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SUMMARY RECORD OF THE 46th MEETING

Chairman: Mr. von KYAW (Federal Republic of Germany)

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The meeting was called to order at 11 a.m.

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (A/31/3 /chaps. II, III (sects. F, G and L), IV (sect. A), V, VI (sects. B to D) and VII (sect. D)/, A/31/64, A/31/74, A/31/99, A/31/253; A/C.3/31/1, A/C.3/31/4, A/C.3/31/5, A/C.3/31/6 and Add.1; A/C.3/31/L.19) (continued)

1. Mr. DIEZ (Chile) said that his delegation wished first of all to make a statement in reply to the statement which the Chairman of the Ad Hoc Working Group on the Situation of Human Rights in Chile had made in introducing the Working Group's report (A/31/253). His delegation would make another statement at the end of the debate on the current item.

2. He observed that, although human beings had been created with individual differences, all were equal before the law. Similarly, while countries were very diverse, all were equal in the forum of the United Nations and before the law. In those circumstances, it was difficult to pass judgement on the actual situation in Chile. In order to understand that situation, there was need for an absolutely objective report. To that end, Chile had suggested to the Working Group a series of rules in an effort to achieve the highest degree of objectivity. Yet the Working Group seemed to believe that objectivity was to be found in constantly repeating that it was being objective: it believed in subjective objectivity. Clearly, however, objectivity was based primarily on the means and criteria used in preparing a report and in introducing it.

3. As an example - and in that connexion, he wished to register a formal protest - he recalled that the Chairman of the Working Group had skilfully linked the attempt on the life of Mr. Bernardo Leighton, a former Chilean deputy, and the assassination of Mr. Letelier, a former Chilean Minister for Foreign Affairs, with the action of Chilean foreign intelligence. He had refrained, however, from mentioning the attack upon the Chilean Deputy Permanent Representative to the United Nations, who was still confined to a wheelchair. The first two cases were currently before the courts of Italy and the United States, and his Government was co-operating fully in the investigations of them and had instructed the Chilean Ambassadors concerned to waive diplomatic immunity with respect to the provision of relevant information. From the press reports concerning the two cases, it would appear that neither the Chilean Government nor any of its agents was implicated. The Chairman of the Working Group could easily have obtained those press reports, including a recent report in The New York Times, and could thus have avoided prejudicing the cases, which were still under investigation.

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4. The Chairman of the Working Group had referred to a report drawn up by the Organization of American States (OAS) in 1974 which stated that the Inter-American Commission on Human Rights had reached the conclusion in its report to OAS that a state of war did not exist in Chile at that time. What the Inter-American Commission on Human Rights had actually stated in its report was that, during its stay in Chile, it had been unable to observe any evidence of a state of war, without prejudice to what might have occurred previously; it had hastened to emphasize, however, that, while it had not proved the existence of a state of war, the country was clearly not in a situation of normalcy. Yet the Chairman of the Working Group, with his usual lack of objectivity, had made no reference to that second part of the statement. The current situation in Chile did not constitute a state of war but neither was it one of normalcy.

5. In that connexion, he wished to lodge a formal protest with regard to the way in which the Chairman of the Working Group had quoted the words of the President of Chile. Whatever the Chairman's opinion of the President, respect was due him as the head of a State Member of the United Nations. His full statement should have been quoted, rather than short extracts taken out of context, especially when the text of that statement had also been transmitted by the Chilean Government to the Division of Human Rights so that it could be made known to the Working Group. Furthermore, that part of the President's statement had been quoted by the Chilean Minister for Foreign Affairs in the general debate in the plenary General Assembly during the current session.

6. The Working Group quoted the views of certain members of the United States Congress, yet it failed to quote statements received from many other parliamentarians, including a parliamentarian and a Deputy Minister for Foreign Affairs of the Federal Republic of Germany, a United States Senator for North Carolina, a Canadian Member of Parliament and a United Kingdom member of Parliament. None of their statements had been mentioned by the Working Group, which called itself "objective"; it merely produced information that helped to prove its thesis, and suppressed information that upset that thesis.

