation and activity outside of the room where I was resting lessened. I was able to sleep.

On the Monday, Tuesday and Wednesday I received no further torture but was obliged to make another long statement giving the names, descriptions and addresses of all the nuns and priests involved in the case of Nelson Gutierrez. I was also questioned about the activities of two people who had been detained from my house during the time I was in England last year visiting my father.

They asked me many different things, one of them being that I was able to speak Russian, and for a long time they thought I was an active member of the Revolutionary Left, but after apparently making further investigations they convinced themselves that my involvement was limited to that which I had told them.

On Wednesday, 5 November, I was taken from the room where I had been held prisoner, again had my eyes taped with scotch tape and was led through the grounds of the building. I was taken by car through Santiago and at this stage I believed that

I was being taken to the British Embassy. At no time was I given any information or told where I was being taken. When we arrived at our destination the tape was removed from my eyes and I found that I was in another military establishment; this I later knew to be the grounds of Tres Alamos, which is the political detention centre in Santiago. I was taken, however, to a special part of Tres Alamos, which is known in Chile as Cuatro Alamos, or Four Poplars. This is a place of secret detention, the existence of which, I believe, is denied by the Secret Police. It is a place of very strict segregation; there are some 15 rooms and prisoners are either alone or in groups of four or five and they are never allowed to meet or see each other. By this I mean that when the food was brought to the rooms, my door was opened, I was given my food and the door was locked before the next room was opened. In fact the same procedure was observed when we were allowed to go to wash or to the lavatory. It was later explained to me that this is a place where people are held while their physical condition improves and while further investigations are made into their case.

There was frequent medical attention and on the first night I was greeted by a man who told me that he was a doctor. He tried on two occasions, each lasting about an hour, to hypnotise me and I realized that he was trying to make me forget the torture. He told me that it would be very bad for me to talk about it when I was released from prison and I took this to be a warning.

On Friday, 7 November, I received my first visit from the British Consul. He was allowed to speak to me in the presence of the Commander of the detention camp and of the doctor. We were given strict instructions that our conversation was to be in Spanish. Mr. Fernyhough inquired after my health and I told him that I was very well thank you. It was completely impossible to hold any kind of private conversation and I was extremely frightened. I tried to communicate to Mr. Fernyhough that I had been tortured during the brief moments when the Commander went to answer the telephone but I was only able to say to him "mains" as a code word of trying to communicate that I had received electrical treatment. He was very distressed by my obvious fear but there was nothing we were able to do apart from his relaying messages of love and support from my family and from the British Government.

Up until this time I had not been able to change my clothes because I only had the clothes in which I had been detained. This state of affairs continued until the middle of the following week. This means that I spent ten days in the very heavily bloodstained clothes in which I had attended the maid. I was also without a tooth brush or facilities for doing my hair.

On Monday, 10 November, I was taken for the first time before the Fiscal: he is the Government lawyer who had been put in charge of the investigation of my case and that of the priests involved. He asked me whether or not I had been mistreated and again I told me "no" because I feared reprisals.

The following day I was brought for further interrogation and I made a statement over a period of some four hours. My treatment in this military court, which consisted of the lawyer and his two assistants, both of whom were younger lawyers, was dignified and without any kind of mental or physical duress. I made a full statement as to my activities and it was then for the first time that I realized that suggestions had been made that I had been involved in killing the maid. I was very frightened by these allegations and strongly denied the presence of a companion, although I admitted that theoretically it was possible that an unknown person could have been present in the house, as the house was extremely large and I had obviously not searched it as I entered.

I was detained in the women's prison until the Friday of that week, that is, 14 November.

On 14 November I was taken again before the Fiscal, confirmed that my statement was true and was told that I had been cleared of the charges against me and that I was at liberty. I was told that the only charge against me was of not informing the police that I had treated a man wounded by a bullet. I was told that I was free to return to my house and to my work but that I should report again before the Court in 15 days' time. I was told, however, that I had to report back to the prison to sign my discharge papers.

When I returned to the prison I was told, however, that I could not be released until they had received confirmation of the order from the SENDET; this is a department for political detainees. During this evening Mr. Fernyhough and my lawyer spent four and a half hours ringing various government officials trying to secure my release. They were forced to give up at 12.30 a.m. because of the impending curfew.

The following morning, Saturday 15 November, at 9 o'clock I was told that I was to be transferred to Tres Alamos prison. I refused to move until the Consul arrived. When he arrived I told him that I was very frightened and thought that the DINA would try to kill me because it would be dangerous for me to be released after the torture. I was assured that I would be in a prison with access to the Consul and to visitors and eventually I went with Mr. Fernyhough and my lawyer and prison guards to Tres Alamos prison.

