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COMMITTEE AGAINST TORTURE

Forty-second session

SUMMARY RECORD OF THE 879th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 5 May 2009, at 3 p.m.

Chairperson: Mr. WANG Xuexian

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Fifth periodic report of Chile (CAT/C/CHL/5; HRI/CORE/1/Add.103; CAT/C/CHL/Q/5; CAT/C/CHL/Q/5/Add.1) (continued)

1. At the invitation of the Chairperson, the delegation of Chile took places at the Committee table.

2. Ms. MORALES (Chile), referring to the definition of torture, said that Chile considered that it was fulfilling its obligation under article 1 of the Convention to criminalize torture, since the acts referred to in the article were punishable under Chilean law, with penalties commensurate with the gravity of the offence. It was therefore not deemed necessary to adopt a new criminal provision containing the definition provided in article 1 of the Convention and to introduce a new offence that could serve as the sole charge in cases of torture. Detailed analysis of the relevant provisions of the Criminal Code showed that it covered all the elements of the definition of torture contained in the Convention. The first part of the definition ("the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person") was covered by article 150 A of the Criminal Code, which stipulated, inter alia, that any public official who subjected a person deprived of liberty to suffering or to unlawful physical or mental coercion, or who ordered or consented to such suffering or coercion; who, through one of the means described, forced the victim or a third party to make a confession or a statement of any kind; or who caused serious injury to, or the death of, a person deprived of liberty as a result of such conduct - where such injury or death could be attributed to the official's negligence or carelessness - was punishable by ordinary or rigorous imprisonment. The reference in that article to "subjecting to suffering or unlawful coercion" covered acts that inflicted physical or mental suffering on a person deprived of liberty with a view to punishing or intimidating him, or for reasons related to discrimination of any kind, or to forcing the person to do or omit to do or to tolerate something against his will. In addition, the second subparagraph of article 150 A, which was based on article 3 of the Inter-American Convention to Prevent and Punish Torture, provided for the punishment of any public official who, having knowledge of the conduct mentioned in the previous subparagraph, failed to prevent or terminate it when he had the power or authority to do so. While the part of the definition that referred to one of the possible purposes of torture could, in some cases, be used to define the act itself, it was not an inherent aspect of torture. In any event, article 11, fifth subparagraph, of the Criminal Code provided that it was an aggravating circumstance in the case of torture. Furthermore, the acts referred to in article 150 A of the Criminal Code were punished not only if their perpetrator was a public official (art. 150 A), but also if they were committed by a private individual (art. 150 B).

3. The Committee was concerned that the provisions relating to torture applied only in cases in which the victim was deprived of liberty. It was not specified in the Criminal Code whether deprivation of liberty was lawful or unlawful. The definition of torture, therefore, covered not only acts committed in the context of pretrial detention or in prison, but any act committed against a person who was at the mercy of another.

4. Lastly, with regard to the lack of provisions punishing attempted torture, article 7 of the Criminal Code provided that all offences were punishable, including not only completed offences but also attempted offences and failed attempts. Those provisions applied to all offences defined in the Criminal Code, including the acts referred to in articles 150 A and B.

5. Ms. SEPÚLVEDA (Chile) said that the truth commissions had been established to provide comprehensive answers, from a moral, political and factual perspective, regarding cases of disappearance, torture and murder committed under the military regime. They were official, temporary, non-judicial bodies. Their role was thus not to determine the identity of perpetrators of human rights violations. The National Truth and Reconciliation Commission had been established on 25 April 1990 and had operated until February 1991. It had been replaced by the National Compensation and Reconciliation Board, which had existed from February 1992 to December 1996. Altogether, the two mechanisms had granted 3,195 persons the status of victim of enforced disappearance and extrajudicial execution. Their objective had been to provide as comprehensive as possible an overview of human rights violations committed during the military dictatorship, to collect information with a view to identifying victims and determining what had happened to them, and to recommend the adoption of compensation measures for victims and of legislative and administrative measures to prevent the recurrence of such violations. The National Truth and Reconciliation Commission had not sought to identify the perpetrators of violations - which was the sole responsibility of the courts - but it had been required to inform the competent courts of any facts that could amount to criminal offences.