7. Consequently, the report of the Working Group, and the Chairman's introduction to that report, were not the fruit of sound investigation. The report was based on methods of investigation that sought to prove a predetermined thesis, namely, that the Working Group was useful and should continue its work, thereby wasting United Nations funds and seeking to demonstrate that the Chilean situation was constantly deteriorating.

8. The Working Group's lack of objectivity went even further: for instance, while it quoted resolutions of the Fifth Conference of Heads of State or Government of the Non-Aligned Countries, recently held at Colombo, it omitted reference to a resolution adopted by the General Assembly of OAS at its session held at Santiago earlier in 1976. While the Group had quoted from the OAS report of 1974, it had carefully omitted any reference to that resolution. The Santiago session at which OAS had discussed the delicate question of human rights in Chile

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had been fully reported by the Chilean mass media. The reason why the OAS resolution had not been quoted was that it had recognized the efforts of the Chilean Government and had requested it to continue to take initiatives to improve protection of human rights.

9. The Working Group's report contained some improbable quotations. Some of them were so lacking in seriousness that they bordered on the ridiculous. In paragraph 391, for example, the Working Group stated that it had received evidence from a person who claimed that he had been tried twice before military courts, kept in solitary confinement and repeatedly tortured, and had been sentenced to 48 years in prison. That evidence had been produced by a person who had appeared freely before the Working Group, perhaps in Geneva, Paris or Mexico, yet the Working Group took such statements seriously.

10. In paragraph 392 of the Working Group's report, it was stated that another person had told the Group that he had been tried three times before the councils of war and that he had been convicted and sentenced. That person, too, had been able freely to appear before the Working Group outside Chile, despite his "conviction" and "sentence". Such was the "objectivity" of the Working Group.

11. On the other hand, on 30 June 1976, the Chilean Government had transmitted to the Working Group 150 documents including statements by Ministers for Foreign Affairs of American States, made both on their arrival and on their departure from Santiago, the views of of staff members of OAS, signed statements by foreign correspondents, the proceedings of the General Assembly of OAS and reports and debates of the Inter-American Commission on Human Rights, a letter from five Chilean lawyers, the reply of the Chilean Government, the reply of the Chilean Supreme Court, a reply of the Chilean Colegio de Periodistas, statements by ecclesiastical authorities, and so on; yet not a single reference was made to those documents in the Working Group's report.

12. In a letter dated 30 September 1976 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General (A/C.3/31/5), the Permanent Representative had drawn attention to the Public Declaration made by the Supreme Court of Justice of Chile. In that Declaration, the Supreme Court had stated that it was absolutely false and obviously ill-intentioned to assert, as had been done by Judge John Carro, Acting Judge of the Supreme Court of the State of New York, that a judge who had conducted a trial of 20 persons and had acquitted four of them had been incarcerated the following day because of that action. The Supreme Court of Chile had affirmed most emphatically that no member of the judiciary in Chile had been incarcerated for the judgements that he had handed down and that, on the contrary, all decisions handed down by the Regular Tribunals of Justice, whether or not favourable to the Executive, had been complied with and carried out by the latter. In reply to that same Judge Carro's statement that the President of the Supreme Court had acknowledged that there was no independent judiciary in Chile, the Supreme Court had pointed out in the Declaration in question that that was a complete falsehood, the President of the Supreme Court never having made any such assertion. Yet that document (A/C.3/31/5), although circulated on 15 October 1976, had not been considered by the "objective" Chairman of the Working Group.

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13. The report of the Working Group was utterly biased and lacking in credibility. The Chairman had questioned the independence of the judiciary in Chile. Yet the Chilean judicial system had been repeatedly explained to him; it had been explained that the President of the Republic supervised the professional conduct of judges in accordance with a provision that was identical to the relevant article of the Constitution of 1925. A law enacted in 1833, concerning the removal of judges for bad conduct, had not been exercised at all by the present Government. Although 23 judges had been removed from their posts during the past three years, that action had been taken pursuant to the annual review carried out by the appeal courts, subject to referral to the Supreme Court, as had always been the case in the history of Chile.

