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STUDY OF REPORTED VIOLATIONS OF HUMAN RIGHTS IN
CHILE, WITH PARTICULAR REFERENCE TO TORTURE AND
OTHER CRUEL, INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT

Report of the Ad Hoc Working Group established
under resolution 8 (XXXI) of the Commission on
Human Rights to inquire into the situation
of human rights in Chile

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INTRODUCTION

1. By its resolution 9 (XXXIII) of 9 March 1977 the Commission on Human Rights, at the invitation of the General Assembly in its resolution 31/124, extended for one year the mandate of the Ad Hoc Working Group to inquire into the situation of human rights in Chile, made up of the following members to work as experts in their personal capacity: Mr. Ghulam Ali Allana (Pakistan) (Chairman-Rapporteur), Mr. Leopoldo Benites (Ecuador), Mr. Felix Ermacora (Austria), Mr. Abdoulaye Diéye (Senegal) and Mrs. M.J.T. Kamara (Sierra Leone), and requested it to report to the General Assembly at its thirty-second session and to the Commission on Human Rights at its thirty-fourth session with such additional information as might be necessary.
2. The Economic and Social Council, by its decision 233 (LXIII) of 13 May 1977, approved the decision of the Commission to extend the mandate of the Ad Hoc Working Group within the terms of the Commission resolution, and decided to request the General Assembly to make arrangements for the provision of adequate financial resources and staff for the implementation of that resolution. ^{1/}
3. Pursuant to General Assembly resolution 31/124 and Commission resolution 9 (XXXIII), the Ad Hoc Working Group prepared its report to the General Assembly during meetings held in Geneva from 15 to 26 August 1977. For the preparation of that report the Group examined in detail and made use of voluminous written material submitted to it by a variety of reliable sources, including intergovernmental and non-governmental organizations, and it also examined and made use of the oral and written information gathered during a field mission to Caracas, Venezuela (11-15 July), and New York (18-22 July) and during hearings held in Geneva from 25 to 29 July 1977. The Group also made use of every opportunity to have contacts with the representatives of the Government of Chile and examined and considered all the information, both oral and written, submitted by the Government of Chile directly to the Group, to the United Nations Secretariat or to other United Nations organs.
4. The report of the Group to the General Assembly at its thirty-second session, as adopted on 26 August 1977, was submitted in document A/32/227. The General Assembly on 23 September 1977 referred the report to its Third Committee for consideration under agenda item 12 (Report of the Economic and Social Council). In its consideration of the question of human rights in Chile, the Third Committee also had before it the observations of the Government of Chile on the report of the Ad Hoc Working Group (A/C.3/32/6), the report of the Secretary-General prepared in accordance with paragraph 4 of General Assembly resolution 31/124 (A/32/234) and a note by the Secretary-General concerning the question of the occupation of the headquarters of the Economic Commission for Latin America (ECLA) during the period from 14 June to 26 June 1977 and the situation of certain ECLA staff members (A/C.3/32/7).

^{1/} The establishment of the Ad Hoc Working Group on Chile, under the terms of Commission resolution 8 (XXXI), its functions and subsequent activities are described in the introduction to its report to the General Assembly (A/32/227, paras. 2-21).

5. The question of the protection of human rights in Chile was discussed in the Third Committee during part of its 54th to 64th and 72nd meetings. At the 56th meeting of that Committee, the Chairman-Rapporteur of the Ad Hoc Working Group introduced the report of the Group (A/32/227). The representatives of 27 Member States took part in the discussion. The representative of Chile made statements expressing his Government's views on the situation of human rights in his country and, in particular, the position of his country regarding the report of the Group, and answered the allegations made against his Government during the debate. 2/

6. At the 64th meeting of the Third Committee, on 1 December 1977, the representative of Sweden introduced a draft resolution (A/C.3/32/L.37) sponsored by Algeria, Austria, Belgium, Cuba, Cyprus, Denmark, Finland, Guinea-Dissau, Iceland, Iraq, Ireland, Italy, the Libyan Arab Jamahiriya, Luxembourg, Mexico, Mongolia, Mozambique, the Netherlands, Norway, Poland, Portugal, Senegal, Sweden, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Yugoslavia. At the 72nd meeting of the Committee, on 7 December 1977, the draft resolution was adopted by a roll-call vote of 98 to 12, with 28 abstentions.

7. The General Assembly, at its 105th plenary meeting, on 16 December 1977, adopted the draft resolution proposed by the Third Committee as resolution 32/118. 3/ The full text of the resolution is reproduced as annex I.

8. In its resolution 32/118 the General Assembly, inter alia, reiterated its profound indignation that the Chilean people continued to be subjected to constant and flagrant violations of human rights and fundamental freedoms, to lack adequate constitutional and judicial safeguards of their rights and liberties and to suffer assaults on the freedom and integrity of their persons, in particular by methods of systematic intimidation, including torture, disappearance of persons for political reasons, arbitrary arrest, detention, exile and deprivation of Chilean nationality.

9. The General Assembly expressed its particular concern and indignation at the continuing disappearance of persons, which was shown by the available evidence to be attributable to political reasons and the refusal of the Chilean authorities to accept responsibility or account for the large number of such persons, or even to undertake an adequate investigation of cases drawn to their attention. The General Assembly further deplored the unsatisfactory way in which the Chilean authorities had sought to fulfil their undertakings to the Secretary-General, acting under the mandate given to him by General Assembly resolution 31/124, relating to the missing relatives of the Chileans who had drawn attention to their plight by engaging in a hunger strike at the ECLA headquarters in Santiago. The concern for missing persons has been expressed not only by the General Assembly and the Commission on Human Rights following their consideration of the reports of the Working Group, but also on different occasions by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the Economic and Social Council and various other international bodies and specialized agencies.

2/ A/C.3/32/SR.56; A/C.3/32/SR.72.

3/ For details of the voting see A/32/PV.105.

10. In a letter dated 29 November 1977 addressed to the Permanent Representative of Chile to the United Nations Office at Geneva (see annex II), the Chairman-Rapporteur of the Ad Hoc Working Group informed the Chilean Government that the Group, which was to meet in Geneva from 9 to 27 January 1978 for the purpose of preparing its report to the thirty-fourth session of the Commission on Human Rights, desired to obtain all possible co-operation from the Chilean Government in performing its task and would appreciate receiving any relevant written or oral information which the Government of Chile might wish to present to the Group for its consideration, bearing in mind the Group's terms of reference. The Chairman-Rapporteur further informed the Permanent Representative of Chile that the Group would be ready to meet with representatives of the Chilean Government during the Group's session in January.

11. The Permanent Mission of Chile replied to the Chairman in a letter dated 13 January 1978 (see annex III), stating that in view of the communication dated 5 January 1978 addressed to the Secretary-General by the Deputy Foreign Minister of Chile (copy of which was enclosed), it was not necessary for a representative of the Government of Chile to meet the Group.

12. At a press briefing on 12 January 1978 the spokesman for the Secretary-General read a statement to the effect that the Secretary-General had noted with regret the view of the Government of Chile that "it is absolutely useless to prolong the situation as brought about by the Working Group". The Secretary-General expressed the hope that the Government of Chile would reconsider its position with respect to the activities of the Working Group.

13. On examining the letter from the Government of Chile to the Secretary-General, the Group found that it contained statements and demands which had already been placed before the Group by the Chilean representatives and rejected by it on valid grounds. The facts and the details of the discussions and correspondence on the issues raised in that letter have been faithfully reflected, from time to time, in the reports of the Working Group to the General Assembly and to the Commission on Human Rights. The Group is gratified to note that its stand on these issues, as explained in its reports, has been commended by the General Assembly and the Commission on Human Rights, by overwhelming majorities, as being objective and impartial.

14. In this connexion it may be pointed out that in the debate on this item in the Third Committee at the thirty-second session of the General Assembly, the Permanent Representative of Chile, speaking on the report of the Working Group, said that the Government of Chile wanted the co-operation of the Working Group. In a statement in the Third Committee following the debate on the report, the Chairman of the Working Group said he "welcomed the statement by the representative of the Government of Chile that his Government needed the co-operation of the Working Group. The Working Group, in turn, needed the co-operation of the Government of Chile even more, particularly with regard to arranging its visit to that country."^{4/}

^{4/} From the summary record of the 59th meeting of the Third Committee, 28 November 1977, A/C.3/32/SR.59.

15. The Group in its previous reports expressed concern about the consequences of various forms of aid extended to the Chilean authorities. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, acting at the request of the Commission in its resolution 9 (XXXIII), adopted on 21 August 1977 resolution 11 (XXX). In part I of that resolution the Sub-Commission decided to appoint a rapporteur, Mr. Antonio Cassese, to analyse the volume, origins, development and significance of the assistance given to the present régime in Chile and to study whether a quantitative or qualitative change in the aid now being given might contribute to restoring respect for human rights in Chile. The Rapporteur was requested to prepare a study and to submit a progress report to the Commission on Human Rights at its thirty-fourth session. His progress report will be before the Commission in document E/CN.4/1267.

16. Similarly, regarding the concern which the Group had expressed in its previous reports for the plight of those Chileans arbitrarily arrested or imprisoned, those who had been forced to leave the country and their relatives, the Sub-Commission in part II of its resolution 11 (XXX) decided to recommend that a voluntary fund, administered under the authority of an independent board of trustees, should be established to receive contributions and distribute humanitarian, legal and financial aid to those detained or imprisoned in Chile under the state of siege or other emergency legislation, to those forced to leave the country and to their relatives. The Sub-Commission also requested the Secretary-General to prepare a report for the Commission on Human Rights at its thirty-fourth session which would include, in particular, suggestions as to (a) methods of establishing the fund; (b) the administrative and legal structures of the fund; (c) sources of financial contributions to the fund; (d) channels of distribution of the aid. This report will be before the Commission in document E/CN.4/1269.

17. This sixth report of the Ad Hoc Working Group now submitted to the Commission on Human Rights updates the information contained in the report to the General Assembly (A/32/227), which will also be before the Commission, and deals, in particular, with certain subjects treated in previous reports in the light of the action taken by the General Assembly in its resolution 32/118.

18. For the preparation of this report, the Group examined written material submitted to it from a variety of reliable sources, including information submitted by governments and intergovernmental and non-governmental organizations. Documents submitted by the Government of Chile to the General Assembly, to the Secretary-General or directly to the Group were duly examined and considered by the Group. The Group also examined and took into account oral testimony from a number of persons who had direct or personal knowledge of recent developments in the situation of human rights in Chile.

19. The General Assembly in its resolution 32/118 deplored the failure of the Chilean Government to comply with its own repeated assurances that it would allow the Ad Hoc Working Group to visit Chile. If the Group had been able to ascertain for itself various elements of the situation of human rights in that country, it would have been in a position to better fulfil its mandate and would have served the aim of restoring human rights in Chile for the benefit of all concerned.

20. In its resolution 32/118 the General Assembly invited the Commission on Human Rights to extend the mandate of the Ad Hoc Working Group, as presently constituted, so as to enable it to report to the General Assembly at its thirty-third session and to the Commission at its thirty-fifth session with such additional information as might be necessary.

21. The Ad Hoc Working Group wishes to express its warm appreciation to Mr. Theo C. van Boven, Director of the Division of Human Rights, to Mr. Costas Papademas, representative of the Secretary-General, and to the members of the Division of Human Rights and other members of the Secretariat who have assisted it untiringly in a spirit of dedication in the performance of its functions.

I. CONSTITUTIONAL AND LEGAL DEVELOPMENTS

A. The state of siege and other exceptional security measures

22. In the report submitted to the General Assembly at its thirty-second session (A/32/253, paras. 74-77), the Working Group reiterated its concern regarding the impact of the continuing state of siege in Chile on human rights in that country.

23. The General Assembly, in its resolution 32/118 of 16 December 1977, urged the Chilean Government to comply with paragraph 2 of its resolution 31/124 of 16 December 1976 in which, inter alia, it called upon the Chilean authorities "to cease using the state of siege or emergency for the purpose of violating human rights and fundamental freedoms and ... to re-examine the basis on which the state of siege or emergency is applied with a view to its termination".

1. Modification in the degree of the state of siege

24. In its comments on the report, the Government of Chile stated that: "On 10 September 1977, the state of siege was reduced to the lowest level provided for by the law" (A/C.3/32/6, Introduction, A.3(b)). Later, it transmitted to the Group a copy of the official text of decree-law No. 1889, published on 10 September 1977, by which the state of siege was declared "at the lowest degree provided for in decree-law No. 640".

25. In previous reports, the Group has explained the various degrees of the state of siege provided for in decree-law No. 640 of 2 September 1974, 1/ which at present governs this matter, since the entry into force of Constitutional Act No. 4, entitled "Emergency régimes" has been indefinitely postponed (see A/32/227, para. 76). In particular, the Group has analysed (E/CN.4/1188, para. 26) the differences, in respect of grounds and effects, between the state of siege in the degree of internal defence, as referred to in article 6, paragraph (b), of decree-law No. 640, and the state of siege in the degree of internal security, as referred to in article 6, paragraph (c), of the same text. The state of siege in the degree of internal security had been in force in Chile from 11 September 1975 (E/CN.4/1188, para. 26), with successive renewals every six months, until 10 September 1977, the date of the publication of decree-law No. 1889.

1/ Article 6 of decree-law No. 640 reads:

"A state of siege may be declared in any of the following degrees:

"(a) State of siege because of a situation of internal or external war;

"(b) State of siege in the degree of internal defence, which is applicable in the event of civil commotion caused by rebel or seditious forces organized, or about to be organized, openly or clandestinely;

"(c) State of siege in the degree of internal security, which is applicable when commotion is caused by rebel or seditious forces which are not organized; and

"(d) State of siege in the degree of civil commotion, which is applicable in the other cases provided for in the legislation in force."

26. Decree-law No. 1889 of 2 September 1977 (see annex IV) refers to article 6, paragraph (d), of decree-law No. 640 which describes this "lowest degree" as the degree of "civil commotion" which is applicable "in the other cases provided for in the legislation in force". According to a legal analysis recently received by the Group, it is by no means clear what cases and what legal provisions in force are envisaged here. The Group has also been unable to determine what are the practical consequences of this lowering of the degree of the state of siege. It should be mentioned that, in accordance with articles 8 and 9 of decree-law No. 640, as amended by decree-law No. 1009 of 1975, identical provisions are applicable in the case of a state of siege in the degree of internal security and in the case of a state of siege in the degree of civil commotion. ^{2/} The possible inference that this has been a mere change in name without any practical significance is strengthened by the statement of President Pinochet, in his speech on 11 September 1977 (see annex V), that: "With regard to the state of siege and the curfew, the Government takes the view that the conditions required for their termination have not yet been fully met and they will therefore both be continued without change".

27. Another matter of concern to the Group is the absence of any reference to the duration of the state of siege in decree-law No. 1889 (see annex IV) in contrast to earlier decree-laws which limited the measure to six months. ^{3/} It will be recalled that the Political Constitution of 1925, in its article 72, paragraph 17, empowered the President of the Republic, in certain cases, to declare a state of siege "for a specified period". Constitutional Act No. 4 (see para. 4) is even more specific and fixes a limit of six months (article 2). The Working Group considers that the declaration of a state of siege of unlimited duration, contrary to constitutional provisions, adds yet another element of instability to the Chilean legal order and confirms the conclusions it expressed in its report to the Assembly (A/32/227, para. 77) concerning unpredictable and arbitrary law-making procedures.

^{2/} Articles 8 and 9 of decree-law No. 640, as amended by article 8 of decree-law No. 1009, read:

"Article 8:

When a state of siege is declared in the degree of internal security or in the degree of civil commotion, the provisions in force shall be the provisions of Volume I, Title I, of the Code of Military Justice, relating to Courts Martial in times of peace having their own jurisdiction, and the applicable norms shall be those set forth in Volume II, Title II, of the aforesaid Code, regarding criminal procedure in times of peace and the penalties established for such times, increased by one or two degrees.

"Article 9:

However, in cases of a state of siege in the degree of internal security or in the degree of civil commotion, persons accused of the offences referred to in article 4, article 5, paragraphs (a) and (b) and article 6, paragraphs (c), (d) and (e) of the Law on the Security of the State shall in every case be tried by war-time Courts Martial."

^{3/} See A/10285, para. 91; E/CN.4/1188, para. 26; A/31/253, para. 75; E/CN.4/1232, para. 75; and A/32/227, para. 74.

2. Other exceptional security measures: the state of emergency

28. On 10 September 1977, decree No. 899 of the Ministry of National Defence was published in the Diario Oficial. This decree declares "all the regions, provinces and communes of the country to be in a state of emergency for a period of six months". 4/ In the preamble to the decree, it is stated that the country is in the situation of public disaster referred to in law No. 12.927. The powers of the military commanders of the zones of emergency and the significance of the declaration that a zone is in a state of emergency under law No. 12.927 of 6 August 1958, entitled the Law on the Security of the State, were analysed by the Group in its report to the Commission on Human Rights at its thirty-second session (E/CN.4/1188, paras. 31-33). The Group has recently received a study on the state of emergency in Chile which states, in connexion with its effects, that:

"The state of emergency, established by appointing military commanders for the various zones of the country, introduces an element additional to the state of siege. For example, provisions relating to freedom of meeting in general and also to freedom of opinion, which are individual guarantees not restricted by the provisions of the state of siege, have been promulgated by the various military commanders; we need look no further than the promulgation of bando No. 107 in the Santiago zone, which would not have been permissible under the state of siege alone". 5/

It should be remembered also that decree-law No. 1877 of 12 August 1977 states that, in cases of the declaration of a state of emergency under the Law on the Security of the State, the President of the Republic shall be empowered to hold persons under arrest for a period not exceeding five days, a power which did not exist in previous legislation. The Group expressed its concern at this provision in its last report to the General Assembly (A/32/227, para. 164). In the analysis quoted above, which is annexed to the report by Mr. Felipe González, it is stated in this connexion that the "provisions introduced [by decree-law No. 1877] substantially change the state of emergency and transform it in fact into a new degree of the state of siege".

29. With regard to the curfew (see para. 26), the new Military Commander of the Zone of Emergency covering the Metropolitan Area and the Province of San Antonio, General Enrique Morel Donoso, declared in a statement to the press 6/ that "the measures at present existing in the Zone will be maintained in order to ensure the tranquillity of the population".

4/ El Mercurio, 14 September 1977.

5/ "Analysis of decree-law No. 1877 which introduces reforms in the legislation on the state of emergency", annex to the report by the First Secretary of the Spanish Socialist Party, Mr. Felipe González, to the Inter-Parliamentary Union in September 1977.

6/ El Mercurio, 5 November 1977.

B. Constitutional and legislative developments

30. In its previous report to the General Assembly (A/32/227, chap. II), the Ad Hoc Working Group analysed those aspects of constitutional and legislative developments in Chile which are relevant to its inquiry. In particular, the Group has analysed the provisions of Constitutional Acts Nos. 3 and 4 and of certain legislative measures and judicial decisions relating to their application, such as decree-law No. 1684 of 28 January 1977, which declares the remedy of protection to be inapplicable in emergency situations, and also the interpretation which has been given to this decree-law by the courts (see A/32/227, paras. 44-65); decree-law No. 1697 of 11 March 1977, which provided for the dissolution of political parties (ibid., paras. 66-70); and bando No. 107, which imposes certain restrictions on intellectual freedom.

1. Legislation complementing the Constitutional Acts

31. In previous reports the Group expressed concern at the fact that numerous provisions of Constitutional Act No. 3 that establish specific human rights are subject to the adoption of supplementary legislation for their implementation. 7/ In its comments on the Group's last report to the General Assembly, the Government of Chile stated that existing legislation would be applied until such time as the new provisions had been enacted and become effective. 8/ Further on in the same document, it states: "The Government continues to be actively engaged in drafting laws to give effect to each of the rights contained in the Constitutional Acts". 9/ The Group must point out that since the adoption of its last report it has not learnt of the approval of any new laws supplementing Constitutional Act No. 3.

32. The time-limit for the enactment of the law relating to the membership and method of operation of the National Radio and Television Council provided for in article 1, paragraph 12, sixth sub-paragraph, of Constitutional Act No. 3 expired on 13 September 1977. According to that article, the aforementioned law was to ensure that radio and television broadcasting fulfil the purposes of disseminating information and promoting the educational objectives set forth in the Constitutional Act. Decree-law No. 1873, which was issued on 23 August 1977, extended indefinitely the time-limit for approval of that law, providing that, pending enactment of the law, "the legal provisions applicable in the matter which are at present in force will remain effective". 10/ (See also chap. V.)

2. Future institutional developments

33. In the Group's previous report to the General Assembly, reference was made to the speech by President Pinochet on 9 July 1977 describing the general lines of the institutional development of the country (A/32/227, paras. 78-82). In this connexion, the Group observed that the restoration of human rights did not appear to be provided for in the programme of future institutional development.

7/ E/CN.4/1221, para. 87, and A/32/227, para. 45.

8/ A/C.3/32/6, chap. II, A.2. (a).

9/ Ibid., chap. II, A.5.

10/ El Mercurio, 24 August 1977.

34. In a letter addressed to the Chairman of the Commission on Constitutional Reform, President Pinochet provided "some basic guidelines" 11/ for the work of that Commission, which present in more explicit form the general outline of future institutional developments as given in the presidential speech of 9 July 1977, known as the "Chacarillas speech". These guidelines include the following: (a) the establishment of a "Security Power (Poder de Seguridad), relating to the role of the Armed Forces in their duty to help in guaranteeing the survival of the State, the basic principles of the national institutions and the major and permanent objectives of the Nation"; (b) strengthening of the presidential system "by giving it an authority strong enough to ensure that law and order prevail, this authority to be especially reinforced in an emergency situation" - which implies also giving the Government the powers and the machinery "to conduct economic and social policy free from undue parliamentary interference which represents a constant threat to the seriousness and coherence which such a policy requires"; (c) establishment of "effective systems of control" of the executive power, and guarantees of the independence of the judiciary; (d) legal prohibition of the dissemination of totalitarian doctrines, and of the activities of groups and persons of totalitarian inspiration, in ratification of the provisions of the respective Constitutional Acts; 12/ (e) "the superseding of strikes as valid instruments for dealing with labour conflicts", and their replacement by solutions "which ensure a just and equitable settlement by expert tribunals"; (f) establishment of electoral systems which prevent political parties from becoming "gigantic power machines"; (g) establishment of the legal liability of legislators, so as to avoid "parliamentary irresponsibility"; (h) revision of the system of electing the President of the Republic, with the suggestion that he be "nominated by the Legislative Chamber from among its members"; (i) establishment of a mixed-membership Parliament consisting partly of representatives elected by direct popular vote and partly of legislators serving ex officio or by presidential appointment; 13/ (j) respect for the autonomy of the social bodies intermediate between the individual and the State; and (k) constitutional strengthening of an economic and social structure based in general on the right to "private ownership of the means of production and the acceptance of free initiative in the economic field".

35. The time-table for the elaboration and promulgation of the institutional and constitutional instruments in Chile, as announced by President Pinochet, is as follows:

(a) Constitutional Acts: The Commission on Constitutional Reform will be required to submit to the Supreme Government, not later than 31 December 1979, the drafts of the Constitutional Acts which are still to be promulgated. The drafts will be considered by the Supreme Government in exercise of the constituent power, and the new Acts will be promulgated and brought into force in 1980. In the above-mentioned letter to the Commission, 14/ President Pinochet made it clear that once the remaining Constitutional Acts have been promulgated, the Political Constitution of 1925 will be annulled. The President stressed the importance of the Acts relating to the powers of the State and the exercise of those powers.

11/ El Mercurio, 12 November 1977.

12/ See A/32/227, para. 44.

13/ For the composition of the Legislative Chamber during the transitional period after 1980, see A/32/227, para. 81.

14/ El Mercurio, 12 November 1977.

(b) The new political constitution: In subsequent public statements, 15/ the President declared that the new constitution "will be submitted directly to the people in the course of 1986 or 1987". The President also stated that, between 1980 and the date of the promulgation of the new constitution, the Constitutional Acts will continue in force.

(c) If these two statements by President Pinochet are considered together, it becomes clear that the adoption of the Constitutional Acts that are now being drawn up will result in the definitive repeal of the Constitution that has governed Chile since 1925. According to the wishes of President Pinochet, it will be repealed in 1980. Moreover, as it is an established fact that a new constitution will not be submitted to the Chilean people until 1986 or 1987, Chile will be deprived of a constitution for 10 years, during which period the Constitutional Acts adopted solely by the Supreme Government will be in force, to the exclusion of any other basic law approved by the people. It goes without saying that a situation of this kind, apart from creating an alarming constitutional vacuum, will reduce Chile to the status of a country without a constitution and hence without any reliable guarantees for the exercise of inalienable human rights.

C. National consultation of 4 January 1978

36. On 16 December 1977, the United Nations General Assembly adopted resolution 32/118 entitled "Protection of human rights in Chile" (see annex I). In that resolution the Assembly considered that its efforts and those of other United Nations organs, such as the Economic and Social Council, the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and of certain specialized agencies, for the restoration of human rights in Chile had not met with the expected response which their authority and unanimity of purpose demanded. The Assembly also commended the Chairman and members of the Group for the thorough and objective manner in which their report had been prepared. After examining the reports of the Group and of the Secretary-General and the observations and documents of the Chilean Government, the Assembly concluded that constant and flagrant violations of human rights continued to take place in Chile. The Assembly invited the Commission on Human Rights to extend the mandate of the Group, as presently constituted, to enable it to report to it at its next session and to the Commission at its thirty-fifth session. The President of the General Assembly and the Secretary-General were also requested to assist in any way they might consider appropriate in the re-establishment of basic human rights in Chile. The resolution was adopted by 96 votes to 14, with 25 abstentions; the favourable votes were cast by countries from all regions of the world.

37. On 21 December 1977 the President of Chile in a radio and television address to the Chilean people stated: "Chile has just fallen victim to a resolution of the United Nations General Assembly that goes beyond all acceptable bounds in falsehood, injustice and insult to our nation". He announced that a national consultation would take place in which all Chileans over 18 years of age would be

15/ El Mercurio, 13 November 1977.

asked to decide "whether he or she supports the President of the Republic in his defence of the dignity of Chile and reaffirms the legitimate right of the Government of the Republic to head, with sovereign authority, our institutional process or whether, instead, he or she supports the United Nations resolution and its presumption to dictate our future destiny from outside". 16/ In that speech President Pinochet used strong language and cast aspersions on the United Nations, on those countries that supported the General Assembly resolution, including the Great Powers, the Western democracies and the Socialist countries, and on the Ad Hoc Working Group on Chile. (See annex VI for the text of this speech.)

38. On 22 December 1977, the date and main features of the consultation were made public and a few days later additional details were published in the press. 17/ The consultation, organized by the Ministry of the Interior, was to be held in safe conditions to be guaranteed by the armed forces and the police. After adopting a measure that made voting obligatory for all Chileans aged 18 years and over and in possession of their physical and mental faculties, 18/ the Government Junta subsequently revoked that decision. The electoral procedures were not drawn up on the basis of a special registration. In that connexion, the Group points out that the electoral rolls were burnt in 1974; it has made an estimate of the number of years needed to draw up new lists. 19/ In El Mercurio of 2 January 1978, it was stated that the ballot would be conducted in the following manner: each citizen taking part in the voting would identify himself by showing his identity card and, after his name had been written in a register where he would also place his thumb-print, he would be given a voting paper bearing the words "Yes" (under the Chilean flag) and "No" (under a black rectangle) printed below the question. After the vote, his identity card would be returned to him, with part of the upper right-hand corner cut off and the card itself officially stamped to show that he had taken part in the consultation.

39. The question which was put to the Chilean voters differs from that contained in President Pinochet's speech through the omission of the reference to the United Nations. The text of the question in its final form was

"In the face of the international aggression unleashed against the government of the homeland, I support President Pinochet in his defence of the dignity of Chile, and reaffirm the legitimacy of the government of the republic to conduct, in a sovereign way, the institutionalization of the country". 20/

16/ El Mercurio, 21 December 1977.

17/ El Mercurio, 23, 25 and 30 December 1977.

18/ One report stated that resident foreigners could, but were not obliged to participate. El Mercurio, 2 January 1978.

19/ See A/10285, para. 214; and "Second Report on the Situation of Human Rights in Chile", Inter-American Commission on Human Rights, OEA/SER.L/V/II.34.

20/ International Herald Tribune, 4 January 1978.

40. Former deputy Claudio Huepe during his testimony before the Group submitted a memorandum - prepared in consultation with prominent Chilean jurists - which analysed the constitutionality, legality, organization and actual conduct of the national consultation. This memorandum is reproduced in annex VII.

41. In his testimony before the Group, former Senator Eric Schnake reported that according to his information the ballots were printed on such thin paper that when they were folded and introduced into the ballot-box, the choice made by the elector was visible, not only to the polling officials but also to persons waiting to vote. In addition, he was informed that in many cases the votes were in fact counted in private by the polling officers, since for reasons of "order and security" everyone else was required to leave the room. Doubt has also been expressed about the objectivity of the polling officers, who were appointed by local mayors closely linked with the Government.

1. The views expressed by the Controller and others on the legality of the national consultation

42. On 28 December 1977 the Controller of the Republic, who is, in the words of the Chilean Minister of Justice, "charged by the law with judging the constitutionality and legality of the acts of the Executive", 21/ rejected the decree setting up the national consultation because it was not in conformity with the law, either in form or in substance. The Controller's reasons were reported in El Mercurio of 3 January 1978 as follows:

"The first of these establishes that a consultation is equivalent in nature to a plebiscite and is a constitutional matter, since the Political Constitution itself specifies, in article 109, the only cases in which a plebiscite is permissible, and since article 44, No. 15, of the Constitution states that it is not permissible in cases in which legislative powers may be delegated to the President of the Republic. In the history of the Constitutional Reform, endorsed by Law No. 17,284, it was also clearly established that, because of its special character, a consultation in the nature of a plebiscite should be reserved for exceptional cases such as a difference of opinion between the constituent authorities with respect to a constitutional reform, and not for other matters. That being so, no popular consultation can be held on any other matter without previous amendment of the Political Constitution of the State.

"The second argument put forward by the Office of the Controller states that the legitimacy of the Government cannot be made the subject of a national consultation, even in part only, by the President of the Republic without the approval of the other members of the Honourable Government Junta. The third point made is that there is nothing in the national legislation that stipulates that participation in the consultation is mandatory.

21/ El Mercurio, 29 December 1977, p. 16.

"The fourth argument advanced by the Office of the Controller is that, 'as article 15 establishes that, as from 5 January 1978, no civil, military or administrative authority will be able to accept as a means of identification identity cards that have not had the corner cut off and do not bear the stamp referred to in article 11 of the same decree, the provision in question amends the legal rules in force on the subject in Decree-Laws Nos. 26 of 1924; 161 of 1973 and 852 and 1268 of 1975; and in Decree No. 1401 of 1975 and Decree with Force of Law No. 1729 of 1976.'

"In the fifth point made, the Office of the Controller argues that article 16 of the Decree, which permits mayors to prove failure to participate in the consultation, contravenes Decree-Law No. 1289 of 1975, which endorses the Organic Law of Municipalities and Communal Administration, and in particular its fourth article, which lays down that it is the duty of a municipality "within its territory, to assume the functions and exercise the powers which the law may have given to other bodies in cases where the latter have not established the corresponding service in the municipality and until the said service is established, since there is no legal provision under which a function assigned to the municipality has been entrusted to any other organization".

"In the sixth point, the Office of the Controller argues that it is necessary to realize that the procedures envisaged in the decree entail expenditure for the national Treasury but that the corresponding budgetary appropriation has not been made."

43. On the same day that the Controller of the Republic rejected the decree establishing the national consultation it was announced in Santiago that he had been sent into retirement and that the Minister of Labour had been named to succeed him as of 1 January 1978. 22/ On 2 January 1978 the new Controller accepted a decree on the consultation, modified as a result of some of the observations of the former Controller. In accepting the modified decree the Controller stated that the consultation was not a plebiscite as regulated by the Constitution but rather fell within the President's powers, in his conduct of foreign affairs, to request the views of anyone he judged appropriate. 23/

44. The legality of the national consultation was also questioned by a group of university law professors who argued that the President alone could not call such a consultation, that the citizen's freedom to express opinions ensured by Constitutional Act No. 3 was not respected in the assigning of a Chilean flag to the "Yes" answer, and further, and most importantly, that the voter was required to give one answer to more than one proposal, each of which was of a different nature. 24/ Press reports have indicated that the Government Junta itself was

22/ Le Monde, 30 December 1977; El Mercurio, 29 December 1977.

23/ El Mercurio, 3 January 1978.

24/ El Mercurio, 3 January 1978.

divided on the legality of the national consultation (see annex VIII). During the discussion surrounding the legality of the national consultation the Chilean Permanent Episcopal Commission, in a letter to President Pinochet, urged its cancellation or postponement, citing as one reason the ambiguity of the question to be posed. 25/

2. Freedom of expression and assembly during the national consultation campaign

45. The "Sub-secretario General de Gobierno" was reported as saying that freedom to express opinions through the private media would be maintained, although the opinions must respect the suspension of political activities and not deal with questions foreign to the national consultation. 26/ The Group notes that there have been press reports concerning expressions of opinion against the holding of the national consultation and in favour of a "No" vote, in particular the statement made to the press by former President Eduardo Frei, a high official in the Christian Democratic Party (see annex IX), in which he rejected the national consultation, in form and substance, stating as one objection that it was organized under a state of siege when individual freedoms were restricted and the right of free expression and assembly did not exist. 27/ The Group also notes reports indicating that the police had arrested persons distributing leaflets urging a "No" vote, 28/ and reports to the effect that propaganda for a "Yes" vote constituted tremendous psychological pressure on the voters, thus distorting the value and sense of the consultation itself, and that the state of siege implied the lack of freedom to be informed and to discuss the different options.

3. Result of the national consultation, and post-consultation statements

46. The official results of the national consultation as announced by the Ministry of the Interior were the following: 5,542,581 ballots cast, 75.3 per cent "Yes", 20.29 per cent "No" and 4.31 per cent blank or void. The Ministry also announced that half a million persons had abstained. 29/ An article in Le Monde (6 January 1978) gave the first results of the national consultation (which were very close to those given above) and reported a post-consultation statement of the dissolved Christian Democratic Party as saying "All those who know what democracy is cannot regard as valid a plebiscite organized during a state of siege and at a time when all the freedoms of the individual have been suspended", and that the absence of any control over the

25/ El Mercurio, 2 January 1978.

26/ El Mercurio, 25 December 1977.

27/ El Mercurio, 3 January 1978.

28/ International Herald Tribune, 4 January 1978.

29/ United Press news dispatch dated 6 January 1978.

voting other than that of the Government made it impossible to take the results seriously. This same article quoted General Pinochet as saying that "The President and the Military Government have been given fresh strength today, and the United Nations will think twice in future before intervening in Chile's internal affairs ... Let me warn Mr. Allana that he will not enter Chile again until the rules of the game have changed". In an article in the International Herald Tribune (6 January 1978) General Pinochet is stated to have said at a public rally after the national consultation that there would be no more elections or voting or consultations for 10 years.

47. On 5 January 1978 the Deputy Minister for Foreign Affairs of Chile addressed a letter to the Secretary-General of the United Nations concerning the national consultation and the Government's relations with the Group. The Permanent Mission of Chile to the United Nations Office at Geneva, by a note verbale of 11 January 1978 to the Director of the Division of Human Rights (see annex X), transmitted a copy of the 5 January letter and requested him to bring it to the attention of the Group. In a letter dated 13 January 1978 and addressed to the Chairman of the Working Group, the Permanent Representative of Chile to the United Nations Office at Geneva transmitted a copy of the letter of 5 January 1978 addressed to the Secretary-General and stated:

"This letter, as you will see, sets forth the position of my Government with regard to the procedure being applied by the Ad Hoc Working Group of the Commission on Human Rights. Accordingly, my Government deems it inappropriate and unnecessary to attend a meeting of the kind proposed by you". 30/

30/ Annex III reproduces the letter dated 13 January 1978 and the text of the letter of 5 January 1978 that was enclosed therewith.

II. LIBERTY AND SECURITY OF PERSON

48. The question of liberty and security of person was dealt with in paragraphs 83-134 and 290-294 of the Group's report to the General Assembly at its thirty-second session (A/32/227). The observations of the Government of Chile on that part of the Group's report are found in the introduction, chapter III and the conclusions of document A/C.3/32/6. The following paragraphs dealing with liberty and security of person are based on information received by the Group since the adoption of its report to the General Assembly.

A. Arrest and detention and the right to a fair trial

1. Arrest and detention

49. Information received by the Group from reliable sources indicates that since August 1977 an increase has taken place in the monthly number of politically motivated arrests resorted to by the Chilean authorities. One reliable source recorded some 40 politically motivated arrests from 24 August to 11 September 1977 and 10 during the first 20 days of October. The Group has also received information on acts of intimidation which, falling short of arrest and detention, take the form of visiting and searching people's homes (usually late at night, the intruders either not identifying themselves or saying that they come from "Intelligence"), questioning their neighbours, making anonymous telephone calls to their homes, or having them followed in a conspicuous manner. A significant number of these cases has been reported each month.

50. One reliable source gives the following information covering the first ten months of 1977.

Cases of arrest and detention, January to October 1977

In Santiago:

Released	71	
Indicted	67	
Expelled	2	
Disappeared	<u>3</u>	
Total		<u>143</u>

In the Provinces:

Released	19	
Indicted	90	
Disappeared	<u>9</u>	
Total		<u>118</u>

TOTAL NUMBER OF ARRESTS AND DETENTIONS IN THE COUNTRY 261

This same source also reported 110 cases of intimidation for the first 10 months of 1977.

51. If this information is compared with similar statistics for the first 10 months of 1976 (see E/CN.4/1221, para. 98) it will be noted that arrests and detentions in 1977 are half of those of 1976 and that, while 20 per cent of detained persons remained missing in 1976, only 4 per cent of the detainees remained missing in 1977. However, if the 1977 cases of intimidation are added to those of arrest and detention, they amount to some 70 per cent of the cases of arrest and detention reported for the first ten months of 1976.

52. For the period from the end of October 1977 to January 1978 the Group has received reliable reports indicating that politically motivated arrests continue to take place at least at the same rate as during the previous three months. For example, a Prensa Latina dispatch dated 6 December 1977 reported that seven persons were arrested and placed under military jurisdiction in the mining town of Andacollo for holding a public political meeting in the town square. The people arrested were reportedly connected with the mine workers of the region.

53. On 16 January 1978, during its meeting in Geneva, the Group learnt with deep concern of a large number of arrests and banishments of leaders of the dissolved Christian Democratic Party and persons connected with it, which were carried out by the Chilean authorities beginning on 13 January 1977 - nine days after the 4 January 1978 national consultation. It may be noted that some members of the Christian Democratic Party urged a "No" vote in the consultation. Some of the persons reportedly arrested were:

Tomás Reyes, former President of the Senate; now Vice-Chairman of the Christian Democratic Party.

Andrés Aylwin, lawyer, former Deputy for Santiago.

Ricardo Hormazábal, former Deputy.

Samuel Astorga, Director of the Department of Trade Unions, former Deputy.

Belisario Velazco, former Director of Radio Balmaceda, former National Secretary.

Juan Supúlveda Malbrán, President of the Federation of Metal Workers of the Fensa-Madamsa Union.

Luis Horacio Ignacio Balbontín, sociologist and member of the GARDIN Foundation.

Hernán Mery, trade union official, and official in the Sanitation Department of the Ministry of Public Works.

Guillermo Yungue, former President of FESES, youth leader.

Elías Sánchez, member of the GARDIN Foundation, youth leader.

Georgina Accituno, former President of the Santiago Centre for Labour Studies and national adviser of the CUT for the Christian Democratic Party.

Adolfo Zaldívar, lawyer, brother of Andrés Zaldívar, the Chairman of the Christian Democratic Party.

Juan Reyes, youth leader.

Enrique Fernández, trade-union official.

Héctor Arnoldo Egaña.

Miguel Alarcón.

Enrique Acuña.

María Teresa Figueras.

Octavio Burotto.

54. Information received by the Group indicates that arrests, detentions and acts of intimidation as now practised in Chile appear to be aimed at controlling the actions of persons connected with trade unions or with the Catholic Church and its social service agencies, members of disbanded political parties and relatives of missing persons. The techniques used, which were reflected in paragraphs 88-91 and 138-141 and annex XIX of the Group's report to the General Assembly (A/32/227), are described below.

Cases of arrest and detention which are not officially recognized

55. The following cases illustrate information reported to the Group by reliable sources concerning the continuing practice in Chile of arresting people, ill-treating and torturing them during interrogation and releasing them after short periods of detention. In these cases, Chilean legislation requiring arrest warrants, notification of family members and detention only in officially recognized detention centres was ignored: 1/

(a) Juan de Dios Velásquez Rojas was arrested on 26 August 1977 by individuals dressed in civilian clothes who said they were from DINA; they took him to an isolated place where they interrogated and ill-treated him. He was released some hours later.

(b) Luz María Navarro Ceardi was arrested on 2 September 1977 in Santiago by individuals dressed in civilian clothes who had followed her for several hours; they put her in a car and drove her to Viña del Mar, interrogating her during the journey, particularly concerning her work at the Centro de Recuperación de Desnutridos (Recovery Centre for the Undernourished) of the Missio Foundation. They released her as soon as they arrived at Viña del Mar.

1/ For a discussion of this legislation see A/32/227, para. 85 and A/31/253, paras. 120-132.

(c) Arturo Briceño Leiva was arrested on 12 September 1977 by individuals dressed in civilian clothes who did not identify themselves; he was blindfolded and taken to an unknown place where he was interrogated. Inter alia, they questioned him in particular about the reasons for his mother's trip abroad (she had gone as a delegate to a meeting of the apostolate of the World Movement of Christian Workers, since in Chile she is a member of the Catholic Action Workers' Movement (MOAC). He was released six hours later.

(d) Roberto Aguilera Salazar was arrested on 3 August 1977 by individuals dressed in civilian clothes who said they were from "Investigaciones"; he was taken to an unknown place, interrogated and tortured. He was released the next day and was taken to a hospital, where a diagnosis showed that he had head injuries. When he was released, those who had arrested him told him that they would call him by telephone so that he could give them information; he was called on 24 August and an appointment was made for the following day for this purpose. Since he did not keep the appointment he fears that he will be arrested and tortured again (this person is 75 years old).

(e) Rosa Ester Cornejo Lara was arrested before witnesses at her place of work on 15 November 1977 by persons dressed in civilian clothes who showed credentials and identified themselves as being from "Intelligence". She was questioned about her photograph, which had been found in a house where a bomb had exploded. She was taken away and as at the end of November 1977, had not been seen again.

(f) Manuel Diaz Sanchez was arrested in front of witnesses on 10 November 1977 by some 25 armed persons who broke into his home without search or arrest warrants. He was taken to an unknown location where he was questioned on the "Bolsa de Cesantes" and the Vicaría de la Solidaridad. He was told that if he were detained again he would disappear. The persons involved in his arrest and questioning identified themselves as being from the National Intelligence Agency.

(g) Detentions connected with Radio Chilena. The Group notes with concern the continuing pressure brought to bear on the Catholic Church and its social service and information dissemination activities. In particular it notes the reported statements of President Pinochet of 23 November 1977, 2/ press reports of Marxist infiltration into local Christian communities, through which much social work is carried out, 3/ and allegations in the press concerning political and anti-government activity by the Vicaría, the Church's publications Mensaje and Solidaridad and its radio station, Radio Chilena. 4/ The Group has received information concerning recent physical attacks and acts of intimidation against persons working for Radio Chilena; Claudio Salas Bruzzone, journalist at

2/ El Mercurio, 24 November 1977.

3/ Solidaridad, No. 32, p. 5.

4/ La Segunda, 7 and 16 November 1977; El Mercurio, 27 November 1977.

Radio Chilena, reports that he was attacked and arrested at 2 a.m. on 21 November 1977, taken to an unidentified location, beaten and questioned concerning his political activities and those of other employees of the radio station. He reports that he was released at 6 a.m. on the same day after threats of reprisals were made against him and his parents should he disclose to others his detention. Acts of intimidation against two other employees of Radio Chilena were reported, including the arrest and detention for a day of a maid who had refused entrance to unknown persons into the home of a Radio Chilena employee.

(h) The Group has received information that during the first half of October 1977 eight persons - not mentioned above - were arrested and detained at unknown locations for varying periods of time, questioned about their political activities and the political activities of others, and in most cases ill-treated or tortured. Four of these persons were university students, and two were connected with the Catholic Church and its aid to the disadvantaged. In several cases threats were made to the detained person concerning reprisals on him or his family should he disclose publicly his detention.

(i) Marcos Enrique Medina Sánchez. The detention on 24 October 1977 and the subsequent torture of Mr. Medina is described in paragraph 80 below.