After Mr. Fernyhough and the lawyer had gone I was led down a passage and returned to Cuatro Alamos. As I was handed from one guard to another they said to each other that this was the result of a sudden call from the Minister of the Interior.

I was then detained for a further 10 days in solitary confinement. During this time I received no information but was not interrogated or harmed in any way. I was very frightened and the food was extremely bad, but I was not harmed. After 10 days I was transferred to Tres Alamos detention camp, where I was in a completely different situation. This is a publicly known detention camp for women political prisoners and I was one of 120 other prisoners all held under the ruling of a state of siege and all without charges.

During this five weeks I received no information as to why I was being held. I was not interrogated in any way and I made no further statements. Mr. Fernyhough was given permission to visit me three times a week and he came regularly, and latterly Mr. Seconde also visited me. I was allowed visits from my friends and suffered only the privation of my liberty and extremely bad food.

On Friday, 26 December, Mr. Fernyhough visited me and told me that I would almost certainly be released on the following Monday. On Monday, 29 December I received no notification but at about 11 o'clock in the morning the Commander of the camp came and

called us all on parade. He then told all the women to go to another part of the camp, where we normally received visitors. As I prepared to go with them he called me back. He then told me that I had three minutes in which to pack my bags. I went with the woman wardress and changed my clothes and packed my bags and then followed him. I was taken to central block, where the offices are in Tres Alamos, where I was physically searched, although without any undue indignity, and all my luggage and papers were searched. Sketches which I had made of various of my fellow prisoners were confiscated, as were drawings of the inside and of the outside of the camp.

I had been given to understand by Mr. Seconde that he would come to accompany me to the airport but although the Commander told me that I must hurry because the Ambassador would be waiting for me, when I was led out to the car of the International Police, Mr. Seconde was not there. I was met by Mr. Cossak, who was the head in Chile of the Intergovernmental Committee for European Migration, but as I had not met him previously and as I had not realized that he would be accompanying me to the plane I thought that he was another member of the DINA, and I was once again extremely frightened. I was driven by the International Police to the outskirts of the airport and they told me that they had instructions to wait until exactly 3.30 before I was taken to the plane, which was due to leave at 4 o'clock. I was taken across the tarmac at 20 minutes to 4 and allowed some three minutes' conversation with Mr. Seconde and Mr. Fernyhough. I was then placed on the plane and left Chile.

I would like to make a comment about the after-effects of the torture. The electrical treatment appeared to cause some kind of prolonged muscle damage in that I had quite severe muscle pains in all the muscles of my body over a period of 10 to 14 days. After two weeks, however, I was able to move without difficulty and had no sequelae. I did however have quite severe urinary infection which I assume to be the result of the trauma and infection caused by the insertion of unclean instruments in my vagina. This was most unpleasant but passed after a course of antibiotics. I had no physical sequelae and apart from living in a fairly constant state of fear during these two months I believe that I have no particular mental trauma.

Part 3. Hearsay evidence

The following evidence is hearsay evidence. It is what I have been told by various of the political prisoners detained in Tres Alamos. I would not present this evidence if I did not believe what I had been told.

I was there for five weeks and came to know many of them quite well. I was able to form my own judgement of their temperament, whether or not I thought they were exaggerating and whether I thought they had any particular axe to grind in giving me their story. They were nearly all young professional women and they told me their stories calmly and without any apparent exaggeration. Many of the stories coincided accurately and I had no cause to disbelieve what they said. I would estimate that of the 120 women probably 90 per cent had received electrical torture in the same manner as I had. It appears to be standard practice to stimulate the women also on their breasts and I have seen the marks of the stimulation on one woman. These marks are very very tiny and fade after a few days and I had several similar marks on my own body which faded after about four days. It would appear that the electrical stimulation and a general knocking about are standard procedure. People described to me how they were hit repeatedly with a clenched fist while blindfolded and unclothed. It appears that they are hit frequently in the abdomen, the belly and in the region of the kidneys and one girl had quite a severe haemorrhage from the bladder while in Tres Alamos. I treated her, I saw the heavily bloodstained urine and I treated her for a severe renal infection, and so I am a witness to her condition. The other people had been prisoners for some little time and had no scars to show. I would like to point out at this stage that the electrical torture leaves only very tiny marks which fade very rapidly and that it is general policy that people are held until the bruises received from body blows have faded. Therefore the constant cry for medical evidence in these cases is a vain one in that these tortures are carefully designed to leave little or no marks.

I was also told that another fairly commonly used form of torture, especially with the men, is hanging by the wrists from either a tree or a hook in the ceiling. I was told there was semi-permanent nerve damage as a result of this but I saw nobody with permanent sequelae.