14. The Chairman of the Working Group had stated that Chile applied the procedures applicable in a state of war. Yet Chile had declared many times that, since 11 September 1975, it had been applying peace-time military procedures, that the Supreme Court had the power to revise a finding of a military tribunal, and that since 11 September 1975 not a single case had been initiated under the war-time procedure. The Chilean Government had stated so both orally and in writing to the Chairman and the Working Group, but its explanations had been ignored.

15. The Working Group had included in its report various pieces of evidence the absurdity of which was clear only to those who knew Chile, such as the Chilean journalists listening to the current debate. For example, it was stated in paragraph 205 of the report that one of the places of detention was the Escuela de Caballeria de Quillotta, an island in northern Chile. What the witness who had furnished that information did not know was that Quillotta had never been an island, was not in northern Chile, and was in fact the seat of the former National Congress which now housed various legislative organs. It was a building where hundreds of persons came and went daily - hardly a place of detention. Another alleged place of detention was the vault of the State Bank - a place where valuables were kept, where many people worked, and a place frequented by persons maintaining safe deposit boxes.

16. Such was the Working Group's report, compiled without method, by a body which had not even put questions to the Chilean Government, had not subscribed to the Chilean daily press and had not read the numerous documents which the Chilean Government had transmitted to it. Yet Chile continued to respect the United Nations and the Working Group. That was why it was deigning to reply to the Working Group's accusations.

17. With specific reference to chapter I of the Working Group's report, he said that Chile had never sought refuge in the doctrine of non-interference in the internal affairs of sovereign States in order to forestall an inquiry into human rights, in spite of the politicization of that inquiry and the hypocritical double standard which had been invoked by countries that did not themselves observe the rights they claimed to defend.

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18. His delegation requested that the tape recordings of his Government's conversations with the Working Group should be produced in order to prove that it had co-operated and had tried to help. The Chairman of the Working Group had countered his Government's objections to certain procedures by claiming that the 148 States the Group represented were entitled to determine the rules over the objections of a single State. The truth, however, was absolute and could not be quantified. One State could be just as right as 148. Chile had no objections to allowing the investigators to do their work. On the contrary, it wanted a thorough and objective inquiry in which the investigators would confront the Chilean Government with specific information so that it could either vindicate itself or mete out punishment if punishment was warranted. Instead of doing that, however, the Working Group had refused to give specific information or name witnesses on the ground that it had to protect their relatives. It had then proceeded, however, to list the names of witnesses in its report. In other words, it had deliberately withheld the names of the witnesses for many months so as to leave the Chilean Government only some 10 days in which to answer the charges made in a report produced after thousands of hours of investigation. That was a deliberate attempt to prevent the Chilean Government from counteracting the impact of the report and his Government therefore insisted that the tapes should be produced in order to set the record straight. Specific questions should be addressed to it and minimal procedural guarantees should be established in order to ensure the validity of such inquiries.

19. The Working Group also presumed that it was entitled to judge whether or not a state of siege was warranted, and it cited the European Convention on Human Rights in that connexion. Chile, however, had been independent of Europe for a long time. It was not a colony and was not bound by a Convention to which it had never acceded. It was, however, bound by article 4 of the International Covenant on Civil and Political Rights. Yet the Working Group had found it convenient to ignore that Covenant because the Group was not a State, not a party to the Covenant and not a Committee on the Covenant, and therefore had no powers under the Covenant. Chile recognized and respected that Covenant but could not accept that bodies extraneous to it should claim to exercise powers which it did not vest in them. Each State party to the Covenant had the sovereign right to determine whether or not an emergency existed - a right not restricted by any international instrument. His Government would, however, provide information regarding human rights, in accordance with its obligations, to the proper and authorized bodies. The Working Group's insistence on invoking irrelevant international instruments to which his Government had not acceded and whose provisions did not bind it had made amicable relations with the Group impossible.

20. With respect to chapter II of the report, it was clear that a sovereign State had the right to declare a state of siege. His Government had made all the necessary documents available, but the Working Group chose to ignore them. Article 4 of the Covenant, which was applicable in Chile's case, referred to measures which States parties could take to protect their national security. A Government had not only the right but also the duty to take emergency measures to protect all members of the community to which it was responsible.