6. The National Commission on Political Prisoners and Torture had been established in 2003 and had operated from November 2003 to May 2004. It had received about 35,000 depositions and had granted 28,459 persons the status of victim of the dictatorship. Its sole purpose had been to determine which persons had been effectively deprived of their liberty and tortured for political reasons and to submit compensation proposals. It had therefore not sought to obtain information on the perpetrators of the violations. In forming an opinion on the testimony received, the Commission had been guided by the definition of torture contained in the Inter-American Convention to Prevent and Punish Torture, which was very close to that of article 1 of the Convention against Torture. In order to collect as much testimony as possible, the Commission had opened offices in all the regional capitals and in 29 provincial administrations, and had visited 102 rural or remote communities, and Chilean consulates in 40 countries had collected testimony from Chilean expatriates. Altogether, there had been more than 190 collection points. In addition, the Commission had widely publicized its activities through the media, national and local radio stations and television, had distributed posters and information leaflets in various public administration agencies and had set up a free telephone number. It had published a report, chapter V of which contained a detailed description of the torture suffered by the victims of the dictatorship.

7. The bill establishing the National Human Rights Institute contained transitional provisions that allowed additional time for depositions and compensation claims, which would enable persons who had not yet been able to testify to do so and individuals who had recently been granted the status of victim to claim compensation in accordance with legislation on redress for victims. Lastly, the bill also provided for the payment of a pension to the spouses of deceased persons recognized as victims.

8. A Spanish non-governmental organization (NGO), the President Allende Foundation, had received and considered more than 27,000 statements and, in 17,809 cases, had confirmed the decision of the truth commissions to grant the status of victim to the individuals concerned. In 3,201 new cases, the organization had considered testimony to be credible, whereas in another 5,804 cases, it had not been convinced. Compensation for victims had come from funds that Riggs Bank had been sentenced to pay to the President Allende Foundation as a result of the case brought by the Foundation against the Bank, Augusto Pinochet et al. Persons who had not been recognized as victims by the National Truth and Reconciliation Commission but had been recognized as such by the Foundation had received approximately 800,000 Chilean pesos, equivalent to US$ 1,390. Individuals who had already received compensation from the Chilean State had been awarded a significantly smaller amount.

9. With regard to the provision of health care to victims of human rights violations, in 1990, a Programme of Compensation and Comprehensive Health Care (PRAIS) had been developed which, by late 2008, had covered more than 300,000 persons. Interdisciplinary teams set up in the context of the Programme were represented in each of the country's 26 health services, and a team of professionals provided assistance specifically to victims of human rights violations and, if necessary, referred them to other specialized public health-care centres. With a view to strengthening mental health services, in 2006, the Government of Chile had concluded agreements in the area of health service provision with four NGOs that had extensive experience in the field of human rights, including the Corporación de Promoción y Defensa de los Derechos del Pueblo (CODEPU).

10. Children of detainees, missing persons and persons executed for political reasons were entitled to higher-education grants. Former political prisoners could also receive a higher-education grant, in accordance with the law, and if they did not exercise that right, the Ministry of Education authorized them to transfer it to one of their children or grandchildren. Parliament was currently considering a transitional provision of the bill establishing the National Human Rights Institute that would make it legally possible to transfer that right to direct descendants. The practical implementation of legislation on compensation for victims of torture could be illustrated by the case of a single man, without children, who had been executed for political reasons. His mother had received a pension of 73,580,000 Chilean pesos since 1992 and, in view of her age, might receive in all an amount of 125,520,000 Chilean pesos, equivalent to US$ 217,070.

11. Confidentiality had been a key aspect of the work of the National Truth and Reconciliation Commission, with regard to statements from both victims and witnesses. The law had prohibited the Commission from disclosing information related to detention or torture cases in order to spare the individuals concerned further trauma. In 2004, the Government of Chile had submitted to Parliament a bill prohibiting the disclosure of testimony before the National Truth and Reconciliation Commission and, after consideration, Parliament had decided that such information could be published only after 50 years had passed.

12. A number of complaints of torture were currently before the Chilean courts, of which more than 200 had been submitted by persons recognized as victims by the National Commission on

Political Prisoners and Torture and, in three cases, the alleged perpetrators had been convicted. Torture victims could thus seek justice through the courts as well as providing testimony to the Commissions, and nothing prevented them from pursuing that course of action.