Another form of treatment is what is said to be a Brazilian method of torture where the victim is slung by the wrists and the knees over an iron bar unclothed and electrical stimulation is applied to the vagina and/or the anus. The insertion of foreign objects into the vagina or the rectum is fairly commonly employed. I was told that in addition to the Casa Grimaldi - which is I believe located in the street Jose Arrieta - there are two other houses, one in the street called Londres, which is Spanish for London, and the other in the street called Dieciocho, which is the Spanish for eighteen.

There is also apparently a torture house which is known as the Sexy House, where a different form of torture is employed. It was described to me by three women on three separate occasions as being an elegant house with a marble staircase. They told me that it had a basement which was used for the routine tortures of electrical stimulation and hanging, but that the ground floor consisted of offices and that on the first floor there were a number of rooms with beds where women were subjected to sexual assault. They told me that in this house loud music was played all day and that it was music of the type played in the film "The Clockwork Orange".

All these torture houses are known colloquially by the prisoners as the "Venda", which is the Spanish word for bandage, and means blindfold. By this I mean that all people who are held in houses of torture are kept permanently blindfold. These torture houses exist not only in Santiago but in Valparaiso and in other provincial towns. I spoke with women who had been brought from Copiapo, which is one provincial town, and others who had come from different parts of Santiago. One woman said that one person had been placed in a 44 gallon drum with stones, and rolled down a hillside. I have no means of corroborating this story.

Many people made references to a dog, which had been trained to sexually assault women. This information came from so many different people and without any particular exaggeration, that I think that it is true. I spoke to two girls who said that they had received entry from the dog, one said that it had licked her frequently in her vagina, but that it had not managed to introduce itself into her, another told me that it had actually managed to do this. They both told me this was a particularly degrading and terrifying experience. It is reputed to be an Alsatian dog and is kept in the house known as "The Venda Sexy" (the Sexy House of torture). When I asked about the question of rape, I was told that in the early days after the coup there was a lot of indiscriminate raping and that sometimes women were raped by many men in succession, but that this situation had improved a good deal. I was told again by various people, whose stories coincided totally, that in the Casa Grimaldi, which is the house where I was held, on New Year's Eve of last year, by which I mean New Year 1974, the guards got drunk and raped all of the seven women who were at that time prisoner. One of these women was seven months pregnant. This apparently caused great concern amongst the DINA authorities, who thought this was a risk to security, and this practice was therefore forbidden. I was told that rape still occurs in the detention centres of the Air Force. I spoke to three women who told me they had been raped; one was a girl detained two months after the coup, who told me she had been raped by four men. This is a very special case of a girl who was apparently the only survivor of a group of 12 detainees; she tells me she was raped by four men, that she had rats introduced into her vagina, that she was beaten and left more or less dead by the roadside and then picked up by another military vehicle and taken to the women's prison.

She told me her story calmly and I think it was without exaggeration. Her case has been presented to the United Nations on another occasion and apparently, as a result of the publicity, a special decree has been passed that she is not to be released from Chile during the duration of the Military Junta. Her father and brother are also prisoners in the male section of Tres Alamos. Her grandfather was a Scot, so she has some slight claim to British citizenship. She lives in considerable fear that she will be killed because she is too important a witness to the torture employed.

Another form of torture which is employed for prisoners who do not give information under torture is imprisonment in a building known as "The Tower". This was described to me as a closed-in part of an old water tower; they say that wooden cages have been built in which the prisoner can only stand or sit with knees bent double. They have to enter the cage through a hole, rather like a rabbit hutch. They are apparently taken out just twice a day to be fed and allowed to go to the lavatory. I spoke to one woman who told me she had been a prisoner in this place for some three months.

This woman, who was quite an important member of the MIR, told me that she had been struck many times by people trained in Karate and that she had had ribs broken and that she had received repeated electrical treatment of the type which was used on me, but repeated many, many times. From what I came to know of her, from the manner of her telling her story, I had no reason to disbelieve her.

Another form of pressure used is the submersion of the victim in a tank of water, with repeated violent immersion of the head, so that the victim feels that he is going to drown.

I now come to what is a very important point, which is the problem of the people who disappear.

The system of the DINA is very highly organized. It seems that most people are detained either in their homes or in the street. They are taken blindfolded to one of the houses of torture and interrogation. There they are interrogated for varying lengths of time, depending upon their importance and the amount of information which it is believed can be got out of them. During this period of interrogation, which may be anything from two days to three months, they live in either the male or female dormitory.

I was in the women's dormitory and I saw the men prisoners pass by the window on their way to the lavatory. They passed very closely by, so it is extremely easy to identify a person, if they are known. In this way, women prisoners can testify by first-hand evidence to the presence of a given person in this place. Although we were blindfolded all the time, while we were in the dormitory it was very easy to lift the bandage a little and to see quite clearly the faces and condition of the male prisoners.