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21. In chapter III, which dealt with constitutional developments in Chile, the Working Group chose to focus on defects and consistently failed to note the progress which had been made. The Council of State, established as a consultative body to the President of the Republic, had been formed by the Government Junta in consultation with leading lawyers and political figures of all parties except those of non-democratic tendencies, in other words, those which rejected a pluralistic society and called for the dictatorship of one class. The Working Group noted that Mr. Frei, a former President of the Republic, had refused to become a member of the Council but omitted to say that two other former Presidents of the Republic, of utterly opposed democratic tendencies, Mr. Alessandri and Mr. González Videla, had agreed not only to join the Council but also to preside over its debates. In the annexes contained in document A/C.3/31/6/Add.1, his Government had submitted legal documents reflecting the constitutional evolution which it was trying to pursue - in accordance with Chile's own democratic Christian philosophy and in a manner which Chile itself would determine on the basis of 150 years of democratic experience.

22. With respect to the liberty and security of persons discussed in chapter IV, the Working Group produced vague generalities which were difficult to answer and played games with statistics by providing such useless information as the number of witnesses on whose testimony it based its findings without giving the names of persons detained so that the Government could reply. For example, in paragraph 141 it referred to some 25 persons who had been arrested and remained unlocated. Had the Working Group asked the Chilean Government where those persons were it would have learned that they had in fact all been released. There were numerous instances of such errors whenever the Working Group departed from the safety of generalities and turned to specifics.

23. The Chilean Government had informed the Working Group of the steps it had taken to punish those who abused their power and clearly indicated the legal instruments and methods which had been used. Yet the report denounced those instruments and methods without any grounds for doing so.

24. A Government could not always control its agents but it could punish them, and in the very few recorded cases of ill-treatment or torture, the guilty parties had in fact been punished. The report also made no mention of other reports, such as those of certain Ministers for Foreign Affairs and members of various organizations who had visited detention camps in Chile, which did not bear out its contentions.

25. The truth was that the situation in Chile was rapidly returning to normal. Fewer and fewer people were being detained under the state of siege. Their numbers included military personnel tried under military law, with due process, for violating a weapons-control law enacted by the Allende Government, and who were therefore civil rather than political offenders. Even in the face of widespread vilification, the Chilean Government continued to act in a positive manner. There had been a substantial reduction in the number of detainees because many had been released through the exercise of clemency and on the

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recommendations of a commission set up under Decree No. 504 to review the cases of persons who had been convicted. Failure to acknowledge such progress indicated that the problem in Chile was being treated as a political one rather than one relating to human rights. The Commission on Human Rights would certainly have had its hands full had it made similar investigations of other countries in the past year. Chile alone had been singled out as a scapegoat to divert attention from human rights violations elsewhere. In having the courage to be independent and to seek the protection of laws rather than of the great Powers, Chile was fulfilling a moral obligation and thereby rendering a service to all. It felt that its sacrifices were worth while, for it was maintaining its tradition of dedication to human rights and it was the master of its own destiny. It had the right to ask the United Nations to respect that fact.

26. Mr. de FARIA (Portugal) said that, at a time when the two International Covenants on Human Rights had come into force, the Ad Hoc Working Group on the Situation of Human Rights in Chile had the sad task of informing the General Assembly of a situation which appeared to be a step backwards in the field of human rights. He did not wish to go into the background of that situation, which could be gleaned from the documents on the subject submitted to the thirtieth and thirty-first sessions of the General Assembly and the relevant verbatim and summary records. The events which had led to the adoption of General Assembly resolutions 3219 (XXIX) and 3448 (XXX) on the protection of human rights in Chile were sufficiently well known and there was general agreement that, at the present time, certain human rights were suspended in Chile. In the view of most members of the international community, the suspension of those rights was illegal and was therefore in itself a violation of human rights; it was accompanied by unacceptable demands and it was only one aspect of a system based on violations of human rights.