Cases of arrest, detention and search which are officially recognized

56. The Group continues to receive information on cases of arrest, detention and search which are officially recognized by the Chilean authorities. In some cases persons are taken immediately to officially recognized detention centres, such as Trés or Cuatro Alamos, where they may remain incommunicado and in other cases they are first taken to centres of interrogation which are not officially recognized and the location of which is not always known. In cases of the latter category the person remains missing for some time before he is transferred to a recognized detention centre. In both types of cases Chilean legislation requiring arrest and search warrants, notification of arrest to family members, and detention only in official detention centres is almost invariably ignored.

57. In its report to the General Assembly (A/32/227, paras. 89-90) the Group described the kidnapping of 16-year-old Carlos Veloso and the arrest and detention of those who were to be accused of abducting, torturing and molesting the boy. ^{5/} The alleged abductors were arrested by persons who did not identify themselves and they were blindfolded and taken to unknown locations where they were questioned and severely tortured. With the exception of Mr. Jorge Andrés Troncoso, they were eventually transferred to an official detention centre at Cuatro Alamos.

^{5/} For the observations of the Government of Chile see A/C.3/32/6. Annex XIV contains information submitted by Mr. Carlos Veloso Figueroa relating to questions concerning the Carlos Veloso case raised by the Government of Chile in document A/C.3/32/6, chap. III A.1.

Mr. Osvaldo Figueroa, one of the alleged kidnappers, testified before the Group that during his detention he saw Mr. Troncoso, who appeared to be dead. Another of the alleged kidnappers, who escaped but was subsequently redetained, requested the Court of Appeals to visit his first place of detention, but this was refused. Since the adoption of its report to the General Assembly, the Group has heard testimony from two persons who were personally involved in the Veloso case and it has received a sworn statement from another. This information confirms that contained in the Group's report and gives additional details (see annexes XI, XII and XIII).

58. Whether a person is taken to an official or an unofficial detention centre, he remains almost exclusively within the power of the intelligence services. The statements of Mr. Osvaldo Figueroa, Mr. Luis Mardonès and Mr. Carlos Veloso Figueroa (annexes XII, XIII and XI respectively) demonstrate this clearly and also describe the ill-treatment and torture by intelligence agents that they suffered at all stages of their detention, even after the intervention of the Supreme Court of Chile. Mr. Osvaldo Figueroa quoted a Supreme Court Justice as saying "You don't have any right to a lawyer in your defence because you are in the hands of the military. They are the ones in power, and our hands are tied". Mr. Figueroa also reported that he was able to identify by voice a secretary of his military tribunal as a person who was present while he was being tortured. (For further information, see chapter III).

59. Further examples of recent arrests, detentions and searches which are recognized by the authorities follow:

(a) Jorge Palma Pacheco. As a member of the Association of Family Members of Missing Persons, he was involved in activities aimed at locating missing persons, one of whom was his relative Luis Durán Rivas. Mr. Palma Pacheco was reported to have been dragged screaming from his home at 3 a.m. on 8 September 1977 by seven men dressed in civilian clothes who stated they were from "Investigaciones". It was reported that he was questioned before being taken away and his home searched but no search or arrest warrants were shown. Official government sources reportedly responded to a writ of amparo in Mr. Palma Pacheco's favour with the information that military personnel handed him over to the investigation services on 9 September 1977 at 0130 hours for violation of law 12.927. He was allegedly found distributing subversive pamphlets. The most recent information received indicates that he is being held for military trial according to the war-time military procedures. 6/

(b) Luis García Rubio was arrested on 9 September 1977 in his home by individuals dressed in civilian clothes who did not identify themselves; he disappeared for five days, after which he was handed over to the military courts. 7/

6/ Solidaridad, No. 28.

7/ For additional information, see Solidaridad, No. 28.

(c) Search and arrests at the kindergarten "Naciente". The Group has received information indicating that on 24 August 1977, during a meeting of the board of directors of the kindergarten "Naciente" in a suburb of Santiago, called to discuss sanitation and drainage problems, a patrol of the Carabineros entered the kindergarten, arrested seven members of the board of directors and searched the premises. Subsequently, four other persons connected with the kindergarten, who had not been present at the meeting but whose names had been called out by the Carabineros at the time of the original arrests, were arrested. These persons were accused of participating in a clandestine political meeting and charged with a violation of the law on internal State security. They are scheduled to be judged by war-time military procedures. 8/ The persons arrested were: Denise Angélica Araya Castelli, Gonzalo Antonio de la Maza Escobar, José Francisco Durán Garay, Ercilia del Carmen Merillán Toro, Patricio Reyes Sutherland, Fernando Salinas Naranjo, Jaime Gastón San Martín Farías, María Teresa Aqueveque, Hilda Chaín, Silvia Mena, Griselda Mena. 9/

(d) Gladys Ocampo Raniagua was arrested on 22 August 1977 just after she had boarded the aircraft which was to take her to Mexico to see her father, who was seriously ill. She was taken to the Tres Alamos camp and, after a few hours, to her home where she was placed under house arrest. When her father died she was authorized to travel to Mexico but was forbidden to return to Chile.

Acts of intimidation

60. The following cases of intimidation illustrate the information received by the Group from reliable sources:

(a) Ana Campos Núñez. A report in the Chilean publication Solidaridad for the second half of August 1977 stated that "several buildings at Cañada Norte have been entered and searched in the last few days, including the home of Ana Campos", who was described as a "member of the Christian community of the parish of El Cristo de Emmaus at Cañada Norte". According to this report, she

"provides space in her house for use as a children's dining-room. On two occasions she has been visited by a stranger. The first time he asked her whether that was where the dining-room was and whether meetings were held. The second time he asked her whether the dining-room belonged to the Government. Furthermore, the dining-room and the parish church are kept under constant surveillance by four or five individuals in a vehicle which is parked opposite or which moves about the area." 10/

8/ El Mercurio, 1 September 1977.

9/ In a communication from the Fundación Missio of the North Zone Vicaría of the Archbishopric of Santiago it was stated in relation to reports of these arrests:

"we must respectfully record our protest against the fact that both in the case of the siege of the residence of the San Columbano Fathers and in the recent case of the minor Veloso, both the habitually sensationalist and distortionist communication media (which is not surprising) and an official Government statement (which is painfully surprising) regard as proved, before the Court's verdict, a matter that has, precisely, yet to be proved"
(Solidaridad, No. 26).

10/ Solidaridad, No. 25.

(b) Search of a convent of Dominican nuns. Chilean newspapers report that on 16 November 1977 members of the security agencies and the Carabineros surrounded and searched a convent of Dominican nuns in Santiago. It was reported that no search warrant or similar document was shown. Officials reportedly gave at different times the following reasons for the search: an armed clash within the convent; a search for explosives; repeated denunciations of political activities. Initial reports stated that four persons had been detained but subsequently it was declared that no one had been detained and no documents seized. Persons at the convent at the time of the search denied that a political meeting was taking place; they stated they were discussing trade union matters. 11/

(c) Patricio Irazoky Basaure. On various occasions Mr. Irazoky has been visited in his home by individuals dressed in civilian clothes who do not identify themselves and has received similar visits at his places of work. The last visit took place on 19 August and the individuals questioned his wife about his whereabouts and searched the house without any warrant from a competent authority. He fears that he will be arrested.

(d) Aldo Pinilla Conde. Valparaíso naval personnel, accompanied by individuals dressed in civilian clothes, searched his house saying that they would arrest him, but they produced no order from a competent authority.

(e) Manuel Durán Barahona, Juan Durán Barahona and Rosalinda Durán Pardo. Their home was searched on 10 September 1977 and they fear that they will be arrested since they are connected with two persons who were arrested the day before their home was searched.

(f) Gabriel Carrasco Beltrán. Reports indicated that he fears he will be arrested since individuals dressed in civilian clothes, who did not identify themselves, looked for him at his home last May. On 19 August, two individuals who did not identify themselves made inquiries about him in the neighbourhood.

(g) Guida Zúñiga Serrano, who was arrested by authorities under the state of siege powers in November 1976, states that he has been followed and fears that he will be arrested again.

Banishment without trial

61. As reported in chapter VI below, orders were given in November 1977 for seven labour union leaders to be banished and confined to a small village in the north of Chile for, according to the President of Chile, "having repeatedly stirred up political agitation in the trade union sector by fomenting and organizing acts of labour indiscipline which are totally incompatible with national security". 12/ President Pinochet is also quoted as saying, "These men have been incited by leaders who are more concerned with politics than anything". 13/

11/ La Segunda, 16 November 1977; El Mercurio and El Cronista, 17 November 1977; Las Ultimas Noticias, 1 December 1977.

12/ El Mercurio, 27 November 1977.

13/ International Herald Tribune, 5 December 1977.

This measure was lifted on 20 December 1977. (See para. 145). The Group notes that no judicial procedure in which the accuracy of the Government's allegations could have been tested took place before these persons were deprived of their freedom of movement within the borders of the State, as proclaimed by article 13 of the Universal Declaration of Human Rights. In this connexion the Group notes the recent arrest and banishment without trial of members of the Christian Democratic Party (see above, para. 53).

2. Right to a fair trial

62. The Group in prior reports 14/ has described the war-time military procedure under Chilean law and practice, including the nomination of the seven judges, only one of whom need have legal training, by the military commander and the fact that, though the sentence is communicated to the competent military authorities, which can confirm or modify it, no appeal is permitted to any court. This procedure does not measure up even to minimum international standards of fair trial as proclaimed by the Universal Declaration of Human Rights (articles 10 and 11) and the International Covenant on Civil and Political Rights, article 14 of which provides for the right to have convictions and sentences "reviewed by a higher tribunal according to law". Given the extension since 1973 of the types of offences which may fall under the jurisdiction of war-time military courts, 15/ the Chilean citizen is continuously exposed to the possibility of being subjected to a procedure in which his basic human right to a fair trial would be seriously compromised.

63. The Group has also received much evidence of the torture and ill-treatment inflicted on detainees by security or military authorities (usually while they are being held incommunicado), the fact that they have no right to see a lawyer, and the use in court against them of admissions extracted from them during their detention by the security agencies. In the light of this evidence, the Group is unable to view trials of persons who have been held incommunicado by military or intelligence services as meeting the minimum standards of a fair trial as established by human rights instruments. Two recent trials may serve as examples:

(a) Trial of Humberto Drouillas and William Zuleta. The Group's report to the General Assembly (A/32/227, paras. 89-90) describes the arrest and detention of Mr. Humberto Drouillas and of Mr. William Zuleta and reports that they were accused of the kidnapping of Carlos Veloso. The treatment by security agents of persons connected with this kidnapping is described in annexes XI, XII and XIII.

14/ A/10285, paras. 93-94, 114; E/CN.4/1188, paras. 67-70; A/32/227, paras. 93-100. A description of an actual trial is to be found in A/10285, para. 114.

15/ See A/10285, para. 113, and E/CN.4/1188, paras. 67-70.

The investigation into the kidnapping itself was reported dropped (A/32/227, para. 90) but on 27 October 1977, after more than 170 days of detention, Mr. Drouillas and Mr. Zuleta were brought before a war-time military court, found guilty of being co-authors "of incitement to the formation of organizations similar to militias or combat groups" and given a suspended sentence of 541 days' imprisonment. According to the Chilean magazine Hoy (18-15 November 1977), one of the defence lawyers stated:

"The evidence on which they were convicted consisted of out-of-court statements and confessions obtained by DINA. This evidence was denied by the accused who, with a wealth of detail, described the pressures to which they had been subjected. Early in June, the President of the Supreme Court personally checked the state of the accused after the questionings on which the decision is now based. That was why he requested the military judge, General Morel, to institute proceedings against the interrogators. It is surprising, therefore, that the same military judge should base his decision on these confessions."

This judgement was confirmed one day after its transmission to the superior military authority and before the defence lawyers were able to present their arguments in favour of a verdict of not guilty. ^{16/} In relation to the arrest, detention and trial of Mr. Drouillas and Mr. Zuleta and to the entire case surrounding the kidnapping of Carlos Arnaldo Veloso (A/32/227, paras. 88-90), the Group notes that the Government of Chile in its observations (A/C.3/32/6) did not deny the information in the Group's report to the General Assembly concerning the manner in which the five alleged kidnappers of Carlos Veloso were arrested (which violated Chilean law and international standards), the ill-treatment to which they were subjected and the connexion of the DINA with the boy's kidnapping. ^{17/} In fact, the press reports cited above confirm the ill-treatment of two of the alleged kidnappers and tend to confirm the Group's information on the manner in which they were arrested.

(b) Trial and sentencing of eight persons in the city of Arica. On 27 October 1977, the same day as the trial of Mr. Drouillas and Mr. Zuleta, eight persons were sentenced by a "council of war" to prison terms of from 240 days to five years. Seven were condemned for possession of subversive pamphlets; they were arrested the day before May Day 1977 and one person was sentenced for having lent his home for a meeting. Concerning the persons condemned and their sentences, the Chilean magazine Ercilla (9 November 1977) reported:

^{16/} See also the Chilean publication Ercilla of 9 November 1977 and Solidaridad, No. 30.

^{17/} In its observations (A/C.3/32/6, chap. III.A.1) the Government of Chile raised certain questions concerning this case which the investigation into it would clarify. Further information on these points was presented to the Group by Mr. Carlos Veloso Figueroa (annex XIV).

"José Jamett, a 27-year old worker, was sentenced to five years' imprisonment for passing the draft of the pamphlet to Nelson Castillo, a 29-year old worker in the Minimum Employment Programme, who received a three-year sentence. He, in turn, passed on the draft to Pedro Castro, a 50-year old worker, who made copies, for which he was given a three-year sentence. Manuel Roldán, aged 26, who also works in the Minimum Employment Programme, passed copies to Rogelio Pizarro (a 35-year old worker), Freddy Ramírez (a 38-year old Emporchi employee) and Avelino Maturana (aged 40, owner of a rental truck), who were sentenced to 541, 240, 365 and 300 days' imprisonment respectively. Luis Marín lent his home for a meeting and was sentenced to 365 days' imprisonment."

64. As of 5 October 1977 the following persons were reported by the Chilean publication Solidaridad to be awaiting trial according to war-time military procedures:

<u>Name</u>	<u>Date of arrest</u>	<u>Present location</u>
Llanquilef Llanquilef, José	24 August 1977	Free on bail
Araya Castelli, Denise A.	24 August 1977	Correctional institution
Maza Escobar, Gonzalo A. de la	24 August 1977	Free on bail
Durán Caray, José Fco.	24 August 1977	Free on bail
Merillán Toro, Ercilla del C.	24 August 1977	Correctional institution
Sutherland, Patricio Reyes	24 August 1977	Free on bail
Salinas Naranjo, Fernando	24 August 1977	Free on bail
San Martín Farías, Jaime Gastó	24 August 1977	Free on bail
Aqueveque, María Teresa	24 August 1977	Correctional institution
Chain, Hilda	24 August 1977	Correctional institution
Mena, Silvia	24 August 1977	Correctional institution
Mena, Griselda	24 August 1977	Correctional institution
Rojas Valenzuela, Juan Fdo.	30 August 1977	Public prison
Reyes Núñez, Héctor	First week of September 1977	Public prison, incommunicado
Muñoz, Héctor Román	:: "	" :: "
Flores Baeza, Luis	" "	" " "
Retamales, José Angulo	" "	" " "
Pávez Chatcau, Luis	" "	" " "
Palma Pacheco, Jorge	8 September 1977	" " "

<u>Name</u>	<u>Date of arrest</u>	<u>Present location</u>
Madrid Contreras, Roberto A.	9 September 1977	Public prison, incommunicado
Martínez Fucnzalida, Leonardo P.	9 September 1977	" " "
Avila Merino, Gildo H.	9 September 1977	" " "
Palavicino Campos, Jorge	9 September 1977	Public prison
Quempunil Curil, Juan	9 September 1977	Public prison
García Rubio, Luis	9 September 1977	Public prison
Sepúlveda Coloma, Sergio E.	10 September 1977	Public prison
Gallardo Silva, Jorge	11 September 1977	Public prison
Martín Videla, Joaquín J.	11 September 1977	Public prison

B. Disappearance of detained persons

1. Disappearances in Chile during 1977

65. As indicated above (para. 51) both the percentage of arrested persons who remained missing and the actual number of missing detainees dropped substantially in 1977, as compared with 1976. One reliable source within Chile attributes this to the intense reaction in recent years to the disappearance of hundreds of detainees and the criticism it has aroused. Nevertheless, cases of missing persons continued to be reported in 1977, including that of Alexis Jaccard, who has dual Swiss-Chilean nationality and who was reported to have entered Chile but whose whereabouts remain unknown. The following information which has been reported to the Group concerns persons who have disappeared in Chile during 1977. Some of these cases were mentioned in the Group's report to the General Assembly (A/32/227, paras. 89-91); they are mentioned again here because further information relating to them has become available:

(a) Vicente Israel García Ramírez. Aged 20, married. Was arrested, together with his wife, on 30 April 1977 in the town of San Fernando by individuals dressed in civilian clothes; together, they were taken to Santiago and imprisoned in a secret place where Mr. García Ramírez's mother-in-law and one of his sisters-in-law were also detained. The three women were released in the days which followed and the authorities refused to admit that they had been detained. The Group has received testimony from a person who heard Mr. García Ramírez being questioned and tortured (A/32/227, para. 91). The Minister of the Interior denied to the courts that Mr. García Ramírez had been detained and the Government stated that he was under indictment. 18/

18/ For additional information from the Government, see A/C.3/32/6, chap. III, B.

(b) Jorge Andrés Troncoso Aguirre. Aged 49, single, jeweller. Was arrested on 11 May 1977 by armed individuals dressed in civilian clothes. Two persons detained in connexion with the Veloso case, Mr. Figueroa and Mr. de la Fuente, stated that they had seen him while they were being held by DINA in a secret detention centre. They were able to identify him because they live in the same district and knew him. Both witnesses said that he had been subjected to severe torture in the course of which he had probably died. One of Santiago's daily newspapers accused Mr. Troncoso of being the chief of the gang that "kidnapped" Veloso and it described him as a fugitive from justice. The Government has stated that he was under indictment and was being sought on an arrest warrant. 19/

(c) Hernán Soto Gálvez. Married, four children. Disappeared on 7 June 1977 and since then there has been no news of him. According to a witness who refused to identify himself, Mr. Soto Gálvez was arrested at Séptima Avenida and Gran Avenida J.M. Carrera by individuals driving a car without a licence-plate who used force in seizing him. The security services had been looking for Mr. Soto Gálvez the previous year; agents had gone to his house and, not finding him, had questioned his wife and children about him. The Government stated that he was under indictment. 20/

(d) Raúl Iván Cárcamo Aravina. Residing at Pasaje Pedro Acosta No. 4, C^o Monjas, Valparaíso. Married to Edith Vargas Herrera. Was arrested on 1 September 1977 at about 1 p.m. in the street, near the intersection of Traslaviña and Valparaíso Streets at Viña del Mar, close to the shop where he works. According to witnesses, he was held up by individuals who forced him into a car which, followed by another car, left for an unknown destination.

(e) Sergio Hidalgo Orrego. Residing at Bruselas 698, Retiro, Quilpé. Place of work: Obra Santa Julia, Miraflores Alto, Viña del Mar, operated by VEP. Was arrested on 31 August 1977 at his home by several persons who, according to his wife's account, took him away on the pretext that he was needed to repair a machine at the VEP plant. The persons who arrested him were travelling in three cars. Previously, they had sought Mr. Hidalgo at his place of work and had also questioned some neighbours concerning his whereabouts.

(f) Luis Gerardo Otarola Valdés. Residing at Teniente Morino Street, Lote 53, Alameda Latorre, C^o Mariposa, Valparaíso. Married to Edith del Carmen López Cortés. Was arrested on 30 August 1977 at 1.30 a.m. by six armed persons who forced their way into the house without a warrant, intimidating the whole family and later taking Luis Gerardo Otarola away.

19/ Idem.

20/ Idem.

(g) Hernán Santos Pérez Alvarez. Aged 25, married, photographer. His wife filed an application for a writ of amparo in which she gave the following information: having made some inquiries, she was able to establish that on Wednesday, 19 October, Pérez Alvarez was intercepted by individuals dressed in civilian clothes in San Francisco street, between Victoria and Estrella Avenue (Comuna de Pudahuel). According to the witnesses, these individuals were driving in a sky-blue car and a white Fiat 125, with no licence plates. When Pérez Alvarez tried to resist the action of these unknown persons, he was shot in the leg and then taken away to an unknown destination. In her application, Mr. Pérez Alvarez's wife also requested permission to telephone the Prefect of Investigations and the Minister of the Interior to ask whether personnel from those departments had taken part in the arrest, the reasons for the arrest and the authority that ordered it. Pérez Alvarez had been detained for four months in 1974. 21/

2. Detainees who disappeared prior to 1977 and investigations into specific cases

(a) Detention of Carlos Humberto Contreras Maluje

66. The facts surrounding the detention of Mr. Contreras by agents of the DINA and the order for his release handed down by the Court of Appeals were reported in the Group's two prior reports (E/CN.4/1221, para. 102 (a) and A/32/227, paras. 104-105).22/ In its report to the General Assembly the Group raised the question of having the numerous witnesses to Mr. Contreras' detention identify the security agents who had access to the automobile used in the detention. This, of course, is an essential step in determining which DINA agents detained Mr. Contreras, but the Group has yet to learn whether such a step has in fact been taken. The latest information received by the Group indicates that the case has been sent to a military judge for investigation and that the civilian courts refuse to deal with it further. 23/ In relation to this case the publication Solidaridad (No. 29) established a chronological list of the legal steps taken to free Mr. Contreras. It may be seen that they had run to 364 days at the time of publication. The chronological list is as follows:

"1976/77: DETENTION OF CARLOS HUMBERTO CONTRERAS MALUJE.

"I. FACTS.

First day:

3 November 1976. Mr. Carlos Contreras Maluje is arrested in Nataniel Street, at 11.30 a.m., by members of the Directorate of National Intelligence (DINA), who identified themselves as such to carabineros without showing an arrest warrant.

21/ Solidaridad, No. 30

22/ No observations directly on this case were made by the Government of Chile in document A/C.3/32/6.

23/ Solidaridad, No. 24.

"II. FILING OF APPLICATION FOR A WRIT OF AMPARO

Twelfth day:

15 November: An application for a writ of amparo is filed on behalf of Carlos Contreras M.

"III. AMPARO PROCEEDINGS

Thirteenth day:

16 November: The Court of Appeal requests a report from the 6th Carabineros Station at Santiago and from the Minister of the Interior.

Twentieth day:

23 November: The Minister of the Interior informs the Court that Carlos Contreras M. has not been arrested on the orders of the Ministry of the Interior.

Twenty-seventh day:

30 November: At the request of the applicant, the Court orders that another official letter be addressed to the 6th Carabineros Station.

Thirty-third day:

6 December: The Court requests the Minister of the Interior to furnish another report stating "categorically" whether Carlos Contreras M. is in any premises operated by DINA or any other security agency.

Fifty-eighth day:

21 December: The Minister of the Interior replies that the Ministry's card index contains no record of the person under investigation and that there is no reliable evidence of his having been arrested by any security organization.

Sixty-sixth day:

29 December: The Court of Appeal calls for a further report from the Minister of the Interior.

Eighty-fifth day:

17 January 1977: The Minister of the Interior provides the Court of Appeal with information similar to that referred to above. Luis Egidio Contreras, a lawyer and father of the amparado (the person in respect of whom the application was made for a writ of amparo), calls for enforcement of the remedy of amparo.

"IV. JUDGEMENT

Ninety-ninth day:

31 January: The Court of Appeal takes a decision on the application for enforcement of amparo, admits it and declares that the Minister of the Interior must order the immediate release of the amparado so as to restore the rule of law and ensure due protection for Carlos Contreras M.

"V. COMPLIANCE WITH THE JUDGEMENT

One-hundred-and-third day:

4 February: The Minister of the Interior informs the Court that "it is impossible to comply" with the order to release the amparado since, as he had informed the Court earlier, Carlos Contreras M. is not being, and has not been, detained by order of the Minister of the Interior or by any Government security service.

One-hundred-and-tenth day:

11 February: By unanimous decision, the Court of Appeal transmits the record of the case to the Supreme Court as a result of the situation brought about by failure to comply with the judgement.

One-hundred-and-sixty-fifth day:

7 April: The Court of Appeal requests a report from the intelligence services of the Carabineros, the Navy, the Army and the Air Force. It also requests a report from the Chief Prefect of Investigations of Chile and summons various witnesses of the arrest to make statements. The Supreme Court orders that the records be returned to the Court of Appeal because "the measures" to secure compliance with the judgement "have not been exhausted".

All the security organizations reply, through the Minister of the Interior, that Mr. Carlos Contreras M. has not been detained by members of their organizations or services.

Two-hundred-and-fiftieth day:

1 July: The Court of Appeal decides to report to the Supreme Court on the result of the investigation ordered by the latter.

Two-hundred-and-seventy-second day:

22 July: The Supreme Court decides to return the record of the case and to file the dossier on the application for a writ of amparo.

Three-hundred-and-sixty-fourth day:

As this issue goes to press, the whereabouts of Mr. Carlos Contreras Maluje are still unknown. ^{24/}

(b) Detention and disappearance of eight persons in Valparaíso

67. The Group, in its report to the General Assembly at its thirty-first session (A/31/253, paras. 241-247) and in that to the Commission on Human Rights at its thirty-third session (E/CN.4/1221, paras. 168-169), described the detention of eight persons 25/ in Valparaíso, the Government's denial and subsequent admission of their detention, the Government's statement that they had been released and the evidence of numerous witnesses to their continued detention. 26/ According to the Chilean publication Solidaridad (No. 28) three writs of amparo presented in favour of these eight missing persons were rejected by the Chilean courts, the most recent by the Supreme Court on 12 September 1977 on the grounds that "it does not appear to have been established that the amparados are at present deprived of liberty and this requirement must be met if the application for a writ of amparo is to be allowed". The same article refers to a report presented to the Court by the DINA which, according to the lawyers for the eight, it is impossible to believe because of conflicts with other evidence and testimony; one of the eight was reported by the DINA to have been released on 18 January after having declared his thanks for the assistance given to his wife (also detained) during the birth of his son, which took place on 22 January. The Supreme Court was asked to call upon the Director of DINA to explain these conflicts and to request certified copies of the arrest decrees and the decrees releasing the eight.

(c) Lists of missing persons and Government replies

68. In dealing with the problem of missing persons in its report to the General Assembly (A/32/227, paras. 124-127), the Group presented a composite alphabetical list of 1,015 persons (giving their age, identity card number and date of detention, when available) who had been reported missing by the International Committee of the Red Cross (ICRC) 27/ and the Vicaría de la Solidaridad 28/ (ibid., annex LV) and information on missing persons supplied by the Government (ibid., annex LVI) in which it reported locating 63 missing

25/ These persons are: María Isabel Gutiérrez Martínez, Horacio Neftali Carabantes Olivares, Elías Ricardo Villar Quijón, Abel Alfredo Vilches Figueroa, Carlos Ramón Rioseco Espinoza, Alfredo Gabriel García Vega, Fabián Ibarra Córdova, Sonia Ríos Pacheco.

26/ The observations of the Government of Chile on this information are to be found in documents A/C.3/31/6 and Add.1 and E/CN.4/1247 and Add.1-3.

27/ The President of the International Committee of the Red Cross presented two lists, totalling 893 names, to the Chilean authorities (A/32/227, para. 124).

28/ The Vicaría de la Solidaridad presented two lists of missing persons to the Supreme Court of Chile, one totalling 383 names, the other 501 names (A/32/227, para. 124, footnote 54).

persons. 29/ Subsequently, the Government in its observations on the Group's report to the General Assembly reported locating two additional missing persons (A/C.3/32/6, annex VIII), bringing the total to 65.

69. In a report to the Inter-Parliamentary Union, Felipe González, First Secretary of the Spanish Socialist Workers' Party, who visited Chile in August 1977, stated in relation to reports of missing persons in Chile:

"Various figures have been given for the number of missing persons: 500, 1,000, 2,000, 2,500, etc. I wish to place on record, however, that in the interviews I had with the Minister of Justice, Mónica Madariaga; the President of the Supreme Court, José María Eyzaguirre; the Cardinal of the Catholic Church, Monsignor Raúl Silva Henríquez; the President of the Commission on Commutations, Ricardo Martín, as well as with important persons and lawyers of all political persuasions, **ALL THOSE PERSONS ADMITTED THAT IN CHILE HUNDREDS OF CHILEANS HAVE DISAPPEARED SINCE 11 SEPTEMBER 1973.**

"I wish to refer in particular to the interview I had with the President of the Supreme Court who, referring to the question of missing persons, said that the figures given by ill-informed international media were exaggerated; he personally had been unable to verify more than 500 cases of missing persons."

29/ These were replies to the two ICRC lists of missing persons. The Government reported that 46 were visited in their homes; 11 were, according to relatives, outside Chile; 5 had left the country and one was dead. The Group pointed out three apparent errors in the Government's information and noted that no person on the Vicaría lists had been located. The Government of Chile also requested from the ICRC information on 65 missing persons because the files in the Government Central Bureau of Identification showed more than one person with the name in question (A/32/227, para. 124). The Government of Chile also stated that Mr. Eduardo Long (No. 498), who was reported missing by the Red Cross, had been located; it was also pointed out that the name of Eliana Marina Espinosa Fernandez was found twice in the list in annex LV as Nos. 274 and 279 (see A/C.3/32/SR.56). The publication Solidaridad (No. 31, p.10) reported that the following four missing persons had been located [the number following the name refers to annex LV of the Group's report to the General Assembly (A/32/227)]: Tomás Álvarez Vasconcellos (No. 25); Héctor Manuel Argandoña Henríquez (No. 49); Pedro Juan Catalán González (No. 176) and Jorge Oscar Silva Muñoz (No. 865).

(d) Steps taken by relatives of missing detainees

70. The actions of relatives of missing persons before the courts of Chile, in particular the Supreme Court, aimed at discovering the fate of missing members of their families have been described in the Group's prior reports. 30/ The petition on behalf of 501 missing persons made to the Supreme Court on 8 March 1977 and the Court's rejection are described in the Group's report to the thirty-second session of the General Assembly (A/32/227, paras. 116-117). Subsequently, on 20 July 1977, a group of relatives of missing persons petitioned the President of Chile asking for the results of the investigations into the 119 cases of missing persons reportedly killed outside Chile in 1975 - investigations which the authorities had promised on more than one occasion to undertake - to be made public. 31/ This petition was rejected and an official statement affirmed that the courts had repeatedly established the falsity of the allegations. The relatives (more than 250 in number), denying that the courts had established the falsity of their allegations, requested, on 9 August 1977, that the Supreme Court turn over to the President all the information collected concerning the missing persons in order to correct the Government's false impression. 32/ This petition was also rejected by the Supreme Court. 33/

71. The sit-in at the headquarters of the Economic Commission for Latin America in Santiago by relatives of 36 missing persons who requested that all cases of missing persons be cleared up and that a commission of investigation be established, and the Government's agreement to give information on the whereabouts of relatives of the persons participating in the sit-in, were described in the Group's report to the thirty-second session of the General Assembly (A/32/224, paras. 121-122). In a note to the Third Committee of the General Assembly (A/C.3/32/7) the Secretary-General reported that a document from the Ministry of Foreign Affairs of Chile containing information on the fate of the 36 persons had been transmitted to him. The note described the document as having two parts: (i) an account of the interrogation by the members of DINA of persons who occupied the headquarters of ECLA; (ii) an evaluation of the information available on the fate of the "missing persons". The note summarized the observations of the Government as follows:

- "(a) None of these persons is at present being held by a security organ in the territory of the Republic;
- "(b) Of this group of persons, eight have allegedly left Chile and, in certain cases, this fact has allegedly been verified by the frontier police of Chile and by the authorities of a neighbouring country;
- "(c) For all these cases, one or more appeals for habeas corpus (recurso de amparo) had been submitted and are pending before Chilean judicial bodies."

30/ See A/10285, paras. 149-151, and A/31/253, paras. 232-240.

31/ See Solidaridad, No. 23, p. 8; Solidaridad, No. 25, p. 20; El Cronista, 22 July 1977.

32/ Solidaridad, No. 24.

33/ Solidaridad, No. 25.

72. It was reported in the note that the Secretary-General had expressed his disappointment with the outcome of the investigation to the Minister for Foreign Affairs of Chile. Agreement had been reached on a visit by Mr. Eric Suy, the Legal Counsel of the United Nations, to Santiago in order to explore ways of obtaining more information on the fate of the missing persons. The note contained an account of this visit and of a supplementary memorandum concerning the relatives of the participants in the sit-in which had been transmitted to the Legal Counsel during his visit. The memorandum contained only information relating to the current stage of the preliminary judicial investigation. The Group has received information that approximately 80 relatives of missing persons involving most of those who participated in the June 1977 sit-in strike, held a hunger strike from 29 to 31 December 1977 in the Church of San Francisco in Santiago. The purpose of this hunger strike was to call upon the Government to give information on the fate of the missing detainees. A copy of the communiqué addressed to the public by the hunger strikers is in annex XV.

73. The fate of two United Nations staff members, Mr. Carmelo Soria Espinosa and Mr. Fernando Olivares, was also referred to in the note by the Secretary-General to the Third Committee. The case of Carmelo Soria is described in the Group's report to the Commission on Human Rights at its thirty-third session (E/CN.4/1221, paras. 160-167); the Government of Chile, in an aide-memoire dated 28 October 1977, reported that his death was due to an automobile accident. Mr. Fernando de la Cruz Olivares Mori, 28 years old, with identity card No. 5.047.881 of Santiago, was reported by the International Committee of the Red Cross and the Vicaría de la Solidaridad to have disappeared on 5 October 1973. 34/

74. In its report to the thirty-second session of the General Assembly the Group supplied information 35/ on the obstacles placed in the way of efforts to have the fate of missing persons clarified, the pressure put upon relatives of missing persons and the arrest on 12 August 1977 of several women who attempted to bring the fate of their missing relatives to the attention of the United States Assistant Secretary of State, Mr. Terence Todman. The Group has learnt through the press that on 18 November 1977 some 40 women and two journalists were arrested during a demonstration aimed at bringing the fate of missing persons to the attention of the new United States Ambassador to Chile during a visit he made to the Ministry of Foreign Affairs. They were later released, and the women were ordered to appear before a court for disturbing public order. 36/ The Group also notes the refusal to permit re-entry into Chile of three women who had travelled outside the country in an attempt to bring the problem of their missing relatives to the attention of Governments and international organizations (see paras. 97-100 below). Statements by one of these women concerning the arrest and disappearance

34/ See A/32/227, annex IV, No. 648.

35/ A/32/227, paras. 123, 128-130 and annex XXXVIII.

36/ El Mercurio, 18 November 1977.

of five members of her family and the subsequent official investigations are reproduced in annexes XVI and XVII. The Group has also learnt of direct and indirect attacks from official sources and in the press on the Vicaría de la Solidaridad in connexion with its activities on behalf of missing persons. 37/

(e) Missing persons seen in custody

75. Since the adoption of its report to the General Assembly (A/32/227, para. 110), the Group has received additional signed statements from former detainees in which they attest to having seen in detention persons who subsequently disappeared.

3. The Chilean judiciary and missing detainees

76. The judiciary in Chile has, since the events of September 1973, been repeatedly called upon to bring about the release of missing detainees, to determine their fate, and to discover and punish those responsible for their disappearance. Unfortunately, the Group has not learnt of any case in which this has been done; in fact, the activities of the judiciary appear to provide a screen behind which the reality of the missing person is officially hidden. In this connexion the following analysis taken from a report presented in September 1977 to the Inter-Parliamentary Union by Felipe González, First Secretary of the Spanish Socialist Workers' Party, is instructive.

"The judiciary has evolved a process whereby it has converted the defence of liberty into a set of procedural mechanisms making it impossible for it to pronounce judgements compromising itself or Government agents. There are several stages in this process:

"2. (a) In the case of applications for writs of amparo, despite the mass of evidence that may be attached concerning the detention of the amparados, the Courts of Appeal invariably decide in favour of accepting the report of the Government, which is the Party accused of the offence of arbitrary arrest.

"To illustrate this statement, I attach to this report a copy of the judgement pronounced by the Santiago Court of Appeal in the case of application for enforcement of the remedy of amparo entitled 'Carlos Lorca et al.', filed on behalf of various missing persons, including the former member of parliament, Bernardo Araya. In this judgement the Court, although it had before it the files on the amparados containing evidence of the detentions, rejected the application for a writ of amparo, basing itself solely on the refusal of the Ministry of the Interior, and stated that 'A PREVIOUS APPLICATION FOR A WRIT OF AMPARO HAD ALSO BEEN MADE AND, A SIMILAR REPORT HAVING BEEN MADE, THE APPLICATIONS WERE REJECTED'.

37/ See Solidaridad, No. 23, p. 8; La Segunda, 7 and 16 November 1977.

"In referring to the case of the member of parliament Carlos Lorca, the submission made by the Vicaría de la Solidaridad to the Supreme Court in July 1976 states textually: 'witnesses of the arrest were Luis Horacio Oliva Barría, Noemí Gutiérrez Cisternas, Juan Casanga and Yolanda Abarca, as is shown in sworn statements attached to application for writ of amparo No. 806-75 of the Santiago Court of Appeal'.

"2. (b) Once an application for a writ of amparo has been rejected, in the manner we have seen, the relatives apply to the appropriate criminal court judge for the investigation of any offences that may have been committed on the occasion of the disappearance of the person in respect of whom the writ had been sought.

"Proceedings are then initiated in which the judges are subject to a series of limitations, namely:

"Prohibition to communicate directly with DINA (Ministry of Justice communication No. 57 of 14 July 1976 and Supreme Court decision of 18 June 1976);

"Prohibition on the judges to summon DINA agents to appear before the court (Case list 2680 of the 11th Criminal Court);

"Prohibition on judges to request the names of DINA agents (Case list No. 10262, of the San Miguel 4th Criminal Court);

"Prohibition on judges to make any inquiries in military precincts (decree-law 1,775 of 20 May 1977). IT SHOULD BE NOTED IN THIS CONNEXION THAT THE POLITICAL CONSTITUTION AND CONSTITUTIONAL ACTS authorize court officials who are dealing with applications for writs of amparo to visit prisoners wherever they may be (article 16 of the Political Constitution and article 14 of Constitutional Act No. 3).

"Despite these prohibitions and limitations, judges of the criminal court collect evidence as if to determine whether the 'missing persons' have been arrested by DINA agents, but as the latter cannot be summoned to appear before the court, they 'SOBRESEEN TEMPORALMENTE' the case and order that the records be filed.

"SOBRESEIMIENTO TEMPORAL' is a Chilean criminal court procedure which consists in temporarily stopping proceedings when the record of the latter clearly shows that, since no inquiries are pending, there is insufficient evidence as to the corpus delicti or the participation of the accused.

"2. (c). Once the proceedings have been suspended, the parties and the lawyers are free to examine the record to check whether there is evidence of detention.

"They file, together with any new evidence, a further application for a writ of amparo with the Court of Appeal and the Supreme Court so that those Courts may order that the record of the proceedings in the criminal court be submitted to them as evidence.

"These high courts - as occurred in the judgement of the member of parliament Carlos Lorca and the former member Bernardo Araya - have the files with the evidence 'before them', but do not consider them; they declare themselves incompetent to decide who is guilty of the detention and, ABANDONING THEIR OVERSIGHT FUNCTION, order the return of the case to the criminal courts because 'it is their responsibility to conduct the inquiry' (Clause No. 10).

"Although there has never been a court decision in the matter of the freeing of the amparados, in respect of those guilty of detention and on the unconstitutionality of their detention, as a mere reading of this judgement will show, the application for a writ of amparo made by the Secretary-General of the French Socialist Party, François Mitterand, together with the President of the Bar Association, Mr. Louis Pettiti, on behalf of all detainees, all involved in the case, frequently referred to, of Carlos Lorca et al., was disallowed by the Santiago Court of Appeal as RES JUDICATA, with which the matter comes full circle - denial of justice, no defence of those persecuted and impunity of their aggressors.

"3. ROLE OF THE JUDICIARY

"In dealing with the previous point, I have partly explained the attitude of the judiciary in Chile. Nevertheless, I wished to refer to the judiciary in a separate paragraph in order to emphasize how the Supreme Court has systematically barred all roads leading to elucidation of the truth.

"3. (a) On numerous occasions (4 July 1975, 1 August 1975, 5 September 1975, 20 August 1976), the Supreme Court was requested to appoint a 'VISITING JUDGE' to investigate the cases of all the missing persons. In all these cases, the Court denied the request, always giving the same reason, namely that 'the judges of the criminal courts are very diligent and are responsible for the investigation', without, of course, referring to the above-mentioned limitations that it itself has imposed on judges in the exercise of their court functions.

"3. (b) On 8 March 1977, 2,542 Chilean citizens representing all sectors of the nation submitted to the Supreme Court a petition requesting it to contact the Government and draw its attention to the seriousness of the case of the missing persons.

"The following day, the Government issued through the press a statement in which it described the petition as a 'despicable campaign', gave clumsy explanations for the disappearance of persons (which it admits) and 'notified' citizens that 'it would not hesitate to give effect, with the utmost vigour and whenever necessary, to the legitimate principle of authority in order to ensure conditions of peace and order'.

"In the face of this accusation, the above-mentioned persons who had submitted the petition of 8 March submitted a further petition to the Supreme Court, drawing its attention to the fact that the cases of the 501 missing persons on behalf of whom the petition had been made were all proved case of persons detained by DINA, a fact substantiated in the courts of justice. The Supreme Court, by a decision of 7 April 1977, dismissed the petition of those 2,542 citizens, basing its decision on the principle of 'THE SEPARATION OF PUBLIC POWERS', which prevented it from interfering in the functions of other State authorities. It recognized that the Organic Code of the Courts confers on it safeguard powers 'which are designed to safeguard the rights of citizens guaranteed by the Constitution and to prevent, in certain cases (!) the constituted authorities from exceeding their powers. ... such safeguard powers do not confer on this Court GENERAL AUTHORITY OVER THE EXECUTIVE'.

"Following the refusal of the Supreme Court to bring the Government's attention to the abuses noted in the exercise of the Government's functions, the relatives of the missing persons addressed themselves to Pinochet 'since we have exhausted all the measures established by our institutional legal order for the investigation of offences connected with these missing persons'. In their submission they requested that they be provided with information concerning the fate of members of their families following their arrest by Government agents.

"The Government of Chile, far from responding to this legitimate petition, accused the petitioners - again through the press and this time accusing the VICARÍA DE LA SOLIDARIDAD - of committing serious acts against the Government for the purpose of provoking 'PUBLIC ALARM'. It described their conduct as 'weak', reiterated its threats and solemnly declared that 'no pressure, whatever its source' would make it change its attitude.

"In the face of this open threat, the relatives of the missing persons, in a further petition to the Supreme Court, requested it, in view of the fact that 'IT IS THE JUDICIAL POWER THAT HAS GATHERED TOGETHER, THROUGH THE INVESTIGATIONS CARRIED OUT AND THE REPORTS SUBMITTED BY THE RELATIVES and by religious organizations, all the records concerning the missing persons', to refer to General Pinochet 'the substantial records available to it on the subject, which will suffice to prove the falsity' of the Government's statements.

"THE SUPREME COURT AGAIN DISALLOWED THIS JUST REQUEST WITHOUT GIVING ANY REASON."

* * *

77. The Group has reviewed, in the light of the observations of the Government of Chile, the information on liberty and security of persons which it presented to the General Assembly at its thirty-second session. In this regard the Group notes that in many cases the Government made no observations on information that indicated violations of basic human rights. In other instances the Government's observations did not go to the substance of the information presented in the report and in others the Government merely denied - with no supporting facts - information provided to the Group by witnesses. Given the weight of the evidence from a variety of sources presented in the report to the thirty-second session of the General Assembly and in the present report, the Group cannot escape the conclusion that the Government security agencies continue to be permitted wide latitude in violating the right to liberty and security of person of individuals believed to be opposed to the present Government. Moreover, the judiciary has abdicated its responsibility to protect the human rights of those individuals and has failed to undertake adequate investigations into the fate of the hundreds of missing Chileans. In this regard the Group notes the following statement from the 176th Report of the ILO Committee on Freedom of Association (GB.20A/13/18):

"The Committee further notes with regret that the recommendations for the continuance of the inquiry into the death of Marta Lidia Ugarte Román do not appear to have been complied with. The Committee considers that the witnesses' testimony compiled by the Ad Hoc Working Group established by the United Nations Commission on Human Rights and by the Inter-American Commission on Human Rights of the Organization of American States 38/ suffices to show the need for re-opening the inquiry into this matter and continuing it until the person or persons responsible are found."