After the time in the house of torture, people are generally taken to Cuatro Alamos, where they are kept again during a period of time which varies between a week and three months, while the investigation of their case is continued. If it is felt that further information can be got from them, they are returned to the house of torture and further interrogated and tortured.

While someone is a prisoner in the Casa Grimaldi (the torture house) or in Cuatro Alamos, the police deny that they have been detained. So during this time a person has technically disappeared.

When their case is finished they are then sent to Tres Alamos where their presence as a political detainee is then acknowledged, so they are then relatively safe, in that there are many witnesses to their presence as a detainee and they are allowed visits from their family or from lawyers or members of the Red Cross.

During the time of detention in the house of interrogation or in Cuatro Alamos, however, there are no outside witnesses to their presence. It would appear that many people die under torture; some people apparently die accidentally from heart failure during the electrical treatment, while others, it seems, die as a result of brutal and violent treatment, such as repeated body blows with the hand from Karate experts or from beating with chains. Although I have not spoken to anybody who had seen somebody beaten with chains, I spoke to women who said they had heard people being beaten with chains immediately outside the door of the women's dormitory.

A number of the girls with whom I was a prisoner in Tres Alamos had been detained with friends or with their brothers or their lovers or husbands and had been together for a long period and then that person had been taken away and has not since appeared. These cases were many. When a person has not appeared after six or nine months it is presumed that he is dead.

An investigation has recently been made and the Peace Committee drew up a list of 119 people who had been detained by the Secret Police in the presence of witnesses. This list was published and shortly after an article was published in an Argentinian periodical, giving an almost identical list of names of Chileans who were said to have died in various parts of Argentina in terrorist fighting. Now all of these people had been detained in the presence of witnesses in Chile, and I spoke to people who were witnesses to the presence of over 40 of them in the Casa Grimaldi. Most of these people were detained either in January or, I think, in April of last year.

It is believed that people either die under torture or are just taken away and killed.

Two of the girls whom I knew quite well had brothers who had gone missing in this way. One particularly tragic and unpleasant case was that told me by a very calm and sensible young woman who used to be an actress. After her detention in Tres Alamos, she received a visit from her elderly mother and from her husband. By either stupidity or accident, the mother had brought amongst the food and clothes which she was bringing her a pamphlet of a religious nature but which advocated some kind of retaliation against the brutality of the Government. This pamphlet was found by the people examining her gifts, and her husband and mother were immediately taken prisoner and were taken away to the Casa Grimaldi, where they were kept and tortured over some period of time. I spoke to one girl who was a detainee at the same time as the mother and she told me that this woman was absolutely uncommitted politically and really had no idea what it was all about, in fact that she was extremely right wing in her views. This mother and husband have never appeared and now that some nine months have passed they are assumed to be dead.

I personally heard the Commander of the camp where we were say to this girl that she would not be released for a long time.

So people who have been severely tortured or who have been witnesses to severe torture believe that their chances of being released are extremely small. Because of the incredible blatantness of the lying about death and disappearance, there is a general atmosphere of fear that at any moment a prisoner can be removed and can be killed and it would be said that they were trying to escape. I personally suffered from this fear and I think it is an extremely reasonable one.

During the time of my detention there was a similar case where apparently the police surprised a meeting of the MIR and one policeman was shot. The entire family of this man were later detained and were seen and tortured in the Casa Grimaldi. I spoke to one girl who was a witness to their presence there. About a week later, it was announced in the paper that there had been a gun battle and a list of the people killed was given. This list coincided exactly with the list of the people who had been detained. This happened in November while I was a prisoner.

Psychological pressure is widely used, in that husbands and lovers are tortured in the presence of their wives or partners. While I was in Cuatro Alamos there were two tiny children in the building. I heard the cries of both of the children throughout the day. Later I was to meet the mother, who is the wife of a prominent Socialist, and who was detained in Tres Alamos with me. She told me that she and her husband had been detained in their home and that when they had requested permission to leave the children, one aged 4 and the other aged 18 months, with their neighbours this permission had been refused. The woman was held a number of days in the torture house with the children, although neither she nor the children were harmed. She was then held for a further nine days with the children in Cuatro Alamos, and this is where I can testify to their presence, in that I heard the children cry. I later saw a small boy on a visit to his mother and he was considerably emotionally disturbed.

I wish to make a comment on the food and medical treatment given to political detainees. While I was in Cuatro Alamos the food was adequate in that we were not hungry, but the quality was grossly below the level required to maintain health. For breakfast we were given a cup of milky tea and bread without butter or margarine or anything. This was adequate but not pleasant. Lunch consisted similarly of bread and of a bowl of soup which had frankly very little taste and was very watery. The evening meal was exactly the same but a cup of tea was added. I would estimate that during the course of one week our only source of protein was one plate of beans and perhaps a teaspoonful of meat from the soup. This ration is grossly deficient of protein. We received no eggs or cheese or other form of protein. We were not given any fruit whatsoever or any vegetables whatsoever other than a small amount of spinach which floated in the soup, so this diet consisted largely of carbohydrate and is totally inadequate to maintain health in an adult over any period of time. This food is exactly the same as the basic foods supplied to the prisoners in Tres Alamos.