13. Mr. OPAZO (Chile) said that the establishment of a National Human Rights Institute, in accordance with the Paris Principles, was one of the key features of President Bachelet's programme. In the relevant bill, the future Institute was defined as an autonomous body under public law with legal personality and its own budget. The bill further provided that the Governing Board of the Institute would be composed of two members of the executive, four representatives of the legislature and three representatives of civil society, who could not be removed from office, save in exceptional circumstances and subject to the approval of other authorities. The role of the Institute would be to submit reports and recommendations to public bodies, to put forward bills and to propose measures related to its mandate, to promote the harmonization of national legislation with international instruments, and to receive complaints specifically concerning human rights violations. In the light of all those competencies, the Institute could be the most appropriate body to fulfil the obligations under the Optional Protocol to the Convention against Torture. Lastly, the bill contained provisions for safeguarding and protecting the historical memory of the human rights violations committed in Chile. To that end, it provided for the reinstatement of the National Truth and Reconciliation Commission and the National Commission on Political Prisoners and Torture for one year, so that they could review cases of human rights violations that had not been recognized as such in the past. Lastly, the Government of Chile was currently striving to achieve consensus in Parliament with a view to the final adoption of the bill establishing the National Human Rights Institute.

14. Ms. BORNAND (Chile) said that the Amnesty Decree-Law, while still in force, had not been applied to cases of enforced disappearance, extrajudicial executions and torture since 1998, as the higher courts considered that the standards and principles of international human rights law and international humanitarian law took precedence in such cases. There were currently 711 State officials charged with or convicted of enforced disappearance and extrajudicial executions. One hundred and twenty-four of the officials had been convicted under a final judgement and, of those, 51 were currently serving prison sentences ranging from 5 years and one day to 20 years. Moreover, in 2008, the Chilean courts had started handing down sentences for the offence of torture and, to date, three final judgements had been delivered.

15. The Supreme Court had held that, in most circumstances, there could be no statute of limitations for criminal proceedings in such cases, for the same reasons related to international law. It had nevertheless recently declared three cases of enforced disappearance (in relation to Jacqueline Binfa Contreras and the Barria Bassay brothers) to be time-barred.

16. A bill interpreting article 93 of the Criminal Code, which ruled out amnesty, pardon and prescription for crimes against humanity, genocide and war crimes, had twice been submitted to Congress for approval. A new legislative proposal on the matter had just been tabled and was due to be given priority consideration by Parliament.

17. Mr. OPAZO (Chile) pointed out that acts of torture came under article 40 of the current bill. The statute of limitations would therefore not apply to such acts once the text had been adopted.

18. Ms. FUENTES (Chile) said that, under article 334 of the Code of Military Justice, all members of the armed forces were required to carry out orders from superiors in the performance of their duties, except in cases of force majeure. The right to lodge a complaint against a superior did not exempt an individual from the duty of obedience and did not suspend the execution of orders received. The principles underlying the reform of the Code of Military Justice, however, called for a change in the rules governing the duty of obedience: under no circumstances would a subordinate be required to obey an unlawful order that would involve the commission of an offence or of an act prejudicial to human dignity.

19. Ms. MORALES (Chile) explained that the efforts made since the 1990s to further combat crime by improving the effectiveness of the judicial system and by increasing the penalties for certain offences had led to a sustained increase in the prison population, particularly since the entry into force of the new Code of Criminal Procedure in 2005. The acceleration of investigation and prosecution procedures had also resulted in a shift in the composition of the prison population. Currently, 75 per cent of inmates were convicted prisoners, whereas, in the past, two out of three had been awaiting trial. Two bills could also have an impact on the number of detainees. The first bill, submitted to Parliament in 2008, was designed to strengthen the system of alternative sentencing and provided for the possibility of combining custodial and non-custodial sentences. The second bill, which was due to be submitted in the coming months, concerned the enforcement of sentences. It contained provisions governing judicial oversight of prison activities and provided for the possibility of lighter sentences and conditional release. The Government of Chile had taken measures to strengthen reintegration programmes for detainees, particularly emphasizing the maintenance of links between persons deprived of their liberty and the outside world, and psychosocial counselling as a means of fostering independence and a sense of responsibility. The Chilean authorities were aware that suicides in prisons, even isolated cases, called for special supervision and monitoring. The establishment of the system of prison concessions had contributed to improving living conditions and respect for the dignity of persons deprived of their liberty and to significantly reducing prison violence, particularly through the creation of individual cells. However, it had also had one unforeseen consequence, namely the increase in the number of suicides as a result of detention in individual cells. A commission had therefore been set up to enhance psychosocial support services in prisons and measures had been taken to improve security in new institutions with a view to preventing suicide attempts.