27. It might be possible to consider that situation by comparing the cases brought forward by the Working Group with the refutations made by the Chilean Government, but that method had two disadvantages. First, it would be a natural reaction to concentrate on the worst cases, which might lead to subjective rather than objective judgements. Furthermore evidence was difficult to obtain since, in the twentieth century, people were not usually tortured in public, torturers did not wear any identification, and the police would not admit breaking the law if complaints could not be entertained owing to a state of emergency. Lastly, victims feared further torture and reprisals against their families. In addition, it was difficult to be sure that any case studied reflected the nature of the whole régime and was not an exception. The second disadvantage was that the adoption of such a method would mean disregarding many of the philosophical and political arguments presented by the Chilean Government in the documents before the Committee, since they consisted mainly of refutations of concrete cases by the Chilean authorities. The refutations were not very convincing, in any event, since they were put forward by those who were suspected of being guilty of the violations, and some of them were hard to believe. For instance, the statement that personnel of the National Intelligence Agency (DINA) did not have free access to confinement establishments for purposes other than penitentiary procedures (A/C.3/31/6/Add.1, annex 16) would not deceive a new-born babe.

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28. On the other hand, the theoretical arguments put forward by the Government of Chile were most interesting. First, the Chilean Government maintained that the United Nations was not competent to carry out an inquiry on the implementation of human rights in Chile, which was a matter for it to decide in exercise of its national sovereignty. That point had been made by the representative of Chile at the 2153rd meeting of the Third Committee, where he had stated, inter alia, that although it was within the competence of the United Nations to know the state of human rights in all countries, the implementation of those rights was a matter for each State to carry out in exercise of its sovereignty and self-determination and in accordance with its own system (A/C.3/SR.2153, p. 10). Secondly, since 1973 Chile had lived through several states of siege, all imposed in accordance with Chilean law, during which some human rights had been suspended. Those rights could be suspended in such circumstances without violating the Covenant on Civil and Political Rights, as the Government of Chile pointed out in document A/C.3/31/6, where it stated (chap. I, B, 3) that "Each State party has the sovereign right to determine whether or not an emergency threatening the life of the nation exists or does not exist. This sovereign right is not restricted by any international instrument other than the Covenant on Civil and Political Rights." Nevertheless, the Chilean Government had thought it necessary to give three other reasons for the state of siege. Thirdly, human rights were suspended but with less severity as the new constitutional provisions entered into force. The Chilean authorities denied any violations, particularly the most serious ones put forward by the Working Group.

29. Fourthly, according to the Chilean Government, it was obvious that violations of human rights were being used as a pretext to attack Chile for a number of reasons that had nothing to do with the protection of human rights, for they were purely political. At the previous session of the General Assembly, the Minister for Foreign Affairs of Chile had referred to the "repeated and slanderous accusation of violation of human rights hurled against Chile" in a number of international forums, including the United Nations (A/PV.2376, p. 111). According to him, a campaign had been organized to centre the world's attention on Chile because of the sole fact that that country had defeated an ideology that purported to be progressive and which had taken the country to the edge of an abyss (ibid.), and he had added, "Chile is still living under an emergency juridical régime that is not the result of our wishes or our philosophy but rather the sequel of the previous political régime whose purpose was to impose a totalitarian doctrine on the country" (ibid., p. 112). The Chilean representative had stated in the Third Committee a few weeks later that the "Chilean case" would remain in the annals of the United Nations as a shameful case in which a small country had been subjected to pressures of every kind for political reasons. The honour of a country had been trampled upon and persons had been named and accused of horrendous crimes, all in the name of human rights (A/C.3/SR.2153, p. 12).

30. The Chilean Government's arguments were worth considering. Was it really true that the United Nations could not investigate the implementation of human rights in a country without infringing its national sovereignty? That argument was not very convincing. Any action by the United Nations should strike a

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balance between respect for national sovereignty, non-interference and the protection of human rights. The Minister for Foreign Affairs of Portugal had made that point in the general debate in the General Assembly at the current session, when he had said that it was essential to take all necessary measures to ensure effective protection of human rights, for the application of the great moral principles recognized by the United Nations could not be prevented by barriers of national sovereignty (A/31/PV.22). Most Member States agreed with him, as evidenced by the fact that the General Assembly had taken up the question in 1974 and 1975.

