



General Assembly

Distr.
GENERAL

A/42/556
16 September 1987
ENGLISH
ORIGINAL: SPANISH

Forty-second session
Item 12 of the provisional agenda*

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 report prepared by Professor Fernando Volio Jiménez (Costa Rica), Special Rapporteur on the situation of human rights in Chile, in accordance with paragraph 12 of Commission on Human Rights resolution 1987/60 of 12 March 1987.

* A/42/150.

ANNEX

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 forty-first session, after considering the preliminary report of the Special Rapporteur, the General Assembly adopted resolution 41/161 of 4 December 1986, entitled "Situation of human rights and fundamental freedoms in Chile". In paragraph 10, the General Assembly invited the Commission on Human Rights "to consider, as a matter of high priority, the report of the Special Rapporteur, taking account of the relevant information at its disposal; to take the most appropriate steps for the effective restoration of human rights and fundamental freedoms in Chile, including extending the mandate of the Special Rapporteur; and to report to the General Assembly at its forty-second session, through the Economic and Social Council, with a view to examining the human rights situation in Chile".

5. The Commission on Human Rights, at its forty-third session, had before it the fourth report of the Special Rapporteur (E/CN.4/1987/7) on the situation on human rights in Chile. By paragraph 12 of resolution 1987/60 of 12 March 1987, 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-second session and to the Commission on Human Rights at its forty-fourth session". This resolution was subsequently endorsed by the Economic and Social Council (decision 1987/152 of 29 May 1987).

6. Pursuant to the above-mentioned resolutions, the Special Rapporteur has the honour to submit herewith, for consideration by the General Assembly at its forty-second session, his first report on the situation of human rights in Chile in 1987, which is at the same time the fifth report prepared by him. On this occasion, he had permission from the Government to visit Chile a second time with complete freedom of action; he was therefore able to analyse the situation directly, in constant co-operation with the Government and other interested parties, who provided him with testimony and documents on the human rights situation in Chile. This information was analysed in the light of the norms set forth in international instruments ratified by Chile and other norms of international human rights law recognized as universally applicable.

7. The report deals mainly with the first half of 1987 (January to June). However, in cases where this was particularly warranted, information received before or after these dates was taken into account.

II. VISIT TO CHILE

8. The Special Rapporteur arrived at Santiago, Chile, on the morning of Saturday, 21 March 1987, accompanied by three officials from the Centre for Human Rights. He was received by senior officials of the Ministry of Foreign Affairs and representatives of the Economic Commission for Latin America and the Caribbean (ECLAC). He then had a first informal contact with representatives of the various mass media. He stayed in Chile for 10 days and had a very full schedule.

9. As on his first visit in December 1985, the Special Rapporteur was afforded full co-operation by the Government and given complete freedom of action; he was also free to draw up his own programme of work. The co-operation extended by Chilean human rights organizations, the assistance of the ECLAC headquarters at Santiago, the work done by the mass media in reporting on the Special Rapporteur's activities during his visit to Chile, also contributed to the success of his mission.

10. The Special Rapporteur drew up his programme of work to cover four cities: Santiago, Coronel, Concepción and Valparaíso. He held 32 meetings with official bodies and met with a total of 69 officials, including two ministers, three under-secretaries, the Directors-General of the Carabineros, the Policía de Investigaciones and the Gendarmería, the Director of the Electoral Service, and the Advisory Commission on Human Rights of the Ministry of the Interior. He also met with a member of the Commission for the Study of Constitutional Fundamental Acts and held a number of working meetings with senior officials of the Ministry of Foreign Affairs and Ministry of the Interior. He was granted audiences by the President of the Supreme Court, three investigating judges and two military prosecutors. He visited seven penal establishments in the four cities mentioned. He was also received by the Archbishop of Santiago, the Archbishop of Concepción and two Catholic bishops; a Methodist bishop; two university rectors; and representatives at Santiago of the Intergovernmental Committee for Migration (ICM) and the International Committee of the Red Cross (ICRC). He met a total of 261 people representing 77 Chilean human rights, social, professional, trade union and community organizations. Lastly, the Special Rapporteur received 82 people who, in a personal capacity, had expressed an interest in meeting him; these individuals were selected from a much longer list which, as will be appreciated, could not be covered for lack of time. In all, the Special Rapporteur interviewed in Chile 385 people representing all sectors of society.

11. On the afternoon of Saturday, 21 March, the Special Rapporteur was received by the Archbishop of Santiago and his auxiliary bishop who raised some human rights issues of concern to them, including the emergency legislation, exile, torture, the holding of prisoners incommunicado, the activities of military prosecutors, and the difficulties experienced by the Vicaría de la Solidaridad and its staff in carrying out their activities.

12. A little later, the Special Rapporteur was received by the Minister for Foreign Affairs, who reiterated his Government's desire to co-operate although, in its view, United Nations treatment of the subject of human rights in Chile was discriminatory and lacked objectivity. The Minister described the allegations of torture as false and said that if the security forces reacted violently at times, that was because they were fighting against terrorism.

13. On Sunday, 22 March, the Special Rapporteur visited the Santiago offices of the International Committee of the Red Cross (ICRC). The implementation of recent agreements allowing access by officials of that organization to persons detained on grounds of subversive or political activities (470 at present) was reviewed. The hope was expressed that in future it would also be possible to have access to persons held incommunicado by judicial order, and reference was made to the need to properly inform and instruct middle-ranking personnel of the security forces about the prohibition of physical coercion and maltreatment of prisoners.

14. Later, the Special Rapporteur received two representatives of the National Commission against Torture who expressed concern about a hunger strike that was being staged throughout Chile by some 360 people calling themselves "political prisoners". They also called for the return to Chile of Dr. Arturo Girón Vargas.

15. The Special Rapporteur subsequently met with 20 people, representing 11 Chilean organizations for the promotion and protection of human rights, in order to inform them about his programme and method of work. Concern was expressed about the apparent contradiction between certain legal and constitutional norms and international human rights norms; various cases of exile; the hunger strike of the self-styled "political prisoners", 10 of whom had already been fasting for 25 days; certain irregularities in the conduct of judicial bodies in cases involving major human rights issues; and allegations of torture carried out against those accused of having participated in arms smuggling and the attack on the presidential convoy.

16. The Special Rapporteur ended the day with an audience granted him by the Minister of the Interior, accompanied by his Chef de Cabinet and a junior representative of the Ministry of Foreign Affairs. The Special Rapporteur conveyed to the Minister his concern about the process of return to a democratic system, the scope of the norms regulating states of emergency, the judiciary's failure to protect human rights properly, the activities of private armed gangs, exiles, the situation of the press, and the need for middle-ranking personnel of the security forces to be instructed as to the illegality of physical coercion. The Minister, for his part, reiterated his Government's desire to co-operate and his abhorrence of human rights violations, and gave his views on the concerns expressed by the Special Rapporteur. Lastly, it was agreed that a working group would be convened to analyse the extent to which the recommendations made in the Special Rapporteur's four reports were being implemented.

17. On Monday, 23 March, the Special Rapporteur met with senior Government officials, namely: the Under-Secretary for Labour, the Under-Secretary for Development and Social Welfare and the Under-Secretary for Health, who informed him about activities in their respective areas of jurisdiction. He then met with advisory lawyers of the Ministry of the Interior and reviewed with them some of the

complaints of alleged human rights violations which had been submitted to the law courts and then taken up by the Special Rapporteur and transmitted to the Government for comment. After that, he met six members of the Advisory Commission on Human Rights of the Ministry of the Interior and analysed with them the questions of exile, unlawful coercion allegedly carried out by middle-ranking personnel of the security forces, arbitrary arrests, and massive raids on shanty towns. The Special Rapporteur expressed the hope that the Commission's powers would be consolidated and broadened, especially in the areas of coercion of prisoners and disappearances.

18. The Special Rapporteur also visited the Vicaría de la Solidaridad, where he met with the Vicar, the Executive Secretary, the head of the Legal Department and eight of the Department's lawyers. There was a discussion of such human rights issues as torture, exile, the lack of effective judicial remedies during states of emergency, and incidents which seemed to amount to persecution of human rights organizations, including the Vicaría itself. Other issues included military interference in the universities, non-publication of the International Covenant on Civil and Political Rights in the Diario Oficial; the activities of private armed gangs; and the failure to separate self-styled "political prisoners" from common criminals in prisons. With regard to the judiciary, note was taken of its lack of progress on the most prominent human rights cases; the system of appointing "associate lawyers" to serve as judges; the excessive scope of military jurisdictions; and alleged abuses of such jurisdiction, including undue prolongation of incommunicado imprisonment or trials based on mere supposition or extrajudicial confessions. The extent of military jurisdiction was clear from the fact that of 260 people tried in the course of 1986, 225 had been tried by and before the military courts and only 35 by civil courts. Lastly, certain irregularities were noted in the appointment of ad hoc military prosecutors and, in particular, in some of the actions of ad hoc Military Prosecutor Fernando Torres.

19. The Special Rapporteur concluded the day by receiving six representatives from the Association of Relatives of Political Prisoners, three from the Association of Relatives of Missing Detainees and four from the Association of Relatives of Persons Executed for Political Reasons, who gave him information about issues of concern to their organizations. He also received 19 people who wished to meet with him in an individual capacity and who informed him about 9 cases of violent deaths, 14 cases of exile, 8 cases of torture and 1 raid.

20. On Tuesday, 24 March, the Special Rapporteur was received by the Rector of the Catholic University, who described to him the functioning and characteristics of the University. He then visited the headquarters of the National Corporation for the Defence of Peace (CCRRPAZ), a body which assists victims of terrorism, where he was received by the organization's leaders and heard testimony from 4 of the 10 victims of terrorism present at the meeting.

21. Later in the day, the Special Rapporteur was received by the President of the Supreme Court with whom he exchanged views on the independence of the judiciary, the scope of emergency legislation in suspending the enjoyment of certain rights, and the suspension of the right of an effective judicial remedy under transitional provision 24 of the Constitution. At the end of the interview, the Special

Rapporteur reiterated his request to meet the entire bench of the Supreme Court. The President offered to call in his colleagues and began to do so straight away, in the Special Rapporteur's presence but was unable to reach them at that time since they were in session. He did, however, offer to give a reply the following day. The bench of judges of the Court decided that same day not to receive the Special Rapporteur, however, because in answering questions by the press he had asserted that the Chilean judiciary was not independent.

22. The Special Rapporteur then visited the headquarters of the Chilean Commission on Human Rights, where he was received by its President and three senior members who expressed concern at such aspects of the human rights situation as torture, exile and the apparent impunity with which certain political crimes were being committed thanks to the allegedly passive attitude of the judiciary or the alleged pressure on it from the executive branch; the use of the mass media to falsely impugn opposition political leaders or accuse persons detained for alleged subversive activities of having committed terrorist offences, a practice by the military judicial authorities which violates the secrecy of the pre-trial investigation; the indictment of the leaders of the Citizens' Assembly; and the restrictions that would be imposed by the new Constitutional Fundamental Act relating to political parties on the right of political association. He also met with two representatives from the Commission's office at Linares who denounced the actions of paramilitary groups in that city as well as the alleged disappearance of a young man, Jerónimo Pérez Aravena, at San Javier on 26 June 1985. The Commission's President at Copiapó was also present and reported that he had been the object of a bomb attack by a paramilitary group on his home on 25 September 1986, after having been assaulted by the Mayor of the city himself (on 26 May 1986) and having filed claims against him for grievous injury. The Commission's President at Rancagua also said that there were nine "political prisoners" in that city's prison who had allegedly been tortured. Three representatives of the Commission's office at Curicó said that they were being constantly threatened by armed gangs, but that their applications for judicial protection had made no progress. They felt that precise instructions should be given to middle-ranking personnel of the security forces to avoid abuses of authority. The Special Rapporteur concluded his visit to the Commission by hearing the testimony of three people who informed him of 27 cases of torture, 1 case of arbitrary arrest and 1 case of threats.

23. Later that night, the Special Rapporteur heard the complaints of three representatives of the Association of Parents of University Students; four representatives of the Coordinating Body for Unions of Workers in the Arts; three representatives of the José Santos Lincomán Association in Solidarity with the Huilliche People; three representatives of the Popular Democratic Movement; and four representatives of the "Committee for the Return of Exiles" who gave him information on 13 particular cases. Lastly, around midnight, he concluded his working day with a meeting with seven people who, in their individual capacity, referred to the situation of an exile, three cases of maltreatment of prisoners accused of subversion and three cases of torture at Santiago San Antonio and Valdivia.

24. On Wednesday, 25 March, the Special Rapporteur visited the offices of the Committee for the Defence of the People's Rights, where he met with its President and 18 other people. Six people talked about the overall legal and political situation in the country; certain irregularities in the system of military justice, such as its organic dependence on the executive branch, the slow pace of trial proceedings and the difficulty of obtaining bail for prisoners awaiting trial, the irregularities allegedly committed by Ad Hoc military prosecutor Fernando Torres in dealing with persons accused of having participated in arms smuggling and the attack on the presidential convoy (extension of incommunicado detention by up to 35 days, violation of the secrecy of pre-trial proceedings, and establishment of a special prison régime for the accused); and the torture allegedly undergone by the above-mentioned prisoners. As for the situation of the self-styled "political prisoners", it was said that there had been 449 such prisoners in the country at the end of February 1987, only 65 of whom had been sentenced while the rest (384) were in prison awaiting trial.

25. Shortly afterwards, the Special Rapporteur was received by Investigating Judge Carlos Cerda, who said that he had received anonymous threats and that disciplinary action had even been taken against him by the Supreme Court because of the decisions he had handed down as part of his investigation into 10 cases of alleged disappearances. On 14 August 1986, Cerda had issued 40 committal decisions against members of the armed forces and security forces implicated in offences of coercion and unlawful deprivation of liberty which, in his opinion, were not eligible for amnesty because they were ongoing offences, i.e. they would not cease until there was evidence that they had ended. The higher courts had quashed his committal decisions and applied the Decree-Law concerning amnesty, and his substitute had dismissed the case.

26. Next, the Special Rapporteur was received by Ad Hoc Military Prosecutors Fernando Torres and Erwin Blanco, accompanied by their respective secretaries. The former is the Prosecutor investigating weapons smuggling, the attack on the presidential convoy and the raid on the Lautaro bakery (the "Vicaría case"). According to him, six of those detained in the arms smuggling case had admitted in front of television cameras to being involved in the activities in question. As to the charges of torture, the Prosecutor said that he had observed physical deficiencies in the case of Vasily Carrillo Nova and that he had extended the period of incommunicado detention because new facts had come to light that had to be investigated. On the other hand, he did admit to having violated the secrecy of the pre-trial investigation by giving information to the press. Regarding the attack on the bakery, Prosecutor Torres has indicted two doctors and a lawyer working with the Vicaría de la Solidaridad for alleged complicity in terrorist acts. The grounds for the indictment are that they failed to report to the police the fact that they had given medical care to a person with a bullet wound, invoking professional secrecy as justification. The two doctors are being held in preventive detention. As for the other Prosecutor, he is investigating the events leading to the burning and death of Rodrigo Rojas de Negri and the serious burns and injuries sustained by Carmen Gloria Quintana Arancibia. According to him, the use of unnecessary violence is not confirmed by the records and the administrative inquiry also shows that Colonel Muñoz, who headed the military patrol allegedly responsible for the occurrence, did not inform his superiors of what had happened, an omission for which he has been disciplined.

27. The Special Rapporteur was then received by the Director-General of the Carabineros, who is also a member of the Junta, accompanied by eight of his colleagues who described the organization and specific activities of the Carabineros. With regard to the allegations that carabineros belonging to the disbanded Carabineros Communications Department (DICOMCAR) had been involved in the abduction of a number of leaders of the Professional Association of Chilean Teachers (AGECH), as well as in the abduction and murder of José Manuel Parada, Manuel Guerrero and Santiago Nattino, whose bodies were found with their throats cut, the Director-General denied that his service had been involved in any way in those events. He also said that he disagreed with the stay-of-proceedings decision issued by Investigating Judge José Cánovas in the case of the abduction of the AGECH leaders, since that decision seemed to insinuate that there was an illicit association within the Carabineros, with its own clandestine barracks.

28. The Special Rapporteur next had a meeting with Investigating Judge José Cánovas Robles, who is investigating the occurrences mentioned in the preceding paragraph. According to him, the records of the investigation showed that DICOMCAR had been involved in the events in question, as could be seen from a report provided by the National Information Agency (CNI). He also emphasized that he had not received the necessary co-operation from the Carabineros or the Policía de Investigaciones during his investigation; that he had received repeated death threats and was being watched; and even that special legislation had been passed in an attempt to obstruct his investigation.

29. Shortly afterwards, the Special Rapporteur went to the Capuchinos Annex of the former Public Prison of Santiago, where he was received by the Director-General of the Gendarmería, who told him that there were some 444 detainees who had been arrested as "subversives", 305 of whom were on a hunger strike. He then met privately and separately with Drs. Juan Macaya and Ramiro Olivares, who work with the Vicaría de la Solidaridad and have been indicted by ad hoc Military Prosecutor Fernando Torres as indicated above. The former had been in prison since 3 June 1986, while the latter was undergoing his second period of detention and had at that point spent 100 days in prison.

30. The Special Rapporteur then visited the former Public Prison of Santiago, where he was received by the Director-General of Gendarmería and the Prison Governor. They informed him that 57 "subversive" detainees in the prison were staging a hunger strike in support of repeated demands that their trials pending before the military courts be speeded up and that all of them be detained together in one part of the prison. The Special Rapporteur later met privately with 15 of the hunger strikers, headed by the President of the self-styled "National Association of Political Prisoners". All of them had allegedly been subjected to physical coercion by members of the Policía de Investigaciones or the CNI and to protracted incommunicado and solitary confinement both in the early days of their administrative detention and later during their detention in prison. One of them maintained that he had been raped at a CNI barracks. In conclusion, they asked the Special Rapporteur to transmit their demands to the competent authorities.