38/ According to these witnesses, Marta Lidia Ugarte Román was seen in a vehicle belonging to the security services and in a place of detention shortly before her death. See in this connexion: Report of the Ad Hoc Working Group established under resolution 8 (XXXI) of the Commission on Human Rights to inquire into the present situation of human rights in Chile, United Nations, Economic and Social Council, 10 February 1977 (E/CN.4/1222), Annexes XIV and XV, Annex X; and Third report on the situation of human rights in Chile, Organization of American States, Chapter II."

III. TORTURE AND OTHER FORMS OF CRUEL, INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT;
THE SPECIALIZED ORGANS OF STATE SECURITY

A. Torture and other cruel, inhuman or degrading treatment or punishment

78. The report of the Group to the General Assembly at its thirty-second session contains information on the practice of torture and other forms of cruel, inhuman or degrading treatment or punishment inflicted by members of the Chilean organs of State security on detained persons as part of a system of intimidation developed to control the activities of individuals believed to be opposed to the Government (A/32/227, paras. 135-141). Examples were given of ill-treatment of persons whose detention was never officially recognized and of persons whose detention was ultimately admitted by the authorities. Specifically, the ill-treatment of persons arrested in connexion with the kidnapping of Carlos Arnoldo Veloso Reidenbach (A/32/227, paras. 88-90) was reported, and recently the Chilean press contained information on the ill-treatment of two of the alleged kidnappers.

79. Further oral and written testimony and information have been received by the Group concerning the torture and ill-treatment of the 16-year old Carlos Arnoldo Veloso Reidenbach, his father and those accused of kidnapping the boy (see A/32/227, paras. 89-90), 1/ which indicate that intense physical and psychological torture were used in order to make the alleged kidnappers admit to having abducted the boy, and in order to make the young Veloso identify them as his abductors. 2/ From the statements of those directly concerned and from press reports, 3/ the activities of the security agencies in the Veloso case appear to have been aimed at discrediting trade unionists - especially those involved in the events connected with May Day 1977 - and the Catholic Church and its social service activities (see annexes XI, XII and XIII). These reports also indicate that after the young Veloso and his father had presented a sworn statement to the Supreme Court accusing the DINA of the kidnapping and clearing the alleged kidnappers, and after they had personally confirmed the declaration to a Supreme Court Justice, they were taken by security agents and ill-treated and tortured, in order to make them retract the statement they had made to the Supreme Court and to accuse the Catholic Church of having exerted pressure on them to change their story (see annex XI). 4/ From the testimony and statements received by the Group it appears that the father and son and each alleged kidnapper had at one time or another been subjected to torture. The Chilean press has carried reports concerning the ill-treatment of two of the alleged kidnappers. A defence lawyer was reported as stating that "the President of the Supreme Court himself, José María Eyzaguirre, realized the brutality with which they had been interrogated. Following a visit he paid to Cuatro Alamos, he requested the military judge on 4 June to institute legal proceedings in view of the deplorable physical condition in which he found the detainees". 5/

1/ For the observations of the Government of Chile see A/C.3/32/6.

2/ A photograph of the cigarette burns on the young Veloso's hands was published in El Cronista, 26 May 1977.

3/ See El Cronista, 25, 26 and 27 May 1977.

4/ This theory is reflected in an interview in Hoy, 13-19 July 1977. See also the letter from the Archbishopric of Santiago in Hoy, 20-26 July 1977.

5/ Ercilla, 9 November 1977, p. 15. See also chap. II.

80. The Group has received information concerning other recent cases in which detained persons have been ill-treated by members of security agencies. The following two cases are examples (see also chap. II):

(a) Marcos Enrique Medina Sánchez testified before the Group that he was arrested on 24 October 1977, blindfolded and taken to an unknown location where he was detained, interrogated on his political activities and tortured. This, he said, was the fourth time he had been in detention. Mr. Medina reported:

"... On 24 October 1977, I was again arrested, this time at 8 a.m., on the corner of Providencia and Pedro de Valdivia. I had been followed from my house when I left to pick up the taxi that I was then driving. This time they even arrested me together with the car. I have the impression that I was taken to a secret place in the San José de Maipo sector, but I can't be absolutely sure. As soon as I got there, I was taken to an office which seemed to belong to the man who ran the place. He asked me about people who were allegedly working against the Government and what form of anti-Government activity I myself was engaged in. I answered that the only thing I was doing was working as a taxi-driver. He replied, "He doesn't want to talk. Take him downstairs". I was led, still blindfolded, down what appeared to be a corridor. We reached a basement, where I was locked up in a room. My handcuffs were removed, but not my blindfold. I was ordered to undress and was stretched out on a bed. This is the notorious "grill" method. They tied each of my ankles to a corner of the bed and did the same thing with my wrists. They placed a broad, extremely tight, belt on my stomach, and attached wires to my testicles, my penis and the inside of the belt. They then administered electric shocks. They asked me who I worked with and where the mimeograph machine was. I told them I didn't know. Then they placed over my ears headphones which were connected to a machine that generated a hellish, high-pitched noise which leaves you deaf. They also administered electric shocks to the legs, arms, armpits and chest (near the heart). When I continued to say that I knew nothing, they threatened to go and fetch my wife and my son (now 13 years old) and give them the "grill" treatment, too. Then they went away for quite a long time, apparently to have lunch. They left the headphones on me. When they returned, I was asked, "Are you ready to talk?" and told "Co-operate, baldy". I again told them that I knew nothing. Then they turned up the current so much that the pain was indescribable. In desperation, I struggled to untie myself. They tightened up the bonds again. They attached another fastening just above the knees, which produced injuries to the thighs. I couldn't stand the pain. This was the first time that I screamed. I couldn't help it. In order to shut me up, someone stuffed a pillow against my mouth and face. I was almost unable to breathe, since he was pressing with the whole weight of his body. I felt as though I was suffocating. They kept me there the whole day with the electric current and the headphones: I could not say, nor can I now recall, at what time they took me away. I think it was getting dark. They left me in the basement. One curious thing is that they dressed me in doctor's clothing and put a cap on my head, tied towards the back, like someone who is about to enter an operating theatre. Printed on the apron were the words "Transfusion Department, Military Hospital".

For his entire declaration and a medical certificate on the results of the torture, see annexes XVIII and XIX.

(b) Jorge Palma Pacheco. The following report of Mr. Palma Pacheco's arrest and his treatment during detention has been received by the Group:

"In the early morning of Thursday, 8 September 1977, at 2 a.m. eight men, two of whom were 16 to 18 years of age, came to his home. They began to ransack the house without identifying themselves or showing any kind of warrant. When the Palmas asked to see their warrant, the men threatened to kill them. They then took Palma aside and began to torture and interrogate him about the activities of the Association for the Protection of Detainees and Missing Persons and about people working in the Vicarta de la Solidaridad. They made various accusations against him and when he denied them he was savagely beaten. They then seized two applications for action for enforcement of rights (amparo) addressed to the courts on behalf of the Palmas' brother-in-law, Luis Duran, the material used by Mrs. Palma in her work as a dietician for the Sur Vicariate, and a complete set of the journal Solidaridad, which is allowed to be published in Chile. At 3 a.m. the men led Palma out, having beaten him up unmercifully, and took him to an unknown destination. A neighbour realized from the vehicle's registration-plate that the men were agents of the Department of Investigations. On Friday Palma was taken to the Office of the Military Prosecutor and then to gaol. Palma has a fairly serious spinal complaint for which he was being treated, and as a result of the blows he had received he began to feel very ill. During the weekend he was tortured again and on that occasion was ordered to confess that he had organized the hunger strike at ECLA". 6/

81. Based on the information it has received, including the cases mentioned above, the Group notes that it is during the period when a detainee is held incommunicado before being allowed to have contact with his lawyer and family that he runs the highest risk of being ill-treated and tortured.

B. The after-effects of torture

82. In its report to the General Assembly (A/32/227, paras. 142-144) the Group provided information on the lasting effects of torture on the victim and his family. Since then, Mr. Carlos Veloso Figueroa testified before the Group concerning the serious psychological after-effects on his whole family, especially his children, of their experiences in Chile; Mr. Veloso and his son had been severely tortured, and the entire family had been kept under house arrest, subjected to constant surveillance and cut off from contact with the outside world. The Group has received information concerning the detention and ill-treatment of María Teresa Ugarte Escobar and a medical certificate on her current physical and psychological condition (see annexes XX and XXI). In addition, medical certificates relating to the following persons who have testified before the Group that they were tortured or ill-treated are also annexed: former Senator Eric Schnake (annex XXII), Mr. Marcos Medina (annex XIX) and Mr. Osvaldo Figueroa (annex XXIII).

C. The specialized organs of State security

83. The activities of the specialized organs of State security and the freedom of action and immunity from judicial control which they enjoy were dealt with by the Group in its report to the General Assembly (A/32/227, paras. 145-158). The Group

also reported on the dissolution of the Directorate of National Intelligence (DINA) and the establishment of the National Information Agency (CNI) (A/32/227, paras. 161-165). Further information received by the Group from reliable sources indicates that the security organs continue to be involved in arrests and detentions which violate Chilean law as well as the victim's right to liberty and security of person, that they continue to maintain secret places of detention where ill-treatment and torture of detainees take place, and that they still enjoy wide freedom of action and immunity from judicial control. In particular, testimony and written statements from persons connected with the Carlos Veloso case (annexes XI, XII and XIII) indicate very clearly the ability of the security agents to dispose freely of detainees even after the intervention of the Supreme Court. Although the Government has stated that some persons have been punished for torture in Chile, the Group has not learnt of any specific instance in which a person responsible for torture has been punished, nor has it received any information concerning the results of the investigation into two recent cases of torture reportedly ordered by the Supreme Court (see above, para. 79).

84. The Group in its report to the General Assembly found that there was an obvious similarity between provisions of the decree-law establishing the National Information Agency and that which had established the Directorate of National Intelligence (DINA) (A/32/227, para. 162). This same observation has been made by many other sources, including the Special Working Group on Chile of the Inter-Parliamentary Union, which stated: "The identical nature of the two provisions reveals the identical police nature of the two bodies". ^{7/} The Group noted (A/32/227, para. 163) that one significant difference between the decree-laws creating the two security organs may lie in the absence of any explicit reference to powers of arrest and detention in the decree-law establishing the National Information Agency in contrast to the powers of this nature granted to DINA by the secret provisions of decree-law No. 521. In connexion with this crucial question, the Group considers relevant the following excerpts from a recent analysis of these two decree-laws:

"In this respect, decree-law No. 1,878 states that in article 19 of the Firearms Control Law where reference is made to DINA, the term used should be 'National Information Agency' (CNI). As a result of this transfer of powers from DINA to CNI, the latter is empowered to detain persons on the basis of a court order and to search occupied or empty premises which are presumed to contain secret caches of firearms, explosives, chemical substances, etc. or in which it is suspected that the offence of organizing private militia groups is being committed. This power of entering and searching closed premises may also be exercised, under the provisions of article 173 of the Code of Penal Procedure 'when the purpose is simply to apprehend a person'.

"Although the power to make an arrest on the basis of a court order is quite clear, it is less certain whether CNI is empowered to make arrests in the performance of its specific functions and during a state of siege or some other state of emergency.

"The constitutional basis in matters of arrest is article 13 of the Political Constitution, which states that the warrant of arrest must be issued by a public official 'expressly empowered by law'. But what specific law confers on agents of CNI the power to make arrests?

^{7/} Report presented to the 64th Inter-Parliamentary Conference, Sofia, September 1977 (Conference doc. CL/121/77/5(a)).

"As CNI is regarded as the 'successor' to DINA, let us consider the powers which DINA used to enjoy in matters of arrest. Article 1 of decree-law No. 1,009 implicitly recognized the power of specialized agencies to make arrests when it stated '... when proceeding - in the exercise of the powers vested in them - to detain pending investigation persons ...'. This power was expressly provided for in article 10, which is of a confidential nature, of the decree-law under which DINA was established. In this way constitutional requirements were complied with, although in an overtly illegal fashion, since there should be no secrecy in laws.

"Two changes have been brought about by the new decree-laws Nos. 1,877 and 1,878.

"(a) The detention of persons by specialized agencies (in the exercise of their powers) is no longer confined to periods when the country is in a state of siege but may also take place when a state of emergency has been declared.

"(b) The repeal of decree-law No. 521 naturally entailed the repeal of article 10 which had invested DINA with powers of arrest. However, the provisions of article 1 of decree-law No. 1,009 and the latter's application to a state of emergency as well are necessary if powers of arrest are to be granted to CNI. The problem is that these powers have not been 'expressly' granted, as required by the Political Constitution.

"In practice, DINA has always made arrests, as the authorities have acknowledged on innumerable occasions. Officials of the Air Force Department (DIFA) and of the Intelligence Service of the Carabineros (SICAR) have also made arrests, all of which have been officially acknowledged, although these bodies are not empowered to do so.

"Although it is doubtful whether CNI is empowered to make arrests, it is the agency 'used' by the President of the Republic to exercise his powers and in taking steps to ensure the normal course of State activities and to maintain the institutional system that has been set up." 8/

85. The Group has received information from reliable sources that since the dissolution of the DINA, individuals engaged in arrests and searches have continued to identify themselves as members of the DINA and to use DINA credentials. In addition, Chilean security forces continue to be involved in arrests and searches (see paras. 58-59) and the activities of the carabineros have increased. In any event, since the dissolution of the DINA there has been no fundamental change in the methods of arrest, search and interrogation nor in the freedom enjoyed by the security agencies in violating the right of Chileans to liberty and security of person.

8/ Report by Felipe González, First Secretary of the Spanish Socialist Workers' Party (Partido Socialista Obrero Español) to the Inter-Parliamentary Union in September 1977, annex I, part II.

IV. EXILE

A. Deprivation of nationality

86. In its report to the thirty-second session of the General Assembly the Working Group reviewed the Chilean constitutional and legislative provisions relevant to deprivation of Chilean nationality (see A/32/227, paras. 168-172). The Government of Chile in its observations on the Working Group's report (A/C.3/32/6, chap. V, A), while categorically rejecting the Group's assertions, states that application of "the measure has been used on very rare occasions", and indicates that less than 10 people have been affected by it. The Working Group, nevertheless, must reiterate its concern about the application of this severe sanction. The fact that its use has not been more widespread does not mitigate the severity of its effect on each person against whom it is applied. Since the adoption of the report to the General Assembly, the Group has learnt that the number of persons who have been deprived of their Chilean nationality has reportedly increased and is now 11:

- (1) Hernán Uribe, journalist, official of the Interamerican Federation of Journalists
- (2) Hugo Vigorena, former Chilean Ambassador to Mexico
- (3) Luis Figueroa, President of the Central Unica de Trabajadores (CUT), who died in exile
- (4) Anselmo Sulo, Senator, Vice-President of the Socialist International, President of the Radical Party
- (5) Volodia Teitelboim, Senator, writer, member of the Political Commission of the Central Committee of the Communist Party
- (6) Orlando Letelier, former Ambassador to the United States, former Minister, assassinated in exile
- (7) Jaime Suárez, Senator, former Minister, member of the Central Committee of the Socialist Party
- (8) Humberto Elgueta, official of the CUT^{1/}
- (9) Luis Meneses, official of the CUT
- (10) Ernesto Arandeda, Senator, official of the CUT
- (11) Sergio Poblete, General of the Air Force.

^{1/} The Group received information from the Government of Chile that in December 1977 the Supreme Court of Chile had ruled favourably on the appeal of Mr. Elgueta and declared without effect the decree which had deprived him of his nationality.

87. The most recent case that has come to the attention of the Working Group is that of Air Force General Sergio Poblete, who on 23 September 1977, by virtue of supreme decree No. 505 of the Ministry of the Interior, was deprived of his nationality. ^{2/} General Poblete had been arrested in 1974, after the present Government came into power and convicted by a military court; his sentence was later commuted to expulsion from Chile for a period of ten years and two days; he resides in Belgium. The decree of deprivation of nationality states, in part, in its preamble:

"That the Government has noted that Sergio Poblete Garcés, Chilean citizen and former General of the Chilean Air Force, promoted an active campaign abroad to bring about the isolation of Chile, making use, for this purpose, of slanderous allegations against the highest governmental authorities and the High Commands of the Armed Forces which have been widely disseminated in the European press and on Belgian television."

B. Supreme decree No. 504 of 10 May 1975, concerning conditional exile

88. The Working Group welcomes the statistics provided by the Government in its observations on the Group's report to the General Assembly (A/C.3/32/6, chap. V, B, 1) on the status of the special applications presented pursuant to supreme decree No. 504 requesting commutation to exile of sentences imposed by military courts. This information assists the Group in its examination of this subject and presumably updates the statistics contained in a statement made to the Ad Hoc Working Group on 18 May 1977 by the Permanent Representative of Chile to the United Nations Office at Geneva (see A/32/227, para. 173). It is not, however, the intention of the Group to dispute the statistics on this subject furnished by the Government; the Group's only concern, and one which reflects, in general, an international concern, is that clemency be shown to all persons who have been imprisoned following conviction of offences connected with the internal security of the State. The Group is aware of the denial of the Government of Chile that there are any political prisoners now in Chile; however, since the Group has received evidence to the contrary it remains the abiding hope of the Group that all political prisoners in Chile will be released.

89. It appears, from government figures and from those furnished by other reliable sources that approximately 280 such convicted persons still remain in custody. Among them are:

- (1) Carlos Lazo Frias, former President of the State Bank
- (2) Ernesto Galaz Guzman, Comandante de Aviación
- (3) Raul Vergara, Capitán de Aviación
- (4) Hernán Pacheco Quiroz, Sociologist
- (5) Osvaldo Ahumada, Secretario del Director General de Investigaciones
- (6) Berlamino Constanzo, Suboficial de Aviación

^{2/} See El Mercurio, 24 September 1977, for relevant portions of the text.

90. The imprisonment of former Senator Erick Schnake Silva had been the object of international concern. ^{3/} Senator Schnake, who was sentenced by an Air Force Council of War on 30 June 1974 to 20 years' imprisonment with compulsory labour, and whose sentence was later increased by five years and one day after a second conviction under the Military Code of Justice, submitted a request for commutation of sentence to exile under decree-law No. 504. The Working Group was gratified to learn of Senator Schnake's release in December 1977 and welcomed his appearance before the Group during its January 1978 series of meetings (see above, para. 41).

91. The Working Group has received an official communication dated 6 September 1977 from the French Embassy in London concerning the situation of Chilean Air Force Captain Raul Vergara Meneses whose application under supreme decree No. 504 has been pending since 1975. According to the communication, Captain Vergara had originally been condemned to death, but this sentence was later commuted to 30 years' imprisonment. The letter describes Captain Vergara as follows:

"His curriculum vitae gives an account of the military and university career of young Captain Vergara up to 1973 and proves his intellectual worth. His ordeals have only served to reinforce his strength of character, but what is most striking is the courage with which he always undertakes, above all else, the defence of his brothers in misfortune.

As the highest-ranking officer, he became the main focus of persecution after the death of General Bachelet: long periods of solitary confinement, separation from other political prisoners and frequent transfers (he is once again in the Santiago Penitenciaría with the prisoners under ordinary law). These measures, together with the silence with which the military authorities have received all requests that he be permitted to emigrate, give one to fear lest he should join the legion of Chileans who have 'disappeared'. It is possible that all the hands stretched out to him from all over the world may not succeed in protecting him."

92. It also states that Captain Vergara has been granted a British visa and that a place has been reserved for him at the Institute of Development Studies of the University of Sussex, England, the bursary being contributed by the World University Service.

93. The Working Group, which has been requested by that letter to use its good offices to obtain the release of this prisoner in turn appeals to the Chilean authorities to grant his application and permit him to emigrate to a country to which he has been granted entry and where an opportunity has been offered to him to resume a normal and productive life.

^{3/} The Commission on Human Rights at its thirty-second session authorized the Chairman to address a telegram to the Government of Chile expressing its profound concern at the detention of Erick Schnake and other Chilean personalities, requesting that the Government desist from holding the military trials and requesting their release; see also Commission resolution 3 (XXXII), para. 4(h) and A/31/253, para. 22 and annex III; see also recommendations of the 64th Inter-Parliamentary Conference, Sofia, 1977, doc. CL/121/77/5(a), III, 2.

C. Expulsion and the right to return

94. In paragraphs 178-185 of its report to the General Assembly (A/32/227) the Working Group set forth its observations on the situation of persons expelled from Chile who have been denied the right to return, and the legal consequences of the Government's action in light of the relevant provisions of international law, and specifically those of the International Covenant on Civil and Political Rights. In its observations on the Group's report (A/C.3/32/6, chap.V, C) the Government reiterated its position on this matter. No further judicial determinations or changes in the position of the Government have been reported to the Group. The situation, it must be concluded, reflects an established policy of the Government by which certain Chileans are deprived of their fundamental right to return to their country - a right enunciated in article 14 of the Universal Declaration of Human Rights and in other international instruments.

95. Three methods are used by the Chilean authorities to curtail this right; the first is absolute, the other two conditional:

(a) Expulsion, by operation of decree-law No.81, pursuant to which expulsion may take place when "the higher interests of the State so require"; 4/

(b) Conditional banishment, under supreme decree No.504, by virtue of which a prisoner convicted by a military court of offences against the internal security of the State may apply for clemency; if granted, commutation of sentence is conditioned upon exile from the national territory; 5/

(c) Exile by coercion, under decree-law No.604, which makes it possible to prohibit a citizen from returning to Chile for various reasons, including that of representing "in the opinion of the Government" a danger to the State. Some such persons may, however, apply for permission to re-enter Chile, if in their application they undertake to behave in a particular way with respect to the constituted régime. The text of the application form appears in annex XXIV.

96. The Working Group has heard evidence from a number of witnesses who remain in exile because they refuse to sign this declaration which, they allege, infringes upon their right to freedom of opinion and expression without interference. 6/ Their refusal to relinquish this right results in their loss of the right to return to their country. One such exile is Mr. Jaime Castillo Velasco, who brought his plight and that of other Chilean exiles to international attention by maintaining a four-day hunger strike (10-14 November 1977) as a moral protest, contending "that the expulsion of a Chilean national by means of an administrative decree is a violation of the right to live in one's own country". The actual number of persons so affected apart from those who appeared before it, is unknown to the Working Group, but it has become clear that the restriction against free entry into the country and the requirement that prior authorization be sought after the signing of an undertaking are imposed upon persons whose political posture differs from those of the present Government.

4/ E.g. the cases of the lawyers Renán Fuentealba, José Zalaguett, Eugene Velasco and Jaime Castillo Velasco.

5/ The most recent official government statistics place the number of persons in this category at 1,037 (A/C.3/32/6, chap.V, B).

6/ Universal Declaration of Human Rights, article 19.

97. According to reliable evidence presented to the Working Group, three Chilean women, Ana Gonzalez Gonzalez, Ulda Ortiz Alvarado and Gabriela Bravo Jara, whose relatives had been arrested and had later disappeared, 7/ left Chile in September 1977 as representatives of thousands of other Chileans whose relatives were missing under similar circumstances. The purpose of their mission was to enlist support for a solution of the problem of the hundreds of Chilean detainees who have disappeared. After visiting various organizations in Europe, the three women went to North America, where they conferred with United Nations, Canadian and United States officials and representatives of religious and other non-governmental organizations. It is reported that their plight elicited great sympathy, and that they were encouraged to pursue their endeavours.

98. On 22 November they left New York for Santiago, where they arrived the next day. It is reported that as soon as they disembarked from the plane they were ordered to report to the police. A police official read out to them a decree, bearing the number 1175, issued by the Ministry of the Interior, which prohibited them from entering Chile. Despite their protests, they were forced to again board the plane, which was proceeding to Buenos Aires. Their luggage remained in Santiago despite assurances by the police that it would accompany them. Through the intervention of the United Nations High Commissioner for Refugees and action taken by representatives of the United States Government, the women were able to leave Buenos Aires for the United States. According to a statement issued by the Ministry of the Interior, these three women "who were refused permission to enter the country on the grounds that they had, at the United Nations, engaged in activities that brought discredit on the Government and the country may be authorized to return to Chile provided they give an undertaking to refrain from engaging in activities contrary to the established order". 8/

99. Although permitted to stay in the United States, these three Chilean citizens, in testimony presented to the Working Group, have stated: "Our wish is to return to Chile, and we will strive to do this by every possible means".

100. The refusal of the Government to permit the women to return to Chile has been widely criticized. A spokesman for the Chilean Mission to the United Nations was reported to have stated that his Government's refusal to allow the women back into Chile had nothing to do with the fact that they had publicized abroad their quest for missing relatives. Rather, the spokesman was reported to have stated that the refusal had to do with the women's "clear political orientation in trying to degrade the Government". 9/

7/ The missing relatives are: Ana Gonzalez's husband Manuel Segundo Recabarron Rojas, sons Luis Emilio and Manuel Guillermo Recabarron Gonzalez and daughter-in-law Nalvia Rosa Mena Alvarado; Ulda Ortiz's husband José Baeza Cruces; Gabriela Bravo's husband Carlos Lorca Tobar.

8/ El Mercurio, 27 November 1977.

9/ New York Times, 26 November 1977.

D. Passports bearing restrictions

101. The Working Group in its previous reports (see A/32/227, para. 188, for references) drew attention to the practice of the Government of Chile of endorsing the restriction "Válido sólo para salir del país" (Valid only to leave the country) on passports of certain Chilean citizens in exile. The Government has repeatedly given assurances that the practice of imposing such restrictions on passports has been ordered discontinued by the President of the Republic (A/C.3/32/6, chap.V, F), and that any Chilean who wishes may exchange a passport so restricted for one that does not bear this endorsement (*ibid.*). But according to information recently provided to the Working Group passports are now being issued by the Chilean Government which are endorsed with the letter "L". Holders of such passports have reported to the Working Group that they have been informed by Chilean Consulates that their right to return to Chile is restricted, prior authorization being required. One such person, a Chilean citizen who had been detained without trial and then expelled from the country, stated that only when he requested an explanation of the "L" on his passport was he informed by the Chilean Consul General in London that more than two years earlier, and after his expulsion, a decree had been issued prohibiting his return on the grounds that he represented a threat to the internal security of the State. In this connexion it may be pointed out that Mr. Carlos Vassallo and Mr. Claudio Huepe, who testified before the Group, displayed their passports which bore an "L" endorsement.

102. The Working Group has been informed that a holder of a passport endorsed "L" must submit an application for permission to enter Chile if he wishes to return to the country. The application includes a declaration that provides, inter alia, that the applicant will respect the suspension of political activity in force in Chile (see paras. 95-96 above). Furthermore, according to testimony of witnesses appearing before the Group, the passports of Chilean citizens residing outside the country are required to be renewed yearly rather than every two years, as had previously been the practice. In certain instances persons who had left Chile with passports bearing no restrictions find that after renewal of their passports the "L" endorsement has been added.

E. The situation of refugees

103. The data provided in the report of the Working Group to the General Assembly at its thirty-second session (A/32/227, para. 186) on the numbers of refugees resettled under the auspices of the United Nations High Commissioner for Refugees (UNHCR) and the Intergovernmental Committee for European Migration (ICEM) have been brought up to date by new figures furnished by ICEM. As in the past, this data reflects only those persons who have been resettled or whose cases are being processed under the auspices of the reporting organization; no complete information is available as to the total number of refugees who have left Chile during the past four and a half years. According to ICEM, as at 30 November 1977, the number of Chilean refugees reported to have been resettled since 6 October 1973 was 24,544 of whom 4,318 had been resettled during the first eleven months of 1977. 10/

10/ Provisional report on movements effected by the Intergovernmental Committee for European Migration under the Special Programme for Resettlement from Chile and other Latin American Countries, 1 January-30 November 1977 (with cumulative total from 6 October 1973), Hq 19570/77.

104. The ICEM report to the forty-first session of its Council stated that "there are signs that the major work under this special programme in so far as Chile itself is concerned will be completed during 1978". 11/ It was estimated that approximately 400 cases will require visas during 1978, and that their family members would number nearly 1,000. 12/ The Working Group again expresses its high regard for the work of UNHCR and ICEM, which have extended generous assistance to Chilean refugees. The assistance of these organizations has been extended to the following categories of persons: (a) foreign refugees; (b) persons who have sought asylum in various foreign embassies in Santiago; (c) detainees under the State of Siege Law; (d) convicted prisoners whose requests to have their prison sentence commuted to exile have been approved, and (e) other cases - i.e. ex-detainees or persons to whom governments decide to grant visas, and for whom and for those families the embassies concerned request ICEM to provide the documentation and transportation.

F. Diplomatic asylum

105. In April 1975 Jorge Madariaga deserted from the Chilean army and sought asylum in the Venezuelan Embassy in Santiago. It is reported that "owing to the particular circumstances of the case, his request for asylum did not take the same course as other requests by civilians in similar situations". 13/ It was reported in the Chilean press in October 1977 that the Venezuelan Ambassador stated that "there has been a fair amount of progress and I believe that at any time now we shall have a solution which will enable this refugee to overcome his personal problem". 14/ The Ambassador said he could not state whether Mr. Madariaga would be transferred to Venezuela, but in the statement made after a meeting with the Director-General of the Chilean Chancellery he said that the "settlement" will at least enable Madariaga to leave the Embassy under favourable conditions. 15/

106. The situation of Rafael Gonzalez and his wife and small son, who sought refuge in the Italian Embassy in Santiago in September 1975 (see A/32/227, para. 187) remains unchanged. In the face of the continued refusal of the Chilean authorities to grant the family safe conduct to leave the country, an application for amparo was submitted on their behalf. The amparo was rejected in November 1977 on the grounds that it is "superfluous", the court decision stating that according to reports transmitted by the Ministry of the Interior "no warrant has been issued against these persons, who can leave the country simply by complying with the usual formalities required under the legislation in force". 16/ The Working Group notes with regret that this decision, which does not grant the family safe conduct to leave Chile, leaves the problem unsolved and their situation unchanged.

11/ Special programme for the resettlement of persons from Chile and other countries in Latin America, situation as at 30 September 1977, ICEM document MC/INF/177, para. 1.

12/ Ibid., para. 9.

13/ La Tercera de la Hora, 26 October 1977.

14/ Ibid.

15/ Ibid.

16/ El Mercurio, 16 November 1977.

V. INTELLECTUAL FREEDOM AND CULTURAL RIGHTS

A. The mass media of communication

107. In a message of 11 September 1977 the President of the Republic was reported to have stated that one legal task to be undertaken in Chile was that of updating the legislation relating to the communications media on the basis of the principle that the media should enjoy legitimate freedom of expression. 1/

Constitutional Act No. 3, in article 1, paragraph 12 (see A/C.3/31/6/Add.2, annex 6, for the full text), sets forth this guarantee in general terms, leaving the relevant rules to be established by specific legislation. On 23 August 1977, decree-law No. 1873 was enacted (see para. 32 above), postponing indefinitely the promulgation of legislation on the operation and membership of the autonomous National Radio and Television Council which had been established by the above-mentioned Constitutional Act 2/ and which was to have become operative on 30 September 1977.

108. Decree law No. 1689 of 11 March 1977 provided that Constitutional Act No. 4 (see A/C.3/31/6/Add.2, annex 7, for the full text) would enter into force only at such time as the relevant law complementing the Act had been published, but gave no deadline for such publication. In view of the fact that the four levels of the state of siege 3/ clearly restrict freedom of expression, the final text of the legal provisions on this matter is of special importance to the Chilean information media and to the right of freedom of information in Chile.

109. Within the existing legal framework of the communications media there are at present rules laid down under the stage of siege, such as bando 107 in the Santiago metropolitan area and similar edicts in other regions, which have been the subject of much criticism. (In this connexion see A/32/227, paras. 71-73.)

110. The Group acknowledges that the task of analysing and comprehensively updating the vast and complex body of law mentioned by the President of the Republic is a weighty one and, as reported in an editorial in the Chilean press, 4/ will call for a select panel of jurists and for consultation with the National Press Association, the Association of Chilean Broadcasters, the Academy of Journalists and the university faculties concerned with the media of communications. This undertaking could provide a suitable opportunity for discarding existing legal provisions which in fact restrict freedom of expression - such as decree-law No. 1281 (see A/31/253, chap. IX) and bando 107.

1/ El Mercurio, 27 September 1977.

2/ Article 12.

3/ See A/32/227, chap. II, foot-note 47, for a synopsis of decree-law No. 640 of 10 September 1974 describing the four degrees of the state of siege.

4/ El Mercurio, 27 September 1977.

111. Decree-law No. 1684 of 28 January 1977 (see A/32/227, paras. 58 and 197-202), renders inoperative the "remedy of protection" during the existence of the state of siege. This decree deprives the communications media, as well as other sectors, of important legal safeguards provided in article 2 of Constitutional Act No. 3 for protection against arbitrary or illegal acts or omissions, for the restoration of the rule of law and to ensure due process.

112. The necessity has been stressed for prompt action to be taken once the committee that is to undertake the review described above has commenced its work. 5/ In the past other such committees set up by the Government to study the reform of bodies of law - for example, the Committee of the Ministries of Education and Justice established to prepare a revision of cultural legislation - have seen their work inexplicably protracted by the State's own legislative apparatus.

113. An example of the type of restriction on freedom of information that exists at present arose after the events of early November 1977 at the El Teniente copper mine. Subsequent to the banishment of seven labour leaders presumably instrumental in causing the work stoppage, the authorities prohibited the publication of any statement, comment or news concerning the penalty imposed on these union leaders (see para.140).

114. The Group acknowledges that a certain degree of latitude is now being permitted in the communications media - particularly the press - in connexion with the reporting of information and news events which do not necessarily cast a favourable light on present Government policies.

B. The right of assembly

115. The Chilean Constitution of 1925 guaranteed all inhabitants of the country "the right of assembly without prior license ...". 6/ This fundamental right has been suspended during the past four and a half years. It has been reported to the Group that any meeting, be it that of parents of pupils of a school, a neighbourhood association, the co-proprietors of a building or members of a trade union, must be authorized in advance by the military authorities, as specified in the relevant military bando (see A/32/227, para.242).

116. On 17 November 1977, an incident occurred which is reported to have been the first public protest in Chile during the past four and a half years. 7/ The protesters, mostly women, were members of the Relatives of Missing Detainees organization formed two years ago to publicize their concern about the fate of 566 persons who, the organization claims, disappeared after arrest by Chilean security forces. (It was 26 members of the same organization that in July 1977 staged a ten-day sit-in and hunger strike at the Santiago headquarters of the United Nations Economic Commission for Latin America.) The occasion of the

5/ Ibid.

6/ Chap. 3, article 10, No. 4.

7/ International Herald Tribune, 19/20 November 1977.

protest on 17 November 1977 was the arrival at the Chilean Foreign Ministry of the new United States Ambassador to Chile for his first meeting with the Foreign Minister. It was reported that the United States Ambassador did not see the protesters, who were being herded into police vans about 50 metres away. The protest had taken the form of a peaceful vigil of about 100 persons who had pinned to their clothes pictures of political prisoners who had disappeared. It was reported that 40 of the protesters and several bystanders, including a foreign journalist who was said to have been taking photographs of the demonstration, were taken into custody. The protesters were charged with disorderly conduct and released by the afternoon of the same day.

C. Education

117. It has been reported that statements made by Chilean representatives at the thirty-sixth meeting of the International Conference on Education, held under the auspices of UNESCO at Geneva from 30 August to 8 September 1977, emphasize that in Chile, "after an experiment in State education, freedom of instruction has been introduced". 8/ It should be noted that the concept of freedom of instruction envisaged in Constitutional Act No. 3, article 1, paragraph 14, which provided that "a special statute shall regulate the exercise of this freedom", 9/ has not yet been given effect.

118. On 19 July 1977 a public letter was issued criticizing the increasing trend toward occupational training at the university level. It has been reported that students who protested against this trend and against the rise in cost of education were threatened with prosecution for "university offences". The vicar appointed to the University was reported to have stated that such an offence had never existed in law and that such intimidation constituted a serious infringement of the freedom of expression. 10/

119. The Chilean press reported in September 1977 that six academic committees had been established at the University of Chile for the purpose of advising the university authorities on the implementation of an academic policy for the institution. An editorial in the Chilean press called this an "important step" which would promote the interdisciplinary contacts which were becoming more frequent in the universities; it envisaged that thereby teachers and research workers might be granted the opportunity for participation which might promote a greater balance in the work of the faculties. 11/

8/ El Mercurio, 24 September 1977.

9/ The full text of this Act appears in A/C.3/31/6/Add.1, annex 6.

10/ Chile Committee for Human Rights, Newsletter No. 17.

11/ El Mercurio, 18 September 1977.

120. At a press conference held in September 1977 by the Minister of Education, an announcement was made concerning the participation of Chile in the thirty-sixth meeting of the International Conference on Education 12/ (see para.117 above). Among the issues raised was the plan to charge tuition for secondary education in Chile beginning in 1978 - a measure which is being implemented despite widespread criticism of the manner in which it is to be applied (see A/32/227, paras. 215-221).

121. The plan, by which tuition fees are to be imposed for secondary education and the cost of higher education is to be borne increasingly by students, has been reported to involve "serious risks, among which their political cost is not the least". 13/ It has been observed that the university financing plan, which involves higher costs to the students, has been postponed on several occasions in view of the consequences that it might produce. While this careful study and a delay in implementation has occurred in the case of university education, payment for which can be deferred, still greater deliberation has been recommended in the case of secondary education, which must be paid for immediately at a time when many Chileans are experiencing financial difficulties. 14/

122. A statement by the Confederation of Private Employees (CEPCH) in a letter to the Minister of Education asserts that "despite the lofty aims which this scheme may hold out, the workers are extremely disappointed by this new burden on their salaries, since their current income is barely sufficient to cover their housing needs and to pay for their inadequate diet". 15/

12/ Ibid., 24 September 1977.

13/ Ibid., 24 September 1977.

14/ Ibid.

15/ Solidaridad, No. 24.

VI. ECONOMIC AND SOCIAL RIGHTS

123. In chapter VII of its report to the thirty-second session of the General Assembly (A/32/227) the Working Group examined certain aspects of the economic and social situation in Chile: employment, wages, inflation, the situation of trade unions, health services and nutrition. In its observations on the Working Group's report (A/C.3/32/6, chap. VII), the Government of Chile "rejected" the Group's review of economic and social rights in Chile and stated that it was "not prepared to concede the right of this Group, or any other, to question its economic and social policies, which are a matter of internal sovereignty" (*ibid.*, chap. VII, p. 57). On no occasion has the Working Group based its observations on a preference for one social or economic theory over another; it has confined its observations to actual situations where the application of government policy has, according to reliable evidence received by the Group, affected the enjoyment of human rights by some or all sectors of the society. In this connexion it should be noted that the mandate of the Working Group does not limit the inquiry to certain fundamental rights to the exclusion of others; social, economic and cultural rights merit consideration equal to that given to civil and political rights. Furthermore, the Commission on Human Rights at its thirty-third session, in its resolution 5 (XXXIII), having observed that, in many of the cases drawn to its attention concerning allegations of violations of human rights, difficult economic and social conditions appeared to prevail in the countries concerned, decided that the Commission, which had so far concerned itself mainly with violations of civil and political rights, should also study violations of economic, social and cultural rights. The position of the Commission on Human Rights has been confirmed by the General Assembly in its resolution 32/130 of 16 December 1977 in which the Assembly expressed its profound conviction that all human rights and fundamental freedoms are interrelated and indivisible and that the approach to further work within the United Nations system should give equal attention and urgent consideration to the implementation, promotion and protection of both civil and political and economic, social and cultural rights.

124. The Working Group has noted (A/32/227, paras. 232-239) the dependence of the Chilean economy on international financial aid and the potential impact which foreign assessment of the human rights situation in that country could have. Patterns of foreign aid do not generally appear to take such assessment into account as a decision-making factor; only in some recent cases has a connexion between such assessment and foreign aid decisions been apparent (*ibid.*).

125. The Working Group has taken note of resolution 11 (XXX) of 31 August 1977, by which the Sub-Commission on Prevention of Discrimination and Protection of Minorities, complying with the request of the Commission on Human Rights in its resolution 9 (XXXIII), decided to undertake a study on the consequences for the enjoyment of human rights of the various forms of aid extended to the Chilean authorities and appointed a rapporteur, Mr. Antonio Cassese, to prepare the study. The Group welcomes this initiative and is confident that the study will make an important contribution to the elucidation of this problem and will further the over-all objective of the restoration of human rights in Chile. As the Working Group has observed in its previous reports (see in particular A/32/227, paras. 232-239) the posture of the Chilean Government on human rights has had profound repercussions on the economic situation in that country.

126. The economic prospects of Chile as forecast by government sources since the issuance of the Working Group's report to the General Assembly (see A/32/227, chap. VII) are good:

"At the end of the current year we hope to have achieved a yearly growth rate of 8 per cent in our gross national product. Inflation will be down to practically one third of what it was in 1976, real income will be increased by 25 per cent; and unemployment will be almost half of the 1976 figures." 1/

The Director of the Economic Survey Section of the Department of Economics of the University of Chile stated at the time of publication of the Department's biannual report in September 1977 his agreement with certain of the official forecasts, said that inflation had been reduced from 170 per cent in 1976 to a projected rate of 60 per cent for 1977, or even lower, stated that in Greater Santiago the number of unemployed persons had risen by 100,000 in one year and said that it was hoped that in 1978 real income would reach 1970 levels. The press report of the Director's statement praised its objectivity, but added that "in a politicized country such as ours, impartiality, particularly in economics, is not easy to come by". 2/,3/

A. Employment

127. Although official government reports on unemployment show an expectation of improvement 4/ and recent official figures are favourable 5/ and the Government of Chile in its observations on the report of the Working Group to the General Assembly (A/C.3/32/6, chap. VII) criticizes the Group's methodology and sources of information, the Working Group continues to receive reports of large-scale dismissals of employees from private as well as State-owned enterprises.

1/ Statement of the representative of Chile on 5 October 1977 in the general debate at the thirty-second session of the General Assembly (provisional verbatim record of the 21st meeting, A/32/PV.21, p. 32).

2/ El Mercurio, 15 September 1977.

3/ During the thirty-second session of the General Assembly, the representative of Chile distributed to the Third Committee two publications: (1) Experience in the Eradication of Extreme Poverty in Chile, prepared by the Ministry of Foreign Affairs, Chile, undated, which reviewed past experience in social improvement programmes "which became absolutely necessary for any implementation of a new Strategy for Social Development or modifications in it", and, (2) Food and Nutrition Policy in Chile, published by the National Food and Nutrition Council (CONPAN), Chile 1977, which reviewed the situation of food and nutrition in Chile and policy and programmes for improvement. These two publications, while not relevant to the period of time covered by the present report of the Ad Hoc Working Group, will be made available for consultation by members of the Commission at its thirty-fourth session.

4/ El Mercurio, 15 September 1977; see also A/32/PV.21, p. 32.

5/ For the metropolitan area of Santiago, November 1977 unemployment was reported at 10.6 per cent as compared with 12.1 per cent in October 1977. This is the lowest figure since 1974. Of the November 1977 work force of 1,198,990 persons, 127,480 were unemployed. Of these, 104,080 had been previously employed while 23,400 were seeking work for the first time. (Source: National Directorate of Statistics).

These reports have generally been accompanied by complaints concerning the failure of the employer to provide the statutory compensation to the ex-employees and the Government's failure to enforce the payment of benefits such as severance pay, social security benefits, family allowances and other welfare benefits. 6/

128. The Sindicatura de Quiebras (Receivers) of Santiago reported at the end of August that bankruptcies during the first half of 1977 left 1,603 persons unemployed. 7/ These figures do not take into account the bankruptcy of the largest clothing concern in the country (Burger, S.A.), 8/ that of Socometal, a major steel manufacturer, 9/ and the closure of the Desvío Norte iron mine. 10/ It has also been reported to the Group that the State Railway Enterprise has continued its policy of dismissals despite the reported Government undertaking that this would not occur; 100 such dismissals, without compliance with the requirement for advance notice, were reported at the end of November. 11/ Reports indicate that the staff of the railways have been reduced by a total of 7,000 workers in the past four years.

129. Further reports indicate the 18 offices of the Bank of Osorno and La Unión have been closed, and 700 employees dismissed, and that the employment of 600 workers in the State-owned Housing Service (SERVIU) terminated on 30 June 1977. 12/ The Land Reform Corporation announced in October that 724 of its employees would be dismissed at the end of 1977. 13/ In October 1977 it was reported that five or six drivers a day had been fired from the transport concerns since mid July and that by mid August, 200 workers had been dismissed from the fish factories in Santiago and San Antonio and that another 250 were slated for firing. 14/ At the end of August, a reported 45 employees of television channel 9 were discharged. Furthermore, the Association of Customs Officials had requested an interview with the President of the Republic to protest the dismissal of 46 of their members. 15/

130. The situation of increasing joblessness and the attendant human suffering has aroused alarm in various social sectors in Chile, where Government policy has been cited as the cause.

6/ Solidaridad, No. 24.

7/ El Mercurio, 22 August 1977.

8/ El Mercurio, 20 October 1977.

9/ El Mercurio, 14 October 1977.

10/ El Mercurio, 19 October 1977.