... In this way a balanced diet is provided but if it were not for this supplementary food brought by the families there would be very severe protein and vitamin deficiency. The economic situation of the families of many of these people is extremely poor and it is with great difficulty that they make this contribution towards the feeding of their children or relations. The Red Cross have been providing milk for some time but I believe that this will no longer be continued because it is felt that the need is greater in the poor shanty towns. I would be in agreement with this policy but there is no doubt that these women are underfed. One of the problems which causes great distress to them is the fact that they are subject to dental decay in a way which seems to be greatly accelerated. I spoke to many people who had had a much higher incidence of dental decay during their time in prison, and as the only treatment offered by the prison authorities is that of extraction they are placed in a very unpleasant position, having to decide whether or not to endure progressive pain or submit to progressive loss of their teeth. One girl of 22 had lost five teeth in the space of 11 months and she was no exception.

While medical treatment is provided, it is in my estimation inadequate, although if somebody is gravely ill they are taken to the local hospital. One detainee is a girl of 29 who has a chronic form of leukaemia and requires very careful treatment with extensive drugs but her follow-up by specialists is extremely erratic and her physical condition is deteriorating markedly. I was told that she had very little political importance so she would not represent a danger to the Government if she were released for proper care. Pregnant women receive no special treatment from the prison authorities, although they are cared for lovingly by their fellow prisoners.

While I was there there was one three-month-old baby, and another baby was born and there were two pregnant women. One baby was born to a woman who is a worker in the Peace Committee. She was brought back to the prison three days after the birth of the child and the baby came with her. At the time I left the baby was healthy but obviously it runs a very high risk of infection as there are no facilities for sterilizing equipment for feeding.

The conditions in the camp are adequate for life but certainly there is considerable repression at all levels. It is very difficult to get reading material and there is a completely senseless and aggressive censorship of books. For example, one girl wished to bring in a Spanish grammar book to teach Spanish to the less educated prisoners but was refused permission. I personally had great difficulty in getting books in. Perhaps because of my being British I was able to bring in a number of novels and poetry books, but eventually I was told that I must present written requests along with all the other prisoners. The written request that I produced, along with two other letters I wrote in Spanish to be sent to my family and to the religious congregation which I wish to enter, were "lost".

There is religious repression in that we were refused the privilege or right of having a priest to say Mass on Sundays although a priest did come on Christmas Eve, but during the five weeks I was there that was the only religious support we were given.

Another case which I think it is important to mention is that of two young girls who had been involved in prison visiting with a Catholic chaplain to the women's prison. They were both detained the same day as he was. He was accused of carrying messages between the political prisoners in the men's and the women's prison but was eventually released in the general amnesty given to 160 prisoners before Christmas. These two girls, one of whom was a former nun, were both tortured in the same way as I was but were not interrogated. They were told to make statements that they had had sexual relations with this priest. They were tortured repeatedly but refused to make such a statement. This is an obvious case of persecution of the Church.

#### Concluding remarks

In summary, my accusations against the Chilean Government are as follows:-

1. That I personally was detained by force, was interrogated and tortured during a period of 12 hours and was later detained for a period of two months without charges.
2. That I had the opportunity to speak to a number of women who gave me descriptions of much more brutal forms of torture which had been applied to them and I was able to witness as a doctor the effects of certain of these tortures.
3. I would consider that the food given over a prolonged period to the prisoners is inadequate to maintain health and in the long term perhaps would be inadequate to maintain life.

4. Most serious is that, according to the evidence which I collected while in prison, a very large number of political detainees disappear during the time of their interrogation and are presumed to be dead. The case of William Beausire falls into this category. I should mention a similar case of a man who is called Jorge Fuentes who is said to have been detained in Uruguay in April of last year and after three months of torture brought to Chile, where he is still detained in the Casa Grimaldi. I have spoken to many people who had had personal conversations with him during this time. The Chilean Government denies his existence in Chile.

I would like to add a rider as a comment to the statements that have been made in the press by the Chilean Ambassador that I signed papers saying that I had not been tortured. Firstly, the only statement I made in the house of torture was a factual statement about my activities in treating Nelson Gutierrez. This statement was made at gunpoint and I was told that if I did not write exactly what I was told things would go very badly for me. In actual fact the only untrue part of this statement was that it was not being made under duress. The second paper I signed was in Cuatro Alamos, where I signed a document saying that I had not been ill-treated physically, and this was true because in this period of detention I received no physical maltreatment. I signed a third paper to this effect on leaving Tres Alamos, and it was again true, but I was not asked to sign a paper saying that I had not been tortured or witnessed a torture after leaving the Casa Grimaldi. I did not make a public accusation of my torture in Chile because I was convinced that this would prejudice in a large way my release from prison and I believe that this decision was a right one. I informed the British Consul of my torture on the first possible occasion, which was when he and I met in the passage outside the office of the government lawyer. That was on 14 November, and he transmitted this in detail to the Foreign Office immediately.