31. On Thursday, 26 March the Special Rapporteur had a meeting with three representatives of the Peace and Justice Service (SERPAJ) who explained their

organization's educational objectives in the area of human rights and expressed concern at the situation in the country. He then received a Carabineros officer who was acting as spokesman for a group of 21 persons, mainly women, who recounted to the Special Rapporteur the circumstances in which their relatives, all of them carabineros, had been killed in terrorist attacks while on duty. He next held a meeting with a member of the Commission for Constitutional Fundamental Acts, who described the work of that Commission and the voter registration process. He then received two leaders of the Confederation of Copper Workers (CTC) who explained that they had requested the Government to ratify international labour agreements on trade union freedom. They also expressed concern at terrorism and the politicization of the popular "protests", which they claimed are not called by workers. Two businessmen belonging to an industrialists' organization called SOFOFA then assured the Special Rapporteur that the "protests" were political strikes, at a time when the country's economic situation had allegedly improved substantially. Two other people who met with the Special Rapporteur in an individual capacity informed him of their parents' death in a terrorist attack in which the security forces were allegedly implicated.

32. The Special Rapporteur was later received by the government-appointed Rector of the University of Chile, who described the University to him and the extent of the military's involvement in it. The Special Rapporteur voiced his disagreement with the system of government-appointed rectors and did so again in addressing a group of students at the University. He then visited the Director-General of the Gendarmería to transmit to him the demands of the "subversive" detainees on hunger strike, who assured him that he would study the demands carefully and discuss them with those concerned. Shortly afterwards, the Special Rapporteur visited the offices of the Department Electoral Service where he was welcomed by the Director and his colleagues and informed about the ongoing process of voter registration (census), the new Supreme Electoral Tribunal that was to begin functioning soon, and the forthcoming adoption of the Voting and Ballot Act and the Electoral Districts Act.

33. The Special Rapporteur later visited Lo Hermida shanty town, where he was welcomed by one of its leaders, Mario Mejías, and a priest, Gerardo Whelan, who had made the Chapel of Our Lady of Hope available as a meeting place. A large group of residents were gathered in the Chapel. Nineteen people representing seven organizations in the shanty town spoke at the meeting, complaining to the Special Rapporteur about raids by the security forces on the shanty town, unemployment, the absence of a polyclinic or health clinic in the shanty town, which has 68,000 residents, plus other problems with the new system of health benefits, the reduction in the milk ration distributed to young children, the fact that they had had to set up 12 communal soup kitchens feeding 750 families, the lack of housing and the consequent overcrowding in existing housing, and problems with education and young people.

34. Shortly afterwards, the Special Rapporteur returned to the former Public Prison and met privately with three of the hunger strikers who had asked him the previous day to transmit their demands to the competent authorities. He gave them an account of his visit to the Director-General of the Gendarmería and the latter's readiness to deal with them on a case-by-case basis.

35. The Special Rapporteur concluded his working day, after midnight, by meeting with three people representing the Foundation for the Protection of Children Harmed in States of Emergency (PIDEE), which provides medical, psychiatric and educational assistance to minors whose basic rights, or whose parents' basic rights, have been violated. A representative of the Association of Pre-school Teachers also came, who alleged that she had lost her job for expressing opinions opposed to the régime. Two representatives of the United Committee of Shanty Town Residents (CUP) complained that they had been threatened and even tortured by the CNI. Four people representing the Human Rights Department of the Federation of Professional Associations reported on the mass dismissal of teachers in public institutions, which they ascribed to the "indecisiveness and cowardice" of the judiciary and the "lack of independence" of the military tribunals. They also charged that a woman "political prisoner" detained in San Miguel Prison had been tortured. Lastly, five people appearing in their individual capacity reported on the disappearance in Arica of Alejandro Pino in July 1986 and also three cases of violent death in Santiago, two cases of threats, and the bomb attack on El Carmen Parish Church in Arica.

36. On Friday, 27 March the Special Rapporteur held a working meeting in the Ministry of Foreign Affairs with two high-ranking representatives of that Ministry and two representatives of the Ministry of the Interior. This meeting was held pursuant to the agreement reached with the Ministry of the Interior that a working group would be set up to study the extent to which the recommendations made in the four reports so far issued by the Special Rapporteur on the situation of human rights in Chile have been implemented. At the meeting, the Special Rapporteur emphasized that the functions of the Advisory Commission on Human Rights of the Ministry of the Interior should be expanded, especially in following up judicial complaints of alleged human rights violations. He also recommended that the results of the implementation of the agreements reached between the International Committee of the Red Cross and the security forces, giving Red Cross officials access to prisoners classified as "subversive", should be evaluated on a permanent basis. In particular, Red Cross officials should be able to meet privately with prisoners being held incommunicado, for the sole purpose of giving them a medical examination. The Special Rapporteur also urged that the International Covenant on Civil and Political Rights be published in the Diario Oficial, that the development of constitutional legislation should be completed with all due urgency, and that the laws governing states of emergency should be revised, especially those affecting the protection of human rights by the courts. Lastly, he observed that the Government should co-operate more vigorously in administrative and judicial investigations of violent deaths and other serious human rights violations.

37. Subsequently, the Rapporteur visited the offices of the Christian Churches' Foundation for Social Welfare (FASIC), where he was received by five of the Foundation's leaders, including two bishops. This organization provides social, psychological and legal assistance to persons who have been detained or persecuted for political reasons and to their families. They emphasized the importance of using the legal channel (Decree No. 504) through which prison sentences can be commuted to sentences of exile. They also said that the attack by a squad of eight masked persons in uniform on the offices of the Intergovernmental Committee for Migration (ICM) on 31 December 1986 had had psychological repercussions for 18 members of the staff. The Special Rapporteur later obtained confirmation of this from the ICM representative at Santiago.

38. The Special Rapporteur later visited the San Miguel Preventive Detention Centre; there he interviewed Gendarmería officials, who informed him that there were 33 women in the prison who had been detained for "subversive" offences, 21 of whom were on a hunger strike. As to the status of their cases, 31 were allegedly being detained pending trial, while only 2 had been sentenced. As his next step, the Special Rapporteur met privately with 5 of these women whom he himself selected; they told him the reasons for their hunger strike - which coincided with those of the self-styled "political prisoners" - and the circumstances of their detention, during which they had been subjected to various forms of physical coercion and one of them had even been raped.

39. The Special Rapporteur then visited the former Santiago Penitentiary, where he was received by Gendarmería officials who told him that 115 "subversive" detainees were on a hunger strike in the prison. The Special Rapporteur then selected four of the detainees and met with them privately; he listened to the strikers' demands, which were similar in substance to those he had heard in other penal institutions, and an account of their respective detentions, during which they claimed to have been subjected to physical coercion, including the application of electric shocks during interrogation.

40. The Special Rapporteur concluded his day after midnight by meeting with six representatives of the Committee for the Defence of the People's Rights (CODEPU), who told him of the death of Boris Vera Tapia, shot by soldiers on 2 July 1986, and the disappearance in Santiago in December 1984 of Sergio Ruiz Lazo. They also asked for his assistance in obtaining the application Decree No. 504 in the case of Sergio Santiago Godoy Fritis, who was being held in Chillán Prison. He also listened to information and applications from two representatives of the University of Chile Student Federation, three representatives of the Committee for the Defence of Youth Rights (CODEJU), five representatives of the Adult Education Student Centre of the Liceo B. Vicuña Mackenna, and four representatives of the National Restaurant, Hotel and Food Workers' Confederation. Lastly, he met with nine persons who, in their personal capacity, informed him of one violent death, six cases of exile and two requests for internal banishment.

41. On Saturday, 28 March the Special Rapporteur travelled to Concepción where he visited the offices of the Human Rights Department of the Archdiocese of Concepción and subsequently met with four of the Department's directors and lawyers. With regard to action by the judiciary, they stated that the civil courts were unduly slow in processing requests for amparo - despite the existence of a legal deadline of 24 hours - partly because of a lack of co-operation on the part of the security bodies involved; the delays also appeared to be procedural and unwarranted. They maintained that allegations of torture involving the National Information Agency and the Carabineros had increased in the region during the past year. Military jurisdiction, they said, had been extended excessively, to the detriment of the civil courts, a move which furthered the Government's interests. In support of their claims, they noted that of 87 people tried for political reasons in the region during the past year, 72 of them had been tried by the military courts. They also stated that a single case could be prosecuted simultaneously under two laws (the Firearms and Explosives Control Act and the Anti-Terrorism Act). Likewise, they claimed to have observed cases of complicity between the police and the military prosecutors, which had adversely affected the interests of detainees.

42. The Special Rapporteur next travelled to the city of Coronel, where he visited the former Public Prison. He was received there by the Regional Director of the Gendarmeria and the Mayor of the city. He was then taken to the place where six women were being held in confinement and met with them in private. By their own account, they considered themselves "political prisoners" and (five of them) were carrying on a hunger strike, their demands being similar to those cited by other such prisoners. All the women said that they had been subjected to torture, including electric shocks, while being interrogated during the early days of their detention.

43. Returning to Concepción, the Special Rapporteur paid a visit to the former Public Prison there, where he was met by Gendarmeria officials. He then singled out seven "subversive" detainees whom he interviewed privately. All of these asserted that they had been tortured, including with electric shocks, while being interrogated during the early days of their detention. They said that they belonged to the group of self-styled "political prisoners", of whom there were 49 in the region, who were staging a hunger strike in support of demands identical to those cited by other members of this group in prisons visited previously.

44. Shortly afterwards, the Special Rapporteur was received by the Archbishop of Concepción, Monsignor Santos, who discussed the most blatant human rights violations in his archdiocese.

45. The Special Rapporteur met subsequently with three people representing the Chilean Commission on Human Rights at Concepción, who informed him about the actions of the military prosecutors and the lack of progress in the judicial investigation of the death of the student Randolph. Five representatives of the Concepción headquarters of the Committee for the Defence of the People's Rights (CODEPU) also expressed their concern at the extension of military jurisdiction, which they claimed made no provision for the principle of degrees of culpability or of reversal by the Supreme Court, but only for the remedy of complaint. Thus, a military court decision committing an individual for trial or denying him bail would not be appealable. They also stated that the lawyers in cases brought before the military courts generally were not allowed access to the pre-trial proceedings. Similarly, they did not consider the military courts to be independent of the executive branch of the Government, noting that remedies of complaint were dealt with by the Military Appeal Court in Santiago (the only such court in the entire country), with all the attendant delays; that Court is composed of three military and two civilian judges.

46. The Special Rapporteur next met with two representatives of the Professional Association of Chilean Teachers (AGECH) at Concepción and six representatives of the Association of Teachers, who condemned the mass dismissal of 1,481 teachers in January and February 1987 and the threats directed at leaders of their unions. They reported that the dismissals appeared to have been politically motivated. Statements were then heard from two representatives of the Federation of Academics and two representatives of the Student Federation of the University of Concepción, who spoke against military intervention in their university. Next, a representative of the VIIth Region Association of Internal Exiles denounced the harassment of some of the Association's members and the administrative banishment

recently imposed on opposition leader Clodomiro Almeyda. Lastly, the Special Rapporteur met with two people who, in their personal capacity, reported four instances of alleged torture.

47. On Sunday, 29 March the Special Rapporteur travelled to the city of Valparaíso, where he visited the local offices of the Chilean Commission on Human Rights and met with four leaders of the Commission's Valparaíso office and two representatives of the Commission's office at the city of Viña del Mar. They spoke of the abduction and attested torture of several students from the Federico Santa María Technical University for their alleged participation in movements opposed to military intervention in their university. They also told of the harassment of local Catholic parishes and churches, leaders of the Commission and the Association of Teachers and Bishop Camus himself. Similar complaints were made by a representative of the Association of Academics and a representative of the Student Federation of the Federico Santa María Technical University. Three representatives of the Valparaíso Association of Teachers denounced the mass dismissal of 1,112 teachers in their region as a result of the privatization of education, and claimed that their leaders had received death threats.

48. Three representatives of the Regional Association of Relatives of Political Prisoners also appeared before the Special Rapporteur, expressing their concern at the hunger strike being carried on by these prisoners in the region's prisons. Following that, three representatives of the Regional Association of Relatives of Missing Detainees reported the disappearance of María Isabel Gutiérrez Martínez and seven other people; although the facts of this case had been referred to the courts, no light had been shed on it. Six representatives of the Valparaíso Committee for the Defence of the People's Rights then submitted complaints about the actions of the military courts and the situation of the self-styled "political prisoners", including six women allegedly being held in Quillota Prison, together with 14 ordinary prisoners, in overcrowded conditions. Three representatives of the regional section of the Peace and Justice Service (SERPAJ) drew attention to citizens' lack of political participation, even at the level of the residents' boards in shanty towns, since any such boards were appointed by the administrative authorities. Lastly, two representatives of the regional section of the Committee for the Defence of Youth Rights (CODEJU) expressed their concern at the large number of students arbitrarily detained in the past year, some of whom had been ill-treated or punished under university disciplinary rules.

49. Shortly thereafter, the Special Rapporteur visited the former public prison of Valparaíso, where he was received by Gendarmería officers who confirmed that 54 "subversives" were being held in the prison and were carrying on a hunger strike in support of the demands put forward by the group at national level. Of the 54 detainees, 51 were awaiting trial and 3 had been sentenced. The Special Rapporteur then selected 4 of them, whom he interviewed in private, listening to their account of their conditions of detention, their demands and the circumstances of the early days of their detention, when interrogations had been accompanied by ill-treatment.

50. On Monday, 30 March, back in Santiago, the Special Rapporteur was received for a second time by the Minister for Foreign Affairs, whom he thanked for the Government's co-operation and the help received during his visit. He was then

received, also for the second time, by the Minister of the Interior, whom he again thanked for the Government's co-operation in the fulfilment of his mandate, while reaffirming his belief that the agreements signed with the International Committee of the Red Cross (ICRC) should be strengthened and that the powers of the Advisory Commission on Human Rights of the Ministry of the Interior should be expanded in practice to cover complaints of unlawful coercion. He also informed the Minister of the contents of a letter which he had sent that day to the President of that Commission, in which he argued in favour of 29 people who had been prohibited by administrative decision from entering the country, according to complaints he had received from their relatives in recent days.

51. The Special Rapporteur later visited the Director-General of the Policía de Investigaciones, who gave him a full report on terrorist acts and the discovery of large arms caches at Carrizal Bajo, allegedly intended for the assassination of the President of the Republic and for arming an urban guerrilla force numbering between 20,000 and 30,000 persons. The Director-General also indicated that the Policía de Investigaciones depended hierarchically on the Ministry of Defence and that the attack on the offices of the Intergovernmental Committee for Migration (ICM) had been the work of a commando of the Manuel Rodríguez Patriotic Front.

52. The Special Rapporteur then received two leaders of the National Workers' Command, who told him that the recently re-established Labour Tribunals were not functioning; that the Labour Plan was preventing trade unions from organizing freely; and that the real unemployment rate was 22 per cent of the active population, including workers in the Minimum Employment Programme (PEM) and the Employment Programme for Heads of Household (POJH). They also said that the recent relating to political parties Constitutional Fundamental Act status would discriminate against trade union leaders by making their status incompatible with political activism. The Special Rapporteur heard very encouraging remarks about the economic and social situation in Chile from the President of the National Confederation of Production and Trade.

53. Finally, the Special Rapporteur drove to the airport where he held a full press conference and was seen off by senior representatives of the Ministry of Foreign Affairs and the Economic Commission for Latin America and the Caribbean (ECLAC).

III. OTHER ACTIVITIES OF THE SPECIAL RAPPORTEUR

54. Ambassador Calderón visited the Centre for Human Rights on 8 May 1987, submitting a document dealing with advances in human, social, political and economic rights between 1984 and 1987. These advances included, in 1987, the lifting of the state of siege and the curfew and authorization for a large number of exiles to enter the country. He also attached a complete list of the various communication media in the country, labour statistics for 1984-1986 and a document containing basic health information, with statistics updated to 1986. Lastly, he noted that a large number of legal actions currently before the military courts would be transferred to the corresponding criminal courts (ordinary jurisdiction) as a result of the application of the Anti-Terrorism Act by virtue of the principle of special jurisdiction; this measure would speed up trials covered by that Act.

55. The Special Rapporteur was informed of an agreement signed on 12 May 1987 by Policía de Investigaciones and the Advisory Commission on Human Rights of the Ministry of the Interior. Under this agreement, the Commission will receive daily lists of names of those detained by Policía de Investigaciones and members of the Commission will be able to interview detainees to determine their physical state and health. Policía de Investigaciones will also conduct a medical examination of detainees in the presence of a member of this Commission before turning them over to the judicial authorities or releasing them.

56. In addition, the Diario Oficial of 10 March 1987 published Supreme Decree No. 308 renewing for six months the declaration of a "state of danger of disturbance of law and order", pursuant to transitional provision 24 of the Constitution. Under this state of emergency, the President of the Republic may detain persons for up to five days in their own homes or in places other than prisons (a period which may be extended by 15 days if terrorist acts occur); may restrict the right of assembly and freedom of information (with regard to the circulation of new publications); may prohibit from entering the country or expel therefrom persons who "propagate the doctrines alluded to in article 8 of the Constitution"; and may forcibly assign (banish) persons to an urban locality for up to 90 days. Pursuant to the final paragraph of transitional provision 24, "measures adopted by virtue of this provision shall not be subject to any recourse whatsoever, other than an appeal for review by the authority which ordered them".

57. The Diario Oficial of 6 June 1987 also published Supreme Decree No. 715 of 3 June extending the state of emergency for 90 days throughout the national territory and designating heads of emergency zones. According to article 41, paragraph 4, of the Constitution, by virtue of the declaration of the state of emergency, all measures applicable to a state of siege may be adopted, with the exception of the arrest of persons, their transfer from one point to another within the territory, expulsion from the country and restriction of the exercise of the rights of association and unionization. Freedom of information and opinion may be restricted only. At the same time, the same Diario Oficial published Exempt Decree No. 6,255 of 4 June imposing restrictions on the mass media during the state of emergency. In particular, the mass media must refrain from disseminating information and opinions relating to the activities of the persons, organizations, movements or groups referred to in article 8 of the Constitution, and the unlawful conduct described and sanctioned by article 6 (1) of Act No. 12,927 on State Security (fomenting or convening collective public events in the streets and other public places and promoting or inciting demonstrations of any other kind which may disturb the peace). On the other hand, Decree No. 2,655 does not prohibit the dissemination of information on terrorist acts or on the activities of political parties. Proclamation No. 49 of 6 April 1987 lifted the ban on the right to political assembly in the Metropolitan Region, although public meetings must have the authorization of the head of the emergency zone.