11/ El Mercurio, 27 November 1977.

12/ Solidaridad, No. 24.

13/ La Segunda, 14 October 1977.

14/ Chile Committee for Human Rights, Newsletter No. 18, October 1977, p. 5.

15/ Ibid., pp. 5-6.

131. The situation is reported to be more acute in rural areas, where as a consequence of the Government's land reform policy a reported 10,000 families have been left without employment 16/ (see also paras. 146-148 below).

132. According to a statement made in September 1977 by the Director of the Economic Survey Section of the University of Chile, the number of unemployed persons in Greater Santiago had risen by 100,000 in one year. 17/

B. Exercise of trade union rights

133. The Working Group has received information in this field supplementary to that which was reported in paragraphs 240-249 of its report to the General Assembly (A/32/227). At its May 1977 session, the Committee on Freedom of Association of the International Labour Organisation recommended to its Governing Body that it urge the Chilean Government "to promulgate new trade union legislation as soon as possible and to repeal Legislative Decree No. 198 in order to ensure the normal functioning of trade union activities". 18/ The Committee observed, however, upon reading the Government's report to the ILO dated 26 September 1977, that no mention had been made of the draft trade union legislation, though the Government had stated in its previous report that a technical appraisal of the draft legislation was to be submitted to the President of the Republic during the second quarter of 1977. The Committee further observed that "it is an undeniable fact that most of the restrictions imposed on trade union activities, particularly under Legislative Decree No. 198, ... are still in effect today" 19/ and expressed "its deep concern at the slowness in adopting new trade union legislation conforming to the ILO's principles". 20/ The Committee noted that the repeal of decree-law No. 198 and a return to normal trade union activity still appeared to be the main desire of a wide cross-section of the Chilean trade union movement.

134. The Working Group observes that this desire was also reflected in a document dated 30 August 1977 endorsed by leaders of 479 unions from various sectors addressed to the members of the Government Junta which called for the full normalization of labour and trade union rights (see annex XXV). The freedom to elect leaders, to hold union meetings, to engage in collective bargaining and other normal trade union activities, it was contended, was related directly to the enjoyment of normal civil rights - all of which had been severely restricted by the maintenance of a state of siege. 21/ Commenting on the statement of

16/ Solidaridad, No. 10.

17/ El Mercurio, 5 September 1977.

18/ ILO document GB.204/13/18, para. 10.

19/ Ibid., para. 14.

20/ Ibid., para. 15.

21/ El Mercurio, 2 September 1977.

9 July 1977 of the President of the Republic which had defined the basis for the country's return to institutional normalcy (see A/32/227, paras. 78-82 and annex XIV), the union leaders urged that the time-table be advanced substantially lest "a whole generation ... be deprived of their fundamental natural rights". They further observed that if trade union rights were not restored, the labour sector would be unable to participate effectively in the process of institutional normalization.

135. The tripartite commissions (see A/32/227, paras. 244-246) were established in 1974 to replace the right of collective bargaining, which had been suspended under the state of siege. These commissions, made up of the three sectors - labour, employers and government - which were initially to be purely advisory in nature, have undergone substantial changes; their terms of reference have been broadened and decisions reached unanimously are deemed final if no objection is made by the authorities within a stated time-limit. The ILO Committee on Freedom of Association recalled various precedents that determined that "the need for prior approval of collective agreements by the authorities is contrary to the whole system of voluntary negotiation". 22/ The Committee further reported that it considered that it was of the utmost importance that the Government should ... re-examine in this light the functioning of the tripartite committees with a view to ensuring greater freedom in collective bargaining". 23/

136. On 17 November 1977 the Governing Body of the ILO endorsed the recommendation made to it by the Committee on Freedom of Association.

137. The events of the first few days of November at the El Teniente mine brought to a head the discontent of the labour sector in a manner unprecedented during the past four years in Chile. What would generally be regarded as a "strike" was not referred to as such officially in Chile, although a reported 32 per cent of the labour force was absent from work and the President of the Republic responded by ordering an exhaustive study to be made of the economic situation of the copper workers. 24/

138. Although in the wake of these events it was agreed that the copper workers would receive certain advances, profit-sharing and bonuses, the President of Chuquicamata Zone Unit of the copper workers' union warned that no one should feel encouraged "or hope to use the copper workers as an instrument for establishing a front or opening a breach between the trade unions and the Government". 25/

139. In an editorial in El Mercurio a cogent analysis of the situation was set forth:

"It is possible, however, that even if the investment and operational expenditure of enterprises is kept to the very minimum, there will be no margin for meeting the financial demands of the

22/ ILO document GB.204/13/18, para. 23, citing as precedent: 75th Report, Case No. 351 (Greece), para. 78; 118th Report, Case No. 559 (Trinidad and Tobago), para. 21.

23/ ILO document GB.204/13/18, para. 24.

24/ El Mercurio, 15 November 1977.

25/ El Mercurio, 13 November 1977.

workers. In this case, they will understand the situation provided that it is explained to them. The workers have demonstrated their ability to withstand bad times and have loyally accepted the sacrifices entailed by the pursuit of the common good. But they cannot be asked to accept indefinitely an inequitable distribution of the burden of sacrifice which is not demonstrably justified.

"This underlines the imperative need for information - information within enterprises and information for the general public. No one of good will will decline to accept the restrictions - unavoidable for the time being - which result from the profligacy of the Unidad Popular, the fall in the price of copper, the high cost of energy and the severing of the country's economic relations with the capital-exporting centres. But it is not so easy to avoid comparisons between hard and inadequately paid work in the mountains and the enviable levels of remuneration and comfort in work elsewhere. If the difference is recognized and explained - because it is no doubt explicable and justified - the workers and the country in general will accept the facts and the possibility of conflict will be avoided.

"The important thing is to avoid a repetition of the situation that unexpectedly arose at El Teniente. It can be avoided by a spirit of justice in resource allocation by enterprises, the sound management of industrial relations and the existence of internal and external channels of information that will instil confidence into the workers and the people in general." 26/

140. At the end of November it was reported that seven trade union leaders who had allegedly been instrumental in inciting the work stoppage at El Teniente were banished to a northern village near the Bolivian border and that the Government had prohibited the publication of any statement or comment concerning the banishment of these union leaders (see paras. 143-145 below).

141. It was reported that on 23 November 1977 the President of the Republic, accompanied by the Ministers of the Interior, Finance, Labour, Mining and Transport and other senior government officials met with some 600 labour leaders. According to a report in the Chilean press, the President announced measures which, he stated, the Government planned to introduce in the near future:

"A labour council will be established for settling labour problems with the participation of workers, employers and the Government. The State Council has been consulted on the establishment of a new system of collective bargaining. The proposed decree-law giving effect to the new section 1 of the Labour Code, relating to non-collective contracts, will be approved shortly. ... The new system of collective bargaining has been submitted to the State Council for consideration.

26/ "This week's political events", El Mercurio, 13 November 1977.

"As from January next there will no longer be a 2,000 peso minimum wage. In December a Christmas bonus will be paid, at a cost to the Treasury of 340 million pesos.

"There will be three wage adjustments in 1978 if increases in the consumer price index exceed 15 per cent within a given period. In this connexion, an automatic system of calculation will be established.

"Although the President is anxious to find immediate solutions to problems of any kind that may arise, this does not mean yielding to undisciplined labour action. The plan outlined will constitute a response to the dockers and copper miners ... The present situation at El Teniente will be reviewed 'with a view to ensuring that justice is done', but there will be no amnesty for those already sentenced.

"...

"Next March, the President will hold a meeting with trade union leaders in order to give further consideration to labour problems and to find solutions to them.

"After the President's statement, statements were made by the Ministers of Finance and Labour and the leaders of ANEF [the National Association of Public Employees], CEPCH [the Chilean Confederation of Employees in the Private Sector], the dockers and the copper miners. The latter called for steps to facilitate communication between the Government and the workers, and worker participation." 27/

C. Interference with trade union activities

142. The ILO Committee on Freedom of Association expressed its regret that no new information had been furnished by the Government concerning the matter of the raid on the premises of the National Association of Public Employees (ANEF) (see A/32/227, para. 254) and emphasized that "a climate of violence, symptomized by acts such as that committed against the premises of ANEF, may constitute serious interference with the exercise of trade union rights and that such occurrences call for severe measures on the part of the authorities". 28/

143. The Working Group has learnt that at the end of November 1977 five trade union leaders were arrested; news of the arrests was reported to have been given by the President of the Republic, who, though not naming the unionists, described them as dedicated to politics and not to the defence of the workers' interests. 29/
The five persons are:

27/ El Mercurio, 27 November 1977.

28/ ILO document GB.204/13/18, para. 64.

29/ The Guardian, 25 November 1977.

Hector Cuevas, President of the National Building Workers' Federation, who had previously been imprisoned for six months in Tres Alamos and had reportedly appeared recently in a British television documentary critical of the Chilean Government. The film had been aired a week before Mr. Cuevas' arrest in November;

Juan Manuel Sepúlveda, President of the Metal Workers' National Federation;

Juan Pincheira, Milton Puga and Carlos Orellano, union leaders of the El Teniente copper mine, which had been the scene earlier in the month of the first strike since the present government came to power (see paras. 137-140 above).

144. The five are reported to have been banished to Putre, an isolated northern village in the province of Tarapaca near the Bolivian frontier. According to a statement of the President of the Republic, quoted in the Chilean press, 30/ the Government had ordered the banishment of the union leaders "for having repeatedly stirred up political agitation in the trade union sector by fomenting and organizing acts of labour indiscipline totally incompatible with national security". Two other trade union leaders - Carlos Frez Rojo, President of the National Association of Dockers, and Arturo Favi - were also included in the order of banishment but were not arrested since they were out of the country at the time the order was issued.

145. On 27 November 1977 the Government placed an absolute embargo on the publication of any statement, comment or news concerning the banishment "of the seven trade union leaders penalized for taking part in political activities incompatible with trade union work", 30/ The Group has received information from the Government of Chile that on 20 December 1977 the President of the Republic lifted the order of banishment; the Group was gratified by this decision.

D. Workers in the agricultural sector

146. The specific problems of workers in the agricultural sector were brought to the attention of the Working Group during its recent inquiries. The general restrictions on union activities are allegedly aggravated in rural areas by higher than average rates of unemployment, irregularities in the allocation of land under land reform legislation, and the process by which loss of employment also results in loss of housing for the agricultural worker and his family. In a letter dated 22 August 1977 from organizations representing agricultural workers and indigenous peoples, addressed to the Bishops of Chile it is stated that over 40,000 families have been rendered homeless, landless and unemployed as a result of the implementation of the recent land reform, the dissolution and reallocation of the holdings of the agricultural co-operatives and the abuses which occurred in connexion with these changes in the structure of the agricultural system.

30/ El Mercurio, 27 November 1977.

147. It has been reported that serious injustices have resulted from the wrongful application of the statutory provision that any person who has illegally occupied a farm or who has encouraged others to do so is not permitted to apply for land under the reallocation of holdings. Guilt of this penal offence, however, is not adjudged by a court, but is determined on the basis of confidential records maintained by the rural security services. According to reliable information received by the Working Group, exclusion from ownership of land on the basis of this standard has been abused to the prejudice of thousands of agricultural workers - particularly those active in union activities. It is reported that a procedure for appeal from adverse determinations was not enacted until more than half of the available land had already been allocated; since that time a few appeals have been commenced, but it is feared that even if some of the decisions are favourable, by the time the judgement is pronounced there will no longer be any land left for allocation.

148. It has also been reported that some of the plots of land intended for peasants have been granted instead to large landowning families and to government officials. 31/

E. Future social strategy

149. The Chilean press of 12 October 1977 reported on a government paper entitled "National Strategy" upon which public and private bodies will have three years to comment before the plans set forth are implemented in their entirety. Among the subjects dealt with was the concept of basic education for all; the main objectives of the proposed plans in the field of education are set forth. The document gives emphasis to cultural activities and calls for non-discriminatory treatment of the cultural sector with respect to "taxation, tariff and administrative matters". The document proclaims the right to health of all inhabitants of the country and announces the objective of increasing life expectancy and reducing to the minimum the differences in this expectancy between the various social and economic strata. It is stated that the present social security system is discriminatory, and a new scheme is proposed whereby contributions will be eliminated and social security benefits will be financed instead from the general resources of the country, raised primarily by taxation.

150. In dealing with housing the document states that activity in this sector will be geared to assistance to the most disadvantaged groups. The State proposes to assist groups whose incomes are not adequate by means of subsidies, provided that certain requirements relating to the possession of savings are met. The proposed subsidies will be in inverse proportion to income and in direct proportion to the savings accumulated by the individual.

151. As to employment, the announced policy in this area is to "ensure access to employment for all persons wishing to work, and to guarantee suitable and productive employment and fair remuneration".

31/ Latinamerica Press, vol. 9, No. 37, 13 October 1977, p. 6.

VII. CONCLUDING OBSERVATIONS

152. This report, the third the Working Group is submitting to the Commission on Human Rights, brings up to date the report the Group submitted to the General Assembly at its thirty-second session (A/32/227). It is intended to be read in conjunction with the report to the Assembly. The information which has been received since the adoption of the latter report and which is reflected in the present document leads the Group to reaffirm in substance the concluding observations in its report to the Assembly (A/32/227, paras. 282-310). In particular, the Group again welcomes the release of numerous political detainees, the reduction in the number of arrests during 1977 and the fact that fewer reports of torture have been received. Nevertheless, the Group is unable to conclude that respect for human rights has been restored in Chile. On the contrary, there remain critical areas where violations of human rights and fundamental freedoms, in some cases systematic and institutionalized, continue to exist: in particular, the absence of constitutional safeguards for human rights; the continuation of the state of siege with its limitations on fundamental freedoms; arbitrary arrest and detention; torture; trials by war-time military tribunals which do not meet minimum standards of due process; the refusal to adequately account for about one thousand missing detainees; limitations on freedom of expression; the suspension of political activity; economic inequities; infringement of the right to a nationality and the right to return to one's country, and the systematic campaign against suspected opponents of the régime, against trade unionists and against the humanitarian activities of the Catholic Church.

153. The reports of the large number of arrests and banishments during the first days of 1978 have caused the Group deep concern. It urges the Government of Chile to take the measures necessary to restore the rights of these persons and to desist from further actions of such nature.

154. In preparing this report the Group has been faithful to the mandate entrusted to it by the Commission on Human Rights and the General Assembly; it has respected and applied impartially its rules of procedures, which are based on the "Model rules of procedure for United Nations bodies dealing with violations of human rights"; it has weighed objectively and critically all the relevant information submitted to it. It has sought and encouraged contacts with the Government of Chile and has carefully considered all the information submitted by the Government. The Group's concern for the full restoration of human rights in Chile has also been expressed by other United Nations organs, specialized agencies and regional intergovernmental organizations. Its methods of work and the results of its investigations have been overwhelmingly approved at successive sessions of the General Assembly and of the Commission on Human Rights by States from all regions of the world.

155. A visit to Chile by the Group in order to make on-the-spot investigations is an important element in the fulfilment of the Group's mandate. It therefore hopes that the Government of Chile will give effect to the international commitment it gave in 1975 for a visit to Chile by the Group.

156. The Group wishes to point out the following specific areas of human rights in Chile which call for improvement and some of the steps which might lead to that result:

(a) The Group has found that the authorities continue to refuse to respect the liberty and security of persons believed to be opposed to the present régime. The system of intimidation through arrests, detention, torture or ill-treatment and harassment continued to be used to repress those sectors of the Chilean population. The Chilean judiciary, even at its highest level, is powerless to protect individuals from the security agencies. In certain cases, enumerated by Chilean legislation, military trials under war-time procedures continue to take place and fail to guarantee basic human rights. The Group expresses its deep concern at the large number of recent arrests and banishments. The Group notes that the victims are members and leaders of the Christian Democratic Party which had expressed opposition to the recent national consultation in Chile and urged their fellow citizens to vote "No". Political arrests and banishments are deplorable and do not contribute to the restoration of human rights. The Group believes that the effective implementation of Chilean legislation governing arrest, detention, search and the treatment of detainees, the effective restoration of judicial supervision of the activities of the security agencies and the police and the abolition of military trials would be important steps towards the restoration of human rights. In order to deter future violations it is important to prosecute and punish those responsible for past gross abuses, particularly torture.

(b) Persons detained by the security agencies continue to disappear, though at a rate significantly less than in the past. This practice must be ended and those responsible for it punished. The fate of two United Nations staff members, Carmelo Soria Espinosa and Fernando de la Cruz Olivares Mori, is of special concern to the Group, and the Chilean authorities are urged to renew their efforts with a view to providing satisfactory explanations. The fate of missing detainees must be clarified and only a thorough and impartial investigation into the evidence of the fact of detention and disappearance will be able to produce satisfactory answers.

(c) The Group deplores the treatment by the Chilean authorities of the three women, Ana Gonzalez Gonzalez, Ulda Ortiz Alvarado and Gabriela Bravo Jara, who travelled outside Chile in order to enlist support for their efforts and those of other relatives of missing persons, to determine the fate of Chilean detainees who have disappeared. These women were refused re-entry into Chile and have still not returned. The Group wishes to express its appreciation for the concern shown by the Secretary-General in connexion with the "sit-in" at the headquarters of the Economic Commission for Latin America and the steps he has taken in relation to the missing persons and their families.

(d) Constitutional protection of human rights and fundamental freedoms is still lacking in Chile. The enactment of Constitutional Acts Nos. 3 and 4 in September 1976 held the promise of the return to the rule of law and the means of safeguarding the rights of Chilean citizens. However, the expectations raised by the promulgation of the Constitutional Acts of 1976 have not been fulfilled. At least 38 provisions of Constitutional Act No. 3 enumerating specific rights and duties require implementation or further definition by means of laws or statutes which have yet to be enacted. Under the present situation in Chile, human rights and fundamental freedoms are subject to the caprice and whim of the Junta, and the façade of the Constitutional Acts offers in practice neither the personal security nor the legal protection that is normally to be expected under a rule of law. Moreover, the anticipated abrogation in 1980 of the present Chilean constitution and

the planned adoption of a new constitution only in 1986 or 1987 raise the disquieting prospect that for a number of years Chile will be without a constitution and its people deprived of effective guarantees of fundamental human rights.

(e) The year 1977 has witnessed increased limitation on freedom of expression in Chile. Dissemination of printed matter and other means of mass communication, educational freedom and the expression of political ideas have been restricted by legislation and limited by the authorities. The imposition of direct censorship by military bandos on all printed matter circulated in Chile has been the subject of widespread criticism in Chile and internationally. One of the last relatively independent voices of mass communication, Radio Presidente Balmaceda, was closed down by the Government on 28 January 1977. The Working Group hopes that in the course of the analysis and updating of legislation in this field, proposed by the President of the Republic in September 1977, such restrictive legislation will be repealed. Decree-law No. 1684 of 28 January 1977 renders the remedy of protection inoperative and deprives the communications media, and the population in general, of important legal guarantees of substantive due process and needed protection against arbitrary acts of the authorities.

(f) In the area of education, discussion of subjects which may engender ideas unpalatable to the present régime is suppressed. This is achieved by modification of course curricula and the intimidation or dismissal of those who appear to resist this academic authoritarianism.

(g) The political rights guaranteed by the Chilean Constitution have been suspended since September 1973. In 1977 the situation became even more serious with the dissolution of all remaining political parties and the prohibition of political activities of any kind. The right to express publicly political opinions not in conformity with the Government's views has virtually disappeared and any political activity is now a crime.

(h) The continuing limitation on the exercise of basic trade union rights deprives an entire sector of the possibility of expressing its ideas and making known its needs. The Group urges the full restoration of trade union rights, including the right of the membership to elect the officials, and calls for an end to the persecution of union leaders.

(i) The previous practice of issuing passports bearing the restriction "Valid only to leave the country", which had come under criticism and which Government representatives undertook to stop, appears to have been replaced by the issuance of passports endorsed with the letter "L". The holders of such passports are required to sign declarations and seek prior authorization of the Government before they may be permitted to return to Chile.

(j) The Chilean Government has also continued the practice, which has also been frequently criticized, of depriving certain Chilean citizens residing abroad of their Chilean nationality and has persistently refused to permit the return to Chile of certain of its citizens who have been expelled. The Group urges full restoration to the Chilean people of their right to return to their country and the effective protection of their right to a nationality. The continuing assistance of the Office of the United Nations High Commissioner for Refugees and the

Intergovernmental Committee on European Migration and the generous welcome extended by a number of countries to refugees from Chile are enabling many thousands of persons to establish themselves in a new environment free of repression. This task is difficult and costly and calls for assistance beyond the present resources of existing agencies. The Working Group has repeatedly expressed its concern for the situation of Chilean refugees and others who have suffered as a result of arrest and detention in connexion with national security, and has suggested that a voluntary fund be established to offer assistance to such persons. The Commission on Human Rights at its thirty-fourth session will consider the establishment of such a fund and it is the recommendation of the Working Group that the proposal should be given favourable consideration and that its implementation should receive the highest priority.

157. The Group has noted in the present report the comments and criticisms of the Chilean authorities, in particular those of the President of Chile, concerning the United Nations, the Commission on Human Rights and the Group itself. Nevertheless, the Group wishes to reaffirm its commitment to continue to fulfil objectively and impartially the responsibilities conferred upon it by United Nations organs. The Group has also noted in this respect the national consultation held on 4 January 1978 by the Chilean Government and the subsequent communications from Chilean authorities to the Secretary-General of the United Nations and to the Chairman of the Group. The Commission on Human Rights may wish to pronounce itself on these two matters.

158. If the Commission decides to extend the mandate of the Group, as the General Assembly has invited it to do, the Group will carry out the obligations with which it may be entrusted with complete objectivity and impartiality.

VIII. ADOPTION OF THE REPORT

159. At the meeting held on 20 January 1978 the present report was unanimously adopted and signed by the members of the Ad Hoc Working Group of Experts.

Ghulam Ali Allana (Pakistan)
Chairman/Rapporteur

Leopoldo Benites (Ecuador)

Abdoulaye Dicye (Senegal)

Felix Ermacora (Austria)

M. J. T. Kamara (Sierra Leone)

ANNEX I

General Assembly resolution 32/118 of 16 December 1977

The General Assembly,

Emphasizing its commitment to foster universal respect for, and observance of, human rights and fundamental freedoms for all in accordance with the principles of the Charter of the United Nations,

Recalling that, in accordance with the Universal Declaration of Human Rights a/ and the International Covenant on Civil and Political Rights, b/ everyone has the right to life, liberty and the security of person and the right not to be subjected to arbitrary arrest, detention or exile, or to torture or to cruel, inhuman or degrading treatment or punishment.

Recalling the Declaration on the Protection of all Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, unanimously adopted in its resolution 3452 (XXX) of 9 December 1975,

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

Considering that both the General Assembly in its resolution 31/124 of 16 December 1976 and the Commission on Human Rights in its resolution 9 (XXXIII) of 9 March 1977 expressed profound indignation that constant and flagrant violations of human rights have taken place and continue to take place in Chile, in particular the institutionalized practice of torture, cruel, inhuman and degrading treatment or punishment, the disappearance of persons for political reasons, arbitrary arrest, detention, exile and cases of deprivation of Chilean nationality,

Considering that its efforts and those of the Economic and Social Council, the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the International Labour Organisation, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization for the restoration of basic human rights and fundamental freedoms in Chile have not met with the response that their authority and unanimity of purpose demand,

a/ Resolution 217 A (III).

b/ Resolution 2200 A (XXI), annex.

Bearing in mind Commission on Human Rights resolutions 8 (XXXI) of 27 February 1975, 5 (XXXII) of 19 February 1976 and 9 (XXXIII) of 9 March 1977, which established and extended the mandate of the Ad Hoc Working Group on the Situation of Human Rights in Chile,

Welcoming the steps taken by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to implement General Assembly resolution 31/124,

Noting that the Commission on Human Rights at its thirty-fourth session will be considering reports on the consequences of the various forms of aid extended to the Chilean authorities and on a voluntary fund to receive contributions and distribute, under the authority of an independent board of trustees, humanitarian and financial aid to those detained or imprisoned in Chile and their relatives,

Having considered the reports of the Ad Hoc Working Group c/ and of the Secretary-General d/ under this item, as well as the observations and documents submitted by the Chilean authorities, e/

Commending the Chairman and the members of the Ad Hoc Working Group for the thorough and objective manner in which the report was prepared, in spite of the difficulties arising from the persistent refusal of the Chilean authorities to permit the Group to visit the country in accordance with its mandate.

Deeply deploring the destruction of the democratic institutions and constitutional safeguards formerly enjoyed by the Chilean people,

Gravely concerned by the fact that, in spite of the appeals by the General Assembly, the Secretary-General, private institutions and citizens of Chile, the Chilean authorities have consistently failed to give a satisfactory account for missing persons,

Concluding that constant and flagrant violations of human rights and fundamental freedoms continue to take place in Chile, notwithstanding recent developments, mainly due to the continuous efforts of the Chilean people and the international community, which, according to the report of the Ad Hoc Working Group, indicate a decrease in the number of political prisoners and in the number of detainees under the state of siege.

1. Reiterates its profound indignation that the Chilean people continue to be subjected to constant and flagrant violations of human rights and fundamental freedoms, to lack adequate constitutional and judicial safeguards of their rights and liberties and to suffer assaults on the freedom and integrity of their persons, in particular by methods of systematic intimidation, including torture, disappearance of persons for political reasons, arbitrary arrest, detention, exile and deprivation of Chilean nationality;

c/ A/32/227.

d/ A/32/234, A/C.3/32/7.

e/ A/C.3/32/6.

2. Expresses its particular concern and indignation at the continuing disappearance of persons, which is shown by the available evidence to be attributable to political reasons and the refusal of the Chilean authorities to accept responsibility or account for the large number of such persons, or even to undertake an adequate investigation of cases drawn to their attention;

3. Deplores, in this connexion, the unsatisfactory way in which the Chilean authorities have sought to fulfil their undertakings to the Secretary-General of the United Nations, acting under the mandate of General Assembly resolution 31/124, and relating to the disappeared relatives of the Chileans who drew attention to their plight by engaging in a hunger strike at the headquarters of the Economic Commission for Latin America at Santiago;

4. Further deplores the failure of the Chilean authorities to comply with their own repeated assurances to allow the Ad Hoc Working Group on the Situation of Human Rights in Chile to visit the country in accordance with its mandate;

5. Calls once more upon the Chilean authorities to restore and safeguard, without delay, basic human rights and fundamental freedoms and fully to respect the provisions of the relevant international instruments to which Chile is a party, and to this end to implement paragraph 2 of General Assembly resolution 31/124;

6. Demands that the Chilean authorities put an immediate end to practices of inadmissible secret arrests and subsequent disappearance of persons whose detention is systematically denied or never acknowledged, and to clarify forthwith the status of such persons;

7. Reiterates its invitation to Member States, United Nations agencies and other international organizations to inform the Secretary-General of steps taken to implement paragraph 4 of General Assembly resolution 31/124 in order to allow him to submit further reports to the Commission on Human Rights at its thirty-fourth session and the General Assembly at its thirty-third session;

8. Invites the Commission on Human Rights:

(a) To extend the mandate of the Ad Hoc Working Group, as presently constituted, so as to enable it to report to the General Assembly at its thirty-third session and to the Commission at its thirty-fifth session, with such additional information as may be necessary;

(b) To present to the General Assembly at its thirty-third session, through the Economic and Social Council, specific recommendations on possible humanitarian, legal and financial aid to those arbitrarily arrested or imprisoned, to those forced to leave the country and their relatives;

(c) To submit to the General Assembly at its thirty-third session, through the Economic and Social Council, a progress report of action taken in compliance with paragraph 5 (c) of General Assembly resolution 31/124;

9. Requests the President of the thirty-second session of the General Assembly and the Secretary-General to assist in any way they may consider appropriate in the re-establishment of basic human rights and fundamental freedoms in Chile.

105th plenary meeting
16 December 1977

ANNEX II

Letter dated 29 November 1977 from the Chairman of the Ad Hoc Working Group addressed to the Permanent Representative of Chile to the United Nations Office at Geneva

I have the honour to inform Your Excellency's Government that a session of the Ad Hoc Working Group on the Situation of Human Rights in Chile will be held in Geneva from 9 to 27 January 1978 for the purpose of preparing its report to the thirty-fourth session of the Commission on Human Rights, as provided for under paragraph 8 of resolution 9 (XXXIII) adopted by the Commission on Human Rights on 9 March 1977.

The Working Group is desirous to obtain all possible co-operation of the Chilean Government in performing its tasks and would appreciate receiving any relevant written or oral information which Your Excellency's Government may wish to present for its consideration bearing in mind the Group's terms of reference. The Group will be ready to meet for this purpose with the representatives of Your Excellency's Government during its January 1978 session.

I would appreciate it if Your Excellency's Government could inform me of its intentions in this regard, c/o Division of Human Rights, Palais des Nations, Geneva.

(signed) Ghulam Ali ALLAH
Chairman
Ad Hoc Working Group on Chile

ANNEX III

Letter dated 13 January 1978 from the Permanent Representative of Chile to the United Nations Office at Geneva addressed to the Chairman of the Ad Hoc Working Group, transmitting copy of a letter dated 5 January 1978 from the Deputy Minister for Foreign Affairs of Chile addressed to the Secretary-General

In connexion with the wish expressed by you in your communication of 29 November 1977, that representatives of my Government should meet with the Ad Hoc Working Group during its present session, for the purpose of providing it with any oral or written information that might be relevant, I enclose a copy of the letter sent by the Deputy Minister for Foreign Affairs to the Secretary-General of the United Nations. This letter, as you will see, sets forth the position of my Government with regard to the procedure being applied by the Ad Hoc Working Group of the Commission on Human Rights.

Accordingly, my Government deems it inappropriate and unnecessary to attend a meeting of the kind proposed by you.

(Signed) Manuel TRUCCO
Ambassador
Permanent Representative of Chile

REPUBLIC OF CHILE
MINISTRY OF FOREIGN AFFAIRS
PERMANENT MISSION TO THE UNITED NATIONS

Santiago de Chile, 5 January 1978

Sir,

As you are undoubtedly aware, Chile has reaffirmed, through the free, voluntary and categorical expression of the will of its people, its most emphatic rejection, on the one hand, of the procedure adopted by the United Nations - through its Commission on Human Rights - for the purpose of formulating an infamous, unfair and discriminatory condemnation of Chile, and, on the other, of the discussion in its actual substance.

First, it is necessary to recall today that the Government of Chile has never refused to co-operate fully and effectively with the United Nations on matters relating to the promotion and full protection of human rights.

Consistent with this clear position, and despite the fact that our request that all the States which were accusing us should be investigated in the same manner was not met, we accepted in 1975 the establishment of a Working Group, responsible to the Commission on Human Rights, to inquire into the "present situation" of fundamental human rights in Chile.

That acceptance was, of course, subject to the understanding that, as Chile has repeatedly stated, the procedure to be followed should be determined by agreement between the parties, in accordance with the standards formulated with respect to the matter by the Commission on Human Rights which appointed the Group.

At the same time, a very important precedent existed with respect to this matter, namely, the procedure laid down in resolution 1503 (XLVIII) of the Economic and Social Council, which establishes the basic rules governing consideration of communications relating to violations of human rights and fundamental freedoms.

Actually, however, not only is the Working Group ad hoc but the procedure it applies is also special and exceptional, having been worked out by the Group itself without the agreement of the Government of Chile and being absolutely and totally arbitrary in character.

This has enabled the Ad Hoc Working Group to interfere, without any grounds, right or agreement, in every aspect of our country's activity, whether related to human rights or not. It has also enabled the Group repeatedly to violate its mandate by failing to restrict its reports to the task assigned to it, exceeding its competence and thereby violating the minimum rules of peaceful coexistence among nations.

H.E. Mr. Kurt Waldheim
Secretary-General of the United Nations
New York

By such negative behaviour - the inevitable consequence of the total absence of due process - the United Nations has been enabled, in dealing with a situation affecting one of its Member States, to violate, in absolute terms, the principles of universality, self-determination, equality of all States before the law and non-intervention in their internal affairs.

Ever since this situation arose, the Government of Chile has been making every effort to remedy it, maintaining permanent contact with the Working Group.

Nevertheless, all our initiatives aimed at obtaining an essential minimum of procedural guarantees have been rejected.

It is a matter of record that, despite the extremely serious facts mentioned above, Chile proposed a visit by two members of the Group, who would be designated by mutual agreement and in respect of whose activities minimum rules, likewise mutually agreed upon, would be laid down. That in turn was rejected.

In these circumstances we can only conclude, after three years of negotiations and in view of the results achieved, that it is absolutely useless to prolong the situation as brought about by the Working Group, since that will only help to make the defects in question even more serious and encourage the Group to seek once more to justify making false statements and exceeding its competence.

This is what the people of Chile reject and repudiate in expressing their view as citizens in a national referendum, the results of which reflect the fact that the overwhelming majority of citizens of our country are not prepared to continue accepting harassment, arbitrariness or an openly discriminatory international lie and that they firmly support their Government, reaffirm its total legitimacy and recognize its absolute competence in the conduct of both internal affairs and the country's international relations.

Consequently, I wish to inform you that the Government of Chile will henceforth insist that the Commission on Human Rights of the United Nations adopt an attitude in strict accordance with law and with the respect which is its due and which our nation vigorously demands as a sovereign and free country.

Accept, Sir, etc.

(Signed) Enrique VALDES FUGA
Deputy Minister for Foreign Affairs

ANNEX IV

Decree-law No. 1889

Government Junta of the Republic of Chile

Ministry of the Interior

Declares the national territory to be in a state of siege to the degree indicated

Santiago, 2 September 1977. The Government Junta of the Republic of Chile today ordained the following:

No. 1889. Considering the provisions of decree-laws Nos. 1 and 123 of 1973; 527 and 640 of 1974; 991 of 1976; and 1688 of 1977.

The Government Junta of the Republic of Chile has resolved to promulgate the following decree-law:

Single article. The whole of the national territory of the Republic is declared to be in a state of siege, to the lowest degree provided for in article 6 (d) of decree-law No. 640 of 1974, from the date of publication of the present decree-law.

The present decree shall be recorded with the Office of the Controller-General of the Republic, published in the Diario Oficial and included in the Official Bulletins of the Army, Navy, Air Force and Carabineros of Chile and the Official Records of the said Office of the Controller-General. AUGUSTO PINOCHET UGARTE, General of the Army, President of the Republic. GUSTAVO LEIGH GUZMAN, General of the Air Force, Commander-in-Chief of the Chilean Air Force. CESAR IBENDOZA DURAN, General, Director-General of Carabineros. Patricio Carvajal Prado, Admiral, Deputy Commander-in-Chief of the Navy. Raúl Benavides Escobar, Major-General, Minister of the Interior.

ANNEX V

Statement made by the President of the Republic of Chile on 11 September 1977

With patriotic fervour we relive today through the length and breadth of Chile the heroic act of liberation of 11 September 1973.

Four years have passed since that memorable day, but far from slipping into oblivion, its historic significance has grown ever greater in the mind of the nation and the spirit of each of its sons and daughters.

The passing of time has pinpointed the experiences of those years and dramatically highlighted the tragic and perhaps inescapable depths to which we would have sunk if those who were on the point of placing our land under the yoke of Marxist-Leninist totalitarianism and Soviet imperialism had succeeded in their aims.

Now we can appreciate the true epic of the heroic response of millions of Chileans in all walks of life, who wages a relentless struggle everywhere to save their imperilled country. Women, the young and the working people were fused into a single fighting force to defend the heritage of a free and unblemished Chile and the right to guide it towards a future of greatness, justice and well-being.

The same faith, hopes and gratitude throb today in the hearts of all Chileans as they did four years ago, when they came to our barracks and asked us, the Armed Forces and the police, to free Chile from a Government that was irresponsibly leading it towards chaos and destruction and to take over the management of the State so as to restore peace, order and national unity - the only paths possible for the spiritual and material progress of any civilized people.

On 11 September 1973 the armed forces and the police kept their promise to Chile.

Many of their men gave up their lives and history will undoubtedly remember their act as proof of loyalty to the principles fostered by men of arms; but at the same time it made us pledge irrevocably that the blood of these soldiers had not been shed in vain.

This overriding consideration strengthened the conviction reached from our analysis of the situation that the difficult and all-important step which our institutions had decided to take on that day must not be short-lived or superficial; it would be fully justified by the future, as we came to remedy at their very source the wrongs which brought Chile to the edge of complete collapse.

A LONG ROAD TO TRAVEL

From the outset, servicemen and civilians have joined efforts in carrying out this task. However, the path still has pitfalls and it is a long road to travel. But it has to be recognized that solid advances have been made, as can be seen from the sound progress in the economic, social, political and institutional fields.

Only a negligible minority, blinded by the rout of their totalitarian aims, by the thwarting of their wretched ambitions to hold power, or by the naivety which paved the way for communist penetration of our country, display the bile of resentment, or idiotically repeat their manifestly sterile slogans.

In contrast, the large majority of Chileans have understood the need to build a new institutional framework for a new democracy and realize that the economic sacrifices, which circumstances beyond our control have forced us to impose on the country, were the only way to respond properly to the aspirations of our people for greater well-being, and there are already signs of gradual improvement.

Now, when the spirit of 11 September breathes throughout the land, bearing the stamp of Chile of triumph and of hope, every parent must feel in the look of his children the satisfaction of offering them a free life and genuine opportunities in a tomorrow filled with promise. Every young man and woman must realize the true value of the prospect that have again become a source of inspiration, but which a few years ago seemed gone forever. And every native of this land, regardless of his status, should stop a moment, forget his daily concerns and experience to the full the supreme pride of being Chilean.

To this nation which believes in the destiny we are forging, I express today the deep gratitude of the Government I preside over to all those who kept faith in the most difficult days, and I renew the promise that no adversary, no difficulty shall bend our inflexible will to crown with success the mission that, four years ago, on a day like today, we undertook in the service of Chile.

THE EXTERNAL FRONT

On the external front, our country has shown its determination to participate actively in the international community, for it is aware that in a world of ever-increasing interdependence, it is the duty of every State to contribute, to the best of its ability, to the cause of peace, justice and co-operation among nations.

This constructive and realistic attitude is founded on the universally recognized principles of International Law, among which non-intervention by States in the internal affairs of others, the right of peoples to self-determination, and the peaceful settlement of disputes take pride of place, and they all form the unshakable and lasting pillars of our foreign policy.

Our bilateral relations with neighbouring countries are governed by a sense of brotherhood born of geographical and historical realities which call on us to redouble our mutual efforts to strengthen our links and find amicable solutions to any problems that may arise.

A basic tenet of our foreign policy is respect for the agreements that govern our foreign relations and fulfilment of our international commitments. Therefore, Chile has already expressed its intention to respect fully the decision of the court of arbitration on the dispute over the Beagle Channel, and it does not doubt that its sister Republic of Argentina will do likewise, offering further

proof that our common goals are entente, peace and co-operation through law. We also hope to reach full agreement with it in the negotiations under way to fix the sea boundaries in the south.

Last November our country had the honour to receive a visit from His Excellency the President of Argentina, Lieutenant-General Jorge Rafael Videla, which enabled us to exchange views and to reach agreements that are of benefit to both nations; many of them are now fully operative.

Furthermore, we maintain our offer to find a solution to Bolivia's need for access to the sea and hope that Chile's goodwill and its consistent position will make a decisive contribution to the success of the present negotiations.

As regards relations with the sister Republic of Peru, we have done all in our power to show that there is no truth in the allegations of absurd warlike designs on our part that third parties have taken great pains to invent and spread. We honestly believe that we have provided irrefutable proof that we are moved only by the desire for peace and mutual collaboration.

LATIN AMERICA WITHOUT REAL WEIGHT

In the context of the hemisphere, I reiterate our concern about the failure of Latin America to carry any real weight in the international community, as I took the opportunity to point out last year in my opening address to the Sixth Session of the Organization of American States, held here in Santiago.

Our region has no real influence on major political and economic decisions taken at the international level, even in many issues which affect it directly. This situation can be remedied only if we inject new life into our ideals of unity and our common destiny.

These considerations gain special force with the recent celebration of the 25th anniversary of the "Declaration of Santiago", when the Governments of Chile, Peru and Ecuador, represented by their present Foreign Ministers, confirmed the position of the countries of the South Pacific with respect to the 200 mile sea limit established in that Declaration.

A source of satisfaction was the presence of those who, in 1952, in their capacity as Presidents of the three countries, signed the first international treaty on this matter. Apart from the solemnity it imparted to the commemorative ceremony, it served to highlight how, when our visionary capacity is combined with united action by our countries, Latin America can make its own original views prevail in the world, even in the face of opposition from the great powers.

We believe that today the leaders of this continent must, as a matter of historic importance and a mark of common path based on our unity and resolve, combat the totalitarian and terrorist subversion that now fetters or threatens so many nations on our planet.

I am convinced that millions of individuals, in slavery or insecurity, look towards us as youthful nations, the symbols of courage and liberty, and hope that we will take a stand which will certainly deserve the gratitude of future generations throughout the world.

We believe that our region can also work out a common position in respect of important international economic issues that remain unsolved by the international community and are of major interest to the Government of Chile.

Prominent among these are the problems relating to international trade, the monetary situation, the inflation being passed on from the developed countries to the developing ones, the impact of the energy crisis and the prices of our raw materials, the exploitation of natural resources and the search for new sources of good in order to keep the spectre of famine at bay, the conservation of the environment and, lastly, many issues which jeopardise the present and the future of mankind.

To this end, the Minister for Foreign Affairs of Chile has, as my representative, held several useful talks with the Governments of various sister countries of the continent.

Nevertheless, the unity we desire for Latin America must find its place in the wider context of inter-American relations, in which the United States of America has a singularly important role to play, and of respect for the inherent individuality of each of the American nations.

My recent visit to the headquarters of the Organization of American States in Washington was dictated by this continental approach, to ensure that Chile was present at the signing of the new Treaty on the Panama Canal and the Treaty on the Permanent Neutrality and the Operation of the Panama Canal to which the Governments of the United States of America and the Republic of Panama are committed.

This was a favourable opportunity to engage in a cordial talk with the President of the United States, Mr. James Carter, in which the matters of major interest to our mutual relations were discussed frankly and constructively.

I also had positive joint talks with the Presidents of the sister Republics of Bolivia and Peru, General Hugo Banzer and General Francisco Morales Bermúdez respectively, which culminated in a tripartite declaration designed to speed up the process of solving the problem of Bolivia's position as a land-locked country, to which I referred earlier.

I believe that for these reasons, and because of the opportunity to exchange views on an informal basis with other leaders on this continent, the brief tour I completed the day before yesterday has been of great benefit to our country and has greatly enhanced, once again, Chile's name and reputation.

This slow but gradual improvement in the attitude of the Government of the United States towards developments in Chile, which is shared by a number of Governments in Western Europe, favours our bilateral relations with them and is

also proof that the true significance of the régime which emerged in our country on 11 September 1973 is beginning to be properly understood instead of being judged in a simplistic or biased, if not downright distorted, fashion.

IT IS NOT CHILE WHICH HAS CHANGED

Chile is not begging for praise or international favours from anyone. Chile has not altered nor will it alter the sovereign course it has charted, neither to curry favour with certain countries nor still less to give way to outside pressure, for pride and dignity are sacred values which dwell in the very heart of the Chilean people and we shall never allow them to be debased. Our way is clear, and each step merely reaffirms our gradual advance towards the objectives that we set for ourselves from the beginning. If this now quickens the understanding of those who have criticized as unjustly so far, it simply means that the truth about Chile is slowly beginning to be understood and to prevail. It is not Chile which has changed.

Chilean foreign policy has also placed special emphasis on relations with the third world, for we hope to strengthen our friendship and co-operation with all developing countries which pursue an independent international policy.

To this end, we shall proceed shortly to open Chilean embassies resident in or serving Morocco, Nigeria, Zaire and Indonesia, and we shall try to do the same in Saudi Arabia and other Asian and African countries.

DEEP CONCERN

With reference to the external front, I cannot close without expressing my deep concern about the seriousness of Chile's situation at the international level, for it is set against a wider, global background.

Although the agreements of a number of international organizations concerning our country are becoming gradually more equitable and favourable, as is the case this year with the International Labour Organisation and the Organization of American States, the international campaign orchestrated against us by the Soviet Union is becoming more hostile and violent and, incomprehensibly, it is being echoed or tolerated by some nations with whose values and interests our country has always identified itself.

This shows that although the so-called policy of détente may have helped in averting the danger of a nuclear war so far, it has been used by Soviet imperialism to gain the freedom of action it needs to spread its ideology and further its hegemonic designs, particularly in the developing countries, and the Kremlin has brazenly masked all this by its commitment to "the liberation of peoples".

Ideological subversion, guerilla terrorism and massive or conventional armed action alternate as the weapons used by Soviet communism. Africa is now the worst-hit and most conspicuous arena, but Latin America cannot consider itself free from this threat. Chile knows this all too well, since it suffered such an attack on its own soil between 1970 and 1973, and today it is the favourite target of a vast conspiracy and international aggression.