20. Ms. FUENTES (Chile) said that Chile did not recognize mercenarism. An isolated complaint against a company engaging in mercenary activities had nevertheless been lodged in 2003, which had resulted in an investigation and conviction. The 1981 Private Security Act currently in force empowered the carabineros to accredit private security companies operating in Chile and to monitor their activities. Carabineros training included a human rights component, which covered both legal and ethical issues, and it aimed to contribute to the development of public policies that effectively complied with the principle of State responsibility for the protection of citizens and also to ensure public security with strict respect for the rights of individuals. Currently, 50 instructors, half of whom were civilians, were providing about a thousand hours of training to future carabineros in the field of human rights.

21. Mr. CABIÓN (Chile) said that a human rights chair had been established in 1994 at the Judicial Police Academy. Furthermore, in 1998, the School of Higher Police Studies, which trained officers, had also placed human rights on its curriculum.

22. Mr. PICAND (Chile) said that Chile had ratified the Inter-American Convention on Mutual Assistance in Criminal Matters and its Optional Protocol, which it had fully implemented since 2004. The Public Prosecutor's Office - the authority responsible for international judicial cooperation - dealt with an average of 350 requests for, or offers of, assistance each year. The rules for the evaluation of evidence for the purpose of extradition had changed with the entry into force of the new Code of Criminal Procedure. Prior to that, in order to grant an extradition request, the Supreme Court had had to come to the conclusion that it itself would have convicted on the basis of the evidence and the various elements and circumstances presented by the requesting State. Now, the Supreme Court Justice only needed to be convinced that those elements were sufficient to justify an indictment. At the extradition hearing, the Public Prosecutor, although representing the requesting State, was required to indicate if he objectively considered that due process would not be respected in the requesting State, in which case extradition could not be granted.

23. With regard to the recording of interrogations, the four principles underlying the new criminal procedure system should be borne in mind: the suspect had the right to remain silent; the interrogation was conducted by a prosecutor or a police officer mandated by the latter; the person being questioned had the right to request or refuse that his statements should be recorded; and Chilean legislation prohibited the use of any form of coercion to elicit statements. Any recording obtained otherwise could not be admitted as evidence.

24. In accordance with the Code of Criminal Procedure, victims and witnesses of offences must all be protected, irrespective of the nature of the act committed, and measures must be taken to safeguard their personal integrity. Protection could be granted in the form of psychosocial support, relocation, material assistance or more extensive measures ordered by the court.

25. In addition to habeas corpus, the Code of Criminal Procedure provided for a new remedy called "protection of safeguards" (amparo de garantías). It was aimed at determining the lawfulness of deprivation of liberty specifically in cases of flagrante delicto, in which any individual or official was entitled to carry out the arrest of a suspect. The Code stipulated that the judge "may" order the person's release when he deemed the situation or conditions of detention to be unlawful, and it used the term "may" rather than "must" precisely so as not to rule out any situation and not to be confined to the circumstance of illegality. Victims could institute criminal or civil proceedings to seek redress or compensation.

26. Ms. MORALES (Chile) emphasized that incommunicado detention was an exceptional measure and that its use was subject to strict judicial supervision. It was governed by article 151 of the Code of Criminal Procedure, which provided that the court could, at the request of the prosecutor, limit or prohibit any contact between a pretrial detainee and the outside world for a period of up to 10 days if it considered that that was required for the proper conduct of the investigation. The court provided the authority responsible for the detainee with instructions as to how to implement the measure, which should under no circumstances consist of confinement in a punishment cell. Incommunicado detainees could communicate freely with their counsel throughout the procedure and had access to medical care.