58. On 11 June 1987, the Diario Oficial published Act No. 18,623 partially amending Decree-Law No. 1,878 establishing the National Information Agency (CNI). Under this amendment any individual apprehended by the CNI pursuant to an order from the competent authority shall be detained or held at his home or taken immediately to a prison or public place of detention, depending on the terms of the order.

59. By letter dated 15 June 1987, the Special Rapporteur also asked Ambassador Calderón for additional information on the health situation in Lo Hermita shanty town and on health and maternal and child welfare services.
60. On 16 June 1987, two representatives of the Committee for the Defence of the People's Rights (CODEPU) were received at the Centre for Human Rights and provided abundant documentation on alleged human rights violations. They also expressed their concern at the death penalty just handed down, in the first instance, against self-styled "political prisoner" Carlos García Herrera; at what they described as "further attacks" on freedom of the press; at the administrative internal banishment of three well-known political dissidents; and at the fact that the names of two allegedly missing persons had been included in a recent list of persons authorized to return to the country.
61. On 6 July 1987, the Supreme Court made public an agreement in which, inter alia, it reaffirmed "the absolute independence of the judiciary" from the other branches of Government, recalling that the fact that there were "legal limitations on its jurisdiction" did not imply any "loss of independence" since it does not try cases over which it has no competence.
62. On 30 July 1987 at San José, the Special Rapporteur received Ambassador Calderón, who handed over to him documents and information on the latest developments in the human rights situation in Chile. On that occasion, the Special Rapporteur told him that it would be helpful to be able to visit the country again in order to learn about the latest developments and inform the Commission on Human Rights accordingly in February 1988.
63. At San José on 17 August 1987, the Special Rapporteur also received the Head of the Legal Department of the Vicaría de la Solidaridad, who informed him of the progress of various trials involving important human rights cases and handed many documents over to him.
64. On 13 August 1987, a psychiatrist from the Chilean Commission on Human Rights and from the Centre for Stress Research and Treatment (CINTRAS) visited the Centre for Human Rights. He reported that Mauricio Arenas Bejas had been shot on the street on 19 February 1987 and taken to a hospital where he had remained in intensive care for 40 days, recovering from his wounds. During that period, he had been interrogated 10 times while being held incommunicado and subjected to serious psychological pressure, by civilians allegedly belonging to the National Information Agency. This had caused him acute depression.
65. As on previous occasions, the Special Rapporteur continued to receive, at San José or Geneva - through the secretariat of the Centre for Human Rights - individual requests that he use his good offices with the Chilean authorities to remedy alleged human rights violations. Such violations range from those referring to exiled relatives whose return is sought, to persons apparently detained, ill-treated, abducted, threatened or imprisoned in a penitentiary. In all these cases, the Special Rapporteur requested, on purely humanitarian grounds, detailed information from the Government. If the situation so warranted, he also requested that steps be taken to end the situations thus reported. The Government responded to some of the Special Rapporteur's requests.

66. The Special Rapporteur visited Geneva from 2 to 5 September 1987 to finalize the present report. On 3 and 4 September he also received a visit from Ambassador Calderón, accompanied by the First Secretary of the Permanent Mission of Chile to the United Nations at Geneva. On that occasion, the Ambassador referred to a bill concerning reform of the Criminal Procedures Act to make the administration of justice somewhat more streamlined and effective. This bill would also modify the system of appointing "associate lawyers" to the higher courts. He also announced a bill for a general pardon, ratification of the International Covenant on Civil and Political Rights as soon as the constitutional development process is complete, and the signing of the conventions against torture of both the United Nations and the Organization of American States. He also referred to an end to the system of government-appointed military rectors in the universities, which is being replaced temporarily by a system under which university governing boards will propose a list of three candidates to the Minister of Education who will make the final appointment. With regard to the exiles, he reported that the list of persons prohibited from entering the country had been reduced recently to about 464 people. With regard to the alleged clashes on 15 and 16 June 1987 in which 12 alleged opponents had died, he asserted that in some cases such clashes had actually occurred since four CNI agents had been wounded - two of them shot - in them. He also said that in the same period there had been a number of terrorist attacks against carabineros, and also bomb attacks.

67. On 2 September 1987, the Special Rapporteur received a member of the Legal Department of the Vicaría de la Solidaridad who asserted that there were various official versions of the alleged clashes on 15 and 16 June 1987 ("Operation Albania"), and that as far as he knew, in nine cases - of the 12 persons killed - complaints had been filed with the courts because there were well-grounded suspicions that the clashes had not occurred. In this connection, the Special Rapporteur also received, on 3 September, the painful testimony of the mothers of two of the victims, who expressed the hope that the facts would be brought to light and justice would be done. The above-mentioned lawyer also reported that Ricardo Campos Urzúa had been interrogated and tortured by CNI agents while he was detained, beginning on 24 June 1987, at a precinct of the Policía de Investigaciones (see below, section IV, case B.37). He also expressed his concern to the Special Rapporteur at the trial by the military courts of several prominent members of the Vicaría de la Solidaridad and at the lack of significant progress in the judicial investigation of the case of the burnt victims, the abduction of several leaders of the Professional Association of Chilean Teachers (AGECH), the case of the victims found with their throats cut, and the assassination of José Carrasco and three other opposition members in September 1986. With regard to the conduct of the judiciary, he reported that the courts had jurisdiction to control acts of the executive branch but were not exercising it, and were thus voluntarily renouncing such jurisdiction, especially when it came to monitoring administrative measures adopted pursuant to transitional provision 24 of the Constitution. Lastly, he referred to the problem of the exiles and the existence of a "list of undesirable aliens" which reportedly included the names of some Chileans who had involuntarily lost their nationality; to what he described as numerous attacks on freedom of speech; and to raids on seven shanty towns ordered by military prosecutors in late June and early July 1987.

68. On 2 and 3 September 1987, the Special Rapporteur also received a lawyer representing the Chilean Commission on Human Rights who turned over to him a great abundance of documentation from that organization. The lawyer also referred to the triple trial which is being brought against opposition leader Clodomiro Almeyda Medina (see below, chap. IV, case H-1), to what he described as disturbing political violence in Chile, especially because of the alleged clashes on 15 and 16 June 1987, and to the exile situation. Concerning the plan to transfer to the civilian courts some 400 cases presently being processed by the military courts, he said that the plan had not materialized and that, if it did, it would mean that the parties involved would be tried under the Anti-Terrorism Act, which would mean harsher penalties and loss of bail. With regard to ad hoc Military Prosecutor Fernando Torres, he said that he was an official of the Government Junta's Third Legislative Commission and had been appointed ad hoc to investigate three cases: the attack on the Lautaro bakery (in which three officials of the Vicaría de la Solidaridad are being tried), the attack on the presidential convoy and the discovery of arms caches at Carrizal Bajo. In this lawyer's view, the Military Prosecutor was applying the law abusively and obsessively, to the detriment of the defence and rights of the accused, for instance, by excessively prolonging periods of incommunicado detention or by arbitrarily transferring the accused from one place of detention to another. He also pointed out that the lawyers for the defence had been the object of repeated intimidation and telephone threats and had therefore decided to establish, in April 1987, a National Association of Lawyers of Political Prisoners. Lastly, in relation to the suspects detained in the case of the arms caches, he reported that 24 of them were awaiting trial after having been severely tortured during interrogation in the early days of their detention and incommunication. They had all filed complaints with the Twentieth Criminal Court of Santiago against the CNI agents who had interrogated them. The incumbent judge of that Court, René García Villegas, had then been threatened while he was conducting the appropriate inquiries in response to the filing of these complaints and had officially recorded the obstruction of his investigation by CNI officials and by Military Prosecutor Torres (see below, chap. IV case B.8).

69. The Special Rapporteur also visited, on 4 September 1987, the Geneva headquarters of the International Committee of the Red Cross, where he spoke with its representative for South America and reviewed with him the application of the agreements between ICRC and CNI, the Policía de Investigaciones and Carabineros, under which ICRC officials are allowed access to detainees for humanitarian purposes.

70. On the same day, 4 September, the Special Rapporteur transmitted officially to the Government of Chile, through Ambassador Calderón, a further memorandum with a selection of complaints of alleged human rights violations occurring in the period covered by this report. These complaints are reproduced in this report (see below, chap. IV). In transmitting them to the Government for comment, the Special Rapporteur said, "I am compelled to state that these allegations have been of great concern to me".

71. In a letter to Ambassador Calderón dated 4 September 1987, the Special Rapporteur formalized his request for authorization to visit Chile during the first

two weeks of November 1987, in view of "the rapidly changing events in Chile and the fact that I will have to submit to the Commission on Human Rights at its forty-fourth session an updated report on the human rights situation in Chile". The Special Rapporteur will thus submit his sixth report to the Commission on Human Rights in February 1988, when he hopes to be able to report on the results of what would be his third visit to Chile, covering the second half of 1987.

72. Finally, on 4 September 1987 the Special Rapporteur wrote to the Secretary-General informing him of the adoption by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its thirty-ninth session, of resolution 1987/60 on the "Question of Human Rights in Chile". The Special Rapporteur expressed to the Secretary-General his "surprise and dismay" at what might be "a new and third forum for discussing my reports, something which would not only unnecessarily increase my responsibilities ... but also add ... a disturbing element to the relations between the Commission on Human Rights and its Special Rapporteur, on the one hand, and the Government (of Chile) on the other".

IV. COMPLAINTS OF VIOLATIONS OF HUMAN RIGHTS

73. The information contained in this section is taken from legal and other reliable documents given to the Special Rapporteur by the persons concerned, their relatives or their lawyers or by Chilean human rights organizations. Most of this information relates to alleged violations of human rights during the first half of 1987.

74. As on previous occasions, the Special Rapporteur transmitted these complaints to the Government of Chile for comment, in a letter dated 4 September 1987 addressed to Ambassador M. Calderón Vargas. The letter stated, inter alia, that "... without prejudice to relevant verifications that Your Excellency's Government may transmit to me, I am compelled to state that these allegations have been of great concern to me".

75. 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 a proper trial and to procedural guarantees
- F. Right to enter and leave the country freely
- G. Right to freedom of movement
- H. Right to freedom of expression and information.

A. Right to life

A.1. Marcos Felipe de la Vega Ribera (complaint of 24 January 1986, Criminal Court of Antofagasta), Alejandro Rodríguez (complaint of 24 January 1986, Criminal Court of Antofagasta), Ricardo Hugo García Posada (complaint of 20 March 1986, Second Criminal Court of Copiapó), Claudio Arturo Lavin Loyola (complaint of 30 April 1987, Criminal Court of Cauquenes), Pablo Renán Vera Torres (complaint of 30 April 1986, Criminal Court of Cauquenes), Manuel Benito Plaza Arellano (complaint of 30 April 1986, Criminal Court of Cauquenes), Rafael Pineda Ibacache (complaint of 2 July 1986, Criminal Court of El Loa-Calama). These complaints dealt with alleged crimes of aggravated homicide against the above-mentioned persons, committed in October 1973. The Special Rapporteur has already reported similar cases described in complaints submitted in 1985 (see E/CN.4/1986/2, p. 42, case 26). With regard to the case of Marcos de la Vega, General Joaquín Lagos stated before a notary public on 3 July 1986 that the executions in Antofagasta in October 1973 had been carried out by members of the Army on "special assignment" from Santiago under the command of General Sergio Arellano Stark.

A.2. Manuel Beltrán Cantu Salazar (complaint of 30 March 1987 filed with the Twentieth Criminal Court of Santiago), Littre Abraham Quiroga Carvajal (complaint of 22 April 1987, Criminal Court of Pedro Aguirre Corda Department), Raúl Enrique Baccharini Zorrilla (complaint of 9 May 1987 filed with the First Criminal Court of San Antonio), Enrique Andrés Report Contreras (complaint of 2 July 1987 filed with the Twentieth Criminal Court of Santiago). All these complaints were filed by relatives of the victims and related to alleged crimes of aggravated homicide committed in September 1973. In cases in which the participation of persons subject to military jurisdiction was proved, the Supreme Court ruled that the cases should be tried by the relevant military courts. Those courts apparently applied the 1978 Decree-Law concerning amnesty and dismissed the proceedings.

A.3. Rodrigo Andrés Rojas de Negri. The Special Rapporteur has already concerned himself with this person's death (see A/41/719, annex, case A.9). Carmen Gloria Quintana Arancibia was also severely burned with Rodrigo Rojas. The Special Rapporteur also concerned himself with the legal proceedings instituted by the victims' relatives up to the beginning of January 1987 (see E/CN.4/1987/7, p. 7, case A.2). On 8 January 1987, ad hoc Military Prosecutor Erwin Blanco decided to give access to the pre-trial proceedings to the persons concerned and announced that witness Pedro Marcelo Martínez Pradenas had been released on bail. On 29 January, the same Prosecutor altered the indictment against Army Lieutenant Pedro Fernández Dittus and decided to try him for the quasi-delict of homicide against the person of Rodrigo Rojas and the quasi-delict of grievous injury against Carmen Gloria Quintana. At the same time, he was released on bail. A complaint against the Prosecutor's decision was filed with the Military Appeal Court, requesting that the Prosecutor indict two officers, three sergeant majors and four soldiers, who had made up the patrol involved on the day in question. This latter request was denied and an appeal submitted to the same Military Appeal Court. In May, the Military Appeal Court rejected both appeals. On 10 and 11 June 1987, Carmen Gloria testified before the Prosecutor at two lengthy sessions, each lasting almost seven hours. On 25 June 1987, Carmen Gloria attended a line-up of about 175 soldiers wearing battledress and with their faces

completely blackened. Carmen Gloria said that she recognized one soldier in civilian clothes who had taken part in the 2 July 1986 operation; she also said that she recognized another, but with less certainty than the first one. On 2 July 1987, she submitted a complaint to the ad hoc Military Prosecutor regarding the manner in which the line-up had been organized. She complained that, in 22 of the 25 line-ups which she had been required to attend, she had been told to pick out only one person, the leader of the patrol, who had been present only once. The reconstruction of the scene took place on 12 July 1987; the complainant's lawyers were not allowed to be present. The reconstruction, which lasted for seven hours in the rain, involved eight witnesses, the members of the patrol and the sole surviving victim, who said that she recognized the soldier leading the patrol, whom she described as the same person as she had picked out in the line-up.

A.4. José Antonio Rivera Martínez. His father filed a complaint on 30 September 1986 with the Criminal Court of Andacollo concerning the death of José Antonio on 20 September, while he was being held at the police station, as a result of "alcohol poisoning or a kidney infection". According to the complaint, the victim bore visible marks of having been brutally ill-treated. According to the testimony of other prisoners, José Rivera had apparently been beaten and then taken to the cell dying; the guard did not respond to the shouts of the other prisoners, with the result that the victim died in their presence.

A.5. Jorge Alcaíno Jiménez. According to a complaint filed by his wife on 14 January 1987 with the Nineteenth Criminal Court of Santiago, Jorge died on 8 December 1986 at J.J. Aguirre Hospital, after being arrested the previous day by carabineros of the Juanita Aguirre station (Conchalí). On the day of his death, the family had been notified that Jorge had been admitted to that hospital with serious injuries (open cerebral injury and serious cerebral contusion).

A.6. Recaredo Ignacio Valenzuela Pohorecky (complaint of 1 July 1987 filed with the Twelfth Criminal Court of Santiago). According to the official version, he died in a clash with CNI agents on 15 June 1987 at the commune of Las Condes. On the other hand, the complaint states that he had been shot in the back and in the back of the neck and not on the front of his body. Juan Waldemar Henríquez Araya (complaint of 22 July 1987 filed with the Sixth Criminal Court of P. Aguirre Cerda Department). Died at his home on 16 June 1987, allegedly in a clash with CNI personnel. According to the complaint, the medical certificate states that death was caused by a bullet wound in the chest, which affected the lungs and the right and left branches of the pulmonary artery causing acute loss of blood. Julio Arturo Guerra Olivares (complaint of 2 July 1987 filed with the Tenth Criminal Court of Santiago). Killed at his home by CNI agents on 16 June 1987. Esther Angélica Cabrera Hinojosa, Elizabeth Edelmira Escobar Mondaca, Ricardo Hernán Rivera Silva, Ricardo Cristián Silva Soto, Manuel Eduardo Valencia Calderón (complaints of 26 June 1987 filed with the Twentieth Criminal Court). Allegedly killed in a clash with security forces on 16 June 1987, in the commune of Conchalí. According to these complaints, "there are sufficient grounds for claiming that the death of these persons is more likely to be explained by the probable existence of crimes of homicide than by the occurrence of an alleged clash". All these homicides are related to so-called "Operation Albania", which culminated in the death of 12 persons in alleged clashes, on 15 and 16 June 1987.

B. Right to physical and moral integrity

B.1. Soledad Miriam Quiroz Rojas. She filed a complaint on 26 June 1986 with the First Criminal Court of Arica. On 16 June 1986, Soledad was shot and wounded by members of an alleged paramilitary group "Armageddon" when they attacked El Carmen parish church (see below, case D.2).

B.2. Jorge Alejandro Martín Martínez. According to a complaint filed with the Third Military Prosecutor's Office of Santiago on 9 December 1986 while he was in Santiago Penitentiary, the complainant was arrested on 30 June 1986 by four individuals dressed in civilian clothes who identified themselves as carabineros. He was blindfolded and handcuffed, taken to the Carabineros station and tortured during interrogation. Subsequently, he was handed over to CNI officials and taken to CNI barracks, where the interrogation concluded with electric shocks being applied to various parts of his body. He was later transferred to the Second Military Prosecutor's Office where, according to the records, he was examined by Dr. Victor Fernández Villalobos, who confirmed a number of injuries.

B.3. Gloria Margarita Carvajal Huerta. On 22 October 1986, she filed a complaint with the Eighteenth Criminal Court of Santiago against CNI officials who had arrested her at her home on 3 September 1986. She had been taken to the CNI barracks in calle Borgoño, where she was allegedly tortured - including the application of electric shocks to the most sensitive parts of her body - remaining naked throughout the interrogation.

B.4. Manuel Joel Miranda Chávez. A prisoner in the former Public Prison of Santiago, he filed a complaint on 22 October 1986, with the Twentieth Criminal Court of Santiago, against officials of the CNI barracks at avenida Santa María 1435 who had arrested him on 9 September 1986 and taken him to aforesaid precinct, alleging that they had tortured him by immersing him in water until he became unconscious and by applying electric shocks while he was being interrogated.

