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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Protection of human rights in Chile

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the preliminary report prepared by Professor Fernando Volio Jiménez of Costa Rica, Special Rapporteur on the situation of human rights in Chile, in accordance with paragraph 9 of Commission on Human Rights resolution 1986/63 of 14 March 1986.

* Reissued for technical reasons.

ANNEX

Preliminary report on the situation of human rights in Chile, prepared
by the Special Rapporteur of the Commission on Human Rights

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I. INTRODUCTION

1. The United Nations has been examining the situation of human rights in Chile since 1974 in the Commission on Human Rights and the General Assembly. This item has been taken up also by the Economic and Social Council and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.
2. In accordance with its resolution 11 (XXXV) of 6 March 1979, the Commission on Human Rights appointed a Special Rapporteur to inquire into the situation of human rights in Chile. Subsequently, in its resolution 21 (XXXVI) of 29 February 1980, the Commission requested the Special Rapporteur to include in his reports the problem of disappeared persons in Chile.
3. The Special Rapporteurs on this question have been, successively, Judge Abdoulaye Diéye (Senegal), Judge Rajsoomer Lallah (Mauritius) and, currently, Professor Fernando Volio Jiménez (Costa Rica), who assumed his mandate on 1 February 1985.
4. At its fortieth session, after considering the first preliminary report of the Special Rapporteur, the General Assembly adopted resolution 40/145 of 13 December 1985, entitled "Situation of human rights and fundamental freedoms in Chile". In paragraph 10, the General Assembly invited the Commission on Human Rights, at its forty-second session, to proceed to an in-depth consideration of the report of the Special Rapporteur and, taking account of all the relevant information at its disposal, "to adopt the most appropriate measures for the effective restoration of human rights and fundamental freedoms in Chile, including the extension of the mandate of the Special Rapporteur, and requests the Commission to report to the General Assembly at its forty-first session, through the Economic and Social Council".
5. On completing the first year of his mandate, the Special Rapporteur submitted, on 7 March 1986, his final report on the situation of human rights in Chile at the forty-second session of the Commission on Human Rights (E/CN.4/1986/2). After discussing the item, the Commission, on 14 March 1986, adopted resolution 1986/63.* In paragraph 9 of this resolution, the Commission decided "to extend the mandate of the Special Rapporteur for one year and to request him to report on the situation of human rights in Chile to the General Assembly at its forty-first session and the Commission on Human Rights at its forty-third session".
6. By its decision 1986/143 of 23 May 1986, the Economic and Social Council endorsed resolution 1986/63 of the Commission.
7. Pursuant to the above-mentioned resolutions, the Special Rapporteur has the honour to submit herewith, for consideration by the General Assembly, his first

* The full text of Commission on Human Rights resolution 1986/63 appears in the appendix to this report.

report on the situation of human rights in Chile in 1986, which is at the same time the third report by Professor Volio Jiménez. This first report is, of necessity, provisional, as it refers mainly to the first half of 1986 (January to June). Nevertheless, for the sake of updating it so far as possible, the Special Rapporteur has included later information of particular value concerning incidents that occurred in the period covered by this report, up to 31 August 1986. The Special Rapporteur also feels obliged to refer to some very important events occurring in Chile at the time of writing (September 1986), for instance, those which culminated in the establishment of the state of siege as from 7 September 1986. These events are, of course, too recent for their full implications to be known at this stage, and the Special Rapporteur will make a more precise evaluation when he prepares his final report on the year 1986, which he will submit to the Commission on Human Rights for consideration at its forty-third session, thereby complying with the Commission's request in paragraph 9 of resolution 1986/63.

8. As regards the method of work followed in preparing this preliminary report, the first stage consisted in gathering the relevant information and background data. In this connection, the Special Rapporteur received full, frank and open co-operation from the Government which increased steadily from 1 February 1985 when he first assumed his mandate. At the same time, the Special Rapporteur had access to valuable data on the human rights situation in Chile supplied by national and international governmental and non-governmental organizations. The Special Rapporteur also received many written petitions and held interviews with representatives of the Government and individuals, especially Chileans living inside or outside the country.

9. In 1986, at the second stage, the Special Rapporteur made a preliminary evaluation of the situation of human rights in Chile in terms of the norms set forth in international instruments ratified by Chile and other norms of international human rights law recognized as universally applicable, and on the basis of his knowledge of the Chilean situation.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

10. The final report submitted by the Special Rapporteur on 7 March 1986 to the Commission on Human Rights at its forty-second session (E/CN.4/1986/2), and resolution 1986/63 of the Commission, as also the attitude of the Government, were widely disseminated in Chile via the mass media, especially the press. This information was commented on at length in the Chilean newspapers and reviews.

11. The Chilean Government's official reaction was critical: it was stated that the report was not objective and that it contained serious errors. This reaction was summed up in the communiqué of the Ministry of Foreign Affairs, issued on 18 March 1986, which reiterated that the Government had extended to the Special Rapporteur "the fullest and most loyal collaboration during his visit to the country, in December 1985, thus enabling him to carry out his work in full freedom ...". It goes on to say that, although "the Government's reply is still pending ... the United Nations Commission on Human Rights has proceeded to adopt

it" (the Rapporteur's report), which allegedly meant that "the country was unfairly left without a chance to defend itself". The Government also considered it "inadmissible that, while invoking the cause of human rights, the report enters into political aspects which are the exclusive preserve of national sovereignty ...", and regretted that, in the Commission's resolution, "no condemnation of the terrorism now afflicting Chile is included". Nevertheless, the official communiqué reaffirmed the Government's intention "to continue collaborating with the international body (the Commission on Human Rights), provided that the situation depriving it of self-defence and the discrimination to which it has been subjected are duly rectified", and announced that the Government "will submit its comments and relevant background information as a reply to the report by the Special Rapporteur".

12. The Special Rapporteur received assurances from senior officials of the Government of Chile that the Government would continue to provide the co-operation necessary for carrying out his mandate which was recently renewed by the Commission on Human Rights. In this connection, the Government welcomed the Special Rapporteur's recommendation that "a system should be set up to monitor the day-to-day conduct of the security bodies ..." (E/CN.4/1986/2, para. 171). Accordingly, Ministry of the Interior Decree No. 757 of 25 June 1986 1/ established an "Advisory Commission to the Ministry of the Interior" to deal with "terrorist acts of violence resulting in injury or death, unlawful coercion having the same results or arbitrary detention" (art. 1). This Commission - composed of six eminent persons appointed by the Minister of the Interior - may, with regard to these matters, "propose measures and recommendations", "formulate proposals" for giving the victim guidance, such as granting him "legal aid free of charge", or "in specific cases, propose economic or social assistance for the victims" (art. 1, subparas. (a), (b) and (c)). The reaction of the non-governmental human rights organizations to the establishment of this Commission was one of scepticism, while at the same time it was emphasized that this was an "advisory commission" of a governmental body and that the time-frame of its mandate would not permit incidents that had occurred prior to its establishment to be reviewed, as stipulated in article 1 of the Decree.

13. The co-operation promised by the Government was provided in the form of a visit to San José by the Ambassador for Special Affairs, Mr. Calderón Vargas, from 6 to 8 July 1986. On that occasion the Ambassador, in an atmosphere of frank and open collaboration, analysed, together with the Special Rapporteur, numerous details in the report submitted to the Commission on Human Rights (E/CN.4/1986/2). At the same time, Ambassador Calderón transmitted to the Special Rapporteur a extensive, voluminous and detailed "reply of the Government of Chile" to the aforesaid report of the Special Rapporteur. This reply, consisting of a main document followed by eight volumes of annexes and an addendum of four pages, was likewise analysed in detail, on the basis of the main document, during the interviews held at San José on the above-mentioned days. Later in this report, the Special Rapporteur offers some comments that were prompted by a careful perusal of the said reply (see sect. III).

14. Subsequently, on 25 July 1986, the Permanent Representative of Chile to the United Nations in New York addressed a letter to the Secretary-General transmitting

his Government's reply to the Special Rapporteur's report and requesting circulation of the reply as an official document of the forty-first session of the General Assembly. The Secretary-General complied with the request and the Government's document was made available to the representatives in an abbreviated form (A/41/523, annex).

15. At San José, the Special Rapporteur regularly received, through the secretariat of the Centre for Human Rights (Geneva), numerous petitions asking him to intercede with the Chilean authorities in order to remedy alleged human rights violations. These petitions were very varied, ranging from those referring to family members in exile whose return was requested to others appealing for the Special Rapporteur's intervention on behalf of persons allegedly arrested, ill-treated, abducted, threatened or simply held in one of the country's prisons. In all these cases, the Special Rapporteur requested more detailed information from the Government and, when the situation so warranted, he requested and obtained from the Government the action necessary for putting an end to the situations reported.

16. By way of example, the Special Rapporteur received comprehensive information from the Government on the incidents of 2 July 1986 which culminated in the arrest of Rodrigo Andrés Rojas de Negri and Carmen Gloria Quintana Arancibia by a military patrol (see sect. IV, case A.9). According to the complaints submitted, these two young people were sprayed with an inflammable liquid, burnt and then abandoned. Rodrigo Rojas died from the burns on 6 July 1986, while Carmen Quintana slowly recovered in a hospital. Given the seriousness of the matter, the Minister of the Interior requested the appointment of an investigating judge; Judge Alberto Echavarría Lorca was accordingly appointed and was given the Government's promise of full co-operation "in his efforts to elucidate these despicable incidents and punish the culprits". Days later, on 18 July, the Special Rapporteur received a communiqué from the Command of the Santiago Garrison stating that "certain army personnel had intervened" in the reported incidents. The communiqué adds that a military patrol surprised a group of people who were trying to create a disturbance and were carrying inflammable material, among whom were the two young people named. It also explains that, "when one of the containers of inflammable material was knocked over by one of those arrested, the clothes of the persons named caught fire and were extinguished with blankets carried by the military personnel". As a result the military authority ordered "the arrest of the three officers, five non-commissioned officers and 17 conscripts who had allegedly participated in the incidents" and placed them at the disposal of the Investigating Judge. These incidents had wide national and international repercussions, and the Special Rapporteur therefore closely followed the course of the judicial investigation now being carried out by the military judicial authorities (see sect. IV, case A.9).

17. Many times in the course of 1986 the Special Rapporteur, or the secretariat of the Centre for Human Rights acting on his behalf, met with senior officials of the Chilean Government accredited to the Chilean Embassy at San José or to the Permanent Mission of Chile to the United Nations Office at Geneva. These frequent and frank contacts bear witness to the spirit of full co-operation which the Government of Chile continues to extend to the Special Rapporteur either directly or through the Centre for Human Rights at Geneva.

18. Similarly, the Special Rapporteur, or the secretariat of the Centre for Human Rights acting on his behalf, met with representatives of the various Chilean non-governmental organizations concerned with defending and promoting human rights in Chile, and also with representatives of other Chilean organizations in exile. These organizations have also kept in touch with the Special Rapporteur, and he with them, by mail, telephone and telegraph.

19. For instance, the Special Rapporteur met at San José from 19 to 22 July 1986 with the head of the Legal Department of the Vicaría de la Solidaridad, with whom he spent several days working intensively and receiving valuable testimony and documentary material regarding the complex human rights situation in Chile and its evolution in the course of 1986.

20. From 25 to 29 August 1986, the Special Rapporteur travelled to Geneva in order to make headway in drafting this report at the Centre for Human Rights, and also to meet various people who had expressed an interest in speaking with him. Particularly important were two working meetings on 26 and 28 August with Mr. Juan Ignacio García Rodríguez, Ambassador on Special Mission, sent by the Chilean authorities to Geneva for that purpose. The Ambassador, in a spirit of frank and open co-operation, informed the Special Rapporteur of his Government's concern about the recent discovery of a large clandestine weapons arsenal in northern Chile. Some 20 persons had apparently been arrested in connection with that discovery and were being tried by an ad hoc Military Prosecutor and held in the Santiago Penitentiary. He also spoke of the advisory commission to the Ministry of the Interior which had recently been established to deal with specific human rights issues and whose rules of procedure were apparently under study. As for the case of the two young people who had been burnt, the Ambassador confirmed that the military patrol had not given them the first-aid assistance normally rendered to the injured, but added that, in the light of what was now known, there was a possibility that the burns might have happened accidentally. The Government had authorized the temporary admission to the country of Verónica Quintana, the mother of Rodrigo Rojas. Regarding Edgardo José Condeza Vaccaro's wish to live in Chile (see sect. IV, case E.5), the Ambassador assured the Special Rapporteur that he would not be subject to an administrative order of expulsion from the country and that the courts would adjudicate his case, thus confirming earlier official information sent to the Special Rapporteur at the latter's request.

21. Lastly, the Special Rapporteur told Ambassador García, as he had told Ambassador Calderón at San José, of his wish to visit Chile again as part of his mandate and to receive permission to that effect from the Government. In a formal letter of 28 August addressed to Ambassador García, the Special Rapporteur again reiterated his request for permission to visit Chile, as follows:

"... Ambassador Calderón told me that I could make such a visit but we did not manage to set the most suitable date for the visit. Ambassador Calderón suggested that it would be best if the Special Rapporteur were to visit Chile when the constitutional acts relating to the political order had already been adopted and put into effect, which he thought would be during the first three months of 1987. I replied that, in view of the report I must submit to the Commission on Human Rights at its February-March session, that date would not

by expressing the hope that the co-operation the Special Rapporteur was receiving from the Government would lead to real improvement in the human rights situation in their country.

24. In a letter of 26 August 1986, the Permanent Representative of Chile to the United Nations in New York brought to the attention of the President of the Security Council the facts concerning the discovery of various caches of clandestine weapons in Chilean territory (see S/18300 of 27 August 1986). According to that letter, "On 6, 13 and 14 August 1986, Chilean national defence and security forces discovered at Carrizal Bajo, Huasco Bajo, Palo Negro and Carro Blanco, situated in the northern coastal area of Chile, a massive quantity of weapons and war matériel which had been smuggled into the country". Among the weapons were 1,695 automatic rifles, 850 magazines, 971,042 cartridges, 99 rocket-launchers with 816 projectiles, 1,979 hand grenades, 315 launching charges, 78 cases of TNT, 47 cases of detonators, etc. The letter goes on to say that the weapons "were brought to Chile in merchant or fishing boats flying a foreign flag and were trans-shipped on the open sea to Chilean fishing boats which then unloaded them in small inlets and bays in the rubber dinghies seized". The letter also adds that on 20 and 21 August further weapons were discovered in the metropolitan region, specifically "on Lot No. 4 'La Trilla', sector H, Paine, and on the lot at La Pintana, Calle Granados No. 0576". On that occasion the following items were found, inter alia: 74 rifles, 4 machine guns, 9 mortar shells, 3 rocket launchers, 32 launching charges, 327 magazines, 48 bayonets, 19 cases of machine guns, 37,570 calibre rounds, 136 rifle bags, 320 launching charges and 117 rockets. According to the Government, the weapons "could be used not only for terrorist actions but also for larger-scale operations such as urban guerrilla warfare ...".