27. Mr. MUÑOZ (Chile) said that the Ministry of Health had recently issued a circular to health services, reminding them that it was prohibited to seek to obtain information or confessions from women requiring medical attention as a result of complications arising from an illegal abortion, let alone to make it a prerequisite for treatment. The circular referred to article 15 of the Convention against Torture and paragraph 8.25 of the Programme of Action of the International Conference on Population and Development, which stipulated that in all cases, women should have access to quality services for the management of complications arising from abortion and that post-abortion counselling, education and family-planning services should be offered promptly. In that respect, it should be noted that Chilean family planning programmes attached particular importance to women who had had an abortion by providing them with counselling services and effective contraception methods, in order to avoid repeat abortions.

28. Mr. OPAZO (Chile) said that a draft amendment for the constitutional recognition of indigenous peoples was under consideration in Parliament. The first such proposal had been put forward 15 years previously, but it had been necessary to wait until the Senate had decided to legislate on the issue before the legislative process could be initiated. The Government had decided to promote a nationwide consultation of indigenous peoples in order to collect the opinion and proposals of indigenous organizations and communities. The main aims of the draft amendment were recognition of the multicultural nature of Chilean society, recognition of indigenous peoples and of their collective and individual rights in the domestic legal order, recognition of custom as a source of law, provision of remedies to persons discriminated against on account of their indigenous origin, and establishment of constitutional protection for the collective and individual ownership rights of indigenous people in respect of land and water.

29. Mr. NAVARRO (Chile) said that in 2008, in the context of their duty to maintain law and order, the carabineros had policed 1,043 public demonstrations, sometimes merely providing a presence and, on other occasions, using the deterrents available to them. To prevent any misconduct by police officers, the High Command of the Carabineros had issued instructions on the conduct to be observed during public demonstrations. The carabineros were required to comply strictly with the procedures laid down by law and regulations and to use established law enforcement techniques and methods, in accordance with the rule of law and the fundamental rights of individuals. In that context, any report of police brutality gave rise to a criminal investigation and an administrative investigation, conducted independently from each other and in full compliance with due process.

30. Mr. FREI (Chile) said that the new Act establishing the criminal responsibility of young people aged under 14 years had achieved three prime objectives: first, any minors who were prosecuted and tried enjoyed all the benefits of due process; second, those who were tried for a legal offence were cautioned, which contributed to combating the growing problem of juvenile delinquency; and, third, young people convicted of a criminal offence benefited from educational, vocational and psychosocial assistance programmes. The Act had been promulgated in June 2007 and, while it had not yet been fully implemented, the performance of all the mechanisms in place was constantly improving. Budgetary resources had been set aside to enhance the infrastructure of juvenile correctional centres. It could be stated that there was no practice or policy of ill-treatment of young people; any such conduct would be punished

immediately. The correctional centres were visited regularly by the courts, regional prosecutors and public defenders. The United Nations Children's Fund (UNICEF) had drafted a preliminary report on the implementation of the Act concerning Juvenile Responsibility which, as pointed out by the representative of UNICEF in Chile himself, was incomplete since it reported the most pressing problems, which had, since then, been resolved. Other problems were in the process of being resolved, particularly through the establishment of new centres, the organization of staff training programmes and the improvement of security. In addition, the report did not mention the non-custodial penalty enforcement system, despite the fact that it accounted for 75 per cent of penalties imposed by the National Service for Minors, including community service, compensation for the damage caused to the victim, and probation. Every effort was thus made to ensure that deprivation of liberty was used only as a last resort.

31. Mr. GALLEGOS CHIRIBOGA (Country Rapporteur) thanked the delegation for its professionalism in replying to the many questions put to it. Since the 2004 report, a number of measures had been taken to implement the Convention more effectively. The various bills submitted by the Government to Parliament, particularly concerning the establishment of the National Human Rights Institute, the non-applicability of statutory limitations to crimes against humanity, in accordance with the Rome Statute of the International Criminal Court, and the recognition of indigenous peoples, demonstrated its commitment to developing the normative framework necessary for the implementation of the Convention. The reform of the political and judicial systems with a view to strengthening democracy also enhanced the State's ability to fulfil its obligations under the Convention. The State party's wish (report, para. 10) to end the legal effects of the Amnesty Decree-Law was commendable, but in the Committee's view, compliance with the obligation to eliminate impunity arising from the Convention required its repeal.