B.5. Alfredo Carlos Castillo Yunge and Luis Figueroa Rojas. They are two of the students who were arrested on 8 September 1986 while travelling in a vehicle belonging to the Netherlands Embassy. They each filed statements dated 30 September 1986 with the Santiago Court of Appeals declaring that they had been struck and given electric shocks (on the first of the 20 days during which they were detained) during their interrogation. For certain irregularities regarding their detention, see case D.3 below.

B.6. Guido Alvarado Agüero, a member of the Chilean Commission on Human Rights at Anoud, and José Nahuel Carimanez, Chairman of the Anoud Construction Union. In sworn statements made before the notary public of Anoud in November 1986, they said that, on 24 September 1986, they were arrested in their respective homes by CNI agents dressed in civilian clothes, taken to vehicles and driven to CNI premises at Valdivia. According to their statements, during the interrogation they were struck and given electric shocks on various part of their bodies.

B.7. Nelson Enrique González Ugalde filed an application for preventive amparo with the Santiago Court of Appeals on 31 January 1987. In the application he alleged that he had been struck while being interrogated during several of the six unlawful detentions to which he was subjected between October 1986 and the middle of January 1987.

B.8. José Ahelardo Moya Toro and 20 others (complaint filed on 5 September 1986 with the Twentieth Criminal Court of Santiago) and Claudio Enrique Molina Donoso and two others (complaint dated 7 October 1986 filed with the Twentieth Criminal Court of Santiago). The Special Rapporteur has already reported on these cases (see E/CN.4/1987/7, pp. 11 and 12, cases B.17 and B.20). With regard to the above-mentioned complaints it should be pointed out that, in an official communication dated 1 October 1986 addressed to the Second Military Court of Santiago, the CNI asked the court to take charge of case No. 15, 218-2 - under which the said complaints were filed - brought against officials of the Policía de Investigaciones, which was being handled by the Twentieth Criminal Court of Santiago, on the grounds that the personnel involved in the incidents were performing on military service. The military judge agreed and requested the other court to declare itself without competence. The civil judge turned down the request on 16 June 1987 noting, *inter alia*, "that the CNI has openly obstructed implementation of these legal norms, first by not responding to the judge's orders and then by explicitly refusing, as can be seen from the records, to provide information and to produce the accused. It has refused to name the individuals who are alleged to have brought the complainants to the avenida Santa María barracks and to identify those who carried out the interrogations ... its due compliance with the relevant decisions, rather than its wilful and therefore punishable non-compliance, would have removed a fundamental obstacle to real progress in the investigation". On 18 August 1987, the Supreme Court settled the dispute regarding competence in favour of the Second Military Court, the Prosecutor's recommendation to the contrary notwithstanding.

B.9. Vasily Carrillo Nova. Awaiting trial in connection with case No. 1919-86. The Special Rapporteur has already referred to the excessive duration of his incommunicado detention (E/CN.4/1987/7, p. 22, case D.32). During his imprisonment in the former Public Prison, he filed a complaint on 16 March 1987 with the Third Criminal Court of Santiago against officials of the Policía de Investigaciones who had arrested him on 11 November 1986 and taken him to police barracks. He complained that he had been struck at the time of his arrest and later on, at CNI barracks, had had electric shocks applied to the most sensitive parts of his body during interrogation. After the interrogations had concluded, he had been unable to walk for some 10 days and unable to eat solid food for more than two weeks.

B.10. José Eduardo Santis Díaz. He filed a complaint on 12 January 1987 with the Second Military Prosecutor's Office of Concepción, stating that he had been abducted in November 1986 in the street and taken to an unknown location where he was interrogated under torture, including the application of electric shocks to sensitive parts of his body.

B.11. Julio Aranguiz Romero. He filed a complaint with the Concepción Court of Appeals on 31 December 1986 alleging that he had been abducted on 14 November 1986 and taken to a secret place where he was interrogated under torture, including the application of electric shocks to sensitive parts of his body.

B.12. Juan Carlos Muñoz Pando. According to a complaint filed on 29 January 1987 with the Concepción Court of Appeals he was arrested on 14 November 1986 by armed persons in civilian clothes, who took him to O'Higgins barracks in Concepción. There he was interrogated under torture, electric shocks being applied to the most sensitive parts of his body.

B.13. Roxana María Farina Concha. In a sworn statement made on 24 March 1987 at Concepción, she reported that between 8 December 1986, when she was arrested by CNI agents (see case D.12 below), and 12 December she remained in Talca in a barracks where her husband was being held. During her stay there, she was subjected to physical and psychological coercion.

B.14. Claudio Vergara Díaz and Erasmo Mayorinca Chávez. The two, both prisoners in Santiago Penitentiary, filed a complaint on 6 February 1987 with the Third Criminal Court against officials of the Policía de Investigaciones who had arrested them, the former at his home on 9 January 1987, the latter at his place of work the following day. The two were taken to police headquarters where they were tortured, seemingly with a view to forcing them to sign extra-judicial statements.

B.15. Pedro Raúl Marín Hernández. A doctor, he filed a complaint with the Twentieth Criminal Court of Santiago on 12 March 1987, while being held in the former Santiago Public Prison, against officials of the Policía de Investigaciones who had arrested him on 15 January 1987 and taken him to police premises where he was allegedly tortured, sodomized and had electrical current applied to the most sensitive parts of his body while under interrogation.

B.16. Miriam Berholz Maguire. A nurse, she filed a complaint 7 February 1987 with the Twentieth Criminal Court of Santiago, while being held in San Miguel prison, against officials of the Policía de Investigaciones who had arrested her in the street on 15 January and taken her to police premises where she had been tortured, including with electricity, while under interrogation.

B.17. Marco Antonio Marín Gallardo. On 7 February 1987, he filed a complaint with the Second Military Prosecutor's Office of Santiago stating that, on 16 January 1987, he had been subjected to unnecessary violence in the street by members of the Carabineros dressed in civilian clothes.

B.18. Manuel Hernández Vidal. According to a complaint filed on 6 February 1987 with the Twentieth Criminal Court of Santiago against CNI officials, he was arrested on 21 January 1987 and taken to CNI barracks where he was interrogated under physical and psychological coercion, including the application of electric current.

B.19. Jorge Pino Molina and Manuel Jesús Ubilla Espinoza (awaiting trial by the ad hoc Military Prosecutor in case No. 1919-86). According to the complaint filed in January 1987 with the Twentieth Criminal Court of Santiago by the Prosecutor of

the Santiago Court of Appeals, the two were injured by CNI personnel while under detention and interrogation in CNI premises.

B.20. Ronald Douglas Wilson Arenas. In a remedy of protection filed on 8 February 1987 with the Santiago Court of Appeals, he complained that, on 28 and 29 January and 4 February 1987, he had received a number of telephone calls at his home, during one of which he was told that he would suffer the same fate as his friend, José Manuel. According to the remedy of protection, the caller was referring to José Manuel Parada Maluenda (found with his throat cut on 30 March 1985, see A/40/647, pp. 30 and 31, case A.6).

B.21. Marco Antonio Montero López and Sandra Virginia Marín Vigueras. On 13 March 1987, they complained to the First Military Prosecutor's Office of Concepción that, on 12 February 1987, they had been arrested in their respective homes when the latter were raided by 15 persons dressed in civilian clothes and battle dress, and taken to an unknown location. While under interrogation, Marco Antonio was struck and Sandra was threatened with rape and with having a live electric wire placed in her mouth.

B.22. Víctor Hernán Guerra Bravo. In a sworn statement made before a notary public on 20 February 1987 in Santiago, he said that on 18 February 1987 he had been arrested by an armed civilian who took him to a Carabineros station. During interrogation he was struck and given electric shocks.

B.23. Mauricio Fabio Arenas Bejas. His mother filed an application for amparo on his behalf when he was arrested by CNI agents on 19 February 1987 after having been seriously wounded in a clash. According to information given to the Special Rapporteur, Mauricio was admitted to Sótero del Río Hospital with a bullet in his skull and others in his thorax and lower extremities. During his stay in hospital, he was kept completely incommunicado, watched by armed guards throughout the day, handcuffed to the headrail of the bed and under military control. In 39 such days of incommunicado detention, the Military Prosecutor had interrogated him 10 times, although his condition was extremely serious.

B.24. Emilio Rodríguez Jara (complaint filed on 28 April 1987 with the Twentieth Criminal Court of Santiago) and Leopoldo Gutiérrez Panzoca (complaint filed on 28 April 1987 with the Twentieth Criminal Court of Santiago). The two are being held in the former Public Prison in connection with case No. 1919-86. According to the complaints, they were arrested at home on 19 February 1985 by CNI agents and taken to an unknown location. During interrogation, Emilio was threatened and ill-treated, including with electric shocks. He was also offered money, a house, a visa and freedom to go abroad if he would co-operate with them and give them some names. Leopoldo, for his part, was subjected to psychological and physical coercion, including electric shocks.

B.25. Pedro Andrés Pérez and Patricio Madriel Ahumala López. The application for amparo in case No. 1499-86, submitted on 15 September 1986 to the Santiago Court of Appeals, states that they had been arrested the previous day by carabineros dressed in civilian clothes and taken to San Luis police station, where they were tortured with electricity while under interrogation.

B.26. Christian Joaquín Cáceres Celis. According to an application for preventive amparo filed on 23 February 1987 with the Pedro Aguirre Cerda Court of Appeals, on 19 February 1987 members of the Policía de Investigaciones made threats against his life at police premises, where he had been taken after being arrested in the street. Electric current was also applied to the most sensitive parts of his body during interrogation.

B.27. Víctor Domingo Rebolledo Parra. The application for amparo filed on 25 February 1987 with the Concepción Court of Appeals states that he was arrested on 23 February 1987 at his home by members of the Policía de Investigaciones and taken to police premises at Lota, where he was tortured with electric shocks while being interrogated.

B.28. Benigno Antonio Catalán Arce. His brother filed an application for amparo on 27 February 1987 with the Santiago Court of Appeals. According to the records, Benigno was arrested in the street on 24 February 1987 by three individuals dressed in civilian clothes and taken to an unknown place. During interrogation, he was struck repeatedly and threatened with being implicated as a member of the MIR (Revolutionary Left Movement) or the Manuel Rodríguez Patriotic Front.

B.29. Claudia Elena Drago Camus. Her father filed an application for amparo on 2 March 1987 with the Santiago Court of Appeals (case No. 169-87). According to the application, she was arrested at Vifa del Mar on 27 February 1987 by persons dressed in civilian clothes and taken that same day to the CNI barracks in avenida Santa María, Santiago, where she remained blindfolded and was struck and threatened during interrogation.

B.30. Ana María Aravena Gross and Juan Eduardo Loggenweiler. An application for amparo was filed on their behalf with the Santiago Court of Appeals on 2 March 1987 on grounds that they had been unlawfully arrested by CNI agents on 27 February 1987. According to the records, Ana María was subjected to psychological coercion such as having to listen to her husband's screams while he was being tortured with electric shocks, in the course of interrogations.

B.31. Gerardo Antonio Alvarez Carrasco. An application for amparo was filed on 9 March with the Valparaíso Court of Appeals on behalf of Gerardo, a student at the Federico Santa María Technical University. It alleges that he was attacked in the street on 9 March by civilians, military personnel and carabineros and later taken by his attackers to the Valparaíso first aid post where he was diagnosed as having a cranial-encephalic trauma.

B.32. Genoveva Novoa Navarro. In a sworn statement made on 26 March 1987 at Concepción, she stated that on 14 March 1987 her home was raided by some 30 agents of the Policía de Investigaciones and she, her four brothers and her son Marcelo were arrested and taken to police premises. During interrogation she was kept naked and was struck, and was threatened that she would be raped and that her young son would be harmed.

B.33. Luis Enrique Silva Rojas. According to a complaint filed with the Twentieth Criminal Court of Santiago on 6 April 1987, he was arrested on 16 March 1987 by a carabinero and taken to San Rafael police station where he was struck while being

interrogated by CNI agents. From there he was taken to Sótero del Río Hospital for examination and was later taken back to the same police station. Finally, he was driven to the avenida Santa María 1453 barracks where he was given electric shocks, a procedure that was repeated 10 times over a three-day period.

B.34. Guillermo and Ignacio Santander Robles. They filed a complaint on 11 June 1987 with the Third Criminal Court of Pedro Aguirre Cerda Department against CNI officials of the thirteenth police precinct. According to the complaint, their home was illegally raided on 18 March 1987 by armed individuals dressed in civilian clothes, who arrested them and four others and took them to police premises. There they were tortured, including with electric shocks, while being interrogated.

B.35. Guillermo Segundo Santander Robles and two others. According to an application for amparo filed on 19 March 1987 with the Pedro Aguirre Cerda Court of Appeals, they were arrested in their respective homes on 18 March 1987 by armed civilians belonging to the CNI and taken to a CNI police unit. Guillermo had electrical current applied to various parts of his body.

B.36. María Olga Allemand Ramírez. A news photographer for the magazine Análisis, she filed a complaint with the Tenth Criminal Court of Santiago on 23 April 1987. According to the complaint, while on an assignment in O'Higgins Park on 3 April 1987 she was shot and wounded by carabineros.

B.37. Ricardo Hernán Campos Urzúa. According to a document submitted to the Santiago Court of Appeals on 24 June 1987, he was arbitrarily arrested on 24 June by CNI agents, accused of having violated the Firearms and Explosives Control Act, and was held incommunicado in a cell isolated from other detainees. During his stay at Policía de Investigaciones barracks, he was interrogated under torture. On 3 August 1987, he was examined by a forensic physician at the Preventive Detention Centre for Santiago south.

B.38. José Francisco Silva Hidalgo. As his lawyer (case No. 805-87) informed the Pedro Aguirre Cerda Court of Appeals on 21 August 1987, Silva sustained injuries during his detention. He was examined at the Preventive Detention Centre for Santiago north by a forensic physician, Víctor Velázquez, who certified on 18 August 1987 that Silva had a number of injuries "attributable to a pointed instrument" which would heal in 12 to 14 days. For irregularities in the administrative detention of José F. Silva, see case D.71 below.

C. Right to liberty

C.1. Beatriz Brinkmann Schiehing and 12 others. An application for amparo was filed on their behalf on 22 September 1986 with the Valdivia Court of Appeals. They had all been arrested at their homes on 19 September 1986 by groups of persons in civilian clothes who identified themselves as being from CNI and who, in some cases, were accompanied by soldiers. On 24 September 1986, they were turned over to the Military Prosecutor's Office and subsequently taken to Valdivia Preventive Detention Centre and held incommunicado for violation of the Firearms and

Explosives Control Act (No. 17,798). Beatriz Brinkmann Scheihing's lawyer filed a remedy of complaint with the Military Appeal Court against the Valdivia Military Prosecutor, who committed her for trial and denied her bail. According to the complaint, Beatriz had been tortured, as had the 12 other detainees.

C.2. Ruby de la Luz Carvajal Saavedra. An application for amparo was filed on her behalf on 29 October 1986 with the Valparaíso Court of Appeals after she had been arrested that day by carabineros at Quillota. According to information given to the Special Rapporteur, Ruby was allegedly held incommunicado at the Third Carabineros Station at Linache. The Court of Appeals declared itself incompetent on 6 November 1986 and referred the dossier to the Military Appeal Court. She was then imprisoned at the Quillota Preventive Detention Centre, accused of offences punishable under article 8 of Act. No. 18,314 (failure to inform the authorities of the alleged terrorist activities of the man with whom she was living) and under article 8 of Act No. 17,798 (alleged formation of militarily structured parties).

C.3. Mario Osvaldo Medina Bossi and seven others. Members of and participants in social action groups of the Lourdes del Cerro Los Placeres parish church and members of its human rights committee. An application for amparo was filed on their behalf on 6 November 1986 with the Military Appeal Court of the Valparaíso Navy. They had all been arrested at their homes in the early hours of 4 November 1986. Applications were also made on behalf of Leonardo Eugenio Rubio Cárcamo, Bernardino Jesús Chacama Vergara and Patricio Rafael Carranza Santander who, although they did not belong to the aforesaid human rights committee, had been arrested at the same time and under the same circumstances. According to information given to the Special Rapporteur, the subjects of the application were arrested by carabineros from the third Carabineros Station in Norte Barón, wearing battle dress and with their faces painted. A large group of individuals in civilian clothes, presumably CNI officials, had also participated.

C.4. Patricia Miranda and 24 others. According to the application for amparo filed on 11 November 1986 with the Santiago Court of Appeal, they had been arrested that day on the steps of Concepción Cathedral by carabineros who beat them severely and later took them to the First Carabineros Station.

C.5. Juan Carlos Muñoz Pandón. According to an application for amparo filed on 15 November 1986 with the Concepción Court of Appeals, he was arrested by civilians - CNI agents - who showed no arrest warrant and said that he would be transferred to one of the CNI barracks.

C.6. Wilma Cecilia Rója Toledo. An application for amparo was filed on her behalf on 17 November 1986 with the Concepción Court of Appeals. According to the application, Wilma had been arrested at her grandmother's home on 15 November by CNI agents. Prior to her arrest, her mother's home had been raided.

C.7. René Segundo Millar Vallebenito. According to an application for amparo filed on 17 November 1986 with the Concepción Court of Appeals, he was arrested on 15 November at the home of Lidia Sáez Roa by a group of armed civilians who showed no arrest warrant. The raid was violent and caused considerable disorder.

C.8. René Alejandro Portiño Saldía. According to an application for amparo filed on 17 November 1987 with the Concepción Court of Appeals, he was arrested on 15 November by five CNI agents who showed no arrest warrant.

C.9. Julio Aranguéz. An application for amparo was filed on his behalf on 15 November 1986 with the Concepción Court of Appeals. He had been arrested that day by CNI agents without an arrest warrant.

C.10. Roxana Farina Concha. An application for amparo was filed on her behalf on 9 December 1986 with the Concepción Court of Appeals. She had been arrested the previous day at her parents' home by CNI agents (see case D.12. below). On 3 December 1986, her husband had been arrested at Curicó. Prior to his arrest, Roxana and her daughter had been held hostage until her husband arrived. During the abduction, her kidnappers insulted her and tried to rape her. She had filed an application for amparo with the Talca Court of Appeals and then gone to her parents' home at Chiquayante, where she was arrested. The arrest had been violent.