Hence, we are apprehensive of certain policies which, although sometimes inspired by noble principles, fail to take account of the need for an effective global defence against totalitarian aggression and ignore the unique experience that each country gains from its own way of life.

It is not out of order to recall that these were the cardinal defects of the so-called Alliance for Progress, which was tried out on our continent at the beginning of the 1960s. Helped along by the vagueness and the escalation of the "structural reforms" launched at that time, a socialistic scheme of State interference was forced through and led in most cases to the failure of the reforms, but the continent was also left wide open to penetration by marxist demogogy, which in a few years plunged many Latin American countries into revolution and guerilla violence.

Against this background of collapse, in which the poorest classes came out the worst, the armed forces of a number of nations of this continent rose up as the last line of defence capable of safeguarding the sovereignty and integrity of their countries and of leading their peoples along the path of cultural, economic and social development.

DEEP-SEATED CAUSES

If this fact is ignored, it is impossible to explain why, without preconcerted action, military Governments of a clearly institutional type emerged in most South American countries at about the same time. If it is recognized on the other hand, it will be realized that only insofar as those Governments succeed in eradicating the deep-seated causes which forced them to take power will the future democracies be able to find in the new institutional framework, freely adapted by each country to its own conditions, the foundations on which a just, stable and progressive co-existence can be built.

The Government of Chile has at least very clear ideas about its own mission and responsibility, and it is for this reason that no artificial climate or unrest will cause it to take precipitate action which would lead us first to a power vacuum, and then to greater chaos than we lived through four years ago.

By defending through our foreign policy the independence and sovereignty of a country which has set an example of maturity and civic tradition, the President of the Republic, speaking to you now, knows that this reflects Chile's innermost fibre and is convinced that it will continue to have the resolute and determined support of all true Chileans.

THREE PRIORITIES

One of the most difficult challenges faced by the present Government has been on the economic and social front.

Only time will show the full extent of the spectacular progress we have achieved in healing and reviving the economy in these years. In 1973 we found it completely destroyed; imports of foodstuffs alone amounted to almost

\$820 million and the budget showed a deficit of 52 per cent, an unprecedented situation in our history and one which can only be compared to the worst cases of nations razed by war.

After remedying the worst features of the chaos that it inherited, the Government set itself three properly arranged priorities for its economic policy.

As I explained to the country in March last year, they were, first, to improve the balance-of-payments situation; secondly, to force down inflation and, finally, to provide incentives for reactivating our economy. A year and a half later, we can point to results that speak for themselves.

The country's balance of payments and its economic relations with the rest of the world are sound, in spite of the very low price of copper and the substantial external debt payments which we face as a result of the re-negotiations, postponements or mistakes of some previous Governments.

This situation, which curiously enough has been appreciated more by international technical organizations than by some of our compatriots; forms a contrast to the acute problems which many developing countries face in meeting their external commitments. To be able to say that, despite these adverse conditions, Chile is paying its external debt for the second consecutive year without re-negotiating it is something that fills the Government with satisfaction and has awoken pride and confidence in each of our countrymen.

The aim is nothing less than to guarantee the sovereignty of Chile through genuine economic independence and, although it has entailed sacrifices for all, I am certain that the country has not hesitated and will not hesitate to make them, if this ensures that our Liberation of 11 September will not be at the mercy of those abroad who seek to divert us from our course and turn back our victorious struggle.

The respectable position of our foreign trade has been achieved thanks to a programmed and non-discriminatory tariff policy and realistic and flexible price and exchange rate policies.

Through them we have increased our agricultural production, thus reducing the need to import foodstuffs, and have at the same time continued to increase non-traditional exports considerably. It is enough to point out that, whereas in 1973 our non-mineral exports amounted to \$235 million, this year they reached the record figure of \$718 million.

Our responsible and consistent economic policy has opened up possibilities for supplementing our savings with foreign capital. Thus, day by day new banks appear from a number of countries interested in financing long-term investment projects, and sizeable foreign investment contracts are also being signed which will soon total more than \$1,000 million.

Has the country taken stock of the fact that, through these well-conceived policies, an economy which was only recently on the mend can now calmly face a serious fall in the price of copper that would have represented a real catastrophe if any of the traditional economic approaches of earlier years had been followed?

TOWARDS MONETARY STABILITY

As regards inflation, two years ago the accumulated rate for the previous twelve months was 400 per cent, a year ago it had fallen to 200 per cent and today it stands at 79.8 per cent. We hope to close the present year with a rate of inflation well below 70 per cent, so as to return during 1978 to the normal levels of the past and move on in later years towards monetary stability.

Bearing in mind that this Government assumed office when inflation was moving at rates of 800 to 1,000 per cent a year and bordering on galloping inflation, it is no exaggeration to describe the progress achieved in this field as a genuine feat, which every Chilean can see for himself, since price increases are much less frequent today and are not as sharp as in years gone by.

It is important to emphasize that this has been achieved without resorting to widespread price controls, which cause a scarcity of goods and distortions in the allocation of resources. Those people who favoured the dangerous mechanisms of State and bureaucratic control as the only conceivable means of checking inflation are now fully discredited.

With these resounding successes in the balance-of-payments situation and the battle against inflation, the country has been able to give greater attention to the third priority, namely, reactivation of our production.

While keeping to the main lines of our economic strategy, we have introduced the adjustments and modifications required for pragmatic management of our economy, but we have refrained from adopting measures which, although attractive over the short term, might be prejudicial to the solvency or future growth of the country.

The measures designed to foster the reactivation of production are many and important. They include, it must be stressed, special improvements in wages and salaries, reductions in taxes, reductions in bank liquidity ratios, reduction of certain social security premiums, an increase in funds to finance housing for middle-income and low-income groups, and the new system for depreciation of investments.

Since I cannot go into them all in detail here, I will refer briefly to the first three.

I should recall that in January of this year, as I stated in my previous Presidential Message, salaries on the uniform scale for public servants were increased and a special bonus was also fixed for lower incomes.

In May last, there was a further increase in government pay, mainly through higher seniority and professional allowances, and the creation of a responsibility allowance. At the same time minimum incomes were raised and a sizeable figure was set aside for increasing the remuneration of full-time university teachers.

As regards taxes, the Government wishes to stress that for the first time in many years substantial reductions have been made in the rates of a number of them, such as the single labour tax (impuesto unico al trabajo), which affects wage earners, the surtax (impuesto global complementaris), the business tax and the tax on transfers of real estate. This has increased the cash income of many Chileans, giving them greater purchasing power and thus spurring on our economy.

160 PER CENT INCREASE IN CREDIT

Furthermore, the successive reductions in the liquidity ratios of the commercial banks have led in the past year to an increase of 160 per cent, in real terms, in the volume of bank credit in national currency, creating more credit for productive activities and gradually bringing down interest rates.

The best proof of a surge in the economy is to be seen in the marked improvement observed this year in practically all sectors of national production, which has made for substantial increases in employment and real wages and, in general, has started to raise the standard of living of Chileans.

Thus, I can inform the country today that the national product will rise this year by more than 8 per cent and, although the base year refers to a previous depressed period, it is in itself the highest rate of growth that the country has shown in the last 20 years.

It is the result of higher production in all sectors of the economy, and particularly in the industrial and agricultural sectors.

In fact, industrial production for the first half of the year was 11 per cent higher than for the same period in 1976 and present production, compared with the same period for the previous year, shows an increase in the region of 15 per cent.

As regards the agricultural sector, production this year has been well above that of a year ago.

Indeed, agriculture greatly increased its production of traditional items, so much so that in the "14 main crops" it rose by more than 30 per cent, despite a small reduction in acreage, which is evidence of a major increase in the yield per hectare and is a practical demonstration of the importance of efficient production.

Among these 14 crops, wheat production increased by 40 per cent, attaining a level which places it among the three highest for the last 20 years, and production of the various pulse crops moved up between 60 and 93 per cent, with figures that are on the whole the highest for the last 12 years.

The real size of these gains can be appreciated when it is further seen that, for the fourth consecutive year, non-traditional agricultural exports have continued to rise sharply.

Altogether this shows that the agricultural sector is responding satisfactorily to the opening up of international markets that is part and parcel of our economic development plan, and explains why this plan especially favours those sectors which make intensive use of our rich natural resources.

Of course, these remarks do not mean that each and every one of the subsectors and the enterprises in Chile is in a position to reflect the favourable situation of the economy as a whole. In some of them recovery has been slower, and a small number of enterprises have also been forced to close down or to pass temporarily into the hands of provisional administrators appointed by the Government, in order to solve their economic and financial problems in keeping with generally applicable standards.

In these circumstances, the opponents of the Government have joined with certain opportunists in an attempt to magnify the crisis that has affected a very small number of enterprises and the readjustments in production that have had to be faced by others, so as to present them as a mark of the failure of our economic management.

WHAT THE CRITICS WANT

Unfortunately, those alarmist outcries are sometimes readily echoed by a public unaccustomed to seeing some enterprises close down or change course. To that sector of the public I address myself this morning with special insistence, urging it not to be deceived, for what our critics want is an allocation of substantial resources by all Chileans so that a few entrepreneurs will not lose their capital.

These are the same people who yesterday permitted or benefited from the existence of inefficient enterprises through guaranteed State purchases and subsidies. This is one of the most serious wrongs inflicted on the majority by demagogic populism, is especially harmful to the poorer classes, and this Government, in the name of true social justice, has put an end to the practice, unmasking in this way the false saviours of the people, who are trying to get up to their old tricks behind the scenes.

We cannot accept the strange belief that the entrepreneur always shows a profit and never a loss, for it discredits the real, difficult and momentous task of the genuine entrepreneur, which is to initiate new activities and take on the risks involved. Moreover, experience shows that it is the only proper way to bring about a real improvement in our economy and in production.

Closely bound up with the start made in reviving production is the substantial drop in the rate of unemployment, which a year ago reached 18 per cent in Greater Santiago but has now fallen to 13 per cent, and the figure is still lower in terms of the country as a whole. It is important to stress that in the last 12 months the number of employed in Greater Santiago has increased by approximately 100,000.

At the same time, real wages, which in 1976 rose by 12 per cent over 1975, will mark an increase this year of more than 20 per cent compared with last year. I attribute special importance to this figure because when we speak of an increase in real wages, in other words, an increase over and above the rate of inflation, we can see an effective step-up in the purchasing power of wages and salaries, and therefore, an improvement in the standard of living of Chileans.

I recognize that, in spite of these significant advances, the rate of unemployment continues to be high, and the income of many who live on a wage or salary is still meagre.

I am not among those government leaders who live in a dream world, for my constant contact with all classes of Chileans enables me to appreciate their efforts and their privations, and the sorrow that this induces in me as President is the greatest spur in dedicating myself fully to the task of securing continued progress.

However, with the same realism, I believe that the Chileans cannot give way to selfish and irresponsible rumours which try to spread weariness and discouragement in the struggle, because there is one incontrovertible truth which I can today proclaim with genuine pride: in spite of all the detractors and sceptics who have tried so often to misrepresent it, the economic programme applied by the Government has been a resounding success.

With the same conviction with which, as President of the Republic, I have in the past been obliged to maintain unswerving implementation of the programme, feeling on many occasions the weight of stubborn incomprehension, I today call on my countrymen to hold to the faith that the general economic progress of the country will continue to lead on to a gradual but steady improvement in every home.

In this connexion, I have recently been keeping in close touch with workers and trade-union leaders so as to gain information at first hand of their concerns and views, a task I shall continue to pursue because of the great importance of their problems in the context of the Government's preoccupations.

The economic forecast for the years ahead causes anxiety in certain circles, which fear that the country does not have the investments needed to sustain a high rate of growth.

In this respect it must be pointed out that the private sector has made growing efforts to invest in a number of projects which, taken singly may not seem spectacular, but taken together are highly profitable to the country, as can be seen in the case of non-traditional exports.

But it must be added that the country has been moving ahead with profitable public investment projects in various key areas.

PUBLIC INVESTMENT

For example, the thermoelectric power station "Ventanas II" came into operation this year with an installed capacity of 210 MW, at a cost of \$90 million. The hydroelectric power station at Antuco, with an installed capacity of 300 MW, is under construction at a total cost of \$200 million. In the next two years work will be starting on the hydroelectric power station at Colbún-Machicura, with an installed capacity of 500 MW.

Furthermore, a year ago the National Petroleum Enterprise (ENAP) began drilling for oil in the Straits of Magellan, starting on a project which will in the end involve an investment of approximately \$400 million. Twenty wells have been drilled so far and it is expected that next year substantial quantities of oil will have been brought ashore.

Similarly, in the months to come the Pellet Plant at Huasco, with a total investment of \$200 million, will be starting operation and will be using low grade iron ore, thereby increasing the inflow of foreign exchange.

In addition, there have been public investments in housing, the Santiago Underground, schools, hospitals and rural first-aid units in the large copper mines and in many other areas.

In the years ahead public investment, and particularly private investment, will increase steadily, financed both by greater domestic savings from higher incomes and by the increasing flow of external capital; all of this will make it possible to maintain high rates of growth, well above the traditional rates.

As I pointed out in my two previous Presidential Messages, the long-term targets of the socio-economic strategy now under way are in essence three: a re-allocation of our productive resources to those sectors in which we have the advantage of efficiency, a reshaping of the subsidiary role of the State and a constant balance between economic development and social progress.

A key element in the re-allocation of productive resources is our opening out to international trade, decried by some who argue that Chile will not have the industries to produce all that it needs and that our producers will face the serious and unnecessary danger of disappearing any moment as a result of foreign competition. There are also those who look with concern at imports of a larger number of so-called luxury goods.

People who put forward arguments of this type forget that in order to import one product another product of similar value must be exported by some other part of our productive system, thereby generating economic activity and employment. It is for this reason that the Government can justifiably inspire confidence in entrepreneur and worker alike, for the system now being applied does not expose Chilean production to unreasonable or unmanageable risks.

SOUND DEVELOPMENT

Our tariff policy will permit the emergence or the consolidation of efficient industries using advanced technology, and it is also strengthening the foundations for sound development in agriculture, mining, forestry, fishing and other areas

that are generally labour-intensive and at the same time diversify our foreign sales, thereby cushioning the traditional effects on our economy of sharp variations in copper prices.

Hence, nothing can be more absurd than to criticize our opening out to foreign trade and to invoke reasons of national security. Such a mistake can come only from trying to apply to Chile models that may be useful for countries with other productive structures and natural resources, and it is not surprising that the arguments are inconsistent and have been outdated by recent world economic experience.

A lower customs tariff, in addition to contributing to the maintenance of a favourable rate of exchange, promotes key exports, facilitates imports of products and inputs, is of direct benefit to the Chilean consumer and is the best protection against monopolistic practices, reasons which more than justify the maintenance of the present tariff policy.

LUXURY GOODS: ONLY 7.7 PER CENT

As regards the so-called luxury goods, the country should know that imports of non-food consumer goods amount to only 7 per cent of total imports, the remainder being made up of foodstuffs, fuels, industrial raw materials, intermediate products and capital goods.

The second of the targets mentioned, namely the reshaping of the subsidiary role of the State, is still important because it is one of the keys to socio-economic progress and, in particular, a means of guaranteeing the true freedom of man by ridding him of the suffocating yoke of State control.

In keeping with the principle of a subsidiary role, the State has concentrated on specifically State functions which, because of their very nature or de facto circumstances, cannot or are not easily assumed by private persons.

Accordingly, national planning is now based mainly on the use of indicative tools, and for this reason, with great assistance from the National Planning Office (ODEPLAN) and its Regional Secretariats (SERPLAC), the "National Indicative Development Plan" and "Regional Development Plans", both of which cover the medium-term, and the "Long-term Policies" for each sector, have been prepared; all of them are to be published soon.

Finally, as regards the constant balance between economic progress and social justice, an important aspect is the priority action by the Government in favour of the neediest sectors, and cases of extreme poverty in particular, so as to alleviate the impact on the poorest households of socialist waste.

SOCIAL EXPENDITURE

Chileans should grasp the fact that, in 1977, 52 per cent of total government expenditure, leaving aside only the payment of the external debt, is allocated to social sectors for the benefit of the most needy, compared with 28 per cent for corresponding programmes in 1973.

In addition, the growth in employment and in real wages has increased the share of wage earners in the national income, and it already matches the highest percentages of the previous decade.

Infant mortality, the dreadful scourge of underdevelopment, has shown a marked decline. In 1970 it was 79 per thousand, during the previous Government 69 per thousand, and has now fallen to 55 per thousand. A similar drop has occurred in maternal mortality, which is 12 per cent lower than in 1973 and 30 per cent lower than in 1970.

Among the programmes of direct assistance to the neediest, the most important this year are the distribution of approximately 35 million kilogrammes of milk and protein foods to 1,800,000 babies, nursing mothers, pre-school children and pregnant women, three times the amount distributed in 1970. At the same time, the National Kindergarten Board has in these last four years extended its coverage from 10,000 pre-school children to 40,000. These facts, among others, mean that the percentage of children in Chile suffering from malnutrition is the lowest in its recent history.

In addition, we can point to continuation of the Minimum Employment Programme, with emphasis on training for the future; the Assistance Programme for the Aged, which covers persons over the age of 65 who are without means; the programme of free textbooks in all State schools; and the Social Housing Programme for eradicating the "shantytowns", which can boast of an achievement of special social and moral significance in clearing away that running sore the Zanjón de la Aguada, the disappearance of which is a sign of the social spirit and the unity that guide the Government and the Chilean nation today.

These concrete irrefutable achievements show up the empty words of those who, when they were in power, did not know how to satisfy the needs of our most neglected compatriots, and the shallowness of those who, despite their high position of responsibility, thoughtlessly question our plans and programmes.

The response to the Government's social action shows, in contrast, that the people have been able to appreciate its broad aims.

There can be no more eloquent proof of this than the fact that the fourth anniversary of our National Liberation being celebrated today marks the culmination of a broad and intensive campaign of social action, with the heartening watchword "Chile is working for Chile".

This campaign reflects a full year's work and the lasting inspiration of a Government and a people who realize that a united nation can be built up only through an active commitment, shared by those who have the greatest of respect for the destitute, for only then does the word "compatriot" acquire its deepest meaning.

NATION OF BROTHERS

I have tried to show by my own attitude the true moral stock which nourishes the growth of a nation of brothers, a concept I remember mentioning in my first statements to the press on the day after the pronunciamiento. And if the work of

a President does not enable him to devote all the time he would like to direct social action, my efforts have been more than matched by those of my dear wife, whose untiring dedication to the service of the neediest fortifies my inner strength and shows how social justice can be built up on generosity and not envy, on love and not hate.

I express today the sincere thanks of the Government which I head to all those organizations and individuals who have taken part in the Social Action Campaign, co-ordinated by CEMA-Chile (Mothers' Institutes Co-ordination Centre) and the Ministry of the Interior, in which such important work has been done by the Municipalities, the basic unit of the organized community throughout the nation.

In this task all ranks of the armed forces and the police have again been conspicuous for their unceasing and wide-ranging social work in every part of the country and have afforded proof of their efficiency and the complete identification of our soldiers with the people.

And once more, above all else there has been the exemplary vigour and the moving self-denial of the Women of Chile, so fittingly represented in this praiseworthy work by the distinguished wives of the members of the Government Junta and by those of all the members of the armed forces and the police, their wholehearted dedication, together with that of thousands of women in civilian life among the voluntary workers of the National Women's Secretariat, is further proof of the rock-like steadfastness of the Chilean family and an admirable example of Chilean qualities.

THE HOME FRONT

On the home front, the country is marking steady progress towards a return to normal law, in the context of a state of emergency which has ensured for Chileans, during this difficult stage of our history, a climate of order, security and respect that very few nations can display in a world largely plunged into terrorism, violence and disorder.

An important landmark in this process of a return to normality was the release of all those detained under the State of Siege that began in September 1974 and was virtually completed by November last.

The Soviet Union maintained a guilty silence when, from this very rostrum exactly three years ago, we called on it to release even a tiny proportion of the hundreds of thousands of political prisoners who pass their lives in its prisons, asylums and concentration camps, but we still pointed an accusing finger in an effort to stir the consciences of the many who were indifferent, apathetic or cowardly.

And when the scepticism that our attitude would produce any practical results was at its height, on 17 December 1976 the world was stunned by the release of the Soviet intellectual Vladimir Bukovsky, who but for our efforts might have spent the remainder of his life deprived of freedom, like so many men and women who have had the courage to oppose an amoral, oppressive and degrading system.

FOR THE FIRST TIME

The event is still too recent for its full significance to be appreciated, but I am sure that the history of this century has a special place for that day on which, for the first time, the Soviet Union actually had to recognize that there were political prisoners under its régime and for the first time, had to bow to another nation and release one of their number.

That page in world history will record that this first and perhaps decisive defeat of the biggest imperialist giant in the world was not due to the pressure brought to bear by a great power but to the moral force of a small country called Chile, which again demonstrated to the world that the strength and the courage to defend spiritual values are the irreplaceable means of conquering those who try to trample on liberty and the dignity of man.

DINA: ERRORS AND CONTRIBUTION

In another respect, the progress in our domestic situation recently enabled the Government to do away with the Department of National Intelligence (DINA), a body set up to come to grips with the toughest phase of subversive action and, while some mistakes were difficult to avoid in such a stubborn task, it has to be remembered that it contributed in no small manner to the peace and tranquillity of the entire population.

The fact that we had several months to prepare for it to be replaced by a new body better suited to our present situation meant that the changeover could take place without any risk to the security of the State and each and every Chilean. The essential function of the National Information Centre that has been established is predominantly one of providing information in the field of security, as distinct from the executive tasks which had exceptionally to be assigned to the body which preceded it.

As regards the State of Siege and the curfew, the Government believes that conditions still do not warrant lifting them, and they therefore continue without change.

IT WILL BE POSSIBLE TO LIFT THE MEASURES

However, if the course of events still shows the present signs of a progressive return to normal we believe that it will be possible to lift or ease these measures soon. It must be absolutely clear that this will be done when the domestic situation is right, and not with outside pressure or suggestions from anyone, since it is the Government of Chile and no other which bears the higher responsibility of guaranteeing the security of 10 million Chileans.

At a time when the subject of human rights is winning the attention of the most important international forums, I consider it appropriate to reiterate some basic views in this connexion, since respect for the natural rights of the individual which are solemnly enunciated in our Declaration of Principles is also part of the invaluable assets of Chile's historical heritage and of our national spirit.

A country's respect or disregard for human rights can be judged accurately only by weighing up the real situation of that society as a whole over a period of time, in order to discern the underlying tendency and thus avoid any distortion in the unchanging view from a mere photograph.

Furthermore, many of the opinions expressed on this matter do not seem to take note that a Government may not only violate human rights by acts of commission, if it is unjust to its citizens, but also by acts of omission, if it does not deal effectively with groups, persons or situations that threaten those very rights.

Human rights are not respected when a nation is rashly exposed to totalitarian aggression, for the triumph of aggression means the end of all freedom for individuals.

Nor are human rights respected when the lives, security and property of the people are left to the mercy of terrorism and the Government does not do its utmost to overcome it.

Finally, human rights are not respected when demagoguery is encouraged or tolerated, since it stands in the way of the social and economic development which is essential if the inhabitants of a country are to have access to the life of dignity that is a fundamental right of every human being.

When a Government like the Government of Chile decides as an exception to suspend or restrict certain rights because Marxist-Leninist ideological or terrorist action have to be neutralized and routed or the country has to be raised up from the moral and material depths into which it has been plunged by demagoguery, it is in no sense violating human rights - it is instead protecting them and guaranteeing them. Furthermore, if it did not impose these indispensable restrictions, it would indeed be violating, by complicity or omission, the fundamental rights of the human individual.

Again, the safeguarding of these most basic of human rights is in such cases the only means of securing a gradual and timely restoration of the full exercise of lesser rights which have been temporarily suspended or restricted as a result of an abnormal situation.

Only with these basic criteria is it possible to make a serious, profound and objective judgement, on a subject which involves all of us who believe in the spiritual dignity of the individual, and particularly those of us who are inspired by the concept of a nationalist and christian humanism.

Along with the return to a normal co-existence among Chileans, the Government has continued to make progress in establishing a new political and institutional system to replace the one that perished for ever on 11 September 1973.

Thus on 9 July last, on the occasion of the celebration of Youth Day from Chacarillas I explained to the country the guidelines of the new democracy we are building and I sketched out the over-all plan of the various phases that will bring it to fruition.

As I expressly stated at the time, I knew that it would arouse the ambitions of individuals and groups and that it would be used by some in an attempt to create confusion about my words.

However, I felt that, above and beyond those disadvantages, the President of the Republic was duty bound to trace out a political and institutional path for the country, listing the essential targets for direct action by the vast majority of the people who hope that the events of 11 September will lead to a stable and creative future for Chile.

THE SUBSTANCE OF THE CHACARILLAS STATEMENT

The Chacarillas statement reflects firm convictions, long nurtured by the Government, and for that reason its basic substance is not open to unwarranted changes.

I wish to state emphatically this morning that people are mistaken if they believe that this Government is taking a harder or a softer line, depending on the response to its actions. Nothing of the sort, gentlemen. This is not a demagogic Government being pushed off course by fleeting or selfish pressures. This Government is not taking a harder or a softer line - it is unswervingly following a clear and unalterable course.

The challenge of bringing forth a new institutional system must lead us away from the danger of inaction and from its complete opposite, namely rashness, for either of them would foil our plans.

Inaction would mean an imbalance between change in the body of society and the answer provided by an institutional system and this always produces tension or violent conflict. Rashness, on the other hand, would take us rapidly back to the same situation of politicking, demagoguery and a power vacuum that led us to the worst disaster in our history.

This is why, in the statement I made on 9 July last, I reaffirmed the idea that the Government has chosen the path of gradually giving shape to a new democracy whose main features, which I also outlined, will show it to be authoritarian, safeguarded, unifying, based on technical expertise and offering genuine social participation.

I pointed out that in order to achieve this we would have to move on little by little from the present stage of recovery to a stage of transition, and then to normality or consolidation.

I was equally explicit in emphasizing that a fundamental difference between these stages would be the changing roles of the armed forces and the police on the one hand, and of the civilian population on the other, as well as the changing nature of the legal instruments governing each stage.

Lastly, I gave a complete itinerary for this process, outlining its institutions and a tentative timetable.

Voices have been raised in objection but they are concerned solely with the timetable for holding elections.

They fail to grasp that the essence of the plan lies in building up firm foundations for the new democracy; so far as they are concerned, the only thing is to hold elections soon at all levels, and the time fixed by the Government seems to them too far off.

THEIR SLOGAN AND THE KNOCK AT OUR DOOR

Today I feel it my duty to state boldly that many of those who think this way are the same groups and political leaders who, a few years ago, were repeating the slogan that "only democracy can save democracy", but that when the moment of truth came, knocked on the doors of the armed forces and implored us to save the country from impending communist tyranny.

They would rather forget that now and disguise their frustrated ambitions and their mediocre ability to make any genuine contribution to the creation of the new institutional system. They are again setting themselves up as the guardians of democracy "pure and simple", as they have the effrontery to say.

What do they have in mind? A return to the same system that brought us to chaos and to the brink of civil war? That isn't being democratic. That's being irresponsible or demagogic, which is quite different, and for this reason their designs will face the insurmountable wall of this Government and the Chilean people.

Equally incredible is that there are others who suggest that a whole generation would be frustrated, for the simple reason that there are no elections for a number of years, but they disregard the fact that few generations had had the challenge of living through a moment in history which offered more creative opportunities.

Universal suffrage is an acceptable and appropriate means of establishing most political authorities, but it does not in itself carry the magic guarantee of certainty, nor does it always faithfully express the deepest will of the nation.

Elections held in a degrading atmosphere of hate, demagoguery and personal insults, will produce very different and far more unfortunate results than elections held in a climate of social harmony, responsibility and respect.

PREPARATION FOR SUFFRAGE

Therefore, suffrage must in future be set within a suitable framework, so that it will be healthy, reliable and constructive. This is precisely the crucial task that faces Chile in the years ahead and is being pursued in the new democracy to which we referred earlier.

It is the duty of a sound institutional system to protect democracy from its enemies, the two most dangerous being totalitarianism and demagoguery. An essential aspect of the struggle against the threat of totalitarianism lies in maintaining an intransigent and permanent legal ban on any acts designed to promote Marxist-Leninist propaganda or its concept of a society based on systematic furtherance of the class struggle.

Nevertheless, together with this legal measure, efforts must be made every day to bring out the values of our Declaration of Principles and our infant institutions, as an alternative genuinely capable of offering the country the best combination of moral and material progress secured in justice and liberty. It must not be forgotten that the battle for freedom against communism will in the end be resolved in the arena of the intellect and the mind.

A democracy that is also safeguarded from demagoguery must further reduce the dangers through other key elements which must be strengthened in the near future, in some cases by continuing a task that has already begun.

One of the most important is the need to ensure that the media operate within a framework which, while respecting and exercising genuine freedom of expression, offers a guarantee that it will never be possible to return to the excesses of the yellow press which held the reputation of others up to ridicule and poisoned our national existence. This calls for comprehensive updated legislation in this respect, but it also requires the indispensable co-operation of practising journalists so that their conduct will create an ethical conscience that is always more effective than any law.

Similarly, it is especially important to have as soon as possible a law that will supplement Constitutional Act No. 3 and set up tribunals of experts with full authority to resolve labour disputes, when these reach the stage of arbitration. The departure of strikes as a valid means of solving these disputes and their replacement by peaceable, equitable and lawful methods is a cornerstone of the new institutional system, and the reason why greater efforts have to be made to establish a fresh modern concept in such an important field.

In another area, the Government feels that one of the most important weapons against demagoguery is to provide the Central Bank in future with suitable technical independence, so that monetary management of the country will be freed from the appetites of those who turned the issuing of money and all its repercussions into irresponsible blandishments in the service of their political interests.

In speaking of a unifying democracy, we have emphasized the need to strengthen the awareness in all Chileans of the National Objective and the constant aims of the nation, which will unite our compatriots and give continuity to later Governments, in every field of importance to Chile and of common interest to all its sons and daughters, without prejudice to their legitimate differences of opinion with regard to other issues.

In this respect, I attach great significance to the long-term policies I mentioned earlier, since their implementation will make it possible to appreciate the value of a tool that must become part of our institutional system in its final form if the country is to be guarded against the damage done to it by the continual and sweeping changes that took place in the activities of the State whenever a new Government came to power.

The natural corollary to what I have described is a democracy based on technical expertise, since the inclusion of technical experts in the decision-making process of the legislature and Government will, provided that their contribution is substantive, independent and of genuinely high calibre, confine

ideological debate to its proper field and vest the political and institutional system with the necessary stability. Our intention is not to deny ideological doctrines their appropriate place but to ensure that they are not used to mask ignorance and demagoguery.

This has inspired the idea that a third of the members of the future Legislative Chamber should be appointed in their own right or chosen by the President from among Chileans who have played an eminent part in national life and can thus offer a fund of experience backed by disinterestedness. Technical experts should also participate at all times in the working commissions of the Legislative Chamber.

AN OLD FASHIONED MENTALITY

This has also been criticized more than once on the grounds that the appointments would not reflect the wishes of the people, since they would not be the outcome of an election. We regret to say that we do not share these misgivings, for we cannot agree with those whose ideas are bogged down in the dogmas of the French Revolution, even though nearly two hundred years have gone by since then.

Meanwhile, our country has taken the first but highly significant step of establishing the Council of State, for whose admirable and efficient work I wish to express deep appreciation on this solemn occasion. I have asked the President of the Council to make a general report on the work of the Council during its first year of operation in order to keep the public informed of the calibre and scope of its activities.

The ideas I have stated led the Government to dissolve all the traditional political parties in March of this year.

As I explained in my address to the country on this and other topics on 18 March, it does not mean that we disregard the necessary role of political groupings in any democratic institutional system as vehicles of public opinion. Its purpose was to put an end to the existence of the traditional political parties whose practices, leaders and mentality had been shaped by a particular institutional system which gave them characteristics and a role that are very different from those they must have in the future.

The new institutional framework categorically rejects the restoration of a system in which political parties were regarded as legal entities under public law, were turned into monopolistic intermediaries in which the people were forced to take part and sheltered gigantic power machines set up with undisclosed funds that mostly came from abroad. All this made a mockery of the voters and constituted a threat to national sovereignty.

REVITALIZATION OF INTERMEDIATE BODIES

We believe that universal suffrage is a valid form of participation, but not the only one. That is why we assert that the new democracy must be one of genuine social participation, which entails the cleansing and revitalizing of the bodies - national or local, functional or occupational - that lie between the people and the State.

The number of neighbourhood associations, trade unions, student organizations, professional bodies and employers' associations and their independent contributions should progressively increase, provided it is clearly understood that their activities must not overstep their own proper bounds.

Consequently, we have rejected the idea of transforming these groupings into the nurseries for future political power, as the corporativism advocates, since it would utterly distort their true purpose and turn legislative decisions into the mere product of agreements between vested interests, something which is wholly incompatible with the good of the nation. This possibility was therefore dismissed by the new institutional system from the very beginning.

With regard to true social participation, the nation must realize the historic implications of the process of regionalization, which can actively integrate all parts of our country into the social and economic development process and, together with the administrative reform now under way, make Chile a flexible modern State and strengthen personal and social freedom so as to withstand the threat of totalitarianism.

In this connexion, I would like to draw attention to the impressive work of the National Commission for Administrative Reform (CONARA), whose co-operation in this task has been highly creative and effective.

The plan we have described for a safeguarded and unifying institutional system, based on technical expertise and true social participation, nevertheless requires some guarantee of permanence, and this is what we have called authoritarian democracy. Only with authoritarian democracy will it be possible for the right of universal suffrage to be exercised in an appropriate setting.

When we speak of an authoritarian régime we are, of course, referring to a concept that is deeply rooted in our national traditions and was embodied in the Portales régime, known to history as the authoritarian Republic.

THE STAMP OF DEMOCRACY

Our own concept of authoritarian democracy, which is the exact opposite of arbitrary tyranny, derives from this period whose democratic nature has been universally recognized. Authority is the juridical and moral force which imposes an objective and impersonal rule of law, through respect for independent courts of justice empowered to enforce their decisions. Consequently, authoritarianism is not incompatible with democracy; on the contrary, it complements it and vests it with the means to survive in the service of freedom and the law.

As an intrinsic element in an authoritarian democracy, the institutions of National Defence must be allotted the legal role incumbent upon them as a future Security Force which, outside the realm of politics, will have to be restructured to represent all that is most durable in the nation and perform its noble protective task.

In the delicate work of drafting the basic legal texts for the new institutional system, the Study Commission for the New Constitution, which has carefully and responsibly carried out the noble mission entrusted to it by the Government, will continue to play a very important part in the future.

However, it will be evident from my statement this morning that the challenge of creating a new institutional framework goes beyond matters of law and calls for the co-operation of the whole of the people in a task which must set its stamp on all national activities.

This is why, despite the lack of understanding among certain groups, I who am now addressing you as your President, am encouraged by the support from the vast majority of the people and especially from young Chileans.

It is the young Chileans who, in a spirit of complete independence but with unflinching generosity, have taken on the responsibility of building a new Chile and a new institutional system. Their response is the best proof that we are correct in our interpretation of the signs for the future and it encourages us to move ahead along the path we have marked out.

Fellow countrymen:

In the course of this year the armed forces and the police have succeeded in maintaining their high professional standards, thereby guaranteeing that the various requirements of National Defence have been fully satisfied.

This has been achieved in harmony with the contribution that many officials in our military institutions have continued to make to the Government, although their only reward has been additional sacrifices both for them and for those called upon to redouble their efforts within these institutions. We are profoundly grateful to all of them.

These efforts, however, are inspired by our profound love for Chile, which gives us the strength to remain indissolubly united now and forever in the service of our country, since our unity is sealed by a solemn oath that no Chilean soldier has ever broken.

The supreme symbol of this institutional cohesion is the identity of purpose that distinguishes the members of the Government Junta, whose concerted and fruitful work has, as its sole objective, the welfare of Chile.

In celebrating the fourth anniversary of the National Liberation, let me solemnly repeat that I have never sought to further my own cause. What I am defending is the continuity of a process that is for all Chileans and of which I am a mere servant, exposed to all the hazards of man's estate.

As President of the Republic, it is my sacred duty to maintain the peace and tranquillity which the Chilean people enjoy today and ensure continued economic, social and institutional progress to bring greater spiritual and material well-being to all the people of this land.

I cannot conclude without paying a heartfelt tribute to the people of Chile - its women, its men and its young people - whose admirable qualities of character led them to repudiate, with the wholeheartedness worthy of our national inheritance, the bonds of servitude that were closing round us.

They again displayed the same strength in overcoming the disaster and every kind of chaos that were our legacy from the darkness that enveloped us for a thousand days.

Today, after four years of struggle, endeavour and confidence in our future, the nation has risen up anew, with greater strength and energy than ever before, as if the soil, made fertile by those who fell in the call of duty, had brought renewed vigour and once again given birth to that national spirit which some sought ruthlessly to destroy.

We are advancing now with a firm and steady step towards the goals we have set for ourselves. We appeal to Almighty God for His help and protection in this task so that, in His infinite wisdom, He may guide the steps of this youthful nation which has faith in the future.

I call upon the name of our beloved country, which has never failed to rally its sons and daughters in times of despair and times of hope, and raise with them the heartfelt cry of

LONG LIVE CHILE!

ANNEX VI

Statement made by the President of the Republic of Chile on 21 December 1977

Compatriots:

Tonight, in addressing all the people of Chile, I am convinced that we are living through one of the most decisive moments in the history of our fatherland.

Chile has just fallen victim to a resolution of the United Nations General Assembly that goes beyond all acceptable bounds in falsehood, injustice and insult to our nation.

Once again the subject purports to be our situation with regard to human rights, and the resolution describes an alleged situation in Chile so utterly remote from the truth that, but for the insolence with which it affronts the dignity of our country and the seriousness of its political significance and intent, it would simply deserve to be ignored by Chile with the contempt of indifference.

However, it is precisely the inescapable duty of defending our national dignity and our sovereignty that now requires us to confront this international aggression in its entirety, with the courage and the bravery that are the mark of our race.

According to the latest United Nations resolution, we Chileans are living in a country ruled by terror and brutality. No other meaning can be attached to the assertion that the prevailing situation here is one of systematic intimidation through torture, attacks on personal freedom and integrity, and disappearance of persons for political reasons - allegedly going on all the time.

I fully realize that all my compatriots again have the feeling that they are faced with a grotesquely false description of our situation: a feeling that has overtaken, without exception, the countless responsible figures who have visited us with an open and objective mind. But their impartial testimony means nothing to the United Nations.

Nor is it of any interest to the supreme international forum that the regional organization to which Chile belongs, namely the Organization of American States, has for two consecutive years adopted resolutions of a very different kind concerning the situation with regard to human rights in our country, thus putting an end to the discriminatory position we were in on this continent and recognizing our progress in restoring to normal a country that is emerging from the worst domestic crisis it has ever lived through.

In words all admit that inquiries into human rights should be conducted by objective and universally applicable methods, but when the time comes to adopt resolutions which will put this into practice, they are invariably rejected; that does not prevent the hypocrisy of selective discrimination against us from continuing.

When the time comes to vote and to decide, the victim is Chile, always Chile and only Chile. Meanwhile the dozens of nations whose Governments really do violate human rights, totally and systematically, remain deliberately forgotten. The suffering of those oppressed peoples is of no concern to the United Nations. Before the outrages of the mighty, or of those who are protected by some great Power, it finds the cowardly complicity of silence more convenient.

This crude and dramatic reality, which many recognize in private but which the vast majority sidestep in public, is a symbol of the moral decadence that seems to hold sway over mankind today. By a strange paradox, the effects of that decadence are visited on a nation like Chile, whose past and present afford an example of faith in unchanging spiritual values.

And as if all this was not enough, it so happens that our fatherland is subjected to an international judgement in which the verdict is given on the basis of the reports of an investigating commission that has conclusively demonstrated its complete lack of impartiality and objectivity and whose activities are not governed by any of the legal rules which, according to the Charter of the United Nations itself, are necessary for due process.

Chile has always recognized that the protection of human rights is subject to two jurisdictions which must be brought into harmony. The first is the jurisdiction granted to international organizations by their own member States; the second is the domestic jurisdiction which every sovereign State must preserve as a guarantee that the first will not be turned into a weapon for use against the principle of non-intervention in its domestic affairs or against the right of every nation to determine its own destiny.

To delimit the exact scope of each of these two jurisdictions is specifically the task of the international community if it sincerely aspires to enable sovereign States to accept international jurisdiction in this or similar matters.

It was on this understanding that our country, with the simplicity proper to a healthy-minded people, agreed that the United Nations Commission on Human Rights should establish an Ad Hoc Working Group on the Chilean situation in this matter at the beginning of 1975.

However, the lack of any legal guarantee of due process and the inappropriate and discriminatory behaviour indulged in from the outset by some members of the Working Group, together with other powerful reasons, compelled me to cancel the visit which the Group planned to pay our country in the middle of that year. I did so in the course of my sacred duty to defend the dignity and sovereignty of Chile, in which I shall never waiver even if it costs me my life.

However, that has not prevented our Government from co-operating broadly with the United Nations Working Group up to now, as one more proof of our lofty sense of legality.

Unfortunately the Working Group's only response to this attitude has been increasingly unjust and arbitrary behaviour towards Chile, overstepping the limits of its functions to unacceptable extremes. Thus, under the screen of the wide scope that can be given to the concept of human rights, this Working Group has presumed to fix its own competence without conforming to any rules whatsoever, interfering in and passing judgement on the most varied aspects of our political, economic and social situation; in other words, it has tried to turn itself into a veritable guardian of our nation, its Government and its people.

Faced with these glaring facts, I ask the United Nations: can any Government in the world which is self-respecting and which respects the dignity of its people accept such presumption? I think the answer is obvious.

The Government of Chile has invariably maintained that it is prepared to accept international jurisdiction in matters of human rights if it is exercised in accordance with objective, uniform and generally applicable rules. On these lines I may say that the invitation to our country is open to any investigating commission, provided only that the foregoing conditions are met and that the basic requirements of due process are guaranteed, including the structure, functioning and competence of the investigating body.

We honestly believe that we have done everything in our power to achieve this, and in the future we shall spare no effort that we can make in that direction, for the cause of human rights is our cause, in keeping with the Declaration of Principles which is our guide, and we have nothing to hide in such a delicate matter.

But what we cannot accept on any account is an attempt to subject us to the present conditions of discrimination and abuse into which we have been dragged. More: if they persist, our Government will have to reconsider the attitude of co-operation it has so far maintained with regard to the current investigation, because our tolerance of arbitrary conduct has now reached its limit.

Furthermore the composition of the majority which voted against us and the very content of the United Nations resolution clearly reveal that Chile is today the victim of a political conspiracy by the great Powers which, for different reasons of their own, have not hesitated to violate every principle of fairness and come to an iniquitous agreement.

It is easy to understand that this majority has been assembled by Soviet imperialism and all its satellites, among which Cuba has been chosen to play the leading part. The defeat that our fatherland inflicted on international communism on 11 September 1973 and the significance of our present experience for the future of mankind are unacceptable to them.

On the other hand, what nobody will ever be able to justify, however many fine-spun arguments are tried, is the fact that most of the great Powers of the free world are joining in this veritable conspiracy of irrationality.

How are we to explain the fact that those who have embarked on a world-wide crusade for human rights, instead of encouraging fulfilment of the requirements of due and fair process in this case, prefer to endorse a judgement against Chile that does not satisfy any of those requirements, and that they have no objection to acting in concert with Castro's Cuba in this matter?

What rational explanation can there be when the countries of Western Europe, which have a human rights treaty that is very strict in its procedural requirements for investigation, support the process of trying Chile without any of those safeguards?

And what of the fact that countries which abstained last year are now voting against us, despite the major steps forward we have taken since then in the process of returning to normal?

None of this will ever receive any logical explanation, and these and many other questions will simply go on record as proof of the unreason which has taken over the United Nations through a process of politicization that threatens to efface the original meaning of the Organization and is now leading it to write one of the darkest pages of its own history.

At the same time I reiterate, to those Third World countries that have joined in this aggression, the appeal we have addressed to them on other occasions to ponder on the thoughtlessness of supporting the standard that has been imposed in the case of Chile, for tomorrow it could well be turned against any one of them.

The countries which are not great Powers and wish to be independent of them are precisely the ones that should strive most vigorously to ensure that law prevails in the international world, for law represents the only effective defence for those who lack the force which protects the mighty.

For the same reason, I feel it my duty to express Chile's profound gratitude to those countries which on this occasion had the courage to stand up to the murky political plot against us, thus making very plain both their conception of justice and their enlightened and independent capacity to confront the international realities of our times.

I have the satisfaction of pointing out that they again included the great majority of the Latin American nations, which are those that know us best and with which, moreover, we share the brotherhood of history and a common destiny.