32. To be consistent with article 1 of the Convention, a definition of torture must include explicit references to all the elements contained in the article - an implicit formulation, as in the provisions of the Criminal Code concerning torture, was insufficient (report, para. 80 (b)). Since an explicit rule was easier to implement and therefore provided an additional safeguard against impunity, a more explicit reformulation of the relevant provisions would be desirable.

33. With regard to the implementation of article 3, the State party, which had accepted a number of refugees, particularly from Colombia, would benefit from adopting comprehensive legislation on refugees that improved the procedure for determining refugee status and provided for the obligation of non-refoulement.

34. Mr. MARIÑO MENÉNDEZ (Alternate Country Rapporteur) thanked the delegation for its comprehensive replies. He asked whether work had already been started on the adoption of legislation on refugees and, if so, whether clear guidelines had already been established in that regard. He also wondered whether migration policy was being addressed in that context, as the issues of illegal immigration and refugees were closely linked.

35. The delegation had drawn attention to the fact that the legal provisions for the non-applicability of statutory limitations to crimes against humanity, genocide and war crimes also covered torture, since torture could be an element of those crimes if the necessary criteria were met. Torture nevertheless constituted a separate offence which had not been made imprescriptible.

36. Lastly, it would appear that under Chilean legislation, a child born in Chile of foreign parents without Chilean residence could not obtain Chilean nationality, which could result in statelessness. To prevent that situation, the law should grant Chilean nationality to children who had no other nationality. The Committee requested further clarification of the situation.

37. Ms. SVEAASS commended the measures taken to award compensation to torture victims and the work carried out by the National Commission on Political Prisoners and Torture and the National Truth and Reconciliation Commission. She hoped that those activities would lead to legal proceedings. Uncovering the truth, providing redress in the form of compensation and delivering medical care were important measures, but it was essential for the country's very future that the victims should obtain justice. Since it appeared that the bill to repeal the Amnesty Decree-Law of 1978 had been rejected by Parliament in March 2009, she asked what provision had been made to ensure that the Decree-Law, which had ceased to be implemented in 1998, should cease to have effect.

38. It appeared that appeals lodged against decisions handed down often resulted in a lighter sentence in cases that had received international attention. In the cases of Paul Schäfer and the murder of Tucapel Jiménez, for instance, which concerned serious crimes, the first-instance sentences had been significantly reduced by the Court of Appeal. Might that suggest that there were shortcomings in the law?

39. Allegations of acts of violence committed by police officers against children, in particular, were alarming, and it was to be hoped that in future, more of those cases would be investigated effectively. It was also of concern that people were still in exile, in some cases for a very long time.

40. Ms. BELMIR said that it would be desirable for Chile to increase its efforts in the field of human rights training for law enforcement officials with a view to preventing abuses against vulnerable people.

41. Ms. KLEOPAS said that Chile was to be commended for its efforts to improve its human rights situation. It was stated in paragraph 97 of the report that under the current system of criminal procedure, the Public Prosecutor's Office must exercise, on its own initiative, the public right of action, in respect of any offence that was not subject to a special rule, and must initiate criminal proceedings with the assistance of the police. She concluded that complaints of torture or ill-treatment were generally investigated by the police, including complaints filed against the police. Article 12 of the Convention, however, provided that such investigations should be conducted impartially, which implied entrusting them to an independent body. It was stated in the same paragraph that under the new Code of Criminal Procedure, it fell to the victim to initiate civil proceedings. Did that mean that the victim could seek redress directly through the courts? While the State party had made considerable efforts to combat impunity, more needed to be done to help the victims to obtain justice.

42. Mr. KOVALEV expressed surprise at the Chilean delegation's statement that the definition of torture contained in domestic legislation was consistent with that provided in the Inter-American Convention to Prevent and Punish Torture, when the Committee called upon all States parties to adopt the definition set forth in the United Nations Convention against Torture.

43. Mr. BARRIA (Chile), replying to Mr. Mariño Menéndez, said that there could be no case of statelessness in Chile because the principle of jus sanguinis applied. A child born in Chilean territory of a foreign parent residing in Chile was entitled to Chilean nationality irrespective of the immigration status of the parent. Before 2005, in accordance with a constitutional provision, children born abroad of Chilean parents had had to provide evidence that they had lived in Chile for one year in order to obtain Chilean nationality, but that had ceased to be the case with the entry into force of the 2005 constitutional amendments.