C.11. Pía Buschmann and 38 others. An application for amparo was filed on their behalf on 27 March 1987 with the Santiago Court of Appeals, after they had been arrested en masse that same day by Carabineros special forces for taking part in a peaceful protest against the situation of the hunger striking political prisoners.

C.12. Doctor Sergio Pesutic Pérez. An application for amparo was filed on his behalf on 6 May 1987 with the Santiago Court of Appeals. According to the application, he had been arrested that day at the offices of the Policía de Investigaciones where he had been summoned to make a statement.

D. Right to security

D.1. Pedro Vera Castillo and four others. Teachers at the University of Concepción, on 15 January 1987, filed suit in ordinary proceedings with the Concepción Court of Appeals against the government-appointed alternate Rector of the University of Concepción, their object being to have Decree No. 83-346 declared null and void, thereby revalidating the University statutes and reinstating, as partners in that corporation, all academics who had held their posts for more than one year. A remedy of protection had also been filed on 13 March 1986 by the Presidents of Academic Associations on grounds of the issue of Decree No. 83-346, a secret decree which had not been communicated to the partners until 10 March 1986. The Concepción Court of Appeals had granted the application on 4 July 1986 but the Supreme Court had rejected it on appeal on 19 November 1986, arguing that it should have been filed 15 days after the decree's promulgation on 7 July 1983.

D.2. Santiago Marshall Silva. Parish priest of El Carmen church in Arica, he filed a remedy of protection, case No. 15,470, on 23 June 1986 with the Arica Court of Appeals on behalf of the christian community working in the church and on his own behalf, after masked individuals travelling in a van had attacked the church with firearms and incendiary bombs on 16 June 1986 (see case B.1 above). In its ruling of 4 July 1986, the Court granted the application and extended protection to the church by ordering a police watch for 60 days. The Court also informed the Intendant of Region I of the complaint of the possible existence of a paramilitary group called "Armageddon".

D.3. Víctor Leonardo Tapia Bello and three others (case No. 1423-86). Students at the University of Santiago, an application for amparo was filed on their behalf on 8 September 1986 with the Santiago Court of Appeals. That day, they had entered the main building of the Netherlands Embassy to deliver a letter publicizing the situation of Chile's universities. According to the application, they had been arrested as they left the Embassy by security forces who used extreme violence. According to the records, the CNI had refused to allow them to be examined by doctors from the Institute of Forensic Medicine and to receive visits from their relatives and lawyers. On 25 September, three of the four students were released. José Faúndez was subsequently indicted by the Military Prosecutor's office for violation of the Firearms and Explosives Control Act (see case B.5 above on the alleged torture of two of them).

D.4. Julio Luis Gutierrez Garay. In a sworn statement made before a notary public on 28 January 1987 in Santiago, he said that he had been abducted on 9 September and 4 October 1986 by civilians who questioned him about his political activities and his reasons for visiting Cajón de Maipo on 7 September 1986. He had been beaten during his abduction on 9 September and, after his release, had been visited at his home by civilians wanting to question him. Such visits had resumed on 8 January 1987.

D.5. Miriam Montecinos and her son Hernán Andrés Mege. An application for amparo was filed on their behalf on 5 November 1986 with the Temuco Court of Appeals. According to the application, on 14 October 1986 Miriam had been visited by two persons in civilian clothes who told her that they belonged to a church organization which assisted the children of returned Chilean exiles. On 27 October, she had received a note in which Hernán was threatened because he was the son of a political exile.

D.6. Fanor Castillo González, lawyer and General Secretary of the Chilean Commission on Human Rights at Valparaíso. A remedy of protection was filed on his behalf on 30 October 1986, case No. 512-86, with the Valparaíso Court of Appeals after he had received death threats over the telephone on 20 and 27 October 1986. One of the callers had stated expressly that he was from the Manuel Rodríguez Patriotic Front and had referred to the trial of Carlos Godoy. The remedy of protection testifies to the professionalism of Fanor Castillo and to the fact that neither he nor the Chilean Commission on Human Rights at Valparaíso is involved in the activities of that group.

D.7. Antonia Sanhueza Barrera filed an application for amparo on 23 October 1986 on her own behalf and on behalf of her family with the Concepción Court of Appeals after her house had been raided that day by civilians and carabineros. The raid had been violent and had left considerable disorder.

D.8. Ricardo Benjamín Bravo Faust filed an application for preventive amparo on 31 October 1986 with the Concepción Court of Appeals. According to the application, he had been the victim of persecution and intimidation by civilians since May 1986. In mid-October, he had been arrested at his home by members of the Policía de Investigaciones and taken to police premises where they had questioned him about his political activities and pressured him to stop visiting his brother in prison. On 29 October, a group of civilians had come to his home asking for him.

D.9. María Elena Callao Aceituno, President of the Association of Relatives of Political Prisoners of the Chilean Commission on Human Rights at Valparaíso. A remedy of protection was filed on her behalf on 30 October 1986, case No. 513-86, with the Valparaíso Court of Appeals after she had received death threats by telephone on 27 October 1986, had been accosted, in the street by unknown persons on 28 October and, on 29 October, had found a suspicious-looking man lurking next to her house.

D.10. Jaime Patricio Tapia Fica. An application for amparo was filed on his behalf on 4 November 1986 with the Valparaíso Court of Appeals. According to the application, he had been shot and wounded in the course of being arrested on 28 October 1986 at Linache. On 3 November, an application for preventive amparo was filed with the Valparaíso Court of Appeals on behalf of Gregorio Enrique Tapia Tapia and members of his family, who feared that they would be arrested following Jaime Patricio's arrest on 28 October. On 20 January 1987, an application for preventive amparo was filed with the same Court on behalf of Jaime Patricio, who was being detained at the Valparaíso Social Rehabilitation Centre. According to the application, there had been an attempt to abduct Jaime Patricio the previous day while he was at the Van Buren Hospital.

D.11. Julio Santana Avila, Iván Salazar Catalán and Neftalí Navarrete Bustos, co-workers at Concepción Methodist Church. An application for preventive amparo was filed on their behalf on 3 November 1986 with the Concepción Court of Appeals. According to the application, on 29 October 1986 Luis Patricio Cid Salgado had been arrested by four civilians who interrogated him about the activities of the subjects of the application and burned his hands with cigarettes once the interrogation was over. Luis Patricio filed an application for preventing amparo on his own behalf on 3 November 1986.

D.12. María Concha Sanhueza. She filed an application for preventive amparo on her own behalf and on behalf of her family on 9 December 1986 with the Concepción Court of Appeals. Since November 1986, her home had been watched and her family followed. Finally, on 8 December 1986, her daughter Roxana Farina Concha had been arrested and subjected to coercion (see case B.13 above) and unlawful detention (see case C.10 above).

D.13. Carmen Rosa Rodríguez Troncoso. In a sworn statement made before a notary public in Concepción on 21 March 1987, she said that on 12 November 1986 she had been beaten by carabineros who had attempted to arrest her in the street. Concerned about her pregnancy, she had gone to the regional hospital where they had diagnosed bruising on several parts of her body. She had then gone to the First Carabineros Station in Concepción to complain about her ill treatment. However, instead of taking down her complaint, Carabineros had arrested her and taken her the next day to the Military Prosecutor's Office, where she had been accused of maltreating carabineros.

D.14. Luis Alberto Pardo Seguel, former electrical engineering student at Bío-Bío University. He filed a remedy of protection on 24 December 1986 with the Concepción Court of Appeals. According to the application, on 5 December 1986, the Rector of Bío-Bío University had suspended him for one academic semester because of an earlier offence for which he had been denied entry to university premises.

D.15. Sandra del Carmen Pinto Silva. In an application for preventive amparo filed on 6 January 1987 with the P. Aguirre Cerda Court of Appeals, she complained that she had received a telephone threat at her home on 11 December 1986 and, on 31 December, had been watched by two individuals from a vehicle.

D.16. Vasily Carrillo Nova. Awaiting trial in case No. 1919-86. An application for amparo was filed on his behalf on 26 March 1987 with the Military Appeal Court. According to the application, Vasily had been kept incommunicado from the other accused in the same case, on row 16-A in the former Public Prison, since 15 December 1986.

D.17. Raúl Arturo Ramírez Faúndez filed an application for preventive amparo on 6 January 1987 with the Santiago Court of Appeals. According to the application, he had been watched and followed by CNI agents ever since 15 December 1986, when he had been arrested in the street along with a Danish trade union leader who was in Santiago as a delegate to the Congress of the Metal Workers' Federation. On that occasion, they had been arrested by carabineros and later taken to the First Carabineros Station, where Raúl Arturo had been interrogated by CNI officials concerning the activities of the Danish trade union leader.

D.18. Maritza Elena Valenzuela Barragán. She filed an application for preventive amparo, on her own behalf and on behalf of her son Ignacio Octavio Cisternas Valenzuela, on 2 January 1987 with the Santiago Court of Appeals. According to the application, her home had been illegally searched on 22 December 1986 by CNI agents who had questioned Ignacio about a former tenant of the house. While this was happening, Maritza had been arrested at her place of work by two civilians and questioned about the same person.

D.19. Procesa del Tránsito Acevedo Bravo. She applied for preventive amparo for herself and her daughter, Elena Lagos Acevedo, claiming that Elena's home had been raided on 24 December 1986 by five armed individuals in civilian clothing. According to the application, the individuals asked about her other daughter, Rosa Lagos, who is living abroad. The application also states that both Procesa Acevedo's home and Elena's home had been watched and that the two women had been followed in the street by unknown persons. Procesa Acevedo filed a further application for preventive amparo for herself and her family, claiming that they had been subjected to house searches since April 1987 and threatened by armed individuals in civilian clothing who identified themselves as belonging to the Carabineros or the Policía de Investigaciones and questioned them as to the whereabouts of her son Leonardo Lagos Acevedo, whom they claimed was involved in the arms caches case.

D.20. Sergio Fernando Ruiz Lazo (case No. 143,671-1). In a written statement dated 19 January 1987, his wife's lawyer informed the Third Criminal Court that in December 1986 his wife had received, in a post office box at Santiago Central Post Office, an envelope containing the identity papers, passports and other belongings of her husband, Sergio Ruiz, presumed detained and disappeared in December 1984 (see E/CN.4/1986/2, pp. 71-72, case D.3).

- D.21. María Soledad Pérez Larrea. In a remedy of protection filed on 15 January 1987 with the Santiago Court of Appeals, she complained that she had received telephone calls on 8 January 1987 from persons who identified themselves as belonging to the so-called "Civic Nationalist Front".
- D.22. Gloria Ester Cubillos Vilches. In a sworn statement made before a notary public in Santiago on 12 January 1987, she claimed that on 8 January 1987 she had been forced into a car by unknown individuals who questioned her about persons participating in the summer school of the Vicaría Pastoral for the eastern zone of Santiago Archdiocese. She was also accused of belonging to the Manuel Rodríguez Patriotic Front. The complainant had already received threats in 1985.
- D.23. Cayetano del Rosario Castillo Rizzo applied for preventive amparo on 13 February 1987 to the Santiago Court of Appeals, claiming that he had been abducted on 9 January 1987 by persons in civilian clothing who beat and threatened him while interrogating him about shanty town leaders.
- D.24. Juana del Carmen Sáez Sáez. She applied for preventive amparo on 19 January 1987 to the Santiago Court of Appeals on her own behalf and that of Carmen Luz Palma Palma, complaining that their home had been raided on 15 January 1987 and left in complete disarray and that some valuables had disappeared. According to the application, neighbours of the complainants saw persons in civilian clothing get out of a van of the colours used by the Policía de Investigaciones and enter the dwelling from the rear by forcing open a window.
- D.25. Monsignor Olivier D'Argouges, Episcopal Vicar of the western zone of Santiago. He filed a remedy of protection on 15 January 1987 with the Santiago Court of Appeals on behalf of the Nuestra Señora de la Preciosa Sangre parish church, claiming that the church had been attacked repeatedly by groups of unknown persons since mid-1986. The application was granted on 6 March 1987 and judicial protection provided to the church.
- D.26. Osvaldo Arnaldo Toro Vásquez, president of the local human rights committee at Quilicura, and Marta Hidalgo Dávila, a member of the committee. In a sworn statement made before a notary public on 16 January 1987 in Santiago, they claimed that on 15 January 1987 they had received threatening telephone calls from an unknown person who said that he was calling on behalf of the Chilean Commission on Human Rights.
- D.27. Ernesto Sierra Rojas made a sworn statement on 30 January 1987 in Santiago alleging that, on 16 January 1987, his home and the home of his son Luis Ernesto had been searched without a warrant. During the searches, they were informed that the investigation was in connection with a bank robbery which had occurred the previous day.
- D.28. Nelson Jaucoto Pereira. In a written statement submitted to the Third Military Prosecutor's Office of Santiago on 16 January 1987, he requested the disinterment of the bodies in graves Nos. 2342, 2365, 2460, 2481, 2665 and 2526 in Section 29 of the Santiago General Cemetery, alleging that this would help shed light on events surrounding the disappearance of 24 persons from Paine (case No. 952-80). The disappearances, which occurred in October 1973, had been

attributed to uniformed army personnel, presumably from the San Bernardo Infantry School.

D.29. Jovedal José Grez Ordoñez filed an application for preventive amparo on 19 January 1987 with the Pedro Aguirre Cerda Court of Appeals, claiming that his house had been searched illegally that same day by six armed civilians who notified his mother that he should report to Police Headquarters. According to the application, the same group of individuals had gone to the home of one of his friends that same day and searched it in the hope of finding and arresting him.

D.30. Eliana Rojas Sánchez and Francisco Coloane Cárdenas. In a remedy of protection filed on 30 January 1987 with the Santiago Court of Appeals, they claimed that they had been receiving death threats by telephone and through the mail since October 1986. The latest threat had been made on 22 January 1987, when they received a telex signed by the "Rolando Matus" commando.

D.31. Eugenia Lizama López. In a sworn statement made before a notary public on 4 February 1987 in Santiago, she claimed that on 22 January 1987 she had received threats in a telex containing a message identical to that received on the same day by a friend of hers, writer Francisco Coloane Cárdenas.

D.32. Juan Carlos Bordones and five other students. An application for review was filed on their behalf on 23 January 1987 with the University Tribunal of Federico Santa María Technical University in Valparaíso. The application claimed that certain irregularities had occurred in the pre-trial proceedings relating to these students, both at the investigation stage and during the formulation of charges, which would indicate that the students had not had a proper defence and that unfair decisions had therefore been handed down.

D.33. Julia Emperatriz Astorga Cornejo. In a sworn statement made before a notary public in Santiago on 2 February 1987, she claimed that on 29 January 1987 individuals in civilian clothing had searched her father's home while she was there and had informed them that they had been watching them for a week. The complainant indicated that members of her family belonged to the local christian community of La Ascensión del Señor parish church.

D.34. Ricardo Eduardo Valenzuela Riquelme. In a sworn statement made before a notary public in Santiago on 3 February 1987, he claimed that on 30 January 1987 he had been forced into a car by unknown individuals in civilian clothing who interrogated him about his activities in San Martín de Porres parish church while forcing him to drink and hitting him repeatedly in the stomach.

D.35. José Antonio Lucio Sabat Méndez. In a sworn statement made before a notary public on 23 February 1987 in Santiago, he claimed that he had received death threats by telephone in January and February 1987 from persons who identified themselves as members of the "Nationalist Combat Front". The complainant stated that he was a member of the Executive Committee of the Santiago Federation of Secondary School Students (FESES) and President of the Association of Christian Secondary School Students (ASEC). Following his participation in a cultural event on 5 November 1986, he had been arrested and committed for trial by the First Military Prosecutor's Office of Santiago for violating the Firearms and Explosives Control Act.

D.36. Armando Ramiro Olivares Bellos and three others. An application for amparo was filed on their behalf on 6 February 1987 with the Santiago Court of Appeals. According to the application, on 3 February the subjects of the application had been forced by carabineros in coronel to abandon the activities they were carrying out on the "Patricio Manzano" Second National Day of Voluntary Work. They had also been told that voluntary work was prohibited and made to hand over the description and plan of the work to be done and a list of all participants.

D.37. Julio Humberto Araya Cepeda. According to the application for amparo filed on his behalf on 12 February 1987 with the Santiago Court of Appeals, he was arrested at his home on 9 February 1987 by individuals in civilian clothing and taken in a van to an unknown location. During his abduction, he was interrogated about the whereabouts of certain weapons and accused of having manufactured weapons because he is a metal worker. According to the records, he was beaten during one of the interrogation sessions.

D.38. Karim Miguel Elfar Ricardi, Secretary of the Student Centre at the National Vocational Training Institute (INACAP), at Tabacura, claimed in a sworn statement made on 20 February 1987 in Santiago that in April and October 1986 and on 12 February 1987, he had been stopped by individuals in civilian clothing and questioned about his activities at INACAP. On the last occasion, they had mentioned the possibility that his wife might have an accident.

D.39. Gloria del Carmen Rodríguez Moreno. In a sworn statement made on 24 February 1987 in Concepción, she testified that she had been arrested at Dichato on 12 February 1987 by carabineros in civilian clothes and taken to the Carabineros station in that city. During interrogation, she was kept naked and was beaten.

D.40. Claudio Pablo Bernardo Escobar Cúceres, a member of the Sebastián Azevedo Anti-Torture Movement and a participant in the Andrés Bello Active Non-violence Inter-university Movement, claimed in a sworn statement made before a notary public in Santiago on 13 February 1987 that he had received a death threat by telephone that same day.

D.41. Nancy Liliana Saavedra Buntamante, an unemployed teacher and member of the Professional Association of Chilean Teachers (AGECH), claimed in a sworn statement made before a notary public on 20 February 1987 in Santiago that she and her sister Mónica had received threats by telephone on 13 and 19 February 1987 and that she herself had been followed by civilians on 14 February 1987.

D.42. Luis Alberto Rojas Pino. In a sworn statement made on 20 February 1987 before a notary public, he claimed that he had been followed by individuals in civilian clothing on 9 and 22 January 1987 and had been arrested by carabineros on 14 February 1987 after he had been pointed out by civilians. The following day he had witnessed the arrest of several friends by carabineros after they had been kept under surveillance by civilians.

D.43. Jorge Alejandro Zúñiga Paulov, a student leader and member of the University of Chile Student Federation (FECH). He filed an application for preventive amparo on 16 March 1987 with the Santiago Court of Appeals claiming that since the middle

of February 1987 his home had been visited on three occasions by individuals in civilian clothing who did not show any kind of identification and had asked questions about him.