25. Upon his return to San José, the Special Rapporteur learned of various demonstrations that had taken place in Chile on 4 and 5 September 1986 in connection with a "Democracy Day" being held by the leaders of the so-called Citizens' Assembly. On this occasion several incidents had occurred, including confrontations and various attacks with explosives, according to press reports. In Santiago, 307 persons had apparently been arrested on those days; furthermore, the Chilean Commission on Human Rights informed the Special Rapporteur of 30 persons wounded more or less seriously, among them four Carabineros. From the same source he learned of the violent death of four people in circumstances that were not entirely clear. 2/

26. Later, the Special Rapporteur gathered information about the bloody and deplorable terrorist attack in which, on 7 September 1986, an attempt was made to assassinate the President of the Republic. Despite the deployment of weapons, the terrorists failed in their major objective, but as a result of their action unfortunately 5 lives were lost, 3/ and 12 people were wounded, 4/ all of them belonging to the official escort of the President of the Republic. In addition, the President himself was slightly wounded.

27. On the same day (7 September), a state of siege was decreed. According to a statement by the Ministry of Foreign Affairs, released on 8 September, the Government proclaimed a state of siege "in view of the seriousness of the situation, the civil commotion created by the attempted assassination and mindful

of its duty to maintain law and order". Furthermore, the Government reiterated in its proclamation that "this extraordinary measure ... shall remain in force for such time as the investigation and elucidation of the facts may require". Moreover, it gave assurances that "its implementation will not affect the commitment of the nation's authorities to furthering the political and institutional process embodied in the Political Constitution of the State".

28. Proclaiming a state of siege empowers the President of the Republic, in conformity with article 41, paragraph 2, of the 1980 Constitution, to order the transfer of persons from one place to another within the national territory, arrest them in their own homes or in places that are not jails or detention centres or prisons for common criminals, and expel them from the national territory. He may also "suspend or restrict exercise of the right to assemble, freedom of information and opinion, the rights of association and unionization, and may impose censorship on correspondence and communications. Moreover, article 41, paragraph 3, of the Constitution stipulates that the remedy of amparo "shall not apply in states of assembly and of siege with regard to measures adopted by the competent authority pursuant to declaration of such states, and subject to the norms established by the "Constitution and the law". In addition, the remedy of amparo is not applicable "... with respect to actions adopted by the authorities in accordance with the Constitution and the law affecting the constitutional rights and guarantees which ... may have been suspended or restricted". In accordance with these provisions, the last subparagraph of article 41, paragraph 3, emphasizes that "... the courts of justice may not, under any circumstances, intervene to qualify the factual grounds for the measures adopted by the authorities in exercise of their powers".

29. The administrative measures thus adopted will take the form of a supreme decree signed by the President of the Republic, or upon his instructions, by the Minister of the Interior. Supreme decrees are exempt from the procedure of constitutional review by the Office of the Controller-General of the Republic. Likewise, the Constitutional Fundamental Act governing states of emergency 5/ stipulates that the President of the Republic shall delegate the powers assumed by virtue of the state of siege to the Intendants, Governors or Heads of National Defence, whom he may designate. Only the powers to prohibit certain persons from entering the territory or to expel them from the territory may not be so delegated. Where powers are delegated to subordinate authorities, they shall be exercised by means of orders, resolutions or instructions, which shall likewise be exempt from the above-mentioned constitutional review.

30. Despite the proclamation of a state of siege, the Special Rapporteur has been informed by various sources of the abduction of four individuals on 8 and 9 September, at dawn when the curfew is in force, by unidentified armed civilians, who reportedly entered the houses of the victims and removed them by force. Subsequently, the riddled bodies of the four abducted individuals were found. 6/ A certain "11th of September Commando" reportedly claimed responsibility for murdering those individuals, known to be political dissidents. Moreover, on 11 September 1986, the violent death of Cecilia Peña Pailaqueo reportedly occurred in La Victoria settlement in circumstances yet to be determined.

31. The following serious facts may be added to others of which the Special

Rapporteur is aware at this time in September when he is completing this report: the suspension of several opposition publications; the detention of prominent opposition leaders; various forms of intimidation directed against other notable democratic political leaders and against individuals working in organizations concerned with the defence and promotion of human rights; the administrative expulsion of three well-known foreign priests, etc. Moreover, the arsenals of weapons discovered were extremely large, which is also an ominous portent for the cause of human rights.

32. Obviously, it is still too early to form a complete picture of the human rights situation in Chile since the establishment of the state of siege on 7 September. However, the Special Rapporteur is particularly concerned because the reports reaching him, if they were to be corroborated, would indicate an alarming increase in political violence in Chile, accompanied by a worsening of the already dangerous polarization of Chilean society in which the militant extremist groups, with their reprehensible acts, predominate. Unfortunately, this situation greatly diminishes the possibility of negotiating political differences peacefully in a genuinely democratic environment and could even make that possibility dangerously more remote, to the detriment of respect for human rights.

III. COMMENTS ON THE GOVERNMENT'S REPLY TO THE REPORT OF THE SPECIAL RAPPORTEUR

33. The Special Rapporteur considers that in replying to the report the Government has helped to further the aims of the United Nations Commission on Human Rights, especially those concerning the Special Rapporteur, since in doing so it has complied with the Commission's request that the Government should broaden its co-operation with the Special Rapporteur.

34. Both the document constituting the reply to the final report E/CN.4/1986/2 and its annexes are detailed and comprehensive.

35. At the request of the Chilean authorities in a letter addressed to the Secretary-General of the United Nations on 25 July 1986, the Government's reply has been issued, but without its voluminous annexes, as an official United Nations document under the symbol A/41/523. This will give readers an opportunity to form their opinions in connection with the final report of the Special Rapporteur and the preliminary report to which the Chilean Government also refers.

36. The Special Rapporteur does not feel that it is his role to enter into polemics with the Government on the subject of the aforesaid reply, because his mandate required him to report on the human rights situation in Chile, and that is precisely what he did in his two documents, particularly in the second, as a result of his visit to Chile in December 1985. In his report the Special Rapporteur related what he regarded as reliable accounts based on written and oral information; in particular, the impressions gained, the direct contacts made and the documents and abundant testimony collected during his visit to Chile helped him considerably to form a picture of what was happening in the country in terms of human rights. It should be borne in mind in that connection that the Special

Rapporteur had contacts not only with persons and groups belonging to the opposition and generally speaking with prominent, influential figures outside the Government, but also with senior government representatives and officials, including three Ministers, as well as with members of the Judiciary, including the Supreme Court.

37. As stated in his final report, the Special Rapporteur also had the opportunity, on several occasions during his visit to Chile, to impart to those senior government officials his views on what he had perceived, together with important recommendations concerning the improvement of government action in respect of human rights. The Special Rapporteur has a vivid recollection of his final talks with the Minister of the Interior, Mr. Ricardo García, to whom he conveyed his impressions, considering it necessary to emphasize certain major problems such as unlawful coercion and the method of carrying out raids on communities in search of evidence or possible involvement in acts contrary to public order.

38. It is clear from the foregoing that the Special Rapporteur did his utmost in the circumstances to report objectively both on the disturbing human rights situation as related to him by the various parties, and on what, in his judgement, was going wrong in the field covered by his mandate - a judgement which he intended to form, independently of private or governmental interests, for the sole purpose of helping to improve the lot of the ordinary citizen of Chile.

39. The Special Rapporteur is of course aware that he may have committed errors of judgement, but considers that by and large any such errors neither add to nor detract from his conclusions and recommendations because he believes that he has carried out his assignment with the requisite sense of responsibility and objectivity. That had not affected his critical judgement which he had felt in duty bound to exercise for the sole purpose of achieving results that would further the cause of human rights.

40. In support of his objectivity, the Special Rapporteur wishes, furthermore, to make the following additional comments on the Chilean Government's reply, while reiterating his wish to avoid any argument not consistent with his mandate. Despite the moderate tone of the reply and the courteous allusions to the Special Rapporteur and his work, the Chilean Government makes several cutting and unfair references to the Special Rapporteur which he cannot and does not accept. In order to avoid misunderstandings as regards the Special Rapporteur's objective and constructive approach, then and now, to his difficult mandate, he wishes to make the following clarifications by way of example, bearing in mind that, in compliance with United Nations administrative regulations, this preliminary report must be brief:

(1) The Government complains of a procedural bias detrimental to it, because the accusations of human rights violations in chapter III of the final report were transmitted to it for comment only shortly before the date on which the report was submitted to the Commission on Human Rights, in February-March 1986, which prevented the Commission from being informed of its reply. The truth is that the Commission's method of work required the Special Rapporteur to submit his report

just in time for the Commission to take it up following what was his very busy and instructive visit to Chile. In any case, in paragraph 89 of the final report (E/CN.4/1986/2), it is stated that "... reference is made to these allegations without prejudice to relevant verifications that Your Excellency's Government may transmit to me". Furthermore, in paragraph 101 of the final report, it is stated that the memorandum of complaints is "especially revealing" to the Special Rapporteur "and is based on the direct observations of the Special Rapporteur himself". In other words, some of the Special Rapporteur's conclusions and recommendations were based not only on the complaints in chapter III which were drawn from reliable sources, but also on his own views on the human rights situation, as confirmed in the following paragraph 102.

(2) When drafting his final report, the Special Rapporteur was not faced "with a scenario that had been carefully planned and orchestrated by sectors opposed to the Government of Chile", as stated in the reply. The Special Rapporteur prepared his programme of work on his own, using his own discretion, and always kept the necessary distance between his interlocutors and himself so as to draw whatever conclusions he considered valid.

(3) The Special Rapporteur was not acting as a public prosecutor, as the reply seems to suggest, because he did not and does not interpret his assignment as a way of, so to speak, putting Chile in the dock, but as a duty to report on what is happening and is relevant to his mandate, so as to assist in finding solutions to the conflicts observed by him.

(4) The Special Rapporteur is not acting as a judge, and his assessment of the testimony, documents and experiences which came to his attention was therefore based on general standards of healthy criticism and his own wide experience in this field; he does not, for instance, regard testimony as "incontrovertible evidence", as the reply asserts.

(5) In the Special Rapporteur's view, the nature of a political régime determines the human rights situation, which is why it was - and is - essential for him to analyse the political and legal structure of the Chilean régime in order to describe the status of fundamental freedoms in Chile. That is why it is unreasonable for the reply to state that the final report addresses issues which are "only very indirectly related" to the Special Rapporteur's mandate, and that "it enters into political aspects which are the exclusive preserve of national sovereignty".

(6) The Special Rapporteur did not endorse the term "political prisoners", nor does the recommendation in paragraph 172 of his report cover, even involuntarily, "persons under investigation for offences against the State security, arms control and anti-terrorist laws", as the reply asserts. However, neither does this mean that the Special Rapporteur accepts as valid all the terminology (such as "subversive criminal population") used by the Government in its reply and/or in other official documents received by the Special Rapporteur.

41. Furthermore, the Government's reply refers to "... 19 of the cases mentioned in the report of the Special Rapporteur, dealing with the alleged situation of

approximately 40 persons". In those cases, the Ministry of the Interior "states - and where appropriate, encloses attestations - that such complaints or applications do not appear to have been registered with any court". There is therefore "ground for presuming that no proceedings have been entered in respect of the complaints in question and that the Special Rapporteur's good faith has perhaps been abused" (A/41/523, annex, p. 82). More specifically, having made the appropriate inquiries, the Special Rapporteur has received the following information on each of the cases quoted in the Government's document:

(1) Iván Andrés Herer Bahamondes (E/CN.4/1986/2, case A.6, p. 33). Proceedings on a complaint of homicide were instituted in the Fourth Criminal Court of Concepción (case 23072). The proceedings were stayed. The case was opened on a complaint filed on 24 June 1985 against Corporal Fernando Bustamente Díaz.

(2) Julio Carlos Santibañez Romero (E/CN.4/1986/2, case A.22, p. 40). Homicide. Case 10036-4, Twelfth Criminal Court of Santiago. Complaint of aggravated homicide filed on 11 October 1985. Case dismissed. On 25 September 1985, the Minister of the Interior submitted a request to the Supreme Court for an Investigating Judge to be appointed. Judge Analdo Dreyse was appointed on 11 November 1985; he closed the pre-trial proceedings and dismissed the case on the ground that there was no evidence that a crime had been committed.

(3) Marta Elera Sarabia López (E/CN.4/1986/2, case B.1, p. 47). Serious injuries. Proceedings (against Carabineros) on a complaint of unnecessary violence were instituted in the Concepción First Military Prosecutor's Office (case 782-84). An order has been issued for dismissal of the case, against which an appeal is pending with the Military Appeal Court.

(4) Pedro Luis Urtubia Rendic (E/CN.4/1986/2, case B.4, p. 48). Wounded by a bullet. Proceedings were instituted in the Eleventh Criminal Court of Presidente Aguirre Cerda Department (case 4374-6). The case is at the administrative inquiry stage, and no one has been committed. The investigation order issued to the Investigation Service was sent back to the Court for the sole purpose of questioning the complainant and not the accused - even though the latter were identified - on the ground that they were not found at home. Two of the accused - the person who fired the shots, Carabinero Arancibia, and his companion, Eduardo Zúñiga, also a Carabinero - have denied any involvement before the Court. A petition by the complainant for the accused to be committed for trial was denied by the examining magistrate. An appeal has consequently been filed with Presidente Aguirre Cerda Appeal Court, where it has been pending since 12 February 1986, with no decision to date.

(5) José Francisco Castro Rebolledo (E/CN.4/1986/2, case B.7, p. 50). Wounded in the back by bullets; paraplegic. Proceedings were instituted in respect of attempted homicide against Detective Roberto Ponce Soto in the Santiago Nineteenth Criminal Court (case 12.410-6). On 21 July 1986, the judge declined jurisdiction and forwarded the file to the Second Military Court, which has not yet settled the matter of jurisdiction. The complainant appealed against the judge's decision on 26 July 1986, but no further decision has been taken.

(6) Alvaro Ricardo Loyola Ríos, Manuel Ibarra Huerta, Soledad Ibarra Huerta, Carlos Ibarra Huerta, Mirza Veas Gómez and Gilberto Olguín Muñoz Sequerella (E/CN.4/1986/2, case B.13, p. 52). Wounded by bullets. Cases related to the death of Aida Rosa Vilches Urrea (case A.11, p. 35). Proceedings in respect of the homicide of Aida Vilches Urrea and in respect of attempted homicide and injuries to the above-mentioned persons have been instituted in the Santiago First Military Prosecutor's Office (case 1060-85). The case is at the secret pre-trial stage, although four applications for a hearing have been made. According to the lawyer for the plaintiff, all the crimes to which the complaint refers are corroborated and evidence exists to confirm the involvement in those crimes of Carabineros who are named in the police reports drawn up by the San Miguel Twelfth Carabineros Station.