Annex VI

LETTER DATED 11 NOVEMBER 1975 FROM GENERAL AUGUSTO PINOCHET UGARTE,  
PRESIDENT OF THE REPUBLIC OF CHILE, ADDRESSED TO  
CARDINAL SILVA HENRIQUEZ, ARCHBISHOP OF SANTIAGO

I wish to convey to Your Eminence the deep concern caused to me by a campaign, which has reached levels that cannot be ignored, the evident purpose of which is to produce the erroneous impression that there are disagreements between the Roman, Apostolic and Catholic Church and the Government of Chile.

This action, carried out by the most diverse means, has been inspired by third parties and it would be a grave error, which could jeopardize the harmony that should exist between the Catholic Church and the Government over which I preside, to allow these sectors to persist, along with declared enemies of the State, in their pernicious intent. If these deeds should come to fruition, many of them by artifice, the result would be a painful one and the sole loser would be Chile.

In view of these considerations, and after a sober analysis of the public occurrences and their repercussions both inside and outside the country, we took it upon ourselves to seek the roots of some of these occurrences and we found them in the Comité Pro-Paz.

As a result, we have come to the conclusion that the aforesaid body is a medium used by the Marxist-Leninists to create problems that jeopardize public order and the necessary tranquillity which it is my supreme duty as Head of State to maintain.

The dissolution of the aforesaid Committee would thus be a positive step towards the avoidance of greater ills.

In view of this situation, and feeling sure of your Eminence's ready comprehension, I believe it most advisable that the appropriate steps be taken to put an end to that body.

(Signed) GENERAL AUGUSTO PINOCHET UGARTE  
President of the Republic

Annex VII

LETTER DATED 14 NOVEMBER 1975 FROM CARDINAL SILVA HENRIQUEZ,  
ARCHBISHOP OF SANTIAGO, ADDRESSED TO GENERAL AUGUSTO PINOCHET  
UGARTE, PRESIDENT OF THE REPUBLIC OF CHILE

I have received and given careful consideration to your letter of 11 November relating to the activities of the Comité Pro-Paz and indicating that it would be advisable, in the interest of public order, to put an end to those activities.

In the first place, I must frankly declare my opinion that the Comité Pro-Paz has, in very difficult circumstances, been carrying out welfare work which is clearly in the evangelical tradition and within the framework of the existing laws. The fact that the purity of the service rendered may occasionally have been sullied by the intervention of elements alien to its original purpose is a risk inherent in every work of charity which no institution can unflinchingly guard against. The information at my disposal is such as to justify my taking an over-all view of the Committee's activities very different from the opinion, reflected in Your Excellency's words, that the aforesaid body is simply a medium used by the Marxist-Leninists to disturb the peace of our Society. There can be no doubt - as I stated publicly on the occasion of its second anniversary (30 October 1975) - that, like any other work of man, the Committee has its limitations and inadequacies, but within it, and to a predominant extent, noble and sincere endeavours are being made and these have brought forth fruits known only to God, though we have been able to catch some valuable glimpses of them. It follows that I cannot possibly share Your Excellency's opinion.

In the same spirit of frankness, I must now express my conviction that the measure Your Excellency advocates - that we should proceed to dissolve the Committee - will in all probability occasion, both inside and more particularly outside Chile, harm appreciably greater than that which it seeks to prevent. I honestly hope I am wrong in this; but trends and past experience point unequivocally in that direction. If this should be the result, the responsibility will not be ours.

Nevertheless, we, the Churches which came together to form the Committee, have analysed Your Excellency's proposal with all the respect and all the thoroughness which the high office of its author and the gravity of the matter require. Bearing in mind the fact that there are times when the best of intentions come into conflict with ineradicable impressions or prejudices and that the effectiveness of a work of charity is undermined when it arouses - although without seeking to do so - antagonisms disproportionate to the good it is achieving, we have agreed to accept this requirement of the Supreme Government - with the express reservation that the charitable and religious work hitherto performed by the Committee, on behalf of those suffering from various forms of poverty, will be continued within our own respective church organizations, and always within a framework of fraternal and ecumenical co-operation.

The Churches thus hope to contribute, at no small sacrifice, to the strengthening of a positive relationship and reciprocal understanding between the Government and the various religious denominations - a relationship which

they consider to be of the utmost importance for the tasks of development and peace that so urgently confront our nation.