D.44. Adolfo Aedo Casanueva. According to a complaint filed on 10 March 1987 with the Tomé Criminal Court, Adolfo was arrested on 18 February 1987 on a warrant issued by the above-mentioned Court and later taken to the former Public Prison in Tomé. Before his internment, he had been beaten by a detective from the Policía de Investigaciones.

D.45. Claudina del Carmen Núñez Jiménez, General Secretary of the Metropolitan Association of Shanty Town Residents. In an application for preventive amparo filed on 25 February 1987 with the Pedro Aguirre Cerda Court of Appeals, she claimed that on 23 February 1987 individuals in civilian clothing had come to her home and questioned her brother about her, threatening to return. According to the records, her home was watched by individuals in civilian clothing on 27 February and 9 March 1987.

D.46. Guillermo Osvaldo Saldias Urrutia. According to a complaint filed on 4 March 1987 with the First Military Prosecutor's Office of Concepción, Guillermo was attacked by a police dog while being arrested in the street by carabineros on 25 February 1987. The animal had mauled him, but the carabinero in charge of it had done nothing to stop it. He was then taken to the First Carabineros Station and later transferred to the regional hospital where he was treated for dog bites. He then returned to the First Station where he remained imprisoned until the following day without having been given anything to eat throughout his detention.

D.47. Victoria Sabater del Fierro. Mother of Hernán Sarmiento Sabater who was allegedly arrested on 28 July 1974 by carabineros in Parral and has been missing ever since. His mother, a member of the Association of Relatives of Missing Detainees, attested to her son's disappearance in a sworn statement made before a notary public in Santiago on 23 March 1987. According to the same statement, on 25 February 1987 her tenant, to whom she had spoken about Hernán, arranged to meet with her to talk about her son. The following day, an individual who had been present at the meeting informed her that her son was alive and asked her for a sum of money in return for further information. This person had told her not to tell anyone because otherwise she would endanger the lives of her four other children, her own life and that of her tenant.

D.48. Mercedes del Carmen Castro Arraño. In an application for preventive amparo filed on 2 March 1987 with the Pedro Aguirre Cerda Court of Appeals, she claimed that she had received death threats by telephone the previous day. Mercedes used to be a colleague of Manuel Guerrero Ceballos, the elementary school teacher found with his throat cut on 30 March 1985 (see A/40/647, pp. 28-29, case A.6).

D.49. Luis Alejandro Espinoza González. He made a sworn statement on 3 March 1987 in Concepción according to which, that same day, his home had been searched without a warrant by three individuals in civilian clothing whom he had identified as carabineros from the Huelpenillo Station. During the search he had received threats directed at his entire family.

D.50. Jorge Mario Angulo González and Renín Fidel Peralta Véliz. Awaiting trial in case No. 1919-86. Their respective lawyers filed two applications for amparo with the Military Appeal Court, one on behalf of Mr. Angulo González on 6 March 1987 and the other on 3 March on behalf of Mr. Peralta Véliz, appealing against a further period of incommunicado detention ordered by the ad hoc Military Prosecutor on 3 March. Mr. Angulo González had been held incommunicado from 25 October to 24 November 1986. Mr. Peralta Véliz had been held incommunicado for the third time from 24 February to 10 March 1987, on which date the measure had been extended. According to the records, the latter period of incommunicado detention which ended on 12 March 1987, had been applied as punishment for refusing to testify before the ad hoc Military Prosecutor.

D.51. Alejandro Jiménez Lefebvre, Bishop of Valdivia, applied to the Valdivia Court of Appeals on 10 March 1987 for a judge of that court to be appointed to investigate the forced entry, robbery and violation of correspondence committed in the diocesan offices in the early hours of 6 March 1987 by persons unknown.

D.52. Jaime Ruperto Alarcón Soto and one other. In an application for preventive amparo filed on 9 March 1987 with the Pedro Aguirre Cerda Court of Appeals, they complained that they had been stopped on 8 March 1987 by armed civilians who tried to coerce them into collaborating with them in exchange for money.

D.53. Carlos Camus Larenas, Bishop of Linares, in an application for preventive amparo submitted on 9 March 1987 to the Talca Court of Appeals, stated that he had been subjected to threats to his person and attacks on his church premises. On 9 March 1987, anonymous threatening letters had been found in his offices. According to the application, such acts were the work of a group called the "Rolando Matus Commando". On 17 December 1986, an application for amparo had also been filed with the Talca Court of Appeals on behalf of the staff of the Linares diocese. According to the records, a group of young people belonging to the Secretariat for Youth had been identified as the authors of similar threats.

D.54. Emma Olga Trujichett. According to a sworn statement made on 21 March 1987 in Concepción, her home was raided on 9 March 1987 by individuals in civilian clothing with a warrant from the Military Prosecutor's office, who proceeded to search the bedroom of her sons, Juan Enrique and Roberto. During the search, Juan Enrique allegedly had a machine gun pointed at his stomach and was questioned about his alleged links with the Manuel Rodríguez Patriotic Front.

D.55. Bernardo Germán Salazar Navarrete. In his application for preventive amparo lodged on 16 March 1987 with the Santiago Court of Appeals he complained that on 14 March 1987 his home had been raided by persons dressed as civilians - one of them armed - who had been looking for him. Prior to that, in November 1986, he had been detained by civilians and taken to a secret place of detention where he was interrogated and severely beaten.

D.56. Estanislao Alejandro Niedbalski and two others. An application for preventive amparo was filed on their behalf on 21 March 1987 with the Pedro Aguirre Cerda Court of Appeals. According to the application, their home had been raided on 18 March by three armed civilians who said they belonged to the CNI

but showed no warrant. They had searched the whole house and questioned Mr. Niedbalski's mother-in-law regarding his whereabouts and, when they did not obtain the desired information, threatened to take away her granddaughter.

D.57. Claudio Molino Donoso and 23 others (awaiting trial in case No. 1797-86). A remedy of protection was lodged on their behalf on 23 March 1987 in response to the announcement on 17 March 1987 by the ad hoc Military Prosecutor that the accused would be taken to the northern region of the country for a possible reconstruction of the events. According to the application, such measures would endanger the health of the accused, who had been on hunger strike since 3 March 1987.

D.58. Manuel Gajardo Negrete. He filed a remedy of protection on 27 March 1987 with the Santiago Court of Appeals on grounds that a disciplinary measure had deprived him of his status as a student of the Metropolitan University of Education Sciences, from which he had been expelled on 24 March 1987. According to the application, the action taken had been arbitrary and had deprived him of his right of defence.

D.59. Armando Aguero Barria. He filed a complaint on 1 April 1987 with the Tenth Criminal Court of Santiago, alleging that on 25 March 1987, while in his own home, he had been wounded in the right cheek by a bullet which exited through his mouth. According to the complaint, the shot had been fired by soldiers driving around in trucks and firing at random.

D.60. Nancy del Carmen Avila Moreno and five other women calling themselves "political prisoners", incarcerated in the Preventive Detention Centre at Quillota. According to a remedy of protection lodged on their behalf on 28 March 1987 with the Valparaíso Court of Appeals, they were living in unsanitary conditions, their visitors were being harassed, their correspondence was being tampered with and in some cases destroyed and they were not being allowed to label their handicrafts as having been made by "political prisoners".

D.61. Luisa Noemi Riveros Varas. According to an application for preventive amparo, case No. 381-87, filed with the Santiago Court of Appeals, on 2 April 1987 she had spoken with Pope John Paul II during his meeting with shanty town dwellers at La Bandera. Since 4 April, her house had been watched by people dressed as civilians, acting suspiciously, and she had received threats to her safety.

D.62. Mario Mejías Huiracán. He complained on 4 May 1987 to the Eleventh Criminal Court of Santiago that on 1 May 1987 he had been kidnapped from his home by individuals dressed as civilians who had forced him to get into a car and then beaten him. According to the complaint, he had represented the shanty town dwellers at La Bandera at the event attended by John Paul II on 2 April 1987. He had also testified before the Special Rapporteur when the latter had visited Lo Hermida shanty town on 26 March 1987.

D.63. Mónica Patricia Marín Torres. She filed a remedy of protection on her own behalf and that of her family on 24 June 1987 with the Santiago Court of Appeals. It was after she and her husband had spoken with John Paul II at the function at the National Stadium on 2 April 1987 that her family had begun to be followed and

threatened, prompting her to apply for protection on 6 May 1987. Despite the judicial protection granted for a 30-day period, the threats and observation had continued, so she filed the above-mentioned remedy of protection on 24 June.

D.64. Hilda Alicia Durán Zúñiga. According to a remedy of protection lodged on 14 May 1987 with the Talca Court of Appeals, her home had been raided on 12 May by three men and a woman with their faces covered, who had beaten her and questioned her about the conversation which she and her husband had had at Temuco with John Paul II.

D.65. Luis Alberto Moncada Vergara. A remedy of protection was filed on his behalf on 19 May 1987 with the Pedro Aguirre Cerda Court of Appeals. According to the application, he had been threatened by a carabinero at his home on 13 May 1987 and prior to that had been injured by carabineros, according to a statement made by his mother on 8 May before the San Miguel Tenth Criminal Court.

D.66. Angela Emilia Berríos Tamayo. A member of the Executive Secretariat of the Committee for the Defence of Women's Rights, she filed a remedy of protection on 27 May 1987 with the Santiago Court of Appeals. According to her application, on 23 May 1987 she had received a letter mentioning José Carrasco (see E/CN.4/1987/7, case A.13, p. 9) as well as one of her cousins and her daughter, signed with the code "11-9", which could signify the "11 September Commando". Relatives of hers had also received telephone calls on 5 May 1987 from people claiming to be carabineros and asking for a Bárbara Berríos Tamayo. A few days later, two people had called at her cousin's place of work and asked for a physical description of him.

D.67. Edras Pinto Arroyo and Reinald a Pereira Plaza. The Special Rapporteur has already reported on this case of alleged disappearances (see E/CN.4/1987/7, p. 22, case D.29). On 1 June 1987 the Santiago Court of Appeals confirmed the dismissal of proceedings in the case investigated by Judge Carlos Cerda. The decision was handed down by Judge Silva, who replaced Judge Aguirre Cerda when disciplinary action was taken against the latter by the Supreme Court. The lawyers for the relatives of the alleged disappeared persons lodged two separate appeals to reverse the ruling of the Fourth Chamber of the Court of Appeals, which had dismissed proceedings in the case at issue. The appeals state that the abduction of Horacio Cepeda, Waldo Pizarro, Fernando Ortíz, Héctor Véliz, Lincoyan Berríos and Lisandro Cruz (other persons alleged to have disappeared) must be proved. The applicants request the Supreme Court to reverse the dismissal of proceedings and to pursue the inquiry until the matter is fully elucidated. The Supreme Court's decision was still pending at the date of completion of this report.

D.68. Julia Viviana Chávez González. She complained to the Santiago Third Military Prosecutor's office that she and three other people had been beaten up by 15 special forces carabineros inside the building where she lives.

D.69. Mario Edmundo Nieto Yáñez and seven others. (case No. 904-87). According to an application for amparo filed on their behalf on 17 June 1987 with the Military Appeal Court, they were detained in the course of investigations carried out by CNI officials on 15 and 16 June. The investigations in question had been

based on investigation order No. 1402 issued by Mr. Acevedo, Prosecutor for the Third Military Prosecutor's office, yet the subjects of the application had been placed at the disposal of ad hoc Military Prosecutor Torres, who had ordered them detained incommunicado.

D.70. Carmen Hertz Cádiz. According to a remedy of protection filed on 17 August 1987 with the Santiago Court of Appeals, she had received persistent anonymous telephone calls, day and night, during July and August 1987. On 31 July she had been followed by a car and on 16 August her own car had been found with one flat tyre and another tyre slashed. She is the widow of lawyer and journalist Carlos Berger Guraltik, who was allegedly executed at Calama in 1973.

D.71. José Francisco Silva Hidalgo. According to testimony given by his father on 6 August 1987 before the Pedro Aguirre Cerda Sixth Criminal Court, Mr. Silva Hidalgo, who had been detained by members of the Policía de Investigaciones on 3 August, allegedly in connection with the death of detective Manuel Jesús Rodríguez Muñoz, had remained on CNI premises beyond the time limits established in the Constitution, without being placed at the disposal of the competent court. On 17 August 1987, an application for amparo was filed on Mr. Silva Hidalgo's behalf with the Pedro Aguirre Cerda Court of Appeals. According to the application, Mr. Silva Hidalgo had not been put at the disposal of the Santiago Sixth Criminal Court, the Court which had ordered the hearing of the corresponding pre-trial proceedings, despite instructions to do so addressed to the Policía de Investigaciones by the Judge of the Pedro Aguirre Cerda Sixth Criminal Court in view of the application filed by Mr. Silva Hidalgo's father. On 18 August, an application for amparo was lodged with the Military Appeal Court on behalf of José Francisco Silva Hidalgo and two others. According to the application (case No. 1280-87), the subjects of the amparo proceedings had been put at the disposal of ad hoc Military Prosecutor Colonel Torres Silva on 7 August and held incommunicado for five days, after which time they had been released, without any charges having been brought, and had later been put at the disposal of the Third Military Prosecutor's office. There, they had been questioned by Prosecutor Acevedo concerning the death of carabinero Sergeant Leopoldo Toloza, but no grounds had been found for trying them in that case. Prosecutor Acevedo had, however, committed them for trial on grounds of violation of The Firearms and Explosives Control Act. On 17 August, they had been put at the disposal of the Second Military Court and their incommunicado detention extended once again. On 20 August 1987, a complaint was filed with the Military Appeal Court on their behalf on grounds that 60 hours had elapsed since they had been committed for trial by the Third Military Prosecutor's office and that their incommunicado detention might be extended indefinitely. On their alleged maltreatment during detention, see case B.38 above.

E. Right to a proper trial and to procedural guarantees

E.1. Juan Moreno Avila and four others. Committed for trial in case No. 1919-86. A remedy of protection was filed on their behalf on 16 December 1986 with the Santiago Court of Appeals in which their lawyers reiterated that it was unlawful to establish an ad hoc Prosecutor's Office and appoint an ad hoc Military Prosecutor

in the case. A first application to that effect before the Second Military Court (see E/CN.4/1987/7, p. 24, case E.2) had been rejected on 1 December 1986. The second remedy was rejected on 15 January 1987. On 26 February 1987, the lawyers of several accused in case No. 1919-86 submitted an application to the Prosecutor of the Supreme Court requesting that the official conduct of the Judge of the Second Military Court of Santiago and of ad hoc military prosecutor Torres Silva in handling the case in question be monitored. They also requested the Prosecutor of the Supreme Court to monitor the operation of the former Public Prison of Santiago because of alleged discriminatory treatment of the accused. On 5 May 1987, the lawyers for Juan Moreno Avila and eight others - defendants in cases Nos. 1919-86, 1917-86 and 782-86 - filed a complaint, PR 4263, with the Supreme Court against the decision by Military Prosecutor Torres Silva to transfer the accused to different detention centres in the country. According to the complaint, "in the three cases, the accused have had to endure long periods of incommunicado detention. The adoption of such an extreme measure as the one ordered is inconceivable; it hampers the practice of the legal profession and violates the right of the accused to a defence". The complaint was rejected on 8 July 1987. Nevertheless, it should be mentioned that five judges (a minority) were in favour of accepting it, since they believed that the transfer of the accused impeded the right to legal defence recognized in article 19 (2) of the Constitution. On 13 July 1987, an application to quash the ruling was submitted.

E.2. Vasily Carrillo Nova and 10 others. Defendants in cases Nos. 1919-86, 1917-86 and 782-86. In May 1987, a complaint, case No. 834-87, was filed on their behalf with the Military Appeal Court against Prosecutor Torres Silva's decision to transfer the accused to different detention centres in the country and to order that others be held incommunicado in Santiago prisons. According to the complaint, on 19 May 1987, Vasily Carrillo Nova and Víctor Molina Donoso had been separated from the political prisoners and transferred to Section No. 1 of the Santiago South Preventive Detention Centre, the former Penitentiary, together with 105 ordinary prisoners and completely isolated from the rest of the political prisoners. The ad hoc Military Prosecutor had allegedly abused the rule of article 292 of the Code of Penal Procedure, which allows for separation of defendants involved in the same case taking into account their sex, age and status. According to the complaint, that rule should be applied in keeping with such provisions of the Constitution as article 19 (2), which states that "no authority may establish arbitrary differences", and article 19 (3), which states that "the guarantees of a rational and fair procedure must always be respected".

E.3. Arnaldo Hernán Arenas Bejas. Committed for trial under case No. 1919-86. On 4 May 1987 his lawyer raised a question of competence between ordinary and military jurisdiction after the Judge of the Pedro Aguirre Cerda Court of Appeals had rejected a request to appoint a judge of that court to investigate the facts in case No. 1919-86. The Court accepted the question of competence on 22 June 1987 (Third Chamber), quashing the decision of Judge Hernán Correa de la Cerda and ruling that the corresponding judge on duty (a judge of the Court of Pedro Aguirre Cerda Department) was competent to handle case No. 1919-86. On 23 June 1987, the Attorney-General submitted a complaint to the Supreme Court against the above ruling and obtained a "warrant of no change".

E.4. Mario Edmundo Nieto Yáñez and seven others (case No. 904-87). On 17 June 1987, an application for amparo was filed on their behalf with the Military Appeal Court. According to the grounds for the application, submitted to the Military Appeal Court on 20 August 1987, investigation order No. 1402 of the Third Military Prosecutor's Office had resulted in such unlawful actions as: the holding of Santiago Montenegro Montenegro, who had been seriously wounded, incommunicado for 31 days; the holding of the other detainees incommunicado for protracted periods, in contravention of article 272 of the Code of Penal Procedure which provides that incommunicado detention may not last more than five days. There had also been a violation of Decree-Law No. 2460, the fundamental act governing the Policía de Investigaciones, which states that arrested persons must be taken to the court which ordered the arrest, which in this case would be the Third Military Prosecutor's Office and not the ad hoc Military Prosecutor's Office.

F. Right to enter and leave the country freely

F.1. List of 464 persons for whom a review is required in order for them to enter the country. Between January 1987 and 1 September 1987, the list of Chileans prohibited from entering the country was reduced considerably (see E/CN.4/1987, p. 24, case F.1), to the figure indicated above. The authorities announced that individual cases would continue to be reviewed.