(7) Liliana del Carmen Soto Flores (E/CN.4/1986/2, case B.16, p. 53). Proceedings have been instituted in the Fourth Criminal Court of Presidente Aguirre Cerda Department against civilians accused of abduction resulting in injuries and maltreatment in a secret compound (case 38358-11). This case has been stayed since May 1986, the lawyer for the plaintiff having asked for the pre-trial investigation to be reopened, on which a decision is still pending.

(8) Andrés Fuentes Paredes (E/CN.4/1986/2, case B.18, p. 54). Wounded by a bullet fired from a moving vehicle, without registration plates, carrying four people. Proceedings in respect of attempted homicide have been instituted in the Twenty-sixth Criminal Court of Santiago. This case was dismissed under article 409, paragraph 2, of the Code of Criminal Procedure. The existence of the crime was corroborated but it has not been possible to identify anyone as a perpetrator, accomplice or accessory after the fact.

(9) Gabriela Valdivia Pineda (E/CN.4/1986/2, case B.21, p. 54). Wounded while present at a barricade by 70 shotgun pellets in the legs, fired by individuals travelling in a Chevrolet van using a powerful spotlight. Proceedings in respect of serious injuries have been instituted in the Sixth Criminal Court of Presidente Aguirre Cerda Department (case 2879-G). Case 2886-5 before the same Court is being taken jointly with this case, which has been stayed since 23 January 1986 under article 409, paragraph 2, of the Code of Criminal Procedure because the crime was corroborated but it has not been possible to identify the culprits.

(10) Pedro Cortés Madariaga (E/CN.4/1986/2, case B.23, p. 54). Injuries. The victim maintains that he was tortured at a precinct of the National Information Agency (CNI) in Playa Blanca on the road to Coronel. The Special Rapporteur has examined a certificate, dated 13 September 1985, and issued by forensic physician José Miguel Serna Martín, recording various injuries "which will heal in about a fortnight" and which "may well have happened in the way the patient describes".

(11) Gastón Chamorro Muñoz (E/CN.4/1986/2, case B.26, p. 55). Wounded by bullets fired by unidentified civilians travelling in a van in the La Victoria Settlement, at a time when watch was being kept on the settlement by Air Force personnel. Proceedings in respect of serious injuries have been instituted in the Air Force Prosecutor's Office. This case started in the Third Criminal Court of

San Miguel, which declared itself incompetent on finding that military personnel were involved in the events and sent the dossier to the Military Judge, who in turn transmitted it to the Air Force Court, where the case lies at present. It is still at the stage of secret pre-trial investigation and the plaintiff's lawyer has evidence that on at least two occasions his client was actually attacked to induce him to "withdraw the complaint".

(12) Fernando Antonio Larenas Seguel (E/CN.4/1986/2, case B.38, p. 60). On 25 October 1985, his father filed a complaint with the Third Military Prosecutor's Office of Santiago against CNI officials on the grounds of "unnecessary violence resulting in serious injuries and attempted homicide". According to the complaint, his son was stopped in the street on 20 October 1985 by about 15 individuals in civilian clothes, one of whom fired at him at a distance of 50 centimetres "with the obvious intention of killing him". The individuals were said to be CNI agents. In addition, on 17 June 1985, his parents filed complaints before the First Criminal Court of San Miguel, alleging "the abduction, with the infliction of serious injury, of our children since Saturday, 1 June 1985" at the "Nuestra Señora de las Nieves" Clinic. The abductions of Fernando Larenas and his wife, Mónica Cecilia Álvarez Noziqlia, were allegedly carried out by three armed individuals in civilian clothes on 1 June 1985. While so doing, the individuals injured Sergeant Héctor Valenzuela of the Gendarmería. The medical diagnosis on Fernando Larenas is "irreplaceable loss of brain tissue, in a semi-vegetative state".

(13) Fernando Patricio Ferrada Ferrada (E/CN.4/1986/2, case B.44, p. 62). Wounded seven times in the right thigh by bullets fired by servicemen. Proceedings in respect of injuries have been instituted by the Third Military Prosecutor's Office of Santiago (case 1187-86). This case began at the Tenth Criminal Court of Presidente Aguirre Cerda Department. On 12 June 1986, this court declared itself incompetent on finding that military personnel were involved in the alleged offences. The case has been at the administrative inquiry state since April 1986. The crime has been corroborated by the statements of witnesses and a forensic medical report, in addition to the statements of the victim. The Head of the Emergency Zone in the Metropolitan Area has denied that there were military personnel in the area where the events took place. The Carabineros appear to have corroborated this denial.

(14) Luis Emeterio Gutiérrez Abarca (E/CN.4/1986/2, case B.47, p. 62). Wounded by a shot fired by a military patrol travelling in a Chevrolet C-10 van. The shot burst his right eye, destroying it. Proceedings in respect of serious injuries have been instituted in the Sixth Criminal Court of Presidente Pedro Aguirre Cerda Department (case 3288-E). The case has been at the administrative inquiry stage since 22 May 1986. The perpetrators have not been identified. The Head of the Emergency Zone informed the court that he has no knowledge of military personnel patrolling the site of the events at the time and date of their occurrence. The Carabineros, for their part, have reported that people were in fact injured by shotgun pellets on the dates of interest to the court. They also report that they saw a van carrying servicemen patrolling the sector during the period including the date indicated in the complaint.

(15) José Eduardo de la Fuente Roja. (E/CN.4/1986/2, case B.48, p. 63).

Wounded in the mouth by a bullet fired by Carabineros travelling in a van in the La Victoria Settlement. Proceedings in respect of serious injuries have been instituted in the Third Criminal Court of Presidente Pedro Aguirre Cerda Department (case 40.828-7). The case is at the administrative inquiry stage, trial having been denied because investigations are pending.

(16) Daniel Isaac Cid Vega (E/CN.4/1986/2, case B.52, p. 64). Injuries. The victim appeared before the Special Rapporteur with his left arm in plaster. According to his statement, he had been struck repeatedly by a Carabineros Lieutenant with a kind of truncheon on 26 November 1985, while taking part with other students in a demonstration at Concepción University. The victim also showed a medical certificate to the effect that he had suffered multiple injuries and a broken left elbow.

(17) Ricardo Burgos Bello, Johnny Garcés Barra, Carlos Morales Enrique, Juan Espinoza Bello, Alfredo Mansilla Inostroza, Mario Solar Melgarejo and Alejandro Bustos Selgado (E/CN.4/1986/2, case C.1, p. 64). They were arrested in the street on 1 May 1985 and taken to the First Carabineros Station in Concepción. On their release, they appeared before the Concepción Court of Appeal on 3 May 1985, where they claimed that "while we were in the police buses, we were brutally beaten by the Carabineros who arrested us as we were kept lying on the floor of the buses. The violence was unjustified ... and it meant that all of us had to go to the emergency ward of the Regional Hospital for medical treatment. The hospital confirmed that we had been injured as shown in the attached certificates".

(18) Sergio Fernando Ruiz of Lazo (E/CN.4/1986/2, case D 3, p. 71). Case No. 143.671-1, Third Criminal Court of Santiago (complaint of abduction filed by his wife on 5 November 1985). His father had previously submitted two applications for amparo to the Santiago Appeal Court on 11 January 1985 (case 66-85) and 13 February 1985 (case 148-85), alleging arbitrary arrest of his son by members of CNI on 21 December 1984. In a judgement on the second application for amparo on 27 February 1985, the Court ruled that the proceedings were to be transferred to the Criminal Court, which should institute criminal proceedings in the case of the disappearance of Sergio Ruiz.

(19) Verónica Dávila León (E/CN.4/1986/2, case E.5, p. 72). The Special Rapporteur had access to a letter signed by "ACHA" (Acción Chilena Anticomunista) that the victim received at her home in Viña del Mar on 24 June 1985. The letter contained offensive remarks and death threats against her, her brothers and a certain Rafael Mena, on whom she was crudely advised to give information.

(20) Charlie René Vicencio Ibáñez (E/CN.4/1986/2, case E.13, p. 78). His father complained about the abduction of Charlie René by an individual in civilian clothes who made him get into a van without license plates and interrogated him for an hour about his activities in the Santa Isabel de Hungría Parish, as well as about his alleged participation in protests. Proceedings in respect of abduction have been instituted in the Seventh Criminal Court of Santiago (case 98.478-5). This case has been at the administrative inquiry stage since 26 March 1986. The Court declared the inquiry closed pending some proceedings for the investigation, but it was reopened on the petition of the plaintiff's lawyer. Relevant to the

proceedings is a report from the Investigation Service which corroborates the complaint in line with the statements made by the persons interviewed.

IV. COMPLAINTS OF FURTHER VIOLATIONS OF HUMAN RIGHTS

42. The information contained in this section is taken from legal documents given to the Special Rapporteur by the persons concerned, their lawyers or Chilean human rights organizations. This information relates to acts that took place in Chile during the first half of 1986, or even more recently, and were brought before the Chilean courts.

43. The Special Rapporteur transmitted the complaints to the Government of Chile on 6 October 1986 in a letter addressed to Ambassador M. Calderon Vargas. The letter stated: "As on previous occasions, reference is made to these allegations without prejudice to relevant verifications, that your Excellency's government may transmit to me".

44. The complaints are set forth below as follows:

- A. Right to life
- B. Right to physical and moral integrity
- C. Right to liberty
- D. Right to security
- E. Right to enter and leave the country freely
- F. Right to freedom of expression and information
- G. Right of association.

A. Right to life

A.1. Ingrid Jeannette Dupré Narváez (aged 19). According to a complaint filed by her father before the Fourteenth Criminal Court of Santiago (case 89.916), she died on 11 January 1986, after being shot by members of the Eighth Judicial Investigation Station as she was talking to a friend in front of her house.

A.2. Victor Hugo Becker Alfaro. His brother filed a complaint before the Sixth Criminal Court of San Miguel (case 4.313) against a Carabinero named Claudio Muñoz Koller from the Station of La Castrina. According to this complaint, Victor Becker died in that Station on 9 March 1986 after being hit in the back by a bullet from the service weapon of Claudio Muñoz, who was also beating him at the time.

A.3. Margarita Caballero Ullos. According to a complaint filed by her mother before the Seventh Criminal Court of Santiago (case 99.950) against Jorge Marín

Jiménez (Carabineros Lance-Corporal), Margarita Caballero died on 16 March 1986 in Alessandri Station, following shots fired in cold blood by the accused, while other Carabineros did nothing.

A.4. Victor López Muñoz (aged 17). His sister filed a complaint before the First Criminal Court of San Bernardo (case 56.308) against Calixto Acevedo Fuentes, a serviceman, who shot him on 30 March 1986, as he was quietly talking to a friend in the street.

A.5. Exequiel Fernando Campusano Cantillana. His widow filed a complaint before the Ninth Criminal Court of San Miguel (case 3593-M) charging homicide against Silvestre Tapia, a member of the Air Force. According to the complaint, Exequiel Campusano died on 20 April 1986, after being shot by the accused, who was drunk. The complaint also states that the shooting took place near the victim's house without any provocation.

A.6. Miguel Antonio Vásquez Tobar and Lenin César Miranda Clavijo. They died on 28 April 1986 as the result of an armed clash between a patrol of Carabineros (to which Miguel Vásquez belonged) and a group which was trying to attack the Lautaro bakery (Gran Avenida sector, Santiago). Lenin Miranda was a member of that group. The Third Military Prosecutor's Office instituted a preliminary investigation into these acts. The official version states that Hugo Segundo Gómez Peña was wounded by a bullet in this same clash. The Vicaría de la Solidaridad reported that the wounded man had gone to the Vicaría requesting medical and legal aid. He said that he had been wounded accidentally in the street. He was later treated at the Chiloé Clinic, where he confirmed that he had not taken part in any armed clash.

An Ad Hoc Military Prosecutor appointed at the request of the Government, issued on 11 May 1986 a decision in which he committed for trial Gustavo Adolfo Villalobos Sepúlveda and Ramiro Olivares Sanhueza, both officials of the Vicaría de la Solidaridad. The charge was alleged violation of article 8 of Act 17.798 on Firearms Control (assisting a combat group). On 6 May 1986 these officials had already been arrested and held incommunicado in the former public prison of Santiago. The doctors and auxiliary staff who had treated Hugo Gómez in the Chiloé Clinic were also arrested. Lawyers of the Vicaría submitted complaints about a number of procedural irregularities which the military prosecutors had committed. Finally, all the detained persons - except Hugo Gómez - were released on bail. The two officials of the Vicaría were released on bail by a decision of the Supreme Court on 7 August 1986.

A.7. Ronald William Wood Gwiazdon. His mother filed a complaint against those responsible for his death, which took place on 23 May 1986. According to the complaint, filed before the First Criminal Court of Santiago (case 130.146-5), Ronald Wood was taking part in a demonstration on 20 May 1986, together with other students in the Puente Loreto sector, when he was shot in the head by servicemen who tried to break up the demonstration. He died on 23 May in hospital as a result of his wounds.

A.8. Romas Ricardo Martínez Celsis. On 19 June 1986, his widow filed a complaint before the First Military Prosecutor's Office of Santiago against Alberto Díaz

Santiago. According to the autopsy, he had died from immersion. His parents filed a complaint on 7 August 1986 before the San Antonio Court because they suspected that their son had been murdered as a result of his political and student activities. Formerly, Mario Martínez had been arrested four times; he had been expelled from the University following a disciplinary measure adopted against him on 17 January 1986; and on a number of occasions he had been followed and threatened.

B. Right to physical and moral integrity

B.1. Lorenzo David Ibacache Carrasco. He filed an application for amparo before the Santiago Appeal Court (case 30-86) complaining that he had been abducted on 6 January 1986 by a civilian who forced him into a vehicle, blindfolded him and took him to a secret place. There they stripped him naked and, still blindfolded, "... hung me from a steel bar so that my feet dangled 15 or 20 cm. from the ground ... they placed a kind of corset around my chest" which they tightened and loosened slowly. This "... caused me indescribable pain and acute respiratory difficulties". In those circumstances he was questioned about Jaime Insunza, Communist Party leader.

B.2. Juan Carlos Durán Fuentes, Lucilia del Pilar Vallejo Medina, Gonzalo Enrique Risco Ríos, Cristina Jeannette Mirando Osorio, Rodrigo Gustavo Saez Ramírez, Alexis Orlando Contreras Días, Waldo Alberto Collipal Curaqueo, Manuel René Moreno Torres, Víctor Manuel Jofré Valenzuela, Sergio Arturo Góngora Saez, Sergio Enrique Cabello Romo, Santiago Antonio Montenegro Montenegro, Santos Javier Muñoz Meriches and Julián Arnaldo Valdés Recabarren. Case 1557 of the Departmental Military Prosecutor's Office of Cautín (Temuco). These university students were arrested on 14 January 1986 while they were camping near Lautaro. They were taken to a CNI precinct of Temuco. On 22 January the Military Prosecutor committed them for trial for violating article 8 of the Firearms Control Act (forming part of armed groups). On 29 January they filed a complaint before the Military Appeal Court stating that they had been interrogated under coercion in the CNI precinct at Temuco. For the women the coercion consisted in blows, blindfolding, threats and psychological pressure. For the men it consisted in application of electric shocks, punches and blows with blunt instruments. The students stated that they were forced by pressure, threats, and punishment to make a non-legal statement. The threats had continued in order to compel them to confirm such statements before the Military Prosecutor. Finally, on 9 June 1986, the Supreme Court ordered the unconditional release of the accused.