31. It might be objected that that had been true up to 1976, but that now the International Covenant on Civil and Political Rights had entered into force and the Human Rights Committee set up under article 28 thereof would soon be in operation. Chile came near to advancing that argument when it maintained, in chapter III, B, 3 of document A/C.3/31/6, that the Working Group was not a State and had no powers under the Covenant, and that its competence derived from and was limited by its terms of reference and not even a unanimous decision by the Members of the United Nations could impose on a Member State any limitation to its sovereignty that had not been voluntarily accepted by that State. The document stated further that Chile recognized and respected the International Covenant on Civil and Political Rights and was naturally prepared to abide by its provisions, but could not accept that bodies extraneous to the Covenant should claim to exercise powers which the Covenant vested in the Committee established under article 28, in the circumstances described in article 41. However, that was a very restrictive interpretation. The States Parties to the Covenant assumed specific obligations not only to respect human rights but to do so by means that were clearly defined in the Covenant itself. It was obviously for the Human Rights Committee established under article 28 to decide whether or not a country had respected human rights in any particular case, but that did not mean that other international bodies had lost their competence. Article 44 of the Covenant stated that nothing in it should prevent States parties from having recourse to other procedures for settling a dispute, and article 46 provided that nothing in the Covenant should be interpreted as impairing the provisions of the Charter defining the respective responsibilities of the various organs of the United Nations in regard to the matters dealt with in the Covenant. If that were not so, the States Parties to the Covenant would have a much wider latitude than other States not to apply correctly all the provisions of international instruments relating to human rights, which would be the height of absurdity.

32. It was therefore clear that the United Nations was competent to analyse the situation in Chile, but the Third Committee was not a court of law. Everyone tended to forget that fact, including Chile itself, for in document A/C.3/31/6, it stated: "In requesting information to identify the individual cases, we are exercising a minimum right accorded in a court of law to any person charged with an offence or subject to an investigation, namely, that specific questions be addressed to him before the results of the trial or investigation are announced" (A/C.3/31/6, p. 18).

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33. If the Committee was not a court of law, what was its role? It was obviously not going to study specific cases of violations of human rights. The answer was to be found in the documents before the Committee, and the problem could be dealt with from the angle proposed by Chile. The representatives of Chile had repeatedly made three substantive points. First, they had maintained that the stage of siege had been applied immediately after the fall of the constitutional Government to correct the defects of that régime. That had been said by the Chilean representative in the Third Committee at the previous session, who had stated: "Chile had come close to civil war, and the Government was currently rebuilding the country in accordance with its traditions and working to correct the defects which had necessitated the state of siege" (A/C.3/SR.2154, p. 19). Secondly, the Chilean Government had said that in the 38 months which had elapsed since it had been imposed, the state of siege had gone through various stages, which had been described by the Chilean representative at the 2153rd meeting of the Third Committee, and legislation had been decreed to relax its severity. The Chilean Minister for Foreign Affairs had stated in the General Assembly that if he had referred to the emergency régime that his Government had been compelled to establish, that did not mean that that régime would be permanent - quite the contrary (A/PV.2376, p. 118) - and he had added that it was being progressively relaxed. Thirdly, according to the Government of Chile, the constitutional system selected for the future was not a structure resembling that of liberal democracies but a whole reflecting an active political philosophy identified with the State. That had been made clear in a statement by the President of the Republic of Chile reading: "The clear and coherent philosophy underlying these extremely meaningful legal documents is that Chile has ceased to be an ideological neutral State, as advocated by philosophical liberalism, and is adhering resolutely to a clear-cut, firm, vigorous body of doctrine in which the legal foundations of Chilean institutions have their origin and which are inseparable from the existence of the State itself" (A/C.3/31/6, p. 28). Elsewhere in the same document the following conclusion appeared: "The philosophical liberalism of the nineteenth century, which allowed communism, nazism and other totalitarian ideologies to develop within it, is today rejected by all free men" (ibid., p. 15).