F.2. Edelmira Corina Avila López and 207 other women. An application for amparo was filed on their behalf in March 1987 with the Santiago Court of Appeals because of the ban on their entering the national territory. On 17 May 1987, the Government published a list of persons authorized to return to the country which included the names of 57 of the women on whose behalf the above-mentioned application had been made. Accordingly, on 18 May, the application was withdrawn in so far as those 57 women were concerned. On 25 May 1987, the Second Chamber of the Court of Appeals granted an application for amparo on behalf of 105 of the exiled women. The following day, the Fourth Chamber of the Supreme Court approved unanimously a warrant of no change requested by the Ministry of the Interior. On 28 May 1987, the Fourth Chamber of the Supreme Court unanimously granted the appeal entered by the Ministry of the Interior against the decision authorizing the entry of the 105 exiled women, as a result of which the decision remained without effect.

F.3. Vital del Carmen Ahumada Tello and 39 other trade union leaders. On 22 May 1987, 18 national trade union organizations applied for amparo on their own behalf to the Santiago Court of Appeals against the exempt decrees which prohibit their entry into the country.

F.4. Reinaldo del Carmen Olivares Palma (amparo, case No. 633-87). According to the records, the applicant had been denied the right to return to the country because of a number of "circumstances, all of them of a particularly confidential nature which, given the public nature of court proceedings, makes their disclosure inadvisable". On 3 August 1987, Mr. Olivares' lawyer requested the Supreme Court to instruct the Minister of the Interior to specify and prove the facts which had been the grounds for prohibiting, and continuing to prohibit, the applicant from entering the country.

G. Right to freedom of movement

G.1. Clodomiro Almeyda, Mireya Baltra and Julieta Campusano. These three persons entered the country in 1987 although there were decrees prohibiting their entry. They appeared before the courts, which decreed their unconditional freedom. The Minister of the Interior immediately ordered their administrative banishment to remote parts of the country for a period of 90 days. At the end of that period, the two women regained their freedom, while Clodomiro Almeyda was subjected to various Government summonses, as described below (see case H.1 below).

H. Right to freedom of expression and information

H.1. Clodomiro Almeyda Medina. On 22 June 1987, three summonses were issued against him: (i) with the Copiapó Appeal Court, for alleged infringement of Act No. 18,015 (unauthorized entry into the country); (ii) with the Santiago Court of Appeals for alleged infringement of Act No. 18,314 (advocating terrorism); and (iii) with the Constitutional Court, for alleged infringement of article 8 of the Constitution (advocating doctrines of a totalitarian nature or based on class struggle). Since 23 June 1987, Almeyda has been in preventive detention in Santiago (Capuchinos Annex of the former Public Prison).

H.2. Francisco Herreros. Editor of the magazine Cauce. According to information received by the Special Rapporteur, he has been under surveillance by the CNI. On 12 May 1987, the National Council of the Journalists' Association issued two declarations expressing concern at the surveillance.

H.3. Felipe Pozo Ruiz, editor of the newspaper Fortín Mapocho, and Gilberto Palacio, journalist for the same publication. On 29 May 1987, they were committed for trial by the First Military Prosecutor's Office for insulting the Armed Forces, because of an article entitled "Military service on trial". On 2 June 1987, they were transferred to the Capuchinos Prison Annex. On 9 June 1987, the Military Appeal Court granted them bail.

H.4. Roberto Garretón and Mariana Allendes. Lawyers working for the Vicaría de la Solidaridad. On 6 May 1987, they were summoned to testify before the First Military Prosecutor's Office following a summons issued by the Military Public Prosecutor's Department for allegedly insulting the armed forces. In June 1987, Roberto Garretón again testified before the same court concerning an interview he had given to the newspaper Fortín Mapocho on the activities of "private gangs" in Chile. On 3 September 1987, he was indicted by the Military Prosecutor, who also ordered his arrest. He was released on bail the next day.

H.5. Juan Pablo Cárdenas. Editor of the magazine Análisis. In June 1987, he was summoned to testify before the Second Military Prosecutor's Office for insults to the armed forces, in connection with an open letter to Pope John Paul II which had been published in his magazine. The three people who had signed the article, Esteban Silva, Jaime Escobar and Jaime Martínez, also testified. Juan Pablo Cárdenas, who was awaiting trial for insults to the President of the Republic in connection with comments made in Análisis editorials, is serving a sentence of 541 days of night imprisonment.

H.6. María Olivia Monckeberg Pardo, an adviser to the Journalists' Association, and Luis Eduardo Thayer Morel, a trade union lawyer. According to information received by the Special Rapporteur, a remedy of protection was filed on their behalf with the Santiago Court of Appeals. The remedy alleges that on 22 June 1987, they received telephone calls at their homes in which they were insulted and their lives threatened. On 25 June 1987, the engine of the vehicle of which they were travelling caught fire. The next day, when the vehicle was checked by a mechanic, they were told that the fire had been caused deliberately.

H.7. Marcelo Alejandro Zurita. An announcer at the church-owned broadcasting station "Radio La Voz de la Costa". According to information received by the Special Rapporteur, on 1 August 1987 Marcelo Alejandro filed a complaint with the Osorno Criminal Court that she had been shot in the left arm on 25 June 1987 while in the booth of the aforementioned broadcasting station.

H.8. Emilio Filippi, editor of the newspaper La Epoca, Ismael Llona, editor of the newspaper Fortín Mapocho, Juan Pablo Cárdenas, editor of the magazine Análisis, and Marcelo Contreras, editor of the magazine AFSI. According to a summons issued against them on 22 July 1987 by the Ministry of the Interior and submitted to the Santiago Court of Appeals, they had allegedly violated the provisions of Decree No. 6,255 of 4 June 1987, which imposes various restrictions on the communication media. Their offence had been to publish a declaration by the Communist Party of Chile, which has been declared illegal and unconstitutional. The Government also announced that another injunction for violation of article 8 of the Constitution and of Act No. 18,015 would be issued against the eight people who had signed the above-mentioned declaration (Julieta Campusano, Mireya Baltra, Fanny Pollarolo, Víctor Galleguillos, Patricio Hales, Gonzalo Rovira, José Sanfuentes and Alejandro Yáñez).

V. CONCLUSIONS

76. Like the first, the Special Rapporteur's second visit to Chile benefited from the Government's co-operation not only in allowing it to take place, but also in enabling the Special Rapporteur to carry out his programme of action in the country. He did, however, sense some tension in official circles concerning his activities on his second visit which had not been apparent on his earlier visit. Of course, the Special Rapporteur had been aware on his first visit that it had been permitted in the midst of conflicting views which could not be disguised and which were in any case understandable. This time, however, the differences of opinion were more marked, even during the Special Rapporteur's stay in Chile. One example of this was the unexpected fact that when, on his first day of work in Santiago, the Special Rapporteur visited the Minister for Foreign Affairs after starting his programme with a visit to Cardinal Fresno, the Minister told the Special Rapporteur quite clearly that he should be discreet in his public statements. This took the Special Rapporteur by surprise and greatly annoyed him, a fact which he conveyed to the Minister, saying that he would not allow any restrictions on his visit, as had already been agreed.

77. Other similar occurrences were the considerable delay in arranging interviews with the President of the Supreme Court of Justice and its bench of judges, and the unexpected information given to Mr. Retamal, President of that Court, by representatives of the Ministry of Foreign Affairs to the effect that the Special Rapporteur had requested the interview with him in order to apologize for having told the local press that the Chilean judiciary was not independent. In that particular instance, the Special Rapporteur told Mr. Retamal that he was not there to make any excuses or offer any apologies and saw no need to do so, since what he had said was clear from his reports and his assessment had not changed.

78. Some important official reactions to the Special Rapporteur's statements to the press, especially those of a member of the Government Junta, reflected considerable hostility towards the Special Rapporteur's mission. Requests were received from the Ministry of Foreign Affairs that the Special Rapporteur retract what he had said about the Chilean judiciary, something which created a tense situation that almost put an end to his visit. In order to salvage the situation, the Special Rapporteur took advantage of the many questions asked by journalists to reiterate his statements, placing in its proper context what he had said earlier to the press in this connection.

79. Another example of what the Special Rapporteur considers to be a change for the worse on his second visit by comparison with the first was the participation of an official of the Ministry of the Interior who, together with Ambassador Calderón on the Government's side, plus the Special Rapporteur and his colleagues, tried to review what the Government had done to implement the recommendations made by the Special Rapporteur in his reports, especially the latest one. This official's inflexibility and his inability to grasp what the Special Rapporteur was trying to do brought the work to a standstill, it being decided instead that the Government would send the Special Rapporteur, after his visit, the information he had been trying to obtain at this abortive meeting.

80. Furthermore, the Special Rapporteur can only condemn the serious attack on the physical integrity of shanty town leader Mario Mejías Huircán on 1 May 1987, carried out with the obvious intent of intimidating him (see above, sect. IV, case D.62). Mario Mejías had testified to the Special Rapporteur when the latter visited Lo Hermida shanty town on 26 March 1987.

81. Apart from the occurrences described in the preceding paragraphs, the Government gave the Special Rapporteur broad facilities to carry out his mandate. This co-operation continued even after his visit and still continues, a fact for which the Special Rapporteur is grateful.

82. During his visit, the Special Rapporteur was aware of two conflicting currents of opinion concerning the democratization process in the country and hence the protection of human rights; the Government's plan to implement the relevant provisions of the Constitution was being hotly debated. The Government had already adopted the Electoral Registration Act and the Constitutional Fundamental Act relating to political parties. One opinion favoured the registration of both citizens and political parties, while the other was opposed to both. Generally speaking, the debate centred on whether or not registration legitimized the present political régime. Of course, for a third current of opinion which advocated and continues to advocate a violent solution to the political conflicts in the country, anything to do with elections was and is anathema.

83. This debate was heightened by the fact that a controversy had arisen within the ranks of the political parties opposed to the régime concerning this same question of electoral registration and participation in the plebiscite. The Special Rapporteur was struck by this fact, as well as by the opinion of a moderate opposition political leader who, in connection with another related question, namely whether to press for general elections in order to change the Government or whether to participate in the plebiscite in order to obtain general elections at a later date, told the Special Rapporteur that, at that point in time, the second course of action was the viable one.

84. Act No. 118,556 on the System of Electoral Registration and the Electoral Service established an Electoral Service Department which is headed by an official with many years of experience in this area and whose professional and personal qualities impressed the Special Rapporteur very favourably. The Department was working normally to fulfil its task when the Special Rapporteur visited it, and so far he has received no complaints about its functioning.

85. The purpose of the above-mentioned Act is to organize the ongoing public registration of electors so that they can participate in the transitional electoral system, beginning with the plebiscite announced for 1989. In general, the Special Rapporteur considers that this Act contains the legal provisions needed to guarantee the proper registration of voters legally qualified to vote, always provided that citizens take the necessary steps to register at the proper time and the Government extends the necessary co-operation. Nevertheless, the Special Rapporteur trusts that one of the recommendations he will make in the following chapter concerning this registration process will be implemented.

86. Taking into account the transitional system which is being instituted in Chile with a view to investigating complaints relating to the 1989 plebiscite, the purpose of which will be to confirm or otherwise the person proposed by the Government Junta as President of the Republic, both the constitutional provisions governing the composition of the Electoral Tribunal and the Constitutional Fundamental Act relating to this Tribunal do, so far as the Special Rapporteur can judge, reasonably guarantee a proper electoral system.

87. However, at least two important laws of constitutional scope are still needed in order to perfect a system which can lead, as soon as possible, to the establishment of a democratic system which would safeguard Chilean's human rights. One of these is the fundamental electoral act which, according to an authorized official source and in accordance with the bill already drafted, would "bring together and perfect an entire system of electoral guarantees and procedures already traditional in our country, and ensure that elections and plebiscites are conducted correctly and fairly". Although in late July 1987 the Special Rapporteur was informed by the Chilean Government that the Junta was "seized" of this bill, at the time of writing he has been informed by the authorities that the fundamental electoral act has not come into force, a situation prejudicial even to the plebiscite scheduled for 1989, since this act would contain provisions governing plebiscites, except for the investigation of complaints relating to such consultations which is left to the Electoral Tribunal, as well as, for the time being, matters relating to the System of Electoral Registration and the Electoral Service, which would also apply to the forthcoming plebiscite.

88. With respect to the 1989 plebiscite, the Special Rapporteur must make the following comments:

(a) As he stated in his earlier reports, the Special Rapporteur obviously prefers the system of free, honest, periodic elections contested by several political parties or at least two such parties (a one-party system - the "single party" referred to by Sigmund Neumann - is an outright conceptual contradiction; what makes a political organization a true party is the coexistence of at least one other competitive group) (concerning a comparative study of "modern political parties"). However, given the present situation in Chile, which appears to be undergoing a transitional system to full representative democracy, and without prejudice to the views expressed above, the Special Rapporteur considers that such a process of popular consultation should provide voters with as much information and as effective procedures as possible so that the largest possible number of electors can express their opinions freely before, during and after the plebiscite and even propose ways of improving the consultation process before it takes place and voice any complaints which they might have concerning the entire process. The fundamental electoral act is needed in this connection to give electors greater guarantees.

(b) The Government must urgently explain, once and for all and beyond all reasonable doubt, what its official position is as to the purpose of the 1989 plebiscite. The Special Rapporteur considers this important because of a number of statements made by the President of the Republic in speeches given at Concepción and Santa Juana in 1986 and, more recently, at Chillán in August 1987. On the

latter occasion, the international press reported that the President of the Republic had said that the 1989 plebiscite would not be an election but rather a referendum on the present Government, in other words, vote on its performance. The Special Rapporteur was struck by the statements reported by the international press and reproduced by the Costa Rican press and requested clarification from the Chilean Government through the Chilean Embassy at San José. In an aide mémoire issued at San José on 27 August 1987, the Embassy informed the Special Rapporteur, inter alia, that "in his speech at Chillán the President of the Republic said that the time needed to 'establish' the Constitution was 16 years", adding that "what is important is not who does it but that it is done". Consequently, what the country is going to have is a referendum rather than an election; a referendum, a plebiscite. The aide mémoire adds, inter alia, that: "The country knows perfectly well that what is going to be held is a presidential plebiscite, not an election. This is what stipulates the Constitution. In everyday usage, the term 'popular referendum' is synonymous with plebiscite". The aide mémoire also states that what the President of the Republic said at Chillán was interpreted "taking sentences out of context" or on the basis of a "passing comment". In any event, with a view to ensuring the clarity which must prevail at all times in this matter of vital importance to the observance of human rights in Chile, it would be well worth it for the Government to state plainly and without fear of repeating itself that, in its opinion, the plebiscite is not simply a popular referendum on the performance of the present Chilean political régime.

89. The process of bringing an end to the exile of Chilean citizens continued uninterrupted. According to official figures from the Chilean authorities, between January and 1 September 1987, 2,854 exiles were authorized to return, bringing the number of those still prohibited from re-entering the country for various reasons to around 464. The same sources indicated, however, that the remaining cases will continue to be dealt with under the existing review process.

90. On his second visit to Chile in March 1987, the Special Rapporteur was especially encouraged by the attitude and activities of the Advisory Commission on Human Rights of the Ministry of the Interior. Not only is the Commission fulfilling the tasks originally assigned to it, but it has added to them on its own initiative and also in response to suggestions made by the Special Rapporteur. For example, in May of this year, it concluded an agreement with the Policía de Investigaciones which is referred to in Section III of this report. The Commission's rules of procedure also give it extensive powers to protect anyone complaining in any way of violations of their basic rights. For instance, in order to check the veracity of a complaint, the Commission may actually visit the place in which unlawful coercion or arbitrary detention is alleged. It may also attend and monitor court hearings relating to such complaints.

91. Another promising development was the Government's decision not to allow the National Information Agency (CNI) to continue to hold detainees on its premises. The CNI must now hand over all detainees to either the Policía de Investigaciones or the Carabineros.

92. The agreements concluded by the International Committee of the Red Cross (ICRC) with the Policía de Investigaciones, the National Information Agency

and the Carabineros, whereby the Committee may periodically inspect detention centres, especially preventive detention centres, represent a very positive move on the part of the Government and a significant and commendable step forward for ICRC. The Special Rapporteur had a gratifying discussion with the Committee's representative at Santiago during his visit in March 1987 and trusts that the agreements have proved effective. Nevertheless, he was informed recently that CNI agents are still interrogating and ill-treating detainees on Policía de Investigaciones premises. In practice, this unlawful CNI activity is being monitored under the terms of the ICRC agreement with the Policía de Investigaciones, under which the Committee has access to detainees within 24 hours.

93. The Chilean judiciary is not independent. It is still severely restricted and conditioned by the excessive, extraordinary powers conferred on the executive branch by transitional provision 24 of the Constitution, which is as permanent, to all intents and purposes, as most articles of the Constitution. Furthermore, faced with this capitis deminutio, the law courts, including the Supreme Court of Justice, adopt an attitude of resignation. In the opinion of the Special Rapporteur, far from promoting any change in the situation, including an effort to amend the Constitution in order to free the Chilean judiciary from its injurious, oppressive yoke, this attitude simply has the effect of making the judiciary very put out when it is forced to face facts. This is what happened when the Special Rapporteur was asked by a journalist during his second visit whether the Chilean judiciary was independent. The Special Rapporteur replied that it was not and reiterated what he had said in his earlier reports, including his recommendations that the courts should change their attitude and offer some resistance to the régime, in order to change their situation by constitutional and interpretive means.

94. The Special Rapporteur was made particularly aware of the Chilean judiciary's lack of freedom on his first visit to Chile in December 1985. On that occasion, not only did lawyers defending people whose human rights were being violated in some way confirm the judiciary's lack of independence, but the Supreme Court of Justice, whose bench of judges received the Special Rapporteur, made a special point of underlining the courts' lack of independence when its members engaged in a lively and enlightening debate in his presence.

95. The uproar that greeted his statements about the Chilean judiciary's lack of independence greatly surprised the Special Rapporteur, who had expected more objectivity on the part not only of the Supreme Court but also of senior members of the Government, who reacted by denying the obvious. This is not a failing of which the Special Rapporteur would wish to accuse the President of the Supreme Court, Judge Retamal; however, this eminent jurist did not share the criticisms of the Special Rapporteur's views and the latter was instead treated to a long and enlightening discussion with the judge during his March 1987 visit.