B.3. Carlos Demetrio Parada Soto. His mother filed before the Fourteenth Criminal Court of Santiago a complaint in respect of the abduction and torture of Carlos Parada. According to the complaint, on 15 January 1986, her son was abducted in the street by civilians who took him to a secret place. There, they interrogated him about his links with the human rights officials of San Carlos Church. During the interrogation he was beaten, burned with cigarettes and threatened with a razor. He was released the following day.

B.4. Octavio Hernán Martínez Leiva. He filed a complaint on 27 January 1986

before the Seventh Criminal Court of Santiago in respect of maltreatment resulting in serious injuries. According to the victim, a taxi-driver by profession, on 18 January, he was approached by three civilians while he was in the taxi. They attacked him and stabbed him in the neck and chest. At no time, he complained, had there been any provocation on his part or intention to rob him on the part of the attackers. Octavio Martínez stated that his attackers were trying to cut his throat because he had identified an Army Lieutenant riding in a pickup truck on 5 September 1985 from which the minor, Jorge Antonio Fernández Rivera, was shot to death (case 1934-85 of the First Military Prosecutor's Office) (see E/CN.4/1986/2, p. 38, case A.18).

B.5. Rosa Espinoza Baeza. She filed a complaint on 30 January 1986 before the First Criminal Court of Santiago in respect of illegal arrest and psychological coercion. According to the complaint, on 18 January, she was abducted in the street by three individuals, forced into a vehicle, blindfolded and taken to a place where she was kept for 15 hours. In these circumstances, she was interrogated about the activities of Máximo Pacheco, Vicechairman of the Chilean Commission on Human Rights, in whose house she is working.

B.6. Jaime Castillo Velasco, Máximo Pacheco Gómez and Gonzalo Taborga Molina. These leaders of the Chilean Commission on Human Rights filed a complaint, on 25 January 1986, before the Twentieth Criminal Court of Santiago in respect of injuries to Castillo and damage to the property of Pacheco. According to the complaint, on 15 January, the day on which Senator Edward Kennedy was visiting Chile, the car in which they were travelling was attacked with sticks and stones by a group of civilians, while the Carabineros did nothing.

B.7. Jessica Ximena Araya Fernandez. Her father filed a complaint on 27 February 1986 before the Second Criminal Court of Quillota in respect of the quasi-delict of causing a miscarriage. According to the complaint, Jessica Araya was arrested at home, on 4 February 1986, and interrogated "at length under physical and psychological coercion" in a CNI barracks in Viña del Mar. On 6 February, the Military Prosecutor of Valparaíso committed her for trial for violating article 8 of the Firearms Control Act. She was imprisoned in Quillota and, on 15 February, began to show symptoms of losing the baby. On 17 February, she had a miscarriage in hospital and on 22 February underwent an operation for appendicitis.

B.8. Roberto Rodríguez Vázquez. The Pastoral Secretary of San Alberto Parish filed a complaint on 3 March 1986 in respect of injuries and robbery before the Twenty-first Criminal Court of Santiago. According to the complaint, on 21 February 1986, he was attacked by two civilians armed with blunt instruments in the parish house of San Alberto. He received four bruises on the head and forehead. As a result, he lost consciousness and had to be hospitalized for a number of days.

B.9. Santiago Mattino Peyes. He filed a complaint before the Second Military Prosecutor's Office of Santiago (case 296), charging that he had been subjected to illegal arrest and unnecessary violence by Carabineros, on 21 February 1986, while participating in a peaceful demonstration together with other family members of the

three professionals whose throats had been cut on 30 March 1985 (see E/CN.4/1986/2, pp. 30-31, case A.4).

B.10. Patricio Ramírez Farías. On 25 March 1986, his father filed a complaint before the Second Criminal Court of Santiago against CNI agents in respect of torture. According to the complaint, Patricio was arrested on 28 February 1986 by Carabineros, wounded by a bullet in the left ankle and imprisoned in the Fourteenth Station. Hours after, he was interrogated and beaten by two civilians who transferred him to the CNI barracks in calle Santa Maria 1453 (Santiago). There, he was questioned about his alleged political activities under coercion, including electric shocks. On 4 March, he was committed for trial by the First Military Prosecutor's Office. He was accused of violating the Firearms Control Act and then kept in prison in the former Penitentiary of Santiago.

B.11. Raúl Aldo Véliz Flores. He filed a complaint on 3 March 1986 before the Court of Petorca (case 1455) in respect of serious injuries inflicted on him by Carabineros Sublieutenant Mauricio Ramírez and his father-in-law, René Leiva Figueroa, the day before, when they attacked him without provocation. They struck him on the nose with the butt of a hunting rifle.

B.12. Isaías Medina Medina. In a complaint filed before the Ninth Criminal Court of Santiago, he charged that he had been subjected to abduction and illegal coercion on 4 March 1986 by three individuals who questioned him about his political activities and about the Chairman of the Committee on Earthquake Victims. At the same time, they beat him on various parts of the body and threatened him.

B.13. Angel Leiva Alvarez. In an application for amparo before the Santiago Appeal Court (case 43-86), he complained that he had been abducted from his house on 5 March 1986 by four armed civilians wearing yellow armbands with the national shield in the centre. They took him in a taxi to a secret place and there he was interrogated about his political activities. He was coerced by the application of electric shocks while tied down, naked, to a metal mattress. He was released by his captors on 7 March.

B.14. Olga Valentina Osses Correa. In an application for amparo before the Santiago Appeal Court (case 96-86), she complained that she had been arrested on 6 March 1986 by investigatory agents and imprisoned in the Police Station of San Miguel. There, she was interrogated the following day by civilians who accused her of being a "Communist" and of being linked with the parish of San Cayetano and its priest, Father Ghislain Peeters. According to the complaint, she was tied down to a chair and beaten with a stick during the interrogations. At the same time, they threatened to cut her throat with a dagger. She was then transferred to Investigation Headquarters and, after being processed, released without charges.

B.15. Salvador Osorio Hormazábal, Avelino Contreras Cornejo and Eduardo Pérez Toro. They were detained in the prison of San Miguel and on 15 May 1986 they filed a complaint against the First Criminal Court of San Miguel (case 77.572-9) against investigatory police of the Thirteenth Station. They singled out one Riquelme, who arrested them on 14 March 1986 and interrogated them for three days under coercion,

including the application of electric shocks to the most sensitive parts of their bodies.

B.16. Jorge Patricio Cárcamo Castro, Roberto Denny Weibel Nívarrete, Carlos Daniel Pinto Adonis, Abelardo Campos Sánchez, Alfonso Aurelio Figueroa Celis, Luis Guillermo Clavero Hernández and Hector Reinaldo Vega Riso. They were detained in the public prison of Valparaíso and on 23 April 1986 filed a complaint before the Third Criminal Court of Valparaíso. They all complained that they had been arrested between 18 and 19 March 1986 by civilians armed with machine-guns, who took them to the CNI precinct in calle Alvarez in Vía del Mar. According to the complaint, they were all kept in the precinct until 24 March. There, they were repeatedly interrogated under physical and psychological coercion, including the application of electric shocks to the most sensitive parts of their bodies while tied down naked to a mattress ("the grill") with their eyes blindfolded. They also complained that they had been forced to sign inculpatory papers and that they were photographed and filmed. Finally, they said they had been "examined by a doctor ... who gave orders and indicated that they could continue with the torture".

B.17. Ximena Patricia Rubillo Rojas. Her father filed a complaint on 21 March 1986 before the Fifteenth Criminal Court of Santiago in respect of attempted homicide of Ximena on 20 March 1986. On that date, the complaint stated, she was shot in the arm by unidentified civilians.

B.18. José Mario Correa Bahamondes. His mother filed a complaint before the Fourteenth Criminal Court of Santiago (case 90.313) in respect of the attempted homicide of José Mario. According to the complaint, on 21 March 1986, José Mario was hit by 15 steel pellets fired in the street by a military patrol because he failed to obey their order to halt.

B.19. Héctor Hernán Aguilera Cavieres. His sister filed a complaint before the Eighth Criminal Court of San Miguel (case 5.775) in respect of the attempted murder of Héctor Hernán. According to the complaint, on 31 March 1986, her brother was arrested by Carabineros, locked up in the El Bosque Station and, after being maltreated, shot by the sentinel, Hugo Pérez Canales, without any provocation.

B.20. Sergio Reyes Olave, José Nova Saavedra and Gustavo Aguilera Villagra. They were arrested on 8 April 1986 by investigatory agents of Lota. They were detained in Lota barracks until 10 April. They said they had been interrogated during that period with physical and psychological coercion resulting in injuries recorded in medical certificates. On 11 April 1986 the First Military Prosecutor's Office of Concepción ordered their unconditional release. On 14 and 15 April, the Concepción Appeal Court, having considered a number of applications for amparo on behalf of the persons concerned, noted their release and ordered the competent Criminal Court to investigate the injuries they had reported.

B.21. Luis Rafael Gómez Valdés. On 14 April 1946, his father filed a complaint before the First Criminal Court of Santiago (case 129.928) in respect of the serious injuries inflicted on his son, Luis Rafael, on 10 April. The father complained that soldiers with painted faces, trying to break up a street demonstration, had fired two bullets into his son's body. According to the complaint, the soldiers withdrew without helping the wounded man.

B.22. Elías Segundo Candia Montaña, René Igor Aballai y José Pablo Pulgar Bascuñán. On 21 April 1986 they filed a complaint before the Tenth Criminal Court against Carabineros Merino Bustos, Sanhueza Fajardo and Soto Parada from the Third Santiago Station. They charged the Carabineros with the crimes of serious injuries and illegal coercion committed against them on 11 April. According to the plaintiffs, they were attacked in the street by three armed civilians who beat them on various parts of their bodies and shot Elías Candia in the chest. Later, they recognized, in the doorway of the Carabineros Station, the three accused identified above.

B.23. Ricardo José Muñoz Cotrozo. On 14 May 1986, he complained before the Valparaíso Appeal Court that he had received serious gunshot wounds from a weapon fired by Luis Mardones González, an Army cook, on 26 April 1986. According to the complaint, on that day, the victim tried to help his brother, who was being beaten by a group of individuals, when the accused shot Ricardo three times in the arm, the neck and the chest. Then the accused ran off.

B.24. Luis Ricardo Hermazábal Sánchez. The complainant is Secretary-General of the Confederation of Bank Workers. On 9 May, he complained before the First Military Prosecutor's Office of Santiago (case 1044-86) that on 1 May 1986 he was attacked in the street by a number of Carabineros without any provocation on his part. They punched and beat him, causing numerous bruises and wounds on the left cheek. He had to go to the Central Medical Post for treatment.

B.25. Manuel Eduardo Guerrero Antequera (aged 15). On 15 May 1986, his mother filed a complaint before the Fourteenth Criminal Court of Santiago. She stated that her son was stopped the day before by three young men wearing civilian clothes. They struck him "ferociously" on the cheek and threatened him: "If you keep transmitting on the same wavelength, we're going to shut you up for ever." Then they ran off. Manuel Eduardo is the son of one of the professionals who had their throats cut in March 1985 (see E/CN.4/1986/2, pp. 30-32, case A.4). He is a student at the Colegio Latinoamericano de Integración. He, too, had been threatened by unidentified civilians.

B.26. Gabriel Osvaldo Garrido Bascuñán. On 3 June 1986, his mother filed a complaint before the Ninth Criminal Court in respect of the attempted homicide by Carabineros of the Bandera post (Thirteenth Station), who were travelling in a police van. The acts in question took place on 29 May 1986: the Carabineros fired at Gabriel Garrido through the door of his house. Then they left without helping him. Family members of the wounded man went to the Bandera post (Thirteenth Station) where the Carabineros refused to help or to call an ambulance. Finally, the wounded man was taken to hospital with the help of neighbours.

B.27. Roberto Armando Gómez Merino. On 10 June 1986, he filed a criminal complaint before the Third Criminal Court of Santiago in respect of crimes of illegal arrest and illegal coercion. According to the complaint, he was arrested at home on 5 June 1986 and taken to the Headquarters of the Investigatory Police. There, he was interrogated under coercion consisting in blows and electric shocks. The next day he was freed without charges.

B.28. José María Vilches Iturrieta. On 13 June 1986 he filed a complaint before the Third Military Prosecutor's Office. He stated that he was arrested by military and civilian authorities on 13 June when he was taking part in the street in a student demonstration. He said he was punched, hit with rifle butts, slapped and threatened by four armed civilians and two servicemen. He was forced into a jeep where the same treatment continued. They kept saying to him "Don't get mixed up in any more protests". Shortly after, he was thrown over a bridge from the jeep and abandoned.

B.29. Claudio Ilich Alvarez Guzmán (aged 15). On 9 June 1986 his mother submitted an application for amparo before the Santiago Appeal Court (case 649-86). As recorded in the file, Claudio was arrested on 6 June 1986 by Carabineros of the Fifth Station. He was kicked brutally in the stomach. Also, as reported, in the Fifth Station he was "savagely tortured and interrogated" by one Captain Freire, who tried to throttle him with his hands, stripped him naked and applied electric shocks to his testicles. The following day he was taken to the Thirty-fourth Station for Minors and from there to the Central Medical Post.

B.30. Claudio Andrés Garay Cid, José Patricio Cid Sánchez, José Miguel Allende Bravo and Raúl Esteban Gallardo López. They were arrested, together with other students, on 17 June 1986 in the Metropolitan University of Educational Sciences (formerly the Teacher-Training Institute) by military and police forces. They were taken to the Eighteenth Carabineros Station. There, some 20 hooded men questioned them and picked out a group that was transferred to the Nineteenth Carabineros Station. Later, the students in this group were blindfolded and taken to the NCI precinct in calle Santa María 1453. Before the Santiago Appeal Court an application for amparo was submitted on their behalf (case 710-86). On 20 June 1986 they were taken blindfolded from the detention centre and released in their houses by civil agents. Before the Appeal Court they reported that during their stay in the CNI precinct they were interrogated about their student and political activities with such intimidatory procedures as: blindfolding, blows, death threats, filmings, isolation and threats of electric shocks.

B.31. Ociel Antonio Ramírez Montesino. On 19 June he filed a complaint before the First Military Prosecutor's Office of Santiago. He stated that the same day, in the street, without any provocation on his part, a Carabinero fired a blast of pellets at his right foot, an action which, in his view, constituted unnecessary violence.