For all that, I would not have considered it essential to speak to all the citizens today, had I not realized that the resolution recently adopted by the United Nations is of a special gravity towards which our people cannot remain neutral or indifferent.

Over and above the subjective intentions of the countries which voted against us, it is my sober contention that, viewed from an objective standpoint, this resolution is part of an international plan directly aimed at overthrowing the present Government of Chile and replacing it with a formula concocted abroad.

Of course, in any reference to the progress we have made in returning to normal, it is claimed that this progress is due to the efforts of the Chilean people and of the international community. In this way an attempt is made to deny the complete freedom and honest intentions in which our Government has fostered these steps, and at the same time the people of our fatherland are represented to be the comrades-in-arms of international pressure.

In other words, an attempt is being made to legitimate any outside action that may be launched against us, by implanting today the premise on which to claim tomorrow that such action is being launched in order to bring about the alleged "liberation" of the Chilean people from the alleged "oppression" they are now enduring.

Moreover this is fully consistent with certain provisions of the United Nations resolution, which go a good deal further than mere unfair judgements by urging States to attach conditions to their financial aid or to deny us such aid and, in sibylline words, even call on them to set up a fund to finance the subversive action taken against us by the so-called "resistance" that is fighting against us throughout the world.

In full awareness of what I am saying I accuse the United Nations of becoming, wittingly or unwittingly, an accomplice of those who aim at an economic, commercial and cultural blockade and isolation of our fatherland and of sponsoring financial assistance for a movement which will not hesitate to encourage ideological and terrorist subversion in the service of the totalitarianism that we put to rout in 1973.

Nor can I hide on this occasion my patriotic indignation with those bad Chileans who, in collusion with foreign aggression, are systematically slandering our fatherland and its Government and striving to pass themselves off as the legitimate representatives of the Chilean people.

Luis Corvalán, the top-ranking agent of Soviet communism for Chile, is the clearest case because he has just confessed to it openly. However, along-side the activity of Marxism-Leninism is the better-concealed hand of certain groups which profess to have democratic ideas and even to be of Christian inspiration, but whose base, shabby and anti-patriotic behaviour is leading many Governments in the free world to form a mistaken picture of our situation and to believe that foreign intervention might find a significant echo among the citizens within our fatherland.

In the light of this evidence, I declare that the Government is prepared to continue its uncompromising defence of the national sovereignty and to make further progress towards full normality and towards the new democratic institutional system, in accordance with the plans it has laid down, with the aim of reconciling freedom with security.

Our conviction that human rights cannot survive in a society that leaves a clear field for totalitarian activity or terrorist violence, because these last entail the violation or disregard of any human right, freedom or dignity, is very deep, for it stems from recent experience in Chile and from a state of affairs that we observe with anxiety in other nations.

However, the international conspiracy has become so virulent that the Government's decision alone is not enough. The need today is for a stand of personal and active solidarity to be taken by all Chileans.

Accordingly, aware of the historic significance of this step, I am summoning all my compatriots over 18 years of age to a referendum.

In this referendum every man, woman and young person of this land will have to decide in the privacy of his or her own conscience whether he or she supports the President of the Republic in his defence of the dignity of Chile and reaffirms the legitimate right of the Government of the Republic to head, with sovereign authority, our institutional process or whether, instead, he or she supports the United Nations resolution and its presumption to dictate our future destiny from outside.

In a few hours' time the Government will make known in detail how this national referendum is to be held.

Chileans:

The crucial moment has come for every one of you to declare himself in the face of the international aggression against us, which has the effrontery of claiming to voice the will of the people of Chile.

The decisive moment has arrived for our nation to reaffirm the historic deed of 11 September and, rising above minor differences, to unite again in order to ensure that its destiny will be resolved in Chile and not in the shady deals of the international great Powers.

The time has come for the Chilean people to denounce before the whole world the campaign of lies mounted against us, and to discredit the treachery of those who place their dogmas or their ambitions before the good of the fatherland.

Compatriots:

The country is the witness to my unshakable faith in defending at all times, as President of the Republic, the dignity and sovereignty of Chile. It is now up to every one of you to take a direct part in this defence.

If the people of Chile do this, and rise once again to the heights of our history's most glorious achievements, I am certain that, with this support, our beloved fatherland will gain its final victory and bequeath to our children a free, just and sovereign Chile.

Goodnight.

ANNEX VII

Memorandum concerning the National consultation of 4 January 1978

In view of the resolution of the General Assembly of the United Nations which, at its last session, condemned the grave violations of human rights in Chile, General Pinochet organized a national consultation - also referred to in official communiqués and press reports as a plebiscite or referendum - which was held on 4 January 1978.

The subject of this referendum, as officially stated by General Pinochet in his speech informing the country that the referendum was to be held, and as reflected in the text on which the nation was consulted, was:

"In view of the international aggression unleashed against the Government of our fatherland, I support President Pinochet in his defence of the dignity of Chile and I reaffirm the legitimate right of the Government of the Republic to head with sovereign authority the process of institutionalization of the country."

In other words, Chileans were faced with the dilemma of having to support Chile, which they identified with themselves, or the international aggression expressed, according to General Pinochet, in the United Nations resolution, the real meaning of which was thus distorted.

It will be appreciated, therefore, that the manner in which the subject of the consultation was expressed was clearly tendentious and calculated to take advantage of the love that all we Chileans have for our fatherland in order to legitimize the Government and obtain personal support for General Pinochet. This was so obvious that the Chilean flag was printed beside the "Yes" box - the one favourable to the Government - and a grey square beside the "No" box.

The referendum was totally devoid of legal or moral validity because it had no legal foundation and was not honest either in its procedure or in its result. The plebiscite is vitiated by the absence of any legal foundation.

The illegal and unconstitutional nature of the referendum, starting with the act of its announcement, was denounced by the broadest sectors of opinion. The objections included not only those voiced by the spokesmen of banned political parties and by such an important moral and spiritual authority as the Catholic Church which, through its highest official spokesmen, urged that the project be abandoned. The crisis extended even into the very heart of the institutional system established or allowed by the Military Junta, two of whose members - General Leigh and Admiral Merino - although they added other, political, reasons for impugning the plebiscite, devoted part of their argument to stressing the fact that the consultation was unconstitutional and illegal.

Furthermore, the Inspector General of the Republic, whose function is to verify the legality of the Executive Power's decrees, by means of the "recording" procedure, refused to process the Presidential decree announcing the plebiscite. This meant that he had to resign his post. To replace him, General Pinochet appointed one of his Ministers, who recorded the decree.

It should be noted that the scope of the "recording" procedure, the most important function of the General Inspectorate of the Republic, is indicated in article 10 of Law 10.336 - the Organic Law of the Inspectorate - which thus supplements the various constitutional provisions that establish this important body and safeguard its autonomy and independence. To safeguard this procedure the Inspector General of the Republic may be removed, according to articles 39 (c) and 42, paragraph 1, of the Constitution, only on a charge of "flagrant dereliction of duty", which must originate in the Chamber of Deputies and, having passed through various stages, be accepted by the Senate.

From the standpoint of public law, in what way is the plebiscite or national consultation that was held in Chile unconstitutional and null and void?

In view of the constitutional provisions in force in Chile up to September 1973, to refer here to the manifest illegitimacy of the referendum would be irrelevant; this can be seen by consulting article 109 of the Constitution which allows a plebiscite only when a proposal for a constitutional amendment is totally rejected by Congress, establishes the subject of the referendum and the procedures to be followed prior to it and establishes the role of the electoral boards.

The legislation enacted by the Military Junta established no new cases for or forms of referendum. Accordingly, by organizing a plebiscite in the absence of any legal or constitutional authorization, General Pinochet not only undermined the juridical and institutional system recognized under the régime of the Military Junta itself, but, more particularly, openly violated the essential principle of public law enunciated in article 6 of Constitutional Act No. 2, according to which no Government official may exercise powers other than those expressly vested in him by the Constitution and the laws. According to the same provision, any act violating that principle is null and void. As there is no provision of the law which authorizes the plebiscite called by General Pinochet, the announcement of the plebiscite and all acts stemming from it have no legal force.

It is worth recalling that the aforementioned principle established in article 6 of Constitutional Act No. 2, and the provision nullifying any act violating that principle, were reproduced word for word by the Military Junta from article 4 of the Constitution of 1925.

Since the legislation accepted and recognized by the Junta includes no provision authorizing the referendum organized by General Pinochet, an amendment to the Constitution or, under the system of the Military Junta, at least a new constitutional act would have been necessary. Under article 9 of Constitutional Act No. 2, however, such measures can be enacted only in exercise of the constituent power which the Military Junta arrogated to itself, that is to say, to its four members.

The opposition of General Leigh and Admiral Merino - who, as is stated in the letters to which reference has already been made, do not appear to have been even consulted about the project - precluded the adoption of a constitutional act authorizing a plebiscite for which provision is not made in the existing legislation.

This is why the Inspector refused to record a mere supreme decree, which was illegal and unconstitutional and which expressed nothing but the will of General Pinochet, which, as has been seen, he imposed, since the plebiscite was carried out despite the fact it was completely illegal.

The referendum was not honest in its procedure

The referendum met none of the minimum requirements necessary for it to be a serious and valid consultation (some of these minimum requirements are listed in a United Nations document entitled "Study of discrimination in the matter of political rights" (E/CN.4/Sub.2/213/Rev.1 of September 1962)).

The procedures followed in the period prior to referendum day, during the actual voting and in the counting of the votes offered no guarantees to those who disagreed with the Government's official position.

The referendum was held while the State of Siege was still in force, when personal freedoms were restricted and there was no freedom of expression, of assembly or of opinion. The country was flooded with official propaganda and had no information on the basis of which to form an opinion other than that provided or allowed by the Government itself.

The voting procedure - from the establishment of the polling boards onwards - was completely controlled by State officials or Government supporters. There were neither impartial observers nor representatives of anti-Government opinion on the boards. The same was true of the counting of the votes and the announcement of the results.

No organization independent of the Government took part in the procedure nor is there any court which can now decide whether or not that procedure was correct. It is impossible to check how many Chileans in fact voted or how they voted. The Government did not issue figures broken down by province and commune, as was customary in Chile, but merely global figures.

It is important to bear in mind that the whole operation was conducted with a rapidity unusual for any country. Only 10 days elapsed between the announcement of the referendum and the announcement of the official results.

It is interesting to note the experience of three Chileans - whose names must remain secret - who took part in the referendum and who described to me how the voting was actually conducted in the places where they voted. They said, for example, that the voting was supervised exclusively by Government supporters, that there was an unusual attendance of members of the armed forces at all voting places, that the quality of the paper used for the ballots was such that the latter could easily be seen through so that there was no need to open them to see how voters had voted, and that the public was sent out before the votes were counted, which meant that the counting was done in secret.

Since the referendum, government representatives and world public opinion have stressed the fact that it lacked credibility. It is significant that, a few hours after the announcement of the results, the United States Department of State officially stated that the referendum had not been genuine.

In Chile, various political parties, trade union organizations and eminent persons have also refused to acknowledge that the referendum had any legal or moral significance.

In view of the foregoing, I consider that the whole procedure of the referendum and its results as announced in no way constitute an expression of the civic will of the Chilean people.

(Signed): Claudio Huepe

ANNEX VIII

National consultation of 4 January 1978: exchange of
correspondence between members of the Junta

- A. Text of a letter dated 23 December 1977 from
General Leigh to General Pinochet as
communicated to the Group

FROM: GENERAL OF THE AIR FORCE GUSTAVO LEIGH GUZMAN, COMMANDER IN CHIEF OF THE
ARMED FORCES AND MEMBER OF THE GOVERNMENT JUNTA

TO: GENERAL OF THE ARMY AUGUSTO PINOCHET UGARTE, PRESIDENT OF THE REPUBLIC

It was only at 6 p.m. on Tuesday, 20 December, that you informed me that you had ordered the holding of a plebiscite or consultation of the Chilean people, so that they might take a decision regarding the United Nations vote condemning our country. I immediately informed you that I had misgivings about this order. You nevertheless called a meeting of the members of the Junta for the following day, Wednesday, 21 December, at 9 a.m., when we were to be present at the recording of the statement - of which we as yet knew nothing - that was to be broadcast to the nation at 10 p.m. on that same day. It was only then that I was able to learn of your exact intentions. From 4.30 p.m. on, when the Junta met, I spent more than two hours explaining to you why, in my view, the plebiscite which you planned to hold was altogether inadvisable. During that meeting and, as a result of our position, it was agreed that the above-mentioned statement would not contain the explicit announcement of a plebiscite. Instead, approval was given to the holding of a consultation of the people, the date, form and content of this consultation to be discussed later.

Unfortunately, the plebiscite was announced in the statement you made on Wednesday and the announcement was confirmed on Thursday, 22 December, when the press was informed of the arrangements for the vote and of the exact wording of the specific question that would be put to the people.

In connexion with these matters, I informed you that the Air Force rejects the above-mentioned announcement of a plebiscite.

The Air Force bases its rejection on the following considerations:

1. The prestige and honour of our Armed Forces and Security Forces form part of the moral heritage of the Republic. We must ensure the full protection of these values, which will be jeopardized by the holding of a plebiscite, whose organization will be supervised and whose results will be counted by the same entities.

2. Regardless of the results of the vote and of the great efforts made by our men to act objectively and impartially, we shall not be able to prevent the doubts and suspicions to which this procedure will give rise both in Chile and abroad and we shall not be able to avoid the consequences of such a loss of prestige.

This aspect of the problem is all the more serious if it is borne in mind that the best foundations for the actions of the Armed Forces and the Security Forces as members of the Government are their incorruptibility, their untarnished honour and their unswerving observance of their rules of conduct.

It is, consequently, the defence of our honour and dignity that obliges us to oppose the holding of the proposed plebiscite.

3. The Government Junta is a Military Government which assumed power as a result of a revolt unanimously agreed upon by the Armed Forces and the Security Forces, in response to the demands of the people and for the specific purpose of restoring the character of the nation, its justice and its institutions, that had been weakened. This Government thus has an important task to perform. This task is not subject to any highly transitory political contingencies. Rather, it is closely related to the proper achievement of the lofty aims we have set ourselves. The Military Government will therefore bow out when it has completed its task and all Chileans, in other words, all the nation's citizens, will then be able to assume what is their natural responsibility, that of governing their country.

There is thus no doubt that, by the very nature of their task, the Armed Forces cannot be involved in the actual political process.

We do not object to popular referenda when they relate to basic problems of a constitutional nature whose solution requires the guidance which can be provided by the majority opinion of the people, but we do reject rubber-stamp plebiscites that are resorted to by Governments in which the power exercised is personal yet requires ratification, but that are neither suited to nor worthy of an institutional military Government such as ours.

Moreover, in view of the great importance of such a procedure, the holding of a popular referendum must be subject to specific rules which will guarantee its purity and foreclude any unfounded doubts or suspicions.

It is for this reason and on the grounds of the respectability and credibility which government decisions must have, particularly those taken by a Government such as ours, agreement has been reached in the Air Force to oppose the announcement of this plebiscite.

4. The basis of the structure of the Military Government is its institutional system. In other words, it is not a Government of four people, but, rather, a Government of four institutions. Power, therefore, does not lie in any one of us, but, rather, in the Government Junta, which is vested with constitutional, legislative and executive power, as expressly provided in article 1 of Legislative Decree No. 527.

Consequently, measures of such great importance as those you have proposed can be discussed and decided upon only by the Government Junta.

Unfortunately, in this case, as in other, previous cases, we the members of the Junta, have been presented with a fait accompli, without any opportunity to have a say in the matter. This situation obviously jeopardizes the future of the Government which was established as a result of the military takeover.

We are also deeply concerned about some of the views expressed by members of your advisory group concerning the consequences, once the plebiscite has been held, and the plans and measures which have been envisaged, either for implementation or for adoption once the results of the consultation are known

5. It should not be forgotten that we have undertaken to respect the institutional system which we ourselves have established. You nevertheless called for a plebiscite, even though you were aware of the opposition of two members of the Junta. Thus, you have breached the Statute of the Government Junta and placed yourself outside it. The consequences of this action are therefore your sole responsibility.

6. The announcement of this plebiscite is contrary to the general principles of public law and to various rules expressly laid down in our internal legal order.

It is contrary to the principles of public law in the sense that, according to these rules, those who govern under the rule of law can act only within the limits of the power expressly granted to them and, in Chile, there is no legal or constitutional rule of any kind which authorizes you to announce the holding of a plebiscite.

The announcement communicated to the press on Thursday, 22 December, is also contrary to the following express provisions:

(a) Article 3 of Constitutional Act No. 2, inasmuch as you have not made your announcement of a plebiscite subject to the Constitutional Acts, to the Constitution or to the laws;

(b) Article 6, first paragraph, of the same Act, which requires the organs of the State to act within their area of competence, i.e. within the powers granted to them by the laws; no law empowers you to call a plebiscite;

(c) Article 6, second paragraph, according to which "no official, person or group of persons may, even under extraordinary circumstances, assume authority or rights other than those expressly vested in them by the laws". Since no power to call a plebiscite has been vested in you, you are in fact assuming a right to which you are not entitled; for this reason, your act is, in accordance with the provision of the last paragraph of article 6, null and void;

(d) Legislative Decree No. 537, article 1. When the holding of a plebiscite is not provided for in the rules laid down in the Constitution, this amounts to the exercise of constituent power and, according to article 1 of this Legislative Decree, such power is vested in the Junta, as confirmed by Legislative Decree No. 768. Consequently, your calling a plebiscite is in violation of the provisions of both of these Legislative Decrees.

7. Furthermore, the consultation which you have announced, being based on a resolution of an international body relating to the politics, Government and internal administration of the Chilean State, is gravely prejudicial to Chile's independence, since it limits the country's sovereignty and makes the conduct of its Government subject to decisions of foreign nations.

It is also contradictory that you, who have denounced interference by the United Nations in the affairs of the Chilean Government, should base your calling of a plebiscite on a resolution adopted by that international body.

8. Finally, I must point out that it is paradoxical that the specific wording of the question to be put to the people should call upon it to reaffirm "the legitimate right of the Government of the Republic to head, with sovereign authority, the process of institutionalization in the country". The plebiscite will obviously lose force if it is worded in terms that breach the institutional rules established by the Government and, in particular, if it requires the people to reaffirm a process of institutionalization which the Government is interfering with by holding the plebiscite.

Since 11 September 1973, the Air Force has been unswervingly loyal to the Government Junta and to the President of the Republic. Our loyalty now obliges us, in defence of the prestige of the Government and, in particular, of your prestige, to stress the inadvisability of a consultation which would be contrary to the basic principles we follow in carrying out our civic duty. It also impels us to reiterate the need to work together in completing the great task of restoration which the country has entrusted to us.

(Signed) Gustavo LEIGH GUZMAN
General of the Air Force
Commander in Chief of the Air Force
Member of the Government Junta

- B. Text of a letter dated 26 December 1977 from General Pinochet to General Leigh which appeared in the Madrid publication El Pais of 11 January 1978

PINOCHET'S REPLY TO GENERAL LEIGH

In your letter to the President of the Republic you have set forth various considerations of fact and of law that led the Air Force, through you, to adopt a resolution rejecting the national consultation which has been arranged in order to enable the nation, in the next few days, to express its opinion on the grave and unacceptable external interference in matters that are the exclusive concern of our sovereign country.

You emphasize that the unswerving loyalty of the armed force under your command now obliges it, in defence of the prestige of the Government and of the President of the Republic "to stress the inadvisability of a consultation which", in its opinion, "would be contrary to the basic principles we follow in carrying out our civic duty".

In the text of your note you also adduce arguments of a legal nature which set out to show that the President of the Republic has violated the Statute of the Government Junta and the Constitutional Acts by announcing a national consultation when there is no explicit constitutional text authorizing him to adopt such a decision and that therefore the Head of State is breaching the institutional system established by the Government itself.

In short, in your opinion, as expressed in your note, the President of the Republic acted illegitimately and ultra vires in that the resolution announcing the referendum was not submitted for formal approval to the hierarchy of the Government Junta in the formal exercise of its constituent power.

Such a serious statement, before being strenuously refuted on legal grounds, calls for certain general comments which will make it possible to define with the clarity deriving from the normative texts currently in force the competence which today devolves in law upon the public authorities of our country.

It is a fact that on 11 September 1973 the Government Junta announced [that it had assumed] full executive, constituent and legislative powers. It based itself, at the very height of the fight against marxism, on the relevant juridical instruments, namely, decree-laws Nos. 1 and 12 of 1973.

Thus the Government Junta is fully authorized to legislate and to exercise the constituent power. The judicial power deals, autonomously and independently, with matters within its jurisdiction and "the executive power shall be exercised by the President of the Government Junta, who, with the title of President of the Republic of Chile, shall administer the State and shall be the supreme head of the nation with the authority, powers and prerogatives conferred on him by this statute (article 7, paragraph 1, of decree-law No. 527, as amended by decree-law No. 806, both of 1974)".

Accordingly, the President of the Republic is under an obligation to manage the State and to this end has assumed the authority, powers and prerogatives conferred on him by the Constitution and the law. His main obligation is, thus, so to regulate the national interests as to achieve the well-being of the community and the aggrandizement of the fatherland while remaining, of course, within the limits defining the legitimacy of his actions.

The question that then arises is what are the legal limits of his action? Writers on public, political, constitutional and administrative law, even in their most elementary and universally accepted treatises, have given a categorical and incontrovertible answer to this question. It is recognized that the work of the leader in the performance of his inescapable task of "managing the State" falls into two clearly defined fields, that relating to the exercise of regulated powers and that which supposes the development of discretionary powers. The first relates merely to administrative execution of superior rules.

In your note you refer only to this aspect of the juridical action of the President of the Republic since you consider that the executive's decision to announce a national consultation on subjects of general interest is null and void because the announcement was not regulated by the constitutional rules in force which alone, in your opinion, authorize the adoption of such a resolution.

In the opinion of the Head of State, this opinion disregards the fundamental concepts of public law referred to above and, by denying the discretionary powers which accrue to the person whose duty it is to administer, converts the President of the Republic into a "puppet who only has to apply the law, not to use his judgement", as is stated by the writer André de Laudadere in his work Traité Elementaire de Droit Administrative (tenth edition, Paris, 1973).

The President of the Republic therefore rejects the statement that the referendum calling on citizens to express their opinion on matters concerning their interest and dignity would violate the institutional rules which the Government itself enacted.

The full legitimacy of the referendum is reaffirmed by the constitutional rule in force, which, on the essential bases of the Chilean institutional system, as approved by Constitutional Act No. 2, obliges the State to respect the right of each and every member of the national community "to participate in the life of the nation on a basis of equal opportunity".

The unswerving loyalty that Chile's Air Force has so far shown to the fatherland will cause its commander-in-chief and member of the Government Junta and each of its members to reflect calmly on the foregoing and to reaffirm its conviction of the need "to work together in completing the great task of restoration which the country has entrusted to us", as you say so aptly in the last part of your note.

I also considered it appropriate, in view of the fact that you inform me that your letter has been circulated to and approved by all the generals, to allow you to send copies of this to every one of them.

With the compliments of Augusto Pinochet, Deputy General of the Army,
President of the Republic.

ANNEX IX

National consultation of 4 January: comments and formal
declaration of former President Eduardo Frei

(from El Mercurio, 3 January 1978)

At 11 a.m. yesterday, Eduardo Frei, the former President of the Republic, delivered, from a written text, a statement setting forth his position with respect to the referendum planned by the Supreme Government. Frei said that he did not wish to be asked questions, his stand being made clear in the text, which we publish in its entirety.

Before reading the document, Frei thanked journalists for attending and added:

"As you know, there is hardly an important institution or organization in the country that has not, in the last few days, expressed its opinion or said what it thinks either publicly or through official documents, some of which have been given wide circulation.

Considering that I had the honour of serving as President of the Republic and that in 1973 I was elected President of the Senate, and therefore also of the National Congress, I felt that I, too, had a duty to express my opinion on these matters.

Since the country is passing through a decidedly difficult period, I did not wish to allow myself to be carried away by an improvised speech. You will excuse me, therefore, for expressing my thoughts in writing, but I do not wish to allow myself to be carried away by words; on the contrary, I have pondered and measured each one of them."

The following is the text of his statement:

"The country has been called upon to express its opinion by means of a consultation or plebiscite - call it what you will, for words do not change the nature of things.

A national consultation is always useful and expedient, provided the conditions in which it is conducted are such that the opinion expressed is clear and legitimate and reflects the sovereign will of the people,

The present consultation satisfies none of these criteria for it is being conducted while the State of Siege is still in force, when personal liberties are restricted and there is no real freedom of expression or assembly.

The whole voting process, from the establishment of the boards to the counting of the votes and the announcement of the results, will be controlled by the authority which has called the referendum.

Nor is it legitimate, for there is no authority for it even in the Constitutional Acts currently in force which were promulgated by the present Government. This means that the Government is violating laws which it itself enacted. This is all the more apparent since the expression of opinion to this effect by the Inspector General of the Republic and other eminent authorities who cannot on that account be called anti-Chilean or unpatriotic.

In view of the time and manner in which this operation, which lacks any legal basis, is being conducted, it destroys the traditional electoral process which Chile has painstakingly established and under which the decision of the electorate has been accompanied by all the safeguards needed to ensure that the people's rights are freely exercised and its opinion is honestly expressed.

The part played by the armed forces in that process was very important. They guaranteed that the elections were orderly and correct. They did not take part, nor were they involved, in the counting of the votes. It is vitally important that they should not be involved in any political procedure because it is essential, now and in the future, that, as basic institutions of the Republic, they should have the respect of all Chileans without distinction.

Furthermore, the consultation is unclear and does not solve the problems it sets out to solve.

If freedom is to be safeguarded, the questions forming the subject of the plebiscite or consultation must be properly framed. A plebiscite that requires a single and uniform answer to a complex question does not respect freedom.

According to the announcement, the consultation is about two matters: (a) whether there is backing for the President in his defence of the dignity of Chile; and, (b) whether the legitimacy of the Government sovereignly to head the process of institutionalizing the country is reaffirmed. There may be people who would reply affirmatively to the first question but negatively to the second because they refuse to accord legitimacy to a régime with which they do not agree.

A "YES" vote is not only a vote against the United Nations resolution but, as the text states and as will inevitably be understood, a vote in favour of the manner in which the political process is conducted. To vote "YES" is to approve the State of Siege and the economic policy as well as the suppression of legal guarantees and of civic and trade union rights.

Nor is it right - and it will give rise to confusion - to try to divide the nation into Chileans who are for Chile and those who are against Chile. A few years ago, an equally false dilemma was posed: those who were for the people and those who were against the people.

Now, as in the past, we reject that false and monstrous dilemma. We are all Chileans and no one has the right to deny anyone's patriotism and love for Chile. The fatherland cannot be confused with a government, far less with a person. To flood the country with such propaganda is to exert moral and political pressure that corrupts and destroys the foundations of the unity and shared way of life that is so necessary to this nation.

The referendum is also an error. It begins by giving the vote in the United Nations a scope it cannot have. It puts us at variance not only with countries which lack authority in matters of human rights but also with the United Nations itself and with democratic countries such as France, Germany, the United Kingdom, the United States, Italy, Belgium, Israel, the Netherlands and many others, all of which have been Chile's traditional and constant friends for more than a century and a half.

We should ask ourselves how this can possibly happen and what political leadership is responsible for this state of affairs, that is also affecting our economy and, what is even worse, the safety of our nation.

All this is happening at a time when we urgently need to improve our international standing, for, as everyone is aware, there are serious and difficult problems which are a source of deep patriotic concern.

Countries do not live for the present alone. To mix the international situation with domestic political objectives, even with the best of intentions, is not only inappropriate but, at the present time, puts Chile's future at risk.

If we are able to reflect calmly on our destiny, what I have just said will become crystal clear.

Finally, whatever the results may be, the world will place no credence in them and our international position will not, therefore, be improved. This has universally and repeatedly been the case with plebiscites and referendums conducted in the absence of complete freedom.

Nor will domestic confidence be created. Not even the flood of uniform propaganda will achieve that. It is incredible how procedures which were criticized in the very recent past are being repeated, and how we are ending up imitating régimes which were loathed.

We Chileans cannot allow ourselves to be paralyzed by fear of two things: of the shadows of the past and of the dangers of the future.

Our country has a brilliant history, and a few years of crisis will not tarnish it. This nation was not born yesterday. If we all have the wisdom and courage to move ahead we must not believe those who threaten us with chaos. We must have confidence in our fatherland, in our people, in ourselves. We cannot believe that this country has learnt nothing. On the contrary, we are sure that what Chileans want is peace, security and work. They do not want disorder or violence, but they do want liberty and justice. For this reason Chile will be able to find a path of reason and of peace.

Chile has never bound up its existence with a given policy, but rather with the patriotism of its men and women and the soundness of the institutions of the Republic which they have defended and honoured throughout its history.

It is incredible and bitter to have to say these things and difficult to do so when living under the pressure exerted by those who control all the means of power. We must not, however hide our thoughts if we wish to live with dignity.

For this reason I reject the form and substance of this referendum".

EDUARDO FREI MONTALVA
Santiago, 2 January 1978

ANNEX X

Note verbale dated 11 January 1978 from the Permanent Mission of Chile to
the United Nations Office at Geneva addressed to the Director of the
Division of Human Rights

The Permanent Mission of Chile to the United Nations Office at Geneva presents its compliments to the Director of the Division of Human Rights, and has the honour to send him a copy of the text of the letter sent by the Deputy Minister for Foreign Affairs of Chile to the Secretary-General of the United Nations. a/

The Permanent Delegation of Chile would be obliged if the Director of the Division of Human Rights would bring the text of the letter in question to the attention of the Ad Hoc Working Group of the Commission on Human Rights.

The Permanent Delegation of Chile takes this opportunity to renew to the Director of the Division of Human Rights the assurances of its highest consideration.

a/ The letter [dated 5 January 1978] referred to is reproduced in annex III above.

ANNEX XI

Statement by Carlos Veloso Figueroa

Before starting with a statement about my own position I would like to thank you, members of this Commission, for your concern with the situation of my people in Chile and your preoccupation with the fact that a country which had a tradition of democracy for many, many years has lost it and is under a military regime that is openly Fascist.

My personal case is this. I am a member of the Plastic Workers Union, and a former president. I am concerned both directly and indirectly in this story. I can tell you about the hyenas, the brutes of the DIIA. I came to know a little of their methods. Their pressures were not directly against me but against the person of my oldest son, who is 16 years old.

This boy was abducted the second of May of this year after some of the leaders had written a document which we presented to the government, demanding minimum guarantees for the exercise of our union responsibilities and duties. In those days, because I was without work due to unemployment, I was helping out in the Cardin Foundation, which is an institution for workers, under the direction of the State of Santiago and of the Catholic Church of Chile.

The boy was abducted at four in the afternoon, the second day of May this year. He was taken into a car of the sort used by police. He was blindfolded and taken to a place he didn't recognize, since he was blindfolded. During the whole time he was kept like that. He says they put him at a desk, and began to ask him questions about my activities, what connection I had with certain organizations. They asked him questions to find out if I had taken part in any actions of the people, or if he had heard in the house that I had taken part in any anti-government action. My boy replied that he knew nothing about my activities because I didn't talk about them in the house.

With this reply, they began to torture him. He was hit by several people, violently in the face. They kept on asking him questions, and they put electric cables in between his toes, and in between his fingers, beneath his tongue. They put electrodes to his temples, all the while asking him questions, interrogating him about my activities, saying that he must know something, that he was my oldest son, that he must have seen something in my office during working hours or when accompanying me to some activities, or one of the many political union meetings there were in the country. He could not remember, because he lost his concept of time, how long he was tortured.

He remembered that someone gave him an injection and he began to have the feeling he was flying through the air. He knew they were hitting him but he didn't feel it. He remembered that they took him to an adjoining room, always blindfolded and accompanied by two persons.

He said, "In this room they made me enter, they took off my blindfold and I saw somebody lying on the floor. I saw him there by the light of their lamps. He was bleeding profusely and I thought he was dead." And they said this would be what would happen to him if he did not tell them about the activities I was taking part in against the government. The tortures continued with questions, until

they realized that he knew nothing about my activities and he could be of no help to them. He was put into a car and thrown out ten or fifteen blocks from the house of the mother of my wife where we were staying at that time. There he found somebody, told them who he was, and asked them to help him find the house of his grandmother, and that he had been assaulted. He arrived at the house, bleeding, his clothes covered in blood, showing signs of having been drugged, and repeating "I didn't say anything, father, I didn't say anything".

In this situation, we were somewhat frightened and when he had recovered a little after drinking some water and a tranquilizer that we gave him, I talked with him. He told me everything that had happened to him, and I began to think that it must have something to do with the military intelligence known as the DINA.

We were worried and we didn't take the boy to a doctor because of fear, fear that it would be found out that he had told us everything about what happened. And we were frightened about repercussions. We only made contact with the Parish Priest of the Church where my mother-in-law lived. The following day, we went to register a notice of Habeas Corpus on behalf of my son and my family and myself, and we presented ourselves to one of the Tribunals of Petty Crimes in Santiago, with all the details which my son had told us.

The same day, the day we had sought a notice of Habeas Corpus, two men who identified themselves as members of the military intelligence service arrived in the night. This is a regular organization of the military which apparently has nothing to do with the repressive apparatus which is known as the DINA which is directly controlled by the Junta's president, Pinochet. They told us they had been informed of the abduction of my son, and they assured me that they had not been responsible for it. They said they had nothing against him and that they had been given the express task, by the Ministry of the Interior, to carry out an investigation into our case to discover who was behind it.

After that, my son was taken to the Vicariate where he told them everything that had happened to him, all the tortures he had suffered, and was then taken back to our house.

The visit of the officials who identified themselves as members of the military intelligence continued. The second day they took us, my son and I, to make a declaration. We were blindfolded and I do not know where we were taken, but from what I heard later, and from conversations with others, I think it was the famous Villa Grimaldi, the DINA torture centre. We were again interrogated about what happened, and the questioning began to centre on the activities of my Party against the Chilean Junta, trying to induce me to believe that those who had acted against my son were extreme elements of Marxist tendencies and they had acted against me out of vengeance because I was a militant member of the Christian Democratic Party.

This type of interrogation continued through Wednesday, Thursday and Friday, during which they made my son repeat time and time again his version of what happened during the day of his abduction. Saturday of the same week, the officials again came to my house, asking us please to accompany them. They said they had some clue and they wanted to show me some photographs so that we could identify somebody. I agreed and was taken by car, though I cannot say how or where. They asked me questions about my activities, such as what the Christian Democratic Party

was doing as regards the Junta. They told me I had a duty to authorize my son to go to the Investigation Centre. The Chilean civil police had recognized a photograph that they would show us.

I replied that there was no inconvenience, that I would call my wife - we had an unlisted number - and told my wife to authorize my son to accompany them.

At night, when I returned home more or less at 2 a.m., my son told me that they had taken him to a room alone, accompanied by a man with a gun, and they showed him a note that said: "Señores of the Military Intelligence, I must talk privately with you." And they made him sign it.

He said they told him he had to sign a declaration in which he identified his abductors as top union leaders, some of them Christian Democrats and others who belonged to the Popular Unity in Chile, and who had posts as leaders, and those who were in union leadership positions in my country. Since my son refused to sign this declaration, they showed him instead a list of five Christian Democrat members who supposedly had carried out an act of vengeance against me because I was involved in activities of the Vicariate of Solidarity in Chile and activities of the Cardin Foundation in union matters. And the apparent chief who directed the group, who had tortured the boy, was the president - we carried out our activities clandestinely - of the Christian Democrat Party, Andres Saldivar.

Recognizing what they were trying to do, the boy refused and did not sign. They told him I was collaborating with them, that I was giving them all the information and that I had signed the documents. The boy asked them to show him my signature and that if he saw my signature, he would sign too. On Sunday, after telling me all this, we both were taken to the Investigation Centre, blindfolded. My son was taken to the second floor, and I was left on the ground floor with a guard who kept a gun on me, a machine gun or pistol, I'm not sure what type of weapon because he was behind me. I was very nervous.

I heard, from the floor above, conversations between my son and some other people. Then he was brought down and they said, "Your son is mad. He is lying and inventing stories. He says it was leaders of the Christian Democrats that abducted him, that there is a group of leaders from unions that is mixed up in this and that they are acting against you."

They left me with him. I asked my son to tell me the whole truth about things because he was creating problems for us. He was also creating problems for other people. He was creating many problems. Either he was lying or he was saying things under threat and he should say if he was being tortured. My son told me he would tell me the truth.

They put us in an adjoining room and we were there about half an hour and when we were alone he told me he was going to tell me the truth. "Those who were acting on me were three men who live in the neighbourhood where we live. They were three former popular leaders of the Popular Unity, who abducted me and did everything that was described. I did not tell you about it because I was threatened with death."

All of this version of the story was recorded and they made us both sign the declaration in which the identity of the presumed abductors of my son were given, and they took us, it was about 4 a.m., to another place. It must have been to another of the houses which the DINA has in Chile, for they have many of them, where they interrogate and torture. They left us here to rest because we were tired. The boy was taken to a doctor.

He was away about two hours, which worried me, and I asked some woman where he was and I was told that the doctor was looking after him and that he was resting because he had had a difficult day. When he returned, my son was accompanied by a person, armed, and he was very, very nervous.

Later when there was another chance, my son told me, "Father, they tried to hypnotize me, and they want to kill me. I heard very clearly they want to kill us because they have all the declarations ready and they want to blame the Marxists for our death. They are going to say that leftist commandoes killed us, and they are going to take our bodies and throw them on the street."

Because of this situation I got very nervous and then I got an idea. I asked them to talk to my wife on the phone, to tell her why I was not coming home that night. That was what I said to the armed woman who was guarding me. They gave me a phone. I was not sure if it was a real phone or just an internal communication phone. I made sure it was really my wife who was answering me on the phone. When I was sure it was my wife I screamed hysterically to her, "I'm detained by the DINA". "We have problems. Please make a denouncement if we don't come back". This provoked the anger of two people who were close to me. One of them put his gun in front of me, and the other one put another gun at my back. Still the woman hit me on the face and took the phone away. She said to me, "You are just making the security of this house in danger. So now we are going to kill you and your son".

With this threat I tried to explain myself to her, telling her that I was very nervous. I tried to excuse myself in front of her again, but what I said to my wife was very deliberated, because I wanted her to tell people that we were in trouble.

So the woman told me she was going to call her chief. I talked to the chief and I can't identify him, because I don't know who he is. He said, "What's wrong with you? You are just making the security of this house unsafe. But to make you more comfortable, we are going to transport you to your house, but you are going to be under surveillance there".

That same day, Sunday, the week that all the facts were happening, and very early Monday morning, we were transported to our home. Since that time, for twenty-two days, my wife, me and my six children were detained under a regime of permanent watch with armed people, inside of our home. This is what they call a protection system. Protection for our family from possible extremist attempts. During 22 days, while the public opinion because of newspapers began to know of a number of detentions of neighbourhood leaders, a disappearance of a lawyer occurred. But he reappeared later on and now he is living in another country. He also declared he was detained by the DINA. The lawyer's name is Bello Doren. It was a very famous case. A number of neighbours also were named.

Meanwhile we could talk to nobody. We could not use the phone, and we could not receive any visits from any relatives. One day the Bishop Alvear came to our home. He spoke a few words to me. He realized the situation my family and I were going through. My children couldn't go to school any more because they were detained inside the house. The clergyman presented a Habeas Corpus in favour of our family because the situation was absolutely illegal we were going through. But the situation was qualified as a regimen of protection by the Pinochet people.

Later on, another bishop, Monseñor Valech, a member of the Episcopal Committee of the Catholic Church of Chile, came to the house but they wouldn't let him talk to me. About 22 or 23 days later, at the end of the month of May, they told me they had programmed a press conference in which we should say to the public the true facts of what had happened with my son, and what they had on tape recordings, which said that the three people who were blamed were really the ones guilty of the kidnap and the torture of my son. We had to give this interview to the press. They invited all the media people - of course it was the mass communication following and controlled by the government. Secretly, I managed to send a scrap of paper to a friend saying please call some other reporters who are not so faithful to the government, who are at least a little independent from the government, or I could even say in a position of opposition. That is the case of the Chilena radio, which is the radio of the Catholic Church in my country, it is critical of the government. So I wanted to get some other reporters to whom I could tell what we were going through.

The newspaper people came. The police gave me a text of everything I should say to the journalists. In front of the reporters all the people who were our permanent guards at my home were watching me and listening to me at the press conference. They tried to publish this report in other countries, and this was coincident with a meeting in Grenada, a meeting of the OEA, in which human rights in Chile were discussed, along with other matters. It was a show to demonstrate there was terrorism in Chile, that all the repression system in Chile was justified - this was to manipulate public opinion. Fortunately, there was a newspaper which published my actual situation, and began to make a lot of doubt. With the help of the pressure of the church, and the pressure of some other important persons - ex-congress people of my former party - with the pressure of all these things before the government, the regimen of protection was relieved.

The guards left. But, I had to stay about a week without establishing contact with anybody, because I was controlled from the outside. Cars passed all the time watching my home. Once one of the men came to me and said, "Mr. Veloso, your case is passing to the Military Justice. The DINA is asking for the death penalty for the guilty ones (the three people detained). So you have to go to the tribune when you are called to sustain your declaration, and I have an offer for you. I know you have sent your application to be an immigrant in Canada, and we think you can have problems in Canada. Because of this situation, the leftists could give you a hard time in Canada. We offer you the possibility to change your identity and the identity of your family. We can transport you to a friendly country where you won't have any problems".

So I told him I had nothing to be afraid of. I had acted honestly and cleanly, the very conscience of everything that was happening, therefore I was asking for permission to continue my application for travelling to Canada, and to go to the

Canadian Embassy to complete my papers. The Canadian Embassy had approved my visa and the flight was tentatively booked for 5 May 1977. It was the same time all these things happened.

Waiting for the call of the military tribunal which came the next week, I tried to communicate with no one. I just went to the Canadian Embassy pretending to be working on my papers, and I made a secret declaration in front of the first secretary of the Embassy, Mr. Jacques Drapeau, telling all the truth and asking him to keep it a private document in case something happened to us. I left him with special permission to use this information if something happened to us - to the Catholic Church and for public national opinion.

I continued working on my papers. That Saturday I got in contact with Monseñor Valech by telephone, and we agreed that Sunday we would meet and I would declare to him all the truth of the situation.

Meanwhile, they had detained one of the employees of the Archbishopric of Santiago, and another person who was a neighbour of mine, a member of the Catholic community in our area, so, there were five people connected with the kidnap, torture and rape of my son.

Before my son was transported to the military tribunal, he was taken to military hospital for a medical examination in Santiago. He said he went there and a man came, accompanied by four policemen in uniform, who I imagine from the pictures I could see, was the famous General Contreras, Commander-in-Chief of the DINA, who took my son inside. They let me out, and he took my son to a doctor, and Mr. Contreras dictated to the doctor the diagnosis for my son.

The statement said my son presented evidence of torture, that his hands had been burned by cigarettes, and this was confirmed by the DINA agents' evidence, and that he showed visible evidence of the rape. All this without even taking a look at the boy. Further on in the declaration, he asked that for these crimes, the DINA ask the penalty of eighty years imprisonment, or death, for the delinquents. This was told to me by the DINA employee. You will understand that the image created to the public in front of all these huge displays of publicity for these incidents, made me very dubious. I had serious doubts about any and every person that approached me. This is very understandable if you go through what most prisoners have experienced under the dictatorship.

So, I was very undecided, to collaborate or not to collaborate with anybody at that time. We couldn't get in touch with anybody. Nobody would look at us, and that, in a way, was good, because we had time to try to find an alternative for us to seek the right time to tell the truth. We received a summons to appear. On Monday, my wife and I went to a military tribunal and we told him my son was ill and could not come because of a medical prescription. We asked if we could come on Wednesday, because on Tuesday I had to go to get papers for identification for my passport for Canada. I knew my visa had been approved. The tribunal agreed with this request to come on Wednesday.

On Tuesday morning at seven o'clock, we went to the Archbishopric to present a declaration to the public notary. On these 38 pages, we told everything that had happened to my son and us up to that time. With all the psychological pressure

put on the boy, and telling him we were all going to be killed if we didn't agree with them and all he had been told to say, he was told that he had to blame those people who had been accused of the torture.

The DINA agents were not convinced themselves that well known union leaders could be involved in this action. They tried to change things around to improve the show they had set up because this case had provoked very strong response from the public, since it was the first time a juvenile had been tortured.

Because this case became so important and caused so much indignation with the public and the Church, they had to continue with the show, which they used to present cases where terrorist actions and bomb attacks were happening and they would blame the five prisoners for it. We finished with the declaration, and after signing it, I asked him to give all the copies to the Cardinal, so he would use them at any time he would estimate convenient, and so that these copies would also be presented to the Supreme Court.