34. One thing which emerged very clearly from the documents he had quoted was that the stage of siege and the new régime were inseparable from each other. The state of siege would be replaced by the new régime as soon as the constitutional measures taken during the stage of siege could be transformed into permanent legislation in the new juridical system. One point which had been discussed at length in the Third Committee was whether or not the proclamation or continuation of the stage of siege lay entirely within the domain of national sovereignty. What many countries, including Portugal, reproached Chile for was not that it had proclaimed the state of siege. That was allowable provided it had been intended that it was to be for a short period of time to enable the new authorities to establish their power; but that was not exactly what had happened. The state of siege had been declared and laws had been published transforming and relaxing it. While continuing the state of siege, the Government had started to establish not institutions or a framework, but a whole system, a new régime founded on an active policy based on philosophical and political concepts which were anything but passive. An active political philosophy could not be imposed without the

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limitation or even the suppression of the human rights of those who opposed it. That was what was happening in Chile. The raison d'être of the state of siege was not the somewhat puerile reasons given on page 20 of document A/C.3/31/6. The real reason was that the state of siege was taking the place of a constituent assembly. It was a mechanism for establishing a political system with institutions made to fit its purposes. It would disappear when a complete juridical system had been set up which would guarantee that those who did not agree with the authorities would be unable to express their views without at the same time committing an act which the laws would classify as an offence.

35. An idea of what that régime would be was given in the documents submitted by the Chilean Government and particularly by Constitutional Acts Nos. 3 and 4. According to paragraph 12 of the preamble to Constitutional Act No. 3, any act by individuals or groups aimed at disseminating doctrines with which the authorities did not agree was unlawful and contrary to the institutional order of the Republic (A/C.3/31/6/Add.1, p. 26). The consequences of such a provision might be very far-reaching. Further, anyone who disagreed with the régime might find himself deprived of some of his opportunities of employment, as was clear from paragraph 4 of article 1 of the same Act, which provided that every individual had access to all public employment and public office, without any requirements other than those imposed by the Constitutional Acts, the Constitution and the laws. If that paragraph was read in conjunction with paragraph 12 of the preamble, it could be seen that anyone expressing opinions unfavourable to the régime could be considered to have committed an act that was unlawful and contrary to the institutional order of the Republic.

36. Summing up, he said that the state of siege which had been in force in Chile for the last 38 months aimed at restricting the exercise of human rights, not to consolidate any institutions which might have been threatened but to impose a philosophy and a political régime which, once installed, would modify the institutions to suit its purposes. Such a system was a flagrant violation of human rights and fundamental freedoms. Obviously, every country could choose whatever régime it wished. The fact that Chile was establishing a political system which was full of threats to human rights was not, in itself, a violation of human rights, but the abuse of the power to proclaim a régime of exception for the purpose of imposing a political system and philosophy was indeed a violation of human rights.

37. He agreed with the representative of Chile that people were different in different parts of the world, but in Portugal the philosophy underlying the documents he had mentioned was well understood, first because the cultural background of the two countries was the same and secondly because Portugal had lived for many years under a system which had begun by using exactly the same methods as the present régime in Chile. The dictatorship which it had taken 40 years to overturn had been built up on a most extraordinary collection of legislative measures. Within that framework, the suspension of human rights had become a violation, and it had subsequently become difficult in practice to prevent such violations because there had been no control and no one had dared to denounce them.

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38. The Third Committee should recognize that although the Working Group had not been able to prove everything it said, it had carried out a worth-while and essential piece of work. It was to be congratulated for having shown that in Chile a system was being established which was based on violations of human rights that became institutionalized. He expressed regret that when a similar problem had arisen in Portugal some 50 years before, the international organizations of the time had not been able to intervene. The situation had changed, however, for the international organizations were now competent to act. He wished therefore to make two appeals. First, he appealed to Chile to put an end to the state of siege and hold elections, but without suppressing individual human rights beforehand. Secondly, he appealed to Member States to use whatever means they saw fit to induce the Chilean authorities to stop applying methods which were as illegal as they were odious and to give effect to the opening words of Constitutional Act No. 3, which proclaimed that human rights, antedating the State ... were the raison d'être of any legal order.

The meeting rose at 1.05 p.m.