The process of dissolving the Committee, and the fulfilment of the consequent obligations, will require a reasonable amount of time. Your Excellency will, in due course, be informed of the details. For our part, we trust that our society and the Government which represents it will know how to welcome in a composed and grateful spirit those who selflessly endeavoured, within the Committee, to serve the high interests of charity.

Lastly, I have to point out to Your Excellency that all the many Churches which established the Committee and organizations which helped to support it will have to be informed of the contents of the correspondence which led to the taking of the decision and that, in consequence, it cannot remain confidential.

The sacrifice that this decision means for us allows us to hope that, in the not too distant future, full competence in the matters hitherto the subject of the Committee's work will be restored to the civil jurisdiction with, as a result, the establishment of an atmosphere of social peace at home and an extremely favourable image abroad.

(Signed) † RAUL CARDINAL SILVA HENRIQUEZ

Archbishop of Santiago

Annex VIII

TESTIMONY OF MR. ENRIQUE KIRBERG B.,  
FORMER RECTOR OF THE STATE TECHNICAL UNIVERSITY, CHILE

Enrique Kirberg Baltiansky, Chilean, Civil Engineer, 60 years of age, married, resident in New York, Rector of the State Technical University, Chile, until 12 September 1973, freely submits the following testimony:

That while exercising his functions in the office of the University, which was attacked without notice or warning, he was taken prisoner, maltreated, threatened with execution, arbitrarily confined, held on Dawson Island without trial where he was subjected to maltreatment, transferred to the Ritoque concentration camp, where he was also subjected to maltreatment, after one year's arbitrary imprisonment, tried for "tax evasion", sent to the Santiago Penitentiary, also arbitrarily; his family was harrassed and his property, reputation and financial position attacked.

The facts are as follows:

"I assumed the office of Rector of the State Technical University having been elected by the University community, under the Presidency of Eduardo Frei, and re-elected in 1972, in accordance with the statutes of that institute of higher learning. At dusk on 11 September 1973, the day on which the constitutional President, Salvador Allende, was overthrown by a coup d'état, we were visited by a patrol under the command of a major of the Carabineros. We explained to him that we needed permission for a large group of professors, students and staff to spend the night at the University since in view of the curfew it was dangerous for them to leave. The patrol returned and gave us the necessary permission and the officer said that he would return at 8.30 on the following morning to facilitate our evacuation. At 7 o'clock in the morning of the following day, without having received any notice or warning to surrender, we were violently attacked by an army corps which had a cannon. Two grenades exploded in the glass-fronted building which houses the Rector's Office and the Council Chamber and there was heavy gun and machine-gun fire. Carrying a white flag and running an obvious risk I proceeded to abandon the building followed by the staff, 700 persons in all, who were there. The military forces have admitted that four people died and an unspecified number were wounded in this "combat". I must make it absolutely clear that there were no arms or resistance of any kind in the University precincts.

When I confronted the Commander of the forces, he struck me several times with the barrel of an automatic weapon he was carrying (the doctor and chaplain of the Military Academy in which I was later detained certified that I had been struck), made me lie face downwards on the ground, struck me, searched me, made me crawl up against a wall, cocked his weapon, pointed it at me and said that he was giving me 15 seconds in which to tell him where, in the University, the arms were hidden and that if I did not tell him he would shoot me. Fortunately, when the 15 seconds were up he did not carry out his threat, but continued to insult me.

I was taken as a prisoner to the Tacna Regiment headquarters where I heard various firings typical of executions. I was then taken to the Ministry of Defence and finally ended up at the Military Academy, where there were already some ministers, senators, deputies and other prominent supporters of the constitutional Government.

Three days later, without having been able to contact our families, the group was transferred to Dawson Island, the very rigorous and humiliating journey lasting 20 hours. During the journey, Daniel Vergara, who was Under-Secretary at the Ministry of the Interior and a member of the group, received a bullet wound.

Dawson Island lies to the south of the Magellan Straits and has a very inclement climate with very low temperatures and snow, wind and rain practically all the time. Our living, feeding and housing conditions were very bad. In that climate, we had to do forced labour such as digging holes, mending roads, cutting wood and clearing litter, and the treatment meted out to us was always degrading. We were subjected to mental torture; family letters were delayed and heavily censored, only a few of the parcels we were sent were handed over, for most of them did not reach us; there were constant military training and exercises, often in the rain. Under threat of punishment we were not allowed to speak in the dining-rooms and more than once an officer walked up and down the dining-room playing with a grenade in his hands. Twice a day, "in order to make patriots of us", as they said, we were forced to sing the National Anthem to which verses in praise of the military had been added. For trivial matters we were given corporal punishments such as the cells, pushups, having to run with sacks loaded with stones, having to remain motionless in the cold and rain, and so forth. Although some books were allowed, there came a time when all reading matter, including magazines and newspapers, was removed. We had to learn military songs by heart and sing them and if we did not sing them well, we had to remain in the inclement weather at night until the officer decided that our singing had improved. We were responsible for our own medical and dental care, since fortunately there were a doctor and a dentist among the prisoners. The military provided us with some medicaments and a rudimentary dental clinic. We were warned that if the Island was attacked the first thing they would do would be to shoot all the prisoners and then defend the place, which was heavily fortified with mounted cannons. They frequently carried out military exercises which consisted of violent cannon, machine-gun and rifle fire and as we were never warned, we never knew whether the Island was being attacked or what would shortly be in store for us.