On Wednesday, we went to the tribunal to tell him the truth and to ratify to him that all the declarations that had been made in the press and the declarations of my son had been made under pressure; that all the documents we had signed were done so under pressure; and that the real truth was that members of their intelligence services had tortured my son. All these declarations were made verbally to the tribunal.

All this caused extreme agitation, because everybody expected us to ratify the declarations we had made to the press before. Since we did not ratify the declarations made to the DINA they could not proceed to execute the five prisoners as previously expected. All they were waiting for was for my son to say that those people were the ones who had tortured him.

This changed things very abruptly, and they even called a very high ranked official, whom I believe is Attorney-General of the military tribunal.

After he listened to the new declarations, the process began to go very, very slowly. That night at ten-thirty, the secretary of the tribunal told my son, "You and your family had better leave this country very soon, because the DINA is going to kill you all. Leave this country". My son was very worried but we all had to sleep in different places in Santiago, including the house of the first secretary of the Canadian Embassy. We were called to the Legal Medical Institute to write a final examination. Fortunately, we did not arrive on time and we did not have the examination. Later on, we learned that they had a special plan for us that day.

Once we had finished with all the declarations, we began to prepare our trip, but the same Saturday we were supposed to leave the country we were told that we had to make new declarations. We were told that we had to ratify all the declarations before a special minister of the supreme court, who was now in charge of this case. This was going to be at 8 in the morning 18 June. At 7 o'clock that morning my son and I were detained at the church and taken to the offices of the civilian police of the second military tribunal of the country. Fortunately a neighbour saw our detention, which was made with an unusually large number of police with machine guns and other guns, and around seven or eight police cars.

We were treated as common delinquents along with Father Santiago Marschall, who was the minister of the church where we were staying. The neighbours phoned the Vicariate - or to the Bishop of the area, I don't know whatever happened - but the minister of the supreme court immediately came to the office of the civilian police. We ratified all our declarations, while the DINA agents were openly talking to the civilian police officials, trying to get permission to take us to the military tribunal. As soon as we finished the declarations, we were taken to the military tribunal. After we were declared incommunicado, we were interrogated by the tribunal. At around noon, they took my son and they locked him up in a room, and I was taken somewhere else until two DINA agents and two plain soldiers arrived.

They began to punish me, and they asked me to sign a declaration that was already written. On this paper, I had to say that all I had signed and declared to the minister of the supreme court and to the Archbishop was not true, and that I was under pressure from the Church. And that the people that were detained were in reality the torturers of my son. For half an hour they punished me, trying to convince me to sign. They kicked and hit me, and applied electric shocks for about 20 to 30 minutes. Then because I was still firm on my position, they took me back to the tribunal and I was declared free, but my son remained detained but not incommunicado. So that night I was taken into a refuge, and I convinced my wife that she should leave the country and go to Canada with all my other children, so that at least my son and I could feel a bit more secure knowing that they were outside the country and that they were all right.

That Saturday night my boy was again visited by the DINA agents, who again brutally beat and tortured him, trying to convince him to sign the document that was so vital to them. They told him that they were especially worried because we were declaring to the military tribunal the same thing that we declared to the Church, so that the military people will know what the DINA was doing. He was tortured Saturday and Sunday with the same methods they had used before. Although they knew that my son had ulcers, they fed him beans with hot sauce. This induced hemorrhage, then they injected him with anti-coagulents, and continued with the torture. On Monday, he was taken to declare to the tribunal. He couldn't communicate with us, and he couldn't tell us what was going on. He didn't say anything to the tribunal because at that time he just didn't trust anybody. He thought everyone around him was a member of the DINA. On Monday, something very strange happened. He was taken by the secretary of the military tribunal to the legal medical centre. When they were in the car, the tribunal came down and told his secretary to stay, and that he was going to take him. When they arrived there and they went in, a doctor approached him and said, "Mr. Secretary, I have the diagnosis they have asked me for ready". The tribunal said, "What diagnosis?" The doctor replied, "You know, the one you asked me for". "Do you know who I am? I am the tribunal". "Oh. But the secretary of the military tribunal came and asked me to write this diagnosis", saying that my son had been raped and that he had first degree wounds. With this certification from this kind of institution, it would appear to the public that we were lying. Happily, the tribunal reacted favourably and he threatened the doctor so that he had to make a new diagnosis and really examine my son.

The day before this examination, and excuse me for going into these details, they had introduced a broom handle into the anus of my son, so that he would appear to have the signs of rape. But my son explained this to the doctor, and upon close

examination there was not clear evidence of rape. So the certification stated that there had been no rape. That was very favourable for us. Then they submitted my son to a psychological test which was already prepared, such that my son would appear with mental imbalances, and declare him crazy. However, the test revealed that my son had an intelligence comparable to a twenty-year-old.

Then, the tribunal took my son to his office. When they arrived there, in front of my own son, the tribunal degraded his secretary because he had the rank of a captain. He took off the stars and his service gun. At this point the secretary identified himself as a member of the DIMA, that he had been appointed as a secretary Ad Hoc specially for this case. Then, when the tribunal pressured him to tell him all the truth right there in front of my son, he told him that once he had obtained the prearranged certification from the doctor, then we were going to be shot by an extremist group as we were coming out of the medical institute, and that he (the secretary of the tribunal) was going to be wounded. So this is how we escaped an almost certain death. This was all revealed and confirmed by my son in the declarations made to the ministry of the Supreme Court before we left the country.

Finally, on Tuesday, they continued with the declaration, but my son was not being pressured now. He was being protected. On Wednesday, three of the detainees were freed because of lack of evidence, but the other two had to remain and they are still in jail in Chile.

I, the undersigned, Carlos Hector Veloso Figueroa, a Chilean national, married, with six children, former President of the Chilean Confederation of Plastic Workers, former National Co-ordinator of the Single Headquarters of Workers of Chile, declare that I have taken cognizance of the text of this statement and that it corresponds exactly with what was said before the CANADIAN ENQUIRY INTO HUMAN RIGHTS IN CHILE on 30 October 1977 and I confirm that its whole contents correspond textually with what was said by me and with the facts.

Geneva, Switzerland, 12 January 1978

(Signed) CARLOS VELOSO F.

ANNEX XII

Statement by Osvaldo Figueroa

Before starting my evidence on what happened in May of this year, as in the case of Carlos Veloso, I would like to thank the Commission for the interest they have in holding this event on Human Rights in Chile.

On May 9, at two in the morning, somebody came to ask for me, telling my wife that a gentleman wanted to talk to me in the Avenida de los Torres and Amerigo Vespuchi. My wife said I was asleep at that moment, but he insisted that my presence was necessary. So I got up and went to see the person who said he wanted to talk to me. He said the following words to me: "Señor Figueroa. We have to talk to you and it is an urgent matter." I saw that it was two or half past two in the morning, which I pointed out, and that there was no public transport and I said I would go the following morning. This individual left.

At 7.30 a.m. May 9, when my wife went to work, the individual who came before arrived, asking for me, asking if I was Figueroa. After the identification had been made, I was pushed violently about by four individuals who were masked and had revolvers in hand. I asked what was going on. They told me it concerned an assault. At this time my daughter was listening from the room where she sleeps. She got up and came in, asking what was happening. With a tranquility that astonished me she said that they were not to hurt me and that they could take what they wanted. My daughter was immediately seized by both arms by two masked individuals who took her violently back to her bedroom, leaving her tied hand and foot to the bed, with a blanket tied around her waist to the bed, like a belt. They searched the whole apartment looking for some arms or something. The only things they had said were that it was all about an assault. The only thing they took was a watch that was mine - quite a valuable one, which was never returned to me.

After that, about ten minutes later, approximately, they took me violently and pushed me down from the second floor to the street, where a car was waiting for me. I was pushed in violently, with kicks and blows. They started the car and they pushed my head between my legs, without saying a word to me. They made signals to each other, that's all. I could not calculate how long the trip was because I was disoriented. I was surprised. I imagined that it was about an assault. In this way we arrived at our destination. I still had my eyes bandaged, my hands tied behind my back.

I was pushed violently out of the car and was led to a place which at that moment I did not recognize. I was put into a chair, and I felt something like a tickling sensation in my left ankle. They asked me what was happening to me. I was not sure because at that time I was in an excited condition and I said I was having a slight heart attack. Then they brought in a doctor - I say a doctor because they took my blindfold off in the office and there was only him and me. Nobody else. The doctor told me he had been informed that I had suffered a slight heart attack and that, to get rid of my problems, I had to tell them what I had been doing May 2 at 4.30 in the afternoon. I told the doctor I had been working as usual from 9.30 a.m. to 7.30 p.m. I asked him what was going on. He said, tell me the truth, what was I doing May 2? I told him I had been working all day and that I had proof of my work. He said, 'you weren't at work, and now you will have to suffer the consequences.'

Next, they blindfolded me, five minutes passed when I heard footsteps entering the office, and a gentleman who I calculated to be of some size from the way he threatened me, began to hit me in the face and the stomach. He kept asking me the same question, what was I doing May 2. I kept repeating that I had been working all day. I asked what this was about May 2. They had given me no information at all what May 2 was all about. They took me away from there and led me to a dungeon - Villa Grimaldi, as I later found out, was where I was.

I was stripped immediately and I found myself on the famous "parilla". They began to work on my body, attaching an electric cable. Later I felt them put various electrodes on different parts of my right side.

Gentlemen, this is how my torture began. Electric current, more electric current. Crying out my innocence, telling them they knew "all the potatoes" as they say in Chile, that they knew the truth, that I would tell them everything I knew about May 2. I maintained I had been working. The truth, gentlemen, is that I spent the whole day, Monday, from 9 a.m. more or less and all the night denying what they said, and suffering torture, and blows.

When Tuesday came, another shift arrived. And they also insisted, 'Tell us the truth. We have all day, all night, all the time we want.' And to refresh my memory a little, they told me I was a leader of a band of terrorists, kidnapers. In a short time, they went on torturing me, and I heard a voice telling something about the matter on which they were questioning me. In my subconscious mind, I caught something of what was said. Now, not being able to stand any longer the blows, the charges of electricity and blows in the face, I began to confess.

Since I had confirmed the matter of a rape, they told me I had to tell the whole truth. They went over what I said and told me it was not enough, that I had to say I was chief of the band, the torturer of the Veloso boy, the man who raped the Veloso boy and the head of the kidnapers.

They began further questions. They told me, "You planned to kidnap Veloso, the boy's father." I replied that I didn't know Veloso. I knew five different Veloso's who lived in Villa Mexico, but I didn't know which Veloso they were talking about. I didn't know which one they were referring to. Nevertheless the torture went on and on and on, until they got me to repeat all of the story which they gave me, including parts in which I was supposed to have burned the hands of the Veloso boy with cigarettes, and then I said "No". I cursed the hour when I said no, because it brought real terror. They applied electric current to my genitals. I bit myself for such an error. I had to continue and repeat the story they had given me, in order to avoid such agony.

They kept on about the Veloso's. I told them I knew five Veloso's but I didn't know from which Veloso family the boy had been kidnapped. I don't know how much time passed from the Monday on, but I had to repeat five times the same declaration that I had now memorized so that it could be put on tape and there would be no doubt about the facts of the kidnapping.

The next thing, they said that I knew a lot about political and terrorist activities, and I had to tell them who were the leaders of the people of the Cardin Foundation, since I knew the people in that neighbourhood. 'You must know

a lot since you were the secretary of the neighbourhood group in the Villa Mexico neighbourhood. You know many people. You must give us their names and then that will be the end of the Veloso rape case.'

I knew, gentlemen, that if I named somebody, I would bring one more innocent man to torture. I promise you. I withstood the blows, the punches and all that they did to me. Because they could not get names from me - this would be about the dawn of Wednesday - they let me rest. But how long did they let me rest? Half an hour. They threw me on the floor of cement, with my feet tied. I asked for water, because I could not stand the fatigue. Instead of giving me water, they poured a bucket of water over my naked body and I stayed like that some 30 minutes. When I tried to go to sleep I was awakened with kicks. They took me again to the torture room and put me on the "parilla" and gave me charge after charge of electricity. I told them, gentlemen, that I had told the truth, that I had taken the Veloso boy, had tortured him, had violated him, whatever they wanted me to say. The reply was categorical. That I had to give information about the Chilean Vicariate of Solidarity. That I knew many priests. That I knew many officials of the Vicariate. That I knew many people of the Cardin Foundation. That I was an intimate friend of Señor Valoso. That I knew his activities. Gentlemen, all these questions were put to me through torture upon torture.

Yet, I said nothing, and then I was threatened - I say threatened because I realized later what had happened - I was threatened that they would bring in my daughter, naked, (I swear I am telling the truth), so that I would be forced to rape her, in their presence. They said that if I were not capable of violating her, they would do it for me. I am sorry, ladies, you will have to excuse me for what I am telling you, but I want to tell the truth. They would open the legs of my daughter, so that she could be raped by those jackals. I heard a cry from somewhere, 'Daddy, daddy!', and I thought it was my daughter but I could not believe that this had happened, that she could have come to such evil. They gave me a new charge of electricity and again I heard the cry, 'Daddy, daddy!' And then I realized that it was not the voice of my daughter. That gave me courage to continue to withstand this agony.

Seeing that I wasn't going to give names or identify myself as a personal friend of Señor Veloso, or personal friend of Cardinal Monseigneur Henriquez, they decided to change the electric current. And so they took me to another place, and used on me the number two twenty current which we had in Chile. They put an electrode to each side of my head. This application of current didn't last more than a few seconds at a time, but there were charges, then charges. It was terrible. I maintained my denials, that I didn't know the Señor Cardinal, or only knew him by photograph or by newspapers or television, but personally, I did not know him. Nor did I know the priest they mentioned, except I had had a few words with him once when he was in Villa Mexico. Seeing this, we went back to the same routine, what had happened on May 2, to correct the complete declaration. I remember perfectly, they said that now I would have to confront the Veloso boy which you kidnapped, raped and assaulted, etc., etc.

I had a brief respite - I think it was a couple of hours - and then they confronted me with the Veloso boy. I was blindfolded. They asked the boy if he recognized me as his abductor, torturer and rapist. The boy answered, 'Yes'. I think, gentlemen, that I almost collapsed. They took off my blindfold and I saw it really was the Veloso boy, son of Señor Veloso, who I was seeing. They

took us out so that he could attest categorically that I had been his abductor, kidnapper and torturer. The boy confirmed it, and it was all taken down and recorded on tape. They bandaged my eyes again - no - before that they said they would bring in the father. And they brought in another man, but he said he was not Señor Veloso, that Señor Veloso was somewhere else. This man put a hand on me, nothing else. But I realized that he was not Veloso because in reality I knew the man.

They took me back to the torture room and told me: 'Señor Figueroa, it seems the Veloso boy has made a mistake. He has said you were not the abductor, the torturer, the rapist'. I gave thanks to God, gentlemen, that at last he had told the truth. But I was deceived, and what a deception. Again, they stripped me and took me back for more torture. They tortured me for five hours because one of them was in charge and he said that now the Veloso case was finished and that I had been identified and that was that. Normally, they used the 220 current, interrogating me about the whereabouts of arms: where does the Vicariate hide its weapons? where are the Cardin Foundation's weapons hidden? where did we carry out assaults? where did we place bombs on May 1?

Because of this torture, I began to invent anything they wanted to avoid such torment. I said I had made assaults in this place and that place, had put bombs in any place they wanted, and that I would admit whatever they wanted me to say. I went on for longer than an hour, inventing and inventing so as to be able to avoid some of this torment. Shortly, a man came. I heard his voice and it was the same person who had hit me at the beginning - yes? He told me that I was telling lies, that there had been no assaults in those places, there had been no bombs, that I was wasting precious time - precious, yes for torture, but not precious time for the use of humanity.

And so, gentlemen, this was the day before the last, when they took me to identify another prisoner. They brought me to identify him. They put a machine gun at my back and hit me and I was supposed to say that I recognized him. I am going to give his name - Jorge Troncoso Aguirra. He was tortured. While they tortured me, they tortured him along with another comrade who is also in Canada now. He was also accused of being one of the kidnappers. They said, "Figueroa, you have made a mistake. The man you identified is not Troncoso." They took me to identify him. I saw him, on the "parilla", without electrodes, without cables. What I saw, gentlemen, and I swear it, was his body. They asked me if it was Troncoso and I said yes, it was. They made me go back again and I said again, yes, it was Troncoso. I maintained it was Troncoso. The torment didn't matter in the face of such injustice, such lies. Seeing this, they took me at about four in the afternoon and told me I was free to go.

Naturally, I was surprised. They put me into a car, with my eyes blindfolded, my hands tied. I could not see where we were, and I could not tell you where, at this moment. I don't know how long the car drove for within the city of Santiago.

When another car arrived they put me inside, took off my blindfold, covered me with a blanket and held me on the floor with my feet against the right hand door. I heard a voice saying, 'Is it in the back?' two metres from me. When we were travelling at about 20 or 30 kilometres an hour, according to my calculations, they threw me out on the pavement. The vehicle

behind drove at me, but I reacted instantly, and rolled away. The car braked scarcely centimetres from my body. What was the intent of this? To injure me? I tell you, it was to assassinate me. It could look like I had been run over.

At my home, they did not know where I was being detained. They only knew I had been abducted. Later, they would be told I had been killed, a car accident, or I was drunk. They intended this because I had seen Señor Troncoso, dead. Because of this they made the attempt. So they asked me cynically, 'What's wrong with you. What's wrong with you? We saw the car and we saw people inside the car throw you out on the street. We want to help you. We can follow the other car.'

At the beginning I believed them. But when they pulled me inside the car, when I felt the left arm of one of the men, his jacket was pushed back and I saw he was armed and he had a police radio in the car. I asked myself who they could be. While I was in the car with them I was not blindfolded and I knew where I was. I was in Street Marathon going to Trarrazabel Avenue and in that part of the city I have a relative. So I told them, please let me go to the house of this relative, if they had good intentions. I did this because I wanted to confirm whether or not they were really intending to help me. They said they had to take me to the Central Investigation Office, so when I realized where I was going, from the streets we passed, they covered my eyes tightly with Scotch tape. Both my eyes were completely covered with tape.

They made me cover my face with a newspaper so that people on the public transport could not see me.

In a short time I was transferred to another car, and they took me to another destination, at least that was what I thought, but they really took me to Villa Grimaldi. I couldn't see exactly the time, but under my blindfold I could see a little bit and it was night, it was early evening. I could hear a lot of steps and I heard water falling from a tap. I asked them for water, but they said they could not give me any because my body was filled with electricity and if I drank water it could kill me. Then I heard a voice, the voice of this beast, because I cannot say he is a man, and he told me, "Here we are again." Then I understood that I was indeed back again in the Villa Grimaldi.

Then he told me, you have to tell me the whole truth because you know a lot. So repeat again, all the facts you know. When I didn't tell him anything, they pretended to shoot me. They gave orders, supposedly, to the firing squad. I heard the noise of the machine guns and they told me you have a few seconds to speak out and save your life. I said I didn't have anything to say. I had lost hope. What would happen, would happen.

Next, I heard somebody say 'aim', but nobody fired. Next I was taken to another room, and I found myself in this big room, in shadow, and they took off my bandages and they asked me again to identify two individuals, Señor Zuleta and Señor Umberto Drouillas, both detained in the public jail, without charges against them. I identified them, and when I had identified them they told me I had to tell them about the life of Señor Drouillas as a Christian Democrat and leader of the neighbourhood group. I told them I knew nothing about the private life of Señor Drouillas, that I knew him as a leader, yes, but more than that I did not know. Now it was about dawn of the 12th or 13th - I'm not sure of the date.

They interrogated me all through the night with blows, in order to get me to sign more than 15 notebooks containing my confession, in which I recounted my participation as organizer and chief of a band of terrorists and kidnapers that were responsible for the kidnapping of the Veloso boy, declaring that I had placed bombs on Lay 1, and also accusing me as an accomplice of the Catholic Church because I would not say where arms were hidden. They took me to a cell and tied my feet again and brought me two plates of food. I could not eat, though I was hungry, tired and thirsty. I told them, the torturers, that I wanted to eat, but I could not eat because I could not move and my hands were not free. They said, 'Eat like the dogs eat.' They said I had to eat both plates of food and if I didn't it would go hard for me. I could not eat. I don't know how much time passed, hours or minutes, when I heard somebody come into the cell, and I knew from his boots he was a member of the military and he said: 'You haven't eaten your food, old man. Give thanks that I am here.' And it was the first human word that I had heard in days. He took both plates. He threw the food on the floor and put the empty plates close to me. When the chief came, and I think he was his superior because he saluted, the superior asked if I had eaten the food and he said yes.

Next I was taken out and taken to another room where there were two women - members of the military. I say military because of the sound of their shoes, the heels. I was again interrogated about the Troncoso case. I said I had identified Señor Troncoso, that he was dead and I knew no more than that. They said that this might cost me my life. Very well. They took me again to the torture room and now came the terrible - excuse me, a minute - when they tied me again to the "parilla", a man with gloves tried to pull my tongue out and two other beasts held me like that and applied electric current. They tried to cut my tongue out so that I would not be able to speak. My tongue swelled because of the electricity, but they didn't accomplish their objective. They did tear off part of the tip of my tongue, as I can show the Commission, should they wish. There is still a scar. They made me swallow the piece of my tongue. And since I could not speak they believed they had indeed cut off my tongue.

I was then transferred the same day to Cuatro Alamos. I was tied up, tortured, whipped. Then I was taken to a station wagon, and I had to move to the back, over many legs of others, who did not get out at Cuatro Alamos. I don't know where they were going. When we reached Cuatro Alamos, I asked to see a doctor. They told me, yes, they would bring a doctor. A woman who came in - I knew by her voice - was surprised when I spoke normally, though my mouth was bleeding. She said, 'Oh, you have recovered your voice. You can talk.' I nodded yes, because there was a lot of blood.

I gave all my personal facts and a list of what I had when I was first detained, things like my billfold and cigarette case, which were taken by the masked men who detained me. I told them about the watch, but they said there was no mention of it.

A doctor came, and saw how I was bleeding and I told him I could not stand the pain from my tongue. I told him what had happened and he said that I must have done this injury to myself. Yes, gentlemen, that I had arrived at Cuatro Alamos absolutely uninjured. After four days, four nights of torture.

I was taken to a cell, incomunicado. Here I didn't suffer blows, but insults. At different times, when they brought me food, they threw it in the cell, and the food went on the floor and they made me eat it from the floor. Listen carefully. They made me eat like an animal, and I had to clean the floor with my own tongue.

After 20 days, they came to take photographs of the five of us who were detained, one by one, because we were not allowed to communicate with each other. They took our photographs in various poses and photographs of different parts of our bodies, to see if we showed signs of torture. I tell you that when they took these photographs my legs were covered by sores. Electric shock cannot be confirmed later, nor can the burning of the flesh by electricity, but I still have my legs as a memory, here, now, of the torture I endured. And whatever doctor wishes to examine me, I am ready to show him. I still have the scars. I also have a big scar on the abdomen from being tied down by a thick cable.

A few days later we were visited by the Minister of the Supreme Court. These jackals who are in Cuatro Alamos as guards were begging me not to say anything to the minister about the tortures they were using. I said yes, I was going to tell him. But I didn't tell him, because I was afraid of being taken back again to the torture room in Villa Grimaldi. Because I had already been threatened by the DINA before going to Cuatro Alamos; they told me that if I denied or retracted my declaration made earlier, they would kill me and my family.

Anyway, I did tell the Minister of the Supreme Court everything that had happened to me, that I had been abducted by agents of the DINA, without showing me any authorization of detention, that I had been taken, blindfolded, that I had been tortured and I showed him my tongue which was still ulcerated. The doctor from the Supreme Court took notes of all this and he gave me some pills to take for the pain. I asked the Minister of the Supreme Court what would happen to me, whether I had a right to a lawyer, and he said, 'You don't have any right to a lawyer in your defence because you are in the hands of the military. They are the ones in power, and our hands are tied.' It was the same answer that others received, those who were held incomunicado.

A few days after the visit of the Minister, we were visited, one by one, by the Minister of Justice. She came with a large staff, including men of the DINA. She looked at some photographs in which I appeared naked, and asked me, 'Well, do you recognize these photographs? Is this you?' I said, yes. She asked if I had anything to say about the tortures. I exploded. Señora Minister, you know the problem very well. The gentlemen of the DINA are present here and they can verify the facts. She said, show me the wounds. Show me your tongue. I showed it to her and then one of them said that I had purposely bit my tongue in Cuatro Alamos. But how would he know I had bit my tongue in Cuatro Alamos when he wasn't there? And he had not yet even seen my tongue, because I could not show it properly, it was so swollen.

I said, Señor Minister, you should not waste your time and make me waste my own, because I do not even feel like making any new declarations in front of you. I had already presented all the evidence to the Minister of the Supreme Court. And I told her that if she wanted them she could ask him for them. And then I was taken back to my cell.

The smell of our bodies was so bad we could barely stand it ourselves. We were filthy, dirty, and had to urinate in our own clothes. We had no chance to take baths. At least the Minister gave an order for us to have clean clothes. But the clothes didn't stay clean. When the Minister was gone they made me roll in the mud. And so things continued until I had to go to the Military Tribunal. They cleaned me up for that and they told me I was free. I could not believe it.

Then I took all my things, but before they let me go they ordered me to sign a paper, written in my own hand, where I presented testimony saying I had not been tortured and that they had not even punished me, and that while I was in Cuatro Alamos I was treated very well. I had had a doctor any time I needed one and had no complaints. And that, gentlemen, is what every prisoner has to do, as you must know from the testimony of Dr. Cassidy, who is well-known. That is what happens to every prisoner who is tortured by the Fascists who are governing our country.

Then the Tribunal interrogated me until 11 at night. I couldn't tell you the exact date because I could not keep track. I think I was in Cuatro Alamos 20 to 25 days, and only after that was I taken to the Tribunal. The questioning lasted three or four hours. The Tribunal told me I was supposed to be the head of a terrorist band that wanted to overthrow the government. I ask you, could four or five persons - five against an army - do anything? Then I made a declaration denying all that I had been forced to say because of torture. But there was this man, I don't know if he was military or civilian, but he was the secretary of the Tribunal, and I remember having heard his voice during the tortures but I didn't say that to the Tribunal, because I was so scared, not for me, but for my wife and my only daughter, who is only 18 years old.

He told me I hadn't told him everything, that I knew a lot. Then I was sent to the public jail, incommunicado. My declarations to the Tribunal were made in four stages, during which I was incommunicado for ten days in the public jail. Until finally on the 20th day, we were taken in front of the Tribunal, and the Tribunal let me know that my daughter was going to be able to continue studying. I said, yes, but how can she study if I am the head of the family and I am the only one who works and I am in jail. What my wife makes is nothing, not enough to educate my child. I thought this was a sick joke. I was returned again to the jail and on the 22nd of July we were taken back to the Tribunal, and we were confronted with the son of Señor Veloso. They asked him if I had been the man who had abducted, tortured and raped the Veloso boy.

The boy said I had never touched him. They asked him if he knew me and he said, 'Yes, I know him, but only as a neighbour from Villa Mexico and I only know him by sight.' And then the interrogation continued with other details. The same day we were freed because there was not enough evidence for the charges of abduction, torture and rape.

Then we went back to the jail at 10.30 p.m. on the 22nd and were very surprised when we arrived because the statistics office was closed. This was very unusual, because the statistics office has to stay open until the last prisoners come in, so that they either declare him free or a prisoner or incommunicado. These things have to be recorded the same day. That is the law and what the Tribunal dictates. Thus we approached the guard and we told him

we were really surprised this was happening and we were afraid that that night, the DINA agents would come and take us and that we would disappear for ever. This guard who was a high-ranking officer told us there would be no problem and that nobody would come for us. But that night we could not sleep all night and every time we heard somebody walking past we immediately thought they were coming to pick us up. We were so afraid, because the other prisoners had warned us the public jail was full of agents of the DINA, either as guards or prisoners.

They took us again to Cuatro Alamos. We waited for two hours and a half, which was for us a year, because we knew we could be tortured again. Fortunately, the church, with the aid of the Cardinal and some lawyers of the Vicariate, acted fast. The Cardinal talked to the Minister of the Interior. He talked to Pinochet too. I knew this later. They made conditions to the Cardinal for our freedom. They said you can keep the Vicariate or you can let these men go free. I am telling you the truth. My comrade Eduardo de la Fuente and I would prefer to give our lives rather than let them stop the Vicariate because it is the only defence that the persecuted people have in Chile. It is the only institution who will raise a hand to rescue people from these hyenas, from these beasts.

This is how it was in my days of torture and 44 or 45 days of being incommunicado. I am asking the members of this Commission to make a complete investigation because we have had enough lies by the Fascists who govern our country. I know they are going to say later that Figueroa never was detained. He was never whipped. He was never tortured. And they are going to show you the document. But please, gentlemen of the Commission. I am not a boy. I am 55 years old. At my age, I will not allow myself to tell a lie about this. That's all. Thank you. You can ask me any questions.

I, the undersigned, Osvaldo Figueroa Figueroa, a Chilean national, married, declare that I have taken cognizance of the attached text and certify that it is a faithful copy of what I said before the CANADIAN ENQUIRY INTO HUMAN RIGHTS IN CHILE. These statements were made in the city of Toronto, Canada, on 30 October 1977; they correspond exactly with what in fact happened and have a direct bearing on the so-called "Veloso case".

Geneva, Switzerland, 12 January 1978

(Signed): Osvaldo FIGUEROA FIGUEROA

ANNEX XIII

Statement by Luis Ruben Mardonès Ceza

Mr. LUIS RUBEN MARDONES CEZA, a Chilean citizen, married, of full age, residing at 639 Pasaje Los Coros, Población Pablo Heruda, Commune of Conchalí, holder of identity card No. 4,665,211-3 issued by the Santiago Office, being under oath, hereby makes the following statement.

(1) I hereby declare that I was, at the time of the events which I describe in the following paragraph, and still am, an official of the Apostolic Institute of the Cardijn Foundation and that before joining this Foundation I held the offices of Chairman of the Colis Brothers Trade Union and Counsellor to the Leather and Footwear Workers' Federation.

(2) At about 4.30 p.m. on 12 May 1977, as I was walking from the Cardijn Foundation at 51 Calle Cienfuegos to the Vicaría de la Solidaridad at 444 Plaza de Armas, in order to inquire about the results of the action initiated for the enforcement of the rights of my friend and work colleague, Carlos Veloso, and his son of the same name, I was arrested by three persons, two men and a woman, in Calle Manuel Rodríguez between Honeda and Agustinas. On leaving the Foundation building, I noticed that someone was following me, and this was the person who pointed a gun at me and made me get into a taxi, which apparently was also following me since two other persons - a man and a woman - who participated in the arrest were travelling in it. The taxi drove along Calle Manuel Rodríguez as far as Alameda, turned west and stopped in Alameda after passing Cienfuegos. The man who had pointed a gun at me got out, whistled and made a sign with his hand. He then got back into the taxi, which continued its journey, turning southwards along Almirante Latorre. At that point, they put a cardigan over my head and made me lie on the floor of the vehicle, one of my captors putting a foot on my head. The taxi stopped in Almirante Latorre after travelling about two blocks from Alameda; the persons who had arrested me got out and other persons got into the taxi. These persons stuck adhesive tape over my eyes and placed a handkerchief over the tape. The taxi drove off again and made several turns. We then stopped for about 10 minutes in what seemed to be a courtyard since the ground was paved. They made me get out of the taxi, dragged me along the ground by my feet and bundled me into another vehicle in which a number of other persons took charge of me. We travelled for about 15 minutes in this second vehicle until we reached the place where I was to be detained. About six or seven blocks before reaching our destination, I heard the vehicle cross over a short bridge. When we arrived at our destination they made me walk through what might have been a low doorway; I could feel that the ground in that place was partly earth and partly paved. They took me to a room with a cement floor and an iron door which they locked with chains. In this room my feet were tied with chains and my hands with strips of leather, and I was thrown on to a mattress. After a while they took me out of this room and again made me walk through this kind of small doorway. They made me climb three or four wooden stairs and brought me into another room, which I think had a wooden floor. They turned me round several times - so much so that I felt a bit sick - pushed me about, pulled my hair and kicked me in the legs and buttocks. I think that the persons who were knocking me about were standing on something, since I sensed that they were at a greater height than I was. They kept me standing for a long time and asked me several questions concerning my personal background, my place of work and the work I did in the Cardijn Foundation.

I replied that I was employed as a beginner in the Foundation, where I ran errands and had to keep order and ensure that activities were carried out seriously and correctly. They asked me about the Foundation's activities, the names of the persons who worked there and the specific tasks of the various departments of the Foundation. To these questions I simply replied that I was familiar with some of the activities of the Labour Department, where people sought advice about dismissals and the procedure for obtaining permits to hold trade-union meetings. I told them that the Foundation gave only legal and not judicial assistance. I also said that the Foundation carried out a number of studies designed to give guidance to workers and mentioned its studies on the Statutes of Enterprises, Act No. 16455, the Labour and Social Welfare Code, other labour laws and the regulations concerning night work by women. This interrogation session lasted approximately 15 minutes. They then took me from this room to another room nearby. From this new room I heard them interrogating someone about his relations with the Foundation. This person insisted that he knew nothing about the Foundation. They then took me away to another room, sat me on a chair and gave me several slaps on the face and kicked my arms. They told me that the time had come to talk seriously and that I had to give proper answers, or else they would adopt a different type of treatment. They asked me who went to the Foundation and read out a list of names; I had to confirm or deny that I had seen them in the Foundation. Among these names they mentioned Ricardo Lecaros, Fernando Bobadilla, Juan Manuel Sepúlveda, Alamiro Guzmán, Georgina Aceituno, Villalobos and Teresa Carvajal. They also asked me about Santiago Pereira and Samuel Astorga. They mentioned other names, which I do not remember, of persons whom I do not recall having met. The interrogation then turned to the First of May document and I told them I knew about it. They asked me whether the document had been prepared in the Foundation. I replied that the document had not been prepared in the Foundation but had merely been copied there. They then asked me whether it had been prepared in the Latin American Institute for Doctrinal and Social Studies (ILADES). I replied that I did not know and they immediately asked me whether I knew that it had been prepared by Elias Sanchez. I replied that I did not know him. When I gave this reply, they began to hit me with sticks on my ribs and the tips of my toes. They asked me what I had done on 1 May and I replied that I had gone to the Cathedral. They then asked me what I had been doing in the Cathedral doorway on 1 May, since I had been seen talking to a number of people. I told them that in the Cathedral doorway I had spoken to a number of persons to tell them how the procession accompanying the Cardinal would be organized. They then asked me if I knew the persons who had begun to shout political slogans inside the Cathedral. I said that I did not know them and that I had not seen anyone doing anything of the kind, since inside the Cathedral I had been behind the high altar. I told them that I remembered that when the service was over I left the Cathedral singing the Hymn of Joy. I told them that I had not heard any political slogans then either, and that afterwards I had gone home. This interrogation session lasted the whole night and they kept on asking about the same subjects, repeating the questions I have already mentioned. I heard them using a typewriter to note down my answers to their questions. At about 5 a.m. on 13 May, they took me back to the room where I had been taken when I first arrived and kept me there until about 7.30 a.m. They then took me to the place where they had interrogated me during the night and began to ask me various questions about the abduction of Carlos Veloso's son. They asked me

I had spoken to the boy on 2 May. I told them that I had not learnt about what had happened to him until 3 May, that I had no responsibility with regard to the events they were asking me about, that I myself had accompanied Carlos Veloso Reindenbach's father in order to initiate the formalities which would clarify the situation, that I had known the boy since he was very young and that the boy's father and I were very good friends. They then took me away to another room, made me undress, spread wet cloths over me and began to hit me on the stomach and ribs. With the same wet cloths they hit me on the face. This maltreatment lasted for about five minutes, after which they again began to question me about the abduction of the Veloso boy. I repeated what I had already stated. They then asked me to identify the other persons who had participated in the abduction and mentioned the following persons, whom I did not meet until a long time afterwards: Zuleta, Figueroa, Drouillas, Troncoso and de la Fuente. I told them that I did not know these persons and that I had never heard their names. They then left me alone for a long time and when they came back, they told me that they would let me go, but I would have to undertake to co-operate with them. I could earn 2,000 to 2,500 pesos a month if I allowed them to photocopy some documents when I was sent out into the street to deliver them. I replied that I could not do this, that I was only a beginner with the Foundation, that the Foundation did nothing secret and that all its activities were in the spirit of the Church's social teachings. I also told them that I had been wanting to leave the Foundation for a long time and that now that I was faced with this problem, there was all the more reason for me to leave shortly. They then took me to another room from which I could hear them interrogating someone in an adjacent room and asking him if he knew Luis Mardones. For a long time this person said he did not know me; I heard them beating him and heard him moaning afterwards. Shortly after they had begun to beat him up, this person said that he knew me. I heard them bringing in another person, whom they began to beat up as soon as he came into the room. They then asked him whether he knew me and whether he knew the Cardijn Foundation. He replied that he knew neither me nor the Cardijn Foundation and said that he had abducted the boy together with de la Fuente, Zuleta and Figueroa. I then gathered that that interrogation session had ended. After that someone came into my room and took me to another room where a group of persons - I believe there were four of them - began to hit me all over my body. I felt them kneeling me, hitting me with sticks and kicking me. They pulled my by the testicles and began to turn me around until I felt completely nauseated, after which they began to ask me about the abduction of the Veloso boy. Only women were asking me questions; they insisted that I should admit to having participated in the abduction, since that was the only means of saving my life. At all times I clung to my denial of any participation in the events in which they wished to implicate me. After several hours they said they would release me and put my watch and some money into a small bag. Some time later they again took away my watch and money, and took me back to the cell where I had been previously. During my imprisonment in this first place of detention, I heard the noise of light aircraft and regularly, every 20 or 30 minutes, a heavy vehicle, possibly a bus, would drive past. I could also hear the noise or voices of children in the neighbourhood, possibly in a school. At about 10 p.m. on Friday, 13 May, they took me out of my cell and made me climb, still blindfolded, into a kind of van. I realized that there were other persons in the vehicle, since I even tripped over the legs of one of them. When we reached the new place where they were taking me, they took off my blindfold and I saw that my escort consisted of three guards in civilian clothes. I also saw other persons who, like me, were detainees. In the cab of the vehicle I saw a woman and the driver. They escorted us to an office

where they noted our personal data, took photographs of me full-face and in profile and made me sign some papers which I was not allowed to read. I was also examined by a person who said he was a doctor and told me that I had slight bruising. It was in this office that for the first time I was able to see the other detainees quite clearly since there was sufficient light. I knew none of these persons and only learned their names much later at the Office of the Military Prosecutor: they were Eduardo de la Fuente, Osvaldo Figueroa and Williams Zuleta. After the medical examination I was taken to a cell where I remained incommunicado until 17 May. At about 3 p.m. on that day, the woman official who had escorted me on my most recent journey told me that I was now being detained in Cuatro Alamos by DINA and that my case had been passed to the Office of the Military Prosecutor. She said that my family had already been informed and that it was very important that I should confess the truth. She added that the other persons had stated that I had been involved and that by telling the truth, I would be helping my case. I insisted that I had nothing whatsoever to do with the boy's abduction and that it was absurd even to think that I had, since the boy's father was a great friend of mine. This woman then went away and left me alone. On Wednesday, 18 May, a person came to ask me about a statement which I had made in 1976 and had been handed to the Cardinal. After this person, who was accompanied by someone else, had asked me this question and I had explained exactly what had happened in connexion with that statement, he left the place where I was being detained. On the next day, 19 May, a person came with a list of names and, without telling me their surnames, asked me to give him a physical description of Pepe, Luis, Antonio, Gerardo and others whose names I do not remember. Since I gave no information about any of these persons, my interrogator left. Two days later, on 21 May, I was made to sign a document dated 19 May, whose contents I was not allowed to read. I was shaved with an electric razor and ordered to make myself as tidy as possible. They then escorted me to a courtyard and took photographs of me reading a newspaper and looking at a tree. On the evening of the same day I was able to see the other persons who were imprisoned with me, as well as another person whom I had not previously seen. Later, in the Office of the Military Prosecutor, I learnt that his name was Humberto Drouillas. We were taken to an office where there were various games and a television set. We were made to sit down and act as if we were playing cards. They took several photographs of us. Then I was taken back to my cell. Several days passed until, at about 4 p.m. on what must have been 2 June, the President of the Supreme Court came to my cell, accompanied by the Secretary of the Supreme Court and another person who, as I was told by the President of the Supreme Court himself, was the Director of the Institute of Forensic Medicine. The President of the Supreme Court asked me my name, how I had been arrested, whether my captors had shown my any warrant of arrest or had identified themselves, whether I knew the place where I had been taken and whether I knew what I was charged with. He also asked me whether I had been physically maltreated. I replied that the persons who had arrested me had not identified themselves or shown any warrants, that I did not know what I was charged with and that my captors apparently wanted to implicate me in the abduction of the Veloso boy. I also told him that I had received severe physical maltreatment. He told me that he had recently returned from South Africa and that a situation had developed in which he had to ascertain whether there was anything wrong. He asked me whether I was being held incommunicado and I replied that I had been incommunicado for about 20 days. He offered to notify my relatives that he had seen me and to tell them where I was. He said that he would also tell them that he had spoken to me and had found me to be in good condition. He told me that the next day he would send a doctor from the Institute of Forensic Medicine

and got the Director of the Institute who was with him to promise that that would be done. He then promised to discuss my situation with the Minister of Justice, although he said that the Minister could do nothing, since the military courts were dealing with my case. He also told me not to worry because he would do everything possible to speed up the proceedings, but warned me that there were certain things he was unable to do. I thanked him for his concern and told him that I felt completely at ease because I had had nothing to do with the events about which I had been interrogated. I asked him to do everything in his power to clear up the problem. Before leaving the cell where I was being held, the President of the Supreme Court told me that he would ask for clothes to be sent to me. The next day four doctors from the Institute of Forensic Medicine came to my cell and gave me a complete check-up. They discovered that I still had a number of bruises and that my nervous condition had seriously deteriorated. They left me some medicaments which they told me were tranquillizers and sleeping pills. After this examination, they left my cell. Some days later, at about noon on what was probably 6 June, I was taken to the office, where there was a group of about eight or ten persons. One of these persons told me that he was the Minister of Justice and said: "You are

He then told me: "Your cases are being studied by people in the Office of the Military Prosecutor. There will be developments soon, since the Military Prosecutor will summon you to make statements". I told him that I had been held incommunicado for more than 20 days and that I must speak to my relatives or a lawyer in order to give him information which would help me. He told me that he could do nothing about my being held incommunicado, since that matter was not within his competence, but he would do his best to speed up proceedings in the Office of the Military Prosecutor. He then took his leave and a guard gave me a package containing clothing which, according to the guard, had been sent to me by my wife, who was outside. On Friday, 10 June, I was taken to the Office of the Military Prosecutor. There I was interrogated by the Military Prosecutor. There I was interrogated by the Military Prosecutor, who asked me about my friendship with Carlos Veloso, the Veloso boy's father. I told him that we were friends and that I also knew the boy. I also told him that I rejected any statement that might be attributed to me, since I had been obliged to sign various documents while I was blindfolded. I did not, in fact, know whether or not the statements I had been made to sign contained what I had actually stated. The Military Prosecutor asked me whether I had participated in political events since 11 September 1973, to which I replied that I had not. He then asked me whether I was active in any political party. I replied that I was not, but my views might be described as those of a Christian Democrat; in any event, I had not registered myself as a supporter of any party. After being questioned by the Military Prosecutor I was taken to the Public Prison, where I remained incommunicado from 10 to 13 June. On 14 June, I was taken back to the Office of the Military Prosecutor but made no kind of statement there. I was then taken back to the Public Prison and remained there incommunicado from that day until 20 June. On Tuesday, 21 June, I was again taken to the Office of the Military Prosecutor and this time the Military Prosecutor asked me about my conversations with the Veloso boy on 2 and 3 May. Later, on 21 June, my incommunicado status was lifted and I was returned to the prison. On the next day, Wednesday, 22 June, I was taken back to the Office of the Military Prosecutor, where I remained from 3 p.m. until 9.30 p.m. without being questioned. On this occasion the Military Prosecutor told me that I was to be unconditionally released for lack of evidence and instructed me to report to his office at 2 p.m. on 24 June. From his office, the other

detainees and I were taken back to the prison, where we arrived at approximately 10 p.m., only to be told that the Records Office was closed and that we could not be released that day, although we would be the next day. At about 10 a.m. on the next day, Osvaldo Figueroa, Eduardo de la Fuente and I were taken from the prison to the Cuatro Alamos compound. We remained near the gates of the compound without leaving the van for about two hours. We were then taken back to the prison, where I and the persons just named were granted our release. On 24 June, I reported to the Office of the Military Prosecutor, who asked me whether I felt at ease now that I was free. I told him that now I was simply living in a larger prison, since my home was under surveillance. He told me that he would see what he could do about that. I then left his office and went to my home, where I am still living now. Since I am now a free man, I have decided to make the above statement with the purpose of leaving clearly on record everything that happened to me during the period when I was deprived of my freedom.