44. An inter-ministerial commission was preparing a bill on refugees that would be submitted to Parliament in the very near future. The text, which was very broad in scope, would fill the gaps in current legislation in that regard and was directly based on the principles and standards of international refugee law. The reception of refugees in Chile was best illustrated by the case of 100 Palestinian families who had arrived in the country the previous year - each of which had been provided with assistance to settle in Chile, particularly in the areas of health care and education. In general, assistance programmes for refugees focused mainly on health and education and on the realization of economic and social rights.

45. Ms. BORNAND (Chile), referring to the Amnesty Decree-Law of 1978 and impunity - which were totally unacceptable in cases of enforced disappearance, extrajudicial executions and torture - said that every Government since 1990 had endeavoured, alongside the work of the National Truth and Reconciliation Commission, to bring justice to the victims and to punish the perpetrators of the most serious human rights violations. To that end, human rights programmes had been implemented under the auspices of the Ministry of the Interior, and special judges had been appointed to focus exclusively on certain cases. No text had been adopted to repeal or render ineffective the Amnesty Decree-Law. Various steps had nevertheless been taken to prevent its implementation, and a new bill had been submitted to Parliament in that connection. The new political situation obtaining in recent years had given new momentum to the struggle for justice. Chile was particularly pleased that 56 convictions had been secured for serious human rights violations, although that figure was low compared to the number of victims. The Government, however, through institutions such as the Office of the Human Rights Prosecutor, was continuing to institute proceedings and was persevering in its daily struggle to obtain justice and end impunity.

46. Mr. FREI (Chile) said that the Government of Chile was committed to providing human rights training and ensuring compliance with the provisions of the Convention in all public institutions. For that purpose, the Forensic Medical Service of the Ministry of Justice had implemented the Istanbul Protocol. Chile was thus the second Latin American country to do so. Considerable progress had been made in the training of carabineros, investigators and prison service staff. The increase in the number of complaints was encouraging, as it demonstrated that citizens had confidence in their institutions and considered that effective remedies were available to them in seeking redress.

47. Mr. PORTALES (Chile) said that, in essence, the definition of torture in Chilean legislation was equivalent to the definition contained in the United Nations Convention against Torture, which was similar to that set forth in the Inter-American Convention to Prevent and Punish Torture. His delegation had referred to the definition contained in the Inter-American

Convention because the work of the National Commission on Political Prisoners and Torture had been guided by that definition. Chile understood that the Committee wished certain elements of the definition contained in the Convention to be referred to explicitly in domestic legislation and would take that into account in drawing up a new Criminal Code.

48. The CHAIRPERSON thanked the delegation for its replies and invited it to submit in writing any additional information it wished to convey to the Committee, so that it could be taken into consideration in the concluding observations. The dialogue that had taken place showed that Chile had embarked on the exemplary path to building a new society, breaking with a painful past. It could count on the encouragement and support of the Committee in that regard.

49. Mr. FREI (Chile) thanked the members of the Committee for their attention and assured them that the Government of Chile was open to continuing the dialogue, which had been constructive, transparent and frank. Often, accounts focusing on specific events or describing situations from a single viewpoint created the impression that Chile was maintaining the situation that had prevailed in the past. That was not the case. Substantial progress had been made and the Chilean institutions were contributing to the full implementation of the Convention. Chile had ratified several major instruments, had strengthened the implementation of the new criminal procedure throughout the country, had awarded compensation to victims and had progressed in its struggle against impunity, by punishing - often very severely - the perpetrators of violations committed during the dictatorship.

50. Chile still faced difficulties preventing it from implementing some of the Committee's recommendations. The Government would strive to secure parliamentary approval of the recommended legislative amendments. It would also endeavour to promptly classify international crimes, to ratify the Rome Statute of the International Criminal Court, to reform its ordinary and military criminal law and to establish a National Human Rights Institute. Chile would also draw on the Committee's recommendations in defining its public policies. Moreover, it would continue its efforts to improve conditions of detention in the country and, to that end, intended to strengthen the system of prison concessions. Chile - a small country with a population of 15 million and the gross domestic product of a medium-sized country - was making significant public investments to overcome the legacy of the past but also to look to the future and secure a place among States governed by the rule of law.

51. The delegation of Chile withdrew.

The meeting rose at 5.55 p.m.