We were on Dawson Island for eight months and were then transferred to the centre of the country after a degrading journey during most of which we were handcuffed and during the last stage of which we were blindfolded and tied hand and foot. We walked the 18 kilometres from the concentration camp to the Island's airport and at one stage we had to cross an icy river naked to the waist.

We were divided into four camps, some of us were held incommunicado and two months later we were again gathered together in the Ritoque concentration camp where measures were slightly less rigorous although the military exercises, the twice-daily singing and the censorship of correspondence continued. One weekly visit by members of our immediate families was authorized.

When I had been in detention for about a year, although no charge was levelled against me and no statement of defence was taken from me, I, together with 10 of the other detainees, was informed of a trial for "tax evasion". At that time I had an electrical engineering workshop which did contract work for private persons and semi-public organizations.

Because of this trial, a few months later our group was transferred to the Santiago prison, thus coming under the jurisdiction of the Court. Shortly afterwards, on the trumped-up charge of attempted escape by the group, I was arbitrarily transferred to the Santiago penitentiary, where common criminals serve their sentences, and where I remained in conditions which, with respect to hygiene, crowding, living and food, were very harsh. There were four or five persons in cells intended for one person. Physiological needs had to be performed and cold showers taken in the public view. There were bed-bugs and other insects. The food was absolutely inedible and I lived on what was brought to me by my family, who could only visit me once a week. We had to remain shut up in the narrow cells for 14 or 15 hours a day, and that was a real nightmare.

After four months we were again transferred to the prison. The outcome of the trial was a sentence of 300 days imprisonment, which had already been served, and a fine equivalent to \$400. This was completely arbitrary since at the time the verdict was pronounced, in both cases, the Tax Office had not defined the offence, that is to say at that time it had not determined the amount I was supposed to pay.

Once the fine had been paid, the Government ordered my release but I was nevertheless transferred to the "Tres Alamos" concentration camp where I spent the last night. On the following day, which was 11 September 1975, I was released after two years in prison. I should add that in Chile a person charged with tax evasion is not held in prison and his penalties are suspended, in other words, a person is never held in custody while the proceedings are under way but can be released on bail and if he is convicted "the penalty is referred to the Patronato de Reos 1/" so that the person remains at liberty, but must sign once a month. I did not request to be released on bail since I had been informed that I would be transferred to a concentration camp if my request was granted.

While I was in prison, my bank accounts were "frozen", some contracts I had with semi-public organizations were declared invalid, my strongbox in the bank was broken into, secret organizations sent confidential notes to private concerns ordering them not to settle my invoices. For example, Colonel Orlando Ibañez of the II Army Division sent a confidential letter to the Bata Shoe Factory ordering them not to settle my invoice for E2,900,000 (US\$2,000), the sum owed for work done by my office. My staff were harrassed in the performance of their duties and were refused all credit. My car was temporarily confiscated and my property seized. The library and personal effects that I kept at the Rector's office were "removed". The Government-controlled press published cruel attacks against my person, especially with respect to the "tax evasion".

My family was harrassed, my wife, Inés Erazo Corona, who was with me in the University was also taken prisoner. They made her lie on the street pavement, as they did all the prisoners, and took her, together with the female staff who were detained, to Chile Stadium, where they were kept for the day and then released. Later, my wife was subjected to house arrest for nearly one month. My son, who

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1/ Patronato de Reos is a parole institution under the Ministry of Justice.

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was a student at the Valparaiso Catholic University, was arrested, taken to the prison ship "Lebu" and subjected to severe torture (stretched out naked for hours, intense electric shocks, cigarette burnings, and so forth), for ten days. My sister, who teaches mathematics and physics at the Vifa del Mar secondary school for girls, where she occupied the post of General Inspector, was arrested and taken to the prison ship "Esmeralda" where she remained for ten days suffering abuse and maltreatment.

This is what I can state".

New York, 15 January 1975

(signed) Enrique KIRBERG B

Passport No. 26208 of  
2 October 1975.

[Signed: Julius R. GORDON  
Notary Public,  
State of New York  
15 January 1976]