C. Right to liberty

C.1. Paola Tassara Osorio and 34 other students. Application for amparo submitted on 23 January 1986 before the Valparaíso Appeal Court. According to the complaint, the students were arrested by Carabineros on 22 January 1986 while they were working at summer jobs in different parts of Viña del Mar and Valparaíso. They said they were engaged in extension work on behalf of the poorest and most dispossessed sectors of the population.

C.2. Patricio Alan Ramírez Farías, Rosa del Carmen Ramírez Farías and Antonio

Alfonso Silva Díaz. Application for amparo before the Santiago Appeal Court (case 184-86). They reported that CNI agents arrested them at home on 28 February 1986. Rosa was taken blindfolded to the precinct of Avenida Santa María 1453, where she was questioned and later released. On 2 March she was rearrested by the same agents. She was questioned inside a car and given electric shocks with a portable instrument. Antonio stated that he had been arrested on 2 March and questioned under coercion in a car about his brother-in-law, Alfonso Silva. Patricio stated that on 28 February 1986 he had been arrested by CNI agents. His house was searched at a time when they told his mother he was at Medical Post No. 4 (Ñuñoa).

C.3. Carlos Canales Villarroel. Application for amparo submitted on 10 March to the Santiago Appeal Court (case 210-86). He complained that he was arrested in the street on 7 March 1986 by a military patrol. He was kept in a pick-up truck, maltreated during an interrogation, threatened and finally released, hours afterwards, near a cemetery.

C.4. Nora Maluenda Manríquez. On 12 March 1986 an application for amparo was submitted on her behalf to the Santiago Appeal Court. According to the application, she was arrested by Carabineros on 11 March 1986 in front of the Metropolitan Cathedral, as she was demonstrating together with other persons against the existing Political Constitution. She was taken to the First Carabineros Station and from there, blindfolded, to the CNI centre at Santa María 1453. The next day she was released without charges.

C.5. Andrea Palma Salamanca and 56 other students. Application for amparo before the Santiago Appeal Court (case 397-86). They said they had been arrested by servicemen and Carabineros when they had met at their respective study centres. By Decree No. 5940 of 22 April 1986 (issued under the extraordinary powers conferred on the President of the Republic by the twenty-fourth transitional provision of the Constitution), the students' term of detention was extended, in view of "the commission of terrorist acts with serious consequences". However, the Minister of the Interior was reported to have said that this measure was adopted "to check the background of each student".

C.6. Andrés Brzovic Pérez, student. On 23 April 1986, he submitted an application for amparo to the Santiago Appeal Court. On that day, he complained, he had been hit by steel pellets fired, without provocation, by Carabineros at a distance of one metre. After being treated in the Central Medical Post he was detained in the Fourth Carabineros Station.

C.7. Sergio Contreras (Bishop). On 24 April 1986 he complained before the Temuco Appeal Court that unknown persons on that day had used two Molotov cocktails in an attempt to blow up his house.

C.8. Anita María Navarro Zapata and Nelson Salvador Alvarado Cordero. Application for amparo before the President Aguirre Cerda Appeal Court (case 209-86). On 6 May 1986 they stated before the Court that they were arrested on 29 April 1986 and taken to the CNI precinct. There, they were questioned on their links with persons working in the Chilean Commission on Human Rights and other humanitarian organizations. They said they had been insulted and intimidated. Nelson Alvarado

complained that they had applied electric shocks to various parts of his body. Later, they made him sign a document in which he promised to collaborate with the CNI as an informer, paid by the month. His task would be to infiltrate a political party, while continuing his work with the Chilean Commission on Human Rights.

C.9. Orlando Riquelme Hernández and 33 other persons. Application for amparo on 1 May 1986 before the Santiago Appeal Court (case 491-86). They said they had been arrested on 30 April in the Santa Julia Settlement (Ñuñoa) during a massive raid by servicemen, Carabineros, CNI and investigatory police. In a written reply to the Court on 18 May, the Minister of the Interior maintained that he had not ordered the arrest of these persons applying for amparo.

C.10. Roberto Eduardo Amaro Castillo and 32 other persons. Application for amparo on 2 May 1986 before the Santiago Appeal Court (case 505-86-01). These persons were reported to have been arrested while taking part in a peaceful demonstration convoked by democratic workers' organizations.

C.11. Luis E. Abarzúa Carrasco and 87 other persons. Application for amparo before a Santiago Appeal Court (case 496-86-01) complaining that the persons concerned had been arrested on 1 May 1986 while demonstrating peacefully in the streets of Santiago. They stated that they had been arrested by Carabineros and/or soldiers with weapons drawn and with faces painted black and that many of the detainees were "brutally beaten on arrest and in the police buses".

C.12. Francisco Benjamín Guerrero Ceballos. Application for amparo on 8 May 1986 before the Santiago Appeal Court. He was arrested that same day, blindfolded and transferred by civilian agents to a CNI precinct, and freed next day without charges.

C.13. Gonzalo Durán Baronti (aged 17). Application for amparo on 18 May 1986 before the Santiago Appeal Court. It complained of the arrest of a minor by Carabineros on 14 May 1986 in the street and his detention in the First, Sixth and Thirty-fourth Carabineros Stations. The minor said that, after his arrest, he was beaten, in particular, in the police bus. Since the Ministry of the Interior did not uphold the detention, the Court ordered his release on 17 May.

C.14. Erwin Fonseca (member of a religious order) and nine other persons. Application for amparo (case 565-86-01) of 14 May 1986 before the Santiago Appeal Court complaining about the arrest of the above persons as they were holding a peaceful march in support of the Vicaría de la Solidaridad.

C.15. Alejandro Benjamín Boric Perellano. Application for amparo before the Santiago Appeal Court (case 592-86). He said he had been arrested by servicemen on 20 May 1986 near his place of work (Servicio Evangélico para el Desarrollo). He was trying to calm the tension which the presence of troops had created in the street.

C.16. Yerko Ljubetic Godoy and eight other students. Application for amparo on 23 May 1986 before the Santiago Appeal Court (case 599-86). The complaint concerned the arrest that day by Carabineros of the persons concerned. It took

place on the Santiago University campus, where a meeting of University Student Federations was being held. One of the students, Gerardo Contreras Alvarez, a Costa Rican, was expelled from Chile under resolution No. 644 of 23 May adopted by the Foreign Affairs Department of the Intendancy of the Metropolitan Region, "on the ground that his continued stay in Chile was contrary to the national interest".

C.17. Laura Irene Escala Illanes and three other women. Application for amparo of 23 May 1986 before the Santiago Appeal Court (case 601-86). The Minister of the Interior informed the Court that the women were arrested under the extraordinary powers which the twenty-fourth transitional provision of the Constitution conferred on the President of the Republic. The Minister did not explain the reason for the arrest. The Court rejected the application for amparo; it noted that three of the detained women had been freed, while Laura Irene "was being deprived of liberty by order of the authority empowered for that purpose".

C.18. Daniel Tobar Lagos. Application for amparo before the Santiago Appeal Court (case 680-86). He complained that he had been arrested on 11 June 1986 by a civilian from the Metropolitan Railways. He was interrogated and handed over to the Carabineros who locked him up in a cell at the First Carabineros Station. The following day he was released without charges.

C.19. Patricio Campos Ibarra, six other professors and Nelson López (administrative staff). An application for amparo was filed on his behalf on 16 June 1986 before the Santiago Appeal Court. The complaint was that he had been arrested on that day by Carabineros who broke into his place of work, the Theatre School of the University of Chile.

C.20. Daniel Andrés Palma Alvarado and 19 other students. Application for amparo on 18 June 1986 before the Santiago Appeal Court (case 710-86) complaining about the arrest of the above persons by Carabineros on 17 June 1986. They also complained that they had been detained in various University centres during a stoppage of activities called for by student federations; they were locked up in the Eighteenth and Nineteenth Carabineros Stations. They claimed that their arrests were illegal and arbitrary.

C.21. Sola Sierra Henríquez (Chairman) and six other persons (belonging to the Association of Family Members of the Detained-Disappeared). According to the application for amparo filed on 19 June 1986 before the Santiago Appeal Court, they were arrested that day as they were attempting, with other family members of persons presumed to have disappeared, to hand over a letter to the Minister of the Interior.

C.22. María Estela Ortiz Rojas and nine other women. According to the application filed on 19 June 1986 before the Santiago Appeal Court, the above persons were arrested the same day by Carabineros and servicemen and locked up in the Nineteenth Carabineros Station, as they were trying to hand over a letter in the Chilean Army Telecommunications School. The letter condemned a number of human rights violations.

D. Right to security

D.1. Ghislain Peeters Roos. As the parish priest of San Cayetano, he had complained before the Aguirre Cerda Appeal Court (case 3-85-F) that his church was machine-gunned by three civilians (see E/CN.4/1986/2, p. 78, case E.14). The group "Chilean Anticommunist Action" (ACHA) claimed responsibility for the attack. According to the file, three CNI agents took part in the attack: Alvaro Alejandro Ríos Acevedo, Daniel Luis Villagra Mendoza and Raúl Erwin Leal Cabezón. Once the presumed culprits had been identified, the threats against Father Peeters and his parishioners ceased.

D.2. Daniel Anselmo Montecinos Ortega and Francisco José Astorga Guajardo. Both these men were in the Preventive Detention Centre of Puenca Alto when they were subjected to disciplinary measures by the Gendarmería. These consisted in their transfer on 20 December 1985 to the Refractory Prisoners' Section of the former Public Prison of Santiago. They remained there 31 days. The punishment was justified by the claim that they had explosives in their possession. An application for amparo was filed on their behalf on 6 January 1986 before the Santiago Appeal Court (case 25-86-01). Finally, on 18 January 1986, the Third Military Prosecutor's Office rejected the accusation made against the men by the Gendarmería. Three days later the punishment was stopped.

D.3. Eleodoro Humberto Salazar Flores and Doralisa del Carmen Gallardo Díaz. They filed an application for amparo before the Santiago Appeal Court (case 46-86) complaining that they and their daughter Marcela had been interrogated on 14 and 15 January by a number of civilians about their participation in the activities which took place in the Parish of Santa Cruz.

D.4. Raúl Jaime Martínez Bobadilla and Ricardo Daniel Pino Rojas. On 19 February 1986, leaders of the Federation of Trade Unions filed an application for amparo before the Santiago Appeal Court. Bobadilla complained that he had been arrested on 17 February 1986 at his place of work by plain-clothes Carabineros, taken to the San Joaquín Substation and questioned there about his trade-union activities. For his part, Pino complained that he had been abducted by unknown persons in civilian clothes as he left his house. He was taken to a secret place where he was interrogated, with blows and threats, about his political and trade-union activities.

D.5. Ana María Miranda Urbina, Jorge Venegas Santos and Oscar Osvaldo Carrasco Pizarro. On 24 February 1986, they filed a complaint before the First Military Prosecutor's Office at Santiago stating that they had been arrested, maltreated and threatened on 15 February 1986 by Carabineros in Villa Francia, when they proceeded to break up a musical gathering in which the complainants were taking part as singers.

D.6. Enrique Silva Cimma. By a decision of 27 February 1986 the First Military Prosecutor's Office of Santiago committed him for trial and ordered his releases without bail for the presumed crime of offering insults to the armed forces. Enrique Silva, lawyer for the plaintiff in the case of the murder of trade-union leader Tucapel Jiménez, is said to have stated publicly that CNI agents were implicated in this crime.

D.7. Víctor Maturana Burgos, Raúl Castro Montanares, Higinio Esperger Córdova and Rolando Cartagena Córdova. All of them were locked up in the North Santiago Preventive Detention Centre, formerly Public Prison. On 30 April 1986, they applied for a remedy of protection to the Santiago Appeal Court, for themselves and also for Silvia Marín, against the CNI National Director. According to the application, Mrs. Silvia Marín had been subjected to pressure and threats by CNI agents during 1985 and in March 1986. The agents wanted the applicants to collaborate with them in extracting information about the activities of the "political prisoners" whom they (the applicants) visited regularly.

D.8. Vladimir Guillermo Escobar Gutiérrez. In an application for amparo before the Santiago Appeal Court (case 168-86), he complained that on 3 and 4 March 1986 a number of individuals, in civilian clothes, fired repeatedly in his direction, without hitting him. Escobar returned to Chile in 1983 from exile.

D.9. María Rebeca Martínez Cabrera, Pedro Mariqueo Huinca and Janina and José Mariqueo Martínez. Application for amparo before the Santiago Appeal Court (case 157-86) complaining that on 4 March 1986 they had been searched at home by nine armed civilians with red armbands. They were interrogated about persons who took part in protest demonstrations in their settlement. They were also interrogated about the activities of Father René, of the Pedro Pescador Parish, with whom they were linked.

D.10. Luis Humberto Soto Contreras. Application for protection on 12 March 1986 before the Punta Arenas Appeal Court (case 52-86). He complained that on 11 March 1986 he had received a letter signed by the group "Chilean Anticommunist Action" (ACHA). It contained threats against his life and accused him of being "a Marxist toy". Luis Soto is Chairman of the Committee for the return of Magallanic Exiles.

D.11. Claudio Andrés Villavicencio Tobar. On his behalf, a remedy of protection was filed on 26 March 1986 before the Santiago Appeal Court. It stated that on 13 March 1986 the Headmaster of the school he was attending had been visited by an officer from the Carlos Dondero Carabineros Headquarters. The officer said that Claudio had been arrested "for promoting public disorder in the streets". The officer went on to say that the Carabineros might "use other means that might endanger the integrity of his students", who would be "infiltrated and utilized by adult elements of a subversive type".

D.12. Jéssica Méndez Marín. Application for protection on 25 March 1986 before the Valparaíso Appeal Court complaining that she had been abducted twice (14 and 21 March 1986) by civilians armed with machine-guns and pistols. They questioned her about her brother with threats and maltreatment.

D.13. Irma Palma Manríquez and six other persons. In an application for amparo on 3 April before the Santiago Appeal Court (case 298-86) they complained that the premises where they worked (Servicio Evangélico para el Desarrollo de la Iglesia Pentecostal) were raided illegally on 2 April 1986 by eight armed civilians who said they belonged to CNI. The case file records that the vehicle used by the assailants belonged to CNI although its Director attended the Court and denied any participation by his men.

of Santiago (case 125.062). According to the complaint, on 7 May 1986, a violent explosion occurred in the building. It gave off a strong smell of tear gas. The complaint also states that the bomb attack took place in the early morning. The streets were "under the complete control of the Carabineros and the army". Nevertheless, "... the terrorists were able to circulate freely, launch their cowardly attack with elements and material of the kind used by the police, and escape without being arrested".

D.21. Osvaldo Cifuentes Cifuentes. He applied for amparo on 15 May 1986 before the Appeal Court (case 229-86). He complained that on 9 May he was arrested at home during a massive raid on La Bandera Settlement carried out by soldiers, Carabineros and unidentified civilians. Apparently, in his house they found legally circulated magazines which were described as "subversive". He was tied to a chair, interrogated and beaten at the same time. Later, he was taken to a secret place where he was questioned again, this time with electric shocks, about meetings of settlement-dwellers, training days and political militancy.