Signed before me by Mr. Luis Rubén Mardones Ceza, holder of Identity Card No. 4,665,211-8, issued at Santiago.

ANNEX XIV

Information submitted by Carlos Veloso Figueroa relating to the questions concerning the Carlos Veloso case raised by the Government of Chile in chapter III, A.1 of document A/C.3/32/6

Question 1

With regard to the first question, I have to state that the procedure and methods used by the security agents (DINA) to "tell me" that they were not the authors of the assault on my son were "based" on the following (among other equally weighty points):

1. The threat made to my son that all the members of the family would be "liquidated" unless he altered the story given in the application for a writ of amparo (habeas corpus) submitted to the Supreme Court and in the information laid in the criminal court.

2. Intimidation with a firearm by a DINA agent on the night of Saturday, 7 May, in a deserted spot.

3. The use of force to compel my son to sign a statement accusing prominent Christian Democrat trade union leaders of the assault.

4. The fact that the change in my son's story, which I had supported, was made, not in a "public" place, but in premises to which we were brought with blindfolds over our eyes and which, from the features which I could discern and according to reports by other prisoners, was a torture centre where the DINA agents "present" their "arguments" in the very diplomatic manner which may be discerned merely by a reading of the "comments" of the Chilean Government.

All these factors constitute an atmosphere of psychological intimidation which caused me to change my mind.

Question 2

The answer to this question is implicit in the answer to the previous one, since I consider the question to be similar in nature, even if differently phrased.

Question 3

The answer to this question, which relates to the general context of the sworn statement, is based on a situation of conflict produced at that particular time and not throughout. In any event, even I had an intuition as to what in reality had happened. This justifies my reaction, which was a normal one, considering that I had been under pressure and interrogation for more than 15 hours.

In addition to this, I was naturally fearful that the DINA agents might try to kill us, since they already had an "accusation" and had identified alleged "culprits".

I must also draw attention to the fact that the date on which we wrote the document referred to by the Government was "prior" to our statements at the Fiscalía Militar and we obviously had to take some precautions in the drafting of this document. With reference to this question, the Government should take account of the wording of the statements which we made to the Fiscal some days following the earlier statement.

I also wish to reply here to the statement so lightly made to the Commission by the Government (see the same page of its questionnaire) that: "On 14 June, Carlos Veloso and his son made sworn statements before the Santiago Notary, Mr. Demetrio Gutierrez, which constituted a new retraction of the 'statements made' to the intelligence services and to the Fiscal Militar".

I must emphasize that neither I nor my son ever stated to the Fiscal that the kidnapers were the persons arrested, tortured and held incommunicado by the DINA.

In our statement to the Fiscal we accused DINA personnel of being the kidnapers and torturers of my son, thus confirming the statement to which the Chilean Government refers, which had to be made later before a judge of the Supreme Court in premises of the Directorate of Investigations where I and my son were held by order of the Fiscalía. I should add that the judge recorded my complaint, mentioning the fact that DINA agents were present in the corridors of the above-mentioned premises, which clearly showed that we were being detained in an attempt to prevent the judge of the Supreme Court from confirming our statement.

Question 4

My son's reaction was natural having regard to the fact that the DINA agents had "very kindly" provided me with the television set to entertain my children. My son believed that the television set had been awarded to me by DINA in payment for the collaboration which, the previous day, they had told my son I was already giving.

The television set was finally left in the care and custody of a person who was asked to hand it over to the DINA.

Question 5

This question repeats the content and substance of what is asked in question 3 and is not concerned with any substantial point.

In conclusion, therefore, the Government, confronted with the very clear case which I have made, has addressed to the Commission a number of questions devoid of substance, avoids any reference to the charges of physical and psychological torture inflicted on my son and does not mention why we had to remain under house arrest for 22 days, during which period, with the daily presence of armed agents, we had to endure a campaign of psychological terror which they organized almost every night by making us believe that terrorist commandos were surrounding our house and intended to attack us.

The Government does not refer to the "legality or illegality" of this action which it treats merely as the adoption of "precautionary" measures and arrangements for "protection". The result of this "protection" and of the continuous armed "demonstrations" organized by the DINA agents in our apartment, have created in my family, especially in my children, conditions of neurosis, a persecution complex and even terror. It is perhaps sufficient that the Government should know that my younger child, who is aged only 4, has been medically diagnosed as suffering from a stomach ulcer.

At the express request of the Working Group which is investigating violations of human rights, I have thus answered the "questions" raised by the Government concerning the Veloso case and have myself refrained from asking for an explanation as to why such occurrences are taking place in my country and whether the Government can justify these violations of fundamental rights and of the dignity of the human person.

Geneva, Switzerland, 13 January 1977

(Signed) Carlos H. VELOSO FIGUEROA

ANNEX XV

Communiqué from participants in the hunger strike of
29-31 December 1977

As relatives of missing detainees, we hereby inform national and international public opinion that at 10 a.m. today, Thursday, 29 December 1977, we began a hunger strike in San Francisco Church and will continue this strike until noon on 31 December 1977.

As relatives of missing Chileans who have been detained for political reasons, we wish to state the legitimate motives which have prompted us to exercise this right.

1. Since 11 September 1973, hundreds of Chilean citizens have disappeared in our country after having been arrested by agents of the government security services. Their whereabouts, status and condition are still not known.

2. It is common knowledge that we have made use of all the legal and institutional procedures provided for in the Constitution and the law with the object of conveying the seriousness of our problem to the government and judicial authorities. So far, however, all our representations have been unsuccessful, and have elicited from these authorities only silence or information that is totally unreliable or irrelevant to the cases we have reported.

3. We have approached all the humanitarian organizations in Chile seeking protection and solidarity, and in all of them we have found support and understanding.

The Chilean Catholic Church, faithful to the traditions of its mission and service, has extended its solidarity to us. In documents and declarations it has stated that, for the sake of tranquillity, peace and greater national harmony, it is essential for the problem of the missing persons to be cleared up once and for all. We relatives are grateful for the Church's humanitarian position and support its defence of human rights.

4. We have also reported our problem to international bodies, and for this purpose relatives have had to travel abroad and explain their plight before the committees concerned with human rights in the international organizations, it being impossible for us to do so in our own country since the Government has refused to allow committees investigating the violation of human rights to enter Chile. The Government's response to these legitimate, humanitarian acts has been to expel from Chile three relatives of missing detainees.

5. In declaring this hunger strike, we are supporting the resolution adopted by the highest organization of the international community. This resolution does not constitute an attack on Chile, but reflects the support of the majority of countries and peoples in the world for the decision by Chile and its people to ensure unrestricted respect for human rights and to safeguard individual guarantees and freedoms.

The United Nations resolution attacks the systematic violations of human rights which have been occurring in our country since 11 September 1973 and demands that the Chilean Government put an end to this situation. Chile and its people cannot disagree with these demands, since the Chilean people themselves are the first to make them.

We relatives of missing detainees endorse these demands and, in particular, paragraphs 1, 2, 3 and 6, which denounce the situation and demand that our problem should be solved. Thus, paragraph 6 reads:

"(The General Assembly) ... Demands that the Chilean authorities put an immediate end to practices of inadmissible secret arrests and subsequent disappearance of persons whose detention is systematically denied or never acknowledged, and clarify forthwith the status of such persons".

6. Like all Chilean people, we cannot accept repressive practices such as disappearances, torture, and cruel and degrading treatment. Still less can we accept the fact that our aspirations, concerns and hopes should be deliberately confused with anti-patriotic conduct. It is the conduct of the security services actively responsible for the violation of human rights in Chile that is anti-patriotic.

7. We believe that the Government's persistent refusal to provide a final accounting in each of the cases of missing detainees which we have reported makes it directly responsible for the inclusion in the United Nations resolution of these four paragraphs condemning Chile and relating to the problem to which we have called attention.

Like all other Chilean citizens, we would like Chile's tarnished image abroad to change, but an essential condition for such a change is a truthful and comprehensive reply concerning every case involving a missing detainee.

We publicly declare to General Augusto Pinochet Ugarte and his Government that we want an accounting for the lives and freedom of every missing detainee.

It is time Chile knew the truth. The Chilean people cannot be ignorant of its own realities. The Government must answer and assume its responsibility.

Santiago, 29 December 1977.

ANNEX XVI

Statement by Ana Gonzalez Gonzalez concerning the arrest
and disappearance of members of her family

I, ANA GONZALEZ GONZALEZ, a Chilean citizen, born on 26 July 1925, resident at 6271 Cantaros de Chile, Santiago, identity card 2,157,623-9 of Santiago, married with six children, having sworn to tell the truth, make the following statement to the Ad Hoc Working Group to inquire into the present situation of human rights in Chile.

At about 10.30 p.m. on 29 April 1976 the following members of my family were arrested by security agencies: MANUEL GUILLERMO RECABARREN GONZALEZ, aged 23; LUIS EMILIO RECABARREN GONZALEZ, aged 29, a photolithographer by occupation and trade-union leader in the State Technical University until 11 September 1973; NALVIA ROSA IENA ALVARADO, his wife, aged 21, three months pregnant; and LUIS EMILIO RECABARREN IENA, their little son aged only two and a half years. On that day, as my sons, daughter-in-law and grandson were returning to our home, they were stopped by security personnel wearing civilian clothes and armed with sub-machine-guns, who were using three vehicles: a taxi, a small Citroen car and a car with a roof light which was unmistakably a typical Investigation Department vehicle. My relatives were brutally beaten. Nalvia Rosa screamed for help. The mother's screams of terror and the child's anguished crying attracted the attention of many neighbours in the vicinity. This aroused the animal fury of one of the arresting agents, who dealt Nalvia a sharp blow in the abdomen with his sub-machine-gun. The poor woman fell to the ground unconscious and in this state was thrown into one of the vehicles. At 11.30 p.m. LUIS EMILIO, my small grandson, was left in the street near our home. A lady who witnessed the occurrence said: "A tall, heavily-built man got out of a taxi with the engine running, ran and left the child, and then ran back and got into the car, which quickly drove off into the darkness of the night".

I have to state that my grandson Luis Emilio, the little son of Nalvia Rosa and Luis, once back in our home, cried inconsolably for three hours. He was then overcome by sleep, and went on sobbing even in his sleep.

My husband Manuel Recabarren and I could do nothing that night. We had to concentrate on consoling the child. At 7.10 a.m. on 30 April - that is to say, eight hours after our children's arrest - my husband MANUEL SEGUNDO RECABARREN ROJAS, aged 51, a printer by trade, was also arrested. He was a well-known trade-union leader among printers and related workers and had been chairman of the Supplies and Prices Board of the Commune of San Miguel during the Government of President Salvador Allende. My husband was arrested as he left our home to try to find out what had become of our children.

Evidence of my husband's detention has been given by a former political prisoner who saw him in a secret place of interrogation belonging to DINA.

Malvia Rosa's second child must have been born in November 1976. It was born utterly defenceless in one of DINA's many secret prisons. The child will now be a year old and the tortured mother will be calling it Dola, Esperanza, Libertad, Caupolichán or Lautaro. But whatever the name of her child, I am appealing to the Working Group on behalf of five relatives.

Ernestina Alvarado de Hena, Malvia Rosa's mother, and I have completed all the appropriate legal formalities. Our writs of habeas corpus have been rejected by the Supreme Court on a mere report from the Ministry of the Interior to the effect that "They are not in custody; no warrant has been issued for their arrest". The Ministry of Justice gives the same answer. The judicial authorities, although aware of all the facts (as in the case of Contreras Maluje), cannot conclude the investigation because the DINA officials responsible for these illegal and arbitrary arrests and disappearances do not come and make a statement in court. The judicial system overlooks this contempt of court, which would earn any lay citizen a prison sentence.

Eighty-four days after the arrest and disappearance of our relatives, Ernestina Alvarado, Malvia's mother, wrote to General Rolando Garay requesting information about them. Two days after this request we were visited by Ministry of Defence officials in civilian clothes, who came in a military jeep. They stated that General Garay had given them 23 hours to investigate the case. I declare before the Ad Hoc Working Group that these officials did their work very quickly and efficiently. They even took with them the witness Mrs. Leonor Díaz, who has heard the statements of most of the witnesses to my children's arrest. I also wish to state that the investigators found a large number of witnesses who gave them statements which bear out our charges.

Later Ernestina again went to the Ministry of Defence in order to seek a personal interview with General Rolando Garay, but she only managed to reach an office marked "Private" on the sixth floor. There she spoke to Mr. Nelson Rivas, whose military rank we do not know because he was in civilian clothes. Mr. Rivas stated that our relatives had been traced and were in custody in a special place, but that in order to visit them the General's signature was required. He also said that she should wait at home and not worry, for the reply would be sent in writing to her address.

The wait continued for more than two weeks, so Ernestina returned to the office in the Ministry of Defence. How bitterly disappointed she was when she heard Mr. Rivas deny everything he had previously said! A long time afterwards an official letter from the Ministry of Defence was sent to our home stating that our relatives were not in custody and that no warrant had been issued for their arrest.

Arresting a person and causing his disappearance constitutes the most inhuman act that can be committed against a human being. These acts are so incredible and so horribly brutal that the mind refuses to believe that they are performed by rational beings.

On 14 June 1977 26 men and women began a hunger strike at ECLA in Santiago. Among these 26 persons were Ernestina, Malvia's mother, and the undersigned. We risked our lives as a last resort, in the absence of any judicial or administrative authority in Chile from which to seek protection for the lives of the missing detainees, whose whereabouts the Government systematically refuses to reveal.

In September 1977 Mrs. Gabriela Bravo de Lorca, Mrs. Ulda Ortiz de Baeza and I left Chile. Our purpose was to talk with public figures and organizations concerned with human rights and to appear before the United Nations in order to testify and seek support, so that the Government of the Military Junta might give us an answer once and for all concerning the whereabouts of our relatives. The sole purpose of our mission was to attain this humane objective.

When we had completed our mission, we returned to Chile on 23 November. The Government prevented us from entering the country. By denying us admission to the national territory, it placed a political interpretation on our mission.

Distinguished members of the Ad Hoc Working Group: as you will understand, no mother, wife or daughter can relinquish the right to defend the lives of her relatives. For this reason, and in order to exercise this right, I shall return to my country. We shall return in order to continue the painful search.

I leave before you the testimony of a woman, mother, wife and grandmother who calls upon men of good will to help her to recover her loved ones.

I am not asking for my relatives to be released. I claim for them the right to be shown to their relatives and to be given a trial if they are accused of any offence - a right which is guaranteed to all citizens by the Political Constitution of the State.

New York, 8 December 1977

(Signed) Ana GONZÁLEZ DE RECABARREN

ANNEX XVII

Statement of Ana Gonzalez Gonzalez concerning official investigations
into the disappearance of members of her family

In Santiago, on 18 July 1977, ANA GONZALEZ GONZALEZ, housewife, married, resident at 6271 Cantaros de Chile, San Miguel, identity card 2,157,623-9 of Santiago, having been duly sworn, states the following:

FIRSTLY: that on 29 April 1976 her sons LUIS EMILIO RECARBARREN GONZALEZ and MANUEL GUILLERMO RECARBARREN GONZALEZ and her daughter-in-law NALVIA ROSA MENA ALVARADO were arrested by security personnel in an operation carried out at the corner of Avenida Santa Rosa and Calle Sebastopol. Three vehicles were used in this operation, one of them being an Investigation Department patrol car. They were beaten - even Nalvia Rosa, who was three months pregnant - in the presence of numerous witnesses, and insulted, being called criminals as they were dragged to the vehicles. The individuals taking this action were all civilians armed with sub-machine-guns.

SECONDLY: that at 7.10 a.m. on 30 April 1976 her husband MANUEL SEGUNDO RECARBARREN ROJAS was arrested as he was boarding a bus at the stop at 16 Avenida Santa Rosa.

THIRDLY: that she has completed all the appropriate legal formalities, such as bringing actions for enforcement of the rights of these four persons and filing charges of abduction before the Second Criminal Court of San Miguel. All these steps have yielded no result whatsoever and her four relatives are still missing. She has also taken administrative proceedings before various national authorities, requesting information and claiming the release of her relatives, again completely without result.

FOURTHLY: that from 14 to 24 June 1977 she participated, together with another 25 relatives of missing persons, in a hunger strike in the ECLA building at Santiago. This was prompted by the failure of all the steps taken over a long period to trace the missing persons and to obtain information about their fate. As a result of this action, the Government undertook to give information about the relatives of the persons who participated in the strike, but this has not yet been done. It also undertook not to take reprisals of any kind against the participants in the strike.

FIFTHLY: that at about midnight on 14 July 1977, when she was at her home with her children Ana María and Vladimir Recabarren González, the house was lit up from outside by a powerful light, which was played on a large window until they opened the door. Two individuals in ordinary civilian clothes, one aged about 30 and the other about 40, came in. The older man did the talking. He said they were DINA officials and had come from "Diego Portales". He showed credentials in very small writing, but she was able to read the words "Héctor Ríos, DINA subprefect, No. 1546". Two other individuals remained outside in a grey Fiat 125-S.

The first question asked was whether she had participated in the recent hunger strike at ECLA. She replied that they knew this already and that all the facts of the case were in the possession of the Ministry of the Interior.

The individual then expatiated on their keen interest in investigating the facts relating to the disappearance of her relatives. They asked her for details of the arrests. She replied that she had reported the facts many times and that the President of the Republic, the Minister of the Interior, the Supreme Court and the criminal courts had been informed of everything that had happened.

They nevertheless insisted on hearing a first-hand statement by the declarant. She asked to be allowed to write her own statement, but they forbade this. She then made the statement again orally, while the younger man wrote it down. He wrote very slowly, omitting several points which she made. She mentioned the name of Mrs. Leonor Díaz Donoso, a witness by hearsay of the arrests, who at the time had been secretary to the Board of Residents of Neighbourhood Unit No. 45, in which the declarant's home is situated. Mrs. Díaz learned of the arrests the same evening, 29 April 1976, from an eye-witness. She made a statement before the criminal judge who initiated the proceedings, and accompanied Ministry of Defence officials on an investigation which they made at the scene of the arrests. There they learned of many persons who had witnessed the arrests but who, fearing for their safety, had been unwilling to testify in the criminal proceedings. Yet Mrs. Díaz's name was omitted by the man who was taking notes. The declarant pointed this out to him but he said that he would return for that information another day.

While she was making the statement, the spokesman interrupted her to say that possibly her relatives had been arrested by another security agency belonging to the armed forces, and not by DINA; or that they might have been arrested by some of their party comrades; or that they might have fled abroad. She rejected all these suggestions, pointing out in particular that the existence of guerrilla groups which went in for abducting their own comrades was inconceivable in the present situation in Chile. She put it to him that DINA was directly responsible for the arrests.

When she had concluded her statement, they asked her to sign it. At first she refused, but they became increasingly insistent, and she agreed in view of the lateness of the hour and her own fatigue. She felt that she was under real pressure to sign, since the men seemed prepared to stay all night if necessary. The statement covered a page and a half and ended with the sentence "Concerning the strike she has nothing to say". The declarant signed her name immediately below this sentence, taking care not to leave any blank lines, as they wished her to do.

The whole conversation lasted about two hours. As curfew was approaching, they said they had to leave for that reason. She made an ironic comment, at which they laughed. They again said that they would return for the information they had not included in the statement.

SIXTHLY: that on 7 July 1977 her home was again visited by members of DINA during the daytime, while she was out. They spoke to her son Vladimir Recabarren, whom they also asked for an account of the arrest of his relatives. He acceded to this request but signed nothing on that occasion.

SEVENTHLY: she repeats that the above-mentioned four members of her family - LUIS EMILIO RECABARREN GONZALEZ, NALVIA ROSA MENA ALVARADO, MANUEL SEGUNDO RECABARREN ROJAS and MANUEL GUILLERMO RECABARREN GONZALEZ - have been missing since the dates of their arrest, that any statement to the contrary is false, and that she has received no information as to their whereabouts since the above-mentioned hunger strike.

(Signed): Ana González de R.

ANA GONZALEZ GONZALEZ

Identity card No. 2,157,623-9, Santiago

SIGNED BEFORE ME BY ANA GONZALEZ GONZALEZ

SANTIAGO, 19 JULY 1977

(Signed): (illegible)

ANNEX XVIII

Statement by Marcos E. Medina Sanchez

Civil status: Married, one child

Occupation: Mechanic

Place of work (till 11 September 1973): Industria Manufacturera de Cobre (MADECO)

Arrested on four occasions:

First arrested by police of the Twelfth District on 22 September 1973.

Second arrest: 2 November 1973, by soldiers of the Tacna Regiment of Santiago.

Third arrest: mid-October 1975, by DINA agents.

Fourth arrest: 24 October 1977, by DINA agents.

The first arrest took place outside the MADECO works. I was taken to a police station together with seven other workers from the same plant. From this police station, we were taken by members of the Air Force to the El Bosque airbase. From the moment we arrived at this base, where we remained for four days, we were beaten brutally and we were locked up in a gymnasium. Whenever we were taken out to the toilets, we were blindfolded. Our diet was extremely meagre - only coffee and sandwiches twice a day. Our group was not interrogated, although we were often assaulted physically. During my time at the base, I was able to see how other MADECO workers were tortured and harassed - many of them finished up very badly wounded and unconscious. The principal methods used were beatings and electric-shock treatment. From the base we were taken, on 25 September, to the National Stadium. On arrival, we were given a blanket, a plate and a spoon. Our rations consisted of a loaf and some hot water, which we were given at 3 p.m. We slept on the floor. That same day, we began to witness the most dreadful and bloody scenes, which were inconceivable for anyone with the slightest notion of humanitarian conduct. We were direct witnesses of hideous forms of torture. Moreover, we began to see fellow-prisoners lying dead in the inner passages of the Stadium. The bestiality with which two of our colleagues were tortured summoned particular attention, because they were among the better-known of the prisoners. Rodrigo Rojas, Editor of the newspaper El Siglo, had his glasses broken; using unbelievably coarse language, they threatened him and told him "You're not going to need these any more because you're going to die". The young man Luis Alberto Corvalán was practically destroyed. Whenever he was taken away for interrogation and torture, he was carried back by a few prisoners, bundled up in a blanket, unconscious and bleeding profusely. This incredible scene generally occurred once a day, or, at the least, once every two days. After undergoing a series of interrogation sessions at this place, I was released at the end of October. However, I was arrested again on 2 November, this time after a violent search of my house. At midnight, with my family in bed, a military patrol from the Tacna Regiment, apparently searching for weapons, went through everything with a fine toothcomb, wrecking and overturning furniture, objects and household goods. After completing their search of the main rooms and the yard they moved on to the room of my nine-year-old son, which they also tore apart. Then they took me in a truck to the

Tacna barracks. On the following morning, they began to torture me, along with many other people. I was subjected repeatedly to beatings and electric-shock treatment. They tried to get me to admit that I had travelled to the Soviet Union, which I never had. When I denied it, they again began to beat me on the back and in the stomach while others administered electric shocks. I was stripped to the waist. They put damp cloths or bags against my body and poured water on them. I don't know exactly how long the beatings continued on this occasion. At later interrogation sessions, the subject turned to trade unions. I told them that I had been a leader of the MADECO Union for six successive years. They asked me which of the MADECO workers were against the military and demanded names. When I told them that I didn't know, they stepped up the torture. At about 4 a.m. on the following day, I was taken to the Directorate-General of Investigations, where I was placed in the room known as "La Patilla". Two days after my arrival, I was interrogated. I was blindfolded and taken to a room where I was ordered to lower my pants. They sat me down on a chair, tied me up tight and then attached wires to my testicles and penis and placed a metal band around my head. They started to ask me questions that I couldn't answer, so they stepped up the current. There was a man standing behind me whose job was to slap me over the ears. They kept on asking me about weapons. Here again, I can't say exactly how long this lasted, but I know it was several hours. The fact that the chair had a back may have saved my life, since on my arrival from the Tacna barracks my back was in ribbons. There were two further sessions of the same kind. In mid-November, I was released. On top of all this, I was now out of a job, having been dismissed from MADECO. I spent 1974 and part of 1975 grappling with the problems caused by my unemployment. In October 1975 came my third arrest, this time by DINA agents. I was arrested in the street, two blocks from my home, and this time there was an eye-witness to the event (a neighbour). I think I was taken to the Villa Grimaldi. There the torture was slightly less severe, although I was still subjected to electric-shock treatment and beatings. The greatest emphasis was on questions concerning the possession of weapons and the clandestine activities of persons said to come from my district - I was asked for their names and the place where the weapons were hidden. I replied that I knew nothing about any of that and that I concerned myself solely with my occasional work as a taxi driver. The last interrogation session but one was attended by a woman who said she was a psychologist and another woman who claimed to be a psychiatrist. Both of them, acting in their professional capacity, tried to convince me to co-operate with the interrogators. Since I had nothing to contribute, the psychiatrist finally told me that, if I didn't talk, I would be handed over to "some fellows who are not exactly representatives of human rights". In the large room where we were taken, always blindfolded, and our names were read out, I met my friend, Juan Rojas. He had been practically destroyed. They had administered electric shocks to all parts of his body and his genital organs and had placed an electric prod up his anus. He did not know how long he had been strung up with handcuffs round his wrists. He was 63 or 65 years old. Later, the two of us were taken to the solitary-confinement cells in Cuadro Alamos. In order to justify to world public opinion the mass arrests that were taking place at the time, the Fascists agreed to the publication of a phoney article in the pro-Junta review Qué pasa?. Seven or eight of us were hauled out of our cells. We were blindfolded, and hoods were placed over our heads and tied around the neck. We were taken to a yard and lined up with our backs to a wall. We thought we were going to be shot. However, this was not the object of the exercise, for all they did was to photograph us. This "exclusive" article was published in mid-November 1975. It was alleged that the Intelligence Services had "unearthed a

terrorist plot in the southern part of the country" and that "the hooded men are some of the extremists concerned". I remained in solitary confinement for over 20 days. I don't remember at what date I was transferred to Tres Alamos, where I was at last able to see my family. Since my arrest, I had been classified as a missing person. My wife had looked everywhere for me. She brought an action for the enforcement of rights. Everywhere she met with denials that I had been arrested, despite the evidence of the eye-witness (my neighbour). On 23 December 1975, I was released from Tres Alamos. However, on 24 October 1977, I was again arrested, this time at 8 a.m., on the corner of Providencia and Pedro de Valdivia. I had been followed from my house when I left to pick up the taxi that I was then driving. This time they even arrested me together with the car. I have the impression that I was taken to a secret place in the San José de Maipo sector, but I can't be absolutely sure. As soon as I got there, I was taken to an office which seemed to belong to the man who ran the place. He asked me about people who were allegedly working against the Government and what form of anti-Government activity I myself was engaged in. I answered that the only thing I was doing was working as a taxi-driver. He replied, "He doesn't want to talk. Take him downstairs". I was led, still blindfolded, down what appeared to be a corridor. We reached a basement, where I was locked up in a room. My handcuffs were removed, but not my blindfold. I was ordered to undress and was stretched out on a bed. This is the notorious "grill" method. They tied each of my ankles to a corner of the bed and did the same thing with my wrists. They placed a narrow, extremely tight, belt on my stomach, and attached wires to my testicles, my penis and the inside of the belt. They then administered electric shocks. They asked me who I worked with and where the mimeograph machine was. I told them I didn't know. Then they placed over my ears headphones which were connected to a machine that generated a hellish, high-pitched noise which leaves you deaf. They also administered electric shocks to the legs, arms, armpits and chest (near the heart). When I continued to say that I knew nothing, they threatened to go and fetch my wife and my son (now 13 years old) and give them the "grill" treatment, too. Then they went away for quite a long time, apparently to have lunch. They left the headphones on me. When they returned, I was asked, "Are you ready to talk?" and told, "co-operate, baldy". I again told them that I knew nothing. Then they turned up the current so much that the pain was indescribable. In desperation, I struggled to untie myself. They tightened up the bonds again. They attached another fastening just above the knees, which produced injuries to the thighs. I couldn't stand the pain. This was the first time that I screamed. I couldn't help it. In order to shut me up, someone stuffed a pillow against my mouth and face. I was almost unable to breathe, since he was pressing with the whole weight of his body. I felt as though I was suffocating. They kept me there the whole day with the electric current and the headphones. I could not say, nor can I now recall, at what time they took me away. I think it was getting dark. They left me in the basement. One curious thing is that they dressed me in doctor's clothing and put a cap on my head, tied towards the back, like someone who is about to enter an operating theatre. Printed on the apron were the words "Transfusion Department, Military Hospital". Until today, I have not managed to discover what they did or tried to do to me. On the following morning, the interrogation started up again with the same questions. I was told that I would never get out of the place, that I would go crazy there, etc. Another day went by with the same thing happening. Then, on the next day, someone came to see me and told me "In a few minutes, you'll be off". Then two other people came in and told me "Get ready to leave, but first you have to sign these papers".

I signed a number of documents. The last one, according to them, stated that I had been "detained as a matter of routine" and had not been "subjected to any physical force".

I am currently living with my family in Sweden, where I arrived on 15 November 1977.

I expressly authorize this statement to be used for the purposes of human rights throughout the world, and in my country in particular, by any international organization or official body that wishes to be informed of, and to assess the full magnitude of, the constant violations of fundamental human rights and that is able to take any action to restore those rights. I therefore place myself at the disposal of such institutions and am able to adduce as evidence further information material, such as a medical certificate now in the possession of the Vicariate of Solidarity in Chile, attesting to the effects of, and marks left by, the electric-shock treatment and other forms of torture and also to the scars that I still have about my body.

Alvesta, December 1977

(Signed) Marcos Enrique Medina Sanchez

ANNEX XIX

Medical certificate concerning Marcos Enrique Medina Sanchez

DOCTEUR ANDRE PEYTREMANN

Spécialiste F.M.H.

Médecine Interne - Endocrinologie

Médecin adjoint à la Clinique

Médicale Thérapeutique Universitaire

12, rue Michel - Servet - 1206 Genève

Geneva, 11 January 1978

Medical report concerning Mr. Marcos Medina, 1933, Chile

Mr. Medina says to have been tortured on several occasions while he was in prison in Chile between 1973 and November 1977.

The devices used for this purpose were essentially: electric shocks applied on the arms, legs, abdomen and genital organs as well as attachment to boards with the use of strings fixed at the forearms and legs.

The physical findings on 10 January 1978 at 6 p.m. at my office are the following:

The lesions resulting from these tortures are presently minimal: the only visible lesion is a red scar of the size of 2 x 2 cm situated about 10 cm above the left knee. It is likely that this scar results from skin lesions provoked by a strong fixation with strings and ropes. There are no other abnormal findings and, although the patient is complaining about pain in his testes, the only physical examination does not disclose any lesion at this level.

In conclusion, the observed scar is very likely in relation with skin lesions resulting from torture.

(Signed) ANDRE PEYTREMANN, M.D.

ANNEX XX

Statement concerning the detention and ill-treatment
of Maria Ugarte Escobar

I, Minerva Ugarte Vargas, a Chilean national and a social science graduate of the University of Chile, hereby declare:

1. That in September 1974, my brother, Alfonso Ugarte Vargas, married, a social worker in the Ministry of Public Works, residing at Villa Alemana, Valparaiso Province, had to leave Chile for Argentina as a result of persecutions and arrests by the Office of the Naval Prosecutor at Valparaiso;
2. That, in view of his status as a political refugee, his departure was made possible by the efforts of the Co-operation for Peace Committee, ICEM and UNHCR;
3. That these agencies sought permission for him to reside in Ecuador, where he is now living;
4. That as soon as his situation in Ecuador had been regularized, he immediately took steps to arrange for his family - consisting of his wife, Teresa Escobar de Ugarte, and his children, aged at that time between one and 17 years, who were still living at Villa Alemana - to leave Chile also;
5. That, immediately after my brother had left the country, the family, in the persons of the elder daughters and my sister-in-law, Teresa Escobar, were subjected to constant searches, interrogations and detentions allegedly with a view to discovering his whereabouts;
6. That, as a result of these arbitrary detentions, my eldest niece, Maria Teresa Ugarte, became pregnant and subsequently gave birth to a girl;
7. That in December 1976, ICEM finally succeeded in arranging for the family to leave and fixed the flight for 27 December;
8. That on the morning of 24 December, the older girls left Villa Alemana for Santiago to say goodbye to their maternal grandmother;
9. That, outside El Belloto, Maria Teresa was forced by a group of servicemen from the Naval Base to get out of the bus, and that her sister, Gloria, accordingly returned home to Villa Alemana to inform her mother;
10. That on the following day servicemen who said that they came from the above-mentioned Naval Base took my 16-year old niece Gloria from her home in order to look after her sister who was alleged to have had an accident;
11. That despite her efforts, my sister-in-law was unable to find her daughters anywhere, since the personnel at El Belloto denied all knowledge of the existence of the girls or of their detention;
12. That eventually my sister-in-law was obliged to travel with her younger children only, at the request of the ICEM official who accompanied her to Pudahuel airport, and after a serious altercation with the political police at the airport who tried to prevent her departure;

13. That in May, after representations had been made at every level, my brother succeeded in arranging for his eldest daughter, Maria Teresa, to leave Chile. The state in which the girl arrived was deplorable, as a result of the cruel treatment and torture to which she had been subjected while she was at the El Belloto base. A photocopy of a medical certificate in confirmation of this statement is attached hereto. It establishes that the girl had again become pregnant and that the state of her health, psychic as well as physical, is still serious. Two months ago Maria Teresa gave birth to a son;

14. ...

15. In view of the foregoing, I hereby accuse the Office of the Naval Prosecutor at Valparaiso and hold it responsible for the acts of rape, arbitrary detentions and abuses - all of which constitute offences against human rights - perpetrated by servicemen of the El Belloto Naval Air Base, with the permission of the Office of the Naval Prosecutor at Valparaiso, against the persons of my nieces Maria Teresa and Gloria Ugarte Escobar, who are now 20 and 18 years old.

In view of the foregoing, I declare to the organizations for the defence of human rights that the economic and moral situation of my brother, Alfonso Ugarte Vargas, and his wife, Teresa Escobar de Ugarte, is critical, since they lack the material means and conditions to face the new situation created by their daughters, Maria Teresa and Gloria, arriving from Chile sick and morally destroyed and with fatherless children and thus in their young lives bearing the marks of the brutality of the Chilean régime.

(Sgd.) Minerva Ugarte Vargas
Ecuador Committee, Quito.

December 1977.

Ad Hoc Working Group
Commission on Human Rights
United Nations
Geneva.

ANNEX XXI

Medical certificate concerning Maria Teresa Ugarte Escobar

Guaranda, 23 November 1977

I hereby certify that:

Since June 1977 I have been treating Miss Maria Teresa Ugarte Escobar for kidney disorders (laboratory data: red corpuscles - countless per microscope field; pyocytes - 15 to 20 with an abundance of crystals as well).

The patient was also suffering from acute and unbearable pain in the lumbar region.

The blood test showed that her haemoglobin count was 10.10, i.e. she was relatively anaemic.

In addition to the kidney disorders, the patient was five months pregnant.

It should be noted that the patient was in a state of intense depression, with periods of great distress and despair. This condition has made it very difficult to treat her; and it, in turn, requires constant treatment, whose duration and cost I am not at present able to indicate.

(Sgd.) NAPOLEON VERDESOTO M.

Physician-surgeon

ANNEX XXII

GERMAN HOSPITAL WELFARE FUND
German Clinic
Santiago
Box 3737

No. 21416

Sir,

The radiological examination carried out on Mr. Erich Schmake produced the following results:

Lumbarcolumn: The bodies of the vertebrae exhibit normal bone density and are in the correct position. The upper left face of L.3 displays a slightly irregular shape. The height of the vertebra is somewhat reduced at this point. Narrowing of the disc space, L.2-L.3. Marginal osteolytic contacts to the front, with tendency to formation of intervertebral bridge between L.2 and L.3. The other bodies of the vertebrae and disc spaces exhibit normal characteristics.

Radiological findings: Discopathy, L.2 and L.3, with spondylosis at this point. The deformation of the front left half of L.3 may be the result of depression of the vertebra brought about by past injury.

Accept, Sir, etc.

Dr. G. Schönstedt

19 October 1976

This is a true copy of the original.

* * *

I hereby declare this to be a copy of the authentic document issued by the German Clinic as a report on the X-rays taken of me at the time in question.

I also declare that, on 15 September 1973, I was examined by a Chilean Navy doctor at Dawson's Island when I was taken there as a prisoner and that no mention was made of any physical ailment existing at that time.

(Signed) (Illegible)

ANNEX XXIII

Medical certificate concerning Osvaldo Figueroa

DOCTEUR ANDRÉ PEYTREMANN

. Spécialiste F.M.H.
MEDECINE INTERNE - ENDOCRINOLOGIE
Médecin adjoint à la Clinique
Médicale Thérapeutique Universitaire
12, rue Michel-Servet 1206 Genève
Téléphone (022) 47 32 66

Genève, le 12 January 1978

Medical report concerning Mr. Osvaldo FIGUEROA

Mr. Figueroa reports to have been tortured in Chile when he was imprisoned from 9 to 13 May 1977 in the jail "Villa Grimaldi".

The tortures consisted in electric shocks applied on the whole body which was attached with strings to a type of "grill"; the electric current was also applied to the penis through a metal device introduced into the urethral canal. Mr. Figueroa says also to have been bitten with rubber lashes, especially on the back which actually frequently hurts. While he was receiving electric shocks, his tongue was pulled out in order to bite himself.

Physical examinations: Scars of various sizes (up to 2 x 1 cm) are seen at the following places: at the left leg about 15 cm above the left ankle, at both ankles, at the extremity of the penis (glans) and at the extremity of the tongue, of which a small piece has been bitten off.

One notices important small vein dilatations on both feet which seem to have appeared after the strings were applied to the ankles.

In summary, the physical lesions seen on 12 January 1978 in my office are compatible with injuries secondary to tortures described above.

(Signed) André Peytremann MD

ANNEX XXIV

Form of request for authorization to return to Chile

DECLARATION AND REQUEST

I, of Chilean nationality,
occupation Identity Card

No. of
currently residing at

.....

HEREBY DECLARE:

That I left Chile on (date) for the following reasons

.....
.....

and that I have resided at

.....

since

AND REQUEST:

Pursuant to article 3 of Legislative Decree No. 81 of 1973, authorization to
return to Chile.

I undertake, by virtue of this instrument, to respect the established régime,
the political recess and the legal provisions in force in Chile. Likewise, I
undertake to work resolutely and loyally for the aggrandizement of my country.

(Signed)

(Signature of applicant)

Made at on (date)

in the presence of the Chilean Consul at who
hereby countersigns this declaration and request, as evidence of its
authenticity.

(Signed)

(Signature of Consul)

Please complete the form in block capitals.

ANNEX XXV

Letter dated 30 August 1977 from 479 trade union leaders addressed to the members of the Government Junta

The labour organizations which we represent received with great interest the recent statement by the President of the Republic defining the bases for the country's return to institutional normalcy. We, the workers, support above all the announced intention to establish a democracy which, inter alia, would include genuine participation, in which the State would underwrite human liberty and dignity and in which the genuine independence of intermediate institutions would be guaranteed. We also agree with the proposal to ensure that the new institutional order clearly bears the marks of our special national characteristics and of our most authentic and best traditions.

Solidaridad, No. 10

I. FULL NATIONAL DEBATE

Our opinion as workers is that this question, being of importance for the country's future, should be carefully considered by all sectors of our society. We consider that it is the bounden duty, and not merely the right, of Chileans to express their opinion so that the authorities are given as many viewpoints as possible, for these are essential to an awareness of the legitimate and different positions and problems the new institutional order will be required to reconcile and resolve.

II. ROLE OF WORKERS IN THE NEW INSTITUTIONAL ORDER

In our case, the abovementioned moral obligation is even greater, for under the new institutional order it will be essential to define the role of workers as an organized part of society. This role should, in our view, be based on certain permanent principles.

Trade union organizations will have to be recognized as intermediate bodies between the workers and the State. One of the main functions of the State must be to act as support and guide to the whole social order, and respect and promotion of the natural rights of the individual and of the abovementioned intermediate bodies must be one of the channels of State action. Accordingly, social participation is an essential factor for workers both at the level of their place of work and in the more general context of social and economic areas related to the specific interests of workers and their representative organizations.

In short, we should like the State to be committed to a participative society, in which the various social groups would carry out effectively their particular activities, within a christian and humanist concept of society. We, the workers, are mainly concerned that the new social and economic structures should combine stability with the capacity to develop and improve. In this connexion, we consider that the essential characteristic of representative and pluralist democracy is that, unlike other systems, it neither prohibits nor penalizes conflict, but regards it as natural and proper to human evolution and economic and social development and which channels it by means of institutional

order. This and the injustice and inequality of our economic and social structures is why the manner in which the rights of workers, as workers and as citizens, are to be ensured is a source of concern to us. For instance, when it is planned to institutionalize a protected and authoritarian democracy - we do not agree with these adjectives although we appreciate the values they are intended to safeguard - we are concerned that this should in no way involve factors implying disregard of the social dynamic to which we have just referred and therefore tending to give rise to new forms of injustice and deprivation.

III. FULL NORMALIZATION OF LABOUR AND TRADE UNION RIGHTS

So far as the process of institutional normalization is concerned, our position as workers is that it must necessarily lead to rapid normalization of our fundamental rights, including freedom to elect and re-elect leaders, freedom to hold trade union meetings, freedom to engage in collective petitioning and bargaining. In order to achieve this objective and in view of the close relationship between labour and trade union normalcy and normalcy of essential civil rights, it is essential that we, as citizens, fully regain specific constitutional guarantees which have been severely restricted by the State of Emergency; we are referring in particular to the freedoms of assembly, opinion, petition and association.

For the reason we have given, we respectfully request of the Government Junta that, precisely in order that the process of normalization may really begin, the State of Siege and any other form of legal emergency involving indefinite maintenance of restriction or suspension of the abovementioned rights be terminated.

IV. TIME-TABLE FOR INSTITUTIONAL NORMALCY

With regard to the time limits proposed for completion of the normalization process, our opinion as workers is that they should be advanced substantially; the periods proposed are of such a length that they do not really constitute a solution, since a whole generation would be deprived of their fundamental natural rights. Moreover, the length of the periods would affect the whole process with uncertainty, since it is difficult to predict what the behaviour of our society will be over such a long time.

So far as our specific situation as workers is concerned, the proposed time-table would prevent us from participating effectively in the process, since, following the suspension for several years of the basic rights of workers to elect their representatives and engage in collective bargaining and the drastic restriction of the right of assembly, the trade union, as an institution, has been greatly weakened, a fact which hinders effective participation of labour groups in the process of institutional normalization. Unless this situation is altered, the new institutional order would, so far as the workers are concerned, be built on the basis of paralysed and debilitated organizations, in other words, on a great feeling of emptiness and frustration.

V. CONSULTATION OF THE PEOPLE

With reference to the preparation of the normalization process, we are concerned at the fact that the workers were merely spectators when possible institutional solutions were approved. This would appear to be inconsistent with the importance of the labour force in the country's social structure. With respect, therefore, to the form to be given to the new institutional order and to the proposal, which we support, to establish a society of social participation, we consider, as workers and citizens, that all Chileans must be consulted concerning the new social and political system. Consultation of the people will prevent criticisms and negative attitudes which otherwise would inevitably tend to arise if the citizens were ignored.

We workers who are accustomed through our organizations to acting on the basis of agreements reached by legitimate majority decisions, consider that it is essential to apply the system of popular consultation in matters which so profoundly affect all Chileans.

We take the liberty of submitting our ideas to the Government Junta because the future institutional order will fundamentally establish the line of our country's development in the social, economic, cultural and political spheres. In our opinion, it is peoples which make history, for social evolution is a creative effort by the community acting as a whole. The contribution of specific persons or groups, however worthy they may be, must be at the service of this process and never replace it.

Precisely because it was the fruit of our free social and political development, the Chilean system of democracy has legitimately been the pride of our legal and constitutional history. The great characteristic of this system, which was unique in America, was that it was always able to seek national goals by reconciling, through the democratic play of differences and agreements, divergent positions and opinions. This historical process gave meaning to and fashioned a national soul which is identified with respect for the law and majority rights.

To recover by institutional methods these great values, which we were unable perhaps effectively to guard and perfect, is the great task facing the Chilean people. It also provides the opportunity, through the renewed meeting of Chileans in the search for common solutions, for a revival of the unity of all social sectors which desire the re-establishment of democracy.

In submitting to the Government Junta the foregoing proposals, which are of such importance for workers, we are prompted by the honest aim of co-operating in the search for optimum solutions to the fundamental problem of determining the bases of the new institutional order. We, the workers, wish to gather the lessons of history and in this spirit to participate in developing the new institutional order which will guarantee social progress, peace and well-being for all Chileans.

[Signed by 479 trade union leaders]