96. The Special Rapporteur was especially struck by the case of ad hoc Military Prosecutor Torres, who was trying a number of groups of defendants whom the Special Rapporteur visited in two Santiago prisons. All the detainees agreed that Prosecutor Torres was acting with unaccustomed harshness and inflexibility, not to mention a manifest lack of impartiality, towards them. Many of those being tried by him were so conscious of this that they were reluctant to invoke for any further

legal remedies. The Special Rapporteur was able to see this for himself when he spoke to Prosecutor Torres. The unwanted zeal, severity and scorn with which he performs his duties reflect a bias inappropriate in an official of his rank. The fact that those on trial are accused of very serious offences against State security, for instance, the assassination attempt on the President of the Republic, neither excuses nor mitigates the Prosecutor's reprehensible conduct.

97. The Special Rapporteur has the impression that the Carabineros might now be willing to resume their traditional functions, which in the past had earned them the respect of the Chilean people. If such a willingness were indeed confirmed and became a permanent attitude, the Carabineros would be of great importance in helping protect human rights in Chile. In saying this, the Special Rapporteur does not of course want to arouse false hopes, but neither would he wish to overlook a significant phenomenon which he believes he has perceived, when a comment from him might well encourage praiseworthy conduct in the area of respect for human rights in Chile.

98. The most serious problem facing Chile is, undoubtedly, the acute polarization of opinions regarding the country's future and, in particular, the end of the current political régime and the transition to a representative democracy which would be tranquil yet not stagnant and would strive towards gradual reform and the effective implementation of all the liberties that guarantee the basic dignity of all human beings.

99. The polarization in Chile manifests itself in all manner of odious and tragic acts of official and private violence which have neither ceased nor appreciably declined despite the major steps taken by the Government and private organizations, particularly the Catholic Church, to reduce or eliminate the violence.

100. One striking example of such violence is terrorism, with all the death and destruction it brings with it, abhorrent and aberrant manifestations of an assault on humanism and of a malicious attempt to exacerbate the conflicts within Chilean society in order to try and intimidate those who seek change through civilized means - those individuals everywhere who advocate representative democracies - or to demoralize those who, as the guardians of law and order, fulfil a social function of vital importance. During his second visit to the country, in March 1987, the Special Rapporteur was able to observe such destruction and its aftermath firsthand for he was in direct contact with a number of victims of terrorism, both civilian and police. The personal misfortune of those individuals is aggravated by the annoying and disrespectful lack of attention given to their cases by those who, both nationally and internationally, publicize the fate only of the victims of violence perpetrated by official forces or private groups.

101. As was already mentioned in this report, the Special Rapporteur vehemently condemns the violence inflicted by official forces in the course of investigating offences against public order and, in general, against the laws of the country, especially the activities of those in charge of detention and interrogation at the National Information Agency (CNI) which give rise to unlawful coercion and, at times, even torture (or, as the Chilean Penal Code puts it, in very purist terms: "application of torture"). Such acts of violence seriously undermine the dignity

of all persons and constitute an equally serious violation of the civilized standards applicable to the investigations conducted by law enforcement officers.

102. The other deplorable and lethal form of violence is that perpetrated by private gangs who engage in the vile practice of taking justice into their own hands through a variety of methods, ranging from intimidation to brutal killings all of this under cover of cowardly anonymity. Moreover, given their methods, the perpetrators even seem confident of the impunity granted by certain public authorities working in the shadows of the present political régime.

103. The Special Rapporteur views the polarization of feelings and attitudes referred to above, together with its disastrous and tragic consequences, as a serious, and perhaps the greatest, obstacle to the efforts which must be made, and are being made to some extent with commendable perseverance, inside and outside the country, by Government authorities and private individuals, to reconcile the various opposing sectors before they become even more deeply divided, something which would have incalculable consequences for civilized life in Chile. That is why the Special Rapporteur recommended in prior reports, and again recommends in this report, that measures be taken immediately and with a sense of patriotism to put an end to the violence, all of which is deplorable regardless of its source. This is also why the Special Rapporteur supports any measure that might tend to combat blind manifestations of uncontrolled political passion and, when he learns that any such measure is being implemented, welcomes and recommends it from its inception, even though he is aware of the possible - and at times inevitable - setbacks in a process which, in and of itself, is fraught with innumerable potential risks and errors, especially when the measure in question is not perfect in its formulation and initial implementation.

104. This is the case, for example, with the agreements between the International Committee of the Red Cross and the three main forces responsible for maintaining public safety and order. The Special Rapporteur believes, on the basis of reliable information, that not only are these agreements being gradually perfected but that they are also firmly supported by the highest Chilean governmental authorities. The Special Rapporteur saw this not only from the attitude of the former Minister of the Interior, Mr. García, but also from a recent circular signed by the current Ministers of the Interior and Defence, Mr. Fernández and Mr. Carvajal, which contained precise orders for the heads of the various security forces and reiterated the prohibition of coercion and other forms of ill-treatment of detainees, as well as the Government's intention to prosecute and punish those who perpetrate such abuses. In his previous report, the Special Rapporteur had pointed to the need for such instructions, even though then Minister García had informed him that he had already circulated a prohibition similar to the one mentioned here which attests to the political will of the Government in this very sensitive and important matter. The Special Rapporteur considers the passage of a law revoking the authority of the National Information Agency (CNI) to keep detained persons in its facilities another very positive and encouraging sign in the area of human rights and yet another measure intended to prevent unlawful coercion during the initial interrogation of detainees. Nevertheless, the Special Rapporteur is disturbed by recent reports that CNI officials are carrying out interrogations using coercive means at Policía de Investigaciones barracks.

105. The Special Rapporteur is also concerned at reports of intimidation of or threats to lawyers (including some members of the Vicaría de la Solidaridad) who undertake the legal defence of those accused of and detained for offences against public order or State security. In the opinion of the Special Rapporteur, this could lead to a situation in which such persons would be deprived of legal defence, something which would constitute a serious violation of universally recognized rights and practices designed to guarantee due process of law. Intimidation and threats are also starting to be directed at judges, especially those who distinguish themselves by their independence and professionalism in shedding light on serious violations of human rights.

106. Still on the subject of violence, the Special Rapporteur wishes to emphasize the urgent need for the Government to devote its utmost attention to all human rights crimes and offences, and to co-operate with the competent judicial authorities in identifying and punishing those responsible for them. This is particularly necessary and indispensable in a number of horrendous cases which have shocked Chilean society and have undermined efforts to bring peace to the country: the cases of the three individuals found with their throats slit, the two individuals who were burned, the numerous disappearances, the four assassinations in September 1986, and the 12 Corpus Christi deaths in June 1987. Naturally, the Special Rapporteur considers that the same diligence should be applied to bringing to justice those responsible for the attempt on the life of the President of the Republic and his escort, also in September 1986, as well as to the case of the arms caches, in accordance with the principle of due process of law mentioned above, and to the numerous carabineros who have been the victims of various terrorist attacks in the past few years, some of them recently. Similarly, there should be an investigation into the 31 December 1986 attack on the headquarters of the Intergovernmental Committee for Migration (ICM).

107. The Special Rapporteur is concerned about the precarious situation of the Chilean press; although there are many diverse mass communication media, including some controlled by sectors opposed to the Government, most of them operate under the permanent threat of the abusive application of article 40 of the Constitution, which permits restrictions on freedom of information under the state of emergency, which is still in force. Moreover, the communication media are subject to provisions which categorize as criminal insults against the armed forces or the President of the Republic expressions of criticism which would not be regarded as offences in other countries. Even so, the Special Rapporteur notes that certain opposition publications habitually use a highly critical style sometimes bordering on the grotesque. In this context, section IV of this report describes the most significant trials against journalists during the period, which are a source of concern to the Special Rapporteur.

108. No new disappearances were confirmed during the first half of 1987. However, the Special Rapporteur continues to note a lack of progress in the judicial investigations pending on 663 cases of alleged disappearances which took place in previous years. This is the case of the investigation carried out by Judge Cerda into the reported disappearance of 10 communist leaders in November and December 1976.

109. Notwithstanding the progress described in the preceding paragraphs with regard to respect for human rights, the Special Rapporteur wishes to draw attention to the number of complaints he has received of very serious human rights violations. In this connection, section IV of the report sets forth the most significant and best documented complaints for the period covered by the report. As usual, they were sent to the Government for comment in a letter dated 4 September 1987, but this does not prevent the Special Rapporteur from expressing, in the mean time, his concern at these complaints which, in his view, appear genuine, as were the complaints included in his previous memoranda which, in his view, have not been properly answered. While awaiting the Government's reply, the Special Rapporteur would be remiss if he ignored the seriousness of the reported incidents.

110. In the opinion of the Special Rapporteur, the application of the two states of emergency (state of emergency and state of danger of disturbance of law and order), especially the latter which is regulated by transitional provision 24 of the Constitution, are a source of frequent infringement on the exercise of human rights. They also impede the normal process of transition towards genuine democracy, since they provide a basis for the abusive and even arbitrary intervention of the authorities at any time, to the detriment of citizens' political activities.

111. The Special Rapporteur was discouraged to note that, in the period under consideration, the administrative banishments he had criticized in previous reports had resumed, as a Government tool to suppress freedom.

112. The Special Rapporteur believes that the changes which have occurred in the health sector, particularly in the area of social security, have adversely affected the poorest groups, which are most in need of protection by the State. The Government believes that the measures which it has taken improve the system, but the users with whom the Special Rapporteur talked during his visit to Chile in March 1987 take a very different view from the Government and instead draw attention to shortcomings in the new system which jeopardize their rights. In the light of their complaints, which the Special Rapporteur transmitted to the Government, it seems that there might be a greater awareness of the problem on the part of the Government, which has also had news of it from the Chilean press which corroborates the complaints transmitted by the Special Rapporteur.

113. Also in social matters, the Special Rapporteur is concerned about the situation which was reported to him during his visit to Chile in March 1987, namely the dismissal of a large number of teachers, in some cases by way of political reprisal and in others as part of the process of privatizing public schools and high schools. The upheaval caused by the dismissals aggravated the social situation in Chile, which was described to the Special Rapporteur as being critical in the labour sector: this situation also seems to be affecting hotel workers, because of the failure to implement international and local norms governing this type of work. This is without prejudice to the publication in the Diario Oficial of 6 July 1987 of Act No. 18,620 approving a Labour Code which is apparently adequate to regulate labour relations. The Special Rapporteur has so far heard no reactions from parties interested in this issue.

114. The Special Rapporteur reiterates his complaint that the Government has not seen fit to announce in the Diario Oficial the ratification of the International Covenant on Civil and Political Rights or the International Covenant on Economic, Social and Cultural Rights, both of them adopted by the United Nations in 1966. This situation is prejudicial to the protection of Chileans' fundamental freedoms.

115. During his second visit to Chile, the Rapporteur again heard complaints from members of the judiciary responsible for resolving major cases involving respect for fundamental human rights, to the effect that they are not receiving proper assistance from members of the Government's security forces; this is indicative of a lack of interest on the part of the competent Government authorities in ascertaining the facts.

116. On the positive side there is the announcement made by the Government a few months ago that some 400 cases being tried by the military courts will be transferred to the civil courts, so that the right of defence will no longer be subject to the rigours and inflexibilities of military court procedures. However, the Special Rapporteur is mindful of complaints he has received to the effect that the transfer has not yet been carried out and also that the law which would be applied to persons currently accused and detained under military jurisdiction would be the very harsh Anti-Terrorism Act.

117. The Government informed the Special Rapporteur that it would soon announce the signing of the conventions against torture adopted by the United Nations and the Organization of American States respectively. If the announcement is actually made, it will be a very positive step towards observance of respect for the life and physical and mental integrity of those who are accused of crimes against State security and for that reason are subjected or might be subjected to varying degrees of unlawful coercion. The Special Rapporteur believes that the measures which the Government is allegedly taking to put an end to such serious abuses against human dignity would be increased if these Conventions were actually signed and this was followed by their ratification and publication in the Diario Oficial.

118. Chilean human rights organizations informed the Special Rapporteur of the case of former minister Clodomiro Almeyda and gave him various files concerning his problem with the law courts. The Special Rapporteur gave close attention to this case and asked a representative of the Government about the status of the various trials. He was told that everything seemed to indicate that the due process of law which is being followed, with defence lawyers, including Mr. Almeyda himself, being allowed to act, will show that the courts are handling the case correctly. The Special Rapporteur will follow the progress of these trials closely.

119. The Special Rapporteur again received some complaints about human rights violations in the treatment of the Mapuche and Huilliche indian minorities. The Special Rapporteur will consider these complaints again, as he did in connection with the Mapuches on his first visit to Chile in December 1985, so as to have an idea of what is happening now.

120. The system of Government-appointed rectors which allowed the presence of military rectors in Chile's universities (except the Catholic University which was

regulated by an agreement between the Vatican and the Government) has been abolished and replaced by a transitional system involving rectors appointed by the Ministry of Education from lists of three candidates put forward by the academic communities of each public university. The Special Rapporteur considers this change, which is in line with one of his recommendations, of great importance for Chile's democratization process, although the Government is still interfering in such appointments, which should be made freely by the university world.

VI. RECOMMENDATIONS

121. The Special Rapporteur is pleased to note that a number of the recommendations he made in earlier reports and in conversations with competent Government authorities are being put into effect.

122. Much remains to be done, however, if clear and unequivocal indications are to be given that the Government's co-operation with the Special Rapporteur and, hence, the Commission on Human Rights and the General Assembly is finally leading to effective measures to protect Chileans' human rights.

123. In particular, the Special Rapporteur recommends the adoption and implementation, with all due urgency, of the constitutional fundamental acts relating to voting rights and, hence, to the establishment of a representative, tranquil democracy which promotes the common good and protects human rights, as the Special Rapporteur has been advocating persistently in all his reports. These acts include the fundamental electoral act and the fundamental act governing the National Congress. The first of these, in particular, is essential at a time when there appears to be a transition towards representative democracy.

124. Also in respect of voting rights, the Special Rapporteur recommends that the system of electoral registration be improved. In this connection, the Special Rapporteur is pleased to note the readiness with which the Government, and especially the Director of the Electoral Service Department, Juan Ignacio García, whom the Special Rapporteur met in Santiago in March 1987, listened to his suggestion that the Service seek advice from the Centre for electoral advancement and training (CAPEL), which has its headquarters in San José, Costa Rica, and is a specialized, decentralized branch of the Inter-American Institute of Human Rights, also based in that city. The Special Rapporteur has been informed that in September 1987, Mr. García will participate in one of the courses organized by CAPEL.

125. The Special Rapporteur also recommends that the voter registration process for all elections held in Chile conducted according to the system which is beginning to be introduced, on a compulsory basis and free of charge, in order to educate citizens about their civic rights; those rights are closely linked with respect for their fundamental rights and the existence of a true democracy, based on the national self-determination of the Chilean people, i.e., on the cardinal democratic principle of the freely expressed and honestly respected popular will.

126. The Special Rapporteur believes that harmony will not be restored among Chileans until the violent cases referred to in the foregoing conclusions are resolved and the guilty parties, whoever they may be, mighty or lowly, are duly punished.

127. The Special Rapporteur considers that the measures thus far taken by the Government to prevent interrogations and other practices under coercion must continue to be monitored closely. In this respect, the co-operation between the various security forces and the International Committee of the Red Cross should be increasingly expanded and a close watch kept for incidents such as those reported to the Special Rapporteur, in involving interrogation under coercion by the National Information Agency (CNI) in barracks of the Policía de Investigaciones, so as to immediately prevent the occurrence of such incidents and instead ensure compliance with the law which prohibited the CNI from keeping detainees on its premises in order to prevent such detainees from being interrogated using any kind of unlawful coercion.

128. In the case of the exiles, the Special Rapporteur recommends that the process of permitting persons forced to live outside Chile to return, as is their right, should continue. He also thinks that action should be taken on the "list of undesirable aliens" which allegedly includes some Chileans who, while in exile, were forced to take on the nationality of the States in which they found asylum in order to be able to work or because of legal requirements and are therefore not being permitted to return to Chile. At all events, the Special Rapporteur thinks that the Government should take action on this matter in order to avoid painful misunderstandings. Due attention must also be paid to the problems which returnees face in adapting to their new situation, including serious threats to their human rights. The Special Rapporteur recommends the same course of action in the case of Chileans living in their country but forced to leave it because of serious threats to their personal safety.

129. The Chilean judiciary must go beyond mere lip-service and recover the independence it once enjoyed. The Special Rapporteur recommends that both the Government and the Supreme Court of Justice should apply themselves actively and without delay to achieving that lofty goal. The Government would therefore do well to promote a reform of the current constitutional and legal order so that the law courts are in no way impeded in their functions. The Supreme Court, for its part, should assume its function of interpreting that order which finds it, a function, which includes laying down the law in individual cases. It has already done so on some limited occasions which could have created and could still create a precedent when the courts took it upon themselves to interpret in a broad sense factual circumstances related to certain cases involving transitional provision 24 of the Constitution, thereby exercising their jurisdiction in favour of the effective protection of human rights, which is the principal function of the judiciary. Unfortunately, in such cases the Supreme Court of Justice chose to quash the learned decisions of courts which dared go beyond the bounds of their jurisdictional functions.

130. The Special Rapporteur recommends that the Government offer all possible support to the law courts in their task of investigating and punishing human rights violations reported to them.

131. The Government must urgently put into effect its announced intention of transferring to the civil courts a large number of cases currently before the military courts. Similarly, to ensure better protection of the rights of those awaiting trial, it is recommended that the Government review as soon as possible the actions of ad hoc Military Prosecutors F. Torres and E. Blanco, taking the necessary steps in this respect.

132. Because of the time constraints affecting the Special Rapporteur, by way of other recommendations he suggests those deriving logically from the "Conclusions" section of this report which are not given specific or detailed treatment here. However, the Special Rapporteur feels bound to reiterate explicitly here the recommendations made in his earlier reports concerning the establishment of a democratic, representative, pluralist, tranquil and reform-oriented political system, which is the best way to ensure respect for human rights in Chile or any other country. To that end, the Special Rapporteur recommends the system of general elections to decide on Chile's political future and also, let it not be forgotten, the very existence of Chilean society. The sooner the system of direct, universal, secret and periodic suffrage is adopted to resolve political questions in Chile, the sooner the inherent freedoms of each Chilean citizen can expect to be respected and protected.