D.22. Raúl Gregorio Vásquez Hernández. He applied for amparo on 9 June 1986 before the Santiago Appeal Court (case 646-86). He complained that he had been questioned on 4 June 1986 by so-called detectives of investigation about the activities going on within the organization he is working for (Fundación Mission, dependent on the Catholic Church).

D.23. Reinaldo Erick Sanlleme Diaz. Application for amparo on 9 June before the Santiago Appeal Court (case 651-86). He complained that he had received anonymous telephone calls and that, on 9 June 1986, three civilians came to his house, checking the identity of the occupants and asking about Reinaldo. He had returned to Chile on 30 April 1986, after 11 years of exile.

D.24. Monseñor Fernando Ariztía Ruiz. Bishop of Copiapó. On 16 June he requested the Copiapó Appeal Court to appoint an investigating judge to look into the events which took place on 11 June 1986 and which culminated in the fire, allegedly deliberate, in a building belonging to the bishopric. In the complainant's opinion, the object of these actions was to use fear as a means of undermining the pastoral work in defence of human rights.

D.25. Luis Andrés Rengifo Briceño and four other student leaders. They applied for amparo before the Santiago Appeal Court (case 703-86) because they felt they had been watched and followed since 15 June 1986. On 17 June Luis Andrés said he had been prevented from entering the University "by order of the authorities and immediately the Carabineros tried to arrest me".

D.26. Raids on settlements. Between 29 April and 5 July 1986, combined operations involving plain-clothes and uniformed police were conducted in many Santiago settlements. These included Osorno, Colina, San Bernardo, Maipú, Santa Roja de Chena, Puente Alto and Santa María Confraternidad. According to estimates made by the Chilean Commission on Human Rights, such operations took place in 36 settlements, with a population of 129,200 persons. As a result, 22,393 persons were temporarily detained; of these 1,733 were taken to different police precincts, while 19 were taken to CNI centres. Finally, all the detainees were released except eight, who had been accused by the courts of having committed a crime.

These facts were brought to the knowledge of the Supreme Court on various occasions: on 14 May, in a written submission by four lawyers of CODEPU (case PR 3698); on 16 May, by the National Director of the College of Lawyers (case PR 3705) and by a group of 29 lawyers and settlement leaders (case PR 3706); and on 20 May, by another group of 45 settlement-dwellers (case VE 3708), Alianza Democrática (case 3713) and the Chilean Commission on Human Rights (PI 3712). For their part, on 27 June 1986, Fabiola Letelier del Solar and 151 other signatories filed an application for amparo before the Santiago Appeal Court. They complained that the raids "had certain things in common: the military and police forces encircle the sector, arrested the inhabitants on a massive and selective scale, divided the men from the women, processed them and destroyed the homes and meagre possessions of their owners ...".

In response to the various submissions, the Supreme Court decided on 27 June 1986 that "there is no justification for carrying out the investigations requested nor for adopting the measures advocated in the submissions put forward by ... the College of Lawyers of Santiago and by the Commission on Human Rights". The Court found that the operations were ordered by Military Prosecutors in the exercise of powers conferred on them by the Code of Military Justice, the Firearms Control Act (No. 17.798) and the Act defining terrorist activities and assigning penalties to them (No. 18,314). In a minority vote, President Retamal and Judges yzaguirre and Meersohn "... were in favour of instructing military courts in time of peace to indicate in future the place or places in which the searches in question should be carried out and the manner in which they should be carried out".

D.27. Reinalda del Carmen Pereira Plaza and Edras de las Mercedes Pinto Arroyo. Both women, together with eight other persons, complained that they had been arrested and had disappeared between 29 November and 20 December 1976 (case 2-77). Investigating Judge Carlos Cerda Fernández conducted an inquiry into the facts (for background see E/CN.4/1986/2, p. 71, case D.2). In decisions dated 14 August 1986, the Judge committed 40 persons for trial on the ground that the "existence of the crime of illicit association had been established". According to the decisions, "... the file shows that from the middle of 1974 onwards and for a period still undetermined, certain individuals associated together for the purpose of attacking the life, the physical and psychological integrity and, in general, the personal liberty and individual security of persons who genuinely or supposedly professed determined political ideologies ...". On the other hand, the Judge found no cause for applying the grant of amnesty established in Decree-Law No. 2191, because "... the present uncertainty about the date of the subsequent termination of the illicit association opens up the possibility that it may have gone beyond 10 March 1978, the limit for the grant of amnesty for illicit acts ...".

Of the 40 persons thus committed for trial, 17 belonged to the Air Force, 14 to the Carabineros, 5 to the investigatory police, 2 to the Army and 2 were civilians.

On appeal, the Santiago Appeal Court decided on 10 September to quash the committal decisions of Judge Cerda. In the Court's opinion, the Judge should have dismissed case 2-77 because the acts imputed to the accused had been perpetrated within the limit of the temporary application of Decree-Law 2191 concerning amnesty.

E. Right to enter and leave the country freely

E.1. List of 3,717 persons who must apply to enter the country. On 15 May 1986 the Director-General of the Chilean Investigatory Police published a new list (eighth edition) containing 3,717 names of Chileans who must "... apply to the Aliens and International Police Authority in Santiago before any passage to Chile can be sold to them". It is also stated that "... any person whose name is not on this list may enter the country freely". The persons concerned may lodge an appeal for review before the administrative authority established in the twenty-fourth transitional paragraph of the Constitution. For this purpose, the Instruction of 3 July 1985 states that appeals of this nature must be submitted to the Ministry of the Interior or a Chilean consulate. If the appeal is accepted for consideration, it must be acted upon within 120 days and the final decision communicated to the person concerned or his attorney (for background see E/CN.4/1986/2, pp. 83-84, case G.1).

The relatives of persons on the list requested the Special Rapporteur to intervene, on strictly humanitarian grounds, and use his good offices to ask the Government to reconsider the administrative measures prohibiting entry. Such requests were made on behalf of:

Edgardo José Condeza Vaccaro

Lorenzo Hernán Alicera Pena

Américo Humberto Flores Barraza

Verónica Quintana de Negri.

E.2. María Patricia Infiguez Sasso. In her favour a remedy of amparo was applied for before the Santiago Appeal Court (case 179-86). According to the application, the exclusion order against her "totally lacks any factual basis". The Minister of the Interior informed the Court on 11 April that María Infiguez "constitutes a danger for the domestic peace of the country because of her militancy in the banned Communist Party and her activities in France ...". On 18 April the Appeal Court rejected the application for amparo. On appeal, the Supreme Court confirmed the previous decision of 28 April. In a minority vote Judge Correa "was in favour of revoking the appealed decision, accepting the application for amparo and ruling on the substance ...".

E.3. Leopoldo Ortega Rodriguez. An expulsion order was issued against him (for background see E/CN.4/1986/2, p. 84, case G.3). On his behalf, on 14 January 1986 an application for amparo was filed before the Santiago Appeal Court, which rejected it. On appeal, the decision was confirmed on 7 May 1986 by the Supreme Court on the ground that Leopoldo Ortega "... is officially playing a leading role in an illegal organization which is the Communist Party ...". Moreover, the exclusion order "... is not subject to the remedy of amparo applied for, in view of the final sentence of the twenty-fourth transitional provision of the Constitution".

E.4. Waldo Humberto Alvarado Pacheco and 36 other persons. On their behalf, on 12 August 1986, an application for amparo was filed before the Santiago Appeal

Court (case 1169-86). According to the application, the names of the 37 persons appear on the list of 15 May signed by the Director-General of the Chilean Investigatory Police, containing the names of those prohibited from entering the country (see case E.1 above). The application points out that the 37 persons in question had not been included in previous lists and had not engaged in the activities envisaged in the twenty-fourth transitional provision of the Constitution, which are liable to be sanctioned administratively by an exclusion or expulsion order. The Chilean Head of the Aliens and International Police Authority informed the Court on 18 August 1986 that 35 of the persons in question "had lost Chilean nationality ... as a result of naturalization in a foreign country". For that reason, they had been omitted from the list from the sixth edition onwards. At the same time, they were included "immediately as aliens affected by the same order, because their naturalization in no way modified the action taken by the authorities ...". He also pointed out that some of the persons concerned ... "tried to enter the country on the basis of Chilean documentation ... and this made them subject as Chileans to the exclusion order ...". Although the 1980 Constitution states that ... "under the constitutional provisions, whether legal or administrative, of the State in whose territory they reside, they adopt the foreign nationality as a condition for remaining in it or for attaining legal equality in the exercise of civil rights with the nationals of the country concerned", renunciation of these conditions does not lead to deprivation of Chilean nationality.

E.5. Edgardo José Condeza Vaccaro. His name appears on the list of excluded persons of 15 May 1986. Nevertheless, he appeared on 9 June 1986 before the Concepción Appeal Court claiming that he had entered the country legally, over the Pichachén pass, in the province of Bio Bio. Subsequently, Edgardo Condeza gave himself up to the police and was arrested. On 1 September 1986, the Minister of the Interior instituted proceedings against him for violation of Act No. 18,015 concerning illegal entry. The next day he was released on bail. At the request of Mrs. Condeza, the Special Rapporteur intervened with the Government which agreed not to enforce the expulsion order in view of Mr. Condeza's readiness to submit to the decision of the courts.

F. Right to freedom of expression and information

F.1. Andrés Jaime Palma Irrarrázaval. As Chairman of the "Juventud Democrata Chirstiana", he granted an interview which was published in the review Análisis No. 126 (21-27 January 1986). In respect of the opinions, judgements and affirmations put forward in that interview, the Minister of the Interior instituted proceedings against him on 10 February 1986 before the Santiago Appeal Court (case 7-86). On 21 February, the Investigating Judge committed him for trial for violation of articles 4(a) and 11.2 of State Security Act No. 12.927. That same day he was locked up in the Santiago Preventive Detention Centre. Later, on 20 May 1986, the Investigating Judge sentenced him, for violation of article 4(a) of Act No. 12.927, to 541 days of less rigorous penal servitude (presidio menor), with conditional suspension, subject to supervision by the Gendarmería. This sentence was upheld on 3 July by the Santiago Appeal Court. The Court took into account the fact that Andrés Palma was "... arrested several times for causing

street disorders and disturbing the peace", which meant that he adopted "... an attitude which was not merely against the Government but which ... led him to participate actively in disorders tending to alter the normal state of legality". This decision was appealed before the Supreme Court.

F.2. Manuel Augusto Sanhueza Cruz. As Chairman of the organization "Intransigencia Democrática", he signed in the review Análisis No. 127 (28 January-3 February 1986) an article entitled "La Intransigencia Democrática, la Unidad del Pueblo y la Lucha Democrática en 1986". On the ground of violation of State Security Act No. 12.927, the Minister of the Interior instituted proceedings against him on 10 February 1986 before the Santiago Appeal Court (case 8-86). On 26 February an Investigating Judge committed him for trial for violation of article 4(a) of Act No. 12.927. The Judge issued a warrant for his arrest. The Appeal Court sentenced him on 14 May to 61 days of presidio menor, with conditional suspension under supervision for one year.

F.3. Radio Chilena, Radio Co-operativa, Radio Carrera and Radio Santiago. The Administration of the Emergency Zone issued on 2 July 1986 Proclamation No. 46 stating that the above radio stations had not complied with Decree No. 5985. "They had disseminated ... information on terrorist activities and the activities of persons, organizations, movements and groups advocating doctrines contrary to the social order ...". As a result, the radio stations in question were ordered "to restrict their broadcasts to commercials, music and official Government news ...". In favour of Radio Chilena a remedy of amparo was filed the same day before the Santiago Appeal Court because it was understood that Proclamation No. 46, besides restricting the freedom of information, suspended it temporarily, which ran counter to article 19, paragraph 12 of the Constitution.

G. Right of association

G.1. Rodolfo Sequel Molina and others. They were committed for trial for having convened "a day of social mobilization" on 4 September 1985 (for background see E/CN.4/1986/2, pp. 67-68, case C.10). On 19 October 1985, they filed an action of inapplicability before the Supreme Court on the ground of the alleged unconstitutionality of article 6(i) of the Internal Security of the State Act, as amended by Act No. 18,256 (Diario Oficial, 27 October 1983). Article 6(i) speaks of: "Those who without authorization foment or convoke collective public acts in streets, plazas, and other public places and those who promote or incite manifestations of any other kind which permit or facilitate the alteration of public tranquillity". For its part, the Supreme Court rejected on 28 January 1986 the action of inapplicability because in its opinion "... the existing legal norms do not impede or hinder the sacred right of association ... because the exercise of human rights is subject to the limitations imposed by authority when it is essential to uphold public order, the common good and the security of the State" (CDO,26). Concerning Act No. 18,256, the Supreme Court stated that it sets forth "... the requirements that must be observed to fulfil the necessary police regulations prescribed in the constitutional precept recognizing this right of association" (CDO,29). The Supreme Court's decision was adopted with one vote against: President Retamal "was prepared to accept the action in that it was based

on the contradiction between paragraph (i) of article 6 of Act No. 12.927 concerning State Security and articles 5, 19 (13) and 19 (26) of the Political Constitution".

G.2. Miguel Osvaldo Vega Fuentes and six other persons. Members of the Bureau of the "Confederación Nacional de Sindicatos de Trabajadores Textiles, de la Confección, Vestuario y Ramos Conexos de Chile" (CONTEVECH). On 3 June 1986, they filed a criminal complaint against Carabineros before the Fourth Criminal Court of Santiago (case 133,287). According to the complaint, on 1 May, a large contingent of armed Carabineros burst into the headquarters of this trade union. They searched the premises without a legal warrant and with unnecessary violence. The complaint also states that the workers present were threatened verbally and documents pertaining to the administration of the Confederation were appropriated.

V. CONCLUSIONS

45. The Government of Chile has continued to co-operate fully with the Special Rapporteur, not only by providing important information but also by giving prompt and effective attention to requests made by the Special Rapporteur in fulfilling his mandate, even allowing him to act as a protector of individuals and apolitical organizations. This is an important and necessary side to the Special Rapporteur's role, because he has quietly and directly, in contact with the Chilean Government and at the request of the parties concerned, made a humanitarian contribution that has so far borne fruit. Accordingly, collaboration with the Government is understood by the Special Rapporteur, to be not a magical way of solving problems, but rather a tool for approaching a solution to them.

46. The Special Rapporteur points out that, at his oral and written request, the Chilean Government consented to a second in situ visit to the country, although, at the time of writing, an agreement has not yet been reached on the exact dates.

47. The reply of the Government of Chile to the Special Rapporteur's report, submitted in March 1986 to the Commission on Human Rights, is in itself, by its thoroughness and detail, a significant sign of the aforementioned co-operation, although it includes assessments of the Special Rapporteur's work which he cannot share, and it does not fully satisfy his hopes. The reply does allow, however, for further dialogue between the Government and the Special Rapporteur in the search for solutions to the human rights problem in Chile, which continues to be of great concern to the Special Rapporteur.

48. According to high-level officials of the Chilean Government, the Special Rapporteur's reports, in particular the latest one, despite the reply they elicited, appear to have led to a state of mind in the Government, especially in the relevant official bodies as well as in a certain sector of the population, which is conducive to according due attention to respect for fundamental freedoms. This would be a step forward for the Chilean people which could and should lead to their well-being in freedom and democracy, especially if that state of mind or attitude were to be maintained in future without significant changes.

49. The Constitutional Acts concerning the normalization of political life leading to a democratic system of society and government based on popular consent, expressed in free, honest, periodic and competitive elections and on full enjoyment of the other basic rights over and above political rights, will apparently soon be adopted and implemented at last. The Government has told the Special Rapporteur that this programme will be carried out in the first quarter of 1987.

50. The Special Rapporteur trusts that there will be no more delays in the aforementioned programme, because they would cause even more serious disturbances in the country, and the conflicts which now beset the Chilean people would grow worse, with adverse consequences for the exercise of human rights, a necessary feature of any society which respects the inherent dignity of each individual.

51. The Government has taken a valuable step forward towards safeguarding human rights by establishing a high-level Advisory Commission on Human Rights, whose functions now also include receiving complaints concerning terrorist acts, unlawful coercion (including torture) and arbitrary arrests. According to information provided by the Government, this Commission, composed of eminent persons, has received 63 complaints concerning the following: exile (16), various labour issues (11), arrests (10), threats to or attacks on physical integrity (7), situation of persons tried by military courts (4), miscellaneous issues (5), petitions concerning political executions (2), settlement searches (2), freedom of information (2), universities (1), violent deaths (1), housing (1) and property damage (1). Actions taken by this commission and their results, however, are not yet known.

52. Another important step is the establishment of a special body for labour law, which seems to indicate that the Government is trying to follow, in part, the Special Rapporteur's recommendations concerning better treatment of workers' petitions for improved living conditions.

53. Still lacking is a more open and consistent attitude on the part of the Government, which would enable organized workers to petition the relevant authorities directly, thus avoiding violent confrontations or at least mitigating their adverse effects, where dialogue becomes difficult or is broken off.

54. No further cases involving administrative measures of restricted residence have occurred.

55. No further orders have been issued for Chileans to be expelled from the country. However, since the state of siege was proclaimed, the expulsion of three well-known foreign priests has been decreed.

56. No new complaint has been received concerning persons arrested or "disappeared" for political reasons in 1986, although judicial investigations are pending on 663 cases of presumed disappearances in previous years, such as the investigation being carried out by Judge Cerda on the presumed disappearance of 10 Communist leaders in November and December 1976.

57. Freedom of expression is demonstrated by numerous and varied mass media, and

the publication of a new daily newspaper, La Epoca, has been authorized. However, the Government heavily censored four radio stations and, although the decision was revoked shortly thereafter, such censorship eloquently demonstrated the precarious position of the press owing to the Government's continually renewed and excessive extraordinary powers in this field, as well as in other areas equally necessary for the exercise of human rights. Since the state of siege was proclaimed on 7 September 1986, various opposition magazines have been subjected to administrative suspension.

58. The Government points out in its reply that it has implemented laws designed to improve health protection, apparently in response to the Special Rapporteur's recommendations in his final report (E/CN.4/1986/2), which focused mainly on aspects of social security. It is to be hoped that the system has really improved, especially for the poor sectors. The Special Rapporteur intends to follow up the issue and to take a position in due course, after obtaining further evidence such as the views of users of the system.

59. Other labour situations also seem to have been improved, according to the Government. For example, the unemployment rate is not 60 per cent, but 11.9 per cent. The first figure was cited in the Special Rapporteur's report and referred to the situation in the shanty-towns, as the poor inhabitants had described it to the Special Rapporteur in Chile.

60. The memorandum on human rights complaints, which the Special Rapporteur transmitted to the Government and which appears as chapter III of his final report (see E/CN.4/1986/2, pp. 34-101), was answered by the Government; in each case it reported the status of the respective proceeding, in its formal aspects, except in 19 cases which do not appear to have been registered with any court according to the Government. Nevertheless, the Special Rapporteur has discovered that most of them are included in other lists of the same cases included in the memorandum and in chapter III (see sect. III of this report). The Government, however, did not indicate, as it should have done, that it would try to find out what had occurred in each case.

61. According to the Government, the reorganization of the Corps of Carabineros continues. However, the Special Rapporteur has received other information according to which the Carabineros Internal Affairs Department has taken over the functions of DICOMCAR (the Carabineros Communications and Information Department). Moreover, in April 1986, the so-called Carabineros "Civil Commissions" were re-established, composed of plain-clothes officials. According to informants, these Commissions have recently shown more interest in investigating and arresting members of the opposition than in fighting common crime. On the other hand, a high-level Government official assured the Special Rapporteur that these "Civil Commissions" have never engaged in intelligence work, as their mandate is to assist the community in the general interest, for example, by countering alcoholism or truancy, and he therefore felt that the re-establishment of this body did not imply any intention to give them functions other than the traditional ones.

62. In addition and still on the subject of the restructuring of the Carabineros, the Special Rapporteur has been informed that the officials of this institution

originally committed for trial by Judge Cánovas during his investigation of the "throat-slitting" incident and the abduction of various AGECH leaders had later been reinstated in the Corps of Carabineros, once their indictments had been annulled by the military courts. This would mean a step backward in the matter, an interpretation that was contradicted by the same high-level government official cited in the previous paragraph, who stated that there had not been sufficient justification to prevent the reinstatement of the Carabineros after their indictments had been annulled.

63. The Government also indicated that "states of emergency" are necessary to maintain law and order and do not constitute a change in the traditional Chilean system, except that they are now legalized by the Constitution. Besides, the Government uses its powers under this régime "extremely sparingly", and prefers having "direct recourse to the courts" to carry out this obligation. Nevertheless, in view of the fact that the country is living in a repeatedly renewed state of emergency and that the corresponding powers are used as a tool to repress the essentially legitimate aspirations and demands of those sectors of the population which are seeking an improvement in their living conditions and the establishment of real democracy, these states of emergency have an adverse effect and are deplorable.

64. The Government states that the order of the Ministry of the Interior and of the Ministry of Defence for avoiding unlawful coercion was published in a private journal and that it would have been inappropriate to publish it in the Diario Oficial, a view which the Special Rapporteur does not share. Moreover, according to complaints received and being investigated by the Vicaría de la Solidaridad, the Chilean Commission on Human Rights and the People's Rights Committee (CODEPU), persons held on suspicion of having contravened State security and similar legislation have continued to be subjected to torture and other forms of physical coercion during periods of investigation. The Government denies this and points out that it is customary for persons held for activities contrary to public order to lodge such complaints. The Special Rapporteur fears that, at least to some extent, the complaints may be justified in the light of the record and of the fact that adequate monitoring to prevent such unlawful coercion has yet to be implemented.

65. Until 31 August 1986, no new threats against lawyers defending persons accused of contravening the State Security Act and other such legislation had been recorded. This was confirmed by the Vicaría de la Solidaridad of the Archbishopric of Santiago and by a senior representative of the Chilean Commission on Human Rights. Nevertheless, until August 1986, sudden abductions of citizens had continued, carried out by individuals in civilian clothes who acted with the self-assurance and in the manner of persons accustomed to military life. Those abducted were intimidated to make them stop their lawful community and civic activities or to make them induce others to do likewise. From the moment the state of siege was proclaimed, the situation worsened because, as a result of statements made by the President of the Republic regarding people involved in the defence of human rights, some of those people reportedly felt terrorized and subjected to various forms of intimidation. For that reason, certain human rights organizations in Chile sought and obtained the protection of the Special Rapporteur, with the result that the

Government assured him that it had no intention of interfering with those organizations. The Special Rapporteur transmitted this information to them.

66. Government-ordered military intervention in the universities has continued. According to the Government's reply, the practice whereby the Rector of the University of Chile is appointed by the President of the Republic is extended to the majority of the universities, but the fact is that these universities are subject to governmental policy, a situation which is contrary to Chilean tradition and to the best interests of a system of higher education faithful to the principle of academic freedom characteristic of truly democratic societies.

67. The Special Rapporteur emphasizes that terrorism is extremely dangerous because of its devastating effects on innocent people and on the process of restoring democracy. For that reason, it must be rejected, regardless of the motives invoked to justify it, whether for preserving law and order or for subverting it. Moreover, according to the Government, terrorism attributed to the extreme left has increased again: 43 victims in the armed forces from 1983 to 1986; and 1,729 incidents involving explosives or fire from January 1985 to April 1986. The Special Rapporteur believes that terrorism and all forms of violence are the tools of those bent on aggravating the present political conflict and erecting walls of fear to impede the calm and sensible quest for peaceful solutions to conflicts, solutions aimed at negotiation based on democratic practices and on the return to a tranquil, mature and freedom-loving republican system of society and government.

68. The process for establishing, by peaceful political means, a democratic, representative, pluralistic and participatory system - devoid of any reprehensible manipulation of democracy by forces rather inclined towards totalitarianism - has not gathered momentum and it lacks the indispensable sense of urgency and of determination, despite the existence of a platform from which the dialogue, so essential for the protection of human rights, could be established.

69. Such a political dialogue, according to the Government, has already been initiated with a few political forces. The Special Rapporteur, with only the protection of human rights in mind, believes that this limited dialogue still does not satisfy the requirements for a climate of peace, essential for establishing the norms that safeguard the fundamental dignity of every individual. Peace is inconceivable without freedom and democracy.

70. A speedy end to the exile of Chileans will undoubtedly be a step towards achieving that peace, but the process of return has not been accelerated. While one group is authorized to enter, another group - amounting to 3,717 persons as at 15 May 1986 - is added to the list prevented from returning.

71. The climate of violence is now asphyxiating, dangerous and harmful and has serious negative implications for the exercise of human rights, because the democratic forces lack the means to impart their grievances to the régime in a peaceful manner, in accordance with universal republican practice. This has led to days or public demonstrations of protest or political, economic and social demands called "days of social mobilization", not authorized by the Government, which have

ended in extremely violent confrontations with tragic consequences. The Government - or its armed forces in general - has reacted with excessive violence, and radical and sectarian groups, which infiltrated the demonstrators, have also used excessively violent methods.

72. Attention should be drawn to two very serious incidents. The first concerns the death of 19-year-old Rodrigo Andrés Rojas de Neqri from atrocious burns inflicted during one of the above-mentioned demonstrations. According to court-room testimony, members of an army patrol were responsible for the fatal burns. Rojas de Neqri, a young photographer, was doing his work without participating in violent or subversive acts, according to the same affidavits in the keeping of the Special Rapporteur. The second incident concerns equally atrocious burns suffered by young Carmen Gloria Quintana Arancibia, detained by the same military patrol together with young Rojas. As can be seen from the sentence of the Military Appeal Court, these acts are yet another extremely serious and formidable obstacle on the road to social peace based on representative democracy, longed for by the majority of Chileans.

73. With regard to the facts mentioned in the previous paragraph, the Special Rapporteur feels obliged to point out with deep concern that, despite the sentence of the Military Appeal Court, the Military Prosecutor paid more attention to investigating the crimes attributed to witnesses in respect of the main issue, i.e., the burns inflicted on de Neqri and Quintana, than to following up the alleged involvement of the accused members of the army patrol. Not only is this damaging as regards the investigation of the main facts, but it also intimidates the witnesses to the quite obviously inconvenient incident.

74. The simultaneous mass raids on numerous settlements and peripheral areas of Santiago, particularly at the beginning of July 1986, by the military forces and Carabineros spread panic among the inhabitants, hundreds of whom were arrested, with some killed and wounded. The Government explanations for those raids are unsatisfactory, because a search for persons possibly involved in acts contrary to the public order does not in any way justify operations of that nature and scope which alarm innocent people, seriously aggravating the conflicts which are overwhelming the Chilean people and dramatically highlighting the nature of the ruling régime, just as they virtually exclude any attempt to settle the conflicts politically and peacefully.

75. The Special Rapporteur was informed by senior government officials of the discovery, in different places in Chile, of large arsenals of weapons of various calibres, exceeding in quantity and importance any other isolated discovery that the Government reportedly had made in the past, which, according to those officials, implied the existence of a highly dangerous subversive movement. The Special Rapporteur realized that such discoveries had been received with scepticism by this or that sector of the Chilean opposition. Nevertheless, according to sources close to him, these arsenals were real and new ones had continued to surface. At the time of drafting this report in September, the discovery of these arsenals is of enormous importance, because it seems to indicate an extremely dangerous scheme aimed at subverting any painstaking and tenacious search for peaceful and democratic means to protect human rights permanently and effectively under a democratic and representative system of government.

80. The Special Rapporteur also deplores the fact that the Government upholds the validity of the so-called ad hoc laws, instead of changing them. The security of the persons for whose benefit they were passed was in no way threatened by the previous procedure, which in itself constituted a privilege or courtesy customarily extended to high-ranking officials or ex-officials called to give testimony before the courts of justice; a privilege or courtesy that now under the new system becomes discriminatory, odious, and prejudicial to the investigation of similar actions that may be attributed in future to ranking military or Government officials.

81. Those who interrogate persons suspected or accused of breaches of State security and similar offences as well as those in charge of the custody of accused and convicted persons are not being monitored or controlled with the proper efficiency and diligence, despite the order of the Ministry of Interior to avoid unlawful coercion and especially torture. The establishment of the Advisory Commission on Human Rights is a step in that direction, but it is not enough. Nor does there appear to be the kind of surveillance or control over the various Government security forces that is indispensable for avoiding such serious incidents as the most recent ones involving young Rojas de Neri and Quintana Arancibia, and the mass raids on settlements, already described in this preliminary report.

82. It is also necessary to stress that the Office of the Controller General of the Republic has lost its original powers, and that this is detrimental to the proper functioning of the Chilean governmental system so far as the safeguarding of freedoms is concerned. The Government's reply does not satisfy the Special Rapporteur on this point.

83. Although - according to the Government - an argument has been going on in the country for various years regarding the establishment of a judicial police subsidiary to the judiciary intended to help it in its work, especially in the protection of human rights, the Special Rapporteur believes that its establishment is increasingly necessary.

84. To sum up, the Government is more aware of the importance of co-operating with the Commission on Human Rights through its designated Special Rapporteur. This co-operation is becoming more frequent, close and smooth, and it has had positive effects; for example, the Special Rapporteur has received full replies in writing and the Government continues to maintain an open and frank dialogue with him. In addition, the Government has taken steps described earlier by the Special Rapporteur as constructive, which he hopes will be followed by other even more encouraging steps.

85. None the less, as these conclusions are being written, the human rights situation in Chile continues to be a source of great concern because the system is not democratic, and only representative democracy guarantees respect for freedoms. Here the following instructive words of the South American Liberator, General José de San Martín, apply: "The stability of all known Governments rests on two foundations: on compliance with the laws, or on force. The advocates of representative Government support the first, the absolutists the second. ... The

use of force, being incompatible with our institutions, is their worst enemy, as experience has shown" (letter to Vicente López, 12 May 1830).

86. Furthermore, the serious events of last September have placed the country in a still more delicate predicament. Free rein is being given to violence in order to impede establishment of the rule of law advocated by San Martín, at all times linked with representative democracy and opposed to totalitarianism of whatever political persuasion.

87. To be sure, the Special Rapporteur considers, again unhesitatingly, that there is still reason to hope that the situation will be reversed before plunging the country into the abyss of annihilation. Chile possesses spiritual and intellectual reserves, in addition to a rich and illuminating experience of representative democracy, equidistant between the political extremes; they are capable of making the indispensable and urgent effort to restore the country's republican practices, and to apply them to forge a consensus on the most prudent and viable way of achieving change in keeping with the loftiest aspirations of the individual and the community in a climate of tolerance generating pluralism of ideas and of political action programmes for the general welfare. This melding of enlightened self-interest and initiatives which the Special Rapporteur trusts will come to pass without further delay depends basically and inevitably on the action of both the Government and the opposition groups, with the former bearing the greater burden of responsibility. While this means that, in the final analysis, the Chilean people as a whole must exercise their right to determine their own destiny, the Special Rapporteur hopes to serve a purpose in the noble task of national reconciliation, although he will naturally be a minor factor; nevertheless, he will be acting with the greatest goodwill in representing the international community, drawing strength from the inextinguishable warmth of the United Nations.

VI. RECOMMENDATIONS

88. Essentially, the Special Rapporteur feels obliged to reiterate the great majority of his previous recommendations, in particular those set forth in his final report (E/CN.4/1986/2), dated 12 February 1986, but omitting those deriving from governmental decisions which reflect changed attitudes favourable to the exercise of human rights or pointing in that direction, even though they may be modest and not far-reaching enough and are not without their flaws and contradictions. This obligation arises from the existence of a military régime which is by nature opposed to the exercise and effective protection of human rights, as are all military régimes whatever their political complexion. The Special Rapporteur has continued to emphasize strongly that the deadlines specified in the Political Constitution must be promptly complied with and even brought closer in order to establish a new, democratic Government with the freest, widest and most rewarding participation of the people, which should be representative and progressive and whose chief avocation should be the happiness of the Chilean citizen who has suffered so much and is so deserving of peace, freedom and social justice.

89. In any case, the Special Rapporteur deems it to be not only indispensable but

quite possible to bring about a convergence of opinions in favour of a democratic and representative system without further delaying tactics and without discouraging ambiguities which might lead to violent confrontations. Therefore, the Special Rapporteur, in discharging his mandate, trusts in God and hopes that there is no reason or excuse to prevent the sectors involved from negotiating the basic principles which will enable them gradually to reconcile their interests for the common good without further delay.

90. The Special Rapporteur also hopes that his final report to the United Nations Commission on Human Rights in February 1987 will enable him to show that the Chilean people finally found the broad and safe path to the enjoyment of human rights without further violence and suffering. Of course, this would mean implementing, inter alia, the recommendations in this report, as well as those in the two previous ones, however limited they may be. There is no time to be wasted: "Suit the action to the word, the word to the action". 7/

91. The visit to Chile planned by the Special Rapporteur would enable him, inter alia, to check the way in which the Government has implemented the recommendations in his previous reports, including the present report, since facts must speak for themselves and good intentions are not enough. In other words, no efforts must be spared in the campaign for democracy and human rights and, on the contrary, as another writer wrote in 1873, the Chilean does not believe and never did believe that "a thing said is a thing done". 8/

92. The Special Rapporteur wishes to stress the role that the Chilean judicial system in general must play in the aforementioned process, especially the part that is the judiciary's responsibility, for while the people steer the political process on towards democracy, with all due speed (the sooner, the better), the citizens must be able to find in the courts of justice protection of their fundamental rights and freedoms sufficient for them to feel that they can express their political ideas without fear within the democratic process.

93. In order to fulfil that objective in the administration of justice in the present circumstances, the judiciary must act with courage and resolution and demand its powers from the executive, which can only give its consent and institute the indispensable reforms in the legal system, reforms that should be put into effect without delay.

94. In this sphere of the administration of justice, it is absolutely necessary for both the Government and the judiciary to do their utmost, separately and jointly, to clarify as a matter of urgency the cases of Mr. Parada, Mr. Guerrero and Mr. Nattino, whose throats were slit, and of young Rodrigo Andrés Rojas de Negri and young Carmen Gloria Quintana Arancibia, who were burnt alive. The investigations must lead not only to identification of the person or persons directly or indirectly guilty of such heinous violations of the right to life and the right to physical integrity but also to the inevitable and imprescriptible punishment of those found guilty. Failure to punish them would be not only a travesty of justice and of the cause of human rights but also an incitement to the perpetration of other equally atrocious crimes. For that reason, the Government must concern itself actively with investigations into the events that culminated in

the deaths of the journalist Carrasco, and the three other persons, who were also killed. In that connection, the Government has accepted the suggestion by the advisory commission to the Ministry of the Interior to set up a special group of the Investigatory Police to conduct investigations in order to clarify and punish these crimes, and this step is welcomed by the Special Rapporteur.

95. The Government must co-operate fully with the military courts to ascertain the facts relating to the young victims who were burnt alive. It is also absolutely essential for the Military Prosecutor's Office, which is dealing with the case, to concern itself primarily with the main facts and avoid any procedural confusion by referring to facts of minor importance, even though they may be connected with the case, so that the truth may be known about the victims and the guilty parties duly punished.

96. The Special Rapporteur hopes in particular that one of the recommendations made in the previous reports, namely, to continue with the reorganization of the Corps of Carabineros, will be put into effect without fail. In that connection and with reference to the cases of young Rodrigo Rojas de Neuri and young Carmen Gloria Quintana Arancibia, the Special Rapporteur is of the view that the conduct of the Army forces must also be thoroughly investigated to ascertain whether their behaviour does not exceed what in all genuinely democratic societies are accepted as the bounds of duty in maintaining public order.

97. The Special Rapporteur also trusts that the Government will facilitate the task of investigating the 663 cases of missing detainees which have been brought before the courts, since the uncertainty surrounding such cases causes unnecessary anxiety to their families as well as casting doubt on the conduct of the public authorities.

98. The advisory commission to the Ministry of the Interior should be strengthened in human rights matters; it should be given wider powers and more attention should be paid to its recommendations, since the case of the two young people who were burnt alive demonstrated that its initiatives were conducive to constructive action by the Government in regard to the safeguarding of fundamental freedoms.

99. Ways and means must be found of strengthening the freedom of the mass media in Chile, since their present status exposes them unduly to restrictive government measures. This creates a situation which is contrary to freedom of expression and opinion and freedom of information, and precludes a wide-ranging debate on peaceful, dispassionate and political means of bringing about the early establishment of representative democratic government.

100. The Government should also make it possible for dissenting opinions to be expressed, in particular by authorizing the holding of peaceful gatherings or events in public places. This would help to ease the social tension which disrupts life in Chile at the present time and frequently degenerates into violence.

101. The Government should redouble its efforts to prevent gangs of extremists from perpetrating acts such as those which cost the lives of the journalist Carrasco and three other persons and other outrages in the past which have already been reported by the Special Rapporteur both in this and in previous reports.

102. Finally, the Special Rapporteur considers that the discovery of several large arsenals in various parts of Chile is a major obstacle to the establishment of a representative democratic system safeguarding human rights. Citizens should co-operate with the Government to that effect, so that the extremist groups connected with those caches do not achieve their ends. Likewise, the Government must adopt an appropriately self-restrained or moderate attitude towards the discovery of those or any other arms caches as well as towards terrorist acts, so that the cause of human rights is not undermined, for example, by unnecessary measures or deeds which might be interpreted as inappropriate and dangerous acts of intimidation against persons or groups who are concerned only with helping to safeguard human rights.

Notes

1/ Diario oficial of 26 June 1986.

2/ The four persons reported to have died violent deaths are: Miquel Angel Leal Díaz, Miquel Angel Hernández Albornoz, Eduardo Vielma Luengo and Alberto Rodrigo Bello López, the last-named at Viña del Mar.

3/ The victims were Miquel Angel Guerrero Guzmán, Cardemio Hernández Gubillos, Pablo Antonio Silva Pizarro, Gerardo Rebolledo Cisternas and Roberto Rosales Martínez.

4/ Jordán Tavra Checura, Miquel del Río Méndez, Ricardo Lara Orellana, José Córdova Belmar, Alberto Muñoz Carvajal, Juan Mac Lean Vergara, José Barrera González, Juan Fernández Lobos, José Carrasco Espinoza, José Mac Lean Zúñiga, Orlando José Maya Tapia and Rosa Salinas Gallecos were wounded.

5/ Diario oficial of 14 June 1985, Act No. 18415.

6/ The victims were: José Humberto Carrasco Tapia, Gastón Fernando Vidaurrazaja Manríquez, Felipe Segundo Rivera Gajardo and Abraham Muskatblie Eldestein.

7/ Shakespeare, Hamlet. Act 3, scene II ("Suit the action to the word, the word to the action").

8/ Amiel, Journal Intime ("La France a toujours cru qu'une chose dite était une chose faite").

APPENDIX

Commission on Human Rights resolution 1986/63,
adopted on 14 March 1986

Situation of human rights in Chile

The Commission on Human Rights,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms and resolved to remain vigilant with regard to violations of human rights wherever they occur,

Noting the obligation of the Government of Chile to respect and protect human rights in accordance with the international instruments to which Chile is a party, an obligation which is not different from that of any other Government which is a party to international human rights instruments,

Recalling its successive resolutions on the situation of human rights in Chile and in particular its resolution 11 (XXXV) of 6 March 1979, by which it appointed a special rapporteur on the situation of those rights, and its resolution 1985/47 of 14 March 1985, in which it agreed most recently to extend the mandate of the Special Rapporteur for one more year and, in view of the serious human rights violations in Chile, to give high priority to the study of this issue,

Recalling also the concern expressed by the General Assembly on the situation of human rights in Chile in its resolutions 3219 (XXIX) of 6 November 1974, 3448 (XXX) of 9 December 1975, 31/124 of 16 December 1976, 32/118 of 16 December 1977, 33/175 of 20 December 1978, 34/179 of 17 December 1979, 35/188 of 15 December 1980, 36/157 of 16 December 1981, 37/183 of 17 December 1982, 38/102 of 16 December 1983, 39/121 of 14 December 1984 and, in particular, resolution 40/145 of 13 December 1985, in which the Assembly invited the Commission on Human Rights to take the most appropriate steps for the effective restoration of human rights and fundamental freedoms in that country, including the maintenance of the Special Rapporteur,

Having examined the Special Rapporteur's report (E/CN.4/1986/2),

1. Commends the efforts of the Special Rapporteur during his stay in Chile and appreciates his report on the situation of human rights in Chile, prepared in accordance with Commission resolution 1985/47;

2. Recognizes as a positive development the fact that the Government of Chile permitted the Special Rapporteur to enter the country and provided the co-operation and freedom of access to persons of all social, political and economic interests necessary for his investigation;

3. Expresses its concern, nevertheless, at the persistence of serious violations of human rights in Chile, as described in the report of the Special

Rapporteur, which refers to such violations as disappearances and torture and abuses by security forces, the climate of insecurity, the prohibition preventing several thousand Chilean exiles from returning to their country, and the suppression of fundamental rights and freedoms through the maintenance of arbitrary executive powers during the prolonged period in which states of exception have been in effect;

4. Expresses its conviction that a legal and political structure, based on the consent of the governed, emerging from a civilized and constructive national dialogue, representative of the will of the people as expressed in free elections, and respecting the full exercise of legal rights is essential to the full observance of human rights in Chile, as in any other nation;

5. Once again appeals to the Government of Chile to respect human rights and to re-establish democratic institutions and the principle of legality in conformity with the Universal Declaration of Human Rights which are essential to the effective enjoyment and exercise of human rights and fundamental freedoms and are in the best democratic tradition of Chile;

6. Notes with particular dismay the ineffectiveness of government and judicial authorities in preventing the recurrence of abuses by security forces, and expresses special concern over the failure of the authoritative institutions to ensure the thorough investigation and prosecution of the many recent unsolved cases of murder, kidnapping and torture as well as the many cases of disappearances;

7. Strongly urges that the Government of Chile take at least the following steps, in conformity with the specifically labelled recommendations at the end of the report of the Special Rapporteur and those set forth elsewhere in that document, and adopt the measures necessary and conducive thereto:

(a) Immediately put an end to all forms of physical and psychological torture by the security and police forces and reiterate and make public the order of 30 July 1985 by the Ministers of Defence and the Interior which calls for an end to these abuses;

(b) Proceed vigorously through judicial and administrative action to investigate all reports of torture, killings, kidnappings or other human rights violations by the security forces and take appropriate action against all persons found guilty of such violations;

(c) Effect such reorganization of the security forces and of the police as may be necessary to end persistent problems of human rights violations, including organizations such as the National Information Agency and the Corps of Carabineros, and establish a permanent system to monitor the conduct of these security and police forces;

(d) Co-operate fully and effectively with investigations of human rights violations, assuring in all such investigations the independence of the judiciary and the maximum effectiveness of judicial remedies, particularly amparo and habeas corpus;

(e) Proceed vigorously to end the activities of groups and bands, whether private or connected with security forces, which have been reported to be responsible for kidnappings, interrogations, intimidation and beatings of ordinary citizens, and punish those responsible, especially the leaders of these groups;

(f) Amend legislation, including the laws authorizing states of emergency, states of danger of disturbance of law and order and states of siege, so as to bring it into conformity with guarantees of basic human rights as defined in applicable international agreements;

(g) Provide for the protection of public order against acts of violence by punishing persons found to have been guilty of such acts, through the exercise of due process of law and respect for the rights of the accused, without using terrorism as a justification for any abuse of authority;

(h) End the practice of ordering internal banishment without recourse to the judicial system;

(i) Allow the return of all Chilean citizens now living abroad who wish to return, and recognize their continuing right to enter and leave freely;

(j) Re-establish the full enjoyment and exercise of labour rights, and take into account the legitimate cultural and socio-economic interests of the population;

(k) Respect activities related to the defence and promotion of human rights;

8. Requests that the Government of Chile continue and increase its co-operation with the Special Rapporteur and fully implement his recommendations, and invites the Government to submit any comments it may have to the Commission on Human Rights at its forty-third session;

9. Decides to extend the mandate of the Special Rapporteur for one year and to request him to report on the situation of human rights in Chile to the General Assembly at its forty-first session and the Commission on Human Rights at its forty-third session;

10. Recommends to the Economic and Social Council that it make appropriate arrangements to ensure that the necessary financial resources and sufficient staff are provided to implement the present resolution;

11. Decides to consider at its forty-third session, as a matter of high priority, the human rights situation in Chile.
